

<p>Committees: Equality, Diversity and Inclusion Sub-Committee – For discussion</p> <p>Community and Children Services – For decision</p> <p>Policy and Resources – For decision</p> <p>Court of Common Council – For decision</p>	<p>Dated:</p> <p>11th December 2023</p> <p>13th December 2023</p> <p>14th December 2023</p> <p>11th January 2024</p>
<p>Subject: CoL Care Experienced as a Protected Characteristic Policy approval</p>	<p>Public</p>
<p>Which outcomes in the City Corporation’s Corporate Plan does this proposal aim to impact directly?</p>	<p>Contribute to a flourishing society</p> <ol style="list-style-type: none"> 1. People are safe and feel safe. 2. People enjoy good health and wellbeing. 3. People have equal opportunities to enrich their lives and reach their full potential. 4. Communities are cohesive and have the facilities they need.
<p>Does this proposal require extra revenue and/or capital spending?</p>	<p>No</p>
<p>If so, how much?</p>	<p>NA</p>
<p>What is the source of Funding?</p>	<p></p>
<p>Has this Funding Source been agreed with the Chamberlain’s Department?</p>	<p>NA</p>
<p>Report of: Judith Finlay, Director Community and Children’s Services</p>	<p>For Decision</p>
<p>Report author: Chris Pelham, Assistant Director People Directorate, Community and Children Services</p>	

Summary

In May 2022, the Independent Review of Social Care published its final report to Government: [Final Report - The Independent Review of Children's Social Care](#). The review looked in-depth at the experience of care, including the experience of people

who had been in care. The review considered extensive feedback and consultation from public bodies, national voluntary organisations and charities, on the experiences of care. The final report recommended that Government should make care experience a protected characteristic.

The Government 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.

In January 2023, Lambeth became the first London local authority to commit to treating care experience as an additional equality strand, alongside the protected characteristics set out in the Equality Act 2010. Since then, six more London local authorities have made this commitment, and all other London local authorities are considering this as part of their commitment to the London Care Leavers Compact. This is in addition to a further 24 local authorities nationally, with many more making progress on approvals to also adopt the Compact.

The London Care Leavers Compact was established in 2022 to deliver a consistent and high-quality offer for care leavers across the capital. Supported by the Department for Education's funded London Innovation and Improvement Alliance, the Compact provides a framework for all London local authorities to develop consistency, breadth and quality in the support offered to London's care leavers.

The City of London's own Corporate Equalities Objectives set out our commitment to meeting the ambitions of the London Care Leaver Compact.

A report was presented to the Safeguarding Sub-Committee in June 2023, noting the progress that the City of London Corporation (CoLC) has made in respect of the Care Leavers Compact. The report also highlighted our commitment to having care experienced adopted as a protected characteristic.

This report is seeking approval to adopt a specific City of London policy approving care experienced as a protected characteristic (see Appendix 1). In doing so, the CoLC will be further demonstrating its ambitions towards improved opportunities for care leavers in line with the CoLC's wider commitment to strengthening social mobility and equal access opportunities for all.

The policy will go to the Equality, Diversity and Inclusion Sub-Committee for information/discussion, then Community and Children's Services Committee and Policy and Resources Committee for approval and, if approved, it will continue on to the Court of Common Council for approval.

Recommendations

Members are asked to:

- Endorse the CoLC's recognition of care experienced as if it were a protected characteristic where practicable and, in doing so, approve the CoLC's specific policy, 'Care Experienced as a Protected Characteristic' (Appendix 1).

Main Report

Background

1. A CoLC care leaver is a young person aged between 18 and 25 who has been looked after by the CoLC for more than 13 weeks after their 14th birthday, including some time after their 16th birthday. All CoLC care leavers are entitled to access support from the Children Social Care Service. We proactively encourage them to engage with this support through the allocation of a qualified social worker throughout their period in care, up to the age of 25 years. Care leavers are also referred to as 'care experienced', which is reflected in this paper and the 'Care Experienced as a Protected Characteristic' policy.
2. The Independent Review of Children's Social Care headed by Josh MacAlister published a final report in May 2022 that noted:

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. One young person told the review that a teacher had told them "You're smart - for a kid in care", another young person said "I don't want people to point out that I am in care if I don't want that mentioned. It makes me so cross – that shouldn't happen."

