

LEGAL WRITING

REALISTIC WRITING HELP FOR BUSY LAWYERS

Lawyers spend a long time drafting but very few have formal training in legal writing. Here are some practical steps firms can take



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AS I stand in front of a group of lawyers to begin a workshop on legal writing, I often reminisce about my university teaching days. Then, I had a semester to cover the materials I will now try to cover in three hours. Why so short? Because this is the reality of working with law firms. Although most partners agree that their lawyers' writing needs help, they're reluctant to commit to long trainings. Even if the firm is willing, long trainings don't fly with lawyers. They don't have the time and

are quickly distracted by work responsibilities. So any realistic writing programme must meet two competing requirements: place limited demands on the lawyers' time but still bring results. Impossible? No. The solution is two-fold – training with the right approach and improved internal writing processes.

Ironically, although lawyers spend much of their time writing, they have received little formal training in legal writing. This is especially true for non-native lawyers writing in English. That means that even a short course

can have an impact if it uses the right approach: (1) focus on the most common partner complaints and lawyer errors; (2) offer easy-to-implement solutions; (3) include practical reference materials; and (4) encourage supervisor participation.

With such limited in-class time, the training should target only the most common problems, with less common problems covered in supplementary materials. Not coincidentally, the problems I see most are the same problems partners complain about most:

- **Style:** classic “legalese” – dense, complex, long-winded prose that infects native and non-native lawyers alike; writing that sounds like the lawyer’s native tongue, not English.
- **Tone:** inappropriate formality, especially tone devices that manufacture formality (“pleased be advised that”, etc.).
- **Use of legal authority:** inadequate structuring around and paraphrasing of legal authority; problems with writing to clients about the law.
- **Structure:** confusing and ineffective overall structure; poor signposting and transitioning; paragraphs that lack internal coherence.
- **Usage and mechanics:** misplaced modifiers; mis-

matched prepositions; misunderstood time expressions (until, by, within); non-parallel constructions; confused English legal terminology (hold v find v state).

Simply pointing out typical problems is of some benefit to lawyers because it creates awareness. But really effective training for busy lawyers offers solutions that can be implemented quickly and easily. I never point out a problem without offering at least one practical solution. For example, one easy way to improve style is to cut redundancies and implied information. Instead of “cooperate together with”, try “cooperate”. Instead of “the reason is because”, try “because”. Instead of “will in the future”, try “will”.

With only a few hours of in-class time to discuss and work through examples, the training should be heavily supplemented with extra materials. Most lawyers won't read a book on legal writing, but many lawyers will use practical reference materials they can consult as needed. I supplement my trainings with a 100-page “bank” of reference materials: lists, samples, examples, exercises and explanations. One of the lists is “common redundancies”.

Trainings are more effective if

“One easy way to improve style is to cut redundancies. Instead of “cooperate together with”, try “cooperate””

THE RIGHT APPROACH TO WRITING

1. Focus on the most common issues
2. Offer easy-to-implement solutions
3. Supplement with practical reference materials
4. Encourage supervisor attendance
5. Adopt a style guide
6. Provide information about projects
7. Implement formal editing processes

supervisors can attend. Supervisors bring experience and valuable insights. Also, their presence encourages associates to attend. Equally important, because supervisors and associates learn the same techniques, they are on the same page as they move forward from the training and apply its principles in practice.

Lawyers' writing can continue to improve if the firm sets up clear internal writing processes that reflect the principles taught in the training. Establishing clear internal processes also fosters senior-junior relations and boosts firm morale.

Developing a firm style guide is the easiest way a firm can improve its written product. A style guide standardises details each lawyer does a bit differently: lists, headings, capitalisation, punctuation, terminology, abbreviations and so on. The firm benefits from a consistent firm-wide style and more efficient collaborative work.

A firm can adopt guidelines on what supervisors should tell associates when assigning a writing project, such as: due date, length, amount of (billable) time to spend, format, purpose and intended use. This will reduce misunderstandings and wasted time.

A firm will also benefit from

formalising its editing process. Here are four ideas. First, teach lawyers a systematic approach to self-editing. Second, develop a checklist of common writing issues to serve as a mutual reference for associates in their self-editing and for supervisors in their editing. Third, develop a standardised feedback form to help supervisors focus on what they really want. Fourth, instruct supervisors on how to give effective feedback. Feedback should be specific, neutral and practical. For example, instead of “hard to follow”, they might say “add more coherence devices – headings, lists, topic sentences”. These are comments a junior colleague will understand, appreciate and heed. Concrete feedback does require more initial effort from the supervisor, but work product will improve (meaning less editing) and so will the mentoring relationship.

Realistic writing help for busy lawyers must place limited demands on lawyers' time while still producing results. Training with the right approach combined with improved internal writing processes can be the answer. ■

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