



# The Public Service **BARGAIN**

*A new way of looking at relations between municipal councils and CAOs*

C1  
COMMUNICATION  
RECRUITMENT POLICY REVIEW  
TASK FORCE  
January 29, 2018  
ITEM - 1



Developing the appropriate relationship between the mayor and council on one hand, and the CAO and municipal staff on the other, is very important in terms of maintaining proper accountability and ensuring good service delivery. However, this important relationship is sometimes fraught with tension and dysfunction. One way of bringing structure to the council-staff relationship is to see the relationship between council and the CAO as a “public service bargain.” This type of bargain is not a formal legal relationship, but rather an informal, dynamic relationship that helps define the proper role of council and staff.

## The Public Service Bargain

Many aspects of society are built on bargains. This could be a formal, explicit bargain, such as a contract to sell a parcel of property; or, it could be the kind of implicit bargain that couples develop about how child care responsibilities will be handled. The concept of the public service bargain has been widely discussed in parliamentary systems.

An example of such a bargain would be: public servants will remain neutral in partisan political discussions in exchange for reasonable security of tenure when governments change. Each side in the bargain gives up something in order to obtain something. Politicians give up the right to hire and fire public servants at will in exchange for a loyal and professional public service. Public servants give up some rights to political participation in exchange for reasonable job security.

Like the marriage bargain about child care, the public service bargain is not a written agreement negotiated between the

parties; it is an understanding that develops over time. However, the ability to arrive at an appropriate bargain about child care can determine whether the marriage will survive; the same kind of statement can be made about finding an appropriate bargain between council and the CAO.

## The Bargain Applied to Council and the CAO

The bargain between council and the CAO can be divided into two parts. The first part of the bargain is the condition precedent. In legalese, a condition precedent is a condition that must occur before other parts of a contract can become operative.

The condition precedent in this case involves an agreement on the role that council expects the CAO to play. Figure

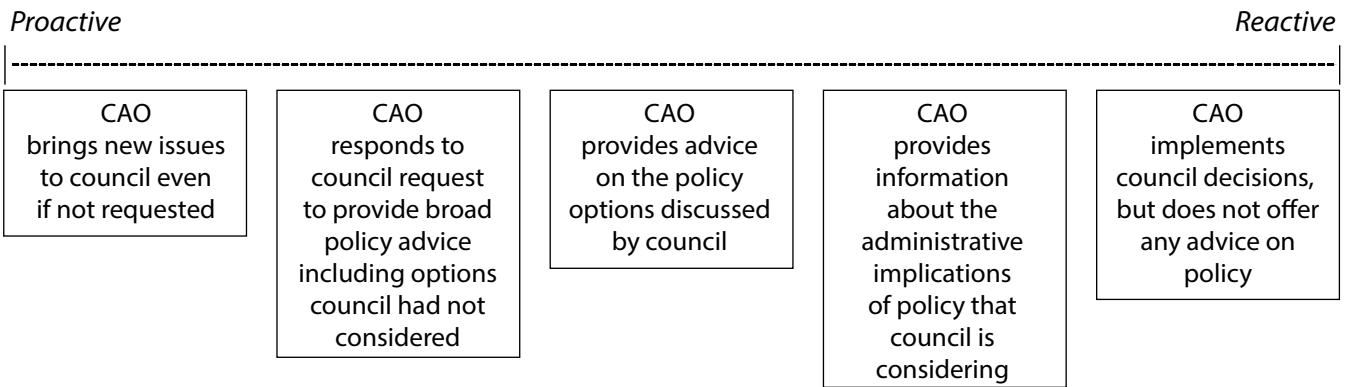
---

This is an edited version of a longer work: “The Public Service Bargain in Local Government: A New Way of Looking at Relations between Council and CAOs,” *Canadian Public Administration*, vol. 58, no. 3 (September 2015), pp. 406-25.

---

**DAVID SIEGEL** is the interim Dean, Faculty of Education and Professor of Political Science at Brock University.

Figure 1  
Role of the CAO with Regard to Council



1 is a continuum that illustrates some possible positions that the CAO could occupy vis-à-vis council. There is no ideal position on this continuum. Council and the CAO could land at any point on the continuum; the important point is that council and the CAO are in agreement about the point on which they want to land.

The first thing that a new CAO (or a continuing CAO working with a new council) must do is to negotiate the position that he or she is expected to occupy on this continuum. In this context, “negotiate” does not mean sitting down at a table and discussing an issue until the parties arrive at a written agreement. The negotiation process in this case is much more subtle.

