

Consultation to reforms to social housing allocation - UK Connection Test feedback

<https://www.gov.uk/government/consultations/consultation-on-reforms-to-social-housing-allocations/consultation-on-reforms-to-social-housing-allocations#uk-connection-test>

Do you agree that an individual should have to demonstrate a connection to the UK for ten years before qualifying for social housing (if they do not meet the test otherwise or are exempt)?

Yes/No/Don't know. If no, please detail length of test

No.

The proposed UK connection test is incompatible, in practical terms, with the UK government's present interpretation of the scope of Article 10 Withdrawal Agreement. The qualification set out in clause (a) stipulates: "*(a) that they are a British citizen, Irish citizen, Commonwealth citizen with a right of abode, or EEA or Swiss citizen with equal treatment rights;*". In other words, when considering all individuals with EU Settlement Scheme (EUSS) status, only EEA and Swiss citizens '*with equal treatment rights*' will be exempt from the ten year UK connection test.

Our position is that **all individuals** with EUSS status have equal treatment rights under the Withdrawal Agreement and should therefore be exempt from the ten year UK connection test. This includes not only EEA and Swiss citizens, but also their non-EEA/Swiss family members with EUSS status.

Unless all EEA or Swiss citizens, **and** family members, with status under the EU Settlement Scheme are deemed to have equal treatment rights, and therefore exempt from the ten year UK connection test, the imposition of this ten year UK connection test upon this EUSS cohort will require a constant reassessment of the basis upon which an individual's status was granted.

The current narrow interpretation of Article 10 WA adopted by the government would require that an individual with EUSS status demonstrate that they are part of the 'true cohort' of EUSS status holders, and within scope of the WA (and, therefore, holding equal treatment rights) despite their not previously having had to prove it. The EUSS grant of status letter indicates that leave under the EUSS is granted on the basis of the WA. Those granted status on that basis will therefore likely believe that they have WA rights.

The imposition of this test whilst that narrower interpretation of Article 10 WA is applied, will result in undesirable and complicated assessments and arguments about who is in scope at a particular point in time. It will require social housing decision makers to determine:

- whether that individual at some point exercised their right to reside in accordance with Union law before the end of the transition period;

- whether that individual was continuing so to exercise those rights at the moment of the ending of the transition period;
- whether that individual continued to reside there in accordance with retained Union law; and
- whether that individual qualifies procedurally and substantively for the particular right which is engaged (eg. residence, rights as a worker, recognition of professional qualifications, social security coordination, etc).

This would result in potentially hundreds of thousands of people being, or falling, outwith the scope of the WA, but unaware of this until the point at which they apply for housing assistance. As a result, no one with EUSS status who has not made such a claim would be able to know whether the UK considers them to have WA rights, and neither would the UK government consider itself to have made a decision as to scope in any such case.

Unless all EEA and Swiss citizens with status under the EU Settlement Scheme are deemed to have equal treatment rights, the introduction of the UK connection test will be onerous to the point of being unworkable for local housing authorities to implement.

The proposed requirement at clause (b) that applicants for social housing support not covered by the nationality requirements in clause (a) have resided in the UK for a ten year period, creates an unjustified and arguably unlawful distinction between those EEA and Swiss nationals who are entitled to equal treatment rights under Article 10 WA and their family members with EUSS status who, though being third country nationals, are likewise WA beneficiaries and therefore entitled to equal treatment rights.