



EXECUTIVE BOARD DECISION

REPORT OF:	Executive Member for Children, Young People and Education
LEAD OFFICERS:	Strategic Director of Children & Education (DCS)
DATE:	Thursday, 11 July 2024

PORTFOLIO/S AFFECTED:	ALL
WARD/S AFFECTED:	(All Wards);
KEY DECISION:	N

SUBJECT: Making Care Experience a Locally Protected Characteristic

1. EXECUTIVE SUMMARY

The purpose of this report is to provide an overview of the benefits and implications of making care experience a locally protected characteristic. If approved, it would be added to the definitions already outlined in the Equality Act and the three local characteristics currently in place. These are carers, vulnerable communities and deprived communities. The paper seeks approval from Executive Board on the recommended options.

2. FOR DECISION

- a) Note the contents of this report.
- b) Consider the advantages and implications of the addition of Care Experience to the locally defined protected characteristics.

3. RECOMMENDATIONS

Subject to the decision at 2(b) above, if the Executive Board is so minded, recommend to Council Forum on 25th July 2024 that care experience is adopted as a locally protected characteristic.

4. BACKGROUND

As of 31st May 2024, Blackburn with Darwen has 348 young people meet the threshold for care leaving.

The Equality Act 2010 protects discrimination in the workplace and wider society on the basis of nine protected characteristics:

1. Age
2. Disability

3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Sexual orientation
7. Religion
8. Ethnicity
9. Sex

In addition, BwDBC has a statutory requirement under the Public Sector Equality Duty to give due regard to the nine protected characteristics. Furthermore, as a public body, BwDBC is required to publish information on an annual basis regarding actions being undertaken to meet this requirement for its workforce and service users.

The Independent Review of Children’s Social Care published in May 2022, included recommendations that the “Government should make Care Experience a protected characteristic”. It also noted that making care experience a protected characteristic would provide greater authority to employers, businesses, public services, and policy makers to put in place policies and programmes which promote better outcomes for care experienced people.

According to the British Association of Care Workers, at least 58 Local Authorities have adopted care experience as a locally protected characteristic. If BwDBC were to do so, the Council would be committing to protecting from discrimination and giving due regard to care leavers, as it currently does to the nine protected characteristics as set out in the Equality Act 2010.

5. KEY INFORMATION

5.1. The Experience of Care Leavers

As previously noted, care leavers often face disadvantages, discrimination, and stigmatisation. The following table shows some specific areas where care experienced people are disproportionately impacted and disadvantaged as a result of being in care:

Education	Studies have shown that care experienced children are less likely to achieve good grades and go on to higher education than their non-care experienced peers. They are also more likely to be excluded from school and experience disrupted education due to frequent placements and changes in schools.
Employment	Care experienced individuals may face significant barriers when it comes to employment, including a lack of qualifications and work experience, as well as stigma and discrimination. This can lead to a higher risk of unemployment and poverty.
Mental Health	<p>Care experienced individuals are more likely to experience mental health issues such as anxiety, depression, and post-traumatic stress disorder (PTSD).</p> <p>In addition, study has shown that the more adverse childhood experiences (ACEs) an individual experiences in childhood, the greater their risk of a wide range of health-harming behaviours and diseases as an adult.</p> <p>BwDBC aims to both prevent ACEs occurring in the first place wherever possible, and to prevent the consequences of ACEs in those that have already experienced them. A trauma informed approach is used throughout BwDBC services.</p>
Homelessness	Care experienced people are much more likely to be homeless or found to

