The Role of Plain Language in Legal Documents

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ABSTRACT

This paper examines the importance of plain language in legal documents to enhance accessibility, understanding, and compliance among lay audiences. Traditional legal language, or *legalese*, is often criticized for being overly complex, obscure, and inaccessible to those without specialized legal training. The paper examines the benefits of transitioning to plain language, including improved communication, reduced legal conflicts, and greater transparency in legal processes. It also identifies barriers to adopting plain language, such as institutional inertia, perceptions of professionalism, and entrenched legal writing norms. Guidelines for drafting documents in plain language are presented, emphasizing clarity, simplicity, and reader engagement. Case studies demonstrate the successful implementation of plain language reforms across contracts, court documents, and consumer law, highlighting challenges and tangible improvements. Ultimately, adopting plain language emerges as a critical step toward making the legal system more inclusive, fair, and efficient.

Keywords: Plain language, legal documents, legalese, accessibility, legal writing, communication.

INTRODUCTION

Legal Language: White Noise or a Communication Teaser? If you need to pick up a legal document and make sense of it without the J.D., M.A., or Esq. that other readers might have, you are about to face a daunting challenge. Not for lack of reading or research skills, but because legal writing often seems to be in far-advanced English that many of us cannot afford or are trained to use. Although there is little doubt about the importance of using legalese to sort out legal professionals from others, this paper attempts to examine the pros and cons of doing just the opposite—removing legalese from legal documents and using plain English language instead. Under being a legal layperson, the focus will be on claims identified in the literature and evaluating their application to legal practice; thus, the ultimate goal of this paper is to make scholarly insights practical [1, 2]. In a society where individual independence is highly esteemed, adopting plain language in legal documents (such as contracts, statutes, regulations, etc.) represents an attempt to render the so-called legal jargon more intelligible to laypersons. This, the argument goes, will not only promote laypeople's understanding of facts and fiction but will also encourage compliance with the law. In the legal community, the transition from legalese to plain language has the potential to enhance communication among professionals, improve document drafting practices, reduce the potential for legal conflicts, and cut costs. On the upside for clients, simplified legal documents should encourage their understanding of the rights and obligations they are about to take on. However, we are not there yet [3, 4].

The Importance of Plain Language in Legal Documents

The use of plain language in producing legal documents, particularly those encompassing legal information, is vital. Plain language aims to make legal text accessible to those for whom the language is intended, exposing the contents to a broader audience. Simply put, it is a tool to improve understanding and compliance. At its heart, it is a communication strategy built on a fundamental assumption that understanding and compliance—the message getting through to your audience—is a desirable outcome. Accordingly, the absence of such a lack of intention and the quality metric that comes with it. By contrast,

the implied message of more complex language is intentionally (and even strategically) obtuse, thereby revealing a foreknowledge that 'most audience members will not understand.' One might argue that these considerations of principles amount to nothing more than theoretical abstraction and are unlikely to be a part of the 'average' reader's everyday concerns. However, a recent survey indicated that poor communication of legal documents led to employee dissatisfaction. Additionally, it is not uncommon for legal disputes to turn on misunderstandings of complex legal language, a fact that is fairly corroborated by results in public health, financial, and educational research. Misunderstandings about the risks of medical treatments, insurance policies, and student loan interest payments have all been shown to result in unwelcome, expensive, or harmful surprises. Problems such as these stem from overly complex language, reveal a possible strategy of hiding the truth by translators, and demonstrate the interaction between language and justice. The more informed people are, the more they can freely make decisions, including those of a legal nature. In other words, this rationale illustrates the inextricability and interdependence of clarity and fairness [5, 6].

