

**Cabinet Meeting: Monday, 05 August 2024**

**Question from: Councillor Hunt**

**Question to:**

I have a question about the motion adopted by Full Council recently concerning the Care Leaver's Covenant. On the second page of the motion that was adopted it stated, "it is recognised that the council..." 8 bullet points down "...has passed a decision at Cabinet to treat care experience as a protected characteristic". My understanding is that a 'protected characteristic' is legalese pertaining to the Equality Act 2010, and there are specific mandated protected characteristics under statute. Namely, of course, Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion, Sex and Sexual Orientation. Which one would care experience fall under, and if it doesn't, how can the council produce its own protected characteristic outside of equality law and how (if it is indeed legally possible) will a newly introduced protected characteristic based on care leaving work? Will it work the same way as a protected characteristic under statute and what inferred rights will be bestowed on the care leavers and by whom?

**Response**

There has been no change to the actual law. 'Care experienced' is not a legal category under the Equalities Act. It is a voluntary position or stance that Calderdale has chosen to take in relation to those with care experience. The agreement to treat care experience as if it were a protected characteristic, should function across the authority in similar ways to other characteristics that are protected by the law. In this sense it can be seen as a moral or ethical intention, that we hope will lead to tangible policy change across the directorate and beyond.

***A campaign to improve the lives of care experienced people***

- MacAlister Report 2022 recommended 'care experienced' become a protected characteristic', this was rejected by the government
- MacAlister also recommended "New legislation should be passed which broadens corporate parenting responsibilities across a wider set of public bodies and organisations."
- In response a national campaign was launched by prominent care experienced people, the LGA and organisations supporting care leavers to call on Local Authorities to pass a motion to **treat 'care experienced' as a protected characteristic**.
- Many local authorities across the country have now passed this motion in their locality, which has encouraged and empowered many areas to address barriers and disadvantage that frequently lead to significantly poorer outcomes for care experienced people than those who do not care experienced. The British Association of Social Work reported in June 2023 that 57 councils in the UK had passed a similar motion to treat care experience as a protected characteristic. There is likely to be more to date. These include more locally Doncaster, Oldham, Bradford and Manchester.

## **What is care experienced**

- "Care experience" refers to the experiences of individuals who spent part of their childhood in the care system due to situations beyond their control. These individuals can face both direct and indirect discrimination throughout their lives.
- The term "care experience" is a description of a definition in law, it includes anyone that had the state as its corporate parent by virtue of a care order in accordance with the Children Act 1989 and amendments.
- A "care leaver" is defined in law as someone over the age of 16 who has been in the care of the local authority and/or Health and Social Care Trust for a period of at least 13 weeks or more. This definition may present additional barriers for children and young people to access support due to not having a 'typical' journey throughout their time in the care system.
- **As such, the less restrictive 'care experience' definition is preferred which does not exclude individuals based on placement type and duration of time in care.**

## **Why this action is needed**

- Care experienced people have often had to deal with extensive disruption during key developmental stages, a lack of stability in their home lives, and have complex histories that contain trauma, abuse and neglect.
- Care experienced young people face stigma and discrimination because they are care experienced, often being judged and misunderstood by others.
- Care experienced people often do not have the support of family, may not have had the stability in their lives to create or sustain friendships and often rely on professional support.
- Care experienced young people are talented and resilient, but they face many barriers to finding employment and training opportunities and often lack confidence in their own abilities. Helping them to find a safe place in the world is a complex struggle, that requires structural change, support from us all as corporate parents and increased effort on from local authorities and communities.
- As Corporate Parents we have a collective responsibility for providing the best possible care and safeguarding for the children who are looked after by us as an authority and to help them succeed in life

### **Impact of this motion**

- It can help stop discrimination in housing, reducing the risk of homelessness.
- It can address discrimination in work and education, creating more opportunities, options, stability, leading to more security and helping care experienced people to live a “better life”.
- It can help the Council to “lead the way” with local employers, businesses, and other services to promote better outcomes for care experienced people.
- It can also help to address the over criminalisation of care experienced young people.
- It can stop care leavers who are parents being treated differently and support access to better services and support.
- If all local authorities take this step, then it is possible that the law will be changed.

### **Some practical steps that can be taken**

- In the delivery of the Public Sector Equality Duty the Council should include care experience in the publication and review of Equality Objectives and the annual publication of information relating to people who share a protected characteristic in services and employment.
- Establish a Care Experienced Advisory Group - A group comprised of care experienced individuals (children currently living in care, care leavers and adults who are care experienced). This will provide valuable input into policy decisions and service development. This group should be promoted internally and externally, ensuring that external organisations can access and approach the group for engagement.
- To formally call upon all other bodies to treat care experience as a protected characteristic until such time as it may be introduced by legislation.
- Produce a guidance that can help to embed good practice across all departments of the council. This can be shared and promoted with external partners.
- Provide information and local guidance to support employees to consider the differential impact of policy and process decisions on care experienced individuals.
- Linking up with those authorities that are further along in this process.