EXPLANATORY MEMORANDUM TO

THE ALLOCATION OF HOUSING (QUALIFICATION CRITERIA FOR VICTIMS OF DOMESTIC ABUSE AND CARE LEAVERS) (ENGLAND) REGULATIONS 2025

2025 No. 706

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities & Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Matthew Pennycook MP, Minister of State (Housing and Planning) at the Ministry of Housing, Communities & Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Becky Perks, Deputy Director for Local Authority Housing and Right to Buy, at the Ministry of Housing, Communities & Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Patrick Whitehead at the Ministry of Housing, Communities & Local Government Telephone: 0300 444 9127 Email: Patrick.whitehead@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Allocation of Housing (Qualification Criteria for Victims of Domestic Abuse and Care Leavers) (England) Regulations 2025 (at regulation 2) prescribes a new criterion which local housing authorities in England may not use when deciding what classes of persons do not qualify for an allocation of housing. Regulation 2(3)(a) provides that a local housing authority may not apply a local connection test to a person who is or has been a victim of domestic abuse and who needs to move for reasons connected with that abuse (including from accommodation initially occupied on a temporary basis). Regulation 2(3)(b) provides that a local housing authority may not apply a local connection test to either an eligible child, a relevant child or a former relevant child aged under 25 (these are care leavers aged 16 to 24 who have spent a period of, or periods amounting to, at least 13 weeks in care in England or Wales since their 14th birthday, of which at least one day was since reaching the age of 16).

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is to local housing authorities in England only.

5. Policy Context

What is being done and why?

5.1 On 24 September 2024, the Prime Minister announced better support for victims of domestic abuse and care leavers aged under 25 to access social housing. Victims of domestic abuse and care leavers often face difficulties demonstrating a local connection. Such individuals may need to leave their local area for their own safety or to receive suitable support.

5.2 This instrument exempts victims of domestic abuse from local connection tests where they are imposed by local housing authorities in order to qualify for an allocation of social housing, if the move is connected to that abuse. It also exempts certain care leavers, that being those who are aged 16-24 and who have spent at least 13 weeks in care since their 14th birthday, at least one day of which was after reaching the age of 16. Although many local housing authorities already provide exemptions from local connection tests for such persons, this change will ensure the exemption is always applied and will facilitate access to social housing by removing locality restrictions.

5.3 Local housing authorities are responsible for drawing up and operating their own housing allocation scheme which must be made in accordance with the legislative framework, under which they are only permitted to allocate social housing to persons who are eligible and qualify. Whether or not a person is eligible is set out in legislation, but local housing authorities have the power to determine who does or does not qualify for an allocation of social housing.

5.4 This power is subject to any regulations made by the Secretary of State, who has the power to prescribe persons who may or may not be treated as qualifying persons, or criteria or criterion that a local housing authority may not use when determining what classes of persons qualify. Under their power most local housing authorities have adopted a local connection test (sometimes referred to as residency test), which requires applicants to have a well-established local association or to have lived in its area for a certain period before they can qualify for an allocation of social housing.

5.5 As of 31 March 2024, 89% of local housing authorities had a local connection or residency test. Local housing authorities decide the period of time required for a local connection to be established so this can vary but is typically between 2 – 10 years. However, the Secretary of State has prescribed in regulations that where local housing authorities operate a local connection test, it cannot be applied to certain persons in or associated with the Armed Forces.

5.6 This instrument adds a further category of persons that local housing authorities cannot apply a local connection test to. Firstly, local housing authorities may not apply a local connection test to domestic abuse victims who are moving for reasons connected to that abuse, including from accommodation initially occupied on a temporary basis as a result of that abuse. Secondly, to eligible, relevant or former relevant children under 25, that being care leavers aged 16-24 who have spent a period of, or periods amounting to, at least 13 weeks in care in England or Wales since their 14th birthday, of which at least one day was since reaching the age of 16.

5.7 We know that victims of domestic abuse and care leavers have difficulty demonstrating a local connection. Such individuals often need to leave their local area for their own safety or to receive suitable support and therefore struggle to meet local connection tests in places where they would best be able build a safe and stable life.

5.8 The legislation will remove local connection barriers and enable victims of domestic abuse whose move is connected to that abuse to access social housing in an area which ensures they can distance themselves from their abusers. Victims of domestic abuse should be able to flee the local area in which the perpetrator resides without fear of homelessness or being required to return due to not being able to meet local connection requirements in another area. They should also not be restricted or prevented from remaining in areas they might reside initially on a temporary basis in order to flee abuse or receive support.

