

Clarity

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This issue

This issue concludes our reports from the Clarity conference of July 2005 in Boulogne-sur-Mer, France. Most of the issue is devoted to reports from the 5th conference of the Plain Language Association International (<http://www.plainlanguagenetwork.org/>). The conference, co-hosted by the Center for Plain Language (www.centerforplainlanguage.org) and the group of federal employees devoted to plain language, PLAIN (www.plainlanguage.gov), was held in Washington, DC, in early November 2005.

Two major conferences in one year! About 160 people from almost 30 countries attended the conference in France. Washington hosted 300 people from 16 countries.

The topics addressed by the plain language community and by *Clarity* continue to expand. In addition to the updates from various countries and Christopher Balmford's excellent round-up of the second conference, you'll see articles on health literacy—a major growth area for plain language—and on a United States-wide program to improve the forms used by citizens to apply for food stamps.

The guest editor for the next issue is Peter Butt. In the following issue, Christopher Balmford (Christopher.balmford@cleardocs.com) will be exploring 2 themes. First, "the writer's headspace"—in particular, why is it that some people's writing ends up awkward and unnecessarily formal even when they genuinely want to write clearly? Second, how do grammar, punctuation, and usage affect clarity? If you have a contribution to make, please contact the guest editor directly.

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Dr. Cheek is an anthropologist by training, earning a PhD from the University of Arizona in 1974. Most of her Federal career has been in writing and implementing regulations. She became interested in the Plain Language movement ten years ago, and since then has worked to spread the use of plain language across the government. She spent four years as the chief plain language expert on Vice President Gore's National Partnership for Reinventing Government. She has been the chair of the interagency plain language advocacy group for ten years, since it was founded, and administers the group's website, www.plainlanguage.gov. Currently she is an Executive Assistant to the Administrator of the Federal Aviation Administration, where she continues to focus on plain language projects and serves on the Web Council. She is also vice-chair of the board of the private sector Center for Plain Language, a federally tax-exempt organization.

Master class in English, from Clarity's conference in Boulogne: writing the law in plain language—three versions

Instructions for Queues Bill

Conrad Dehn, QC, Chairman

A. It is proposed that we consider how to attempt to write in plain English a statute for the governance of queues in public places or places to which the public has access.

Theoretical background:

1. The UK government is concerned with the increasing disorder at bus-stops in tube stations, outside cinemas, and in bars, and at the reported death of a driver after a fight with another motorist over a place in the queue at a Council rubbish dump [Times 15.1.05]. The government is of the view that the time has come when in all appropriate circumstances queues must be formed and that they must be regulated to promote fairness and avoid confusion and violence. Draftsmen are therefore requested to draft an appropriate Bill to be put before the legislature. It may be entitled "The Queues Act, 2005".

The government's view is that a queue does not require definition in the Act (such as eg "a line of people, vehicles etc, awaiting their turn to proceed, to be attended to, to obtain some goods or services etc": see Shorter Oxford English Dictionary, 2002, Vol 2 p 2435):

the term has been used in UK legislation hitherto without definition: see eg Public Health Act, 1925, S. 75(1); S.I. (1942) No 1691 Reg 3 and Road Traffic Regulation Act, 1967, Sch 1 para 20.

2. In the view of the government the matters to be dealt with cover

- (i) the circumstances and places in which queues must be formed (eg wherever and whenever in a public place or in a place to which the public has access more than two persons want at the same time to go to or

enter a particular place or vehicle owned by a third party (hereinafter called "the goal"))

- (ii) how this rule should apply where, as with bendybuses and tube trains, there is more than one goal and there may until a late stage be uncertainty where in relation to the head of the queue the goal may turn out to be [eg that as soon as this becomes apparent the head of the queue should move to the nearest goal and the rest of the queue should follow him in the same order)
- (iii) the commission of a criminal offence if any person not in the queue attempts to force his way into a queue or to get to the goal ahead of someone in the queue
- (iv) the maximum width of a queue (eg two people not more than (say) 0.5 metres apart, or one vehicle) and the maximum longitudinal gap between those queueing (eg 0.5 metre)
- (v) the line of a queue and its determination (eg the last person in the queue for the time being may determine its line so far as he is concerned)
- (vi) the right of any person to join a queue at— but only at—its end/back)
- (vii) the right of any person in a queue to invite or permit one but not more than one other person, whether or not already in that queue, to join him in that queue
- (viii) that no person in a queue has the right to permit another person in that queue to invite a third person to join the queue with him rather than at its end/back
- (ix) that any person in a queue may with the consent of the person immediately behind him reserve his place in the queue whilst he leaves it for a specified limited period [eg to go to the lavatory or to have something to eat]
- (x) that no child below a certain age (eg 14) should be allowed in a queue unaccompanied by an adult and that where such a child is accompanied by an adult they should together count as one person

- (xi) that the rights and obligations of children in a queue are [apart from babies in arms or a pram] the same as those of adults
- (xii) that no person in a queue has the right to be accompanied by their dogs or other pet animal(s) without the consent of the persons immediately behind and in front of them.
- (xiii) that the person immediately in front of them has the right to resolve any dispute between two or more persons who claim to join or have joined the queue at the same time
- (xiv) that a person in a queue has the right to use reasonable force to prevent another person joining the queue ahead of him
- (xv) the date for commencement should be 30 days after enactment.

The government is not aware of any precedents in this field, does not think these questions require determination by politicians or civil servants, and if the experienced draftsmen prefer other solutions to those here suggested would be happy with their adoption provided they are clear and reasonable.

The government desires that the Bill should so far as practicable be drafted in a nationally neutral way so that it may in due course be adopted in other parts of the world. The draftsmen will of course seek to

ensure that the bill is consistent with Human Rights but are not required to satisfy themselves that it is or to state what part of any particular country the bill is or is not to apply to.

B. It is proposed that

- (i) the members of the panel (other than the Chairman) should in advance of the Conference severally or jointly prepare a draft bill or bills which should be circulated to all conference delegates before or at the latest at the start of the Conference and
- (ii) that the session should take the form of the exposition of those bill(s) by those members of the panel and their oral consideration with the delegates.

Other delegates are of course welcome themselves to prepare and submit draft bills to the panel before the session starts and if time permits they should be considered too.

All drafts should if possible work with Windows XP and an overhead projector.

Conrad Dehn Oxford First Class Hons, Philosophy, Politics, & Economics, 1950; Barrister 1952 pupil of Leslie Scarman; QC 1968; Member of Parliamentary Bar; Member of Council of the Statute Law Society for many years; Successfully conducted many cases on statutory construction in appellate courts.

Introducing *Clarity's* editor in chief

It's probably time I introduced myself. My name is Julie Clement, and I am an Assistant Professor in the Research and Writing Department at Thomas Cooley Law School. My introduction to plain language was via *Clarity's* President, Joe Kimble, when I was a student in his Research and Writing class a number of years ago—an eye-opening experience, indeed! I have tried to incorporate plain language principles throughout my career: as a law clerk with the Michigan Legislative Service Bureau, as a research attorney and a supervising attorney with the Michigan Court of Appeals, as a law clerk with the Michigan Supreme Court, and now as a professor. I need not tell *Clarity* readers about the struggles and blind opposition to clear, concise writing—it continues to puzzle me. I am excited about my new role as editor in chief of *Clarity*. It will be a wonderful learning experience, and I hope you will continue to educate me as I find my way. The guest editors have been wonderful—Nicole Fernbach and Edward Caldwell in the November 2005 issue and Annetta Cheek this month. And I could not survive without Trish Schuelke and Joe. We continue to work on a number of formatting and content issues, so please keep sending your comments and suggestions. I hope you will enjoy reading this issue of *Clarity* as much as I have!



**Version 1—
by Don Macpherson**

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1st Session, 38th Parliament,
53-54 Elizabeth II, 2004-2005

HOUSE OF COMMONS OF CANADA

BILL C-

An Act regulating queues in public places

Her Majesty, by and with the advice and consent of the Senate and House of Commons, enacts as follows:

Short title

1. The *Queues Act*.

PURPOSE OF THIS ACT

Purpose

2. The purpose of this Act is to encourage fairness in queues and prevent disorder, disturbances and violence.

APPLICATION AND INTERPRETATION

Application

3. (1) This Act applies to drivers of vehicles in queues and to people in queues if three or more vehicles or people are waiting in a public place for entry to a place or for access to goods or services.

Formation of queue

(2) A queue may be formed along any line and have any width or gap that is implicitly agreed on. But it is not a queue if the head of the line is not apparent or if a person cannot tell whether they are in the line or not.

Meaning of “public place”

(3) A public place is any place to which the public has access by right or invitation.

Interpretation

4. For the purposes of sections 6 to 10, 12 and 13, a child under the age of 14 who is with an adult and the adult are counted as one person.

RULES FOR QUEUES OF VEHICLES

End of the queue

5. (1) Every driver who joins a queue of vehicles must go to the end of it.

Exception

(2) A driver may cut in ahead of another driver in the queue or start a new queue only if permitted to do so by a person authorized to grant entry to the place or access to the goods or services for which people are waiting.

RULES FOR QUEUES OF PEOPLE

End of the queue

6. (1) Every person who joins a queue of people must go to the end of it.

Exceptions

(2) A person may cut in ahead of another person in the queue or start a new queue only if permitted to do so by section 7 or 8.

Cutting in permitted

7. (1) A person may cut in ahead of another person in a queue in any of the following cases:

- (a) someone in the queue gives them their place and leaves it;
- (b) a person authorized to grant entry to the place or access to the goods or services for which people are waiting permits them to cut in;
- (c) no one in the queue behind the place where they cut in objects.

Invitations to join queue

(2) A person may cut in ahead of a person who invites them to join a queue if all of the following apply to the person giving the invitation:

- (a) they are in the queue;
- (b) they have not already invited and been joined by another person;
- (c) they have not themselves cut in ahead of someone or been invited to join the queue;
- (d) they are not giving the invitation on behalf of someone else in the queue who has already invited and been joined by another person.

New queue permitted

8. (1) A person may start a new queue instead of joining an existing one only in the following cases:

- (a) they are permitted to do so by a person who is authorized to grant entry to the place or access to the goods or services for which people are waiting;
- (b) it is uncertain where the head of the queue may turn out to be (as is often the case, for example, in queues for subway trains and buses or for access to goods or services delivered from a vehicle).

Limitation

(2) A person may not start a new queue under paragraph (1)(b) after the place that people are waiting to enter is in sight or the place where access to goods or services will be provided is apparent.

Returning to your place in queue

9. A person who leaves a queue may not return to their place in it unless all of the following are true:

- (a) they left for a short period of time and returned when they said they would;
- (b) the person waiting immediately behind them agreed to hold their place;
- (c) they left to eat, to drink, to meet their physical needs or to find a police officer or because they were unable to wait in line due to their disability or special needs;
- (d) their place has not moved past the head of the queue;
- (e) the queue has never been dispersed.

Pets in queue

10. A person may not have a pet in a queue unless they have the permission of the person waiting immediately in front of them and immediately behind them.

Children to be accompanied by adult

11. A child under the age of 14 must be with an adult in the following types of queues:

- (a) a queue for entry to a place that admits children under 14 only if they are with an adult;
- (b) a queue for goods or services that are accessible to children under 14 only if they are with an adult.

RESOLUTION OF DISPUTES

Resolution by police officer

12. (1) A police officer may order any person whom they believe on reasonable grounds has disobeyed or failed to comply with a rule for queues of vehicles or queues of people to do one of the following things:

- (a) join the queue at a specific place;
- (b) go to the end of the queue;
- (c) leave the queue.

Hearing

(2) Before making an order against a person the police officer must hear what they and anyone else in the queue who wishes to speak have to say.

Order is final

(3) The police officer's order is final and may not be appealed to or reviewed by any court.

Effect of order on prosecution

(4) A police officer who makes an order against a person under this section is not prevented from charging them with an offence under section 14 or 15. But the court may dismiss the charge if the person complied with the order and, in the court's opinion, prosecution of the charge would be unfair.

Resolution by person in queue

13. (1) If two or more vehicles or people join a queue at the same time and the drivers or the people who joined the queue disagree on their sequence in it, they may ask the person immediately in front of them to decide. If that person refuses, they may continue to ask people in front of them until they find someone who agrees to decide.

Effect of decision

(2) The decision is final and binds those who disagreed on their sequence. They must comply with the decision, leave the queue or go to the end of it.

Effect of police officer's order on decision

(3) If a person who is subject to a police officer's order is also bound by a decision under this section, the decision applies only to the extent that it is consistent with the police officer's order.

OFFENCE AND PENALTIES

Offence by driver

14. It is an offence for a driver of a vehicle to disobey or fail to comply with any of the following:

- (a) the rule for queues of vehicles in section 5;
- (b) an order made under section 12;
- (c) a decision referred to in section 13.

Offence by person in queue of people

15. It is an offence for a person to disobey or fail to comply with any of the following:

- (a) a rule for queues in any of sections 6, 9, 10 or 11;
- (b) an order made under section 12;
- (c) a decision referred to in section 13.

Penalties

16. (1) A person who commits an offence under section 14 or 15 is liable on summary conviction to either of the following:

- (a) if they are 18 years of age or over, a maximum fine of \$500;

- (b) if they are 14 years of age or over but under 18, a maximum fine of \$100.

Offence by child

(2) A child under the age of 14 may not be convicted of an offence under section 14 or 15. But a person who is 14 years of age or over may be convicted as a party to an offence committed by the child in any of the following cases:

- (a) they do or fail to do anything for the purpose of aiding the child to commit the offence;
- (b) they encourage or counsel the child to commit the offence;
- (c) they do something for the purpose of helping the child to escape, knowing that the child committed the offence.

Imprisonment for non-payment of fine

(3) An offender may only be imprisoned for failing to pay a fine if they are unwilling to pay it, though able to do so.

COMING INTO FORCE

When Act becomes law

17. This Act comes into force 30 days after it receives royal assent.

Don MacPherson is Legislative Counsel with Canada's Department of Justice.

Country reps wanted

If you are in a country without a Clarity country representative and you would consider taking on the job, please contact Joe Kimble at kimblej@cooley.edu.

Commentary on version 2 (below)

Robin Dormer

NB: References below to a “point” are to a sub-paragraph of paragraph 2 of the Instructions.

General

1. I have tried, I think, to cover all the paragraphs of the Instructions in one way or another.
2. I have referred to “he” and “him”, I fear, instead of “he or she” and “him or her”, in line with the style for U.K. legislation.

Clause 1

3. Subsection (1)(a) refers to more than one person *waiting*, because it would seem that we do not need to cater for the case where only two people are present if one of them is already being dealt with. If, for example, at a supermarket checkout, one person is already being dealt with, the next person must clearly follow the one being dealt with, and need not trigger the queuing régime. It is the arrival of a third person (making two waiting, and one being dealt with) that triggers the queuing requirement. However, if nobody is yet being dealt with, then it will be the arrival of the second person which triggers the queuing régime. So it seemed to me that the régime is not confined to the case where “more than two persons” want at the same time to achieve a goal (*cf* point (i) of the Instructions).
4. “A place to which the public have access” seemed to me to include a public place.
5. The list of goals set out in subsection (2) may not be complete.
6. The Instructions say (point (x)) that no unaccompanied child under 14 should be allowed in a queue, and that an accompanied child under 14 together with the accompanying adult count as one person. It

occurred to me that, with one possible exception, this can be relevant only for this clause. Once the child is in the queue, s/he is to have the same rights as adults (point (xi)). It did not seem necessary to me to state the latter, as a “child” is a “person”; but it is for consideration whether the rights of children under 14 are in all respects to be the same as those of children of 14 and over. The possible exception is paragraph 7(4) of the Schedule. It seems that the policy on children needs further refinement.

Clause 2

7. The Instructions identify (at point (iii)) specific criminal offences of queue-jumping and forcible entry to a queue; but it seemed to me that contravention of all the rules needed to be accompanied by criminal offences, otherwise those parts of the régime that did not outlaw queue-jumping or forcible entry would be unenforceable. Examples of those are the lateral and longitudinal distance requirements, and the provision about temporary departure from a queue. So this draft makes all breaches of my queueing rules into a criminal offence.

Schedule

8. It seemed to me that we need to cause a queue to be formed in the first place. You cannot make someone join the end of a queue if there is no queue to be joined; so the arrival of the third person mentioned in paragraph 4 above, or of the second person if nobody is yet being dealt with, must be what triggers a requirement for a queue to be formed. Persons who arrive later then slot in at the “joining the queue” level.
9. Paragraph 7(5) and (6) seemed necessary additions to the régime.
10. Paragraph 9 does not work if the place in dispute is the first place in the queue. Paragraph 11 does not work if the person in question occupied the last place in the queue before leaving it; but perhaps he should re-join at the back when he returns.
11. Paragraph 13(2) also seemed necessary.

*Version 2—
by Robin Dormer*

Queues Bill

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- 1 When this Act applies
- 2 Queueing requirements, offence and penalty
- 3 Citation, commencement and extent

Schedule—Rules about queueing

DRAFT OF A

BILL

TO

Make provision about queues.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 When this Act applies

- (1) This Act applies whenever—
 - (a) more than one person is waiting to achieve a goal mentioned in subsection (2), 5
 - (b) they are doing so in a place to which the public have access, and
 - (c) they cannot all achieve the goal at once.
- (2) The goals referred to in subsection (1)(a) are—
 - (a) to be attended to (for example, for a service to be provided),
 - (b) to attend to something (for example, to use a toilet), or 15
 - (c) to pass through an opening (for example, a door) or to pass a particular point.
- (3) An adult accompanying a child below the age of 14 together count as one person for the purposes of subsection (1)(a). 20

2 Queueing requirements, offence and penalty

- (1) If this Act applies, each person waiting must comply with the Rules about queueing set out in the Schedule. 25
- (2) A person who, without reasonable excuse, fails to comply with any of the Rules is guilty of an offence.
- (3) A person guilty of such an offence is liable on summary conviction to a fine. 30

3 Citation, commencement and extent

- (1) This Act may be cited as the Queues Act 2005.
- (2) This Act comes into force at the end of the period of 30 days beginning with the day on which it is passed. 35
- (3) This Act extends to England and Wales and the Côte d'Opale.

Robin Dormer is a member of the Office of the Parliamentary Counsel in London. Before that he has also been a departmental lawyer at the Department of Health, and a member of the staff of the Law Commission for England and Wales.

RULES ABOUT QUEUEING

Interpretation

1 In this Schedule, references to the “goal” are to whichever goal is appropriate from the list in section 1(2). 5

Forming a queue

2 (1) If this Act applies, the persons waiting must form a queue in accordance with these Rules. 10

(2) The person at the front of the queue is to be the person who arrived first, the next person is to be the person who arrived next, and so on. 15

(3) A queue may be two persons wide if more than one person can achieve the goal simultaneously. 20

(4) For the purposes of the remainder of these Rules, the two lines of persons count as two separate queues. 25

Form and position of queue

3 Each person in a queue must make sure that he is no more than 50 centimetres away from the person in front of him. 25

4 Each person in each of the two separate queues mentioned in paragraph 2(4) must make sure that he is no more than 50 centimetres away from the person on his right or left. 30

5 (1) This paragraph applies if the position where the goal will be achieved is not certain, or moves. 35

(2) When the position becomes certain, or stops moving, the person at the front of the queue must adjust his position accordingly, and those behind him must adjust theirs correspondingly. 40

Joining a queue; queue-jumping

6 A person who joins a queue must do so at the end, unless paragraph 7 applies. 45

7 (1) A person already in a queue (“A”) may invite another person (“B”) to join him. 45

(2) If A does so, B may join the queue, but must do so immediately behind A. 45

(3) It does not matter whether B was already in the queue, or is a newcomer to it. 45

(4) A may not invite more than one other person to join him in a queue. 45

(5) B may not, in turn, invite another person to join him, unless A leaves the queue permanently (other than because he has achieved the goal), in which case B becomes A for the purposes of this paragraph. 50

(6) If B leaves the queue permanently, this paragraph applies to A again, if he is still in the queue. 55

8 A person in a queue may not try to move to a place nearer the front of the queue, except as allowed by paragraph 7. 60

9 If two or more persons claim the same place in a queue, the person immediately ahead of that place may determine which of them has the right to it, and that determination is binding on those claiming the place. 65

Leaving a queue

10 A person who leaves a queue forfeits his place in it, unless paragraph 11 applies. 70

11 A person who leaves a queue temporarily may return to his place in it only if— 75

(a) the person immediately behind him has agreed to that before he leaves, and 75

(b) his return to his place is in accordance with the agreement. 75

Pets and children

12 If a person in charge of a pet is in a queue, and the person immediately in front of him or the person immediately behind objects to the pet, the person in charge of it must either leave the queue or dispose of the pet. 80

13 (1) A child below the age of 14 is not allowed in a queue unless accompanied by an adult. 85

(2) But the rule in sub-paragraph (1) does not apply if the child is doing something which a person of the child’s age may reasonably be expected to do unaccompanied (for example, queue for a toilet, or for public transport). 90

Use of force 95

14 A person in a queue may use reasonable force to prevent another person joining or re-joining the queue ahead of him, unless under paragraph 7, 9 or 11 that person has the right to join or re-join it there. 100

*Version 3—
by Ben Piper*

Queues Act 2005

(An Australian (Victorian) Version)

Act No.

Table of Provisions

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**First Draft
9/6/2005**

A BILL

to ban queue jumping and for other purposes.

Queues Act 2005

The Parliament of Clarity 2005 enacts as follows:

1. Purpose and outline

- (1) The purpose of this Act is to ban queue jumping.
- (2) In outline, this Act—
 - (a) applies to most public queues, except those involving vehicles; and
 - (b) makes it an offence to jump a queue, and to push in ahead of anyone already in a queue, except in certain specified circumstances; and
 - (c) provides a mechanism for the resolution of disputes concerning who got to a queue first.

