

Clarity for Lawyers (2nd edition)

Foreword by
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The purpose of almost all writing, including legal writing, is to communicate: to convey the subject matter of the writing from one mind to another. Any means of expression which eases, speeds up or clarifies that process is to be welcomed. Any which hinders it is to be deprecated. That is the simple and obvious, but hugely important, message of this book. It is one which lawyers all too often neglect.

You cannot write clearly unless you know clearly what it is you want to say. Imprecise writing is often a reflection of imprecise thinking. So the first and essential step is to be clear what message you wish to convey. This is so whether the writing is a clause in a lease, a term in a contract, a paragraph in a will, a letter of advice or a judgment. The second essential step is to ask: how can that message be most clearly, effectively and accurately expressed? This requires a capacity for self-criticism. It calls for willingness to tear up and re-write a draft, to depart from a much-used form in the precedent book, to think afresh.

This welcome Second Edition is a treasure-house. It contains numerous illustrations of bad legal writing. They are illustrations with which any seasoned lawyer is wearisomely familiar: the endless sentence, with its proliferation of subclauses; the needless repetition; the use of unfamiliar language; the archaisms; the pompous language used to impress. Whoever, in real life, bought or rented a "message"? What client or litigant was ever impressed by a grand-sounding word used where a simple word would do ("prior to" for "before", "replicate" for "repeat" or "reproduce", "explicate" for "explain", "parameter" for "boundary" and so on)?

But this book would be much less valuable than it is if it did no more than illustrate the vices of legal writing. It does that, but for each example singled out for criticism a better way of making the same point is suggested. Complexity cannot be altogether avoided where the subject matter is complex, and there is great wisdom in the advice attributed (see p 37) to Einstein: "Make it as simple as possible, but no simpler". It comes back, I think, to clarity of thought and willingness to be selfcritical. This is a book to be read, marked, learned, inwardly digested - and acted upon.