

PAYDAY LENDING AND FINANCIAL INCLUSION TASK FORCE TERMS OF REFERENCE

EXECUTIVE SUMMARY

The creation of the Payday Lending and Financial Inclusion Task Force (the Task Force) responds to Council's direction in PUD2015-0096. This report informs Council of the Terms of Reference (Attachment 1) for the newly formed Task Force. As part of its mandate the Task Force will address two related issues: 1) reviewing payday loan business practices and regulations to develop recommendations for the federal, provincial and municipal government to better protect financially vulnerable Calgarians, while 2) recommending strategies for mainstream financial institutions to increase access by low-income earners to safe and affordable financial products and services including short-term loans and financial counselling and education. The Task Force will also develop an implementation strategy to help achieve its desired outcomes.

Representation on the Task Force will be balanced to provide an objective review and will engage key stakeholders at a senior level. The Task Force will contribute recommendations to City Council, the financial services industry and organizations working to increase financial inclusion. The work of the Task Force will support key Council and Corporate directions as expressed in *Action Plan* and the *Enough for All* poverty reduction strategy.

In addition, this report seeks to refer an update on the business licensing of payday lenders from the SPC on Planning and Urban Development (PUD) to the SPC on Community and Protective Services (CPS) to better align with the reporting requirements for the Task Force.

ADMINISTRATION RECOMMENDATION(S)

That the SPC on Community and Protective Services recommend that Council:

1. Receive the Terms of Reference for the Payday Lending and Financial Inclusion Task Force for information; and
2. Direct Administration to refer the report with respect to business licensing of payday lenders from the SPC on Planning and Urban Development (PUD) to the SPC on Community and Protective Services (CPS) no later than 2016 Q2 to better align with the reporting of the Payday Lending and Financial Inclusion Task Force.

RECOMMENDATION OF THE SPC ON COMMUNITY AND PROTECTIVE SERVICES, DATED 2015 JULY 15:

That the Administration Recommendation contained in Report CPS2015-0606 be approved.

PREVIOUS COUNCIL DIRECTION / POLICY

On 2014 October 07, Council adopted notice of motion NM2014-39 to address improving municipal oversight of payday loan businesses. Moved by Councillor Pincott and seconded by Councillor Chabot, NM2014-39 directed Administration to "*report to the SPC on Planning and Urban Development with options and impacts relating to regulating payday loan businesses.*" The resulting report PUD2015-0096 was approved by Council on 2015 March 30 and directed Administration to:

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1. *receive the report for information;*
2. *assemble a task force to work with appropriate agencies and organizations to petition the provincial and federal governments to amend maximum annual interest rates and other payday loan business practices to better protect the financially vulnerable from predatory lending practices; and to influence mainstream financial institutions to re-engage low income earners with the ability to access short-term small loans and financial counselling services and education and to report back with a terms of reference for this task force to the SPC on Community and Protective Services no later than Q3 2015;*
3. *report back to Council through the SPC on Community and Protective Services with details of the task force's progress by no later than the end of Q2 2016;*
4. *in consultation with the Task Force identified in Recommendation 2, to develop provisions for inclusion in the Business License Bylaw to better identify and regulate payday lending businesses and other fringe financial institutions with particular consideration of curtailing proliferation and regulating geographic distribution, and report back to the SPC on Planning and Urban Development no later than Q4 2015;*
5. *bring forward recommendations to the Land Use Bylaw related to payday lending businesses and other fringe financial institutions, and report back through Calgary Planning Commission no later than Q3 2015.*

As part of the process of stakeholder engagement in preparing the Terms of Reference, it was determined that the report concerning business licensing of payday lenders to the SPC on Planning and Urban Development would best be referred to the SPC on Community and Protective Services to be included with the report of the Task Force in Q2 2016. This referral will ensure appropriate alignment between the various elements of this work, recognizing that the Task Force will work closely with Administration in the development of Business Licensing recommendations.

As such, this report addresses directions 2, 3 and 4. Matters pertaining to the Land Use Bylaw, direction 5, will be considered separately.

BACKGROUND

Payday lending may be a contributing factor to poverty and poses a risk to Calgary and Alberta's municipal and provincial poverty reduction efforts. When there is an urgent need for cash, and barriers to traditional credit exist, payday loans present a seemingly attractive alternative. Yet, payday loans also pose the risk of trapping people in a cycle of debt from which it is hard to escape. In recognition of this risk, various municipalities across North America have taken steps to increase the regulation of payday loan businesses to better protect consumers, as well as to increase access to safe and affordable financial products and services. The Payday Lending and Financial Inclusion Task Force will provide informed recommendations on the most effective ways of achieving these two objectives.

Concern with payday lending arises from the risk that those using the services of payday lenders and other alternative financial institutions may become trapped in a cycle of debt due, in part, to the relatively high cumulative rate of interest on alternative credit. The use of payday lenders is often a symptom of underlying financial issues related to insufficient income and assets, and lack of access to mainstream financial products and services

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The issue of payday lending should therefore be considered within the context of the broader issue of financial exclusion. Consequently, the proposed Payday Lending and Financial Inclusion Task Force includes both of these aspects in its title and mandate and these are articulated in the Terms of Reference which is the subject of this report.