2. Commencement

This Act comes into operation on 14 August 2005.

3. Application of this Act

- (1) This Act only applies to queues that are in a place to which the public has access.
- (2) This Act does not apply in respect of a queue if some or all of the people in the queue are in or on vehicles.

Note: The **Vehicle Queues Act 2005** deals with people in or on vehicles.
- (3) This Act also does not apply in respect of a queue if all of the people in the queue are—
 - (a) children; or
 - (b) students apparently under the control of one or more teachers.

4. Definitions

In this Act—

“**child**” means a person who is under 14 years of age;

“**vehicle**” has the same meaning as it has in the **Vehicle Queues Act 2005**.

Note: Section 4 of the **Vehicle Queues Act 2005** states – “**vehicle**” means any means of transport other than a

wheelchair, a pram, a stroller, in-line skates or a skateboard;’.

5. When is there a queue ?

For the purposes of this Act, there is a queue—

- (a) if provision has been made at a place for people to queue (be it by means of barriers, ropes or painted lines or by any other means), and more than 2 people queue at that place; or
- (b) in any other case, if at least 2 people have the same apparent purpose at a place and they have positioned themselves in such a way relative to each other that it is clear that there is agreement between them as to the order in which they are each to be able to seek to achieve that purpose.

6. Offence to queue jump

- (1) A person must not join a queue at any place other than at the end of the queue unless—
 - (a) she or he is invited to join the queue in front of a person already in the queue, as permitted by section 7; or
 - (b) she or he has previously reserved her or his place in the queue and is returning to that place, as permitted by section 8; or
 - (c) she or he is an Australian, and she or he displays her or his Australian passport to those in the queue; or
 - (d) she or he is otherwise permitted to do so by any regulation made for the purposes of this section.

Penalty: £xx.

- (2) A person must not seek to achieve the same apparent purpose of those in a queue other than by joining the end of the queue.

Penalty: £xx.

- (3) Sub-section (2) does not apply if it is possible to achieve that purpose by using a facility that those in the queue do not appear to wish to use.

Example:

Fred wishes to make a phone call from a public telephone. He walks down Oxford Street and sees 5 people lined up in front of a public telephone waiting for another person to finish a call. Fred walks by, then turns the corner into Portman Street and sees an unattended public phone. Sub-section (2) forbids Fred

from using the Oxford Street phone other than by becoming the 6th person in the queue waiting to use that phone. Sub-section (3) enables Fred to use the Portman Street phone immediately.

- (4) This section does not apply to a person if a queue is at a place, and the occupier of the place, or a person who appears to be an employee or agent of the occupier of the place, permits or directs the person to do anything that is otherwise forbidden by this section.

Example:

Jane is running late for her flight with El Cheapo Air. When she gets to the ticket counter area she sees a long queue of people waiting to be processed at the El Cheapo counters. A man wearing a uniform with an El Cheapo logo approaches her and asks her which flight she is taking. On hearing Jane’s answer he escorts her to the head of the queue. Sub-section (4) ensures that Jane does not commit any offence by jumping the queue in these circumstances.

7. Queue member may invite another person to join her or him

- (1) A person in a queue may invite one other person to take a place in the queue immediately in front of her or him.
- (2) Sub-section (1) does not apply—
 - (a) to the person invited to take the place in the queue if she or he accepts the invitation; or
 - (b) to a person who has made, and had accepted, an invitation under sub-section (1).
- (3) Sub-section (1) does not apply to a child in a queue.
- (4) Sub-section (3) does not prevent a person from inviting a child to take a place in the queue.

8. Reserving a place in a queue

- (1) A person in a queue may, with the consent of the person immediately behind her or him in the queue, reserve her or his place in the queue.
- (2) After obtaining consent to the reservation of her or his place in a queue, a person may—
 - (a) leave the queue; and
 - (b) return to the reserved place in the queue.

- (3) A person's right to return to a reserved place in a queue ceases if the person who consented to the reservation leaves the queue.

Example:

Unfortunately the phone in Portman Street referred to in the example in section 6(3) didn't work. Fred thus joins the Oxford Street phone queue. He is third in line when he realises he doesn't have enough coins. He explains his predicament to the woman standing immediately behind him, and she agrees to hold his place while he pops into a nearby shop to get more change. Unfortunately it's not Fred's day. There is a queue at the counter of the shop, so by the time Fred gets his coins and returns to the queue in Oxford Street, the woman who had agreed to hold his place is already on the phone (and thus is no longer in the queue). All Fred can do in these circumstances is to join the back of the queue again.

9. Resolution of queue-joining disputes

- (1) This section applies if 2 or more people seek to join a queue at about the same time and a dispute arises between them as to which of them should take precedence in the queue.
- (2) Any of them may ask the last person in the queue before the dispute arose to adjudicate the dispute.
- (3) If such a request is made and the person asked to adjudicate agrees to do so and nominates an order of precedence among those who are in dispute, each of those in dispute must either join the queue in the order nominated or else not join the queue

Penalty: £xx.

10. Regulations

The Governor in Council may make regulations for, or with respect to, any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

Draft Note: I have deliberately not given effect to instructions (iv), (v), (vi), (viii), (x), (xi), (xii) and (xiv) pending further discussion/more detailed instructions. Although I have not specifically given effect to instruction (ii), I believe clauses 5 and 6 cover some of the ground. To the extent that they don't, I doubt whether it is possible to give effect to the instruction. My draft covers

some of the ground in instructions (x) and (xi), but in a way that may be contrary to those instructions.

Draft Note: [Post-Conference] I note that some things in this draft (most obviously section 6(1)(c)) were written for the purposes of oral presentation at the Conference. In particular, I went out of my way to include section 4 (Definitions) to provide a platform to raise certain issues. Normally in a Bill of this size I would go out of my way to avoid including a definition section.

Ben Piper is a senior legislative drafter with the National Transport Commission. Before taking up that position earlier this year he worked for just over 20 years as a legislative drafter with the Office of the Chief Parliamentary Counsel (Victoria, Australia).

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Drafting master classes: plain language styles are not consistent

Vicki Schmolka

*Lawyer and Plain Language Consultant
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The magic of an international conference is that it brings together experts in a field from all over the world and provides a wonderful opportunity to take stock and learn. The Master Classes in “from scratch” English-language drafting at the Clarity conference in Boulogne-sur-Mer revealed that many drafting issues remain unresolved. We do not yet share a consistent approach to the drafting of laws and regulations in plain English.

For the Master Classes, drafters from Australia, Canada, Ireland, and the United Kingdom prepared draft Acts based on fictional drafting instructions created by Barrister Conrad Dehn, QC—to govern “queues in public places or places to which the public has access”—and by Sir Edward Caldwell—to establish “a remedy when a vendor of a house deliberately conceals from the purchaser a source of troublesome noise”. Three brave legislative drafters tackled each task.

Looking at the six resulting draft statutes, three of which were published in *Clarity* 54 and three of which are published in this issue, a drafting truth becomes immediately apparent. Drafting is not a push button—instructions in, statute out—process. Clear as drafting instructions may seem to be, a drafter cannot work in isolation and needs to be able to discuss issues and intentions with the policy or subject-matter experts to understand sufficiently the purpose of the proposed legislation. For each drafting exercise, the three drafters worked without benefit of dialogue with the author of the drafting instructions and without talking to each other. Interestingly, their draft Acts varied considerably and showed different legislative approaches, although all the drafters applied plain language principles, for example, using short sentences, familiar vocabulary, and vertical lists.

The six draft Acts are excellent material to use to identify many of the drafting quandaries with which plain language specialists continue to grapple. This article examines some of these outstanding issues.

Title

Titles for the draft Acts ranged from summary to informative:

- A Bill to make provision about queues
- An Act regulating queues in public places
- A Bill to ban queue jumping and for other purposes
- Troublesome Noise Disclosure Act
- Noise-Concealment Bill
- A Bill to provide new remedies to purchasers of dwellings affected by undisclosed noise, to make it an offence for a vendor to give false or misleading information about noise in certain circumstances, to establish an Environmental Enhancement Fund and for other purposes. Noise Act 2005

Observation

Drafters did not always choose to make the title of the draft Act descriptive of its legislative purpose.

Table of contents

Five of the six drafters provided a Table of Contents. For one draft Act, however, it consisted of three items, since that drafter chose to put the bulk of the queuing rules in a Schedule to the Act. Another drafter’s Act had ten sections and no parts.

Of the three drafters who created a draft statute with Parts, one created three parts, labeling them: “Preliminary”, “Civil Remedies”, and “Miscellaneous”, generic titles which could be found in a variety of statutes. In contrast, another drafter chose to label four parts: “Disclosing Statutory Troublesome Noise”, “Environmental Enhancement Fund”, “Offences and Penalties”, and “Transitional Sections, Amendments to Other Legislation, and Coming Into Force”. One drafter had a three-stage hierarchy: Chapters, Parts, and Sections. Only one drafter phrased a section title as a question and did so only once.

Observation

A Table of Contents was not necessarily used as a meaningful way to give readers a quick overview of the Act and its provisions.

Definitions

Not all the draft Acts included specially defined words. One drafter called the part with definitions “Key Concepts” and gave a separate section number to each of five defined words or terms. Another drafter chose to put the definitions at the end of the draft in an Appendix rather than as one of the opening sections but provided a list of the defined words in a box at the start of Part 1.

None of the drafters used a system, such as italics, underlining, or an asterisk, to indicate a special meaning when a defined word or term was used in the draft Act.

Observation

How to manage definitions and their most appropriate location within a statute is unsettled.

Lists and the use of “and” or “or”

The drafts display several approaches to the listing issue. One drafter used the traditional approach, putting an “and” or an “or”, depending on the context, at the end of the penultimate paragraph. “This Act applies whenever—(a) ... , (b) ... , and (c)”

Two drafters repeated the “and” or “or” at the end of every paragraph. “A person must not ... unless—(a) ... ; or (b) ... ; or (c) ... ; or (d)”

Two drafters did not use “and” or “or” at all. “A person may ... in any of the following cases: (a) ... , (b) ... , (c)”

One drafter used both “and” and “or” in the same section. “A Local Authority can ... only: (a) ... ; or (b) ... ; and (c).”

Those drafters who included the “and” or “or” either after every paragraph or before the penultimate paragraph, used a semi-colon before the conjunction (... ; and). The drafter who did not include a conjunction at all used commas at the end of each paragraph (x, y, z).

Observation

Drafters made different “and” / “or” choices, suggesting that there is no consensus on the clearest way to write a list. This issue might well benefit from testing to determine if the repetition of an “and” or “or” at the end of every paragraph would increase reader comprehension.

“He” or “he/she” or “they” or “you”

The drafters were consistent within their own drafts, but among the six drafts, each of the following styles occurred. (Italics have been added.)

- “Each *person* in a queue must make sure that *he* is no more than 50 centimetres away from the person in front of *him*.”
- “A *police officer* may order any person whom *they* believe ...”
- “A *person* in a queue may invite one other person to take a place in the queue immediately in front of *him or her*.”
- “A *solicitor or estate agent* is retained by a client if any firm of which *he or she* is a member or by which *he or she* is employed is retained by the client.”
- “If a *seller* uses a lawyer to sell the Property, and the lawyer knows that the *seller* has not done what section 8 requires, the lawyer must tell the buyer before the buyer enters into any contract to buy the Property.”
- “*You, the buyer* may [only] make a claim for an award of damages for intentional non-disclosure or stn [statutory troublesome noise] by taking the following steps: ... (c) step 3—if *you* really want ...”

Observation

Do we draft like we talk? Or draft to the highest level of grammatical correctness? Or push grammar rules to write what sounds right? It seemed that each drafting option sounded wrong to the ear of someone in the Master Class audience. There was definitely no consensus on the best practice to follow.

Notes / cross-references / examples

Two drafters chose to include cross-references and notes in their texts. For example, one drafter gave a brief description of the content of a section that was referenced in another section. “A person is guilty of an offence who (a) contravenes section 1.4(1) [Duties of seller, solicitor, and estate agent].”

Only one drafter provided both cross-reference notes and extensive examples to illustrate the application of a provision. Here’s a sample: “Jane is running late for her flight with El Cheapo Air. When she gets to the ticket counter area she sees a long queue of people waiting to be processed at the El Cheapo counters. A man wearing a uniform with an El Cheapo logo approaches her and asks her which flight she is taking. On hearing Jane’s answer he escorts her to the head of the queue. Sub-section (4) ensures that Jane does not commit any offence by jumping the queue in these circumstances.

Observation

Cross-references and examples help readers, but add clutter. As well, the use of examples raises issues concerning the choice of names and the gender of the characters—“Jane”, “El Cheapo Air”. The future role for cross-references and examples in an Act remains uncertain.

Placement of penalty provisions

While most drafters placed the penalty provisions towards the end of the draft statute, one drafter used a shorthand style to clarify, immediately after setting out each offence, the penalty that could be imposed. “A person must not seek to achieve the same apparent purpose of those in a queue other than by joining the end of the queue. Penalty: £xx.”

Observation

Providing the penalty information in conjunction with the offence has the advantage of immediately linking the consequences to the infraction. It also avoids penalty sections at the end of a statute which are rife with cross-references.

Section numbering and numbers

Two different section-numbering styles were used. Most drafters followed tradition and used a number for the section and a number in brackets for the subsection, continuing sequentially throughout the draft statute: 1(1), 1(2), 1(3), 2(1), 2(2), 3, etc.

One drafter chose to use decimal numbers and to keep all sections under Part 1 labeled with a 1, all sections under Part 2 labeled with a 2 etc: Part 1–1.1, 1.2, 1.3, 1.4, 1.5; Part 2–2.1, 2.2, 2.3, 2.4, 2.5, etc.

Some drafters chose to use numerals for all numbers referenced in the statute—“within 5 years” rather than “within five years”.

Observation

The issue for drafters is not only that the numbering system they use for a new statute has integrity and works but also that the numbering system can withstand the onslaught of amendments. The “by Part” decimal-numbering system would seem to be less vulnerable to chaotic numbering as a result of multiple amendments. It has the added advantage of allowing a reader to know immediately in which part of the statute the section can be found.

Writing numbers as numbers instead of using words may help readers grasp meaning more quickly but is awkward when a number starts a section or sentence.

Must / shall

And now we come to the one drafting issue that all six drafters handled in the same way. The word “shall” is nowhere in their drafts. All six drafters used “may” to express permission or possibility and “must” to create obligations.

Observation

Given the range of differences on other matters, it is encouraging to see that all the drafters believe that “shall” does not belong in a statute drafted following plain language principles.

Conclusion

The Master Class exercises were an invaluable opportunity to appreciate how different drafters from different jurisdictions approach writing problems. A world-wide interest in plain language drafting has not yet resulted in a shared understanding of the best plain language techniques to use. We need more opportunities to discuss options and then test their effectiveness to build our collective knowledge.

And it is clear that no one should ever underestimate the challenges of drafting clearly.

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Vicki Schmolka is a lawyer and plain language consultant working out of Kingston, Ontario, Canada. She drafts banking documents, contracts, policies, and other legal documents, as well as public legal education materials and consultation papers. She admires legislative drafters who struggle for clarity in a murky environment.



**More photos from Clarity's July 2005 conference
at the Université du Littoral Côte d'Opale
in Boulogne sur Mer, France.
See *Clarity* 54 for other photos.**



Sharing ideas at one of the international roundtables on plain language. From left to right: Neil James, Salomé Flores Sierra Franzoni, and Halton Cheadle.

Annetta Cheek and Peter Butt watch as Vicki Schmolka leads an international roundtable.



William Lutz, Michèle Asprey, and Christopher Balmford—the final panel at the conference.

Introduction to the international roundtable at the PLAIN Conference

The papers presented here originated in Washington at the Plain Language Association International's fifth conference in November 2005. Although 14 countries were represented there, these plain-language state-of-the-nation summaries represent six countries: Australia, Chile, Spain, Sweden, U.K., and U.S.A. We hope to present more in the next issue.

Courage, verve, tenacity, commitment—these are words that come to mind in reading about the diverse and creative plain language histories and campaigns around the world. Threaded through the textures of these pieces is the unifying theme of democratizing language for the people.

Read and enjoy!

Christine Mowat

Plain language developments in Australia

Neil James

Plain English Foundation, Australia

The Don

After a decade in which plain English progressed behind the scenes in Australia, one recent phenomenon brought language back into broader public prominence. In late 2003, Don Watson, the speech writer of former Prime Minister Paul Keating, released a small volume of loosely connected rants about the misuse of language. Called *Death Sentence*, within weeks the book was walking off the shelves, and it went on to be the Book of the Year for 2004. It galvanized mainstream public debate about language in a way that has not happened for over a decade. He followed up quickly with a companion bestseller called *Watson's Dictionary of Weasel Words*.

But how might we read Watson's success, coming as it does after more than two decades of a plain English movement in Australia? Is it a sign of growing support, or does it show that the mainstream experience remains untouched by plain language? Unfortunately, we just do not know. There is little comprehensive information available about the adoption of plain English in Australia. Nor do we have any systematic way of measuring its take up.

Institutional support

At the very least, the Watson phenomenon has opened up much needed public discussion about plain English. Our language is now flavour of the month in academic conferences and writers' festivals; it has attracted hours of radio time and metres of column inches. The difficulty is that there has been no established institution in Australia to take advantage of this opportunity. Unlike the United Kingdom, Australia has no Plain English Campaign with a ready media presence.

Such things have been tried in the past, of course. Official support for plain English peaked in the International Literacy Year in 1990. A publicly funded Reader Friendly Campaign produced a guide and documents kit. It launched the Reader Friendly Awards and attracted considerable media coverage. After strong start, however, the organizers struggled to raise sponsorship, and the campaign

folded after two events. Plain language went behind the scenes, quietly working its way through companies and agencies, but without much of a public presence. This is probably why the public responded so strongly to Watson: he provided a missing outlet for their frustration.

For if Watson's success demonstrates one thing, it is that there is still too much poor language about. Our institutions still do not turn to plain language as their first option. And unlike America, Australia has had no plain language laws or Executive Memoranda officially sanctioning plain language at any level of government or industry. There are policies of course, but without formal programs to back them up, they are often ignored. Without institutional backing, the battle for plain language has been fought workshop by workshop, document by document, organisation by organisation.

The professions

There certainly have been significant gains. In the law, plain English has transformed the drafting of legislation. Major Federal projects in the past decade included the Corporations Law Simplification Project and the Tax Law Improvement Project, but laws governing sales tax, mining, aged care, and the public service also benefited from plainer language. The Courts, however, still largely use legalese. A study in the Queensland Supreme Court found that the readability of the bench books used to brief juries was at Grade 17. Fortunately, the Courtlink process in NSW, which is rationalizing court administration, has also begun to simplify over 300 standard court forms, many of which used decades old wording. Medium-to-large law firms are also making plain language more mainstream, but progress in the smaller suburban law firms has been much slower.

In the world of finance, the public sector is leading the way. Four of the seven Auditors General in Australia have introduced plain language over the last five years. Unfortunately, only one of the 'big four' corporate accounting firms has done so, and for the average taxpayers going to a local accountant, very little has changed. Accountants take the lead in their writing from Australian Accounting Standards, which are close to the worst documents ever written in the English language.

Fortunately, the corporate world is coming under increasing pressure to adopt plain language. A recent Royal Commission found that the quality of financial reporting directly contributed to the high profile collapse of the insurance giant HIH. Commissioner Neville Owen recommended that plain English audit reporting become mandatory. As a result, corporate regulators are beginning to take more notice of plain language, but there is not as yet any compulsion to do so.

The banks in Australia are not so open to plainer writing. Nobody even attempts to read a mortgage document before they sign it. Recent case law might start to convince them: a bank not long ago lost a case solely because the bench ruled that its customers could not have understood the contract they signed. Even the standard disclaimer that "I have carefully read and understood" the document did not save the bank.

But if the results in the legal, finance, and corporate worlds are mixed, the universities are almost determinedly in the stone-age. Academic jargon and obfuscation are rife. Departments of English are not the natural supporters of plain language as departments of writing and rhetoric in America can be. Yet the University of Sydney recently surveyed a range of employers about the writing skills of its arts graduates, and found they fall significantly short of what they need in the workplace.

Then there is government. Almost every agency has some kind of policy or pays some kind of lip service to plain English, yet few achieve anything like it. A survey by the Plain English Foundation found that the average readability of more than 600 government documents from dozens of agencies over the last five years came in at Grade 16. They use about 40% passive voice. Their tone is still too formal, and their layout is awful. There's at least another generation's work needed to turn them around.

Future trends

So it is not all doom and gloom, but the task remains large. Fortunately, we have some excellent plain language practitioners throughout the country, such as Peter Butt, Robert Eagleson, Annette Corrigan, Christopher Balmford, Michèle Asprey, and Nathan McDonald. But there are currently not enough of us for the job at hand. We are largely a movement of individuals, all doing excellent work, but without national standards to work to, without a professional association to strengthen collective action, and without comprehensive public programs to reach the broader community. We tend to get together only at international conferences like Clarity and PLAIN.

One attempt to respond to these problems at an institutional level was the establishment of the Plain English Foundation in 2003. I should declare that this is my organisation, so I'm speaking here about my own future hopes. Our initial idea was to be an umbrella and a rallying point for plain language in Australia. To begin with, however, we needed a financial base. That comes from typical plain language consulting activities: training, editing, template engineering, coaching, testing, and so on.

