



City of Westminster

Cabinet Member Report

Meeting or Decision Maker:	Cabinet Member for Place Shaping and Planning
Date:	30 January 2019
Classification:	General Release
Title:	Self-Build Register Fees
Wards Affected:	All
City for All summary	<p>Setting a fee and more detailed criteria for entering Westminster's Custom and Self-Build Register will help the council better assess the genuine local demand for land for self and custom build housing and will inform the council's planning, housing and regeneration functions.</p> <p>This will contribute to the 'Promoting opportunity and fairness across the city' priority of City for All by supporting the development of more targeted policies that can sensibly respond to local housing needs.</p>
Key Decision:	Key Decision included in the Forward Plan of Key Decisions
Financial Summary:	<p>The report proposes to introduce: detailed eligibility criteria to enter Westminster's Custom and Self-Build Register; a fee of £95 for eligible applicants to join the register; and an annual re-registration fee of £95 to remain on Part 1 of the register thereafter.</p> <p>The fee is intended to cover the additional costs of administering the register.</p>
Report of:	Director of Policy, Performance and Communications

1.0 EXECUTIVE SUMMARY

- 1.1 The Self-build and Custom Housebuilding Act 2015 imposed a duty upon relevant authorities including London boroughs to maintain a register of individuals and associations of individuals who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation.
- 1.2 New regulations on Self-build and Custom Housebuilding published in October 2016¹ enabled local authorities to set local eligibility requirements (in addition to the general national requirements) and to charge a fee for entries on to the Custom and Self-Build Register (and an annual fee to remain on the register) to cover the cost of the administration involved in checking evidence submitted by potential entrants and maintaining the register.
- 1.3 This report seeks Cabinet Member approval to agree to setting eligibility criteria and to charge a £95 fee for new entries on to Westminster's Custom and Self-Build Register and an annual fee of £95 to remain on Part 1 of the Register thereafter. All individuals (including every member within an association of individuals) must satisfy the applicable new criteria in order to be eligible for entry onto either Part 1 or Part 2 (as appropriate) of the register and the new charge will apply to entries to either Part 1 or Part 2 of the Register from 28 February 2019 until further reviewed.

2.0 RECOMMENDATION

- 2.1 That the Cabinet Member for Place Shaping and Planning agrees to:
 - setting the following eligibility criteria for entries onto either Part 1 or Part 2 of the register
 - proof of age and nationality;
 - payment of the requisite application fee as detailed further in this report;
 - the individual or association applying must be seeking (either alone or with others) to acquire a serviced plot of land in the borough for their own self-build and custom housebuilding project; and
 - evidence of sufficient resources to purchase land for their Custom or Self-Build project
 - setting the following eligibility criteria for entries onto Part 1 of Westminster's Custom and Self-Build Register:
 - a local connection test (subject to the relevant exemption for armed forces personnel) which is in line with the requirements to be entered onto Westminster's intermediate housing register

¹ The Self-build and Custom Housebuilding Regulations 2016 and Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016

- charging a £95 fee for entering either Part 1 or Part 2 of the register and a £95 annual fee thereafter to remain on Part 1 of the register from 28 February 2019.
- Maintaining the existing entries on the register until 31st March 2019 after which date they will be re-assessed against the new eligibility requirements and subject to payment of a £95 annual fee for Part 1 registrations.

3.0 REASONS FOR DECISION

- 3.1 To cover the administration costs of running the register and to ensure that the register reflects genuine local demand for land for custom and self-build housing.

4.0 BACKGROUND

- 4.1 The [Self-build and Custom Housebuilding Act 2015](#) imposes a duty upon relevant authorities including London boroughs **to maintain a register of individuals, and associations of individuals, who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation.**
- 4.2 Self-build projects are defined as those where someone directly organises the design and construction of their own home. This covers a wide range of projects from a traditional DIY self-build home to projects where the self-builder employs someone to build their home for them. Community-led projects can also be defined as self-build.
- 4.3 Custom build homes are where an individual or group works with a specialist developer to help deliver their homes. The developer may help to find a plot, manage the construction and arrange the finance for the project.
- 4.4 The Act does not distinguish between self-building and custom housebuilding and provides that both are where an individual or an association of individuals build or complete houses to be occupied as homes by those individuals. Relevant authorities must have regard to their registers when carrying out their planning, housing, land disposal and regeneration functions.
- 4.5 The duty to keep a Custom and Self-build (hereafter: CSB) Register has been a legislative requirement of the Council since 1st April 2016 (when the February 2016 Regulations came into force). Entries on the Westminster CSB Register are intended to help the Council assess demand for this type of housing locally and inform its work on shaping future planning and housing policy for the city, as well as informing decisions on land disposal and estate regeneration.
- 4.6 In preparing the register, the Council makes no commitment to provide those on the register with plots of land for CSB. Subsequent applications for resident self-build and custom housebuilding projects will require planning applications and will be assessed on their merits in line with Westminster's planning policies and guidance. Notwithstanding this, the Council has a duty to have regard to the register to meet its duty to give permission for a suitable number of permissions relative to the demand for CSB in Westminster.

