

People and Health Overview Committee

17 October 2023

Adopting Care Experience as a Protected Characteristic

For Recommendation to Cabinet

Portfolio Holder: Cllr B Quayle, Children, Education, Skills and Early Help

Local Councillor(s): All

Executive Director: T Leavy, Executive Director of People - Children

Report Author: Paul Dempsey / Kaye Wright
Job Title: Corporate Director Care and Protection / Youth Voice Manager

Tel:

Email: paul.dempsey@dorsetcouncil.gov.uk
kaye.wright@dorsetcouncil.gov.uk

Report Status: Public

Brief Summary:

The Council and its Elected Members and employees are corporate parents to all of Dorset's children in care and care leavers. As corporate parents, it is the responsibility of Elected Members and officers to ensure that the children and young people that have been in our care receive the same opportunities that we would want for our own children. However, we know that people with care experience are more likely to face disadvantage and discrimination in society. To combat this, and in line with our ambitions to do the best for our care experienced young people, this report recommends that the Council adopts a position of treating care experience as a 'protected characteristic', as many other Council have.

Recommendation:

That the People and Health Overview Committee recommends that Cabinet:

1. Supports the development of an agreed definition of care experienced for the purpose of making this a protected characteristic.
2. Agrees that 'care experience' will be treated as if it were a Protected Characteristic under the Equalities Act 2010 so that decisions on future services and policies made and adopted by Dorset Council are assessed and consider the impact on people with care experience.
3. Approves the amendment of Dorset Council's Equality, Diversity and Inclusion Strategy 2021-2024 to reflect 'care experience' being treated as if it were a protected characteristic and the development of specific actions to reduce the disadvantage and discrimination that care experienced people face.

Reason for Recommendation:

We are an ambitious council with high aspirations for our care experienced young people. Making care experience a protected characteristic will help to remove barriers to success for our care experienced young people and is in line with the recommendation to do so in the Independent Review of Children's Social Care, published in May 2022.

And as one of our young people said,

'As a care leaver, I think it is necessary that care experience is a protective characteristic. There is such bad stigma around being care experienced and it affects me massively in my day-to-day life. This law change is needed to stop prejudice against a group that already suffers disadvantages. A protective characteristic will create systemic change and will give voice to those who are most in need. Making care experience a protective characteristic can be a change that can start making a difference to the system'

1. Background

1.1 The Independent Review of Children's Social Care (MacAlister 2022) has highlighted the significant levels of discrimination and disadvantage faced by care experienced people, as follows:

- (i) "Many care experienced people face discrimination, stigma and prejudice in their day to day lives. Public perceptions of care experience centre on the idea that children are irredeemably damaged and that can lead to discrimination and assumptions being made" (MacAlister 2022)
- (ii) "Hearing testimony from care experienced people sharing the discrimination they have experienced, even from a very young age, it is clear that such discrimination can be similar in nature to other groups that have a legally protected characteristic under the Equality Act (2010)" (MacAlister 2022)
- (iii) MacAlister (2022) made the recommendation in his report that 'Government should make care experience a protected characteristic' and concluded that this 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.'
- (iv) The Government are yet to commit to making care experience a protected characteristic, but there are a growing number of local authorities acting locally. At the time of writing 46 local authorities nationally had passed motions adopting care experience as a protected characteristic, including most recently, neighbouring Devon County Council.

1.2 The Public Sector Equality Duty (PSED) 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 taking decisions. This includes giving due regard to achieving the following:

- (i) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

- (ii) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (iii) Foster good relations between people who share a protected characteristic.
- 1.3 The equality duty covers the following protected characteristics; age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, marriage and civil partnership.
- 1.4 'Care Experience' is not classified as a protected characteristic. The term has no statutory basis but is an umbrella term used to refer to individuals who are, or who have been, in care.
- 1.5 In treating care experience as if it were a protected characteristic, it means that Dorset Council must actively and explicitly 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 consider the needs of this cohort of people.
- 1.6 Extending the definition of protected characteristics also places a duty on the authority to include details about care experience in the annual publication of information relating to people who share a protected characteristic in services and employment. This will enable the council to measure and monitor the impact of services and policy decisions on this cohort more meaningfully.
- 1.7 Recognition of care experience as a protected characteristic is a decision which 46 local authorities have already taken, including Devon County Council, to recognise the disadvantage many young adults face because of their care experience.

2. **Local Impact**

- 2.1 Care leavers in Dorset have consistently shared that they feel disadvantaged as a person with care experience and often feel discriminated against. This only serves to reinforce the importance of the motion in this paper.

2.2 There are around 530 Dorset Council care leavers aged 18-25 but there are many more people living in Dorset over this age who would currently benefit from the recognition of care experienced as a protective characteristic. Adoption of this motion will support Dorset Council, and its partners, to improve their cultural awareness around care experience, embed corporate and community parenting principles across partner organisations and act as a lever for change and equity.

2.3 As our care experienced young people have said:

'Making care experience a protective characteristic will help more care leavers feel like they are able to thrive rather than just surviving'.

'Recognising their (care leavers) experience as a protected characteristic empowers people to demand fair and equal treatment from employers and educators. The legal side of it will help if they are mistreated because of their background'.