We have retrained over 3,000 professionals in plain language. This gave us the financial backing to turn to a broader public purpose.

Sue Butler, editor of the *Macquarie Dictionary*, officially launched the Foundation at the Sydney Writers Festival in 2003, where we held the first of our annual public forums on plain English. The topic of "Diseased English: can it be cured?" filled an entire theatre and left about 60 people on the footpath outside listening to the discussion on speakers. We repeated the experience in 2004 with a session on "Political speak: double talk versus plain English". These sessions generate considerable media interest—dozens of articles and interviews across six states. Even Rupert Murdoch's tabloid *Telegraph* editorialized in support. These first events prove that it is possible to repeat the success of the Reader Friendly Campaign of more than a decade ago.

The next step is establishing a research program to fill some of the knowledge gaps about plain language in Australia. In September 2005, the Foundation co-hosted a conference with the University of Sydney on the methods of the new rhetoric movement and their implications for professional writing. This also attracted the media, with a radio audience in six states topping 2.5 million people. We are also developing a system of performance indicators to measure professional writing in the hope of setting some standards for plain English in Australia.

For Christmas 2005, the Foundation trialed an email campaign, sending out a Christmas e-card with traditional carols written in officialese, legalese, tax accountant speak, computer jargon, and so on. The idea was to circulate a PDF file for free as an 'idea virus' promoting plain English, and the impact was enormous. Within hours, newspapers around the world were contacting us requesting permission to reprint. It was a positive lesson in the power of both technology and humour in getting the plain language message out there.

So like the plain language movement internationally, Australia has no shortage of opportunity, but there is more work ahead of us than behind. In the last two years, we've re-emerged from behind the scenes to a more mainstream public position. If as a profession we can maintain that public presence, and back it up with the practical consulting work that helps organisations to change their writing cultures, the next generation will see permanent improvements in our public language. At the very least, we will not need a former speech writer such as Don Watson to rally public support.

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After completing a doctorate in English, Neil James co-founded a plain English consultancy with Peta Spear in 2000 that is now called the Plain English Foundation. Neil has published two books and over 50 articles, essays, and reviews on language and literature. He speaks regularly about plain language in the media throughout Australia.

New rules for leases

New standard clauses will soon be required for registrable leases in England and Wales (broadly, those for a term exceeding 7 years). The Land Registration (Amendment) (No 2) Rules 2005 (SI 2005 No. 1982) make the wording compulsory from 19 June 2006 and voluntary meanwhile.

Draft compulsory clauses were sent out for consultation last year and we were concerned to see that they were poorly drafted, and in the traditional style. This was a step backwards for the Land Registry, and Clarity objected.

We are happy to say that most of the offending material has gone. The final version is not ideal, but Clarity members should be able to continue drafting leases without serious moral or aesthetic discomfort.

The report on the consultation (including the new rules) is available free from www.landregistry.gov.uk.

Plain language in the Senate of Chile

Claudia Poblete Olmedo

Linguistic Assistant, Senate of Chile

Interest in plain language in Chile started through its association with transparency in government. There developed an interest in giving the average citizen the most information about the activities, functions, and duties of the parliament—legislation, debates, etc. However, it became clear that it was not enough to give information about processes; it was also necessary to consider the quality of the language through which the information was being made known. It was important that the message be understandable and accessible to the average citizen.

Here in Chile, we were aware of the plain language activities in Mexico, and in June of 2005, thanks to an invitation from the Mexican government, I visited that country to gain some basic knowledge of the topic and understand how plain language (*lenguaje ciudadano* in Mexico) worked and was put into practice. The trip gave me the opportunity to visit The Secretary of the Public Function, where I attended a workshop about plain language and came to understand its concrete application. This trip was very helpful and has served as motivation for several initiatives here in Chile.

Motivated by the development of plain language in Mexico, a conference called “Transparency, Right, and Language” was carried out in the Senate of Chile, on the 22nd of August, 2005. Two interesting talks about the relationship of language and rights were presented. This conference tried to open the debate on how language can become a democratizing tool if it is understandable for the average citizen. Authorities and workers from different areas attended the conference—for example, professors from different universities, chiefs of public services, librarians, short-hand writers, lawyers, etc.

The first presentation was by Lorena Donoso, professor of the University of Chile. She focused on the analysis of laws with extensive citizen impact and on how these had been broadcast and, subsequently, understood by the population.

The second presentation was by Dr. Daniel Cassany, professor at Pompeu Fabra University in Barcelona, Spain, who discussed a series of aspects of plain

language, such as its meaning, origin, foundations, characteristics, the benefits it brings (communication, identity, values, and attitudes), the countries where it has reached a major diffusion, its importance, and consequences of its application. He also presented a series of examples from Mexico and Spain.

This conference helped us reflect on plain language issues and encouraged the authorities of the Senate of Chile to make a compromise on the delivery of information in an accessible language. It also convinced the authorities and the audience that not only is the amount of information important, but also that this information must be clear.

This activity was well received by the media of our country; they covered it widely in the written press, on television, and on the Internet. It brought Chile into a world-wide effort which previously had little impact on us.

Dr. Cassany told us about the International Conference on Plain Language. I was fortunate in that I was able to attend. I received much information about the experiences different countries have had with plain language. It was especially helpful to me to see how the experience with plain language has been related to legislation, which is the area that is most interesting for the Senate.

All of this attention to plain language has helped to support the big challenge that is ahead for us in Chile: to make both judiciary language and the language of the law understandable to those who need it and use it—the average citizen.

For us, this is a very a difficult task that requires almost a “linguistic revolution.” We are aided by other models and initiatives, like that of Sweden, which involves their Ministry of Justice. Closer experiences, even though not exclusively involving the judicial system, like the one of Mexico, are also helpful. On the other hand, this complex task constitutes an interesting and attractive challenge. The interest by the Senate authorities to continue with this effort is the critical factor that will allow us to proceed.

A concrete advance in unifying the procedures and language in the Senate will occur with the upcoming publication of our first *Style Manual*, which will guide the writing of documents in the Senate, simplifying the elements that make it difficult to understand the text, such as a reloaded syntax.

The big task for the future is to shake those who use judicial language so that they think of their audience when they work with the law. The mistake that is made, it seems worldwide, is to believe that the law is made for another lawyer. Authors fail to see what in innumerable models of written expression (editing models) is called “rhetorical situation”

(What am I writing? How am I writing? For whom am I writing?).

As a language teacher, researcher in the area of writing, and current law student, my personal challenge is to convince my future colleagues about the importance of plain language in the judicial area.

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Claudia Poblete Olmedo is a professor of Spanish with a degree in Cultural Journalism and a Masters in Linguistics. Currently, she is a law student. She was educated at the Catholic University of Valparaiso. She teaches linguistics and phonetics at the University of Valparaiso and is a linguistic adviser in the Senate of the Republic of Chile. She is a member of both Clarity and PLAIN.

Clarity seminars on clear legal writing

(accredited by the Law Society for CPD)

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Contact Mark Adler on
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Plain language in Spain

Cristina Gelpi

Pompeu Fabra University, Barcelona

Introduction

Spain is situated in Southern Europe. It has a population of approximately 40 million inhabitants and has been a member of the European Union since 1986. It is a parliamentary monarchy organised in autonomous communities, and its legal system is based on civil law (and not on common law); therefore, laws take precedence over jurisprudence.

Plain language is not new to Spain. It has existed for 25 years and is basically conceived as a movement for renovating written language to make it more readily comprehensible. To understand the plain language concept, the orientation of promotion campaigns, the results we have seen up to now, the main difficulties in developing plain language to the fullest in all the fields of written language as well as the challenges that lie ahead, we need to take a look at Spain's recent history.

Plain language in Spain plays a key role because it is associated with democracy and text comprehensibility. It is especially important when it comes to formulating current legal writing.

When we talk about plain language in Spain we are not only referring to plain language in Spanish

The Spanish Constitution states that Castilian is the official Spanish language of the State. All Spaniards have an obligation to know it and the right to use it. At the same time, it also states that the other Spanish languages, in other words, Catalan, Galician, and Basque, are also official in their respective autonomous communities. The Spanish Constitution acknowledges that the richness of the different linguistic modalities of Spain is a unique heritage that must be protected and respected.

At the moment, all the inhabitants of the State are Spanish speakers. There are approximately 11 million Catalan speakers, 4.5 million Galician speakers, and less than a million Basque speakers. Although all four languages enjoy similar legal recognition, the campaigns aimed at spreading the principles and guidelines for plain language writing have varied from one autonomous

community to another. This is mainly due to the different populations of speakers as well as to the different linguistic policies that have been introduced since 1978. In Catalan, plain language is highly developed; in Galician and Basque, it has witnessed a medium level of development, and plain language has only recently begun in Spanish.

Plain language in Spain has been in existence for over 25 years.

Broadly speaking, the adoption of plain language principles in Spain can be divided into three phases:

- a) From 1940 to 1978. This is considered a prior phase because during this period Spain was under the General Franco dictatorship. The writing style of the Public Administration during this time was not readily comprehensible. It was obscure and written exclusively in Spanish. The use of other languages was restricted to the domestic sphere, and they almost completely disappeared from institutional documents.
- b) From 1980 to 1990. The first works on plain language were brought out during this period, primarily in Catalan.

The autonomous governments and local administrations were the first to change the style of their discourse with citizens. Writing guidelines were put forward for the first time, and these were mainly derived from English. Plain language during this period took on the form of a series of writing recommendations in languages that the dictatorship had suppressed for 40 years. The first simplified forms were also drawn up for writing legal documents.

- c) From 1990 onwards. This is the period during which plain language principles really took off. The linguistic normalization of the minority languages (Catalan, Galician, and Basque) began to yield results, in the form of periodical publications on plain writing as well as style manuals for both public and private sectors. Throughout these years, plain language guidelines have gradually been adapted to address the specific characteristics of the languages of the Iberian peninsula. Recommendations which had initially been drawn up for English were remodeled after it became evident that the style of some recommendations was not compatible with the rhetorical style of the Hispanic languages.

Plain language in Spain is not just a campaign around simplification

At the end of the dictatorship, the minority languages (Catalan, Galician, and Basque) had to

recover the rights and freedoms of democracy. The need arose in all three languages to recreate a writing style, given that continuity had been broken by the dictatorship. This entire process came to be known as "normalization." And within this context of creating a new rhetorical style, plain language became a very opportune option.

One of the fields where plain language had the greatest influence was in legal writing. The subsequent legal writing style combined three fundamental elements: normativity, precision, and plain language. Normativity is defined as respect for the linguistic norms imposed by the academic institutions of the language (for the four languages: the Real Academia Española, Institut d'Estudis Catalans, Academia de la Lingua Galega, and Euskaraz). This matter is specific to cultures which have been predominantly influenced by Roman Law. It acknowledges the existence of an authority, which expresses its decisions in grammars and dictionaries. Therefore, the legal language in Spain had to be normative in this institutional sense.

Besides being normative and precise, the style of written language had to respect tradition and the democratic principles of the State. Most of the languages of Spain had had their own written style in previous centuries (in Catalan, for example, the tradition goes back to the fifteenth century). As regards democratic values, public language had to be respectful and not discriminate in matters of gender, race, sexual orientation, ideology, and religion.

All these considerations point to the fact that plain language in Spain is not so much a campaign based on simplification but a movement to create a style of rhetoric for the languages of Spain. This is the reason why there have in fact been very few campaigns aimed at simplifying and reformulating documents. There haven't been large projects aimed at correcting the style of writing and, on the other hand, most campaigns have focused on educating the population in how to write in plain language.

Plain language in Spain has modified guidelines which were originally drawn up for the English language.

The principles of plain language are very much alive in Spain today, but they have undergone a series of implementation phases. In the beginning, written language guidelines were practically literally translated from English without taking into account that the style of rhetoric of the languages of the Iberian peninsula was not, in fact, comparable with English. Very soon after that, people realised that the principles were valid in themselves but that the guidelines needed to be adapted in line with certain formal characteristics such as the rhetorical style of the languages of Spain.

For example, the syntactical structure of the Romance languages makes it difficult to form sentences with just 15 words. Although in English 15 words are enough to form sentences, for Romance languages, they are not enough. It could be said that the functional equivalent of 15 words in English is approximately 25 to 30 words in the Romance languages. The same can be said for capital letters: in English, capital letters highlight the text and make it more comprehensible, whereas in Romance languages, capital letters are regarded as a visual and functional obstacle in the text, and stylistic guidelines generally opt for the use of small letters.

In addition to these modifications, the plain language movement in Spain has made an effort to draw up a series of guidelines to address the most frequent inadequacies of the peninsular languages. For example, the use of the pronominal passive with an explicit agent, the use of the gerund when referring to a former action, the use of formulaic addresses for the sender and receiver of a text, discrimination based on grammatical gender, etc.

Plain language in Spain still has some way to go

Even though plain language is being promoted in all the languages of Spain and in all fields, it cannot be said that it is a widespread reality throughout the State and in all communication situations.

Of all the languages, a lot of work still needs to be done with Spanish as far as plain language is concerned. Efforts have recently been made to spread it to all spheres, but it must be acknowledged that this is not an easy task. With regard to the different areas, it plays a key role in the field of education, because plain language forms a part of the curricula of compulsory as well as upper secondary and university education. It is also very important in legal writing, both in writing legal guidelines as well as in texts used in legal practice.

There are different kinds of obstacles that need to be overcome to spread plain language throughout Spain. To a great extent these have to do with the linguistic training received by legal practitioners and the language in which they acquire their specialised knowledge (very traditional and almost exclusively in Spanish).

Spreading plain language to all communication situations, in all the languages of Spain, and to all the people who speak them is a challenge which demands a great deal of time and effort. But everything seems to point to the fact that we are heading in the right direction.

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What's on in plain Swedish?

Anne-Marie Hasselrot

Ministry of Justice

There are two recent developments of note in the world of Plain Swedish. One concerns exciting plans for a government body aimed exclusively at looking after the Swedish language. The other is about continuing our well-established Plain Swedish work in the field of European Union language usage.

Looking after the Swedish language at home

Four national language policy objectives

In the autumn of 2005, the Swedish government proposed four new objectives for national language policy in its Parliamentary Bill "Best language—a concerted language policy for Sweden". Its objectives are to ensure that:

- Swedish remains the main common language of Sweden,
- Swedish remains a complete language, serving and uniting society,
- the Swedish used by authorities is simple and comprehensible,
- everyone has the right to develop and learn Swedish, to develop and use his or her own mother tongue and minority language, also to have the opportunity to learn foreign languages.

The objectives include Plain Swedish work

The government states that a public administration that wishes to gain and keep the trust of citizens must communicate in language that is easy to understand. It also states that plain language work, i.e., action to improve official texts of various kinds and to adapt information to its intended audience, is important and should form a natural part of the activities of government authorities. The Bill proposes that the activities of the Plain Swedish Group in the Government Offices should be moved to the new language planning body.

A new state body for language planning

The new body, which will be coordinated with an existing institute for dialectology in the town of Uppsala starting July 1, 2006, will be based on the activities of the Swedish language council, the Finnish language council in Sweden, and the Plain Swedish Group. There they will work together, looking after all aspects of the Swedish language.

Some of the relevant areas of activity of the new agency will be promoting the use of new Swedish terms, providing information, and helping people find advice and language recommendations that already exist.

Obviously, this includes promoting clear and comprehensible official texts. Other areas of work for the new agency will deal with sign language and with promoting and protecting the national minority languages Sami, Finnish, and Meänkieli.

Not included in the plans for the new agency, however, is the plain language work of the Division for Legal and Linguistic Draft Revision in the Ministry of Justice. This work, which has been going on for thirty years, will continue—with the exciting new addition of a language service aimed at the European Union.

Looking after Swedish in the European Union

A few years ago, a special EU Language Service was set up as part of the Division for Legal and Linguistic Draft Revision at the Swedish Ministry of Justice. It has increased in importance over time and is kept very busy indeed! The backbone of this work is the website of the Swedish government (www.regeringen.se/klarsprak).

Guidelines and recommendations for EU texts

The information on the website includes checklists on how to comment on translations of draft EU legislation still under consideration by the Commission, the Council, or the European Parliament. There are also guidelines on how to request corrections in legislation that's already been adopted. The website also provides access to various agreements and guides in the field of drafting legislation, drawn up by the institutions themselves.

This kind of information can prove useful for Swedish officials in EU working groups where legislation is drafted and discussed. Obviously, it's good if these officials are aware that the institutions themselves have agreed that legislative acts must be clearly, simply, and precisely drafted. Likewise, it's useful to know that the institutions themselves have stated that drafters should avoid overly long articles and sentences, unnecessary convoluted wording, and excessive abbreviations.

A helpful network of contacts

A broad network of contacts from some forty government agencies and all ministries has been set up. These people function as a gateway to the different experts at the agency or ministry. They channel up-to-date information from the EU Language Service to the experts and help the translators at the institutions quickly find the right person when they have questions about terminology, for example. The EU Language Service, in turn, works closely with the translators and lawyer-linguists in Brussels and Luxemburg and with language organisations in Sweden.

The EU Language Service monitors work on better drafting practices

A good deal of work is now being done in the EU on better regulation. Clear and simple regulation is an issue to which Sweden gives priority. One of the things the EU Language Service does is monitor and influence this area. In the work done with an inter-institutional agreement on how to improve the quality of legislation, for instance, Sweden emphasised the need for linguistic and editorial quality in legislation. During the work at the Convention on the Future of Europe, we even proposed an addition to the new constitutional treaty on this very point, though unfortunately it didn't get through to the final negotiations.

But plain language thinking is taking root in the EU institutions as well, and the pressure must now be kept up!

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Since 1997, **Anne-Marie Hasselrot** has worked as a Language Expert at the Division for Legal and Linguistic Draft Revision at the Swedish Ministry of Justice. She takes an active part in revising and modernising the language of all kinds of governmental documents but primarily legislative acts. Other tasks at the Government Offices include writing guidelines and holding training sessions for Government officials. At present, she is also serving as an expert in the work of a law commission appointed to make a technical revision of all Swedish social insurance legislation. Before moving to the Ministry of Justice, she spent five years on the Committee on Translation of EC Law, revising the Swedish translations of the European Union legislation. She holds a Bachelor of Arts and a graduate degree from the academic programme for Swedish language consultants at the University of Stockholm.



Recent plain-language progress in the UK

Sarah Carr

Carr Consultancy and Plain Language Commission

In the UK, there is no dedicated plain-language function in central government, although some departments do have employees with some responsibility for plain language. These people's titles vary greatly, and it is hard to know exactly how many there are. I am aware that the Department of Health has a Head of Health Literacy (Michael Horah), and the Forms Unit of HM Revenue & Customs has a Head of Usability (Christine Yates).

In the private sector, a number of businesses provide plain-language services. Three of the best-known are perhaps Plain Language Commission (PLC) (www.clearest.co.uk), Plain English Campaign Ltd (www.plainenglish.co.uk), and the Word Centre (www.wordcentre.co.uk). PLC is run by Martin Cutts, who conceived and co-founded the Plain English Campaign in 1979 and was a partner there until 1988. Being an associate of PLC, I am most familiar with their work.

I am going to describe two recent examples of plain-language work in the UK: one based in government and the other in the corporate world. Through my own (much smaller) business, Carr Consultancy (www.carrconsultancy.org.uk), I work with the UK's National Health Service (NHS). I will end by looking at plain-language progress in healthcare.

A government example: progress in law

Following Martin Cutts' rewrite and redesign of the Timeshare Act, the Government has been running the Tax Law Rewrite Project since 1995. Its task is to rewrite several thousand pages of tax law in plainer language while keeping its essential meaning.

The project has improved tax law, but at a price to the taxpayer. While asking us to use "extreme caution" when quoting its figures, the Tax Law Rewrite Project says it has so far spent £19.9 million on rewriting 760 pages of law. This means a cost of £26,000 a page. Projects like this do cost a lot to start up and in the early stages. Nonetheless, there are still 2,090 pages to rewrite. Remember that these costs are only for rewriting tax law. All other laws remain untouched.

But some new laws, such as the Inquiries Act 2005, do read as if plain-language thinking has heavily influenced them. Unfortunately there are others—the Gambling Act 2005, for example—that are anything but clear. Martin Cutts describes the latter as “an amazing exercise in elaborate and bewildering negativity with a plethora of internal cross-references.” He believes it is “incomprehensible to people with normal brainpower.” If lessons have been learnt from the Tax Law Rewrite, they have not been applied here. We think it would help if plain-language practitioners were involved in writing and revising laws.

In the first edition of *Lucid Law* in 1994, Martin Cutts called for a citizen’s summary to go with each Act. He repeated this in 2001, in *Clarifying Eurolaw*, and again in 2002 in a follow-up booklet, *Clarifying EC* [European Commission] *Regulations*, with Emma Wagner. Emma, who helped start the Fight the FOG campaign (<http://europa.eu.int/comm/translation/en/ftfog>), continues to champion the Citizen’s Summary project.

The idea behind the project is that citizens need clear and accurate information about EC and EU (European Union) legislation because it affects their life, work, and prosperity. The citizen’s summary would give readers a quick overview of the main content, remind lawmakers of their ultimate audience and paymasters, and deter Eurosceptics from deliberate misrepresentation. It would not have legal force and would not be interpretive.

Instead, since 1999, a separate explanatory note has been available through the Office of Public Sector Information (www.opsi.gov.uk/legislation/uk-expa.htm). If you look at the summary for the Gambling Act (which you can find by entering “Gambling Act” as the search term on this website), you will see just how inadequate and unplain it is.