4.7 Entries to date have been assessed against the eligibility criteria set out by the [Self-build and Custom Housebuilding \(Register\) Regulations 2016 \(now superseded see paragraph 4.10 below\)](#) published by the Government in February 2016, which required applicants to be:

- over 18;
- a British citizen or national of an European Economic Area State or of Switzerland; and
- seeking to acquire a plot for use as sole/main residence.

The February 2016 Regulations did not require applicants to provide proof that they met these criteria.

4.8 To date Westminster's CSB Register has a total of 127² entries. These have been received at a rate of roughly two per month in the last year. Of these 127, eight individuals have stated they require more than one plot of land (it is to be assumed these eight individuals are the lead contact for a group of people wishing to CSB together).

The 127 entries in our register to date can be broken down as per below:

- 32% entries have been made by Westminster residents;
- 61% by individuals or groups living within the rest of Greater London;
- 7% by individuals or groups living outside of Greater London.

Two entries have not entered an address and have therefore not been considered in the above calculations.

4.9 The above statistics show how the majority of the entries that populate our register to date (68%) have been made by people who are not Westminster residents. This is a considerable percentage and it may give a distorted figure of the local demand for this type of home. Whether the people who make up this number are working in Westminster (and would therefore meet the local connection test) is unknown.

4.10 The October 2016 [Self-build and Custom Housebuilding \(Time for Compliance and Fees\) Regulations 2016](#) and the [Self-build and Custom Housebuilding Regulations 2016](#) replaced the earlier February 2016 Regulations and gave greater discretion to local authorities to set eligibility requirements for those wanting to be entered onto the register – should the local authority choose to adopt them. These enabled local authorities to:

- charge a fee for entries on to the CSB Register (and an annual fee to remain on the register) to cover the cost of the administration involved in compiling and maintaining the register;

² Register accessed on 27 November 2018.

- set a local connection test (any local eligibility test will be deemed to be satisfied if the individual is in the service of the regular armed forces of the Crown and for a period after leaving service); and
 - set a requirement to provide evidence of sufficient resources to purchase land for CSB.
- 4.11 The October 2016 Regulations prescribe that local authorities who set up local eligibility criteria must divide their CSB Register in two parts, with Part 1 of the register including all entries meeting all eligibility requirements set by the relevant local authority and Part 2 for those entries which meet all nationally applicable eligibility criteria (and for the avoidance of doubt the sufficient resources test) but not the local connection test.
- 4.12 The total number of entries in Part 1 of the register will be the baseline demand against which the local authority must have regard to when considering planning applications for CSB. Entries on Part 2 do not count towards demand for the purpose of the 2015 Act but local authorities must have regard to Part 2 of the register when carrying out their planning, housing, land disposal and regeneration functions.
- 4.13 The eligibility criteria informally agreed by the previous Cabinet Member for Planning and the Public Realm, which are recommended for implementation (along with the other criteria set out in the October 2016 Regulations) are:
- a local connection test which is in line with the requirements to be entered onto Westminster's intermediate housing register i.e. the person has lived or worked in Westminster for at least the last 12 months (applies to Part 1 only);
 - Proof of age and nationality (applies to Part 1 and 2); and
 - Evidence that applicants have sufficient resources to purchase land for their own CSB project (applies to Parts 1 and 2).
- 4.14 It must be noted that in respect of the local connection test that there is a specific exemption in the Regulations for persons serving in the armed forces of the Crown. Persons meeting such an exemption will be deemed to meet the local connection test.
- 4.15 Research into the amount of work involved in assessing eligibility criteria and managing the register indicates that a fee of £95 will be appropriate. Further details on this fee can be found under Section 7 (Financial Implications) of this report. Officers also recommend that applicant demonstrate evidence of sufficient resources to purchase land in Westminster at prevailing market rates. The evidence required would be in the form of either savings, private finance or a mortgage in principle agreement.
- 4.16 It is recommended that existing entries will be kept on the register until the end of the current financial year (31st March 2019) after which they will be re-assessed against the new eligibility criteria and Part 1 registrations will be subject to payment

of the annual fee.