This stigma and discrimination 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. 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). So, while there may be ways that society can help reduce stigma and discrimination, including creating greater public consciousness on these issues, just as with other areas of equality, there is a case to go further. Therefore, the government should make care experience a protected characteristic.

3. The Government chose not to implement this recommendation, but councils across the country are now taking their own action. Seven London local authorities have currently adopted care experienced as a protected characteristic, with all other London local authorities exploring this option as part of the wider regional work of the London Care Leavers Compact. This is in addition to 24 other local authorities nationally adopting care experienced as a protected characteristic.

4. The City of London, alongside the other 32 London local authorities, is committed to meeting the goals and ambitions of the London Care Leaver Compact and has set this out in our own Corporate Equalities Objectives.
5. Furthermore, as part of the CoLC commitment to the Care Leaver Compact, the City of London will be working with partners across the Square Mile to enhance employment and training opportunities for all care leavers. This workstream will align with Destination City ambitions and support the CoLC to improve social mobility opportunities for people who are care experienced.
6. As corporate parents, all council officers and Members share a collective responsibility to ensure that care experienced children and young people who may have had disrupted experiences of family life get the support they need to live the happiest and healthiest lives possible. This includes responsibilities to:
 - Ensure that the support we provide to our care experienced children and young people is of the same quality we would expect for our own children
 - Challenge the negative attitudes and prejudice that exist in relation to care experienced children and young people in all aspects of society
 - Act as champions for the needs of our looked-after children and care leavers in all our spheres of influence
 - Proactively seek out and listen to the voices of our care experienced children and young people when developing new council policies.
7. As already noted, the Independent Review of Children's Social Care 2022 recommended that:

“Government should make care experience a protected characteristic” and “new legislation should be passed which broadens corporate parenting responsibilities across a wider set of public bodies and organisations.”
8. While this recommendation was not implemented by the Government, having a specific CoLC policy that recognises care experienced should where practicable be treated as a protected characteristic will demonstrate our commitment to challenging and eliminating discrimination and prejudice against this group of young people.

Current Position

9. As at the start of November 2023, the CoLC was supporting 56 care leavers. Of this group, 89% were in employment, education or training, and 96% were in suitable accommodation.
10. In respect of our commitment to the London Care Leaver Compact, specific CoLC examples include:
 - Our policy of making Council Tax exempt for all our care leavers

- Meeting the cost of using Transport for London bus services for our care leavers
- Prioritising our care leavers within our housing allocations policy.

11. CoLC Members have always demonstrated a commitment to supporting our care experienced population. Following a focused visit of our care leaving services in November 2018, Ofsted noted that:

“Care leavers in the City of London benefit from a strong service that ensures that they are very well supported. They receive effective help which enables most to achieve good outcomes. There is a determined and appropriately ambitious political and corporate focus to sustain and improve outcomes for care leavers.”

12. Furthermore, in 2020, during the full Inspection of Children Social Care Services, Ofsted judged the experience and progress of ‘Children in Care and Care Leavers’ to be “Outstanding” noting the following:

- Children in care and care leavers are extremely well supported.
- Commitment to ensuring that needs are met is demonstrated by senior leaders, councillors, health partners and children’s social workers, resulting in an extremely good level of service.
- Extremely strong involvement and interest from council members.
- Particular sensitivity shown regarding cultural diversity.
- Strong use of advocacy and independent visiting.
- Good housing offer, with support and moving only when ready.

13. In 2023 Ofsted introduced a separate judgement on care leavers, in recognition of the unique set of presenting needs of this cohort of young people.

14. Oversight and monitoring of the impact of policy and service performance in respect of our young people who are care experienced is reported to the Safeguarding Sub-Committee, Chaired by the Chair of Community and Children’s Services.

15. Establishing a specific CoLC policy will treat care experienced as a protected characteristic and will further demonstrate our continued ambition and commitment to delivering outstanding support for our care experienced population. The proposed change will extend the protection against direct and indirect discrimination to this group in our local policy and practice. It should be noted that the requirement to make “reasonable adjustments” under the Equality Act (actions and alterations to increase accessibility) applies specifically and only to the protected characteristic of disability. Any local change will remain consistent with that requirement and limitation in order not to create the risk of discrimination against other protected characteristics.

Options

16. There are two options:

- a) For Members to approve that the CoLC should treat care experienced as if it were a protected characteristic where practicable to do so as set out in the specific policy (Appendix 1). This is the preferred option.