The EC has recently proposed adding what it calls “layperson’s summaries” to policy documents. This is good, but shows that lawyers in the institutions of the EU still oppose summaries of legislative documents. Many politicians and communications experts support citizen’s summaries. But lawyers seem not to understand that they would make EU legislation more accessible and less prone to misreporting by the Eurosceptic media.

Diana Wallis, a Member of the European Parliament, has recently supported the Citizen’s Summary project by stating in her forthcoming opinion on the Application of Community Law that she considers it important “to improve the citizens’ understanding of EU legislation and therefore proposes to include a citizen’s summary in the form of a non-legalistic explanatory statement accompanying all legislative acts.”

A corporate example: progress in financial services

The Financial Services Authority (FSA) regulates the personal finance and insurance industries. It aims always to use plain language in communicating with consumers. Most of its public leaflets and fact sheets about pensions and investments carry PLC’s Clear English Standard. In August 2005, the FSA launched its redesigned website (www.fsa.gov.uk). Accredited by PLC, this is easier to use and more accessible, in line with consumer research.

The FSA also does its best to encourage financial services companies to communicate plainly. For example, it has tightened the rules on referring to past performance in financial advertising. The FSA and the Financial Services Compensation Scheme (a fund of last resort for consumers when firms go bust) are both corporate members of PLC.

In 2001, the Pensions Protection Investments Accreditation Board (PPIAB) started running an accreditation scheme. Supported by subscriptions from the brands it certified, the scheme tested (among other things) the clarity of financial services documents. Sadly, it has now closed. The staff, among them many committed plain-language practitioners, are losing their jobs. It is not yet clear exactly what (if anything) the Association of British Insurers, which backed the PPIAB as part of its Raising Standards scheme (www.raisingstandards.net), will be replacing it with. A set of clarity platitudes under the Raising Standards banner seems likely.

Progress in healthcare

In Europe, the European Medicine Agency (www.emea.eu.int) has begun publishing summaries of European public assessment reports written so that patients and the public can understand them.

In the UK, there was an important move forward in 1997, when the Centre for Health Information Quality (CHIQ) was established with funding from the Department of Health, as part of an independent charity, the Help for Health Trust. The CHIQ acted as a clearing house for the NHS and others, playing a lead role in evaluating health information for the public. It also provided training and support for producers of health information, and developed the TriangleMark to accredit information that met its standards. The CHIQ considered three key elements to the quality of information: relevance, accuracy, and clarity.

Sadly, the Help for Health Trust went into liquidation in March 2005. The good news is that the manager, Tom Hain, is now Deputy Chair of the Patient Information Forum (www.pifonline.org.uk). This is an independent forum for sharing good

practice among those involved in producing and disseminating consumer health information. It supports the need for patients to have high quality information to enable them to become more involved in their healthcare. Tom is also working with the Department of Health to set up an Information Accreditation Scheme to start in 2007 (subject to ministerial approval). This was heralded in the strategy document *Better information, better choices, better health* (Department of Health, 2004), which you can read on the Department's website (www.dh.gov.uk). The scheme will no doubt benefit from a lot of learning from the CHIQ and the Patient Information Forum.

Although not official as yet, I understand that more good news is expected: the Department of Health, through the National Consumer Council, is said to be setting up the National Collaboration for Health Literacy later this year. Michael Horah is expected to make an announcement in late May.

The NHS has been described as a "political football." Constant policy changes make most NHS managers too busy in the short term to think of the longer-term benefits of getting all staff to write in plain language. Much more of my work with the NHS is easing managers' workload by writing individual documents for them—a worthwhile task, but rather akin to fiddling while Rome burns.

This is a generalisation: I have worked with some NHS organisations that are genuinely keen to adopt plain language in their organisations. For example, my local primary care trust has used plain language to decrease the volume and increase the clarity of their board papers. We believe this allows board members to make better-informed decisions about the health of the local population. We achieved this through introducing a style guide and requiring anyone who wished to submit a paper to the board to attend plain-language training. I have also edited patient information into plain language for several hospitals.

Health Scotland (www.healthscotland.com), the main health education body in Scotland, became a corporate member of PLC in 2005 and gets many of its documents accredited by PLC.

Other providers of plain-language services will attest to similarly positive developments in many individual public bodies, businesses, and law firms. Our and their training, editing, and accreditation work goes on—as does advocacy of plain language and its enormous value to both organisations and individuals.

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I would like to thank Martin Cutts (PLC), Mark Duman and Tom Hain (Patient Information Forum), and Caroline Jarrett (Effortmark Ltd—www.effortmark.co.uk) for their comments and information.

Sarah Carr has a first degree in French and Scandinavian with Teaching English as a Foreign Language, and a master's in business administration (MBA). Sarah worked as a manager in the National Health Service (NHS) for seven years. She now runs Carr Consultancy, specialising in plain English writing, editing and consultancy for the NHS. Sarah is also an associate of Plain Language Commission. Her publications include Tackling NHS Jargon: getting the message across (Radcliffe Medical Press, 2002).



Plain language in legal agreements—is it safe?

When? Tuesday 10 October 2006
at 6.00pm

Where? Denton Wilde Sapte
1 Fleet Place (off Limeburner Lane)
London EC4

Many lawyers, even if they use plain language to their clients, hesitate to depart from "tried and trusted" precedents when drafting contracts.

- Might a more user-friendly style of drafting hold pitfalls for the unwary drafter?
- Is this fear based on reality or on lawyers' traditional resistance to change?

Lord Justice Rix, formerly the judge in charge of the Commercial Court in London and now a member of the English Court of Appeal, has kindly agreed to address Clarity on the safety of plain language in contracts.

This event will be open to non-members as well as Clarity members—so reserve your place now.

Those who can give an email address will get a reminder in the autumn. To secure a place please send an email

To: rsvp@dentonwildesapte.com

Subject: "plain language in legal agreements"

Contents: give your name, organisation, and email address.

For those without email, please post your reply to:

Rachel Homer, Events Team
Denton Wilde Sapte
124 Chancery Lane
London, EC4A 1BU

Plain language in the United States government

Annetta Cheek

Chair, Plain Language Action and Information Network

Through the late 1990s, plain language began to gain a foothold in the United States government because of the support from the Clinton administration, especially Vice President Gore's National Performance Review. We were seeing many examples of plain language in the private sector, and this encouraged the government's efforts. The current administration does not have a formal plain-language initiative. However, a mandate for communicating clearly with the public is part of the administration's philosophy, and many agencies have strong, active plain-language programs in place.

Federal Aviation Administration (FAA)

FAA has been building a plain-language program since 1999, when a survey of an important customer group, commercial pilots, revealed dissatisfaction with the clarity of FAA's standards and regulations. I work at FAA, in the Office of the Administrator, and help with plain-language projects in all parts of the agency, especially regulations and guidance material intended for the public. We have a program to train employees in plain language, which so far has reached over 2,000 employees. The FAA has made important progress in plain language but has a long way to go.

FAA hosts the government-wide plain language site, www.plainlanguage.gov, as well as the monthly meetings of the government-wide plain language group, PLAIN. The FAA's Administrator, Marion Blakey, is very supportive of plain language and has become a spokesperson for the government-wide initiative. The FAA has a plain language website for employees.

Federal Register

The Office of the Federal Register, which publishes all federal regulations in the *Code of Federal Regulations*, encourages agencies to use plain language. In 1996, the Register redid its handbook for regulation writers—the *Document Drafting Handbook*—to conform to plain-language principles. It has produced two excellent aids to plain language, “Making Regulations Readable” and

“Drafting Legal Documents.” You can find these tool on its website at <http://www.archives.gov/federal-register/write/plain-language/>.

Food and Drug Administration (FDA)

Many offices within FDA, such as the Center for Drug Evaluation and Research and the Center for Devices and Radiological Health, now stress how important it is to send their messages to the public in clear language. They seek input from the public, through public meetings and usability testing, about what communication works and what doesn't, especially in communicating health risks.

National Institutes of Health (NIH)

NIH has a plain language coordinating committee that meets regularly and helps spread the word about clear writing to all the NIH Institutes and Centers. Every year, the agency hosts a large awards ceremony, recognizing the effort to communicate clearly in various ways, from technical reports to pamphlets for general audiences to websites. The agency developed an on-line tutorial in plain language, targeted to medical writers.

Securities and Exchange Commission (SEC)

In his first speech to the staff of the SEC, current SEC Chairman Christopher Cox said that former SEC Chairman Arthur Levitt's effort “to encourage writing in plain English is still dead on. And when it comes to exhortations to write in plain English, the SEC has to practice what it preaches in its own rules and publications. Continuing to advance this noble initiative of my predecessors is but one of many ways in which I hope to build upon the successes of the recent past, and to ensure continuity, clarity, and consistency in the SEC's policies.” The SEC has stepped up its efforts to promote plain English in financial disclosure documents such as the management discussion and analysis section of the annual report. According to *Business Week* (September 26, 2005), the SEC has instructed companies that they must “tell investors the good, the bad, and the ugly about what's happening in their business—in plain English.”

Social Security Administration

Social Security's biggest achievement has been the plain language version of the statement all workers 60 years old and older receive about their personal earnings and benefit estimates. Inspired by a 1989 Congressional mandate, the finished product was mailed to citizens starting in late 1999. The new statement has been well received and is credited with helping Americans better understand Social Security. The notice won a No Gobbledygook Award from Vice President Gore.

Veteran's Benefits Administration (VBA)

VBA teaches new employees clear writing skills, using site instructors trained using a satellite-training program. As well as a Reader-Focused Writing Tools course (the basic satellite course), VBA now offers regulation writing, a manager's briefing to teach managers to review and support clear writing, and a briefing paper course. VBA has also developed a format for Congressional responses based on meetings with Congressional staffers.

PLAIN—the Plain Language Action and Information Network

The voluntary group of federal employees dedicated to making their agencies more sensitive to the need to communicate clearly has been meeting monthly since the mid-1990s. In early 2005 the group launched a redesign of its website, www.plainlanguage.gov, developed by volunteers. The group continues to offer free half-day sessions introducing federal employees to plain language principles.

What's next?

Overall, the United States federal government still adheres to a writing style that is overly complex, bureaucratic, and difficult, but demand for plain language is growing. I get requests every week from one agency or another for plain-language training. Much of this interest comes from the increasing

focus on the Internet as a means of communication. Many people who routinely turn out bureaucratically written paper documents recognize that this style won't do on the web. More plain-language private-sector documents are appearing, and this encourages and empowers those in the government who try to write more clearly. It also helps them convince their colleagues to use plain language.

I am cautiously optimistic about the future of plain language in the federal government. Progress has been slow but continuous. It seems to be gaining a bit more momentum. I think the next several years will see a healthy growth in government interest in quality communication. However, we still have a long way to go.

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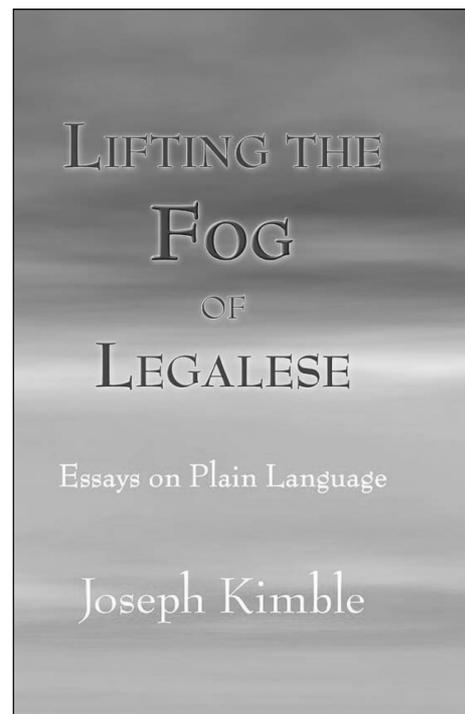
Dr. Cheek's biography can be found on page 3.

Lifting the Fog of Legalese: Essays on Plain Language

Joe Kimble's book collects many of the essays he has written over the last 15 years. It combines the strong evidence and myth-busting arguments for plain language with lots of practical advice and examples. Plain writers will love it; purveyors of legalese will not.

Published in December 2005.
Hardbound, 216 pages. US\$23.

Available from Carolina Academic Press (www.cap-press.com) at a 10% discount or from amazon.com.



Removing barriers to food stamp assistance— one complex form at a time

**Kristin Kleimann, Ilana Bain, and
Lara Whitman**

Kleimann Communication Group, Inc.

Introduction

The U.S. Food Stamp Program helps lower-income Americans and their families receive the food they need to maintain a consistent, healthy diet. Nearly “51 percent of Americans between the ages of 25 and 60 will need to use food stamps,” and a remarkable “42 percent of the U.S. population will deal with food insecurity during their lifetime.”¹

From 1994 to 2000, overall participation in the Food Stamp Program sharply declined. Participation rates that had risen from 19 million in 1989 to 28 million in 1994 suddenly dropped to 17 million by 2000²—a decline of more than 33 percent.³ Later studies showed the complexity of the application and the process were partially responsible for the decline. Many eligible participants found the burden of overwhelming forms and process outweighed the benefits of receiving assistance.⁴

Many Food Stamp Program application forms are long and poorly organized and contain complex, legalistic language. Figure 1 shows a typical form’s first page. It is visually intimidating because of the lack of white space, small type, an unpredictable layout grid, and too much bold and shading to draw applicants’ attention to the instructions at the top. Further, the instructions are confusing and often use passive voice and words applicants would not use in everyday speech.

The bottom line is that forms like this one are not applicant-centered. They are not designed with the needs of the users in mind.

In 2002, Food and Nutrition Services (FNS), a division of the U.S. Department of Agriculture (USDA), decided to help states improve their application forms to improve access to benefits. But FNS did not want to dictate or mandate how state forms should look—a perfect federal- versus-state-conundrum. Any technical assistance to the states needed to be customized, in part, because of the differences in how each state administers the Food Stamp Program.

Kleimann Communication Group, Inc. (KCG)⁵ created a unique and customized approach to providing technical assistance and was awarded the contract to work directly with states. Our approach achieved FNS’s goal to allow states flexibility in redesigning their applications. While each state had a customized plan, we based all our technical assistance on solid forms-design research and expertise. Since 2002, we have worked collaboratively with 29 states to reinvent and revise confusing food-stamp applications. The map in Figure 2 shows which states we have worked with so far.

We partner with each state for one year and address the following key goals:

- Improve food-stamp forms.
- Improve access to benefits for food-stamp applicants.
- Transfer forms-design knowledge to states.
- Build forms-design capacity within each state.
- Give states tools to redesign other forms.

How does the collaborative process work?

KCG and states partner in this project through a single philosophy: clear communication is not an end, it is a process. We work to build forms-design capacity within the states by contributing the expertise they need to redesign their forms effectively. The idea is that the best projects result from combining our expertise in communication skills with the states’ expertise in content knowledge. This project ensures that improving program access is not limited to revising just the one food-stamp form. Instead, the knowledge transferred extends beyond the one-year partnership and can be applied to all forms and documents each state produces.

Our role

Besides assistance tailored to the states’ needs, states receive the following training, guidance, and tools:

Two-day forms design training. States receive training for state staff members about the principles of effective forms design. During the training, staff members practice using forms-

DEPARTMENT OF JOB AND FAMILY SERVICES
REQUEST FOR CASH, MEDICAL AND/FOOD STAMP ASSISTANCE
IMPORTANT INFORMATION ABOUT FOOD STAMPS, CASH AND MEDICAID

Words or terms not used in everyday speech:
... household's authorized representative...

Complex Legal Language:
...may waive the...if it is determined that you meet a hardship condition.

Passive Voice
... you may be denied benefits.

You have the right to file an application the day you contact the County Department of Job and Family Services (CDJFS). Any food stamp, cash or medicaid benefits you get will go back to the state you filed if you qualify for help on that date. You can file this form with your name, signature and address, but you must finish it and be interviewed later.

If you cannot stay to fill out this form today, give us this first page. We must have at least the household's name and address and your signature, if you are the responsible member of the household or the household's authorized representative, so that today can be set as the application file date. You can fill out the rest of the form at home and bring or mail it to the CDJFS office. However, you must have the completed form and conduct an interview to decide if your household is eligible to get your first food stamps right away. If you miss the interview that the CDJFS schedules, you must contact the CDJFS and ask to reschedule your interview. If you miss your interview and do not contact the CDJFS within 30 days from the date that you file this form, you may be denied benefits. The CDJFS may waive the face-to-face interview if it is determined you meet a hardship condition. You can apply for one or all programs with this form.

If English is not your primary language, or if you are hearing-impaired, the CDJFS will provide you with someone who can help you understand the questions at the interview. This person is called an interpreter and will be provided at no cost to you; the agency will pay for the interpreter. Check the yes box below if you need an interpreter. This interpreter should also be available at other times if you need to report changes or have questions about your case. The agency must also provide you with services and reasonable accommodations if you have a disability. Let your caseworker know what you need.

*******IF YOU NEED FOOD STAMP BENEFITS RIGHT AWAY, AND YOU ARE NOT CURRENTLY RECEIVING THEM, ANSWER THE QUESTIONS ON THIS PAGE AND PAGE 2. THIS WILL HELP US DECIDE IF YOU QUALIFY TO GET FOOD STAMP BENEFITS WITHIN 24 HOURS TO 7 DAYS.*******

Street Address _____ City _____ County _____ State _____ ZIP _____ Phone () _____
Mailing Address (if different than street address) _____ City _____ County _____ State _____ ZIP _____
Additional phone number where we can reach you () _____

Are you applying for someone who is not living with you? • Yes • No If yes, who? _____
Enter the address of the person(s) you are applying for if different than the above address. Street Address _____ ZIP _____ Phone () _____
City _____ County _____ State _____

Primary language of the person completing this form _____ Primary language of the person you are applying for _____

If your primary language is not English, or if you are hearing-impaired, will you need an interpreter at the interview? • Yes • No • Does not apply

Is anyone in the household currently receiving cash, Medicaid or food stamp benefits? • Yes • No If yes, who? _____

Where (City/County/State) _____

What are you applying for today? (Check all that apply) • Cash Assistance • Medical Assistance • Food Assistance

Signature of Person Completing Form _____ Print Name _____ Date _____

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Figure 1. Before version of an assistance application form.



Figure 2. Map of States KCG has worked with over four years.

design tools and techniques and begin planning their redesign project. Training focuses on:

- Planning for a form redesign project.
- Structuring and organizing the form to help applicants complete tasks (Task Completion).
- Using layout and design to help applicants navigate through the form (Navigation).
- Simplifying and using easy-to-understand language and sentence structure in the form (Comprehension).

Copies of the *Guide to Assessing Food Stamp Application Forms*. We created this *Guide* in the first year of the project to help states evaluate their own forms as they redesign. It provides checklists and valuable information about forms-design principles. The *Guide* parallels the principles discussed during the training (Task Completion, Navigation, and Comprehension).

Comprehensive expert review. We analyze the state's current form and prepare a document that details the strengths and weaknesses of the form. Additionally, we conduct interviews with state eligibility workers about the current form. Because workers interact with the form and applicants daily, they can provide more information on what works and what doesn't with the form. The Expert Review consolidates these comments and suggestions and guides states toward specific improvements.

design as well as news and information about state form-redesign progress.

One-day testing training. Toward the end of the yearlong collaboration, we help state workgroups plan for usability testing of their applications. We provide information about testing techniques and allow representatives a chance to learn and practice testing roles. We provide sample testing materials and more help to prepare states for usability testing their new forms.

State's role

Equipped with skills and knowledge about good forms design and plain language, state representatives form a workgroup to reinvent their form(s). The workgroups combine program expertise with newly gained tools and guidance to create a new food-stamp application form. These workgroups go beyond words; they don't simply edit the language in their forms—they rethink and re-create each form.

After the workgroup has a draft form, we provide comments and suggestions for further improvement. The workgroups then rework their forms, often multiple times, and prepare a final draft that is ready for usability testing with applicants.

Workgroups usually select several diverse locations throughout the state and test about five applicants in each location using the new form. Testing

Individualized State Plan (ISP). With the state's workgroup, we jointly determine goals, specific needs, and a timeline. The ISP document provides an outline for each state's redesign project.

Design support. Many states face specific questions or problems that they need help with. We provide continuing design support to state workgroups through expert reviews of later drafts, hands-on revision support for troublesome tables, and forms-design advice as needed.

Monthly e-newsletter. We publish an e-newsletter, *ClearApps*, which addresses issues that states may face during the redesign process. It contains one or two articles each month on

principles of good forms

provides workgroups with invaluable information about what's working in their new form and what could still be improved. Workgroups analyze the testing results and make changes to their forms according to the results.

Typically, after workgroups have tested their forms, the yearlong KCG/State collaboration formally ends. State workgroups take varying amounts of time to implement their new forms, but they can request additional consultation services on implementing and evaluating their forms as needed.

What were the most typical problems with the forms?

In working with the 29 states, we found several common problems in food-stamp forms:

Accreted information. Food-stamp policy changes often. Forms gain new questions or new information when policy changes, but they often don't lose outdated or unnecessary questions or information. Accumulating new information without removing outdated information results in a form with accreted information. Also, new information is often placed at the end of the form where it's easier to insert. This can cause an illogical organization.

No overviews to help applicants understand the process and the action to take. Many forms simply begin asking questions of the applicant without providing any contextual information. This lack of an overview can cause confusion and errors. Applicants often must begin using the form with no real sense of what they should do before they fill out the form, while they fill out the form, and after they fill out the form.

Complex tables. Most forms use tables to collect information. While tables are an effective way to gather much information, many food-stamp forms contain tables that are cognitively complex. These complex tables contain several discrete tasks for applicants to complete. Also, these tables sometimes extend over multiple pages or contain asterisks or codes that send applicants out of the table to find more information. Complex tables are difficult for applicants, especially those of lower literacy, to complete and complete accurately.

