

Housing allocation consultation

1. On 30th January 2024 the Government issued a consultation document on proposals to change the way in which housing is allocated via the local council waiting list or register in England (housing is a devolved matter so rules in Scotland, Wales and Northern Ireland are different and set by their respective governments). The deadline for responses is **26th March**.
2. Councils who are local housing authorities (borough, district and city councils) are directly affected by changes to allocations law and so will probably want to respond directly or via local government associations. However, the proposals could also affect councils with social services responsibilities such as county councils and they should consider responding.

Background

3. Housing allocation is the process by which people go on to council waiting lists, and may then be able to get a tenancy from the council or from housing associations and other providers who have agreed either to run a joint waiting list or accept nominations from the council to fill their vacancies. In many areas, most general social housing is only accessed via the joint waiting list, so being **ineligible** for allocation means that you can only rent from the private rented sector.
4. Currently people who are **eligible for housing allocation are also eligible for council help if they are homeless** and if in priority need (because the household includes a child, pregnant or vulnerable person), they will be given temporary accommodation and will also get extra priority on the waiting list.
5. Some people are **ineligible** because of their immigration status, or they are covered by the Brexit Withdrawal Agreement but don't have a qualifying right to reside, or they fail the habitual residence test.
6. The eligibility rules are complicated, but generally
 - a. UK and Irish citizens are eligible if habitually resident,
 - b. EU citizens and others who have pre-settled status under the withdrawal arrangements are eligible if they have a "qualifying right to reside" (for example if they are working)
 - c. Other people "subject to immigration control" are eligible if they are in an eligible class listed in the regulations. These cover people with settled status, refugees, people on the Ukraine schemes, people on the Afghan schemes, and most people with leave that allows them recourse to public funds.
7. The eligibility rules are changed by regulations proposed by the Secretary of State and laid before Parliament.
8. Local housing authorities can also set their own rules as to who **qualifies** for their register. Most councils have residence qualifications for example, but they must make exceptions for people who would suffer illegal discrimination as a result. Recently

arrived refugees, women fleeing domestic abuse and gypsies and travellers are examples of people who might face such discrimination.

Proposed changes

9. The consultation proposes changes to housing allocations only and does not cover access to homelessness services (although it also covers proposed new grounds for eviction of existing tenants which we are not covering here). The proposals are for

“The introduction of a **United Kingdom (UK) connection test**, to ensure that it is those with the closest connection to the UK who are eligible for a social home;

Mandating the following tests: **local connection test**, income test, false statement test, and tests for anti-social behaviour and terrorism offences;

The introduction of a new ground for eviction for those who are convicted of terrorism offences, and implementation of a ‘three strikes and you’re out’ policy for anti-social behaviour.”

10. This note only covers the UK and local connection tests.

11. The UK connection test would only allow housing allocations to be made to those who

- a. Are a British citizen, Irish citizen, Commonwealth citizen with a right of abode, or EEA or Swiss citizen with equal treatment rights;
- b. have recourse to public funds and have been lawfully resident in the UK for a continuous period of ten years; or
- c. have arrived in the UK on a safe and legal resettlement or relocation scheme (the Afghan, Ukraine and community resettlement schemes)

12. **Who would this exclude?** Lots of people currently eligible for allocation including

- a. People with Indefinite Leave to Remain (ILR) who have not lived in the UK for 10 years. Many people get ILR after 5 years, for example the spouses of British citizens, people who have been on a work permit and refugees.
- b. People with leave to remain with recourse to public funds who have lived in the UK for less than 10 years. This might include victims of modern slavery, parents of British children, refugees, people from Hong Kong, people from Ukraine, stateless people, people fleeing domestic abuse.
- c. many people affected by Windrush who got leave to remain because they had been unjustly refused it but have not had it for 10 years. And potentially their children too.

What's the problem?