	<p>be intentionally homeless than their peers in the general population. The All-Party Parliamentary Group for Ending Homelessness reported in 2017 that ‘One third of care leavers become homeless in the first two years immediately after they leave care and 25% of homeless people have been in care at some point in their lives’. The report also highlighted that care leavers in custody were at a much higher risk of becoming homeless, entering a cycle of repeat homelessness and custody, and recommended removing intentional homelessness for care leavers as a way of tackling this inequality. In October 2023, Become, the national charity for children in care and care leavers, also reported that figures in the government’s annual Statutory Homelessness in England Report found that the number of care leavers facing homelessness has increased 33% since 2018, rising three times as fast as the overall number of households facing homelessness.</p>
Criminal Justice	<p>Children in care are much more at risk of interacting with the Criminal Justice System by the age of 24 than their peers. National figures indicate that over half (52%) of care experienced children had been convicted of a criminal offence by the academic year they turned 24 compared with 13% who had not been in care.</p> <p>Care leavers are overrepresented in the adult prison population and are more likely to be criminalised than the general population of their peers with no experience of care. Ministry of Justice and Department for Education (DfE) data highlights that over a third of the adult prison population identified as having been care experienced as a child.</p>
Voice of care experienced young people	<p>A care experienced young person presented at the National Leaving Care Benchmarking Forum, which is network of local authorities in England working together to share good practice and improve services and support for care experienced young people. Following the event discussions with the Leaving Care Forum and a subsequent consultation with care experienced young people via an online survey identified young adults desire to have care leavers as a protected characteristic group.</p> <p>In May 2024, 14 care leavers responded to a survey asking their opinion on making care leavers a protected characteristic. Of these respondents, 64% wanted care experience to become a locally protected characteristic.</p>

5.2. Care Experience in Blackburn with Darwen

As a Corporate Parent, BwDBC has legal responsibilities under the Children and Social Work Act 2017 towards care experienced children and young people. These principles are:

1. to act in the best interests, and promote the physical and mental health and wellbeing, of those children and young people.
2. to encourage those children and young people to express their views, wishes and feelings.
3. to take into account the views, wishes and feelings of those children and young people.
4. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners.
5. to promote high aspirations, and seek to secure the best outcomes, for those children and young people.
6. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and
7. to prepare those children and young people for adulthood and independent living.

In addition, BwDBC currently offers the following support for qualifying Care Experienced young adults:

- Allocation of a Personal Advisor who will keep in touch.

- Access to advice and assistance based on an Assessment of Need carried out by the Leaving Care Team which may include:
 - Access to safe and suitable homes
 - Education, training, and employment opportunities.
 - Practical emotional and financial support
- Access to health histories and passports and health services to meet physical, emotional and wellbeing needs.
- Transitions and preparations for independence and adult life
- Maintaining strong social networks, family links and feeling safe and part of their community.

5.3. Benefits of making Care Experience a protected characteristic

5.3.1. Acknowledgement of unique challenges

Introducing care experience as a locally protected characteristic acknowledges the unique challenges and experiences faced by care experienced individuals and recognises the need for specific protections and support. By including care experience as a protected characteristic, the council demonstrates a commitment to addressing the inequalities and barriers faced by this marginalised group. It ensures that care experienced individuals are afforded the same rights, opportunities, and access to services as other protected groups. This recognition not only promotes fairness and social justice but also encourages greater inclusivity within the council. It creates a platform for care experienced individuals to have their voices heard, their experiences valued, and to support their needs being met.

5.3.2. Supporting our Core Missions

Making care experience a locally protected characteristic would support three of our core missions as set out in the Corporate Plan 2023-27:

- A more prosperous borough where no one is left behind.
- Every child and young person to have opportunities to fulfil their potential.
- Build healthier, happier and safer communities.

5.3.3. A platform to call upon others.

Making care experience a locally protected characteristic will provide a platform for the Council to formally call upon other bodies, services, and partners to treat care experience as a locally protected characteristic and to adopt the Corporate Parenting Principles, until such time as they may be introduced by legislation.

Currently, BwDBC are part of the Care Leaver Covenant, a national inclusion programme that supports care leavers aged 16-25 to live independently. Through this, the Council is already engaging with local companies and local authorities, as well as undertaking promotion activities, to provide support and opportunities for care leavers. Making care leavers a locally protected characteristic would strengthen BwDBC's position in these engagements.

5.4. Potential drawbacks of making Care Leavers a protected characteristic

5.4.1. Stigmatisation

By placing a label on those who have been in care, there is a risk of stigmatising those individuals, with this decision potentially being viewed as a negative acknowledgment of their disadvantage. Furthermore, there is the potential that making care experience a protected characteristic could reinforce negative stereotypes of these individuals.

In addition, making an attribute a protected characteristic does not immediately remove discrimination. Unfair treatment of characteristics protected under the Equality Act 2010 still exists. As such appropriate

action to support those with care experience will need to be continued to be taken beyond the decision made by the Executive Board.

5.4.2. Impeding separation from being care experienced.

In Blackburn with Darwen, 54 young people (15.52%) do not have an open referral (not open to the service) as they have expressed that they do not require a service and have stepped away from care leaving services.

