

Report to Children's Services and Education Scrutiny Board

11 November 2024

Subject:	Introduction of 'Care Experience' as a protected characteristic
Director:	Director of Children and Education Services, Sally Giles
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1 Recommendations

- 1.1 That the Board considers and comments upon the inclusion to introduce 'Care Experience' as a protected characteristic alongside the statutory protected characteristics detailed in the Equality Act 2010.
- 1.2 That the Board considers and comments on the implementation plan set out in Appendix 1 that will ensure care experienced individuals receive equality of support in order to improve their ability to access opportunities, including, but not limited to education, employment, training, and housing.

2 Reasons for Recommendations

- 2.1 The independent review of social care, published in May 2022, recommended that the government should consult with care experienced individuals and devolved administrations to make care experience a protected characteristic. The recommendations aimed to enhance the protection and support for individuals with care experience.

2.2 In its response to the Independent Care Review the Government declined the recommendation to make care experience a protected characteristic however Councils can choose to implement it locally. As of September 2024, 92 Councils have chosen to make care experience a protected characteristic.

Implementing care experience as a protected characteristic will enable Sandwell to:

- Identify and reduce discrimination that may occur due to a person's previous care status.
- Increase understanding and awareness of the impact that care experience may have on an individual to reduce the stigma faced by care experienced individuals and improve their ability to access opportunities, including, but not limited to education, employment, training, and housing.

2.3 The propose recognise care experience as a protected characteristic has championed by young people through the Forum for Independent Young People (FIYA), which is a forum for care experienced young people from Sandwell to share their views and co-produce services. They are of the view that it will support care experienced individuals in the long term as service will better understand their needs when formulating policy and undertaking recruitment.

2.4 A review will be conducted in 12 and 18 months to evaluate the impact of making care experience a protected characteristic.

3 How does this deliver the objectives of the Council Plan?

Growing Up in Sandwell	By acknowledging the unique identities and experiences of care experienced people, we can create a supportive environment that promotes equality and inclusivity. This approach will help care experienced individuals overcome immediate obstacles but also provide them with opportunities for their personal growth throughout their lives.
Living in Sandwell	Care experienced people continue to live within Sandwell after they leave care and there is a need to ensure that they are supported to live and age well.

As Sandwell residents, putting the needs of care experienced young people at the heart of our decision making through co-production and collaboration, proactively seeking out and listening to their voices when developing new policies.
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4 Context and Key Issues

- 4.1 In May 2022 the Independent Review of Children’s Social Care, led by Josh McCallister, published its final report. It included the following recommendations:
1. Government should make care experience a protected characteristic, following consultation with care experienced people and the Devolved Administrations.
 2. New legislation should be passed which broadens corporate parenting responsibilities across a wider set of public bodies and organisations.
- 4.2 On 14 June 2023, Terry Galloway (trustee of national charities Become and NYAS) presented the ‘Care Experience as a Protected Characteristic’ report to Government. The report advocates for systemic change and the recognition of “Care Experience” as a protected characteristic under UK Equality law.
- 4.3 The Equality Act currently includes age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. These characteristics protect against direct discrimination, indirect discrimination, harassment, and victimisation.
- 4.4 The Children’s Act 2004 defines a care experienced person as someone who has been in the care of the Local Authority for at least 13 non-consecutive weeks before the age of 15 years and 9 months, looked after by someone other than their parents or wider family, and emphasises the responsibility of ensuring their basic needs are met while in care.

- 4.5 While the UK Government has not adopted the recommendation nationally, as of 15 August 2024, 100 Local Authorities have passed motions to recognise care experience as a protected characteristic.
- 4.6 Care experienced young people (CEYP) face significant challenges:
- **Education:** Only 14% of CEYP attend university compared to 47% of their peers.
 - **Employment:** CEYP are over ten times more likely to be unemployed by age 21.
 - **Mental health:** Higher rates of adverse childhood experiences (ACEs) and a life expectancy 20 years shorter than their peers.
 - **Housing:** A 33% rise in homeless CEYP aged 18-20 between 2018-2023.
 - **Isolation and finances:** 1 in 5 CEYP feel lonely most or all of the time, and nearly a quarter have low life satisfaction.
- 4.7 Targeted educational support, mental health services, stable housing, and anti-discrimination policies, are crucial in supporting CEYP to overcome these barriers and lead healthier, happier lives. Research by Civitas highlights the urgency, noting it will take 107 years to close the educational gap at the current rate of progress.
- 4.8 Care experienced young people have been consulted and support the proposal, recognising its potential to address their unique circumstances and reduce discrimination and the Council's commitments as their 'corporate parents'.
- 4.9 Our care experienced young people have shared their views as to why they felt that care experienced should be a protected characteristic:
- We get judged too quickly and people have pre-existing stereotypes and assumptions which are likely to be negative.
 - We have experienced trauma and need additional support.
 - It will make a difference as we will not be labelled and help us not to be discriminated against.
 - It will allow us to access additional support if needed.

