

# **Corporate Parenting Board**

**9<sup>th</sup> January 2024**

## **Care Experienced Status as a Protected Characteristic**

### **1. Executive Summary**

1.1 This report outlines the proposal that Walsall Council treats individuals with care experience as a Protected Characteristic.

1.2 This report is part of a wider focus by our Corporate Parenting Board on what additional measures can be put in place by us here in Walsall to further improve outcomes for children that we hold corporate parenting responsibility for.

1.3 This report outlines the proposal that Walsall Council join over 58 councils who have now introduced care experience as a protected characteristic, recognising the disadvantages faced by those with care experience when it comes to health, education, housing, employment, and criminality amongst other inequalities.

1.4 This will demonstrate our commitment as a Corporate Parent to ending the disparity and inequality faced by care experienced young people by going beyond our statutory requirements and ensuring that the needs of care experienced young people are at the heart of all our decision-making, alongside other groups who formally share a Protected Characteristic.

### **2. Recommendations**

2.1 That the Corporate Parenting Board recommend one of the following options: -

- A) That Council be recommended to approve 'Care Experienced as a local protected characteristic'; or
- B) That no further action be taken.

### **3. Resource and legal considerations**

3.1 Local authority duties to young people and care leavers are set out in the following legislation:

Children Act 1989

Children (Leaving Care) Act 2000

Children and Social Work Act 2017

3.2 Walsall is committed to ensuring that our care experienced young people have their rights protected. The Equality Act 2010 is intended to eliminate discrimination and specifically references 9 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.

#### **4. Performance management**

4.1 Corporate Parenting Board ensures everyone works together to fulfil the corporate parenting role and to hold each other to account for making this happen. Regular reports are provided to the Director of Children's Services and the Corporate Parenting Board.

#### **5. Reducing inequalities**

5.1 Our Corporate Parenting Strategy sets out the response to secure improvements in the equality of services, which, when achieved will have a positive impact on our most vulnerable children, young people and families. By being effective Corporate Parents for Looked After Children and Care Leavers, we collectively seek to redress the disadvantage that looked after children and care leavers face.

5.2 It is within our power to create a society that embraces the unique journeys of care experienced individuals and protect them from discrimination and disadvantage. By making care experience a protected characteristic, we send a powerful message of inclusivity and empathy to not just our young people but the wider community of Walsall.

5.3 That the Council recognises that care experienced people are a group who are likely to face discrimination and that future decisions, services and policies made and adopted by the Council should be assessed through Equality Impact Assessments to determine the impact of changes on people with care experience, alongside those who formally share a protected characteristic.

5.4 As part of our continued work in reducing these inequalities for our care experienced young people, they themselves have advised us that they welcome such a motion that allows them to feel valued and supported by us as their corporate parent. This goes much wider as taking such a move also supports our corporate grandparent agenda as the impact of this will ultimately serve both our young people now and their own families in the future.

#### **6. Introduction and background**

6.1 Walsall currently has 657 children in care, and we are supporting 285 young people that have now left our care. This is in line with a national picture of an increase in children entering care over the past decade.

6.2 The outcomes of children and young people in care have been extensively researched, with a clear pattern of lower educational attainment of care experienced children and young people, in comparison to their non-care experienced peers. They are also an overrepresented group within our prison population and account for 26% of the current homeless population.