INVESTIGATION: ALTERNATIVES AND ANALYSIS

This report provides the context and direction for a Task Force to address issues related to Payday Lending and Financial Inclusion. The proposed Terms of Reference were developed through consultation with key stakeholders and partners of The City. The direction of the Task Force articulated in the Terms of Reference advances The City's commitment to implementing the *Enough for All* poverty reduction strategy. The proposed direction further leverages the existing partnerships established through the Financial Empowerment collaborative which is supported by The City.

The Terms of Reference were developed in alignment with the City Clerk Office's Guide to Preparing Terms of Reference for Council: Established Advisory Committees. The content of the Terms of Reference was developed through extensive consultation with key internal and external stakeholders who are already engaged in financial inclusion work involving the financial services industry. Stakeholders were asked to provide input on the purpose, objectives, deliverables and composition of the Task Force, as well as key stakeholders with whom the Task Force should engage. Stakeholders also identified opportunities and risks for the Task Force to consider. Through the engagement process, stakeholders agreed that the Task Force must establish a fair, balanced and inclusive process that leverages current partnerships to address both aspects of the Task Force's mandate. The Task Force thus engages critical stakeholders and seeks to leverage existing partnerships to achieve its mandate, objectives and deliverables that respond to Council's direction.

The first aspect of the mandate of the Task Force is to provide recommendations on the regulation of payday lending practices. In Canada, apart from regulations pertaining to interest contained in the Criminal Code, payday lending is provincially regulated. Opportunities to influence the regulations pertaining to payday lending will therefore be primarily directed to the provincial government. In Alberta, regulations pertaining to payday lending are contained within the Fair Trading Act. Stakeholders informed Administration that these regulations are subject to a planned review by the Government of Alberta expected in 2015 Q4, providing an opportunity for the Task Force to provide input into that process. The Task Force will also review options for increased municipal oversight, including those pertaining to business licensing.

The second aspect of the mandate of the Task Force is to reduce the demand for services from alternative financial institutions. This will be done by working with the financial services industry and other organizations to increase access to safe and affordable financial products and services. In recognition of the importance of leveraging existing partnerships, it is proposed that the Task Force work closely with the Financial Empowerment Collaborative (FEC). The FEC is an existing collaborative, of which The City is a member, led by the United Way of Calgary and Area in partnership with Momentum. FEC includes representation from the government, non-profit and banking sectors. The mission of FEC is:

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Convene a network of community organizations, financial institutions and private sector organizations, government and engaged citizens committed to building the financial literacy and assets of all Calgarians, particularly those with lower incomes, through collaborative action and systems change.

As a result of input from key stakeholders, the proposed Terms of Reference for the Payday Lending and Financial Inclusion Task Force addresses two aspects of payday lending. The mandate of the Task Force is to recommend policy and regulatory changes as well as advocate for appropriate services to provide safe, affordable alternatives to high-cost payday loans that create pathways for people living on low incomes to permanently exit from the payday loan cycle.

The deliverables of The Task Force as agreed to by stakeholders are included in the Terms of Reference. Membership on the Task Force seeks to achieve a balance of interests that provides a fair representation of the various perspectives pertinent to the issue. Consequently, stakeholders encouraged representation from the financial services industry, the payday loan industry, non-profit organizations providing financial counselling and education, The City of Calgary, and representation from the strategic partners involved in implementation of the *Enough for All* strategy. It was recommended that representatives from the Government of Alberta not be included on the Task Force to avoid a potential conflict of interest as the Government of Alberta would be the body to which advocacy strategies would be directed.

As part of the investigation and analysis in preparing the Terms of Reference, it was determined that the report concerning business licensing of payday lenders would best be aligned with the report back from the Task Force. This referral will ensure appropriate alignment between the various elements of the work related to payday lending, recognizing that the Task Force will work closely with Administration in the development of business licensing recommendations.

Stakeholder Engagement, Research and Communication

The development of the Terms of Reference for the Payday Lending and Financial Inclusion Task Force was informed by consultation with internal and external stakeholders. Internal consultation included meetings with representatives from Animal & Bylaw Services, City Wide Policy and Integration; the Law Department; Corporate Strategy; and Community & Neighbourhood Services. External consultations included meetings with leadership of the Financial Empowerment Collaborative and representatives from the Canadian Payday Loan Association. Upon completion of a draft Terms of Reference, a stakeholders meeting was convened to review and provide feedback on the draft Terms of Reference. This meeting was held on 2015 May 14, and included 16 representatives from:

- Bank of Montreal
- Canadian Payday Loan Association
- The City of Calgary (Animal & Bylaw Services)
- The City of Calgary (Community & Neighbourhood Services)
- The City of Calgary (Corporate Strategy)
- Financial Empowerment Collaborative
- First Calgary Financial
- Momentum
- Royal Bank of Canada
- Servus Credit Union
- United Way
- Vibrant Communities Calgary

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Feedback from this consultation was incorporated into a revised draft Terms of Reference, and notes from the consultation were subsequently circulated to stakeholders for information.