An ineffective and complex layout (grid) to support the form's hierarchy of information. Because of an ineffective and often inconsistent layout, many forms appear dense and intimidating. Even if the language is not difficult, the look of the layout can overwhelm applicants.

Lack of logical flow and headings. Many forms do not contain an organized infrastructure of information. Forms lack clear sections of "like"

information and do not use headings to reinforce the form's logic and organization.

No instructions or limited instructions. Without instructions, applicants have a hard time distinguishing what they need to do in certain sections.

Unfamiliar words and complex language. Forms use text that requires a high literacy level to understand. Much of the language is legalistic, bureaucratic, and far too complex for typical applicants.

What are the outcomes of this project?

States improved their forms

Through the FNS project, over half of the states in the U.S. have successfully reinvented and redesigned their food-stamp and other benefit forms. These new forms—which use improved logic, layout, and language—better meet the needs of applicants and appear less intimidating.

Through hard work and dedication, states have turned a form like the one in Figure 1 into forms with applicant-centered front pages like Figure 3.

This particular example eliminated the excessive use of bold and shading for the instructions, used shorter line lengths by converting to portrait layout, used simpler words that applicants would understand, and answered all questions an applicant might have about the process or how to apply on the first page.

Most states involved in the Technical Assistance Project have created forms that are clearer and less burdensome on applicants. As well as being easier to use for applicants, state agencies also benefit from the redesigned forms.

Access to the food stamp program increased

From 2004 to 2005, 664,681⁶ more people participated in the Food Stamp Program each month in the 22 states that partnered with us in the first three years of the technical assistance program. This is an estimated increase each year of 7,976,172 people. While the increase cannot be directly attributed to the redesigned applications, states are crediting some of the increase to a simplified form.

Applicants and state workers prefer the new forms

Usability testing proved that most applicants preferred the new applications. During testing, applicants said the look and feel of redesigned forms were less overwhelming, and the language was easier to understand.

Several states have also conducted evaluative surveys with eligibility workers and applicants after they implemented their forms. These states said that

Request for Cash, Food Stamp, and Medical Assistance



Appointment Date: _____ Appointment Date: _____

You will be given an appointment date and time after you complete the following application.

How do I apply for assistance?



You will need to:

1. Complete this application.
2. Submit this application to your local County Department of Job and Family Services (CDJFS).
3. Complete a face-to-face interview, unless we tell you that you don't need to.
4. Provide needed items for the programs for which you are applying.

Do you need help completing this application?



1. **If English is not your primary language, or if you are hearing-impaired:** The CDJFS will provide you with someone who can help you understand the questions at the interview. This service will also be available at other times if you need to report changes or have questions about your case.
2. **If you have a disability:** We will help you complete this application.

How do I complete this application?



1. **Fill out this application:** Answer as many questions as you can on the application. You have the right to apply for assistance the day you contact your local CDJFS.
2. **If you cannot fill out this application today:** Fill out page one of the application with your name, address, and signature and turn it in to your local CDJFS office so that we can provide benefits from today if you are eligible. You can fill out the rest of the application at home and return it to your CDJFS office.
3. **Applying for someone else:** You can choose someone to apply for benefits for you. This person is called an authorized representative. If you are applying for someone else, answer the questions as they relate to that person.

Where do I turn in this application?



1. **Return the application to your local CDJFS office:** We will set up a face-to-face interview with you. Our offices offer evening and/or weekend hours. This will start the application process and will help us decide if you can get food stamp assistance within 24 hours to 7 days.

How do I complete the face-to-face interview?



1. **Come in for your interview:** During this interview, we will complete the rest of the application process. We will also tell you what assistance you may get.
2. **If you cannot come in for your interview:** You must contact your local CDJFS and reschedule your interview. If you do not contact us within 30 days from the date you file this application, we may deny your assistance and you will have to reapply. You may not have to come in for an interview if we determine you meet a hardship condition such as illness or lack of transportation.

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Draft 6

Figure 3. After version of an assistance application form.

Note: The State of Ohio produces this form in color.

evaluations showed the new forms to be easier to use and understand by both applicants and eligibility workers. Specifically, applicants in some states commented that “this new form is a lot better,” “It is very simple and easy to fill out,” and “In comparison to others, your form is at the top as far as easy goes.”

States are redesigning other forms

States have addressed not only their food-stamp application forms, many have also gone on to reinvent other forms their agencies and other agencies use. As shown in Figure 4, at the end of year 1, our seven partner states had redesigned 7 forms⁷; by the end of year 2, our eight partner states had redesigned 32 forms, and Iowa had 132 more in process. By the end of year 3, our eight partner states had completed seven forms, were working on six more, and had plans for many others to follow. Currently, the eight year-4 states are working on eight forms.

New application forms are winning awards

In 2005, Virginia’s and Iowa’s redesigned forms won awards from the Society for Technical Communication (STC). Virginia received an Award of Excellence and Iowa won an Award of Merit.

The STC Virginia judge commented, “This is a very attractive publication that meets the needs of its intended audience. The information is readily accessible and easy to follow.”

The STC Iowa judge commented, “The layout, design, graphics, and text are very well done. The writers accomplished their goal of simplification, and should be able to use this form as a fine example for simplifying other forms.”

State agencies gained valuable knowledge and skills

The project provided states with concrete information on how to create functional forms that use a range of information design techniques. It gave them the tools to fully redesign their forms and not simply change some language and move some elements around on the page. The

project enabled states to re-think forms to more fully serve the needs of the target audience—both applicants and eligibility workers.

Throughout the project, 25 of 29 states⁸ participated in forms design training with an average of about 20 participants in each training session, totaling about 500 staff members. Ten of the 29 states participated in testing training, totaling about 120 staff members. This year’s testing training will bring our total to 17 states and 204 staff members. In addition, the project transferred forms-design knowledge to staff outside the Food Stamp Program. Training participants also included staff from the Medicaid, Child Care Assistance, and Temporary Aid for Needy Families (TANF) Departments, among others.

Based on evaluations of our Forms Design Training, staff members found the information helpful. An Iowa participant commented, “For us, it was a whole new way of looking at forms. We were stuck—our forms looked bureaucratic, stodgy, and governmental . . . You made us open our eyes to a whole new way of thinking, and that was huge for us. We were stuck in a rut, but now we think about how we design things.” In addition, a Colorado participant stated, “We are now working with a good foundation of knowledge and information. No more guessing or using personal opinions to create a user-friendly form.”

FNS accomplished its goal

Besides the states’ improvements, FNS was able to address the larger problem of declining food-stamp participation at a systemic level without imposing state standards.

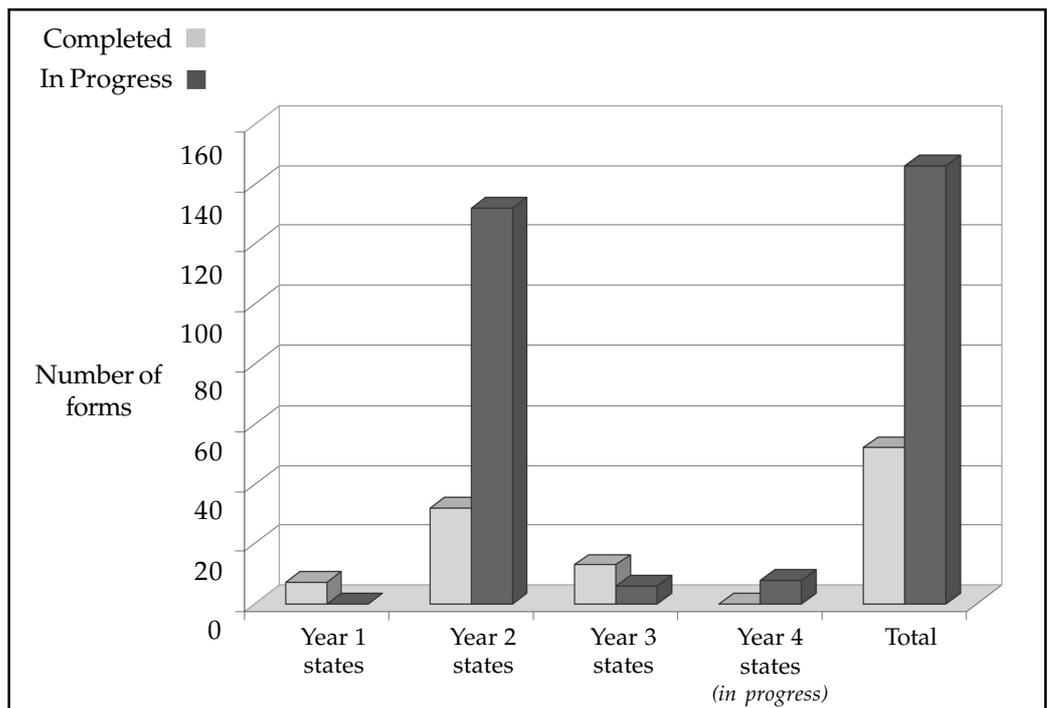


Figure 4. Total number of redesigned forms.

Conclusion

The Technical Assistance Project has had an astoundingly far-reaching impact on the states. Its effects will not disappear when the project ends. The project allowed each state to follow a streamlined, consistent redesign process yet still customize its redesigned forms to meet the specific needs of its program. Each state gained knowledge, skills, and expertise through knowledge transfer from forms-design and usability-testing training and later technical support. This newfound expertise and acknowledgment that applicant-centered forms are important drove almost all 29 states to continue redesigning and reinventing other forms. While the early focus was on a single food-stamp form, the project eventually affected multiple program forms and many other documents the state produces.

In many ways, this project was a perfect amalgam of federal support, with its tendency to standardize, and the need for individual states to keep their individual programs and processes. The project also embodies contributory expertise: FNS, KCG, and each of our 29 states have begun cutting through the red tape that complex application forms present—even if it is just one application form at a time.

Endnotes

- ¹ Jessica Martin, "High Rates of Food Insecurity, Food Stamps, Show Americans' Economic Vulnerability, Says Social Welfare Expert" *Washington University in St. Louis News & Information* (September 22, 2004): <http://news-info.wustl.edu/tips/page/normal/3818.html>.
- ² Parker Wilde, et al, "The Decline in Food Stamp Participation in the 1990's."
- ³ Doug O'Brien, et al, "The Red Tape Divide: State-by-State Review of Food Stamps Applications" *America's Second Harvest*.
- ⁴ Ibid.
- ⁵ KCG works in conjunction with two partners: our Senior Advisor is Janice Redish of Redish and Associates, Inc., and our Online Forms Expert is Michelle Bishop of Bishop Communications, LLC.
- ⁶ Information calculated from the 22 states' participation rates in 2004 and projected participation rates in 2005 as provided from <http://www.fns.usda.gov/pd/fsfpart.htm>.
- ⁷ Unknown how many forms year-1 states had in process.
- ⁸ In addition to the 25 states, Wyoming also received Forms Design Training but was not involved throughout the rest of the redesign process, so we did not include it in our total.

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She has worked with all 29 states, consulting and collaborating regarding their form redesign. She also provides workgroup facilitation, conducts expert reviews, provides recommendations on benefit-assistance forms, and develops and conducts forms-design and testing training. She was involved in the development of the "Guide to Assessing Food Stamp Applications." Ms. Kleimann is an information design, forms design, usability-testing, and training expert with over 11 years of experience in the fields of research, evaluation, and technical assistance.



Ilana Bain, an Analyst at Kleimann Communication Group, Inc., is currently the Assistant Project Manager for the "Technical Assistance for Developers of Food Stamp Applications" project. She has contributed to the success of the project by leading forms design and testing trainings, reviewing

draft applications and documents, producing examples and recommendations of multiple forms, and providing suggestions for how to achieve more user-centered documents. Ms. Bain is an experienced trainer, document-assessment and design specialist, and qualitative-research expert.



Lara Whitman is an Analyst with Kleimann Communication Group, Inc. She served as State Liaison and Assistant Project Manager for the "Technical Assistance for Developers of Food Stamp Applications" project.

Throughout her three years of involvement in this project, Ms. Whitman has conducted expert reviews of forms, provided both forms-design and usability-testing training, consulted with states on workgroup facilitation and redesign project management, and participated in the actual redesign of forms. Ms. Whitman is an expert in plain language, information design, forms design, and usability.

Health literacy: the importance of clear communication for better health

Joanne Locke, Rima E. Rudd, Leonard G. Doak, Cecilia C. Doak, Sue Stableford, Audrey Riffenburgh, Catherine Baker, Laurel Prokop, Margaret M. Farrell, and Capt. Jan Drass

For the past several years, the need to improve health literacy has been emerging as an important issue both in the United States and Canada. In response to this growing interest in the field of health literacy, conference planners decided early on that it should be featured at the Fifth Plain Language Association International Conference. This article highlights the key messages shared during the three health literacy sessions.

Speakers focused on improving the understandability of health information. They discussed the plain language strategies that make health information easier to understand and the critical need to test documents with the intended audience.

This article also appeared in the American Medical Writers Association Journal, Volume 21, Number 1, 2006.

Why low health literacy is a problem

During the first session, health literacy experts Rima Rudd, Leonard Doak, and Cecilia Doak explained what health literacy is, why low health literacy is a problem, and the benefits of clear health communication.

Rudd highlighted the need to consider health literacy as an interaction between the skills of individuals and certain social factors, such as the expectations and demands of the health sector. Changes to social factors can reduce or eliminate literacy-related barriers to healthy activities and care that about half of U.S. adults might normally face. Improvements in both skills and social factors will lead to improved health literacy, and social factors can be vastly improved through attention to plain-language principles. Studies show that most of our health communication materials contain cumbersome sentences and complicated structures, as well as unusual jargon and scientific terms not used in everyday speech. Hundreds of studies of health communication materials suggest a mismatch between the demands of the materials and the skills of the intended audiences. One

powerful approach to improving health is to apply plain language principles to our written materials and spoken directions.

In addition, Rudd suggests that we more closely examine the health activities we expect people to engage in and deconstruct each activity by listing all the tasks involved and the tools that people are offered. We can then examine tasks and tools and consider the skills we assume users have. For example, a parent responsible for giving medicine to a child must be able to recognize the medicine, understand the label, use a measuring device, use a clock and, perhaps, a calendar to plan time. We know from the literature that the directions offered and tools at hand are often poorly organized, poorly designed, and poorly written.

Writing in plain language can help

The Doaks' key message was that people with limited literacy skills can understand almost any health care instruction if it is presented in plain language. Three strategies to provide plain language are

- Use common words and conversational style
- Give examples
- Make the instruction interactive with the reader, listener, or viewer

Users especially need examples for words that describe a concept, a category, or a value judgment, for example, *normal range*, *legumes*, *excessive bleeding*, respectively. They spoke of the importance of using visuals to relay messages to people who have no or low literacy skills because when reading messages, readers look at the visual first, the caption second, and the text last. Research has shown that for patient health care instructions, visuals (such as simple line drawings or stick figure pictographs) can increase recall by as much as 500% and compliance by more than 100%.

The Doaks strongly recommended evaluating the suitability of draft communications both "at your desk" and in the field. For at-your-desk evaluation, consider using the 22-factor Suitability Assessment of Materials or "SAM" instrument.¹ A field test with small numbers (10 to 30) of the intended audience will uncover problems early.

How to bridge the communication gap between health professionals and the public

The second health literacy session concentrated on improving communications between science-based professionals and the public. Health researchers and practitioners—scientists, public health professionals, clinicians—often fear that plain language will “dumb down” information and promote inaccuracy as well. The public, however, struggles to understand and use even basic health and science-based information. Therefore, the five speakers at this session focused on ways to bring these two divergent perspectives together by using creative plain-language writing techniques.

Audrey Riffenburgh and Sue Stableford, members of the Clear Language Group, presented ways to bridge the communication gap between science-based health professionals and consumers. Professionals are legitimately concerned that health and medical recommendations are evidence-based and prefer to communicate by citing data and statistics. Consumers, on the other hand, may lack the literacy and numeracy skills to understand and use this information.

While facts are important and necessary to support health recommendations and decision-making, presenting them in creative writing formats increases consumer interest and understanding. Riffenburgh and Stableford suggested the following eight techniques, based on research from commercial and social marketing, and showed examples of each:

- Powerful illustrations or graphics
- Testimonials
- Dialogue
- Stories
- Checklists or “quizzes”
- Interviews
- Diaries
- Emotionally powerful language chosen carefully for the audience

Using stories to hook your audience

Catherine Baker and Jim Miller described how to use believable, emotionally charged, and appealing stories to hook readers into text on challenging topics. Using their own work (creating texts on genetics, evolution, and religion) as examples, they described how narrative devices can help readers overcome anxiety about or indifference to a topic. While such texts have been popular with readers, some critics do not value the story device for communicating “serious” information. The

problem, according to Baker and Miller, may be that such critics are comparing these story devices to literature. Instead, they should be considered as “functional fiction,” that is, as short, believable stories that connect to readers and draw them into subject matter they might otherwise avoid.

Back to basics for clarity

In her talk, Laurel Prokop discussed how plain language brings clarity to medical information that professionals deliver to the public. However, winning medical and science professionals over to clear writing requires convincing them that, just as biotechnology is science, English is also science. Language is a discipline. Writers must know and skillfully use language conventions to communicate well. When writers ignore the rules of language, muddiness and ambiguity result. The message is lost.

As with the life sciences, Prokop explained, skilled writing follows a method, a process. Written language uses elements (words), order (syntax), rules (grammar), and bonds or links (word relationships). These fundamentals are similar to the elements or materials, the structure, the rules, and the links or correlations that are part of life sciences.

Sentence diagramming shows students graphically whether they have written a sentence that adheres to the rules of English. Sentence diagramming nearly vanished in English or what became known as “language arts” classes between the 1960s and the late 1990s. But, according to Prokop, diagramming is making a promising comeback. And its return is just in time to fortify the advanced messaging so essential to teaching the public about our monumental progress in the health sciences.

Testing to make sure your message is understandable

During the final session of the day, speakers discussed how to evaluate messages and materials with an audience, including the challenges of sending messages about public health and emergencies. They acknowledged that even with a commitment to user testing, it’s not always that easy to figure out how to assess understanding.

Chris Zarcadoolas and Mercedes Blanco talked about how people should write to the broad population. They see health literacy as broadly applicable to issues such as disaster education (most recently, hurricane Katrina and bird flu). They said that it is not hard to find complex, confusing information but that poor communication is fixable if someone can figure out what is broken. They use a method called Participatory Action Research to find out what is broken. This involves testing the

analysis and revising the information, using the audience as part of the creation process. They also stressed the importance of knowing various cultures. For example, a document should not be translated word for word because cultural differences must be considered to ensure that the correct idea is being presented.

Communicating risk information clearly by testing along the way

Margaret Farrell talked about communicating complex risk information plainly and fairly, presenting lessons learned from the National Cancer Institute's (NCI's) I-131 Project. In 1999, the Institute of Medicine directed the Department of Health and Human Services to educate the public about the health effects of radioactive iodine-131 (I-131) fallout from nuclear weapons tests conducted in Nevada from 1954 to 1963. The NCI organized a broad crossdisciplinary team of communicators and scientists to work closely with members of the concerned public. This task force obtained input from citizens, consumer advocates, physicians, scientists, health department representatives, risk communicators, and other government officials about the best way to communicate health risks posed by exposure to I-131 accurately, effectively, and credibly.

The NCI developed a wide variety of communication materials through an extensive and iterative process. The agency involved concerned citizens, professional organizations, and federal partners in every step of the process, from identifying the types of materials to developing and approving content. NCI staff tested the materials in diverse geographic regions throughout the U.S. They created a flip chart specifically to address concerns of Native Americans, who were disproportionately impacted by the fallout. Its format, a portable tabletop display, was suggested by health leaders who sought a tool that would allow them to provide presentations to small groups in a variety of settings.

Key to the success of the tools was the close collaboration among the graphic designer, communications specialists, and NCI scientists. All ensured that the information was scientifically accurate as well as readily grasped by the public. This iterative and collaborative process was essential in presenting complex risk information fairly. It has been adopted by the NCI as a model for similar communication strategies. (Information on the communications campaign is available at www.cancer.gov/i131.)

Educating federal communicators

Jan Drass described her work with the Centers for Medicare and Medicaid Services (CMS), an agency that communicates complex health benefit

information to populations at high risk for low literacy because of factors such as age, income, education, and cultural barriers. CMS has built a strong foundation for its education program, including

- Coordinated and extensive consumer research
- Guidelines and training materials
- Plain language materials
- Low literacy experts
- Consistent terminology for materials in English and Spanish
- Alternative formats such as large print, Braille, and audiotape

Most recently, research related to new Medicare Prescription Drug Coverage has provided some important information on messages, terminology, and audience concerns that have guided education initiatives. For example, the needs, issues, and choices are different for people with Medicare who have employer or union prescription-drug coverage than for those with low incomes. Also, using consistent terminology across education initiatives to describe coverage is critical to increase familiarity and understanding of the new benefit and to reduce confusion.

Keeping the audience needs in mind

A key message heard throughout the day was the importance of keeping the needs of the audience in mind. To communicate health information clearly, health communicators must ensure that their target audience can "obtain, process and understand basic health information they need to make appropriate health decisions." This excerpt of the health literacy definition used in the Institute of Medicine's 2004 report on health literacy is similar to a widely accepted definition of plain language. That is, a plain language document is one in which people can find what they need, understand what they find, and act appropriately on that understanding. Speakers agreed that using plain language is a promising strategy for clearly communicating health information and improving health literacy. They also highlighted the need for health communicators to test documents with their intended audience to ensure they are sending that audience a clear message.

