



# **EMPLOYMENT CONTRACTS HANDBOOK**

**Prepared for the Local Government Administration Association by:**

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**with assistance from and thanks to the  
Employment Contracts Handbook Committee  
of the Local Government Administration Association**

## *About the Author*

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At the time of writing this handbook, Gordon was employed as a Co-ordinator of Provincial Municipal Partnerships for the Alberta Ministry of Municipal Affairs. He brings a broad perspective to the position, drawing on his experience as an army officer, a retail business executive, a Senior Inspector for Municipal Affairs, as a Secretary Treasurer and, for nearly twenty years, a Chief Administrative Officer.

He has a Canada Decoration for twelve years' service in the military as an Administrative Officer in the Regular Forces and as Commanding Officer of an Air Cadet Squadron working with teenage youth. As a retail executive, management positions in Credit, Productivity Enhancement and Operations offered private sector "for profit" experience.

The Employment Contracts Handbook draws on the knowledge and experience of those acknowledged on the following page as well as Gordon's own contract experiences. He negotiated a mid-tenure contract and dealt with a severance experience resulting in consequences for him and his family. His personal experiences and the experiences of others collectively add flavour to this handbook.

Gordon continues to make himself available to assist others with contracts and other day-to-day issues facing CAO's as he has done throughout his career. You may contact Gordon at [gord.stewart@home.com](mailto:gord.stewart@home.com). He would enjoy your comments on this handbook.

## *Acknowledgements*

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The Board of the Local Government Administration Association commissioned the creation of this Handbook and approved its final contents.

The Handbook has been reviewed by:

***Dwayne Chomyn***  
***of Neuman Thompson Barristers & Solicitors***  
(a labour law firm); and,

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# EMPLOYMENT CONTRACTS HANDBOOK

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## **A. THE GOAL OF THIS HANDBOOK**

This Employment Contracts Handbook provides a reference point, advice and assistance for Local Government Administration Association (LGAA) members when dealing with employment contracts before, during and after employment. It is written from a practitioner's point of view in plain language as a practical guide to assist and complement your own knowledge and skills. How you control your environment is of critical importance to make your life better. Good choices are made when you are aware of the circumstances in which you operate and some of the possible consequences. What goes wrong in the end likely went wrong at the beginning as we may not have anticipated and planned for the likely outcomes.

## **B. BEFORE I HAVE A CONTRACT**

### **1. Why should I have an employment contract?**

- a) A well-written contract is a description of the terms and conditions of your relationship with the council/municipality for the duration of that employment relationship and provisions for ending the relationship.
- b) It provides some certainty and assurances for the Chief Administrative Officer (CAO).
- c) It provides some certainty and assurances for the municipality and the municipal council.
- d) The contract is of benefit to others in the organization as it serves as a reference point for conditions related to their employment.
- e) Council members change, often with new councillors having little or no municipal experience. A well-written contract along with a complementary by-law and the Municipal Government Act provide valuable reference points for the council's relationship with their administrator (CAO). It could help a new council avoid the consequences of hasty and uninformed decisions that may negatively impact the community.
- f) A contract can be a "poison pill" for a new council. Administrators can be terminated by a new council without much thought or consideration for what the municipality loses. Sometimes this is done without contacting legal advice. The contract makes it clear what negative impacts ("poison pill") there will be to terminate the CAO.

## **2. How is a contract different from, and complementary to, a Chief Administrative Officer By-Law?**

(See Appendix “A” for a sample by-law.)

- a) A Chief Administrator By-Law should set forth the terms and conditions that would be applicable to any CAO. It articulates the duties, authorities and responsibilities of a CAO. The by-law should not spell out the individual terms of the employment of a particular person.
- b) A contract should specify the terms and conditions of the employment of a particular individual in the position of a CAO. It may include all of the terms and conditions for your employment; or, it may refer to a personnel policy; and, spell out the differences or additional items applicable to the individual administrator. There may be very specific terms related to individual/personal circumstances. A contract need not restate the provisions of a CAO by-law.
- c) Sections 201 through 215 (MGA) provide the framework for some of the comments offered in this Handbook. A contract need not restate the provisions of legislation applicable to your employment. See Appendix “F” for the MGA provisions at the time the Handbook was written.

Other legislation and case law begs the question – Should I have a lawyer when negotiating a contract? Yes is the answer. Who will pay for the lawyer? Should you get other employment, will it reduce your payout? See a lawyer who is practical/pragmatic – not necessarily a fighter. Call your peers – especially those who have been through it.

