



Drafting in 'Plain Language':

A clear way to enhance professional reputation

The legal profession is steeped in many traditions. One of the less practical traditions is the tendency for lawyers to write in unnecessarily complex and confusing sentences—otherwise known as 'legalese.' For the modern lawyer, such linguistic habits are becoming more and more impractical as lawyers must now highly prioritise efficiency and productivity to better serve clients.

When it comes to drafting a legal document, it is important to achieve written clarity which will convey a strong command of the legal issue in question. Unfortunately, many lawyers fail to do this by using dated drafting techniques. Developing clear, concise, and effective writing is an essential skill for maintaining a professional reputation. It also helps legal practitioners save time by being able to read through documents much more quickly.

Too often can a legal document become bogged down with dense phrasing and illogical structure. Why continue to write crowded phrases like "give, devise, and bequeath" when the same meaning is achieved by simply saying "give?"

One example in isolation may not seem too detrimental, but it is when this kind of phrasing dominates the document that it becomes a needlessly long task for the reader to decipher. Effective drafting should distill the message, yet adequately reflect the positions of the parties.

The legal profession is moving away from the convoluted drafting styles that have previously been the norm. As the 'Plain Language' movement increases in popularity, it is important for legal practitioners to keep their writing style up-to-date. This has the effect of enhancing professional reputation as a lawyer who is on top of developments in the profession as well as improving efficiency and productivity for lawyers all round.

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Here are some general tips for incorporating plain language in drafting:

Abandoning archaic expressions

There are a number of archaic words whose use should be abandoned completely. Examples include 'heretofore,' 'hereinafter' and 'aforesaid.' The main issue with these words, apart from being outdated, is that their meanings in a modern context can be imprecise.

Following on from this, Latin phrases are falling out of favour, with the modern English equivalent being preferred by the Centre for Plain Legal Language. For example 'in good faith' is preferred over 'bona fide.'

Using the active voice

Use of the active voice entails the subject being indicated at the beginning of the sentence. For example, 'the parties may...'. This clears up any ambiguity about which party is being referred to in the document.

Adherence to 'The Golden Rule'

Never change the language unless you want to change the meaning. Linguistic variation is not something that should be considered in order to flourish the writing. Synonyms for the same word would only obscure the document. Clarity is always paramount over creative expression.

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