More information on how to improve health literacy is available on the Internet (see box on page 42).

Endnotes

1. Doak CC, Doak LG, Root JH. *Teaching Patients with Low Literacy Skills*, 2nd ed. Philadelphia, PA: Lippincott, 1996.

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Joanne Locke is the Plain Language Advisor in the Office of Disease Prevention and Health Promotion, in the US Department of Health and Human Services, Rockville, MD. She focuses on enhancing the links between plain language and health literacy. She was FDA's plain language coordinator from 1998–2004, and in 2005, helped establish the FDA Health Literacy Working Group. Joanne is Board Chair for the new

Center for Plain Language, and she was Co-Chair of the 2005 Plain Language Association International Conference.

Rima Rudd is a Senior Lecturer on Society, Human Development, and Health at the Harvard School of Public Health, Boston, MA.

Leonard Doak is President and **Cecilia Doak** is Director of Health Education, Patient Learning Associates, Potomac, MD.

Audrey Riffenburgh is President of Riffenburgh and Associates and a founding member of the Clear Language Group, Albuquerque, NM.

Sue Stableford is Founder and Director of the Area Health Education Center's Health Literacy Center, University of New England, Biddeford, ME.

Catherine Baker heads Plain Language Communications in Bethesda, MD.

Laurel Prokop is a life scientist, editor, and President of the document consulting company Techstyle Group LLC in Houston, TX (www.Techstyle.com).

Margaret M. Farrell is a Public Affairs Specialist at the National Cancer Institute, National Institutes of Health, Bethesda, MD.

Capt. Jan Drass, US Public Health Service, is Senior Technical Advisor at the Centers for Medicare and Medicaid Service's Office of Research, Development, and Information, Baltimore, MD.

Health Literacy Resources on the Internet

US Department of Health and Human Services

www.nih.gov/icd/od/ocpl/resources/improvinghealthliteracy.htm

www.hrsa.gov/quality/healthlit.htm

www.ahrq.gov/browse/hlitix.htm

Institute of Medicine report, Health Literacy: A Prescription to End Confusion

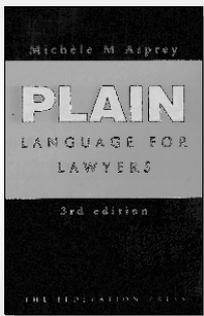
www.nap.edu/books/0309091179/html/

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Making things clear: how we are winning—6 strategies and themes to our work

The closing session from the Fifth Plain Language Association International (PLAIN) Conference

Christopher Balmford

Founder, and CEO *cleardocs.com*

The first World Usability Day

Our conference began with pre-conference workshops held on an auspicious day—3 November 2005 was the first ever World Usability Day. Organised by the Usability Professionals' Association, the day was celebrated in 35 countries with more than 120 events. The theme for the day was "Making It Easy".

Usability and clear communication are twin themes. They involve making opportunities and products—or in our case documents—effective, efficient, and satisfying to users.

May there be many more World Usability Days. (By the way, the 2006 date is Tuesday 14 November, see www.upassoc.org.)

Maybe a "world" day doesn't go far enough. We just saw the premiere—at this very conference—of the Canadian (see www.nfb.ca) short animation film *Invasion of the Space Lobsters*. It may not sound relevant but it was the film which finishes with the line:

"Earthlings, we come in peace. We can fix the bar-be-que!"

In that light, you may be thinking we need a "universe usability day". But for now, we'll have to make do with the usability challenges here on earth.

Accessibility

Closely related to usability is the issue of accessibility—that is, making opportunities, products, and documents available to everyone.

And when it comes to information accessibility, Sweden seems to be leading the way. Maria Sundin's presentation about the website for Sweden's parliament told us that you can click:

- to have the text read aloud to you
- to have the text appear in any of 4 languages
- to watch a film of a person signing the text to you
- to have the text appear in a style of writing developed for people with cognitive or learning disabilities. This involves the text being made particularly plain and with set out creative line

breaks. The sentences, and even parts of sentences, appear on separate lines so as to visually separate thoughts and even half thoughts see Box 1.

You can see all this accessibility innovation at www.riksdagen.se. For me, these developments were more than an "aha moment" ... they were something close to an epiphany. (If you're lucky, a conference has an epiphany.)

Box 1

Easy to read text ... with creative line breaks (from Swedish Parliament's website)

Most people vote at polling stations,
It may be in a school or library.
At the polling station you take voting papers.
All parties have different voting papers.
You can mark a name with a cross on the voting paper.
Then you vote for the person,
that you want to enter the parliament.

Nobody may know which party you vote for.
That is why you go behind a screen when you vote.
When you vote you put the voting-papers in the ballot envelope.

It is important that everybody get the chance to vote.
If you cannot come to the polling-station on the election day
you can vote at the post office
two weeks before the election.

www.riksdagen.se

We can take heart from the increasing focus on usability and from the improving accessibility solutions. They show us that documents can be made clearer, simpler, and easier to use. And they show us that we can increase the range of people who can get access to ideas, to information, and to knowledge.

This conference revealed six themes that are helping us get there.

Theme 1—Remove concerns, provide comfort

First, we need to remove the concerns of those who fear that plain language is about mere word substitution or who fear that if documents are made clear then there must be:

- some loss of accuracy, certainty, and precision; or
- a risk of “dumbing down” the ideas we are writing about; or
- a risk of degenerating into baby talk.

Still—even now—we need to remove these concerns. Sigh. And we probably always will. Sigh and sigh again. So we need to be patient. We need to be prepared to explode the myths over and over. As our very own Professor Joseph Kimble does—and did for us again at the conference. Although these concerns are legitimate as initial concerns, the reality is that the research, the analysis, and the real-life plain-language documents in use all over the world show these concerns to be myths.

In fact, plain language increases accuracy, certainty, and precision. It preserves all necessary ideas, qualifications, and procedural steps. It retains an appropriate style. And it involves the careful combination of language, structure, and design to make sure that the message is usable and accessible to its audience and for its purpose.

As we remove these concerns, we create more people open to clear communication.

Theme 2—Government leadership

The second theme that is helping us to make things clearer is government leadership. Governments have, and can, help promote clarity by:

- **running campaigns about the benefits of clarity and how to achieve it.** In various countries there are, or have been, government sponsored reader friendly (and unfriendly) awards with related kits etc. Also, law reform commissions in Ireland, New Zealand, and Victoria, Australia have published discussion papers and reports pointing out the benefits of clarity and exploding the myths that stop many people (especially lawyers) from embracing it.
- **regulating to require clarity** Governments can also regulate to require clarity. In the US, the Securities Exchange Commission is increasingly requiring clear disclosure. Dr Cynthia Glassman, one of the six commissioners of the SEC—the leader of the world’s financial system—said at our conference “Clear disclosure is crucial to financial markets”. The SEC requires clarity in prospectuses. At least 12 US states require plain language in legal documents. Similar requirements are appearing elsewhere.
- **providing resources** Regulators are also providing tools to help deliver clarity. Again, the US SEC has an excellent drafting guide to encourage and help companies to make their disclosure documents clear.
- **leading by example** Governments are also leading by example. Governments are rewriting

tax legislation in New Zealand, Australia, and the United Kingdom. They are changing the culture of large departments in relation to clear communication. For many years, Melodee Mercer from US Veterans Affairs has been helping her agency write more clearly. We heard from Ann Gelineau, and her colleagues at the US Internal Revenue Service, speak about how the IRS is working to change that agency’s culture “one notice at a time”. It was a joy to attend this presentation and to see and feel the project’s warm collaborative nature.

- **making unintelligible documents unconstitutional or perhaps even “unenactable”**

If the Swedish development in website accessibility was an epiphany at this conference, then the epiphany at Clarity’s conference in France a few month’s earlier, was the thought that unintelligible legislation could be unconstitutional or even “unenactable”. At Clarity’s conference:

- we heard from Madame Bergeal, Director of Legal Affairs, Ministry of Defence, France, that the French Constitutional Council believes that unintelligible law may be unconstitutional; and
- we heard from Monsieur Flückiger, Professor, University of Geneva, that some of the worst examples of US legislative legalese he saw at the conference would be most unlikely to become legislation in Switzerland—simply because their style would almost certainly lead them to be rejected in a referendum. Swiss law requires a referendum to be held on any piece of legislation for which 50,000 citizens petition for a referendum. In most years, there are four or five referenda. One of the things that triggers petitions, referenda, and the rejection of proposed laws is unintelligibility.

This news from Switzerland was almost enough to make me set up a political party to agitate for Australia to merge with Switzerland ... or to adopt its system.

When the draft EU Constitution was rejected, journalists reported that one of the reasons people voted “No” was because of the unintelligibility of the document. Perhaps, people would have felt more comfortable (and more inclined to vote “Yes”) if the document had included graphics—for example: some flow charts of how certain systems worked; some charts of how organisations related to one another; some tables and some examples that would help to make the ideas more accessible and comprehensible.

We need to move beyond headings and paragraphs. We need to embrace graphics as we strive to make our messages clear. Maybe the proposed EU Constitution could have been presented in the “Mustor maps” that Nathan

McDonald spoke about. See Box 2 for a demonstration of how 4 pages of heavily detailed text about welding standards can be presented in a new—inspiring—sort of “map-come-flow chart”. My sense is that Nathan’s ideas are the most exciting development in our field.

Theme 3—Promote benefits of clarity

Also, we need to go on promoting the benefits of plain language. This is the third theme that is helping us to make things clearer.

The benefits of clarity include:

- **Social benefits, access to justice etc.** Various organisations are promoting the social benefits of plain language: namely, improving access to justice; enabling consumers to make informed, confident decisions about the law, their health, the products they buy and how to use them; and improving the community’s respect for our governments and for the rule of law. These benefits are promoted by the wonderful organisations that made this conference happen: Plain Language Association International, Plain Language Action and Information Network (within the US government), and the Center for Plain Language. They also include the Plain English Commission (UK) and the Plain English Campaign (UK), ... and Clarity too!
- **True disclosure** We have seen how and why the US SEC requires plain language. Australia’s equivalent body (www.asic.gov) has released a discussion paper about requirements for companies to make prospectuses “... more readable. That means shorter and clearer. ... So far, there’s been a lot of ‘over-disclosure’ to limit liability. That is clearly not the purpose of the disclosure requirements.” At last, the regulators are saying too much information can make things worse: make documents shorter so they are clearer.
- **Improved efficiency (cost) and effectiveness (substance)** Professor Joseph Kimble has summarized the research about the economic benefits of plain language in his article *Writing for dollars, writing to please*. A new cost saving highlight—maybe even a record—is in the offing. Rose Grotsky spoke of a project she coordinated in Toronto for two large Canadian companies—one in financial services and the other in telecommunications. Her team rewrote and redesigned the online information system for each company’s call centre. The potential return on investment is expected to be between CAN\$3.5 million and CAN\$15.2 million over a three-year period. Bottom line—for every \$1.00 spent, the companies have the potential to save up to \$17.45.

- **Improved effectiveness—greater content, compliance etc.** An epiphany—there’s that word again—at PLAIN’s 4th conference (in Toronto in 2002) was in the presentation from Merwan Saher, Director of Communications with the Office of the Alberta Auditor General. Merwan spoke about a project to improve the clarity of audit reports. As a demonstration, the office took one of its audit reports from the previous year and rewrote it in plain language. The epiphany came when Merwan said:

What we’ve learned so far is that structure that forces the auditor to discretely set out audit criteria, findings, and implications exposes substandard work. So clear, concise writing influences our audit rigour by identifying the need for more thought or evidence. In summary, by exposing unsupported audit recommendations, plain language improves audit quality.

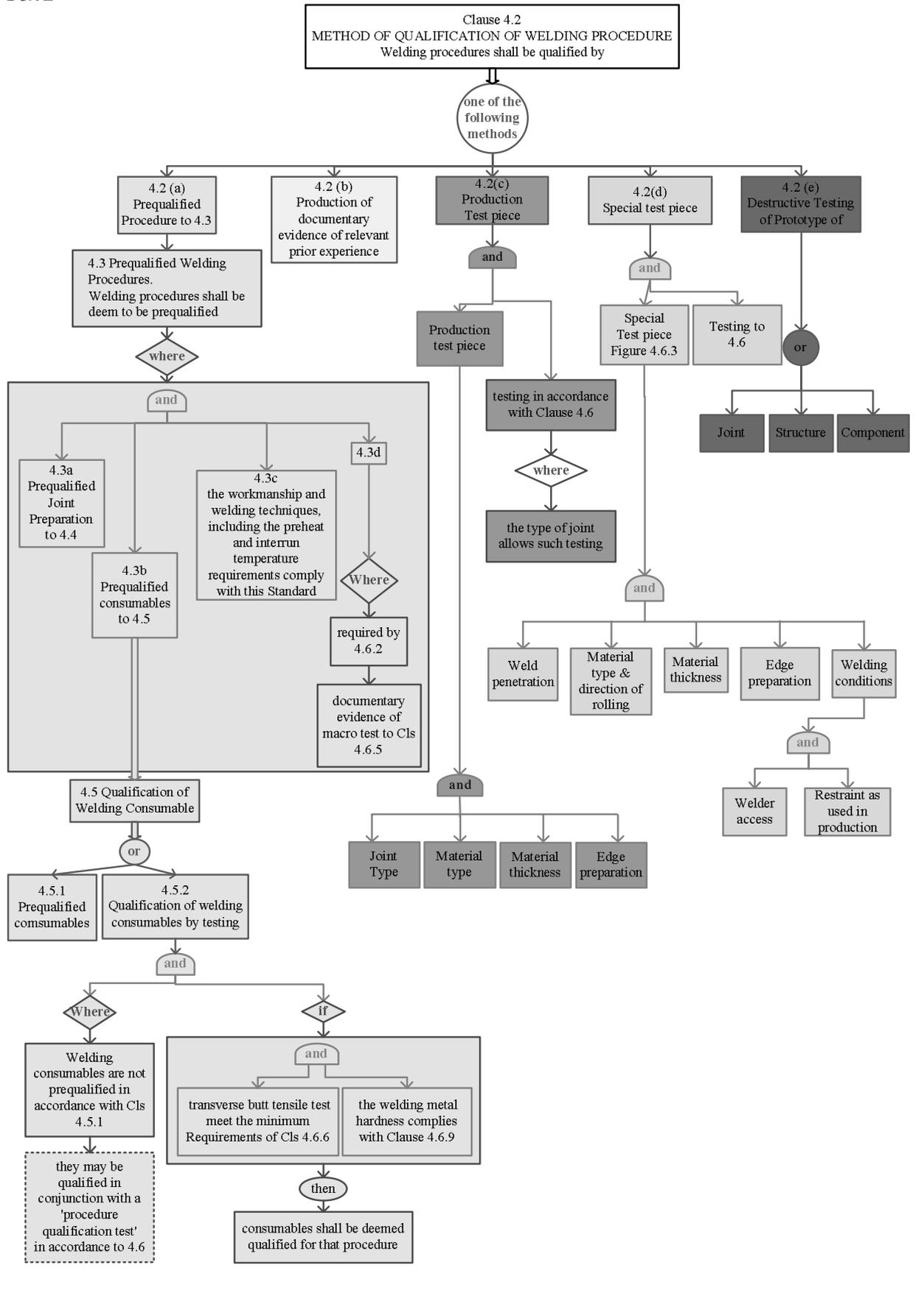
Merwan reminds us that plain language can improve the substantive of the document—that is, by improving the communications relating to its audits, the Office of the Alberta Auditor General improved the quality of its audits.

- **An organisations documents enhancing its brand** Too often when documents are read by customers (or other audiences), they sour the relationship. Instead, they should sweeten it. An organisation’s documents form the voice of its brand. We need to encourage decision-makers to hold their organisation’s documents up to the light and to measure them against the claims the organisation makes about itself. Those claims appear in the organisation’s mission statement, in its visions, in its brand promise, and in all sorts of charters. Some claims are internal: some are external. Usually, the claims are not aligned with the style of the organisation’s documents. Few, if any, organisations claim to be: heavy, overly formal, unhelpful, and impenetrable. Yet those sorts of words describe many documents. So those documents need to be rewritten to make them live up to and enhance the organisation’s brand. (This thinking about the “voice of the brand” is one of the themes of my plain-language work.)

These last few benefits—about efficiency, effectiveness, and an organisation’s documents forming the voice of its brand—suggest that, in the end, it is competition that is likely to deliver the benefits of clarity to all.

Theme 4—Accept the anguish: hold fast

If those benefits are to be achieved, then we need to accept the anguish of the journey and we need to hold fast and take heart. There is much to take heart from.



Mustor mapping—Text becomes flow chart becomes map ... and messages become more manageable. For more information, see www.mustor.com.

Bryan Garner announced at this conference that in 2006 he will be issuing grade scores for the writing of judges on the US Supreme Court. That was unthinkable until Bryan said it. But then, in the *New York Times* on 16 October 2005, Jonathan Glater asked "Must Lawyers Write Badly" and examined some convoluted sentences written by the then US Supreme Court nominee Harriet E. Miers.

This development involves plain language entering the very pinnacle of the US legal system: a system that is surely one of the world's most stylistically conservative writing environments. That a nominee's writing style is of interest to the media shows us that the world is catching up: clarity matters like never before.

Theme 5—Education, training, conferences, research (multi-disciplinary) etc.

We should also take heart from conferences like this one. We need these multi-disciplinary events from which to learn and to be re-inspired. It is the multi-disciplinary approach that helps us to determine in which direction we should head as we strive to find out how to make our documents clearer. At this conference, the multi-disciplinary approach was prominent:

- **Design** At the pre-conference design workshop given by Ginny Redish, Susan Kleimann and Karen Schriver and in Nathan Macdonald's work at Mustor.
- **Usability** At the after dinner speech by Burkey Belser, the designer of the nutrition facts labels on food packaging. He reminded us how the usability issues in product design and document creation are so similar. A highlight for me was Burkey pointing out how the purpose of the nutrition facts label had changed over the years. When the predecessor label was first developed in the 1970s, it was shaped by the depression: by "vitamins and the need to eat MORE". But in the modern world, fresh food travels far. And the issue is "carbohydrate, fat and the need to eat LESS". The label's audience and purpose had changed. So the label had to change too. Another Burkey highlight was how the complexity of most appliances makes him think: "My appliance wants me to learn how to use it. It wants a relationship!"
- **Creative writing techniques** Several speakers spoke of using creative sources and techniques for helping us communicate. Catherine Baker and Jim Miller spoke of using stories to engage readers—much in the way that in the novel *Sophie's world: A novel about the history of philosophy*, the author Jostein Gaarder uses a story through which to weave the historical detail.

Other speakers, Sue Stableford and Audrey Riffenburgh, spoke of using pictures, stories,

testimonials, and diaries to engage readers in what might otherwise be dry material. They spoke of researching on blogs and in chat rooms to find out how a document's audience talks about a topic, the language they use, the preconceptions (and misconceptions) they have about the topic. Understanding all this helps us to tailor the content of our message and to work out how best to structure and phrase that message.

- **Beyond the document** At one of the conference lunches, Harvey Fineberg President, Institute of Medicine of The National Academies, spoke. He spoke about the problems of the wrong medicine being prescribed or taken (or taken at the same time as another medicine). This is a major cause of death in the US. So improving the clarity of the documents that a patient receives about the medicine is important. But also, we need to remember to think beyond the document: what can we do to improve the processes around the document.

Theme 6—Change attitudes to writing

As we move outside the document, one of the places we need to try to get to is inside the writer's head. We need to find out why it is that people who seem to want to write clearly end up writing nonsense. Some of them write nonsense even though they are aware of the guidelines about writing clearly and even when someone points out to them that they need to think about the document's audience and purpose. How do we get them through that? Why is it that people get distracted trying to "sound like" a lawyer (or whatever it is they are)? Why do they think professional writing has to be so formal?

Several of us spoke about how to change the writer's headspace: notably Mary Dash, who asks the writers she trains to talk to her about the sort of people they know who are similar to their audience. This helps them to understand their audience and to connect with their audience before starting to write. And that changes their writing for the better. (Just quietly, this "headspace" theme will be one of the themes of the May 2007 issue of *Clarity*. Let me know if you'd like to write an article.)

A hard process—but worth it

Writing clearly is hard work. Susan Kleimann spoke at the pre-conference design workshop about how before we start to plan a document we should find out:

- the questions that the reader is trying to ask; and
- the message the writer wants to send.

Then we need to check whether those two things align. Hmmn ... sometimes they do. And sometimes they don't.

Dr Glassman, the SEC commissioner, spoke of this issue in relation to disclosure when she said:

- “The discloser (the writer) wants to limit liability.
- “The investor (the reader) wants timely complete information.”

Some CEO’s are champions of disclosure. Others are champions of regulatory compliance.

I know whom I’d rather work for, because it was easy. And I know whom I’d rather work for, because of the challenge.

Our task is big. The work is hard. It’s worth it. It’s fun. There’s a lot to learn. Keep thinking. Good luck. And thank you.

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Christopher Balmford, plain-language writer, trainer, and clear communication cultural-change consultant. And founder of Cleardocs.com—an automated, online plain-language document provider for certain sorts of Australian legal documents.



Photos from the Fifth International Conference of the Plain Language Association International, last November in Washington, D.C.

From left to right: Janice (Ginny) Redish, Karen Schriver, and Joanne Locke. Redish won an award from the Center for Plain Language for outstanding plain-language leader in the private sector, and Locke was a conference organizer and cochair



From left to right: Sarah Carr, Anne-Marie Hasselrot, Neil James, Phil Knight, Vicki Schmolka, Christine Mowat, Annetta Cheek, Salomé Flores Sierra Franzoni, and Cristina Gelphi at the international roundtable on plain language.