5.9 The exemption will apply to victims of domestic abuse living in all countries within the UK who are making an application for social housing to a local housing authority in England. The legislation will also remove the residency barrier to certain care leavers aged under 25 accessing social housing. Young people are often placed in care outside of their host placing local authority and are not able to meet local connection requirements in the placing local housing authority area should they wish to remain there. Care leavers also often feel they have no local connection to any area and should have the option to explore new areas.

5.10 The exemption applies only to those care leavers who have spent at least 13 weeks in care since the age of 14, at least one day of which was since reaching the age of 16. That is because it is those care leavers who will be sufficiently disadvantaged by a local connection requirement. It is however open to local housing authorities to exempt all care leavers. The exemption will no longer apply once a young person loses their care leaver status at age 25, but it is open to local housing authorities to continue to apply an exemption should they wish to do so.

5.11 When applying for social housing, local authorities prioritise applicants based on housing need. By law, they must give priority (reasonable preference) to certain categories of people including people who are homeless, those who need to move on medical or welfare grounds, or those who live in overcrowded housing. In certain circumstances, local housing authorities can give higher priority (additional preference) to those in the reasonable preference categories who also have urgent housing needs. Examples of those who should be given additional preference are those who need to move urgently because of a life-threatening illness or sudden disability, those living in overcrowded accommodation which poses a serious health hazard, and those who are homeless and require urgent re-housing because of violence or serious antisocial behaviour. Local housing authorities must give additional preference to certain persons in or connected to the Armed and Reserve Forces if they have reasonable preference and are in urgent housing need.

5.12 The change will not give any further priority to victims of domestic abuse or care leavers ahead of other cohorts than already exists. However, it may mean that some victims of domestic abuse or care leavers get priority or additional priority (should they be awarded it) and are subsequently allocated social housing in an area where they would not have met the local connection requirement.

5.13 Acceptance of an application for social housing does not guarantee an allocation and simply provides a possibility of an allocation at a later date. Local housing authorities remain responsible for operating their own allocation scheme and prioritising allocations of social housing in accordance with local needs and statutory criteria. local housing authorities will still need to consider equalities duties when setting out and administering their social housing allocations scheme.

What was the previous policy, how is this different?

5.14 The previous policy for victims of domestic abuse and care leavers was set out in statutory guidance.

5.15 Statutory guidance: *Improving access to social housing for victims of domestic abuse* encouraged local housing authorities to exempt from their residency requirements, where imposed, people who are living in a refuge or other form of safe temporary accommodation in their district having escaped domestic abuse in another local authority area.

5.16 Separately, it also encouraged local housing authorities to give appropriate priority to victims of domestic abuse who have fled to a refuge or other form of safe temporary accommodation. It set out how authorities could do this by applying the medical and welfare or homelessness reasonable preference categories when considering applications from victims and their families who are in such circumstances.

5.17 However, although most local housing authorities already exempt victims of domestic abuse from needing a local connection, the government wants to ensure that this is always the case and also to have a wider application than is in the existing guidance which focuses on those in safe accommodation. This Instrument goes further and ensures that victims of domestic abuse are always exempt from local connection tests imposed by local housing authorities in England, where the move is connected to that abuse. They will be able to flee the local area in which the perpetrator resides without fear of being required to return due to not being able to meet local connection requirements in another area. They will also be able to move from any accommodation initially occupied on a temporary and this is not limited to a refuge so can be a family or friends house for example.

5.18 For care leavers, statutory guidance: *Allocation of accommodation: guidance for local housing authorities* encouraged local housing authorities to exempt care leavers from local connection tests if they are returning to a local housing authority area from which they were placed. Statutory guidance did not however address those care leavers that wished to settle elsewhere, and in particular those who wished to stay in the local housing authority area in which they were looked after. It also did not recognise that a lack of family stability might mean that certain care leavers might not have a tangible connection to any area, contrary to young people with family ties.

5.19 This Instrument will ensure that certain care leavers aged 16-24 are always exempt from local connection tests where these are applied by a local housing authority in England. This will be those care leavers who have spent at least 13 weeks in care since the age of 14 at least one day of which was after reaching the age of 16, as those care leavers will be the most likely to not have a tangible connection to a specific area.

6. Legislative and Legal Context

How has the law changed?

