



Corporate Parenting Committee
14 October 2024

**Report from the Corporate Director
of Children and Young People**

**Cabinet Member for Children,
Young People and Schools - Cllr
Gwen Grahl**

Care as a Protected Characteristic

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| Wards Affected: | ALL |
| Key or Non-Key Decision: | N/A |
| Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act) | Part Exempt – Appendix 1 is exempt from publication as it contains exempt information as specified in Paragraph 1, Part 2, Schedule 12A of the Local Government Act 1972, namely: “Information which is likely to reveal an individual”. |
| List of Appendices: | 1. Young Peoples Report- Care Experience as a Protected Characteristic |
| Background Papers: | N/A |
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1.0 Executive Summary

1.1. At the July 2024 Corporate Parenting Committee, the Participation team were asked to work with young people to present a report to the October 2024 Committee outlining their views on whether Brent should adopt “care experience as a protected characteristic”. This cover report provides background information to the report that was prepared by young people (Appendix 1).

2.0 Recommendation(s)

2.1 That Corporate Parenting Committee consider:

- Whether to support Brent adopting the concept of care experience as a protected characteristic.
- If this is adopted, that agreement is given to support and explore ‘care experience’ having a similar status to other protected characteristics. It is proposed that this work aligns with concurrent corporate activity to review Equality Impact

Assessments (EIA) and explore the adoption of the socio-economic duty – Section 1 of the Equality Act (2010).

- If adopted, agree that young people have a key role in monitoring the practical implementation of care experience as a protected characteristic.

3. Detail

3.1 Contribution to Borough Plan Priorities and Strategic Context

3.1.1 This activity contributes to the Borough priorities outlined below:

- **The Best Start in Life**

Recognising care experience as a protected characteristic will enable Brent to ensure that care experienced children and young people receive the support they need and are not stigmatised or excluded from opportunities due to their care experience. This aligns to the borough plan priority for parents, children and young people to get the best start in life.

- **Prosperity and Stability**

Adopting care experience as a protected characteristic will aim to tackle inequality and disproportionality for care experienced young people by ensuring that all council decision making considers care experienced young people.

- **A Healthier Brent**

In order for care experienced children and young people to have good health outcomes, social determinants of health such as inequalities in housing, employment and income must be addressed. Adopting care experience as a protected characteristic will provide the council with a formal mechanism to ensure all decision making routinely considers the impact on care experienced young people.

3.2 Background

3.2.1 The Equality Act 2010 protects individuals from discrimination based on characteristics such as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex and sexual orientation.

3.2.2 In May 2022, the Independent Review of Children's Social Care (IRCSC) published its final report to Government: [The independent review of children's social care: final report](#). The IRCSC considered the current experience of care, including the experience of people who had been in care. The review included detailed consultation with young people and partner agencies both statutory and voluntary. The final report recommended that Government should make care experience a protected characteristic.

3.2.3 The report noted: *This stigma and discrimination (of being in care) can be explicit, and often comes with assumptions about the likely characteristics of children and adults that have care experience. They can also be implicit and are evidenced in the way care experience is discussed in schools, workplaces, and the media. At its worst this can lead to care experienced people being refused employment, failing to succeed in education or facing unfair judgements about their ability to parent when they have children and families of their own'...Therefore, the government should make care experience a protected characteristic.*

3.2.4 The Government of the time chose not to implement this recommendation, but local authorities across the country are taking their own action to adopt this principle within their local authority policy and procedural arrangements.