## **3. What are the benefits of a contract?**

- a) The council and the community benefit by being able to attract top-notch administrators. An employment contract is now becoming the standard to attract the best administrators. A contract will help protect the municipality’s investment in a good manager. It can avoid misunderstandings regarding what other documents and conversations mean when issues arise. Politically unsavory issues and costly legal proceedings may be avoided. The contract should fix severance provisions rather than allowing a court to decide on whatever grounds and circumstances are held important when a severance of employment occurs. Rules and norms do change. In short, the contract provides certainty for the relationship and costs during and upon separation of that relationship.
- b) A contract will provide clarity to the CAO and the council during the term of employment. It is a document that can be referenced when councillors question the “deal” the CAO has with the municipality. In this uncertain world, it is something that can be shared with a significant other (in confidence of course), to demonstrate the circumstances under which one is employed and under which one

can be relieved of duties. It is a legal document and can be used if circumstances escalate to legal proceedings.

#### **4. When could I negotiate a contract?**

- a) The best time to negotiate an employment contract is when you are being hired. While one might feel that this is a time to accommodate a new employer in every way, it is the best time to be sure that the relationship is clear. I would suggest that you negotiate your contract prior to leaving a job to start the new one. (We all know that it would be difficult to ask our spouse for a prenuptial agreement after the wedding plans have been announced or many years into the marriage. It can be done; but, it is more difficult.)
- b) After a good performance evaluation when the council is very happy with your performance may be an opportunity to negotiate a contract.
- c) When a council believes that you are of great value and wants to protect the municipality and/or you against the uncertainty of the actions of future and perhaps inexperienced councillors.
- d) When a severance package has been paid to another employee. This is a time when one can discuss certainty for the council, the CAO and perhaps all employees when severances are considered.

#### **5. What are the parts of a contract?**

(See Appendices “B” and “C” for sample contracts.)

- a) Parts of a contract can include different terms depending on circumstances of the municipality and of the CAO being hired. The termination clause is the most important from everyone’s perspective even if it does not seem so when negotiating the contract. Is there a long move involved? Are there certain characteristics of the municipality or a reputation of the council that would add different clauses to an agreement? Are there special education requirements – like continuing education that are particularly important to the CAO? Should there be any consideration for overtime or, does that go with the job and your ability to delegate? Consider calling those LGAA members who have a contract; and/or, one from the list of labour lawyers the LGAA supply, for clauses, standards and current norms when negotiating your contract.

#### **6. What are some important things to look for in my contract? What are some pitfalls?**

- a) It is very important that the contract be clear. Clear to you and to the council at the time of writing; and, clear to others in the future. Simple and clear language should be used. Complex language causes difficulties in later interpretations. The contract should be reviewed by solicitors for the municipality and for the CAO. You might consider asking someone who does not understand contracts, to

read the contract to see if they find any areas which are questionable/uncertain. Many future councillors may be inexperienced in contract language.

- b) Some pitfalls are obviously lack of clarity and vague reopening clauses.
- c) A contract that continues until either party ends the relationship provides more certainty for the CAO than a contract with a term certain. We all have heard of cases where a contract with the term certain has merely not been renewed for whatever, if any, reason.
- d) There are pitfalls for you and for the municipality when a contract requires renewal on a frequent basis. Will a fixed term contract become continuous if the deadline lapses? If there is a contract with a term certain, it should conclude in the middle of a council term to allow a new council to learn about you and the municipal business; not having the contract as an election or post-election issue. Will the provisions of a new contract be more onerous for the municipality? Will their administrator be looking for and perhaps have found work when the contract expires?
- e) You should have an annual evaluation as a requirement of your contract, not only to be sure your methods and processes are acceptable considering changing times and personalities; but, to make sure there is agreement on what will be done personally and corporately for the next year.
- f) If the council is advised by a lawyer or others that your contract is just too much in your favour, what can you do? Negotiate the concerns – after that, it comes down to how much they want you!

**7. Should my contract be public, publicly accepted and therefore available to all?**

- a) Be sure you know what is required and what you want – ask professional advice if necessary about how to achieve the desired result.
- b) In the public forum, the contract (if not complete) may take on a “life of its own”.
- c) Consider any Freedom of Information and Privacy Act provisions that may apply.
- d) In some cases, only the salary and/or perhaps the salary range is public when you are hired or negotiate a contract. The circumstances change – a labour lawyer familiar with the current provincial and other requirements should be consulted as necessary.

