

Law, Legislative Services & Security Report to
Council Services Committee
2025 March 05

ISC: UNRESTRICTED
CSC2025-0110

Council Policies and Bylaws Related to Councillor Absences and Departures

PURPOSE

This Report responds to Council's direction to review the policies and bylaws which relate to the vacancy of a councillor's seat, or absence of a councillor due to bereavement or illness, during a term of Council. This Report recommends that a new Council policy be created to provide a decision-making framework for Council to manage: interim representation of the impacted Ward, continued employment of Ward Office staff and provisions for service to constituents, and appointments to Board, Commission and Committee vacancies.

PREVIOUS COUNCIL DIRECTION

At its 2024 December 17 Regular Meeting, Council directed Administration to review Council policies and bylaws relating to the departure, or absence due to bereavement or illness, of councillors and to identify amendments for discussion at a meeting of Council Services Committee in 2025 Q1, to address considerations such as the division of Ward Budgets, the reporting structure for councillors' assistants, and the representation of communities. Council also directed Administration to draft any new policies with respect to the absence of a Councillor as required, and return to Council through Council Services Committee in Q3 2025. Information on background and previous Council direction is provided in Attachment 1.

RECOMMENDATIONS:

That the Council Services Committee recommend that Council direct Administration to report back to Council Services Committee no later than 2025 Q3 with:

1. A proposed Council policy respecting the vacancy of a councillor's seat, including a framework for Council to determine responsibilities for:
 - a. Interim representation of the impacted Ward;
 - b. Continued employment of Ward Office staff and provisions for service to constituents;
 - c. Service as deputy mayor;
 - d. Appointments to Board, Commission, and Committee vacancies arising from the vacancy of a councillor's seat;
 - e. Other matters as necessary; and
2. Amendments to existing bylaws and Council policies required to clarify the reporting structure for Ward Office staff in the event of a vacancy of a councillor's seat.

CHIEF ADMINISTRATIVE OFFICER/GENERAL MANAGER COMMENTS

The City Solicitor and General Counsel concurs with this report.

HIGHLIGHTS

- There is no specific Council policy to guide Council's decision-making respecting the vacancy of a councillor's seat.

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- Establishing a new Council policy to address the implications of a vacant councillor's seat would address gaps in Council policy, as identified in Attachment 2, and provide Council with a framework to guide its decision-making, and to ensure continued representation of, and service for, constituents.
- Council has delegated authority, in the event of a vacancy of a councillor's seat, for the City Clerk or their delegate to re-allocate a Ward Budget or to use it to pay for approved expenses, through the *Councillors' Budgets and Expenses Bylaw* 36M2021.
- An amendment to the *City Clerk Bylaw* 73M94 may be required to align it with a proposed Council policy respecting the continued employment and reporting of Ward Office staff in the event of vacancy in a councillor's seat prior to the end of their term of office.
- Administration has reviewed options for bereavement and medical leave for Members of Council. While the *Municipal Government Act* ("the MGA") provides explicitly for maternity and parental leave, no similar provisions are in place for other types of leave.

DISCUSSION

Review of Council Policies, Bylaws and Legislation

In response to Council's direction, Administration reviewed the Council policies, bylaws and legislation which pertain to the vacancy of a councillor's seat. The MGA provides that the vacancy of a councillor's seat must normally be filled through by-election; however, it also sets out exceptions relating to the timing of the vacancy in relation to the timing of the next general election, considering the size of the municipal council.

The MGA provides that a councillor who is absent for all regular council meetings held during any period of 60 consecutive days is disqualified from Council; however, the MGA and the City of Calgary *Procedure Bylaw* 35M2017 also provide Council with the discretion to pass a resolution to authorize absences of councillors on a case-by-case basis.

There is no specific Council policy to guide Council's decision-making respecting the vacancy or relating to considerations of bereavement or medical leave.

Re-allocation of Ward Budgets

In the event of the vacancy of a councillor's seat, Council has delegated to the City Clerk or their delegate the authority to re-allocate the balance of funds allocated to a Ward Budget, and to pay approved expenses from the Ward Budget of the vacant seat, through subsection 24(2) of the *Councillors' Budgets and Expenses Bylaw* 36M2021.

Reporting Structure for Staff

Ward Office staff hold employment contracts directly with their employing councillor. Under the *Councillors' Assistants Policy*, PAC005 (the "Assistants' Policy"), the contracts are terminated in the event a councillor's seat becomes vacant. The "Employment Contract" division of the Assistants' Policy provides that in such instances, a staff member may enter a new contract reporting to the Chair, Coordinating Committee of the Councillors' Office. That Committee was disbanded by Council in 2021 and Council has delegated the responsibilities of the Chair to the City Clerk: Section 5.2 of the City Clerk Bylaw 73M94 states that "any duties, functions or responsibilities delegated to the Chair or Program Manager of the Coordinating Committee of

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Councillors' Offices, or delegated to the Coordinating Committee of the Councillors' Offices itself, as provided for in any Council policy or guideline, is hereby delegated to the City Clerk." Under these provisions, Ward Office staff would be expected to report to the City Clerk in the event of a councillor vacancy or absence; however, this is not a practical arrangement and Administration will review and recommend changes to these provisions as part of the proposed Council policy work.

Council Policy Respecting the Vacancy of a Councillor's Seat

The circumstances leading to a vacancy could vary significantly in terms of cause, timing and other factors. The duration of a vacancy and the capacity of individual councillors to assume responsibilities in addition to their regular duties may also determine Council's response in each individual instance of a vacancy.

A proposed Council policy will outline circumstances, timing and other factors for Council to consider in response to a vacancy.

Bereavement/Medical Leave for Members of Council

Administration evaluated options for Council to adopt a Council policy or bylaw to expressly permit certain types of leave for Members of Council. Council has previously adopted the *Maternity and Parental Leave for Members of Council Bylaw 38M2018* concerning leaves. While Section 144.1 of the MGA explicitly empowers Council to pass a bylaw concerning maternity and parental leave, the MGA does not provide explicit authority for Council to pass a bylaw for other types of leave. Administration has not been able to identify other jurisdictions with provisions for bereavement or medical leave for elected officials.

EXTERNAL ENGAGEMENT AND COMMUNICATION

- | | |
|--|---|
| <input type="checkbox"/> Public engagement was undertaken | <input type="checkbox"/> Dialogue with interested parties was undertaken |
| <input type="checkbox"/> Public/interested parties were informed | <input checked="" type="checkbox"/> Public communication or engagement was not required |

IMPLICATIONS

Social

Not applicable.

Environmental

Not applicable.

Economic

Not applicable.

Service and Financial Implications

No anticipated financial impact

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RISK

The creation of a Council policy to address vacancies in a councillors' seat would mitigate risks by ensuring there is a decision-making framework to identify Council's role in considering the continuity of ward representation and service to constituents in the event of a councillor vacancy.

ATTACHMENTS

1. Background and Previous Council Direction
2. Review of Council Policies, Bylaws and Legislation
3. Presentation

Department Circulation

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|--|--|------------------------|
| General Manager/Director | Department | Approve/Consult/Inform |
| Jill Floen, City Solicitor and General Counsel | Law, Legislative Services and Security | Approve |
| Katarzyna Martin, Director/City Clerk | Law, Legislative Services and Security | Approve |
| David Duckworth, Chief Administrative Officer | Chief Administrative Officer's Office | Inform |

Author: Connor Molineaux, City Clerk's Office