- 3.2.5 There is a growing movement to recognise children who have been in local authority care, also known as “care experienced” children, as needing to be included within protected characteristic status. The movement seeks to address the unique challenges and vulnerabilities faced by children in care and advocate for their right to be protected and supported in the same way as other marginalized groups.
- 3.2.6 In 2023 the Children’s commissioner launched a survey asking all care experienced individuals their view on whether care experience should be a protected characteristic.
- 3.2.7 In October 2023 the commissioner published an update: [Should care experience be a protected characteristic? | Children’s Commissioner for England \(childrenscommissioner.gov.uk\)](https://childrenscommissioner.gov.uk/should-care-experience-be-a-protected-characteristic/)
- 3.2.8 The commissioner noted that, *“Some of the arguments in favour from responses so far include: that care experience has a life-long impact, that it could bring change and give care experienced people a voice, and it could prevent discrimination, spark conversations and empower people who have experienced discrimination or trauma”*.
- 3.2.9 However, the commissioner did acknowledge that some care experienced young people had expressed concerns about making care experience a protected characteristic. *“Some of the arguments against care experience becoming a protected characteristic in responses so far include: it could result in more discrimination and stigmatisation, that being in care is a positive rather than a negative, and that people want separation from being care experienced”*.
- 3.2.10 In 2019 Renfrewshire Council in Scotland became the first council to formally adopt care experience as a protected characteristic. In January 2023 Lambeth became the first London local authority to adopt care experience as a protected characteristic and thereby formally recognise the unique challenges and vulnerabilities faced by care experienced children and young people. Since then, several other London local authorities have made this commitment. These include Camden, Croydon, Ealing, Enfield, Greenwich, Hammersmith and Fulham, Hounslow, Islington, Kingston, Newham, Redbridge, Richmond upon Thames, Southwark, Sutton, Tower Hamlets, and Waltham Forest.
- 3.2.11 Some of the initiatives that have been implemented by councils recognising care experience as a protected characteristic include Renfrewshire establishing a Care Experience Bursary Fund to provide financial support for care experienced young people pursuing higher education; Camden agreeing to provide free Wi-Fi to all Camden care leavers up until 25 whether they are in council housing, in private rented accommodation, or other accommodation, to further support those with care experience.
- 3.2.12 The London Care Leavers Compact was established in 2022 to deliver a consistent and high-quality offer for care leavers across the capital, demonstrating a commitment to providing greater equity of provision across a range of services from housing to travel. This was previously presented at Corporate Parenting Committee on 16th October 2023. It covered a range of issues and Brent has fully implemented all aspects of the main areas of the compact.

Developments in Brent

- 3.2.13 At the July 2024 Corporate Parenting Committee, the Participation team and a small group of care experienced young people facilitated a workshop discussing Brent

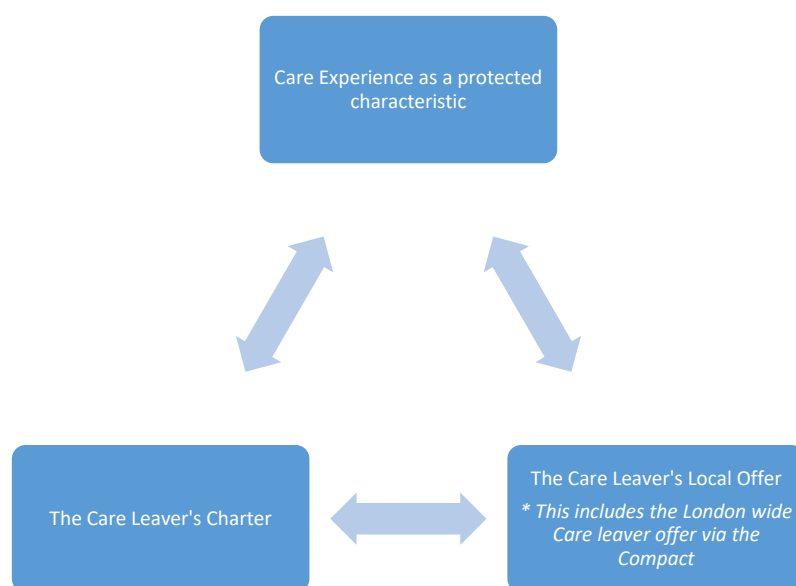
adopting care experience as a protected characteristic. Young people expressed some concerns that this policy would mean they have to disclose their status and worried that this may further stigmatise them. They were reassured when explained that this was not the case and were encouraged when discussing ways that they could in fact be protected. The concerns that were expressed align with findings from the Children's Commissioner's survey of care experienced young people's views on adopting care experience as a protected characteristic.

3.2.14 The workshop discussions underlined that there remains some uncertainty as to what implications there would be for the Council in adopting care experience as a protected characteristic. Young people expressed that if this was adopted, they would want clarity about what exactly it would mean and how this would be monitored.

3.2.15 Since July, the Brent Participation team have worked with young people to discuss this issue and hear their view about the merits of this policy, as well as how they would want it practically implemented and what they would like it to look like in Brent. Attached is the report prepared on 24th September by a group of Care Leavers following consultation with the wider care experienced population and research by the group.

3.2.16 Young people researched what had been done by other councils and considered what they would want to happen in Brent. Many of the examples given in the young people's paper relate to specific benefits that they want to see offered to care leavers. Also submitted to this month's Corporate Parenting Committee is the updated Care Leaver's Local Offer and the Care Leavers' charter. Graph 1 below, depicts the relationship between the three.