## **C. DURING THE RELATIONSHIP**

### **1. How will a contract relate to the issues I face?**

- a) On an ongoing basis, a well-written contract and as mentioned before, a complementary CAO By-law, is a reference point for both you and the council to solve problems and deal with those issues which may arise.
- b) What if the council or a councillor breaches your agreement?
  - i) Consider all aspects of your actions and theirs.
  - ii) How important is it? Will it continue? Can the behaviour be changed (if not, any action may be a waste of time or worse!)?
  - iii) Can the Mayor help? Is it worth it?
  - iv) Should you point it out or let it go? What is the best way to approach the issue? (Bring the matter to the attention of the council/mayor at an appropriate time. Discuss at the next performance evaluation? Meet with the council?)
- c) What if the council/councillors are “going around” you? Again, how important is it? Is it only information? Is it direction? Does the incident actually reduce your ability to fulfill your obligations now or in the future? What is your trained staff to do? (e.g. Advise the one requesting that they need further approval to take action/provide information? Are the staff directed to do what is asked and then report to the CAO?)
- d) You may wish to ensure that your agreement and CAO by-law are included in each council orientation – or at least after an election.
- e) What if an Organizational Review is about to take place? Remember you are a professional and should act as such. Consider listing your accomplishments; issues you are dealing with; your worth to the organization, the community and others.
- f) Remember that you gave up some rights as a citizen of the community when you took the job. Your job is to assist the council in forming policy; but, once it is formed, you must facilitate the policy to be implemented - whether you agree or not.
- g) Remember that you are not the judge and jury on what is lawful, correct or the best course of action. Give your best advice and follow the direction of the council (unless of course it is a direction which is criminal or leads to personal civil liability – don’t guess here – get legal advice.)
- h) Are there ethical consequences to actions you may choose? Consider the LGAA Code of Ethics (see Appendix “G”).

- i) Especially after a long period of time, you can become too popular or unpopular in your community - perhaps bringing the council to the same conclusion. Consider the changing balance between your decisions and those the council should or would like to make. Consider your public profile – how often are you in the press as opposed to the Mayor or a councillor. Support your council, consider your independence from or interdependence with them – each circumstance is different.
- j) Will you sense when it is time to move to another job or career?

## **2. What about changes to the contract during my tenure?**

- a) Consider changes to the agreement carefully. Consider a time when you could likely get a favourable change (e.g. after/during a good performance evaluation). Remember there is a downside of opening an agreement. Others may want changes too. Are changes you want worth it?
- b) What if the council wishes to change the contract? A contract must be amended by consensus of both parties, not by edict.
  - i) Can you negotiate? Can you amend or add other things you want or need?
  - ii) Will things be changed so much that there is a Constructive Dismissal? Constructive Dismissal is complex; but, generally relates to changes imposed so as to make the job so different the relationship is fundamentally changed. Don't guess here – call a labour lawyer – then decide what is it that is best for you.

## **3. Where can I seek advice?**

- a) As a member of LGAA, you are not alone. Count on fellow members – there is a wealth of experience in colleagues. You will find them understanding and willing to offer advice and/or the assurance as the circumstance demands. Let them know if the discussion is to be kept confidential! Seek more than one point of view before deciding on a course of action.
- b) If you have a lawyer/friend who is experienced in these matters, have a chat with them. Be sure of the labour relations experience, as it is a specialty area of law. Competent legal advice should be seriously considered if the changes are significant.

## **D. ENDING THE RELATIONSHIP**

### **1. When a parting of the ways is imminent or has been announced by a council – what are some issues I will have to deal with?**

