

# Unlock response to consultation on reforms to social housing allocations, March 2024

## Introduction

Unlock is a national independent advocacy charity that supports, speaks up and campaigns for people facing stigma, prejudice and discrimination because of their criminal record. A core mission for Unlock is to provide advice for people in respect of their criminal record, including help overcoming the barriers they're facing. Our website provides vital information and guidance for people with criminal records, but we also have a helpline provided by dedicated staff and volunteers, which deals with specific queries. People can [contact the helpline](#) in various ways, including via email, WhatsApp or our free phone line.

This document sets out our response to the Department of Levelling Up, Housing and Communities [consultation](#) on reforms to allocations of social housing.<sup>1</sup> Included in these proposed reforms is an "anti-social behaviour test". This would disqualify anyone who has an unspent conviction, or certain other civil sanctions, relating to specified anti-social behaviour legislation. This is of a concern to Unlock for a range of reasons. Primarily, such a rule would infringe unnecessarily and disproportionately on the rights of people with criminal records. Furthermore it has the potential to hamper effective rehabilitation for those with unspent convictions, thus failing to (as it allegedly seeks to) make communities safer.

The response below has been submitted to the consultation where specific questions have been asked relating to our expertise.

## Issues

### Do you agree that a conviction/sanction for anti-social behaviour should result in a disqualification period from accessing social housing?

We do not believe that this is a proportionate or appropriate measure. This test would act as further punishment for people whose offences have already been dealt with by the criminal justice system, would fail to effectively protect society from anti-social behaviour if it undermined rehabilitation, and could even have an impact on the ability of people released from prison to comply with license conditions. The complexity of the criminal records system and existing disproportionalities in the criminal justice system are also relevant.

---

<sup>1</sup> <https://www.gov.uk/government/consultations/consultation-on-reforms-to-social-housing-allocations>

Implementing a rule where a conviction/sanction for anti-social behaviour would result in a disqualification period from accessing social housing would represent a disproportionate and unnecessary infringement of the rights of people with criminal records to continue their lives. Disqualifying someone in this way adds a further layer of punishment to their existing conviction/sanction.<sup>2</sup> Punishment for offences committed would have been determined by the criminal justice system, so adding further layers of punishment via restricting access to social housing is unnecessary.

This measure is supposedly an attempt to protect communities from further anti-social behaviour. However, this is undermined by the impact it would have on those disqualified from social housing. Any efforts individuals are making with regards to rehabilitation would be hampered by difficulties in obtaining stable housing. In areas such as finding employment and accessing support services, stable housing is crucial. This is vital to effective rehabilitation and, as such, reducing reoffending. This measure could also have a detrimental impact on other efforts that are being made to support prison leavers in finding employment, given the likely disruption to housing stability it would cause. Introducing a measure that would undermine rehabilitation will not help to protect communities from anti-social behaviour, and might even increase levels of anti-social behaviour if it fuels reoffending.

Any disqualification from access to social housing would impact on the choices someone has about where to live. This is important in three ways. Firstly, supportive existing relationships with family and friends, along with local connections, can be crucial in the resettlement of people who leave prison. Forcing people to move away from an area could disrupt this positive relationships once someone has been released, relationships that are often the focus of effort to maintain while someone is in prison. Secondly, limits on where someone can live could disrupt their access to support services or make staying in stable employment more challenging. Considerable resource is put to ensure successful resettlement for people leaving prison, which includes ensuring they have access to support services, accommodation and work opportunities upon release. To ensure smooth transition for people on release is already very challenging, so if people were then forced to move to another area such efforts would be worthless and everything would then have to be set up in another area. Thirdly, some people with criminal records have license conditions dictating areas in which they can and cannot live, with breaches of such conditions often leading to recall to prison. Anything that limits someone's ability to comply with such conditions, such as limits on available housing, could have a serious impact. As such, access to social housing can be very important in ensuring that people with unspent convictions/sanctions are able to find the best place to live to support their efforts to rehabilitate.

The proposal here to use spending periods as the maximum time during which such a disqualification could apply highlights the complexity of the criminal records regime. The length of time a conviction can remain unspent is not always clear, especially given the potential impact of 'drag-through'. 'Drag-through' is relevant here if someone received a conviction that was

---

<sup>2</sup> The specific pieces of legislation under which someone would need to have been convicted/sanctioned, and further details on proposed disqualification periods, can be found here: <https://www.gov.uk/government/consultations/consultation-on-reforms-to-social-housing-allocations/consultation-on-reforms-to-social-housing-allocations#anti-social-behaviour-test>.

under the scope of this proposal, but was subsequently convicted of an unrelated offence during the original spending period. In this situation the anti-social behaviour offence could remain unspent for far longer than this policy envisages, disproportionately extending the disqualification period. This is just one example of the complexity of the criminal records system, but one that demonstrates the problem of involving criminal records in assessing social housing eligibility.