Figure 1



3.2.17 Care as a protected characteristic provides an overarching principle by which the Council would operate, ensuring that care experienced children and young people are not discriminated against.

The Local Offer provides information about what services and support are available to all Brent Care Leavers from all partner agencies and shows the practical connection of the overarching principle to practical examples of what services will be provided. The Care Leavers' Charter provides the Local Authority commitment to care leavers, outlining how we work together and our promises to young people.

In effect there is a dotted line between these three documents and the monitoring of the offer and charter will in turn provide a mechanism for reviewing the effectiveness of care as protected characteristic.

3.2.18 Should the Corporate Parenting Board support the adoption of care as a protected characteristic, it is proposed that this change will align with concurrent corporate activity to review Equality Impact Assessments (EIA) and explore the adoption of the socio-economic duty (Section 1, Equality Act 2010). The timeframe for finalising this is early 2025. The existing work to review the Council's EIAs aims to improve the process, approach, associated guidance and consistency of completed EIAs. Additionally, adopting the socio-economic duty would require the organisation to consider ways in which decisions increase or decrease inequalities that result from socio-economic disadvantage, similar to the due regard given to the current 9 protected characteristics. As part of the overarching EIA review, both 'care experience' and 'socioeconomic status' would feature as characteristics that require active consideration.

4.0 Stakeholder and ward member consultation and engagement

4.1 Significant involvement with care experienced young people has taken place in formulating this document and considering how best to implement the approach, aligning it to the updated Care Leavers' Offer and Charter.

4.2 Consideration will be given to presenting this proposal to Full Council for adoption, supported by young people. As detailed in section 3.2.18 this would need to be done in tandem with the wider changes to the EIA review.

5.0 Financial Considerations

5.1 The proposal to consider "care experience" as a protected characteristic has not been adopted by the government and as such, has no legal status. The proposal is considered to be an "overarching principle" and will not result in additional financial commitments. The proposal is linked to the "Local Offer" that details the levels of support currently provided by the Council for Care Leavers. Any future proposed changes to the Local Offer will be reviewed to assess the potential financial implications for the Council.

5.2 There could be some additional considerations required in terms of considering this characteristic when Council officers undertake EDI assessments and other similar work, but it is assumed that this will be done within existing resources.

6.0 Legal Considerations

6.1 Currently, the Equality Act (EA) 2010 provides the legal framework to protect the rights of individuals with the following protected characteristics:

- Age
- Disability
- Gender reassignment

- Marriage and civil partnership
- Pregnancy or maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

6.2 Section 4 of the Equality Act 2010 as set out above list the nine protected characteristics and people with those characteristics are afforded rights in relation to discrimination on the grounds of those characteristics.

6.3 There is no legal basis to prohibit the Council from including 'Care Leaver' to the list to be considered locally in its Equalities Impact Assessments. Indeed, the general Public Sector Equality Duty aim is to ensure public authorities have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.4 However, in the event that there is a conflicting impact between 'Care Leaver' and any of the statutory protected characteristics, then the statutory protected characteristics must take precedence.

7.0 Equity, Diversity & Inclusion (EDI) Considerations

7.1 Adopting 'care experience' as a protected characteristic would have considerable equality implications for the Council, as all decision making will need to routinely consider the impact on care experienced young people in the same way it already does with the nine other protected characteristics. Should care experience be adopted as a protected characteristic by the Council, then it would be added to the organisation's Equality Impact Assessments, which would ensure that any proposals or changes to services actively consider the implications for care experienced people. Similarly, care experience would be added to the equality considerations when the Council considers internal and external policies, procuring goods and services, service provision, and recruitment, promotion, and performance management of employees.

7.2 This means adoption will need to be complemented by effective socialisation, awareness raising and possibly training to ensure officers and decision makers understand how to actively consider care experienced young people in their ideas, proposals, projects and decisions.

7.3 Overall, this would have a positive impact on the Council's equality responsibilities, as it will ensure that the needs of people who have experience of care, often a vulnerable group, are given consideration from Council in a holistic way.

8.0 Climate Change and Environmental Considerations

8.1 There are no climate change and environmental considerations at this stage.

9.0 Human Resources/Property Considerations (if appropriate)

9.1 There are no Human Resource or Property considerations at this stage.

10.0 Communication Considerations

10.1 As detailed in section 7.2 adoption of care experience as a protected characteristic will need to be complemented by effective socialisation, awareness raising and possibly training to ensure officers and decision makers understand how to actively consider care experienced young people in their ideas, proposals, projects and decisions.

Report sign off:

Nigel Chapman

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