

Treating Care Experience as a Protected Characteristic

Final Report of The Task and Finish Group

Introduction

In 2022, [The Independent Review of Children's Social Care](#) recommended that Care Experience should become a protected characteristic as an addition to the protected characteristics already defined by the Equality Act 2010.

In its response, the previous government declined to take this forward, saying that it was concerned that by doing so it might increase the stigma relating to Care Experience. The Author, Josh MacAlister, has continued to support this recommendation, telling the Moving On Up Network in 2024 that Local Authorities have a “moral duty” to treat Care Experience as a Protected Characteristic. There is a well-publicised national campaign, led by care experienced people, for Local Authorities to adopt this motion and to date, 101 Local Authorities have signed up. (As of 8th August 2024)

As corporate parents we have a duty to consider our role in this and this paper will set out the framework, rationale and recommendations.

For the purpose of clarity this report will discuss Care Leavers, as defined by the [Children \(Leaving Care\) Act 2000](#) and people with Care Experience, which is broadly accepted to refer to people who have been in care during childhood. This cohort will also include those who have been adopted and cared for under a Special Guardianship Order. Care Leavers are a defined group but are also represented in the Care Experienced community.

When referencing Protected Characteristics as defined by the Equality Act (2010) these are:

- Age
- Disability
- Sex
- Gender reassignment
- Marriage or Civil Partnerships (in employment only)

- Pregnancy and Maternity
- Race
- Religion or Belief
- Sexual Orientation

Background

This paper comes as a result of the motion put forward to Full Council in May 2024 to formally recognise Care Experience as a protected characteristic. An initial report was undertaken and presented to Children and Families Scrutiny Committee which concluded that a task and finish group consisting of members and officers undertake additional work to produce this final report.

Care Experienced people face significant barriers and discrimination throughout their lives. An overt example of this was a letting agent in Manchester advertising a property which read “No history of substance misuse....., no care leavers, no criminal convictions”. There was outrage about the advert but this is not an isolated example. Care experienced people face discrimination and stigma in areas across housing, health, education, relationships, employment and the criminal justice system.

Care Leavers are underrepresented in all of the areas we would want your children to be in and overrepresented in all of the areas we wouldn't. Statistics from the Department for Education in 2024 show that if you are a Care Leaver in England aged 17 to 21 you are more likely to be a prisoner than you are to be an apprentice (1). Approximately 13% of Care Leavers go to university compared with 43% of the general population (2) and a UCL study in 2018 found that if you are Care Experienced you are 70% more likely to die prematurely than someone who is not Care Experienced (3).

In North Yorkshire we work hard to achieve the very best outcomes for our care leavers, and whilst those outcomes are better than our statistical neighbours, they are still far behind those of the general population.

There have been some misconceptions that by making Care Experience a protected characteristic we could inadvertently create additional labels and stereotypes for the Care Experience community. Our view is that having and using a protected characteristic is a personal choice and therefore if an individual didn't want their characteristic to be disclosed, they have the choice and autonomy not to disclose it.

There has also been some criticism in the sector about local authorities who have adopted this motion but without then implementing meaningful changes.

North Yorkshire Context

Currently we support 527 young people who meet the criteria to be defined as Care Leavers but there are many more citizens of North Yorkshire who are Care Experienced, meaning they have spent some time in care but not enough, or not at the right time, to be deemed a Care Leaver. Research estimates that 4% of those born in England during 2000 will have experienced care at some point in their childhood (4). It's important to highlight that of North Yorkshire citizens who have experienced care, not all will have been cared for by North Yorkshire.

Care Leavers are supported by our Care Planning and Support teams and Children's Disabilities Teams until they reach 18 and then are supported by our 5 Leaving Care Teams across the county.

Our services were judged by OFSTED to be outstanding in consecutive inspections. We have a strong Local Offer to Care Leavers and we work hard to maintain positive relationships with our colleagues in Housing, Job Centres the Health Service, and the education and employment sector in an effort to maximise the support available to Care Leavers in North Yorkshire. We have also created the "Always Here" offer for care leavers which means that regardless of their age, we will always offer information, advice and guidance to young people. This offer is a leading offer in the country and many more authorities are now working to create something similar.

It is anticipated that treating Care Experience as a protected characteristic would have many more implications for the other directorates in the council than it does for the Children and Young People's Service.