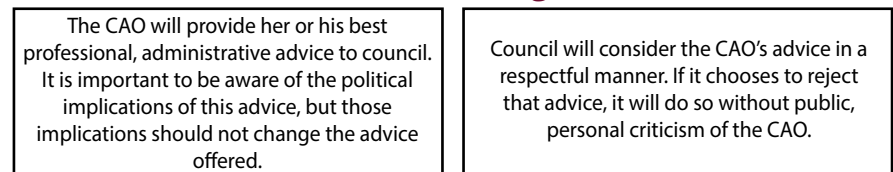
Some of this negotiation should occur *before* the CAO takes a new position. A council should have a sense of the role it wants the CAO to play, and the CAO should have a sense of where he or she prefers to fit on this continuum. A part of the job interview process should involve the two sides sizing up one another to determine if there is a good fit in regards to these expectations. When this condition precedent is met, there are several other aspects to the bargain that need to be understood between the parties.

A major part of the bargain is based on the idea that councillors and public servants each bring a different kind of expertise to the table. On the one hand, councillors are elected by the public and put their jobs on the line every few years. This makes them highly attuned to community values and citizens’ expectations with regard to policy. On the other hand, public servants are highly-trained professionals who have a great deal of knowl-

edge and experience in their areas of expertise. The best policy decisions reflect the two different kinds of expertise brought to the table by the two groups; good decisions will be the product of a melding of community values and professional expertise.

In order for this melding to occur, both sides need to carry out the role assigned to them properly. Public servants must provide their best professional, administrative advice to councillors. They should never temper that advice in order to tell councillors what they want to hear. Public servants are short-changing their employer if they provide anything other than their best professional advice.

Figure 2  
The Advice Bargain



Looking at the situation from the other side, councillors need the best professional advice that they can receive. If they do not obtain that advice, then they are making a decision on something other than the best information available, and they risk making an uninformed and bad decision. However, if councillors want to receive the best advice, then they must ensure that they create an atmosphere where public servants feel comfortable providing that advice. This leads to one aspect of the public service bargain.

The bargain does not require the council to *accept* the advice provided by the CAO. The role of council is to *evaluate* the CAO’s professional, administrative advice in light of community culture and values. In some cases, council will reject the CAO’s advice. However, council must understand that the CAO has a role to play by providing professional, administrative advice, and council must respect the CAO for doing that.

The fact that the CAO’s advice must be based on professionalism and rationality does not require the CAO to be completely politically naïve. The wise CAO should be able to anticipate the reaction that her or his advice will evoke, and decide how forcefully to pursue the advice. A really wise CAO might happen to have a compromise position in reserve to bring forward at the appropriate time.

If council engages in virulent public, personal attacks on the CAO, then council is creating an atmosphere that encourages the CAO to provide advice that mimics what council wants to hear. If the CAO is forced to come over to “the other side,” then council will not be well-served because it will never hear the CAO’s best professional, administrative advice. As discussed above, the best decisions will involve a melding of professional, administrative advice with community culture and values. If one side of this is muted, then council runs the risk that its decisions will be unbalanced.

## The CAO as Sole Employee

It can be useful for council to think of itself as having only one employee – the CAO. The CAO is responsible for managing the public service, within the confines of policy set by council. This does not prevent the mayor or councillors from interacting with staff to ask questions or seek advice about certain matters; it does prevent the mayor or councillors from attempting to manage or provide instructions to staff members.

Figure 3

### The Accountability Bargain

The CAO must have reasonably complete authority to manage the activities of the public service, including the ability to hire, promote, discipline, and fire staff on a merit basis.

Council has the right to hold the CAO accountable for the competence, efficiency, and effectiveness of the public service. Council must refrain from becoming involved in managing the public service.

This bargain requires that the CAO must have “reasonably complete authority” to manage the public service. “Reasonably complete” means that the CAO must have authority to manage the operations of the municipality, but it is also a recognition that council has an obligation to set the broad policies within which the CAO must operate. For example, council has an obligation to ensure that the CAO has a proper merit system in place, but council cannot interfere in a specific merit-based hiring decision made by the CAO.

This is a very important aspect of the public service bargain. If council wants to maintain the idea that it has only one employee – the CAO – and it wants to hold that employee accountable for the competence, efficiency, and effectiveness of the public service, then council must allow that person reasonable freedom to make management decisions. If council involves itself in making management decisions, then it can no longer hold the CAO accountable for the results of those decisions, and for the competence, efficiency, and effectiveness of the public service.

## The Overarching Bargain

The preceding sections have discussed a number of aspects of the public service bargain. They all come together in one overarching bargain. The CAO must serve the current council loyally; and, in exchange, council will provide the CAO with reasonable security of tenure assuming good behaviour and proper performance of her or his duties. Proper performance means providing council with the best professional, administrative advice, even if the CAO knows in advance that the council would rather not hear the advice; the CAO has an obligation to speak truth to power. The CAO must present bad news as well as good. Council would not be well served if the CAO ignored these issues and allowed them to fester.

Figure 4

### The Overarching Bargain

The CAO will be loyal to the current council, provide professional advice, and carry out the instructions of council in a conscientious and loyal manner.

Council will provide the CAO with security of tenure based on good behaviour and proper performance of her or his duties.