5.0 POLICY CONTEXT

- 5.1 The NPPF requires local planning authorities to meet objectively assessed housing need within their housing market area. The CSB register is one form of evidence of the housing need in Westminster for a very specific type of housing, which the Council has a duty to take into account. There is limited land available and competing demand for different land uses in Westminster, which means that land must be used as efficiently as possible, particularly for housing given the high need for new housing.
- 5.2 Local authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to Part 1 of an authority's register during a base period (running yearly with end on 30 October). An overestimation of the local demand for CSB homes could result in the Council having to grant permission for CSB on sites which are not properly optimised if not enough CSB permissions have been granted to meet demand on the register. This would have subsequent implications for the Council's ability to meet its housing targets and as CSB are exempt from the requirements to contribute to affordable housing, would also impact of affordable housing delivery. It is therefore very important that Westminster's CSB register accurately reflects genuine demand for this type of housing.
- 5.3 Introducing a fee for entry onto the register will deter speculative entries from people who have no genuine intention of self-building or custom housebuilding in Westminster; and the introduction of additional criteria and a local connection test for entry onto Part 1 of the Register (which has the connection to the Council's duty to grant planning permission to meet demand) will filter out applicants who do not have a connection to Westminster and/or do not have the means to self-build here. These changes will help ensure the evidence base for City Plan housing policies are not distorted and that we continue to make the most efficient use of land.

6.0 CONTRIBUTION TO CITY FOR ALL

- 6.1 The proposed change aims to provide value for money as it is intended to improve our service to customers by refining our evidence base which helps inform the Council's agenda and policy making.
- 6.2 Ensuring that all entries meet the required eligibility criteria (and in respect of Part 1 the local connection criteria) together with applying entry and yearly maintenance fees will help the Council to better identify what is the genuine appetite for CSB in Westminster and guide new relevant policies as appropriate.

7.0 RESOURCES IMPLICATIONS

- 7.1 The amount of officer time currently spent on setting up and maintaining Westminster's CSB Register is fairly low – with 127 entries on our register this equates to around five entries being made onto an excel spreadsheet per month.

- 7.2 A significantly increased resource is expected to be spent on undertaking activities relating to the register when local eligibility criteria are introduced (namely proof of age, nationality, local connection and evidence of sufficient available funds for CSB in Westminster, payment of the relevant fees), as evidence documents have to be checked and verified. Under the new regime officers will also be required to carry out a yearly review of all existing entries against all eligibility criteria.
- 7.3 Additional time is expected to be required for undertaking correspondence with the individual informing them if they have been successful in their application to go on the Register (we are required to notify them within 28 days of their request to go on the register if they meet the criteria).
- 7.4 The officer time required to assess the requirements of the October 2016 Regulations and amend the register and website to take account of the new criteria, as well as for the IT and Finance teams to update the website, develop a new submission form and set up procedures to collect the fees should also be taken into account.
- 7.5 It is also recognised that in some instances it may be necessary to source external expertise to assess information against regulatory requirements, including financial information.

8.0 FINANCIAL IMPLICATIONS

- 8.1 It is recommended that a fee be charged for people to enter on the register to recoup administration costs of setting up and maintaining the register, and to deter people from registering when they do not genuinely intend to CSB in Westminster. This will ensure that the register reflects genuine demand for this type of housing and can be confidently used as part of our housing evidence base for the City Plan.
- 8.2 Officers propose to charge a £95 fee for people entering either Part 1 or Part 2 of the register and an annual £95 fee for staying on Part 1 of the register every year.
- 8.3 It is considered that a fee of £95 is appropriate for Westminster as this will cover the cost of officer time to administer the register but not undermine the national policy drive to encourage custom and self-building. The fee includes an assessment of documents submitted, potential requests for additional information, the assessment of information against regulatory requirements, the process of updating the register itself and drafting of correspondence to inform individual of the outcome of their application.
- 8.4 This cost is based on advice from the Finance team taking into account all the expected resource implications and is equivalent to around one hour of a Band 4 officer's time (including overheads)³ per application.

³ The Finance Department have indicated that an hour of a Band 4 Officer's time (including overheads) would be approximately £85-£95.

- 8.5 To date, only a limited number of London boroughs have set up fees for people to go on their register. The vast majority of London boroughs still accepts entries without requesting a fee.
- 8.6 From a benchmarking perspective, CSB fees range from as much as £350 in some London Local Authorities to as little as £10 for registration outside Greater London.
- 8.7 The City Treasurer will make provisions for Policy, Performance and Communications (PPC) to retain the fees to offset the costs of administering the scheme.
- 8.8 The Council reserves the right to review the costs involved once the fee has been in operation for 12 months and adjust the fee accordingly, as officer experience will provide a better idea of the cost of managing the register under the proposed new regime.

