



An Introduction to

Sustainable Employment™

A Guide for Business Owners





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Find out **more!**



Chapter One

What is Sustainable Employment™?



Sustainable Employment™

A Broken Social Contract

According to Rodd Wagner, author of the book *Widgets: The 12 New Rules for Managing your Employees As If They're Real People*,

- The longstanding, implicit **social contract** between employers and employees of a mutual long-term commitment **has changed**.
- Today, both parties are driven by their own **“here and now” needs**.



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A New Model for Workplace Relationships

We know that many business owners want to do things differently, however.

They want to **enable** a workplace culture that is **transparent**, **cooperative**, and **respectful**, and that allows both employer and employee to **succeed** and find **meaning** in their work, on an ongoing basis.

In short, they desire **Sustainable Employment™** practices for their business.



Sustainable Employment™

Defined

What is **Sustainable Employment™**?

We define it as:

An enduring, mutually-beneficial, and purposeful working engagement between employer and employee.

It involves a **flexible, adaptive** relationship where both parties' **needs** are **clearly-defined, balanced** and **accommodated**.

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Ten Employment Needs

Under this new model of workplace relationship, **SUSTAINABILITY IS KEY**, and is evident throughout the employment lifespan, from start to finish, hiring to firing.

At a minimum, Sustainable Employment™ meets the following **TEN NEEDS**, for both employer and employee:

1. Mutual benefit
2. Clarity
3. Transparency
4. Fairness
5. Respect
6. Collaboration
7. Accommodation
8. Ownership
9. Control
10. Purpose



Chapter Two

Why Sustainable Employment™?



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A Crisis of Engagement and Meaning

So, *why Sustainable Employment™*?



What *problem* are we trying to solve?

At a minimum, we believe our employment relationship model responds to *two prominent and related deficits* within the modern workplace:

ENGAGEMENT

MEANING

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Employee Engagement

Employee engagement has long been a concern for business owners.

While the term is sometimes (mis)understood to refer to employee happiness or satisfaction, we prefer how [Rodd Wagner](#), bestselling author and HR thought leader, describes it, as:

The power of reciprocity between workers and those representing the enterprise.

(“The End of Employee Engagement”, Forbes.com, May 11, 2015)

However it is defined, employers agree that it is fundamental to business success:

- According to a [recent survey](#) of 3,300 business and HR leaders from 106 countries, *culture* and *engagement* are *the* most important issues companies face around the world.

(Deloitte’s *Global Human Capital Trends 2015*)

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Employee Engagement

However, there is a great divide between employer desire and employee reality:

- According to a 2013 [Gallup poll](#), only 13% of the global workforce is “highly engaged.”
- Employee engagement was highest in [Canada](#) and the [US](#), but still very low at a rate of 29%.

There is evidence that the engagement crisis is even greater among [millennials](#):

- In a 2012 [poll for Workplace Options](#), 46% of those surveyed believed that [millennials are less engaged at work](#) than other employees.

These numbers are of even greater concern given one estimate that [millennials will comprise 75% of the global workforce](#) by 2025.

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Employee Engagement

It's time to “re-think” employee engagement:

- In a 2014 [article for Forbes.com](#) (“It’s Time To Rethink The ‘Employee Engagement’ Issue”), research analyst and writer **Josh Bersin** recommends that we view **engagement** not as something to be measured annually by a Human Resources survey, but as a continuous, holistic part of an overall business strategy which involves creating a work environment where employees can **thrive**.
- **Rodd Wagner**, in his new book *Widgets*, suggests 12 “New Rules” to mend the broken social contract at work, all of which involve treating employees “as if they’re **real people**”.

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Employee Engagement

Engagement

“

The choice of what kinds of attitudes your employees bring to work is yours. Because people so strongly reciprocate what they receive, **a company gets the engagement it deserves.** Because engagement is so closely tied to results, a company also gets the performance it deserves.

”

-Rodd Wagner, *Widgets: The 12 New Rules for Managing your Employees As If They're Real People*

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A Values-Driven Workforce

Meaning

Research done on the role of **values** in the workplace suggests that one way to increase engagement is to help employees find meaning in their work:

- A recent UK survey by consultancy Global Tolerance revealed that **44%** of those surveyed thought **meaningful work** that helped others is more important than a high salary.
- Again, the percentage of workers wanting to work for values-driven organizations is even **higher among millennials**. Of those born between 1981 and 1996, **50% prefer purposeful work** to a high salary.

Separate research by Deloitte found that this segment of the workforce is more purpose-driven than were their predecessors:

- **77% of millennials believe “purpose” is their #1 reason** for selecting an employer.

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“Meaningful Brands”

Meaning

This **concern for purpose** extends beyond the workforce and into the realm of consumers.

- A **recent report** conducted by global advertising agency Havas, concluded that so-called “**meaningful brands**” enjoyed increased sales, better brand awareness and higher annual returns than other companies.