As argued earlier, the best decisions will be products of the interaction of the CAO’s professional, administrative advice and the council’s knowledge of local values and culture.

If the two sides are going to merge properly, then each side in the discussion needs to feel free to play its role. From the perspective of the CAO, the council must create an atmosphere in which the CAO will not feel threatened when presenting unpopular advice.

**BARGAIN, cont’d on p. 44**

**Ontario’s leader in  
Document Capture &  
Management  
Solutions**

## Software

- Document Capture
- Document Management
- Workflow Automation
- SharePoint Tools

## Services

- Bulk Scanning Services
- Mailroom Automation
- Professional Support
  - Micrographics
- Cloud Backup & Recovery

## Hardware

- Document Scanners
- Micrographic Equipment
- Sales & Service

**Fujitsu  
Kodak**

**Canon  
Panasonic**

**POLAR IMAGING INC.**  
Capture. Manage. Automate.

**www.polarimaging.ca**

**1-888-857-6527**

## BARGAIN, cont'd from p. 10

This means that council must avoid public personal criticism of the CAO, including the ultimate criticism that an employer can impose on an employee – termination of employment. If a council develops a reputation for dealing harshly with staff, then that council will have difficulty finding good staff who want to work in the municipality, and when someone is found, he or she will likely resort to telling council what it wants to hear. This is not appropriate professional behaviour, and it does not serve either the council or the residents of the municipality well.

This understanding gives rise to the overarching bargain.

The maintenance of this bargain will provide a good working environment for staff, a positive experience for councillors, and most important, it will provide a well-governed and well-managed municipality that will serve the interests of residents.

The CAO plays a key role in providing advice to council as well as in implementing council's decisions in an efficient and effective manner. The CAO is the essential link in the accountability relationship between council and the public service.

It is essential that a municipality has a professional CAO, and it is essential that the CAO has the tools and the ability to carry out the duties of the position. An important part of the ability to carry out those duties is a positive relationship with council. This positive relationship will only develop when both parties in the relationship understand their respective roles and are able to carry out those roles in a competent manner. The council must respect the role of the CAO as the professional administrative expert, and the CAO must respect the council as the reflection of community will. The concept of the public service bargain developed in this article could be used to structure the relationship between council and the CAO so that the abilities of the CAO can be used to the utmost. **MW**

## SCHOOL, cont'd from p. 26

The community may look viable in the short term, as there is no immediate functional collapse with the closing of the local school; over the long term, however, it becomes unviable – and eventually declines.

### Call to Action

Good public policy requires a nonpartisan and objective approach, supported by proper due diligence and study. It also requires, in a democratic society, fulsome public consultation, and involvement in crafting its final objectives and outcomes. Modern policy development also recognizes that, within the Canadian context, diversity is valued and needs to be a key factor in its final considerations. In this case, diversity requires urban policy makers to recognize the unique conditions and context of rural communities.

Continuing to make determinations regarding the closures of schools in rural and remote communities without any study of the consequences of this activity – including the potential exacerbation of the hollowing out of these communities – is not good policy making. It can be seen as a form of non-evidence based decision making. Neither is it sound practice to engage in policy making within institutional silos, as it fails to recognize the potential consequences within the larger societal framework.

If provincial governments value rural communities, they need to redress their current educational policies around how they regard and fund rural schools. In reality, local school administrators and boards abide by provincial policy. A better understanding of the longitudinal consequences of rural school closures is required; continuing to close schools in absence of evidence is bad policy. Until this research is conducted, a moratorium on any future closings of rural and remote schools is the best approach, to help prevent irresponsible damage to these communities. **MW**

## TASK FORCE, cont'd from p. 34

The CANTF2 medical component, although intended to support the CANTF2 team, operated as the critical medical support for the entire incident, treating many of the responders involved.

Fort McMurray is a remote, self-sufficient community that was under a full mandatory evacuation order. Many first responders deployed quickly when the call for help came from the local community and many arrived without the necessary supplies to be self-sufficient. CANTF2, is designed for self-sufficiency; in the early days of the response, the team was one of the only sources of food. The team travelled with a kitchen trailer and supplies, ensuring the capacity to serve the equivalent of 600 meals per day. For over a week, the team chef (who is also a firefighter and rescue specialist) was able to prepare and deliver 3,500 meals in one day out of that trailer until more suitable facilities could be provided. CANTF2 was able to ensure that everyone that came to the kitchen trailer left with a hot meal and drink, which gave them much needed energy to continue responding.

### Success in Many Forms

It is always interesting to define success for a team like CANTF2, as it can look different responding to different types of events. During the response to support Slave Lake in 2011, the team defined success as being able to watch and help the community come home. Success in Fort McMurray looked different. Due to the length of the evacuation, the team was not going to be in the community when residents were allowed to return home. Success meant having key members of the community return home, as rested as possible, to take on the roles that CANTF2 members were supporting. Success was watching local community members lead, drive, and recover their own community. **MW**

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.