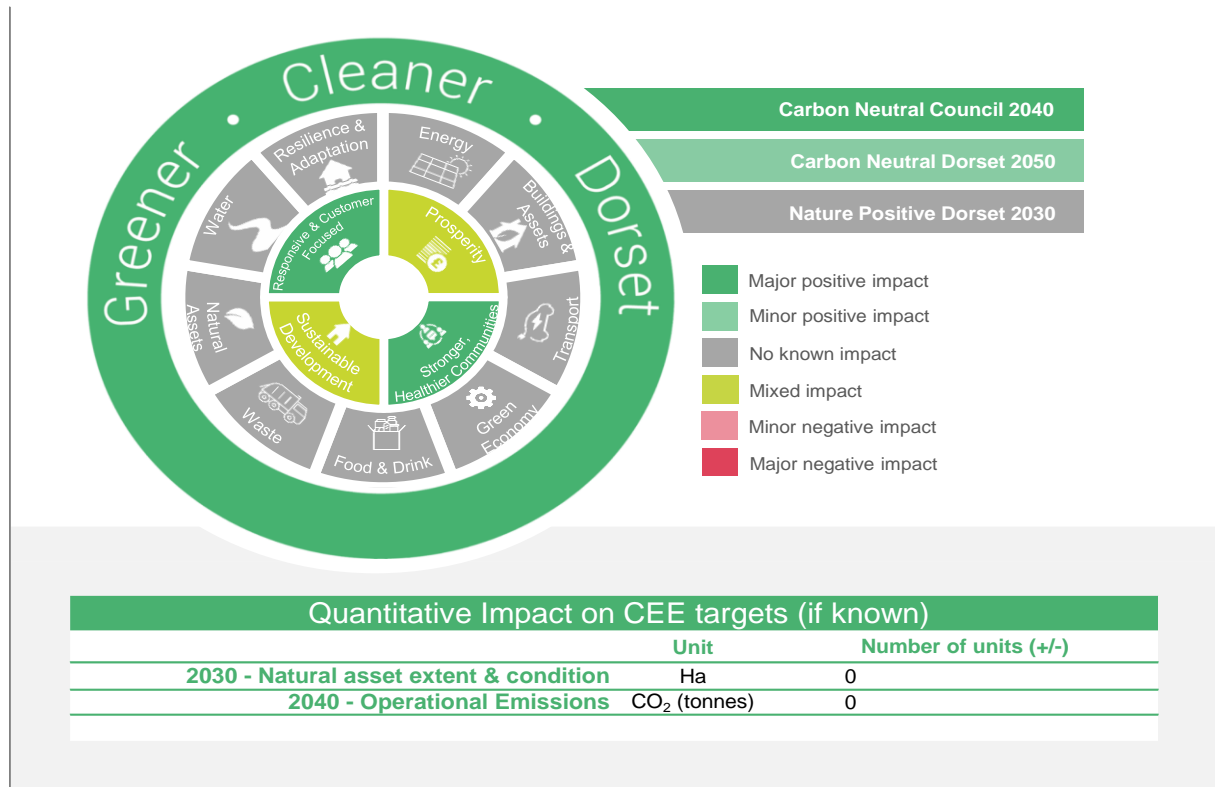
'Care experienced people face significant barriers which impact us throughout our lives, and despite the resilience of many care experienced people, society too often does not take our needs into account'.

'As a care leaver, my life is impacted by the stigma around being care experienced - for example, housing, education, relationships, and employment'.

3. **Financial Implications**

3.1 There are no direct financial implications for adopting care experience as a protected characteristic. Work to update policies and procedures will be led by our Equalities and Diversity Officer within Corporate Development, with support from Children's Services colleagues, enabling a whole council approach. The work required is limited and can be managed within existing resources but is likely to include work to agree a specific definition of 'care experienced', workforce development activities, and amendments to other relevant policies.

4. Natural Environment, Climate & Ecology Implications



5. Well-being and Health Implications

5.1 Recognition of care experience as a protected characteristic is not likely to cause any detrimental impact on the emotional health and wellbeing of care leavers. It is anticipated that a more accepting and positive environment will improve the wellbeing of our care leavers.

6. Other Implications

There are no other identified implications.

7. Risk Assessment

HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as: Low

Current Risk: Low

Residual Risk: Low

8. Equalities Impact Assessment

8.1 The whole purpose of this report's recommendation is to promote equality of opportunity and equality of outcomes for care experienced people in Dorset.

9. Appendices

Accessible Impact Assessment & Table of Recommendations

ACCESSIBLE TABLE SHOWING IMPACTS

Natural Environment, Climate & Ecology Strategy Commitments	Impact
Energy	No known impact
Buildings & Assets	No known impact
Transport	No known impact
Green Economy	No known impact
Food & Drink	No known impact
Waste	No known impact
Natural Assets & Ecology	No known impact
Water	No known impact
Resilience and Adaptation	No known impact

Corporate Plan Aims	Impact
Prosperity	neutral
Stronger healthier communities	strongly supports it
Sustainable Development & Housing	neutral
Responsive & Customer Focused	strongly supports it

Accessible Impact Assessment & Table of Recommendations

TABLE OF RECOMMENDATIONS

Recommendations	Responses -will this be incorporated into your proposal? How? And if not, why not?
Energy	
No recommendations found for this category	
Buildings & Assets	
No recommendations found for this category	
Transport	
No recommendations found for this category	
Green Economy	
No recommendations found for this category	
Food & Drink	
No recommendations found for this category	
Waste	
No recommendations found for this category	
Natural Assets & Ecology	
No recommendations found for this category	
Water	
No recommendations found for this category	
Resilience & Adaptation	
No recommendations found for this category	

10. **Background Papers**

[Independent review of children's social care - final report
\(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Children, Young People and Families' Plan 2023 to 2033 - Dorset](#)