In doing so, we will be contributing to meeting the specific goal set out in the Corporation's Equalities Objectives 2023-2027 to implement the London Care Leaver Compact.

It will also demonstrate our commitment to improving social mobility opportunities for people who are care experienced, and support the wider ambitions to enhance employment and training opportunities for care experienced people in the Square Mile and the CoLC.

- b) For the Community and Children's Services Committee not to approve that the CoLC should treat care experienced as if it were a protected characteristic. This is not the preferred option.

Pursuing option (b) will mean the CoLC is not aligned to the regional and national local government ambitions to improve equal access to opportunities for people who are care experienced.

Proposals

17. To adopt option (a) and treat care experienced as if it were a protected characteristic, as set out in the policy at Appendix 1. In doing so, the CoLC recognises that:

- Care experienced people are a group who, without this protection, are likely to face discrimination as defined by the principles set out in the Equality Act 2010
- Future decisions, services and policies made and adopted by the CoLC should have due regard to the requirements set out in the CoLC 'Care Experienced as a Protected Characteristics' policy.
- In discharging the Public Sector Equality Duty under s.149 of the Equality Act, the Corporation will include care experienced in the annual publication of information relating to people who share a protected characteristic in services and employment and generally have due regard to the need to eliminate discrimination against and promote equality of opportunity for care experienced people.

18. If agreed by Members, the report will go to the Equalities Diversity and Inclusion Sub Committee for information and discussion, and Policy and Resources and the Court of Common Council for approval.

Corporate & Strategic Implications

19. **Financial implications:** Having this status should not impact on the current funding for people who are care experienced. Implementation of the policy would require regular monitoring, with emerging risks presented to Members as required.
20. **Resource implications:** Having this status should not impact on the current funding for people who are care experienced. Implementation of the policy would require regular monitoring of impact in terms of finance and resource, with emerging risks presented to the Community and Children's Services Committee as required.
21. **Legal implications:** The Corporation is entitled to adopt the policy outlined above. Treating care experienced as if it were a Protected Characteristic will not directly bring into play the enforcement mechanisms set out in the Equality Act. However a failure to take into account the policy where it applies or departing from it where it is not reasonable to do so may result in Judicial Review.
22. **Risk implications:** Adopting this policy will reduce the likelihood of care experienced people in CoLC encountering discrimination because of this personal characteristic. It is likely to assist and ensure that there is access to equal opportunities to CoLC care experienced people in terms of education, employment, training and housing needs. The Corporation will be expected to follow the Policy unless there are reasonable and justifiable reasons for not doing so.
23. **Equalities implications:** An individual is protected from discrimination based on a certain characteristic. The Equality Act 2010 sets out the following protected characteristics;
 - Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation
24. While acknowledging that the status of care experienced is not currently recognised as a legally binding protected characteristic within the Equality Act 2010, adopting the specific CoLC policy strengthens equal access of opportunity to care experienced people in the City of London. As such, it is a change in approach, not law, whilst adhering to the spirit and principles of the Equality Act 2010..
25. Furthermore, we will be contributing to meeting the goal set out in the Equalities Objectives to implement the London Care Leaver Compact and demonstrating our commitment to improving social mobility opportunities for people who are care experienced. Adopting this policy will also enhance our ongoing commitment as a

corporation to meeting the broader goals and ambitions regarding Equality, Diversity & Inclusion, as set out in our Equalities Objectives 2023–2027.

26. **Climate implications:** There are no known climate implications.

27. **Security implications:** There are no known security implications.

Conclusion

28. This report has set out the background and context to why the CoLC should adopt its own specific policy that recognises care experienced should be treated as a protected characteristic. In doing so, the CoLC will demonstrate its continued commitment to supporting the broader Equality, Diversity & Inclusion agenda, as set out in our Equalities Objectives 2023–2027.

29. The Corporation will be taking a clear regional leadership role in recognising that adopting this policy will provide equal opportunity access to a group of people who would otherwise be discriminated against because of their history of being in care.

30. Adopting the policy will also demonstrate our regional commitment to the Care Leaver Compact, provide a strong foundation for the CoLC to be a leader in developing opportunities for all care experienced people in the Square Mile, and meet our Destination City ambitions.

Appendices

- Appendix 1 – City of London Corporation: Care Experienced as a Protected Characteristic – Policy

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