- 6.3 Despite targeted policy developments to support educational attainment for children and young people in care, for example, the development of virtual schools and the pupil premium plus, they continue to be less likely to transition to higher education at the ages of 18 and 19 years old, compared to their non-care experienced peers. They remain a largely marginalised group within society and are extremely vulnerable as a consequence.
- 6.4 The Independent Review of Children's Social Care by Josh McAllister was published in May 2022. This national report included recommendations that the 'Government should make care experience a protected characteristic'. It also notes 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. It would make the UK the first country in the world to recognise care experienced people in this way. Whilst this was not fully endorsed by Central Government, Local Councils across the country have since passed their own motions to treat care experience as a protected characteristic.
- 6.5 Care experienced people face significant barriers that impact them throughout their lives and despite their resilience, society often does not always take their vulnerabilities into account. As such, care experienced people often face discrimination in all facets of their lives including access to housing, health, education, relationships, employment and as an overrepresented group within the criminal justice system.
- 6.6 'Care Experience' is a term used to describe people who are, or who have been, in the care of a Local Authority. Care experience is not currently deemed to be a protected characteristic in law but with more councils now treating care experience as if it were a protected characteristic, it means that those Council's must actively take the needs of this cohort into account in all future policy and decision making. This will include a requirement to undertake Equality Impact Assessments that explicitly considers the needs of this cohort of people.
- 6.7 The Public Sector Equality Duty is a duty imposed on all UK public bodies by Section 149 of the Equality Act 2010, to take equalities considerations into account when exercising any of their functions and making decisions. This includes a requirement to advance equality of opportunity between people who share a protected characteristic and those who do not. It is because of the advantages as outlined above that we feel this is an important stance to take when considering the needs of some of the most vulnerable young people in our community. The aim is that by treating those with care experience as a protected characteristic, this will go some way in addressing the imbalance that currently exists.
- 6.8 In practice, this would mean that the council will need to consider Care Leaver in line with the other protected characteristics that exist in law. So, for example it can provide them greater opportunities in accessing work and training opportunities as their status would define them as needing additional consideration. Whilst we do already have pathways in place to support our care leavers, this is largely a process

that is championed by us in children's services rather than the wider corporate parenting duty that should sit within the wider council.

6.9 Another element of our local offer that would be strengthened by this motion being approved is our housing pathway. Whilst we currently have bespoke contracts in place with WHG to support some of our care leavers, the additional element of Care Leaver status being protected means that this process is much more robust and leaves no room for our young people to be discriminated against when struggling to maintain tenancies owing to their past trauma and specific levels of need.

6.10 In addition to above, the data we could collect as part of our equality duties will further illuminate where care experienced people struggle the most which will assist in determining future policies and service delivery. Essentially, this should mean all areas where discrimination can be a factor in determining services. For the young people themselves this should mean that services are easier to access as their needs are better recognised.

## **7. Regional Picture**

7.1 There has been growing support both regionally and nationally in regard to the recommendation made within the National Review undertaken last year by Josh McCallister and as such, 58 councils have endorsed this recommendation with many more in the process of doing so. This demonstrates the importance placed on how we best support our care experienced young people in adult life to ensure that they have the best possible outcome that any good parent would expect for their child. The national system must, and is, attempting to promote the responsibilities that comes with community corporate parenting and how our safeguarding partners need to share in the responsibility with us to do so. By treating care experience as a protected characteristic as part of our own equality duty sends a good message to not only our young people that we are responsible for, but the wider society as a whole.

## **8. Decide**

Option 1:

Approve 'Care Experienced' as a local protected characteristic by Walsall Council (Recommended).

By formally recognising care leavers as a protected characteristic the Council are acknowledging those with care experience can face discrimination, stigma and prejudice. The recognition demonstrates the council's commitment to advancing equality of opportunity between those with care experience and those without. By making 'care experience' a protected characteristic we are demonstrating our commitment to Care Leavers now as opposed to waiting for national reform to impose these changes on our behalf.

Option 2:

Not Approve 'Care Experienced' as a protected characteristic by Walsall Council (Not Recommended).

Future national reform may introduce care experience as a characteristic under the Equalities Act in the future. This was a key recommendation from the Care Review in 2022 but was not endorsed and is currently being implemented by several Local Authorities nationally.

## **9. Next steps**

9.1 Subject to approval of the recommendation being made at this stage, the next step will be to present this proposal to Council with the support of the Corporate Parenting Board and Cllr Elson as the Portfolio Holder for Childrens Social Care.

9.2 In consultation with our Strategy, Policy and Performance Team, we have agreed that if this proposal is endorsed, there needs to be more guidance available to officers completing Equality Impact Assessment (EqIA) forms in order to take into account this as a protected characteristic. The team are in full support of this being included and have stated that officers completing EqIAs in the future may need to seek further assistance from someone who deals with this cohort for advice and clarification, should they need to do so. As such, this is something that can be supported should the motion be successfully passed by the council.

## **Contact Officer**

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