

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIP) SIMULTANEOUS DISCLOSURE

EXECUTIVE SUMMARY

The City Clerk's Office requests Council's permission to defer the report to Council on the key policy statements for Simultaneous Disclosure (SD).

THE CITY CLERK'S RECOMMENDATION(S)

1. That Council approve the request to defer the report to Council on key policy statements for a Council Policy on Simultaneous Disclosure until the 2016 September 26 Regular Meeting of Council;
2. That Council approve the request to defer the report on the Council Policy on Simultaneous Disclosure from 2016 September 26 to no later than March 2017; and
3. That Council approve the request to defer the implementation of the subsequent Council Policy to no later than September 2017.

PREVIOUS COUNCIL DIRECTION / POLICY

At its Regular Meeting held 2015 April 27, Council adopted the following motion arising:

"MOTION ARISING, Moved by Councillor Colley-Urquhart, Seconded by Councillor Chabot, that with respect to Report C2015-0350, the Deputy City Clerk/Returning Officer be requested to report back to Council on the options of releasing all final FOIP documents simultaneously and publicly, no later than 2015 July."

At its Regular Meeting held 2015 July 27, Council adopted the following request for a deferral:

"ADOPT, Moved by Councillor Chabot, Seconded by Councillor Demong, that the Administration Recommendation contained in Report C2015-0470 be adopted, as follows: That Council approve Administration's request to defer the report to Council on the options for simultaneous disclosure of FOIP requests to the 2015 September 28 Regular Meeting of Council."

At its Regular Meeting held 2015 September 28, Council adopted the following as amended:

"ADOPT, as amended, Moved by Councillor Chabot, Seconded by Councillor Demong, that the Administration Recommendations contained in Report C2015-0609 be adopted, as amended as follows:

That Council:

1. Direct Administration to prepare key policy statements for FOIP simultaneous disclosure and return to Council no later than May 2016;
2. Direct Administration to report to Council no later than September 2016 with a Council policy, criteria, procedures and resources required to implement simultaneous disclosure for January 2017; and
3. And further, that Mayor Nenshi be requested to ask the Provincial Government to expedite a decision on simultaneous FOIP disclosure".

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BACKGROUND

SD entails making the records disclosed to Freedom of Information and Protection of Privacy (FOIP) applicants publicly available. This requires consideration of several factors, some of the major ones being;

- Consideration of a delay period for review between release of records to the applicant and making those records public;
- Provision of a process for applicants to request a longer delay before making the records publicly available as was ordered in British Columbia (B.C.) investigation;
- Ensuring there is nothing posted that would identify individuals, e.g. names or other descriptors or situations that could lead to identifying an individual;
- Determining the length of time responses should be posted publicly; and
- Determining the various technical aspects of posting records, e.g. provision of links, search facility, and format to ensure that the records are directly accessible from calgary.ca.

Research has shown that it is important to take appropriate time to consider all factors carefully before committing to engaging in SD. Failure to consider all factors can lead to making mistakes in releasing inappropriate information at the wrong time. This situation occurred with BC Ferries and led to an extensive investigation and recommendations by the British Columbia (B.C.) Information and Privacy Commissioner. The public body in question was publicly criticised for their hasty actions.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

The City Clerk's FOIP Office has been unable to complete the key policy statements due to staffing challenges in the FOIP Office. Further time is required to complete the research needed to establish key policy statements.

The Province through Service Alberta and the Office of the Information and Privacy Commissioner of Alberta have been researching and discussing this matter for two years without yet reaching conclusions about best practices or a written policy.

Stakeholder Engagement, Research and Communication

See Council Report C2015-0609, attached.

Strategic Alignment

Simultaneous Disclosure is in line with Council Policy (CC039): Transparency and Accountability Policy and the Action Plan 2015-2018, W7.2 Promote public access to information and strengthen The City's culture of proactive disclosure.

Social, Environmental, Economic (External)

The social impacts of making public the records provided to applicants in response to FOIP requests will lead to a better informed public, able to make more informed decisions, and a more open culture of The City. No environmental or economic impacts have been identified.

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Financial Capacity

Current and Future Operating Budget:

This will be determined and reported in conjunction with the return of the Council Policy.

Current and Future Capital Budget:

This will be determined and reported in conjunction with the return of the Council Policy.

Risk Assessment

The risk of doing Simultaneous Disclosure is not high, if done correctly. The risk of not doing it correctly could result in a complaint to, and an investigation by, the Office of the Information and Privacy Commissioner of Alberta leading to risk to the reputation of The City of Calgary and the possibility of being ordered to cease simultaneous disclosure until all factors have been taken into account.

The risk of not doing simultaneous disclosure is that the responses to FOIP requests are not supportive of Council Policy CC039, Transparency and Accountability.

REASON(S) FOR RECOMMENDATION(S):

The City of Calgary would be setting a standard of practice on simultaneous disclosure within Alberta; therefore, it is important to ensure that all factors are fully considered before committing to a plan or policy for simultaneous disclosure. Due to staffing challenges in the FOIP Office, it has not been possible to complete the work as scheduled.

ATTACHMENT(S)

1. Council Report C2015-0609 Simultaneous Release of FOIP Requests