In the [2023 Children's Commissioner survey](#), one respondent noted "I worry that some may feel further stigmatised by having a continued label in relation to 'care' which often some want to move away from."

By making care experience a local protected characteristic, there is a risk that those who do not wish to be associated with their previous experience feel labelled and defined by their experience in care.

5.4.3. Complexity of determining eligibility

As noted by [Hugman, 2023](#), two issues arise when defining care experience:

1. The temporality of a child being looked after. While some children enter the care system for their entire childhood, some children may only spend a few days in care. Others may spend a few years, while for some children, care is episodic across their childhood.
2. The use of a legislatively defined being, or having been, a 'looked after child; is likely to omit experiences of informal private arrangements that may not differ substantially from formal state arrangements.

In order to develop a firm definition of a care leaver for Blackburn with Darwen, it is proposed that the following groups of individuals be included:

1. **Eligible Care Leaver** – Those aged 16 or 17 and are currently looked after for a period of 13 weeks after their 14th birthday and left care on or after their 16th birthday.
2. **Relevant Child** – Those aged 16 or 17, who were in care for more than 13 weeks after their 14th birthday and left care on or after their 16th birthday.
3. **Former Relevant Child** – Those aged 18-25, who were in care for more than 13 weeks after their 14th birthday and were still in care on their 16th birthday.
4. **Qualifying Care Leaver** – Those aged 18-25 and spent time in care after their 16th birthday but have been in care less than 13 weeks in total since their 14th birthday.

5.5. Further Considerations

5.5.1. Improvement over politicisation

The [2023 Children's Commissioner survey](#) found that some respondents argued that the care system should be improved rather than politicised. As such, it is important that any alterations to the protected characteristic status should not be tokenistic and must be coupled with appropriate support to care leavers within the Borough.

5.5.2. Additional Protected Characteristics

Adopting care experience as a protected characteristic could instigate requests for additional protected characteristics from other sections of the community. If a policy change is approved, then these would need to be given due consideration.

6. PRACTICAL IMPLEMENTATION

If adopted, considerations for care leavers will need to be implemented for Council-wide policy development. This will mirror current considerations for the nine protected characteristics that are set out under the Equality Act 2010.

Work will need to be undertaken to update existing policies. Potential policy changes may include:

- Employment and Workplace Policies.
- Housing and Accommodation Policies.
- Health and Social Care Policies.
- Community Engagement and Participation processes.

If a policy is due to be updated within the next 12 months, the implementation of care leaver as a locally protected characteristic will be completed at this point.

The equality impact assessment (EIA) process will also be updated to include reference to care leavers. This will ensure that due consideration is given to the impact of any policies, decisions or service changes on care leavers.

7. POLICY IMPLICATIONS

If the recommendations are accepted by the Executive Board, and a motion is approved at Council Forums, existing policies will need to be reviewed to ensure that care experience status is given equal due regard as the pre-existing nine protected characteristics under the Equality Act 2010.

All future policies will be required to ensure they are not discriminating against those with care experience, which will be confirmed through an update to the Equality Impact Assessment (EIA) process.

8. FINANCIAL IMPLICATIONS

It is anticipated the implications around this decision will predominately relate to policy changes and, although this will involve Officer and Member time to develop and implement, it is not expected that any costs above those already budgeted for will be incurred.

9. LEGAL IMPLICATIONS

The Equality Act 2010 is intended to eliminate discrimination and specifically references nine protected characteristics for that purpose, including (but not limited to) age, disability, race and religion.

The Children and Social Work Act 2017 addresses the corporate parent principles and the duties of the local authority, in addition to the related duties under The Children Act 1989. Acknowledging a personal characteristic, such as care experience, as being akin to a protected characteristic furthers the principles of the Equality Act in the absence of legislative change and the addition of a further protected characteristic.

The proposal contained in this report should be reviewed in the event that legislation is introduced to add care experience as a tenth protected characteristic to the Equality Act 2010.

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.

9. RESOURCE IMPLICATIONS

Officer and Member time will be required to develop and implement policy changes.

10. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

11. CONSULTATIONS

In May 2024, 14 care leavers responded to a survey asking their opinion on making care leavers a protected characteristic. Of these respondents, 64% wanted care experience to become a locally protected characteristic.

12. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

13. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION: 1

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DATE:	20th June 2024
BACKGROUND PAPER:	None

