

3. Legal Writing and Drafting: Communicating Effectively

1 KEY PRINCIPLES

- 1 What is the legal profession?
- 2 What are writer responsible and reader responsible language?
- 3 What is the Plain English campaign?
- 4 Anything similar in your language?
- 5 What's a layperson and why is this important?
- 6 What do clients want?
- 7 The lawyer as advisor
- 8 What do you have to appreciate when communicating?
- 9 Do you need a new hat?
- 10 Different ways of communicating

2 WRITING (1)

- 1 The Golden Rule of legal writing
- 2 Strong, undiluted sentences
- 3 How many thoughts in a sentence? What about sentence length, brackets, relative clauses and client handling?
- 4 Writing about specific clauses
- 5 Don't be too polite
- 6 Active or passive?
- 7 The desirability or otherwise of verb concealment OR ... is it good to hide verbs?
- 8 Positive or negative?
- 9 A change to counsel's living arrangements?
- 10 Two negatives - but do they make a plus?

3 KEY PRINCIPLES (2)

- 1 Just words?
- 2 Getting your message across to whom?

- 3 What is history?
- 4 How different are writing and drafting?
- 5 Writing and drafting skills - the same or not?
- 6 Templates and precedents
- 7 Writing and drafting without these
- 8 How many words?
- 9 Idioms
- 10 Should you write like you speak?

4 TECHNIQUE (I)

- 1 Starting the process
- 2 Key steps
- 3 Preparing and researching, instructions and what ifs
- 4 Planning - who? Plus style, tone and language
- 5 Planning - why?
- 6 Templates and other structures
- 7 How much detail? The sound of silence
- 8 Ambiguity and vagueness - good or bad?
- 9 Checking and editing - the different levels
- 10 Who's your best legal writing and drafting teacher?

5 DRAFTING (I)

- 1 Recitals - tenses
- 2 Definitions
- 3 Determiners
- 4 If thens
- 5 Obligations?
- 6 More obligations?
- 7 Absolute obligations?

- 8 Strong and weak obligations. Maybe
- 9 Finding middle ground
- 10 Softening language - after the parties have found middle ground

6 TECHNIQUE (2)

- 1 Word banks
- 2 Remember your reader and what your reader is short of
- 3 The minimum and maximum number of parts a legal sentence will have
- 4 Space - using it not travelling in it
- 5 Write well consistently
- 6 What about wordes from ye olde thymes?
- 7 Every word should earn its place
- 8 Why you have a) to be consistent and b) to check
- 9 The apostrophe's moment of glory
- 10 Followed immediately by the comma

7 WRITING (2)

- 1 It won't take you long to get this tip
- 2 Do you mean **and** or do you mean **or**?
- 3 Dear me! How to address letters and emails
- 4 Sell yourself! Tell the client what you can do for them.
- 5 Answer the question!
- 6 It's the thing you write most people see - makes it very important
- 7 How strong is your opinion?
- 8 We sincerely apologise for mentioning this but ...
- 9 Do you really need these words?
- 10 Music to a reader's ears (but not eyes)

8 DRAFTING (2)

- 1 Can the company borrow from somebody else? Yes, up to a limit.

- 2 Can the borrower make any change to its business?
- 3 Can the borrower do anything?
(We look at the softening language needed for 1-3)
- 4 Which agreement wins? No, wrong collocation
- 5 General words and specific words in a list - which first?
- 6 The middle – be careful
- 7 Writing about time - time to be careful
- 8 Don't cause me not to use double negatives
- 9 Construing fewer words
- 10 Be careful where you put your modifiers

9 WRITING (3)

- 1 I hope you're [doing] well. Glad or happy to hear from you?
- 2 If you want to get ahead, get a hat
- 3 If or when?
- 4 What's your assessment / opinion?
- 5 I assume or I presume that ... ?
- 6 Did the meeting go very well or quite well?
- 7 How many small law firms are there?
- 8 Do you put the right markers in your discourse?
- 9 Are you appreciated or do you appreciate?
- 10 Keeping the best until last

10 and 11 LANGUAGE (1) and (2)

Even if you follow all the rules we've just been looking at, if you may make errors with vocabulary, grammar or little words you will create a poor impression on your readers

This is because your errors will distract the reader, mean that the reader doesn't understand or misunderstands, or in the worst case, lead to you losing the client, a negligence claim or both

Your errors will also probably annoy you

These two sections give you a taste of what's in the following courses so you can decide whether to do them.

ACE Legal English – Key Terminology

ACE Legal English - Grammar

ACE Legal English – Little Words (mainly prepositions)

12 to 15 PRACTICE EXERCISES (1) to (4)

These sections are your chance to try out what you've just learnt or been reminded of

Each question has the same format - you'll be asked to compare two pieces of writing and choose **which** is the better and **why**

For **why**, choose one answer from four or five in a drop down menu, all of which should be familiar by the time you've got this far in the course

The answer to **why** will be one of these

The golden rule	Answer the question!
Keep S/V/O order	Put modifiers in the right place
Avoid dilution	Use verbs not nouns
One thought one sentence	Avoid double negatives
Keep your sentences short	Use the right tense
Don't hide thoughts in brackets	Use the right word
Don't use unnecessary words	Avoid old-fashioned words and style
Use relative ("which") clauses	Don't be too informal
Don't be too polite	KISS
Prefer the active to the passive	Avoid ambiguity