There are already many initiatives established that would contribute to our "reasonable adjustments" if we were to treat Care Experience as a protected characteristic. Examples are that we guarantee interviews to Care Leavers who meet the minimum requirements for jobs within North Yorkshire Council. There is a section on the application section which enables Care Leavers to identify someone who can support them with their applications and in previous years we have been able to ringfence Apprenticeship opportunities for Care Leavers.

Recently colleagues in Leisure and Tourism have provided free tickets to shows at Scarborough's Open Air Theatre, in addition to free access to other tourism related activities for children in care and care leavers.

Our leisure services have for a number of years provided access to gym and swimming facilities for care leavers and those in care.

Some teams within the housing service already recognise the vulnerabilities that care leavers may have, especially within Housing Needs. North Yorkshire Home Choice gives

priority banding to young people at the point of leaving care to assist with accessing social housing.

If we were to consider Care Experience as a protected characteristic we would need to widen understanding of what this means to all areas of the council including, but not limited to, planning, the delivery of adult social care, GDPR and data collection, Public Health, commissioning and procurement.

Implications

Recognising Care Experience as a protected characteristic in North Yorkshire would mean that we would apply the same principles as we currently do with the other protected characteristics.

We would need to undertake and amend our Equalities Impact Assessment and would need to amend some of the council policies to reflect that we are considering Care Experience as a protected characteristic.

We would also need to develop training for the workforce to help them understand care experience, the discrimination this community faces and ways they could consider minimising this.

Cost

Implementing Care Experience as a Protected Characteristic will not create a significant cost burden.

We have tried to identify costings from other local authorities based on their implementation but have been unable to.

It is important to consider that passing this motion is the vehicle in which to make changes. The only cost implications recommended in this proposal are that we develop and roll out training and guidance to help the workforce understand care experienced people, their backgrounds and the discrimination they face in addition to amending our Equalities Impact Assessment to consider care experience alongside the other 9 protected characteristics.

Any subsequent changes or “reasonable adjustments” would be decided by each directorate in line with their pre-existing responsibilities whilst considering their own budgets and models of delivery.

A practical example of the types of policies we might amend as a result would be to amend the Leave Policy in areas such as Compassionate Leave to include Previous Foster Carers everywhere that currently designates parents or close family members. Typically, this would come with a cost attached (wages for the period of compassionate leave) but during

our discussions with officers, most have said that if faced with this situation they would want to recognise an employee's foster carer as being a close relative in any case.

There may well be some positive cost implications given the talent and skills of care experienced individuals within the county. On seeing the adoption and implementation of care experience as a protected characteristic people may well be attracted to work within the Council who otherwise may not see it as an option.

Young People's views

The Leaving Care Service undertook an initial workshop with a group of care leavers. The first element of the workshop was helping young people understand what the Equality Act is, and how it might be applied.

It would be a good thing as many people don't know what a care leaver is and therefore they may have more understanding if it is a protected characteristic if for example we act in a certain way or sometimes behave differently'

'I definitely feel like It would be positive to have protected characteristics for care leavers, care leavers are generally under represented anyway and this will make it more formal and therefore make a difference and in turn will inform people and enable more research. I think good examples of where we may need additional support (protected characteristics) in the work place and at college/university are if we are suffering from mental health linked in to the trauma we may have suffered and our experiences as children – there is a need for additional awareness and support and possibly time off if needed. We also need to be prioritised for schemes within the workplace such as CBT and therapy if it is offered via occupational health/human resources. Also possible awareness that we do not have the support of families etc and have more financial commitments as may be living in independence early so help with travel costs or excepting that we may need to work from home more. Also to recognise foster parents as parents and have bereavement leave etc in line with blood relatives.

'no idea'

'A bit more leniency for first year trainee's in job roles and to protect care leavers from bullying due to their circumstances.'

'It would be a good thing, care leavers have been through so many different experiences that others have not, for young people claiming asylum many people can never imagine what they have been through, they have the added issue of struggling with language and getting used to different cultures and how we do things differently and different religions (for example needing to pray in work time).

'Definitely as good thing and it should have already been done. All work places should offer counselling'

'Yes it would be a positive thing but we also need to make sure we don't get special treatment and circled out as others would wonder why we are getting special treatment. Sometimes workplaces are not aware of the challenges we face, living for example in homeless shelters and not having money to eat but being expected to work long shifts'

'Yes it is a good idea, we may need time off for things like this trip and engaging with our support workers but it is a tricky one as I told work gradually that I was a care leaver and some may not want work to know they are. Everyone deserves a chance to work and if you can't manage work because of your background and experiences and lack of support in work something needs to change.'

