

Brighton & Hove City Council

Children, Families & Schools Committee

Agenda Item 21

Subject: Protected Characteristics for Care Experienced Young People

Date of meeting: 11th September 2023

Report of: Executive Director Families, Children & Learning

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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 A Notice Of Motion (NOM) to Full Council on 20th July 2023 called for the Council to recognise that care experienced people are a group who are likely to face discrimination; that Councils must put the needs of disadvantaged people at the heart of decision-making through co-production and collaboration; that future decision, 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; that in the delivery of the Public Sector Equality Duty the Council includes Care Experience in the publication and review of Equality Objectives.
- 1.2 The NOM requested that a report is submitted to the relevant committees of the Council with a view to the Council adopting a policy so that Care Experience is treated as if it were a Protected Characteristic.

2. Recommendations

- 2.1 That Committee agree that Care Experience is adopted as a protected characteristic by Brighton and Hove City Council.
- 2.2 That all Equalities Impact Assessments and Committee reports consider the implications for children in care and those with care experience, to support the Council's duties as a Corporate Parent.

3. Context and background information

- 3.1 Brighton & Hove City Council, as at 30 June 2023 is corporate parent to 332 children in care and 381 young people who were previously in care. Care experienced children and young people face significant barriers that impact on them throughout their lives. They are also a group that are likely to face discrimination. 24% of the prison population have spent time in care; 41%

of 19-21 year old care leavers are not in education, employment or training compared to 12% of other young people of the same age; 66% have special education needs and 35% have an Education Health and Care Plan compared to 12% of the general population; 50% of children in care have a diagnosable mental health condition.

- 3.2 Elected members and council officers have a collective responsibility towards children and care experienced young people as Corporate Parents.
- 3.3 The public sector equality duty requires public bodies such as councils to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation of people with protected characteristics in the exercise of its functions.
- 3.4 The Independent Review of Children's Social Care, published in May 2022, recommended that "Government should make care experience a protected characteristic" and that "Many care experienced people face discrimination, stigma and prejudice in their day to day lives. Public perception of care experience centre on the idea that children are irredeemably damaged and that can lead to discrimination and assumptions being made". The review recommended that the government should make Care Experienced a protected characteristic.
- 3.5 As of June 2023 more than 30 local authorities have recognised Care Experienced as a protected characteristic. The Notice of Motion presented to Full Council in July 2023 provides for Brighton and Hove to join other local authorities in recognising the discrimination and prejudice care experience can bring.
- 3.6 By adopting Care Experienced as a protected characteristic, in addition to addressing discrimination and prejudice, any developments or policy decisions made by the council will need to consider the impact upon children in care and those who have experienced care. This will support the council in its statutory role of corporate parent and ensure this responsibility is promoted across all council services.
- 3.7 All Equalities Impact Assessments and committee reports would need to consider the needs of and impact on children in care and those who have experienced care. Appendix 1 has been developed to support officers in considering the needs of children in care and those who have experienced care.

4. Analysis and consideration of alternative options

- 4.1 For the council to fulfil its Corporate Parenting responsibilities and ensure its decision making fully considers those it cares for or were previously in care, the council needs to proactively seek out and listen to the voices of care experienced people when developing new policies.

- 4.2 Every councillor and officer within the council has a responsibility to act for children in care and those previously in care as a parent would for their own child. While councils have a legal duty as corporate parents to care leavers under 25, by acknowledging Care Experienced as a protective characteristic it means the impact of any change needs to be considered for all those who have experienced care, not just those the council currently have a legal responsibility for.
- 4.3 Where there are changes in service provision or policy that requires an Equality Impact Assessment this needs to include the impact of change on children in care and on people with care experience. Treating Care Experienced as an additional equality strand, the council will be able to show it is actively fulfilling its statutory responsibilities and moral duties as a Corporate Parent.

5. Community engagement and consultation

- 5.1 The Care Leavers Forum have been consulted on Care Experienced becoming a protected characteristic and they are in full support.

6. Conclusion

- 6.1 By making Care Experienced a protected characteristic, the council are committing to providing opportunities and support to children and young people to improve their outcomes and show a genuine and demonstrable commitment to them.
- 6.2 As corporate parents, it is the council's collective responsibility to support children and young people with care experience, and to enable them to have the same opportunities as any other child. This support should include the promotion of good health and education, nurturing talent, and providing stability, thus supporting successful adult lives. The council has a leadership role in working with other public bodies to ensure that they consider and adopt a similar approach and understanding of care experienced children and young people, to help redress many of the inequalities they face.

7. Financial implications

- 7.1 There are no direct financial implications as a result of the recommendations of this report. Within the Families, Children and Learning directorate there is a gross budget for care Leavers of £4.605m. This is partly funded by grants from central government of £1.594m.

Name of finance officer consulted: David Ellis Date consulted: 04/08/23

8. Legal implications

- 8.1 The Committee are being asked to agree that in the delivery of the Public Sector Equality Duty the Council includes Care Experience in the publication and review of Equality Objectives. This would have the effect of adopting the

experience of being a looked after child (“Care Experience”) as if it were a protected characteristic. This is not a legal obligation but is within the exercise of the council’s discretion to ensure that policy decisions are taken with an understanding of the impact upon a population for whom the council holds responsibilities and obligations. Looked after children and former looked after children may also hold other protected characteristics which will also feature in the consideration of public sector equality duty as defined by statute.

Name of lawyer consulted: Natasha Watson Date consulted 29/08/2023

9. Equalities implications

- 9.1 As a public authority we must have due regard to the need to:-
- eliminate unlawful discrimination, harassment and victimisation
 - advance equality of opportunity
 - foster good relations between people who share a protected characteristic and those who do not.

By creating a Protected Characteristic for those people who have experienced care (Care Leavers) we are supporting the end the inequalities that many care leavers face.

10. Sustainability implications

- 10.1 There are no sustainability implications

Supporting Documentation

Appendices

1. Corporate Parenting and Care leavers Protected Characteristic guidance and Assessment template.