A further problem with linking access to social housing to a criminal record relates to measures concerning “nuisance homelessness” outlined in the 2023 Criminal Justice Bill (still progressing through Parliament at time of writing). These measures could draw more people into being criminalised for being homeless. A disqualification from social housing would increase the risk of being homeless, thus trapping people in a cycle of criminalisation and embedding harmful stigmas, rather than providing housing for those most in need of it.

Finally, there is a risk that this policy would impact certain minoritised groups disproportionately, especially racially minoritised groups. By way of example, the 2017 Lammy Review noted that people from ethnic minority backgrounds were vastly overrepresented in the prison population (25% of prisoners compared to only 14% of the overall population).<sup>3</sup> More recently, research commissioned by the Crown Prosecution Services (CPS) in 2023 found that charging decisions showed evidence of disproportionality, with white British people charged at the lowest rate.<sup>4</sup> Such disproportionalities are carried through the criminal justice system, and the proposal to link criminal records to social housing eligibility would mean existing disproportionalities would be seen in other areas of public policy such as social housing.

### Should all members of a household be subject to a check for history of anti-social behaviour, rather than just the lead tenant?

As outlined above, this check is disproportionate and likely to have a detrimental impact on the opportunity for someone with a criminal record to rehabilitate. If this test were then extended to all members of a household, rather than just a lead tenant, the detrimental impact of a criminal record could be transferred from one individual to others in their household. For reasons outlined above, this test should not be applied, and it certainly should not be applied to everyone in the household.

A policy such as this could force people with criminal records to choose between maintaining family ties and finding stable accommodation (crucial in getting a job). This would disrupt the stability that can be so important to effective rehabilitation (as outlined in answer to the previous question) as well as transferring the punishment from them onto members of their household. This would be particularly concerning if a secondary impact of this policy was that children had their lives disrupted by being forced to move from the area they currently live, for example by having to move schools and be moved away from local support networks they benefit from.

---

<sup>3</sup> <https://assets.publishing.service.gov.uk/media/5a82009040f0b62305b91f49/lammy-review-final-report.pdf>

<sup>4</sup> <https://www.cps.gov.uk/publication/cps-charging-decisions-examining-demographic-disparities-outcomes-our-decision-making>

The government is considering whether exemptions to the anti-social behaviour test should be made for victims of domestic abuse; or those with a condition or disability that was a relevant contributing factor to the anti-social behaviour. Are there any additional groups that should be considered for an exemption from this test?

As outlined above, we believe the anti-social behaviour test is disproportionate and counterproductive. It is likely to have a detrimental effect on people with criminal records and impede rehabilitation.

Were this test to be introduced, however, it should be applied with nuance and on a case-by-case basis. Although the length of disqualification would correlate with the severity of the disposal given, such a disqualification would still be disproportionate if the offence was minor or if the disqualification would impact on dependents. For example, if stable housing for children was lost due to the disqualification of one of their parents, that would certainly be a disproportionate and harmful impact of this policy, so exemptions should apply in such circumstances.

Furthermore, the issues referenced in this question are crucial. We know that people do receive convictions/sanctions when also being a victim of domestic abuse. We would argue that this mitigation should be widened to include anyone who has been convicted/sanctioned for anti-social behaviour in circumstances related to being a victim of any crime.

We also know that many people with criminal records are often themselves vulnerable; they are likely to have complex needs and be disproportionately more likely to be diagnosed with brain injuries or neurodiverse conditions. We therefore suggest that further mitigation should take account of the vulnerability of anyone before their access to social housing is limited.

However, we would stress the points we have made in response to previous questions, that the anti-social behaviour test is disproportionate and harmful to people with criminal records. We only comment here to note that, if it is introduced, mitigation and nuance is necessary.

## Conclusion

In conclusion, we reject the proposal to apply an “anti-social behaviour” test to assessing social housing eligibility. We see this as further punishment for those with criminal records, as a barrier to effective rehabilitation and, in some cases, as an act that would increase the likelihood that certain individuals will be in breach of license conditions. The stability housing offers is crucial in effective rehabilitation, and denying someone the right to that on the basis of past actions would undermine the purpose of the justice system to support rehabilitation and prevent crime. It is unjust to deny the right to housing to people on the basis of their criminal record.

For more information, please contact Brendan Shepherd via [policy@unlock.org.uk](mailto:policy@unlock.org.uk).