A meaningful brand offers **three types of value** to consumers:

- ✓ **marketplace benefits**, which include the value delivered by its products;
- ✓ **personal benefits**, such as what a brand does for individual customers; and
- ✓ **collective benefits**, which include what the brand does for society as a whole.

All this suggests that the most successful businesses, both in terms of retention and financial performance, will be those that place a premium on the **well-being** of the **individual**, **community**, and **society** as a whole.

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Our Role

So where, and how, does **Kent Employment Law** fit in?



As lawyers **practicing exclusively within the field of employment law**, we regularly **partner** with managers, business owners and HR professionals to **support** them in the work that they do.

Our role is to **lead you to enable the reciprocal and purposeful working relationships** characterized by the **ten needs** we identify above.



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What We Offer

How do we do this?

By giving you the legal scaffolding on which to build **Sustainable Employment™** relationships.



This includes:

- ✓ Employment law **advice** on a regular and timely basis, from an employee's first day of work until her last or "as needed".
- ✓ **Communication** that is clear, transparent, practical, collaborative, and forward-looking.
- ✓ Employment contracts, workplace policies and other **legal documents** that reflect and meet the ten needs of Sustainable Employment™.

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What We Offer

Specific **issues and topics** we can help with include:

- Recruiting and **hiring**
- Employment **contract** drafting
- Policy **manual** development
- **Compensation** plans
- Employment **disputes**, during the life of the employment relationship
- **Performance** management
- **Promotion** and **demotion**
- **Accommodation** issues in the context of employee illness or disability
- **Ending** the employment relationship

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Guidelines for Employers

One way that we support employers in enabling Sustainable Employment™ in the workplace is through various *sets of Guidelines* we have developed for *key moments and events* during the employment relationship.

We introduce two sets of these *Guidelines* below, namely:

- *Guidelines for Contracting with Your Employees*
- *Guidelines for Ending the Employment Relationship*

We created these *Guidelines* to assist organizations of all sizes, across a variety of industries. We realize, however, that you may wish to adapt certain of our suggestions to fit the unique nature of your business – if so, [ask us how](#), we would be happy to help!

In the meantime...[read on!](#)



Chapter Three

Example #1: The Employment Contract



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Unsustainable Contracting Practices

- A well-thought out written employment agreement lays a **solid foundation** for an enduring, mutually beneficial employment relationship. Unfortunately, most employers don't enter into written contracts with their employees – and when they do, they often do more harm than good.



- To help **illustrate** what we mean by Sustainable Employment™ practices, we offer first an example of what the employment contract looks like in a non-sustainable working relationship.

Consider the following...

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Unsustainable Contracting Practices

INCOMPREHENSIBLE



A *non-sustainable* written employment contract is:

- Full of “**legalese**” and largely **unintelligible** to employee and employer alike;
- Written in standardized, formal “**boilerplate**” language that does not apply to the employee’s specific circumstances;
- Frequently taken from **another jurisdiction** (such as the US), where different laws may apply, or “**borrowed**” from the **internet** and therefore **legally incorrect or inapplicable**;
- **One-sided**, favouring the employer in the extreme; and
- Drafted without the help of an **employment lawyer**.

UnFair

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Guidelines for Contracting with Your Employees

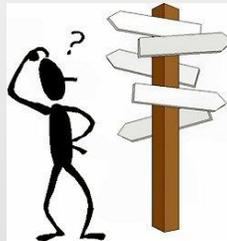
Such a contract **FAILS** to acknowledge many, if not all, of the ten needs of Sustainable Employment™:

- X** The contract is **unfair, unclear** and **lacks transparency**;
- X** It is imposed by and benefits **only the employer**; and
- X** It leaves the new employee feeling **confused, disrespected, powerless** and **untrustworthy**.



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Guidelines for Contracting with Your Employees



Many employers who follow unsustainable contracting practices do so out of **ignorance**. Although they want to start each new employment relationship in a **collaborative, direct, fair, purposeful, and mutually beneficial** manner, they aren't sure how.

For those employers, we have developed a set of **Guidelines for Contracting with Your Employees**. These *Guidelines* will not only support you in enabling Sustainable Employment™ from an employee's first day on the job, they will also help you meet your legal workplace obligations.

We have included a **summary** of these *Guidelines* in the next few slides.

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Guidelines for Contracting with Your Employees

A Sustainable Employment™ contract:

1. Is **negotiated** between employer and employee in a **collaborative manner**, rather than imposed unilaterally by the employer.
2. Is **written in plain language**. Non-lawyers can read and understand each term in the agreement, even the standardized, “boilerplate” clauses.
3. Is **balanced and reciprocal**, addressing what both the employer and employee need and will do for each other.
4. **Values principles** over prescriptive rules.