Barriers To Using Plain Language in Legal Documents

The use of plain and easy-to-understand language in legal writing is appealing, but it has not influenced institutional practice. This discrepancy suggests that there must be barriers to using simple language in legal writing, which we will examine in this section. Part of the resistance to plain language is simply that legal language is plain to those who have been trained to understand it. Many members of the public think that legal writing is difficult to read because they do not understand the content, not because they do not understand straightforward English. Most people are not lawyers and have not been habituated to reading, writing, and thinking in technical legal language. Members of the public have told us that apart from the difference in content, plain English and legal English are not dissimilar. They are similar in that both are precise and convey a complex meaning. They are dissimilar in that the legal language appears to be complex, while plain English is much less complicated. If a legal writer does not appreciate this distinction, they are unlikely to want to change how they write. The practice of legal writing has developed over several centuries, and this longevity has conferred on it a sense of authority and dignity, which may give legal writers pause when it comes to changing their writing style. This shift places an onus on all those working in the legal system to maintain their integrity and attribute differentially to themselves through writing alone. In other words, added clarity and ease of comprehension may be viewed as contributing to a decline in professionalism and be interrelated with changes on an organizational level rather than on the part of the writer alone. It is important not to conflate the institutional inertia previously mentioned with organizational aspects in the discussion of the use of plain language in law. Some organizations have in their mandate that they should communicate clearly to service users and therefore require their employees to use plain language when writing prose [7, 8, 9].

Guidelines For Writing in Plain Language

There are many strategies for developing content in plain language. When you are starting to write a legal document, begin with a target reader in mind, and ask yourself what could confuse or bore them. Here are some guidelines to help you get started [10, 11].

1. Use simple words your reader knows. You might use "and" instead of "furthermore," for example. Also, use familiar words instead of jargon and legal terms. Finally, use words that are specific and precise so your reader understands your meaning [12, 13].
2. Keep sentences short. Aim for sentences with up to 15-25 words. This will help your reader stay engaged. The shorter the document, the shorter the sentences. If the document is very short, you might want to aim for an average of 7-15 words per sentence [14, 15].
3. Use the active voice. Use the active voice and strong verbs. For example, use "required the borrower to repay the loan" instead of "it is a requirement of the borrower that they repay the loan."
4. Emphasize the reader's interest. When drafting, consider using "you" or "we" instead of the formal "the claimant." This will help keep your reader engaged if done creatively.
5. Consider the reader's perspective. Think about what you would want to know or how interesting you would find the content if you were reading the document for information for the first time. Also, think about what would confuse or bore you.
6. Organize your content. Use lists and bullet points for the content you want to emphasize. Bold and underline text thoughtfully and make sure you're consistent. In longer documents, you may want to create headings and subheadings to help organize the content. Finally, proofread. Edit

and then ask a friend or coworker to edit as well. Anyone can learn to write in plain language. Just like baking, it provides endless opportunities for refinement and personalization.

Case Studies of Successful Implementation of Plain Language in Legal Documents

The following selection of case studies includes reports relating to:

* Court Documents (Moving to Plain Language Jury Charges and Plain Language Court Forms), * Contracts (Plain Language Terms and Conditions and Plain Language Clauses and Explanations in Insurance Policies and Financial Statements), * Understanding Law (Understanding Renting Law and Licensing Law), and * Consumer Information (Plain Language Credit Law) [16, 17]. Each case study outlines reasons for the implementation of plain language (albeit implicitly) and the improvements that have resulted from the change. The final section of each case study looks at the difficulties of implementing change and recommendations from the case study authors. Each case study also outlines its research method [18, 19].

CONCLUSION

The adoption of plain language in legal documents marks a significant step in enhancing accessibility and transparency within the legal system. By simplifying legal jargon, individuals without legal training can better understand their rights, obligations, and legal processes. This improved comprehension fosters greater compliance, reduces disputes, and ultimately strengthens trust in the legal system. However, institutional resistance and perceptions of professionalism continue to pose challenges. Overcoming these barriers requires a cultural shift within legal practice, driven by clear guidelines, organizational mandates, and real-world examples of successful plain language implementation. As demonstrated by case studies, the benefits of plain language—clarity, fairness, and improved communication—far outweigh the costs of maintaining outdated conventions. The transition to plain language represents not just a stylistic choice but a fundamental commitment to justice, inclusivity, and effective communication.

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