- a) First, understand that there will be stress for you and certainly for others around you, including your family. Some councillors, other staff members and members of the community may experience stressful emotions for many reasons.
- b) What are some of the signs of stress? Certainly, the “could have”, “should have” and “might have” examinations will occur. It may seem very unfair; and, the feelings of unfair treatment always bring stress. Short-term memory will be affected – you will find yourself forgetting things that otherwise you would not forget. You may have difficulty sleeping. You may react in anger over little things that normally you would take in stride. Your concern for the future may be heightened tremendously. Your confidence in what you can do and might do may be shaken. Remember you are better than when they hired you – have confidence - you will be wanted by others.
- c) What about the effect on your spouse or family? Some administrators who have been through a “parting of the ways” where it has not been their choice, have found that the emotional impact their family experienced was more than it was for them.
- d) Here are some ideas of practical things you can consider:
  - i) Have a support group with whom you can discuss things in confidence. Nurture the support group over time. “Be there” for others – others will “be there” for you when you need them.
  - ii) Don’t take it personally when a council decides you are not the correct person for the circumstances as they see them. It is a very real part of the profession you are in.
  - iii) Contact other LGAA members who may offer advice, assistance, and/or assurance. The LGAA will have a list of those you may contact and some information about them. Ensure that if the matter is to be kept confidential, advise those you speak to in order that unfortunate misunderstandings are avoided.
  - iv) Deal with your significant others – tell them what the situation is. Be sure to consider support for them. Consider all the supports they may have or need, including professional assistance.
  - v) Look at your positive accomplishments with pride and look forward to a positive future with optimism. Whatever skills and talents got you here will get you to a new and perhaps better experience.
  - vi) There are professionals who deal in these matters - you and your family may benefit from working with one. Does your contract include for the hiring of such consultants at the cost of the municipality on termination?

- e) How can I deal with the many details that will be coming my way?
  - i) Under stress, small details are difficult to deal with. One suggestion is to make lists, as your short-term memory will almost certainly be affected. Is there someone who can assist you in organizing things for a while?
  - ii) Talk to others who have been through it. They have advice for you. They will remember the things that they did well and often remember in greater detail the things that they might have done better in a circumstance such as yours.
- f) Do physical things – physical activity reduces stress. Walk, run, lift weights, and play sports - whatever is appropriate for you. Do activities that take your mind off the situation for even a short time. Hold your temper and your tongue. They might otherwise just make things worse. Don't neglect your duties because you are angry. If you're still employed, act like nothing has happened while you deal with this matter as the professional you are.
- g) If you are a religious person, seek comfort from your faith and the practices of your faith.
- h) Remember, it is a Master/Servant relationship; and, the only way the master is likely going to be required to act is to pay an appropriate severance. While money may not be the most satisfying outcome, it may be what you get. Before taking any action, consider the outcomes possible!
- i) There may well be a time to change employment – for many reasons. One employer for the rest of your career may not be the best. You may want to consider when it is time to move on for your own benefit in the many aspects of your life and its circumstances.

## **2. What are some of the details we never think of beforehand?**

- a) What if access to the municipal records is denied during a crisis? You may feel you'll be employed by your current employer forever and things will be fine; however, don't let that keep you from keeping a copy of performance evaluations, your contract, your by-law and other relevant parts of the personnel manual as well as other relevant documents in your home.
- b) Do you have a little nest egg set away? Do you have a line of credit at the bank that you can use in an emergency? Are there friends or relatives who may assist?
- c) Is your employer offering notice; and, asking you to work through that notice? Is it good for your circumstance? Contact a lawyer!
- d) Will you leave town – now or in the future? Consider where might you go for even a short while. Will you change residence now? With a new job?

### **3. During a termination, why do I need a lawyer and an accountant?**

(See Appendix “D” for a sample of a Release Agreement.)

- a) A good labour lawyer will not only know the “ins and outs” of an employment termination situation, but also offer you advice because they have dealt with many people in your circumstance. It is recommended that a labour lawyer familiar with your circumstance be consulted rather than either someone who is guessing at your circumstance or who has not dealt with others and other employers in similar circumstances. Find someone who you feel you can trust and in whom you have confidence.
- b) A lawyer should be able to recommend a tax accountant (if there is severance to deal with) to look at provisions such as retiring allowance credits, splitting income between years, and so on. There are a number of considerations which we don’t think about in our day to day life which these people deal with all the time.
- c) What about tax planning? Should I take the money and run? (This may provide peace of mind and may be a good option.) One can perhaps request an agreement with the municipality to have income paid over two or three years. (Some teachers’ contracts allow up to four years of payout). Will the tax rates be changing in the next few years? Will you merely worry every day that the municipality will stiffen its position and you’ll have to fight legally for what you have already agreed to? These are decisions that your accountant, your lawyer, your significant other and, perhaps some who have been through it can help with - the decision in the end must be yours.
- d) What about your pension – can it be arranged to extend beyond a termination date – will a bridging to a specific date be worthwhile? Do you feel such an arrangement will be sustainable; or, acceptable emotionally?
- e) If you consider your reputation has been damaged to the point where you can sue for damages, consider all the results with the legal ones. Consider your reputation from such action and your future employment. Seek professional legal advice before announcing your course of action. If it appears to be right for your situation – go for it!

