

Cabinet – 17 April 2024

Care Experience as a Local Protected Characteristic

Portfolio: Councillor Elson – Children’s

Related portfolios:

Service: Childrens Social Care

Wards: All

Key decision: Yes

Forward plan: Yes

1. Aim

- 1.1 For Cabinet to consider designating ‘care experienced’ as a local protected characteristic following the passing of a Notice for Motion requesting this to happen at Council on 24 February 2024.

2. Summary

- 2.2 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% nationally of the current homeless population.
- 2.3 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.
- 2.4 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 it is suggested to make care experienced a local Equality characteristic to ensure when decisions are taken the needs of some of the most vulnerable young people in our community and go some way in addressing the imbalance that currently exists.

- 2.5 In practice, this would mean that the council will need to consider Care Leavers 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 there are already pathways in place to support our care leavers, this is largely a process that is championed by children's services rather than the wider corporate parenting duty that should sit within the wider council.
- 2.6 Another element of the local offer that is being strengthened by this motion being approved is our housing offer for care leavers. Whilst there are currently 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 will be much more robust and leaves no room for young people to be discriminated against when struggling to maintain tenancies owing to their past trauma and specific levels of need.
- 2.7 In addition to above, the data would 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
- 2.8 On the 28th February 2024, a motion was put forward at a Council meeting by Councillors Elson, Jukes, Harrison, Waters, Hicken, and Worrall, outlining the the council's care, and recommended that a report goes to Cabinet asking them to formally act and call upon partners to treat care experience as a local protected characteristic.

3. Recommendations

- 3.1 That 'Care Experienced' be treated as a local protected characteristic as part of Walsall Council's Equality Duty.

4. Report detail - know

- 4.1 Walsall currently has 665 children in care, and we are supporting 285 young people that have now left our care. This is line with a national picture of an increase in children entering care over the past decade.
- 4.2 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.

- 4.3 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.
- 4.4 '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.
- 4.5 The Equality Act 2010 outlines nine protected characteristics enshrined within law. These include:
 - Age
 - Sex
 - Gender reassignment
 - Race
 - Disability
 - Pregnancy/maternity
 - Sexual orientation
 - Religion or belief
 - Marriage/Civil partnership
- 4.6 The Equality Act is supported by the Public Sector Equality Duty, which requires that public bodies such as Councils consider how people will be affected by decisions and services and to ensure that public services meet all different people's needs. As a public body, under the Equality Act 2010, the Council must have due regard to the need to:
 - eliminate discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
 - advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it;
 - And foster good relations between people.
- 4.7 The Council are currently reviewing the Council's equality objectives to align to the Equality Framework for Local Government. These new equality objectives will be developed as part of a new all-encompassing EDI Strategy

and delivery plan. The new EDI strategy aims to consolidate all streams of EDI work across the Council. This ensures that there is a clear One Council vision for Equalities aligned to our new Council Plan that is in development for later in the year and helping drive forward delivery of our overarching borough vision We are Walsall 2040.

- 4.8 The Equality Impact Assessment tool will be refreshed to support the new EDI strategy and objectives. As part of this the Council will be giving due consideration to other local characteristics the Council may choose to adopt as part of its responsibilities under the Equality Act. Ahead of this we are proposing that Care leavers/Care experienced is the first local characteristic to be adopted by the Council and is incorporated within the newly refreshed EQIA toolkit and guidance later this year.

4.9 Council Plan priorities

Our council priorities outline the following:

- Walsall people will have appropriate skills and access to jobs so economic benefits are felt in each of our communities.
- Make a positive difference to the lives of Walsall people: Increasing independence and improving healthy lifestyles so all can positively contribute to their communities.
- Children are safe from harm, happy and learning well with self-belief, aspiration and support to be their best: Walsall children are provided with the best start in life so they can fulfil their potential and make positive contributions to their communities.
- Safe, resilient and prospering communities: Walsall is a clean, safe and healthy place, with the right housing to meet need, accessible to all and with a strong sense of belonging and cohesion.

We are Walsall 2040 also outlines the following ambitions for residents:

- Thriving and happy
- Healthy and well
- Prosperous and innovative
- Proud of our Borough

In addition, our Corporate Parenting Strategy outlines that every elected member and employee of this Council, along with partner agencies, is a corporate parent to the children in our care. And as such, we are all responsible for providing the best possible care, safeguarding and outcomes for the children who are looked after by us.

Care experienced young people have the right to expect everything from a corporate parent that would be expected from a responsible and good parent. This includes how families continue their support, care, and ambition for their children after they leave home and gain independence. To be the best corporate parents we can be, we need to be in a position to make a real and sustained difference. Introducing a protected characteristic for care experience

will mean that some of our most vulnerable residents within the borough will have greater opportunities to be ambitious and strive to achieve to be the best version of themselves.