Strategic Alignment

In 2013, City Council approved the *Enough for All* strategy developed by the Calgary Poverty Reduction Initiative which provides an overall direction for poverty reduction efforts by The City and its partners. In recognition of the challenges posed by payday lending, this strategy recommended:

- 3.1 Establish a *financial empowerment task force* to develop and shepherd implementation of priority income and savings strategies, and to champion priority policy changes at the municipal and provincial levels. Priority income and savings strategies may include providing financial literacy education, advice and services, developing or expanding savings programs for adults and children, and working with the banking industry to develop programs and services that provide access to banking services by all Calgarians.
- 3.2 The City of Calgary will explore the development of a bylaw restricting the activities and locations of pay-day lenders.

In 2015, responsibility for the implementation of the *Enough for All* strategy was transferred to Vibrant Communities Calgary (VCC) to serve as the backbone organization coordinating strategy implementation. The City remains a key partner in the implementation of this strategy through the Memorandum of Agreement that governs the transfer of responsibility. The *Enough for All* strategy implementation plan approved in 2015 April includes the following direction:

Reduce the supply and concentration of payday lenders and develop alternatives for affordable financial services.

The proposed Payday Lending and Financial Inclusion Task Force supports these directions, and is aligned with City Council's Priorities as articulated in *Action Plan 2015-2018: A Four Year Action Plan for Calgary*. The first priority of *Action Plan* is:

- A prosperous city – Calgary continues to grow as a magnet for talent, a place where there is opportunity for all, and the best place in Canada to start and grow a business.

One of the key strategic actions supporting this priority is:

- P7 – Continue policies and programs to reduce the number of people living in poverty. The City will work in partnership with the community to implement the Calgary Poverty Reduction Initiative (CPRI).

The Task Force contributes to Council directions as expressed in *Action Plan* and the *Enough for All* strategy.

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Social, Environmental, Economic (External)

Social

The Payday Lending and Financial Inclusion Task Force will enhance the social fabric of the community, contributing to the Triple Bottom Line goals of creating an “inclusive city” and a “safe city”. The Task Force will also contribute to the Community & Neighbourhood Services’ goal of supporting vulnerable populations. By ensuring that people have access to safe and affordable financial products and services, the negative social impacts of debt and financial insecurity will be reduced.

Environmental

None

Economic

The Payday Lending and Financial Inclusion Task Force will contribute to the economic goal of “Creating a city where citizens want to live, work and invest” and the related Sustainability Directions objective of ensuring “*All Calgarians have access to meaningful employment and the ability to achieve individual economic well being*”. By ensuring that people have access to safe and affordable financial products and services, the negative economic impacts of debt and financial insecurity will be reduced.

Financial Capacity

Current and Future Operating Budget:

The Task Force will require Community & Neighbourhood Services staff support to facilitate and coordinate the meetings and activities. The cost associated with the Task Force will be funded from the existing operating budget within Community & Neighbourhood Services, Program 421.

Current and Future Capital Budget:

None.

Risk Assessment

The following risks have been identified:

1. The timing of Task Force recommendations may not sync with timing of provincial payday regulations review. This risk will be mitigated by the establishment of an interim deliverable to work with Corporate Strategy to “provide recommendations to City Council for input to the upcoming provincial review of the Payday Loans Regulation (157/2009) of the Fair Trading Act, and other legislative review processes as appropriate” if a full report is not possible.
2. There is a reputational risk to The City if the Task Force fails to reach agreement on recommendations. This risk may be mitigated by developing fall-back options for dissenting opinions, as well as by developing a strong communications strategy and key messages.
3. The financial institutions may be reluctant to sign-off on advocacy positions. This risk may be mitigated by developing fall-back options for dissenting opinions, as well as by developing a strong communications strategy and key messages.
4. The results of the Task Force may be perceived as biased. This risk may be mitigated by ensuring that the Task Force membership is balanced. In addition, where required, independent/neutral third party research and consultant(s) should be engaged. Ensuring the transparency of the process will also be a critical mitigation strategy.

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REASON(S) FOR RECOMMENDATION(S):

The Terms of Reference (Attachment 1) for the Payday Lending and Financial Inclusion Task Force respond to the two aspects of the mandate as directed by Council in PUD2015-0096. The Terms of Reference provide a balanced perspective that engages key stakeholders and leverages the existing work of a strong community partnership.

The recommendation to refer the report on Business Licensing from the SPC on Planning and Urban Development to the SPC on Community and Protective Services is to ensure proper alignment of the reports, recognizing that the Task Force will be work closely with Administration on the development of recommendations pertaining to Business Licensing.

ATTACHMENT(S)

1. Payday Lending and Financial Inclusion Task Force Terms of Reference