9.0 LEGAL IMPLICATIONS

- 9.1 The Self-build and Custom Housebuilding Act 2015 imposes a duty upon relevant authorities including London boroughs to maintain a register of individuals, and associations of individuals, who are seeking to acquire serviced plots of land in their area in order to build homes for their occupation. Relevant authorities must have regard to their registers when carrying out their planning, housing, land disposal and regeneration functions.
- 9.2 The Government published the Self-build and Custom Housebuilding (Register) Regulations 2016 in February 2016 which set out the detailed requirements for local authority registers. These Regulations were subsequently replaced by the October 2016 Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 and Self-build and Custom Housebuilding Regulations 2016. These new Regulations gave local authorities greater discretion to set eligibility criteria for those wanting to be entered onto and remain on the register. They also enabled local authorities to charge a fee for individuals to be entered in – or remain on – the register to cover the cost of the administration involved in compiling and maintaining the register.
- 9.3 The power to charge for this service is derived directly from the Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016. These fees must be published and in determining the amount fee, the Council must secure that, taking one finance year with another does not exceed its reasonable costs incurred in connection with its functions.
- 9.4 Under Section 2A of the 2015 Act the Council has a duty to give suitable development permission (planning permission or permission in principle) in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period (12 months beginning immediately after the end of the previous base period). Prior to the introduction of local eligibility criteria this duty applied to all registrations on the Self-build Register. However, subject to the introduction of the new local eligibility criteria the duty would only apply to Part 1 registrations (i.e. persons also meeting the local

connection criteria set out above), therefore providing additional control over permissions granted. Part 2 registrations must continue to be taken into account when carrying out a relevant function (as set out in 9.1 above) but the Section 2A duty will not apply.

- 9.5 An annual fee may only be charged in respect of persons to which the Section 2A duty applies (see 9.4 above), therefore it may only be levied to remain on Part 1 of the Register and not Part 2⁴.

10.0 BUSINESS PLAN IMPLICATIONS

- 10.1 In line with the most up-to-date Policy, Performance and Communications Business Plan (2015-2017), the decision to start charging a fee for entries on the council's CSB register to better assess the local demand for this type of homes reflects the commitment to support the development of evidence-based policy that can move quickly into implementation and support the Cabinet and ELT to drive the agenda of the council.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

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⁴ See Regulation 3(6) of the Self-build and Custom Housebuilding (Time for Compliance and Fees) Regulations 2016 and Regulations 4 and 9 of the Self-build and Custom Housebuilding Regulations 2010

BACKGROUND PAPERS:

NB: For individual Cabinet Member reports only

For completion by the **Cabinet Member for Place Shaping and Planning**

Declaration of Interest

I have <no interest to declare / to declare an interest> in respect of this report

Signed: _____ Date: _____
NAME: **Councillor Richard Beddoe**

State nature of interest if any
.....

(N.B: If you have an interest you should seek advice as to whether it is appropriate to make a decision in relation to this matter)

For the reasons set out above, I agree the recommendation(s) in the report entitled
Self-Build Register Fees

Signed

Cabinet Member for Place Shaping and Planning

Date

If you have any additional comment which you would want actioned in connection with your decision you should discuss this with the report author and then set out your comment below before the report and this pro-forma is returned to the Secretariat for processing.

Additional comment:
.....
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If you do not wish to approve the recommendations, or wish to make an alternative decision, it is important that you consult the report author, the Director of Law, Chief Operating Officer and, if there are resources implications, the Director of Human Resources (or their representatives) so that (1) you can be made aware of any further relevant considerations that you should take into account before making the decision and (2) your reasons for the decision can be properly identified and recorded, as required by law.

Note to Cabinet Member: Your decision will now be published and copied to the Members of the relevant Policy & Scrutiny Committee. If the decision falls within the criteria for call-in, it will not be implemented until five working days have elapsed from publication to allow the Policy and Scrutiny Committee to decide whether it wishes to call the matter in.

Other Implications

1. Risk Management Implications

None

2. Health and Wellbeing Impact Assessment including Health and Safety Implications

None

3. Crime and Disorder Implications

None

4. Impact on the Environment

None

5. Equalities Implications

An initial Equalities Impact Assessment screening was carried out to assess whether this proposal may have any potential negative impact on protected categories. As no significant impact has been identified, a full EIA assessment was not considered necessary in this instance.

6. Staffing Implications

None

7. Human Rights Implications

None

8. Energy Measure Implications

None

9. Communications Implications

None