### **4. What about my future employment?**

- a) Some would recommend that you take six months off to deal with your issues, your stress and to make your future plans.
- b) Some would suggest that being off work for longer than a couple of months will cause more worry, grief and complacency about employment so as to perhaps limit your future opportunities and even your feeling of self-worth.

- c) You will have to decide what is right for you. In any case, it will take many months to become emotionally grounded with your new circumstance.

**5. What are some other things I might consider in a crisis event?**

- a) Act with honour, courtesy, grace and a positive style. Take the high road. Keep your integrity. Your actions will be observed and remembered in a greater circle than you may imagine. Remember it's a small world. Another expression to consider – “Don't get off your horse to fight with the pigs. You will get dirty and it makes the pigs too happy”.
- b) Take your time in making decisions about your future – don't panic, don't take the wrong job just to have one.
- c) Work at something – anything. Your physical fitness, do some work for others, be active, and be busy.
- d) Don't despair. Try not to create more anxiety with issues that are only imagined. Deal with the real issues methodically.
- e) Count your blessings.
- f) Attend church if you are so inclined. The friends there may be a comfort. Discuss the matter with a religious leader (priest, minister, rabbi, etc.) if you know one that you can count on.
- g) Remember that you are not the only one who has faced these types of situations. There is support from many sources, especially other LGAA members.
- h) If you feel you should look for work soon (a difficult decision), apply in confidence for a few positions you might like (even lesser positions – you can always say no). Consider contacting a “head hunter” (in confidence, of course).
- i) You could consider playing the political game to see if you can get enough council support to stay employed. Consider the stress, the “fallout” from a failed attempt, and the upside/downside of winning. If you win, will the resultant situation be worth it?
- j) One could consider stress leave. Depending on the circumstances, this may be the only option; or, one to be chosen with care. It is a very personal decision. Consider future ramifications – seek professional advice as you see appropriate.

## **E. OTHER REFERENCES**

There are other organizations that may offer suggestions on these matters. It is noted that laws and practices change. While more information is of value, consideration must be given to your circumstance. This handbook is written in 2001 considering laws and practices at that time. Contact the LGAA for current information that may be available.

## **F. CONCLUSION**

A well-written contract will help you create a positive ongoing relationship with your council. The contract can offer you the assurances needed for the exceptional circumstances a municipal administrator faces in a very political environment. During the relationship, your contract (the MGA and your by-law) will help provide the basis for a positive working arrangement for you and for your council. It can also position you to take advantage of life's new opportunities as they are presented or as you help create them. One door may close – another always opens. Some of life's most rewarding experiences and satisfying personal explorations are the result of confronting the unknown. View the future with optimism – an opportunity.

## *DESIDERATA*

Go placidly amid the noise and haste and remember what peace there may be in silence. As far as possible without surrender be on good terms with all persons. Speak your truth quietly and clearly; and listen to others, even the dull and ignorant; they too have their story.

Avoid loud and aggressive persons, they are vexatious to the spirit. If you compare yourself with others, you may become vain and bitter; for always there will be greater and lesser persons than yourself. Enjoy your achievements as well as your plans.

Keep interested in your own career, however humble; it is a real possession in the changing fortunes of time. Exercise caution in your business affairs; for the world is full of trickery. But let this not blind you to what virtue there is; many persons strive for high ideals; and everywhere life is full of heroism.

Be yourself. Especially do not feign affection. Neither be cynical about love; for in the face of all aridity and disenchantment it is perennial as the grass.

Take kindly the counsel of the years, gracefully surrendering the things of youth. Nurture strength of spirit to shield you in sudden misfortune. But do not distress yourself with imaginings. Many fears are born of fatigue and loneliness. Beyond a wholesome discipline, be gentle with yourself. You are a child of the universe, no less than the trees and the stars; you have a right to be here. And whether or not it is clear to you, no doubt the universe is unfolding as it should.

Therefore, be at peace with God, whatever you conceive Him to be, and whatever your labours and aspirations, in the noisy confusion of life keep peace with your soul.

With all its sham, drudgery and broken dreams, it is still a beautiful world. Be careful. Strive to be happy.

Found in Old Saint Paul's Church,  
Baltimore, Dated 1692