More photos from the Fifth International Conference of the Plain Language Association International



Susan Milne, the president of PLAIN, presenting flowers to Joanne Locke at the end of the conference. Photo by Bill Dubay.

Joe Kimble, Susan Kleimann, and Annetta Cheek. Cheek won an award from the Center for Plain Language for outstanding plain-language leader in the public sector. Photo by Bill Dubay.



Bryan Garner, in the middle of the back row, surrounded by old and new friends. Garner won a lifetime achievement award in plain legal language from the Center for Plain Language. Photo by Bill Dubay.

You can **fix** your own English

Catherine Rawson

*International Business English
Beijing, China*

A piecemeal approach to improving the readability of English texts written by non-native speakers is costly and ineffective. A successful initiative relies on firms giving writers the resources and training they need to improve over time. In return for their investment, firms can hold writers accountable for meeting a pre-set quality standard.

The first part of this 2-part article titled "Just Fix the English" (in Clarity No. 53) looked at the expectations of non-native speakers of English (NNS) when they seek the help of native-English speakers (NES). To set a context for understanding what is involved in "fixing" NNS English, examples were given from linguistics which showed that errors are not all created equal: some errors hamper the transfer of meaning, while others do not. Moreover, grammatical correctness is not an end in itself, since correct English can convey no meaning.

The key to helping NNS lawyers improve their English writing is to give them the resources and training they need to work independently towards fulfilling a pre-set quality standard. Outlined below are the steps involved.

What is quality?

When firms wish to improve how their NNS lawyers write, they invariably see this as part of a larger quality initiative aimed at producing well-written texts cost-effectively. To this end firms need to:

1. formulate writing and style guidelines
2. capture know-how
3. identify common translation errors
4. standardise the appearance of documents.

Plain style + relevant content = quality

Less is more when it comes to writing. Client satisfaction surveys repeatedly show that clients want clear, concise, to-the-point texts. To be well written, a text must be *clear, concise, and correct*¹. Beyond this, a text must be *relevant* to the client's needs, both business and emotional. A relevant text is *complete, concrete, coherent, customized*². Together

these seven criteria add up to a Client-Centred Communication^{TM3}. This article focuses solely on the 3Cs: *clear, concise, correct*.

NNS English

An occasional NNS error does not impede readability nearly so much as linguistic complexity does. Unfortunately, most NNS lawyers, like their NES colleagues, are accustomed to writing in a formal business style that relies on long, complex sentences replete with jargon and high-sounding words. If they transport this style into English, they soon stumble. Grammatical and word-choice errors combined with poor writing style soon defeat readers—especially NNS readers.

When NNS writers say, "*Just fix the English,*" they expect only grammar and translation errors to be corrected. Yet good writing demands that style faults and deviations from house style rules also be corrected.

To learn from their mistakes, NNS writers need to know **WHY** changes have been made to their texts. An example of how feedback could be given by a human editor with the luxury of time is shown in the 160-word letter in Figure 1. That short letter, though readable, needed 25 corrections to meet a firm's pre-set standards. The corrections are explained in endnotes that fall into 4 categories:

1. house style deviations
2. plain-English style faults (see below)
3. translation errors
4. know-how tips.

While sufficient to allow a writer to understand why a change is needed, the end-notes do not refer to the source documents. To know more, the writer would need to dig out the firm's house style and other reference materials. Since few writers have the time to do this, the solution is to link the reference materials to the error messages on-line. How to do this is explained below.

Writing resources

1. House style

Every firm needs a style guide which lays down rules for writing standard information like dates, currencies, numbers, and so on. In so far as these rules settle on one of many possible ways of presenting information, they are arbitrary. However, without rules for consistency, the efficiency of producing documents is undermined and inconsistency guaranteed. Inconsistency is not an option, as readers equate it with sloppiness.

A typical style guide⁴ for a multilingual firm includes rules on:

- writing clearly, the principles of plain language
- formatting and layout (see section below on templates)
 - numbers in text
 - large numbers
 - decimals
 - fractions
 - percentages
 - mathematical symbols
 - calculations and formulas
 - telephone numbers
 - dates
 - times
 - centuries
- countries
- currencies
- measurements
- abbreviations and acronyms
- foreign words and phrases
- references and quotations
- punctuation
- verbs: singular or plural
- terminology
- translation errors

The guideline that might be given for writing dates is: "Write the date in full, without commas in the order day/month/year. For example: 9 May 2005, not May 9th, 2005".

2. Style faults (plain English)

Plain English avoids the following style faults (some of which occur in the sample letter in Figure 1):

1. Long sentences (25 words)
2. Passive verbs
3. Hidden verbs
4. Complex words
5. Jargon/abstract words
6. Overused words
7. Legalese
8. Clichés
9. Business clichés
10. Redundancies
11. Tautologies
12. Overwriting
13. Foreign words
14. Translation errors

3. Translation errors and know-how tips

Every firm needs to create a list of the translation errors commonly made by their NNS lawyers if they want to have any hope of overcoming them. Like most tasks, it is sensible to assign the task to a person with the ability and time to do it properly.

When given this task, I ask my clients to give me 200 pages of text drawn from a cross section of departments with the name of a contact person for each department. From these pages I extract a list of incorrect translations and terminology that need explaining to outsiders if legal and cultural gaps are to be bridged.

I send this preliminary list to the departmental contacts for comment. After some to-ing and fro-ing, the list is ready for the departmental contact to refer to an internal focus group for its input. Once the focus group has settled the list and I have checked it one last time, it is ready for the programmer to create a customised database from.

4. Templates

Firms refer to their standard-form documents for letters, memos, and so on as "templates". These templates are customised with the firm's chosen artwork and layout. Because word-processing software has default templates, the two types of templates are easily confused in casual conversation.

A customised template does not control the appearance of the text typed into it. To promote branding and efficient document production, firms usually prescribe the "style" of font. For example, Times New Roman 10 pt for body text and Courier 16, 14, and 12 for heading levels 1, 2, and 3, respectively.

A firm's chosen "style" usually differs from the word-processing program's default style. Changing the default style requires advanced word-processing skills. Since most writers do not have this level of skill, it makes sense for firms to build in buttons on the menu bar that create the customized style with a mouse click.

Training

Firms often make the mistake of investing in language training rather than writing training because they mistakenly believe the cause of their NNS lawyers' poor writing is lack of language competence. To identify what training is needed, I administer a quick English language test. If candidates have upper intermediate English or better, they need writing-skills training to improve their writing. Candidates with a lower level of English need conventional language training.

Without writing training, lawyers will not be persuaded of the need to write in plain English, and

so will not change their writing habits. However, training on its own is not enough to improve writing skills. Memory guru Tony Buzan reports research in his book *Use Your Head*⁵ which shows that 80% of lessons learned are forgotten, unless reinforced within 24 hours. Thus, writers simply cannot put theory into practice without immediate and continuing reinforcement. Being unaware of their habitual writing errors, they need on-going feedback to improve their writing.

Software to the rescue

I once thought my plain English training could be reinforced by editing. But even an in-house editing service⁶ reaches too few lawyers. Now I rely on StyleWriter, the on-line editor,⁷ because a software tool, unlike human editors, is available 24/7.

Software takes the ego out of writing. No one need know if a text was “dreadful” to begin with⁸. What matters is that the client received a text that met the firm’s quality standard.

StyleWriter works much the same way as a spellchecker but produces far more impressive results. As with a spellchecker, writers run StyleWriter before printing off their first draft. While editing, writers learn by doing, as StyleWriter opens their eyes to their writing errors.

A Dutch, French, or German speaker used to writing “I have been a lawyer *since* 10 years” soon breaks the habit with the help of the prompt “if this is a translation of *depuis; seit; sinds* prefer *for*”. Having been forced to see the error and understand its origin, the writer gladly substitutes “*since*” with “*for*” by clicking on “*for*”.

At Clarity’s July 2005 conference in France, I demonstrated how StyleWriter can be customized to pick up translation errors and deviations from house style and to offer know-how tips. My demonstration used a version of the software customised to apply house style rules similar to those used by the European institutions⁹ and the European Commission’s advice on how to write well, particularly on how to avoid false friends¹⁰, euro-speak, euro-jargon, abbreviations, and acronyms¹¹.

In the sample letter (in Figure 1), the date May 9, 2005, should have been written 9 May 2005 to comply with the house style rules. Stylewriter’s customised program picked up this deviation because it was one of the many possible disallowed deviations including yy/mm/dd, abbreviations such as 09.05.05 and so on.

Customising StyleWriter is more cost-effective than printing handbooks which, unread, gather dust. StyleWriter saves editing costs too because it allows NNS (and NES) lawyers to correct the 3Cs of poor writing—*clear, concise, and correct*—leaving

professional editors to concentrate on the 4Cs of content: *complete, concrete, coherent, customized*. Instead of endlessly correcting the same mistakes, editors have the time to clarify content. Since clear content is what clients value, time spent on this task is time well spent.

Is training necessary?

StyleWriter is easy to use. But lawyers will not use it unless they are persuaded that its assessment, analysis, and advice are sound. Without training, educated people like lawyers are apt to dismiss StyleWriter if it has the *audacity* to tell them their texts are anything less than good¹².

Lawyers reason that they write for a living, so they must do it well. To challenge this complacent assumption, I open my training with the quote: “*Lawyers are professionals who write—not professional writers*”.

Getting lawyers to change their writing style begins at the top. Everyone from partners to legal support staff need to undergo the training. Participants at my training have the chance to air their reservations about abandoning their current writing style for plain English. To build enthusiasm for the project, I recommend firms run competitions and send out weekly writing tips before and after the training.

Measuring success

Apart from increasing efficiency, StyleWriter makes it possible for firms to monitor the quality of their English texts. By analysing the statistics which StyleWriter collects on each document, firms can track the improvement in writing standards of every staff member.

Some firms set improvement targets as part of an individual’s performance assessment.

Over time, managers will see a steady improvement in the standard of the firm’s English texts when their writers use StyleWriter. They will probably also see better writing in other languages because clients everywhere prefer plain language, and lawyers respond to client praise. Better written texts in languages other than English is a bonus multi-lingual firms can expect from using StyleWriter to reinforce the principles of plain language writing”.

Endnotes

¹ These three criteria draw on writing skills. *Correct* refers here to the absence of spelling, punctuation, and translation errors. *Correct* also refers to the formatting of a document because consistency of appearance counts toward presenting a credible text.

² The criteria *concrete, complete, and customized* draw on legal skills and client care. *Coherent* refers to presenting ideas logically from the reader’s point of view. Separate training is needed to develop these skills.

Mrs. C M Rawson¹,
Company Secretary
Williamsons Limited
8 Underwood St.²
London SW2 5XW
England³
May 9, 2005⁴

Dear Mrs⁵ Rawson,

Re⁶: Employment in Belgium

Although Turkey is a candidate⁷ for membership to the European Union (EU), as Turkey is a third country⁸, it's⁹ citizens are not yet entitled to work in the EU. In order to¹⁰ join the EU Turkey must comply with the *acquis communautaire*^{11 12} which takes years.

Until Turkey is found adequate¹³ for membership, Mr Mehmet, a Turkish national, can only work in Belgium if he holds a work permit. Working without a permit could start a negative evolution¹⁴ so an application¹⁵ should be made for the permit at this point in time¹⁶.

As a Belgian employee Mr Mehmet will be entitled to a Termination Indemnity^{17 18} of 21.000,00¹⁹ (twenty one thousand)²⁰ Euros²¹ if you end his contract early.

Please do not hesitate to²² contact us if we can be of further assistance²³.

Yours faithfully²⁴,

Mr²⁵ Robert Brown

Figure 1 Endnotes

¹ House style: 'Mrs. C M Rawson' → 'Ms C. M. Rawson'

² House style: 'St.' → 'Street'. Do not abbreviate.

³ House style: 'England' → 'ENGLAND'. Use capitals for country names.

⁴ House style: 'May 9, 2005' → '9 May 2005'. Use format dd/mm/yy.

⁵ House style: 'Mrs' → 'Ms'. Use neutral form unless you know addressee prefers Mrs.

⁶ Foreign word + Redundancy + House style: 'Re' → delete this redundant, archaic word.

⁷ Euro jargon: an 'applicant country' is one that has applied to join the EU. It graduates to a 'candidate country' when its application is accepted. For definitions of EU jargon see *A Plain Language Guide to Euro jargon* at www.europa.eu.int/abc/eurojargon/index_en.htm.

⁸ Euro jargon: 'third country' → 'non-member country'

⁹ Grammar error: 'it's' (contraction of 'it is') is incorrect here → 'its'

¹⁰ Redundancy: 'in order' → delete these redundant words.

¹¹ Euro jargon: '*acquis communautaire*' means the body of EU law with which an applicant country must comply to gain entry to the EU. Reword this sentence.

¹² Foreign words: '*acquis communautaire*' is French. Translate foreign words into English to aid reader comprehension.

¹³ Translation error: 'adequate' (false cognate of FR: *adéquat*) ‡ 'suitable' (= FR: *approprié*)

¹⁴ Jargon/abstract: 'negative evolution'. What will happen that is negative? Fines? Deportation? State the likely consequences of breach concretely.

¹⁵ Hidden verbs + passive voice – 'an application ... be made' = to apply. Rewrite in the active voice using the verb to apply: 'you should apply ...'

¹⁶ Redundancy: 'at this point in time' → 'now'.

¹⁷ Translation Error: 'indemnity' (false *legal* cognate for FR *indemnité*) ‡ 'compensation' (= FR: *réparation*).

¹⁸ Know-how tip: EN: to indemnify = FR: *garantir*. Under English law indemnity ≠ guarantee. An **indemnity** is an agreement (written or verbal) to pay another the debt owed by a third party on demand without proof default. A **guarantee** is an agreement (in writing) to pay another the debt owed by a third party on default.

¹⁹ House style: '21.000,00' is incorrect. Write '21,000.00'.

²⁰ Redundancy: '(twenty one thousand)' ‡ delete.

²¹ House style: 'Euros' ‡ EUR (Note: EUR is the international banking code for the Euro and comes in front of the figure).

²² Cliché + negative formulation: 'please do not hesitate to contact' → 'please contact'

²³ Hidden verb + passive + cliché: 'if we can be of assistance' → 'if we can assist you'. Consider deleting.

²⁴ House style: 'faithfully' → 'sincerely' (to match the formality of the salutation).

²⁵ House style: 'Mr Robert Brown' → 'Robert Brown' (no titles in signoff).

Figure 1.

- ³ For more about the 7Cs of Client Centred Communication, please see my article *Why Plain English is a Gift for Foreign Lawyers* in *Clarity* No. 47.
- ⁴ If you would like to see a chart detailing the type of issues covered by the listed items, please send me an email.
- ⁵ *Use your Head*, Tony Buzan. BBC, 2003 ed. at pg. 67.
- ⁶ I set up an in-house editing service staffed by NES lawyers for the Benelux's then largest law firm, Loeff Claeys Verbeke. This firm is now part of British-based multinational legal firm, Allen & Overy.
- ⁷ I am an authorized agent for StyleWriter. If you wish to download a free trial version of the standard version please visit my website at: www.BusinessEnglishInternational.com.
- ⁸ StyleWriter rates documents on a scale from "excellent" to "dreadful". I recommend firms set "average" as the starting target and raise it to "good" 2 months later. Four months after that, lawyers are ready for training on the 4 Cs that really count to satisfying clients: *complete, concrete, coherent, customized*.
- ⁹ The EU has many style guides. The rules in these guides vary; sometimes they even conflict with one another, possibly because they deal with different kinds of documents. This confusing situation, however, is largely irrelevant, since few EU writers seem to be aware that the style guides exist—let alone know what their purpose is.
- ¹⁰ An example of a false friend or cognate from French to English is *actuel*. The correct English translation for *actuel* is *current* or *topical*.
- ¹¹ The EC's booklet: *Fight the Fog, How to Write Clearly* is available on-line at www.europa.eu.int/comm/translation/en/ftfog. See page 10 for "False friends and other pitfalls". "FOG" stands for "full of garbage" and its campaigners say it is "a problem for all our languages".
- ¹² Most lawyers score "dreadful" before undergoing the training. To let them see how much they learn about good writing from just 1 day's training, I have them do a benchmark writing task. The training day closes with them using StyleWriter to assess and then correct their writing tasks as a group.

© C Rawson
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Catherine Rawson helps multilingual organisations ensure that their staff write clear, concise, readable English, regardless of their native language. By using tailored software to reinforce Catherine's plain English training, her clients are able to monitor the quality of their English communications.



Members by country

| | |
|------------------------|------------|
| Australia | 125 |
| Austria | 1 |
| Bahamas | 2 |
| Bangladesh | 5 |
| Belgium | 5 |
| Bermuda | 2 |
| Brazil | 2 |
| British Virgin Islands | 1 |
| British West Indies | 4 |
| Canada | 70 |
| Chile | 1 |
| Denmark | 4 |
| East Malaysia | 1 |
| England | 327 |
| Finland | 6 |
| France | 1 |
| Germany | 5 |
| Gran Canaria | 1 |
| Hong Kong | 17 |
| India | 6 |
| Ireland | 5 |
| Isle of Man | 1 |
| Israel | 3 |
| Italy | 2 |
| Jamaica | 1 |
| Japan | 7 |
| Jersey | 3 |
| Luxembourg | 1 |
| Malta | 2 |
| Mexico | 5 |
| Netherlands | 6 |
| New Zealand | 18 |
| Nigeria | 6 |
| Philippines | 1 |
| Scotland | 10 |
| Singapore | 12 |
| South Africa | 72 |
| Spain | 3 |
| St. Lucia | 2 |
| Sweden | 15 |
| Switzerland | 2 |
| Thailand | 1 |
| Trinidad and Tobago | 1 |
| USA | 218 |
| Wales | 8 |
| Total | 991 |

Technical jargon: an approach, an idea and an offering

Sarah Carr

Carr Consultancy and Plain Language Commission

This is three mini-articles in one:

- *my ideas on technical jargon, its value and dangers, and how I suggest dealing with it (the approach)*
- *a suggestion for a new column (or two) in Clarity—‘Linguistic Lingo for Lawyers’ (and ‘Legal Lingo for Linguists’), including a request to you for feedback, ideas and contributions (the idea)*
- *my go at a first column, on grammatical terms for verb forms in English (the offering).*

My interest in jargon started as a benign form of people-watching. In my six years as a National Health Service (NHS) manager, I entertained myself in dull meetings by observing my colleagues’ linguistic carry-ons.

It was only later, when my eldest child was born with congenital heart defects, that I realised jargon can be far from a laughing matter. Living at the hospital during his several bouts of cardiac surgery, I was an outsider to the medical jargon that surrounded me. The staff, for all their phenomenal skills and kindness, spoke to parents as if we were privy to their secret code. Long medical phrases abounded; and even the apparently everyday words seemed to have their own special meaning. One day, a nurse told me: ‘Your baby is alarming.’ I felt quite panicky—until I realised that she meant one of his monitors was needlessly sounding its alarm.

Returning to work some time later, I heard a conference of NHS non-executive directors (laypeople) list ‘NHS jargon’ as one of the ten ‘most difficult barriers’ they had encountered when new to the service. It was this that led me to write my book, on tackling NHS jargon. And it was then that I realised jargon is not just one thing; nor is it always bad.

An approach

Defining and tackling technical jargon

Types of jargon

The word ‘jargon’ comes from an old French word meaning ‘the twittering and chattering of birds’. It came into English in the fourteenth century, when its meaning was extended to include ‘meaningless talk’ or ‘gibberish’.

The Longman Dictionary of Business English defines jargon as:

- (1) *language, written or spoken, that is difficult or impossible for an ordinary person to understand because it is full of words known only to specialists*
- (2) *language that uses words that are unnecessarily long and is badly put together.*¹

Many linguists believe that the word ‘jargon’ would be best reserved for the first of these definitions. Some people also refer to this as ‘technical jargon’, ‘shop talk’ or ‘terms of art’.

There have been many suggestions for words to describe the second type of jargon. The most popular today is perhaps ‘gobbledegook’, originally an American word thought to echo the sound of turkeys. Alternatives used over the years include ‘baffle gab’, ‘bureaucratese’, ‘officialese’, ‘doublespeak’, ‘stripetrouser’ (invented by George Orwell) and ‘FOG’ (frequency of gobbledegook).

A third type of jargon—buzz words and phrases—is also rife in most organisations these days. *Should you have a window of opportunity, I will bottom out and cover off the key issues in this arena. Once brought up to speed with the agenda, you will be able to get your ducks in a row and hit the ground running on talking in buzz words.*

The value of jargon

Jargon is often written off as a bad thing. But technical jargon is both necessary and useful for members of a profession or other group to communicate with each other. At its best, it acts as a kind of shorthand, allowing them to express specialist concepts concisely. It therefore improves communication, and saves time and money.

Characteristics of different jargon types

| | Type of jargon | | |
|---|--|--|--|
| | Technical jargon | Gobbledegook | Buzz words |
| Typical linguistic features | <ul style="list-style-type: none"> • Official names for things • Sometimes spelt with capital letters • Commonly shortened to abbreviations or acronyms | <ul style="list-style-type: none"> • Long words • Abstract nouns • Latin words • Long-winded, complex and impersonal style | <ul style="list-style-type: none"> • Many verbs • Often derived from other fields, especially sports |
| Common in writing? | Yes | Yes | To an extent |
| Common in planned speech? | Yes | To an extent | To an extent |
| Common in spontaneous speech? | Yes | Only words and phrases, not structures | Yes |
| Rate of change | Depends on rate of change in professional area (very fast in NHS, as government policy changes continually) | Slow | Fast |
| In an ordinary dictionary? | No | Yes | Not necessarily |
| Typical length of plain-English alternatives | Longer | Shorter | Varies |

The problems only start when technical jargon is used in writing to people who are not familiar with it, without explaining what it means. Ordinary words used with a specific meaning that the writer does not make clear (such as 'alarming' above) are particularly dangerous. Readers may completely misunderstand the message.