Risk management

- 4.10 As already highlighted, there is ongoing prejudice against a group that already suffers disadvantage within society. Despite care experienced people making up around 1.4 per cent of the UK population, they account for 25 per cent of homeless people in England and a quarter of the prison population. Nearly half of all under 21-year-olds in contact with the criminal justice system have been in care. Doing what we can to protect them from forms of discrimination will help us to better equip them when preparing for adulthood.

Financial implications

- 4.11 There are no financial implications to this being considered. However, by assisting the transition to adulthood and the impact this may have in helping to reduce the need for support, there may be cost savings in the longer term when meeting the needs of these young people.

Legal implications

- 4.12 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. Treating Care Leaver as a protected characteristic would bring care experience to the forefront of the Councils decision making, meaning that all decisions would take account of the positive or negative impact they could have on people with care experience.

Procurement Implications/Social Value

- 4.13 As outlined in Walsall's 2022 – 2025 council plan, we aim to reduce inequalities and make the most of potential. Together we are committed to:
- enabling residents, communities and businesses to fulfil their potential and thrive.

Property implications

- 4.13 None

Health and wellbeing implications

- 4.14 As a Council we have a responsibility to provide the best possible care and safeguarding for all those children who have been looked after by us and then to support them as they embark on the next chapter of their lives as young adults. It's so important that as part of this we challenge prejudice and negative attitudes about care leavers and provide the support they need to tackle this themselves.

Reducing Inequalities

- 4.15 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 local protected characteristic, we send a powerful message of inclusivity and empathy to not just our young people but the wider community of Walsall.

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.

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. It is foreseen that the recommendations within this report could have a positive effect upon young adults with care experience through having their 'Care leaver' status considered alongside other protected characteristics set out in the Equality Act 2010.

Staffing implications

- 4.16 In consultation with our Strategy and Policy Unit, we have agreed that 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.

Climate Impact

- 4.17 None

Consultation

- 4.18 This matter has been presented to and discussed with our Portfolio Holder for Childrens Social Care, Cllr Elson and she has provided her support to the same. The motion was put forward and unanimously supported at Council on the 28th February 2024.

5 Decide

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

6 Respond

- 6.1 Subject to approval of the recommendation from Council by Cabinet , the next step will be to include care experience as a protected characteristic as part of Walsall Council's Equality Duty.

7 Review

- 7.1 We already have a substantive local offer for our care experienced young people as outlined in our Local Offer to Care Leavers. In the event that this proposal is endorsed by Walsall Council, it is proposed the impact of this change will be measured alongside our annual review of our Local Offer which is scrutinised by Walsall Corporate Parenting Board. This will include ensuring that consideration to care leavers status is outlined within future policy and strategies where appropriate, and act as a point of contact for consideration on this issue as and when the need arises.
- 7.2 The implications of being able to recognise this for our care experienced young people can be far reaching and could have a positive impact on a number of key factors that can enhance our Local Offer. Nationally, there is a significant number of care experienced young people that do not have access to Education, Employment and Training opportunities. This is not just in relation to resources but more about the care experienced community being able to be considered for such opportunities without the stigma attached to their care history being a factor in determining their ability to do the job or be successful on a training course.
- 7.3 For some time, we have had young people unable to access courses in certain areas as their past behaviours have meant that they are prejudged as not suitable. An example of this is a young person that had a history of violent behaviour and was refused a place on a course in relation to hairdressing because of health and safety concerns. Whilst it may be for good reason in certain circumstances to make such decisions, in some, the stigma that has remained attached to some of our young people has ultimately ended in them being disadvantaged based on historical behaviours exhibited at a time when they were experiencing trauma.

- 7.4 The main aims for adopting 'Care Experienced' in this way are to support and improve outcomes in the following areas: supporting economic transition to adulthood; accessing work readiness and employability skills; building future careers and gaining experience, championing access to apprenticeships and support through recruitment processes and ensuring priority is given to care experienced young people when appropriate accommodation is needed. If we can utilise this protected characteristic to widen opportunities for our young people then we will ultimately see a positive impact on their opportunity to better their life chances.
- 7.5 Currently we have a Corporate Parenting Strategy that outlines both our duties and our offer to those that are in and/or have left our care. In order to enhance the commitment to our care experienced young people, we are now looking to develop a care leavers strategy that will further outline our corporate responsibilities towards care leavers, ensuring that there is due attention paid to significant policy areas as outlined within this report.

Background papers

None

Author

Zoe Morgan

Head of Service

✉ zoe.morgan@walsall.gov.uk



Signed
Colleen Male
Executive Director Childrens Services
09.04.2024



Signed
Cllr Stacie Elson
Portfolio Holder Childrens Social Work
09.04.2024