It is politically motivated, and will not address the real issues

The biggest problem is that this is not a change that has in any way been asked for by local authorities or housing organisations. Quite the contrary, most major housing organisations responded to initial media speculation on the proposals with a strongly worded [joint open letter](#) to the housing minister:

“We all deserve safe housing, regardless of where we are from. Further rationing of an already scarce resource does not address the fundamental failures of the last 40 years – we have simply not built the homes the UK needs to ensure everybody has a safe and secure place to live. At the same time, we’ve seen net losses of social rented

homes grow – exceeding 200,000 since 2011 - mainly due to right to buy. Social housing is designed to support those in the greatest need. Government data shows that 90 per cent of new social housing lettings go to UK nationals, with long waiting lists in all areas. Imposing extended qualification periods before people can even get on the housing register is likely to force more people into homelessness. If the government's main concern is to increase the availability of social lettings, it could achieve this far more effectively by building more social housing.”

This consultation is simply pre-election political grandstanding, rather than a response to any need. It is one that will not only inflame community tensions, but also create problems for housing providers.

It will increase discrimination

Current eligibility rules for social housing are complicated, and do cause discrimination when people are wrongly refused access to the housing waiting list. Making fewer people eligible for housing is likely to increase that discrimination. The current government and media campaign around this consultation, focusing on “British homes for British workers,” is clearly designed to do that.

It empowers unscrupulous and criminal landlords

The function of social housing allocation is to get people out of poor quality, unhealthy and overcrowded housing. Removing some people's chance for such allocation leaves them at the mercy of the landlords they have, who are often exploiting and endangering them.

It ties councils' hands

Although councils must currently apply the eligibility rules, they can make decisions about applying local connection and residency rules. Where a council wants to attract people to work in new industries, or to move to unpopular areas, they can decide to reduce or remove conditions about how long people have lived in the area. Currently, over 10% of local housing authorities have no residence or local connection test. This proposal will remove that option, and mean councils are no longer allowed to determine their own priorities. They may be allowed to make exceptions for specific groups (e.g. members of the armed forces, survivors of domestic abuse), but not to make general policies to align them with their local priorities.

It will put pressure on other services

Homelessness services currently have the same eligibility rules as housing allocations. As such, councils may offer temporary accommodation to homeless families and then give them extra priority on the waiting list so they can move out of expensive and unsuitable temporary arrangements into social housing. These proposals break that link, and will leave homelessness services (and sometimes social services) with families they are housing who cannot move on, or for whom they will have to find expensive, insecure private rented accommodation, possibly having to subsidise it where benefits cannot cover it. Other services

will also feel the effects – for example, education and health services will be impacted because of the well-documented impact that poor housing has on health and on educational attainment respectively.

What can we do?

The consultation ends on **26th March 2024**. Local housing authorities are particularly encouraged to submit, although others are also able to. The consultation document says:

“The consultation is open to all but is aimed primarily at local housing authorities to inform the implementation of the proposed new tests within existing social housing allocation policies. We also welcome views from housing associations, tenants of social housing and those on a local housing authority waiting list for whom this consultation will also be relevant.”

The consultation is an [online questionnaire](#) which focuses on practical information and does not allow much space to express disagreement or rejection. However, the consultation document also says:

“If you wish to provide any further supporting information, you can email this to socialhousingallocationsconsultation@levellingup.gov.uk. If you are providing further supporting information in writing, please make it clear which questions you are responding to.”

Councillors can:

1. Talk to relevant officers and ask them to make sure that the authority responds appropriately, and especially that:
 - a. the concerns outlined above are included
 - b. it is made clear the authority rejects these proposals and why
 - c. the officers use the option to respond in more detail, and do not simply stick to the questionnaire
 - d. all responses are drafted in good time, with relevant councillors given an opportunity to check and amend
2. Discuss with relevant party groups, cabinet members and committee chairs to get them to support this approach and instruct officers accordingly.
3. Consider writing their own responses to the consultation raising the above points – this could be done as individual councillors, a group of councillors, or, even better, by getting local organisations from your ward/borough/city/area to sign up. This might include housing associations, tenants’ groups, homeless organisations, faith communities, community groups, etc. You might want to consider writing this up as a press release to local papers too.
4. Consider getting local residents to sign a consultation response, especially, for example, if they are currently waiting for housing but would be excluded by these proposals. Again, this could also go into a letter or article for local press and other media.