6.1 Section 160ZA of the Housing Act 1996 provides that a local housing authority in England can only allocate housing to eligible and qualifying persons. Those persons who are or are not eligible are set out in legislation. In terms of who qualifies, section 160ZA(7) gives local housing authorities the power to decide what classes of persons are, or are not, qualifying persons. This is subject to a power exercisable by the Secretary of State under section 160ZA(8)(a) to prescribe classes of persons who the local housing authority must or must not treat as qualifying persons, and section

160ZA(8)(b) to prescribe criteria a local housing authority cannot use to disqualify persons.

6.2 This instrument is made under section 160ZA(8)(b) and prescribes a criterion that prevents a local housing authority in England from applying a local connection test to a "relevant person" when deciding whether such persons are qualifying persons for an allocation of housing. Relevant person is defined as one of two categories: (a) a person who is or has been a victim of domestic abuse and whose move is connected to that abuse, including from accommodation occupied initially on a temporary basis; and (b) certain types of care leavers, namely, an eligible child, a relevant child or a former relevant child.

6.3 For the purpose of this instrument, the definition of domestic abuse in that set out in section 1 of the Domestic Abuse Act 2021.

6.4 For the purpose of this instrument the definitions of eligible child, relevant child and former relevant child are those set out in the Children Act 1989 and in summary concerns persons aged 16-24 who have been looked after by a local authority in England and Wales for a period of, or amounting to, at least 13 weeks since their 14th birthday, at least one day of which was since reaching the age of 16:

(a) An eligible child is a child who is: (a) currently being looked-after; (b) aged 16 or 17; and (c) has been looked after by a local authority in England or Wales for a prescribed period after a prescribed age (see paragraph 19B of Schedule 2), the prescribed period being a period of at least 13 weeks, or periods amounting in total to 13 weeks, since the age of 14, at least one day of which must have been since reaching the age 16 (see regulation 40 of the Care Planning, Placement and Case Review (England) Regulations 2010).

(b) A child is a relevant child if they: (a) are no longer a looked-after-child; (b) aged 16 or 17; and (c) a former eligible child (see section.23A (2)).

(c) A person is a former relevant child if they are: (a) aged 18 to 24; and (b) either a former relevant child or former eligible child (see section 23C).

Why was this approach taken to change the law?

6.5 The allocation of social housing is governed by legislation so amending the existing legal instrument is the only possible way to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 These changes have been made following engagement with stakeholders representing care leaver and victims of domestic abuse interests and local government stakeholders. The feedback on these proposals was supportive and they were welcomed by stakeholders. No concerns were raised about implementation of the changes.

8. Applicable Guidance

8.1 Existing statutory guidance for local housing authorities will be updated once the Regulations come into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no or limited impact on businesses, charities and public bodies. The primary impact will be on local housing authorities (who are public sector bodies) who will need to take the revised criteria into account when updating their allocation schemes and determining if a victim of domestic abuse or care leaver under 25 qualifies for an allocation of social housing.

9.2 It has a minimal impact because local housing authorities already need to conduct an assessment to determine if an applicant is eligible and qualifies for social housing. Local housing authorities already have the power to exempt applicants from local connection tests. This instrument means that victims of domestic abuse or care leavers under 25 are not restricted to making an application where they can meet the relevant local housing authority's local connection test.

9.3 Acceptance of an application does not guarantee an allocation of social housing but provides the possibility of an allocation at a later date. Local housing authorities remain responsible for operating their own allocation scheme and prioritising allocations of social housing in accordance with local needs and statutory criteria. Many local housing authorities do not apply a local connection test to victims of domestic abuse or care leavers under 25.

Impact on businesses, charities and voluntary bodies

9.4 The impact on business, charities or voluntary bodies is limited to those who provide accommodation under a nomination agreement (local housing authorities may nominate households from their waiting list to a property in another local housing authority or housing association (in their or another district), depending on the terms of that agreement., These changes do not require the provision of additional housing. The changes enable a local housing authority to make a referral for a victim of domestic abuse or care leaver under 25 to a vacancy in a housing association.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 We will keep the impact of this instrument under review and the Government will consider any further changes necessary.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 the Minister of State (Housing and Planning) has made the following statement:

"This instrument does not include a statutory review clause as a review would be disproportionate when taking into account that there will be no economic impact since the changes relate to whether an individual can qualify to go onto a local housing authority waiting list (if applicable) for social housing and does not guarantee an allocation of a social home."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Minister of State (Housing and Planning) has made the following statement regarding Human Rights:

"In my view the provisions of The Allocation of Housing (Qualification Criteria for Victims of Domestic Abuse and Care Leavers) (England) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").