4.10 In the last year Sandwell Council and Sandwell Children's Trust have continued to commit support and resources to support the children we care for and care experienced young people:

- It has been agreed that Sandwell Cabinet reports are to include the impact of decisions on those with care experience.
- Directorate business plans now highlight support to enhance opportunities for the children we care for, and care experienced young people.
- There continues to be a focus on enhancing the Local Offer to provide the best and consistent support to young people with care experience, aligning with other Local Authorities.
- The Council has provided £350k from Covid Emergency Funding to pilot an emotional wellbeing service for the children we care for, and care experienced young people.
- The house project has been launched, enabling young people to move into their own home while getting support to develop the practical and emotional skills that they need to live independently and to make their house a home.

4.11 As a result of care experience becoming a protected characteristic, the local authority will be required to implement changes to:

- **Policy and Practices:** Review existing policies and practices to ensure they consider the impact on care experienced individuals.
- **Training and Awareness:** Equality, Diversity and Inclusion (EDI) training will need to be updated to include care experience; this will be alongside a roll out of corporate parenting training that raises awareness about the challenges faced by care experienced individuals.
- **Recruitment and Retention:** Introduce mechanisms to monitor care experience alongside other protected characteristics to identify any potential direct or indirect discrimination that might be taking place.
- **Monitoring and Reporting:** As with other protected characteristics, we will be able to monitor the representation and treatment of care experienced individuals within directorates.
- **Social Value and procurement contracts:** Ensure public and private sector contracts prioritise initiatives such as apprenticeships, mentorships, training programmes and safe spaces for care experienced young people

- **Voice of the CEYP:** Ensure that continued consultation and collaboration take place to understand the difference protected characteristics are making and where further improvements can be made.

4.12 Overall, recognising care experience as a protected characteristic aims to create a more equitable and supportive environment for care experienced individuals, helping them to thrive in their lives.

4.13 While care experience would not be a legally protected characteristic if it were found that indirect or direct discrimination was taking place, then the local authority would seek to provide a formal complaint's procedure. Additionally, if a complaints procedure does occur that learning is taken from any such instance and shared.

4.14 Through an implementation plan, we will ensure that we understand the impact of recognising care experience as a protected characteristic. This will involve reviewing policies and processes to include care experience where appropriate as well as reviewing training for staff.

5 Alternative Options

5.1 If the recommendation to make care experience a protected characteristic is not agreed, Sandwell Council will maintain the current status. This may lead to care experienced young people facing direct and indirect discrimination when interacting with the Council. This will be a missed opportunity to provide a vulnerable group with recognised wide-ranging support.

6 Implications

Resources:	<p>Implementing protected characteristics will be met through existing resources.</p> <p>The Corporate Parenting Project Officer will support the implementation of care experience as a protected characteristic, this will include amending corporate parenting and equalities training as required.</p>
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<p>Legal and Governance:</p>	<p>Section 4 of the Equality Act 2010 sets out nine protected characteristics and people with those characteristics are afforded rights in relation to discrimination on the grounds of those characteristics. There is no legal reason prohibiting Sandwell Council from including 'Care Experience' to the list to be considered locally in its Equalities Impact Assessments. However, in the event that in any assessment there is a conflicting impact between 'Care Experience' and any of the statutory protected characteristics, then the statutory protected characteristics must take precedence.</p> <p>In principle it is not unlawful for the Council to prioritise the awarding of at least one apprenticeship to a care experienced person if that person meets the person specification for the apprenticeship. Legal consideration would need to be given to the precise way in which it was intended to give that priority.</p>
<p>Risk:</p>	<p>The Corporate Risk Management Strategy (CRMS) has been complied with to identify and assess risks associated with this decision. This includes (but is not limited to) crime and disorder, political, legislative, financial, environmental and reputational risks. Based on the information provided, it is the officers' opinion that there are no current "red" risks that need to be reported with regards to this proposal.</p>
<p>Equality:</p>	<p>The recommendations of this report are intended to promote equality of opportunity for Care Experienced. In some instances, those care experienced will also have other protected characteristics recognised under The Equality Act 2010.</p> <p>It is foreseen that the recommendations in this report could have a positive effect upon young adults with care experience, through having their 'care experience' status considered alongside other protected characteristics set out in The Equality Act 2010.</p>

Health and Wellbeing:	As a protected characteristic, care experienced individuals can benefit from support to gain better physical, mental, and emotional well-being.
Social Value:	Through wider networks, care experienced young people can access opportunities which can enable them to gain experiences and support and long term reach their full potential and contribute back into the local community.
Climate Change:	There are no material climate implications resulting from the recommendation(s) of this report.
Corporate Parenting:	Recognising care experience as a protected characteristic may increase corporate parenting responsibilities across the council directorates. The needs of care experienced individuals should be integrated into all strategic plans and policies of the Council, addressing all aspects that impact the children we care for and individuals with care experience.

7. Appendices

1. Implementation plan

8. Background Papers

List source/background documents

Galloway, T. (2023) Protected Characteristics Workshop for Young People. https://www.careleaveroffer.co.uk/blog_articles/4079-protected-characteristics-workshop-for-young-people. Accessed 19 February 2024.

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<https://www.civitas.org.uk/publications/breaking-the-care-ceiling/>

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