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Guidelines for Contracting with Your Employees

5. Is **succinct** and **purposeful**.
6. Addresses difficult topics, such as “just cause” for termination, dismissal and severance, **fairly, directly and transparently**.
7. Includes a fair and, where possible, collaborative mechanism for **resolving disputes**.
8. Includes **restrictive covenants**, such as non-competition or non-solicitation clauses, that are fair and accurately reflect both the employer’s legitimate business concerns and the employee’s need to earn an income after dismissal.
9. Can be more than a legal document – it can also serve as a **mission statement** or commitment document.
10. Isn’t signed until both parties get **legal advice**.

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Guidelines for Contracting with Your Employees

In developing these *Guidelines*, we stayed mindful of the **ten Sustainable Employment™ needs** described above.

If you look closely, we believe you'll see their presence throughout the contracting process:

- ✓ The negotiation process is *collaborative* and *purposeful*, allowing both parties a degree of *control* and *ownership* over the process.
- ✓ The contract language is *clear* and *transparent*.
- ✓ The terms of employment are dealt with in a *fair, respectful, mutually beneficial* and *accommodating* manner.



Chapter Four

Example #2: Employee Dismissal



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Unsustainable Dismissal Practices

- Few would argue that the **firing** experience can be hard on both employee and employer. Sadly, current dismissal practices tend to make things worse, for everyone.



- To further **demonstrate** our understanding of Sustainable Employment™ practices, we consider how employee dismissal is handled in a non-sustainable workplace culture.

Does this scenario sound familiar...?

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Unsustainable Dismissal Practices

UnFair

- An unsuspecting employee returns to work following vacation, well-rested and energized. She enters the individual office she has inhabited for several years, to find that *all of her effects*, both business and personal, *have been boxed up*. There are also signs that someone else may have used the office in her absence (e.g. rearranged furniture, unfamiliar items).

EVAsIVE



- Her office phone rings and she is *summoned to meet* with a member of management *on a false pretence*, e.g. to discuss a performance evaluation, or an upcoming work project.

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Unsustainable Dismissal Practices

DISRESPECTFUL



- At the meeting, the employee is in fact told that her employment is *terminated, effective immediately*. The employee is offered the bare minimum severance required by law, and advised that she must sign her acceptance of this offer during the meeting. She is also handed a brief letter that confirms this offer, refers to a corporate “*restructuring*”, and provides a perfunctory well-wishing in all future endeavors.

UnFair

- The employee is then taken back to her office, where she is met by a *security guard* who demands her passcard for the building, waits for her to collect her personal belongings, and *escorts her off the premises*, all while preventing her from saying a meaningful goodbye to any of her colleagues. The employer does not provide the remaining employees with any explanation for the employee’s departure, other than to confirm that she is no longer with the company.

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Guidelines for Ending the Employment Relationship

Such treatment **FAILS** to acknowledge many, if not all, of the ten needs of Sustainable Employment™ :

- X The employer's actions lack **transparency, respect, and fairness**, and
- X Leave the dismissed *and* remaining employees feeling **isolated, confused, anxious** and **powerless**.



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Guidelines for Ending the Employment Relationship



Many employers seek an **alternative** to these unsustainable dismissal practices. Even in the last moments of the employment relationship, they want to be **fair, respectful** and **collaborative**.

With that in mind, we have developed our ***Guidelines for Ending the Employment Relationship***. These *Guidelines* will not only support you in enabling Sustainable Employment™ in the workplace, they will also help you meet your legal obligations to your employees.

A **summary** of these *Guidelines* is included below.

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Guidelines for Ending the Employment Relationship

1. **Communicate** directly, respectfully, and transparently with the employee about the dismissal.
 - a. **Setting up** the meeting.
 - b. **Conducting** the meeting.
 - c. **Explaining** the dismissal.
 - d. Inviting the employee's **input**.
2. Give the employee a copy of her **Record of Employment (ROE)**.
3. Give the employee a clear and comprehensive **dismissal letter**.



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Guidelines for Ending the Employment Relationship

4. Offer the employee **post-employment support** that is fair and respectful.
 - a. Severance and/or working notice.
 - b. Outplacement counselling service or a retraining fund.
 - c. References.
 - d. Time.
5. Communicate directly, respectfully, and transparently with your **remaining employees**.
6. Respond promptly to any of the ex-employee's **outstanding issues or request**.



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Guidelines for Ending the Employment Relationship

7. **Follow up** with the departed employee again in a month or so.
8. **Troubleshoot.**
9. Get **legal advice** before carrying out the dismissal.



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Guidelines for Ending the Employment Relationship

In developing these *Guidelines*, we stayed mindful of the **ten Sustainable Employment™ needs** described above.

If you look closely, we believe you'll see their presence throughout the dismissal process:

- ✓ The communication is *clear, transparent, purposeful and respectful*.
- ✓ The support offered is *fair, mutually beneficial and accommodating*.
- ✓ The approach to the employee's departure is *fair* and *collaborative*, and offers the employee a degree of *control and ownership* over the process.

Have Questions about Sustainable Employment?

EMAIL
US

Check out our Blog for
more Employer resources.