'A good idea, I know someone who has ADHD and emotional health needs and she needs so much more support to be able to work.'

A further survey was done with a different group of young people and the results were overwhelming positive to the idea.

32 surveys were completed with 31 in favour of adopting care experience as a protected characteristic. The 1 other response was unsure.

Consultation with nearly 50 care leavers gave the overwhelming feedback that if NYC were to acknowledge care experience as a protected characteristic this would be welcomed.

Risk

As a leading and ambitious local authority there might be a reputational risk if we didn't adopt Care Experience as a protected characteristic in light of the recommendation of the Independent Review of Children's Social Care and the national campaign, led by care experienced people which currently has 101 local authorities signed up.

North Yorkshire is an innovative local authority. We created the Moving On Up network which champions apprenticeships for Care Leavers. The network is sector leading and influential with policy makers, employers, local authorities and training providers. The Moving On Up network held on the 14th May 2024 had over 200 attendees who provided mixed reviews from Local Authorities who had adopted care experience as a protected characteristic. Some felt they had adopted it but weren't sure what they would do differently as a result. Others had adopted it and had made some progress on areas such as ringfencing opportunities for care leavers, which is something we have been doing for a number of years.

Task and Finish Group

The group has met on three occasions between October 2024 and January 2025 with invites made to the Chair and Vice Chair of Children and Families Overview and Scrutiny Committee, the Young Person's Champion and Proposer of the motion and

representatives from all Directorates. Representatives of six areas were able to attend; Culture and Leisure, HR, Policy and Strategy, Housing, Democratic services and CYPS, alongside representatives from HDRC (Health Detriments Research Collaboration). [Health Determinants Research Collaboration \(HResearch support available from the Health Determinants Research Collaboration\)](#)

[DRC\) - Home](#)

Good discussions have been had and recommendations have been formulated below.

Recommendation

Recognising care experience as a protected characteristic is the method that a large number of Local Authorities have pursued but the goal is to minimise the inequalities the care experienced community faces.

As a leading, bold and innovative local authority our recommendation is that we should pursue formally recognising care experience as a protected characteristic, but we should do this with a focus on affecting meaningful change.

Individuals will be expected to self identify their care experience should they wish to ask that their care experience is treated as a protected characteristic.

The EIA should be adjusted to include Care Experience as Protected Characteristic alongside mandatory training so all staff and Councillors within NYC are aware of the implications of this commitment.

We should use the capacity and capability of the Council's new Health Determinants Research Collaboration (HDRC) to identify areas of research interest for this topic. These should be co-produced with care-experienced people and service managers from across directorates. We should use the partnerships that HDRC North Yorkshire has with the Universities of Hull and York to design and deliver research that builds our understanding of the impact of the change.

This could have nationwide impact given the lack of research on the issue and will also enable NYC to share their good practice with other organisations and partners to help reduce inequalities for care experienced people in the wider community.

An officer should be appointed to take lead responsibility for this work and should report back to the new, repurposed Multi Agency Looked After Partnership within CYPS.

We should use this forum to share examples of how all areas of North Yorkshire Council are exercising their corporate parenting responsibilities and working towards positively impacting the outcomes for our care experienced members of society.

References

- (1). Department for Education (2024) *Children looked after in England including adoptions*. Available at <https://explore-education-statistics.service.gov.uk/find-statistics/children-looked-after-in-england-including-adoptions>. Accessed 15th January 2025.
- (2). Young, F. and Lilley, D. (2023) *Breaking the Care Ceiling*. Civitas, London
- (3). Murray, E.T., Lacey, R., Maughan, B. *et al.* (2020) Association of childhood out-of-home care status with all-cause mortality up to 42-years later: Office of National Statistics Longitudinal Study. *BMC Public Health* **20** 735. <https://doi.org/10.1186/s12889-020-08867-3>
- (4). Jay, M., Mc Grath-Lone, L., Pearson, R. and Gilbert, R. (2022) “The cumulative proportion of children receiving social care services in England: a whole population administrative data cohort study”. *International Journal of Population Data Science*, 7(3). <https://doi.org/10.23889/ijpds.v7i3.1895>