But I believe it is a good thing to include technical jargon in documents for the public and other groups who are not familiar with it, so long it is well explained. There are two reasons for this:

- From a practical point of view, it is impossible to replace completely most words and phrases that fall into the category of technical jargon with plain-English translations that are concise and accurate in meaning.
- From an ethical point of view, exposing the audience to technical jargon can help them to understand more about the field. This gives them more power.

Take the analogy of patients going to see their doctor. They want to have a clear explanation of their diagnosis, in layperson's language, but they may well find it useful to be have the medical term too. They will then:

- know if their diagnosis is the same as that of someone else they know

- be able to look up more about it in a book or on a website
- feel that the doctor credited them with the interest and intelligence to hear and use the medical term.

Buzz words can be similarly useful as a type of shorthand, their plain-English translations often being longer. However, the meaning of buzz words is often obscure, even among colleagues.

Gobbledegook can almost always be replaced by plain-English alternatives that are less long-winded and clearer in meaning.

Tackling technical jargon

Like most professions, NHS management has plenty of technical jargon: types of organisation; staff groups and posts; documents; care types and services; clinical specialties, conditions and treatments; funds and budgets; measures and standards; and many more. I advise my NHS clients to take the following approach in tackling technical jargon:

- Stage 1: Decide what to explain.

Think about your audience. Will they understand your technical jargon? Ideally, ask someone from the target audience, if you can. If they will understand (for example if you are writing for colleagues), then go ahead and use it freely. (Be sure, however, that you are not conning yourself

Value of different jargon types

| | Type of jargon | | |
|-------------------------|--|-----------------|-----------------|
| | Technical jargon | Gobbledegook | Buzz words |
| Effect on communication | Positive —if used with audience that understands it, or explained to audience that does not | Negative | Negative |
| | Negative —if used unexplained with audience that does not understand it | | |

into believing buzz words or gobbledegook to be technical jargon.) If they will not understand, then you will need to explain it.

- Stage 2: Explain the technical jargon.

Explain each term briefly as you use it, simply and concisely (in just enough detail for the reader to be able to understand your message). This means that the audience gets an immediate explanation of what you mean, without having to look away from the document. If you think your readers would find a more detailed explanation useful, provide a glossary (in plain English) for them to read later.

An idea

‘Linguistic Lingo for Lawyers’ and ‘Legal Lingo for Linguists’

When I was at the Clarity conference in Boulogne, I noticed that many people opened a conversation with the question: ‘Are you a linguist or a lawyer?’ Of course, many Clarity members are both. As a linguist alone, with an interest in ways of tackling technical jargon, I thought that I could perhaps contribute to *Clarity* by explaining some commonly confused linguistic terms, or difficult linguistic points.

My idea is that this could become a regular column in *Clarity* (to which different people could contribute). It could be called ‘Linguistic Lingo for Lawyers’. I wondered too whether we could have a parallel column: ‘Legal Lingo for Linguists’? As a reader without legal training, I would certainly find that useful.

There would be advantages for readers and writers of the columns:

- For readers—the plain-English explanations could improve our knowledge and understanding of technical terms. It would also be interesting to observe others’ techniques for explaining technical jargon.

- For writers—the process of explaining our jargon in plain English would be interesting and useful, and may even sharpen our own understanding of it.

- For both—the columns would provide a building collection of ready-made explanations, which we could use unchanged (subject to Clarity’s copyright policy) or as a starting-point in our day-to-day work, for example if we needed to explain linguistic or legal terms to a lay audience.

Perhaps the columns would bring about more articles on different approaches to tackling technical jargon. As Clarity is an international organisation, perhaps writers could look at whether different approaches are needed for different languages or language groups.

The third part of this article offers an example of the ‘Linguistic Lingo for Lawyers’ column, looking at terms to describe verb forms. I have chosen this topic because I have noticed the terms ‘tense’ and ‘voice’ being confused. But I hope that readers will write in with their own ideas on terms they would like to explain, or see explained. My piece is about one area of grammatical terminology, which particularly interests me. But others may be able to explain terms from all kinds of other areas of Linguistics with a link to plain language: phonetics and phonology, morphology, semantics, sociolinguistics, psycholinguistics, and pragmatics.

I see the columns, whatever their topic, as being more practical than theoretical. They would be fairly short (say, around 500 words, with a commentary on the writer’s approach as an optional extra). This would encourage contributions and make them attractive to read.

What do you think? Would you like to see these regular columns? Do you have ideas for topics to fill them? Would you like to write for one? Whether the columns continue as long-standing, regular columns depends on what you think. Please email your views to *Clarity*’s editor in chief, Julie Clement, at clementj@cooley.edu.

An offering

Linguistic Lingo for Lawyers—grammatical terms for verb forms in English: ‘tense’ and ‘voice’

What ‘tense’ and ‘voice’ mean

Two grammatical terms that are commonly confused are ‘tense’ and ‘voice’. Both describe verb forms, but express quite different contrasts.

Tense and voice in English and other languages

Languages vary as to how they show tense and voice. Some languages use inflections (different forms of the same root word). English has only two inflections for tense: present (for example *I write*) and past (such as *I wrote*). It forms the future tense (and other present and past

tenses) by creating verb phrases using auxiliary (supporting) verbs, for example, *I shall write* (future), *I am writing* (present) and *I had written* (past). The passive voice is formed in the same way: so that *I choose* (active) becomes *I was chosen* (passive).

| Term | Contrast usually expressed | Categories (in English) |
|-------|---|---------------------------|
| Tense | Where in time the action or state described in the clause or sentence is located, relative to the time of writing | Past Present Future |
| Voice | Whether the subject of the clause or sentence is taking the action, or having the action done to them. | Active Passive |

Remember that ‘tense’ and ‘voice’ are grammatical (not semantic) terms. This means that there is not always a neat one-to-one correspondence between grammatical form and the meaning expressed. For example, tense is clearly strongly related to time, but tense and time do not always correspond: the present tense may refer to past time (such as in a newspaper headline: *minister resigns*) or future time (*she’s going tomorrow*).

Other grammatical terms for verb forms

As well as ‘tense’ and ‘voice’, there are other grammatical terms that describe verb forms in English:

| Term | Expresses: | Categories of term (with examples) |
|--------|--|--|
| Aspect | How long the action lasts, whether it is repetitive, and whether it is complete | <ul style="list-style-type: none"> • Simple (<i>she repairs</i>) • Progressive (<i>she is repairing</i>)—also called ‘imperfect’ or ‘continuous’ • Perfect (<i>she has repaired</i>)—also called ‘non-progressive’ or ‘non-continuous’ • Progressive and perfect (<i>she has been repairing</i>) |
| Mood | Whether the action is a fact; wish or supposition; or command | <ul style="list-style-type: none"> • Indicative (<i>God saves the Queen</i>) • Subjunctive (<i>God save the Queen</i>) • Imperative (<i>Save the Queen</i>) |
| Number | Whether the action relates to one person or thing, or more | <ul style="list-style-type: none"> • Singular (<i>I go, it goes</i>) • Plural (<i>we go, they go</i>) |
| Person | Whether the action refers to the writer, the person addressed, or some other individual or thing | <ul style="list-style-type: none"> • First (<i>I work</i>) • Second (<i>you work</i>) • Third (<i>she works</i>) |

Using these terms to describe real verbs

We can describe every finite verb (those that are not infinitives – *to cook* – or participles – *cooking* or *cooked*) in English using these terms. Those who studied Latin at school will remember ‘parsing’ Latin verbs in this way. For example, to use three verbs from the start of this article:

| | (my interest in jargon) started | (I) entertained | (my first child) was born |
|---------------|--|------------------------|----------------------------------|
| Tense | past | past | past |
| Voice | active | active | passive |
| Aspect | perfect | perfect | perfect |
| Mood | indicative | indicative | indicative |
| Number | singular | singular | singular |
| Person | third | first | third |

Relevance of terms to plain English

Of the terms covered in this article, those that crop up most frequently in writing about plain English are ‘voice’ and ‘person’. This is because we, as plain-English practitioners, tend to recommend using the active voice, and first and second persons, where possible. The term ‘tense’ occurs less frequently. We must avoid saying ‘passive tense’ or ‘active tense’, which, as this piece explains, are incorrect terms.

The process

My commentary on explaining these terms

1. I have found that explaining these terms has made me think critically about them. Unexpectedly, I ended up doing quite a lot of reading and research.
2. I would also like to compare my approach here to the one I suggest in the first mini-article. This piece is almost a glossary itself, since its whole aim is to explain terms.
3. In thinking about how much to explain, I decided I could assume that readers would understand basic terms such as ‘verb’, ‘subject’, and ‘clause’. I briefly explained slightly more unusual ones, such as ‘inflection’ and ‘finite’, to be on the safe side. I chose not to include a glossary explaining them in more detail, partly as I thought that many readers would already know what they meant, and partly as it could make the piece longer and rather dry (given that it is already glossary-like).
4. In hindsight, I wish I had asked some readers what terms they understood: easier said than done when busy and working to a deadline, but no doubt a good investment.
5. Looking forward, if I need to use the terms ‘tense’ and ‘voice’ (or other terms for verb forms) in my day-to-day writing, I could use this piece to write a brief explanation (say, for ‘tense’: *the verb form that sets the action or state in the past, present or future*). I could use it further if I needed also to include a more detailed explanation, in a glossary. I hope you will find it useful too.

Reference

¹ Adam JH (1982) *Longman Dictionary of Business English*. Longman, Harlow, p 261

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Sarah Carr’s biography can be found on page 29.



Drafting tips

Taking an overview: three rules of thumb

Mark Adler

Author, *Clarity for Lawyers*

Joe Kimble has kindly asked me to contribute a regular column on drafting for those members who are mainly interested in practical tips.

In this first one, taken from a draft version of the 2nd edition of my book *Clarity for Lawyers*¹, I offer three unrelated rules of thumb for good writing.

In any document it's important to retain an overview to keep the detail in context. It is particularly important with legal writing, in which the reader's view of the wood is often impeded by impenetrably dense growth.

So before diving into the detail in later issues, I offer three perspectives of my wood to summarise the changes I suggest.

- Ask yourself: *How would I say this if I was not being a lawyer?*
- Write invisibly (so that the reader is focused on what you are saying, and oblivious to how you are saying it). Style distracts from substance.
- Don't meander; go directly from beginning to end in a straight line, except to the extent that you can justify a scenic route. So:
 1. Think what you want to say (and keep it in mind).
 2. Say it unpretentiously and without fuss.
 3. Then stop.
 4. But edit exhaustively.

I have put *stop* before *edit* because I mean that having said what you want to say you should not wander on; it wastes time and signals a lack of confidence. Editing comes next because it is intended to hone the text rather than add to it (although it may prompt you to step back a stage to include a point previously overlooked).

Point 1—*Think what you want to say*—includes the lawyer's real job: not to translate ordinary language into "legal" language but to think through the scheme they are creating to ensure that it does the job. That requires a good aerial view of the wood as well as attention to individual trees and their branches. (To help me grapple with the detail and structure of this book I use my large-screen Mac to display a whole page of the text on which I am

working on my right and a draft of the contents page next to it on my left. And I adjust both of them as necessary.)

High Street lawyers often skip the *thought* stage and rely on hand-me-downs. They rely on a precedent—or just their favoured form of words—to work, not only in general but for the case in hand. They work under pressure and do not have time to check the detail each time; that job is delegated silently and retrospectively to whoever developed the precedent. And the provenance is often casual; the lawyer may have come across the document without knowing who wrote it or what the original client's instructions were. Just one example for now:

As I was completing this typescript a property developer's solicitor sent me papers which had clearly not been thought through, and which did not reflect the arrangement between the parties. He offered an unworkable standard contract-and-draft-lease package to my client for his purchase of a flat in a newly converted building. He expected me to approve the documents without amendment, especially as one flat had already been sold and another was ahead of us on the way to exchange. But both documents were full of obvious mistakes, from which I select only three groups.

The muddle of the first group mostly speaks for itself (though I mention the un wisdom of omitting the definite article from the definiendum: it is only *the* (this) flat which is defined by clause 2.2, not any flat):

1.2 "Property": Flat Number 3 at the Estate

...

2.2 "Flat": the flat at the Property

...

2.4: "Property": the Property short details of which are given in the Particulars and more fully described in the draft Lease attached to this Contract

The second group of errors is more problematic:

11.1 The Seller hereby agrees upon the sale of the last of the six flats at the Estate to transfer the freehold of the Estate to the Management Company at a nominal consideration

This could be read *The seller, reciting the sale of the last of the six flats, agrees to transfer the freehold at an unspecified time*, though I agree that this interpretation is stretched.

More seriously, what is a *sale*? It could be argued that the grant of a lease was not a sale; the definition of a *purchaser* in s.205 of the Law of Property Act to include a lessee does not apply to this document. But even if that unmeritorious argument failed the seller could evade the freehold

transfer (which had been advertised to attract buyers) by granting a shorthold tenancy of the last flat, giving or lending it to his daughter, or occupying it himself.

And how much is *nominal*?

Here is the third group:

15.1 The Seller has secured the incorporation of [] Estate Management Company Limited (“the Management Company”) a company limited by guarantee whereby each members guarantee is limited to One Pound (£1.00) The form of Memorandum and Articles of Association of the Management Company have been established and the Buyer shall raise no objection in connection therewith

15.2 As soon as the Estate has been concluded and all properties therein sold or at such earlier dates as the Seller shall specify the Seller shall arrange for the Buyers or one of them or their successors in title to become a member of the Management Company and Buyers or one of them as aforesaid shall apply for and shall accept such membership

The seller’s solicitor couldn’t insert the name of the company because it had not yet been incorporated (despite the earlier sale of one flat on identical terms). And according to the company’s mem and arts it was limited by shares, not guarantee.

Moreover, this wording allowed the seller to change the advertised scheme by restricting membership arbitrarily to only one of joint buyers.

To reflect the elaborate share structure of the company’s mem and arts and the arrangement between the parties clause 15.2 should have said something like this:

- 15. When all the flats have been let or occupied the seller must:**
- (A) Transfer a “B” share in the management company to each leaseholder (so that co-tenants will co-own their share); and**
 - (B) Redeem the “A” share.**

(I have referred to *co-* rather than *joint* tenants to avoid the suggestion that it does not apply to tenants in common.)

There was no need for original clause 15.1:

- The papers supplied with the contract should have included the management company’s certificate of incorporation, making the first line otiose.

- The mem and arts, which *were* supplied:

- Explained how the company was limited (which was *not* by guarantee); and
- Deprived the buyer of any prospect of challenging their contents until the seller had passed the company and freehold to the tenants (after which they should be free to vote changes in the normal way).

This lack of thought and of perspective—and the consequent poor drafting—are sadly commonplace.

Endnotes

¹ The Law Society of England & Wales is publishing it through Marston Book Services <www.marston.co.uk>. It is due out in August at £24.95.

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Mark Adler is an English solicitor specialising in plain legal writing, a past chairman of Clarity, and a former editor of this journal. The second edition of his 1990 book Clarity for Lawyers is due to be published by the Law Society in August.



Clarity: electronic or paper?

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From the President

Joe Kimble

Lansing, Michigan, USA

Most of this message will be devoted to my 2006 annual report, prepared for Clarity's annual meeting last February.

But first I want to say how delighted Clarity is that Sir Kenneth Keith—whose new title is H.E. Judge Kenneth Keith—has agreed to become our third patron. Judge Keith has been a longtime supporter of plain language. In the early 1990s, he was president of the New Zealand Law Commission, which published a number of important reports on improving the clarity of New Zealand legislation. He later served on the New Zealand Court of Appeal and Supreme Court, and has now (as we noted in *Clarity* 54) been elected to the International Court of Justice. Clarity is very honored to have such an esteemed patron.

Here, then, is a somewhat shortened version of my annual report—

Let me report on four things: finances, our 2005 conference, the journal, and our membership and dues system.

First, finances. At the end of the year, the U.S. account was essentially flat. Of course, some of the country representatives are holding Clarity money, so Clarity is not broke, but I had hoped to have some money in the U.S. account as well.

The total cost of each journal (layout, printing, and mailing) is creeping up somewhat. *Clarity* 53 was expensive because it was longer than usual at 72 pages, so all the costs were increased. That's okay, because we wanted a good issue going into the conference.

Remember that we have enough money to produce and mail the journal if we are collecting dues from all members. The key is to collect the dues and keep adding new members. More on that below.

Second, the July conference. By all accounts, it was a great success. About 160 persons from almost 30 countries attended. Except during the plenary sessions, we had concurrent sessions running in two amphitheatres. And in one of the amphitheatres, we provided for simultaneous translation.

The conference produced several side benefits as well. (1) Exposure for Clarity, of course. We promised that everyone who was not already a member would receive a one-year membership in Clarity. At the conference, everyone received *Clarity*

53. And Cindy Hurst, my administrative assistant, has now gone through the list of persons attending and sent them *Clarity* 54. We have thus fulfilled our obligation. And I hope we will gain some new members. (2) New country representatives. We identified three new representatives at the conference and one replacement representative. (3) Material for the journal. You may have noticed that, except for one article, everything in *Clarity* 54 was from the conference, and this issue includes the presentations from the other master class.



Third, the journal. For the fourth straight year, we have produced two issues of the journal, right on schedule. A professor at my school, Julie Clement, has agreed to take over the editorship—at least until we find someone else who will do it. I am helping with the transition. And in response to requests for more practical drafting items in the journal, Mark Adler has promised on his life to write a regular drafting column.

Finally, our membership and dues system. I am determined to get our system working more effectively. It is critical that, in March, each representative send a friendly reminder letter to members who have not paid dues. For me, this always produces a flood of renewals. (I'm baffled why more people don't pay when they see the big yellow notice we now place in the November issue; inertia, I guess.) And it is equally important that representatives send me a cull list of members who don't pay. I should get that list in April or May. To a large extent, Clarity's success depends on the good efforts of our country reps.

This year, we lost our country representative in India. But we added new reps in Bangladesh, Finland, Mexico, Nigeria, Philippines, and Spain, and we have substituted new reps in Canada, Hong Kong, and South Africa. We now have reps in 22 countries. Pretty impressive. (Incidentally, we are due for a new Clarity brochure—maybe in 2006 if we can find a sponsor again.)

All in all, a good year for Clarity.

New members

Australia

*Banking and Financial Services
Ombudsman*

[Elizabeth Wentworth]
Melbourne

Henry Davis York
[Library Manager]
New South Wales

Stuart Kaay
Baker & McKenzie
New South Wales

Katherine Kulakowski
Blake Dawson Waldron
New South Wales

Ron MacDonald
QUT Law School
Queensland

Lee Mather
Legal Aid Western Australia
Western Australia

Bob Milstein
Milstein and Associates
South Yarra

Sue Purdy
Turttons Lawyers
New South Wales

Donald Robertson
Freehills
New South Wales

Southern Cross University
Coffs Harbour Campus
New South Wales

Southern Cross University
Lismore Campus
New South Wales

Rachel Spencer
School of Law
Flinders University
Adelaide

Victorian Law Reform Commission
[The Librarian]
Victoria

Westpac Banking Group
New South Wales

Canada

Library of Parliament
[Serials Section (Trade)]
Ontario

David Scarce
Department of Justice Canada
British Columbia

Senate of Canada
[Law Clerk and Parliamentary
Counsel]
Ontario

Irving Silver
Ontario

Chile

Claudia Poblete
Asesora linguistica del Senado
Senado de Chile
Vina Del Mar

England

Tony Herbert
London

Finland

Richard Foley
University of Lapland
Rovaniemi

Government Terminology Service
[Riitta Brelih or Kaisa Kuhmonen]
Government

Jaana Kola
Ministry of Agriculture and
Forestry
Government

Pirjo Kuismanen
Nordea Bank Finland, Plc
Nordea

*Research Institute for the
Languages of Finland*
[Aino Piehl]
Helsinki

Hong Kong

Jonathon Abbott
Gilt Chambers
Queensway

Nigel Bruce
University of Hong Kong
Hong Kong

Jonathan Hugo
Happy Valley
Hong Kong SAR

Irene Leung
South Horizons

Gilbert Mo
Department of Justice
Queensway

David Morris
Department of Justice
Queensway

Roger Patterson
Baker & McKenzie
Hong Kong SAR

Jianhong Zhou
Wan Chai

Japan

Eri Okazaki
Kanagawa

Mexico

Casilda Malagon
Innovacion Mexico
Mexico, D.F.

Eduardo Romero
Secretaria de la Funcion Publica
Mexico, D.F.

Sergio Block Sevilla
Con-texto
Mexico, D.F.

Carlos Valdovinos
Secretaria de la Funcion Publica
Mexico, D.F.

New Zealand

David Oliver
Langley Twigg
Napier

Nigeria

Dr. Innocent Chiluiwa
Covenant University
Ogun State

Mojsola Shodipe
University of Lagos
Lagos

Spain

Dr. Daniel Cassany
Universitat Pompeu Fabra
Barcelona

Cristina Gelpi
Universitat Pompeu Fabra
Barcelona

Sweden

Ingrid Olsson
National Post and Telecom
Agency
Stockholm

Eva Wetterhall
Skatteverket
Uppsala

USA

Mike Durant
State of California
California

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Firm Position

Qualifications

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Name

Contact Name

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