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Using Plain Legal English Principles for Better Writing

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Belle Translation Japan, Ltd.
Principal, *Lisa Hew*



Main Points

1. Introduction to Plain English
2. Today's 5 points
 - i. Wordiness
 - ii. Legalese
 - iii. Redundancy
 - iv. Nominalisation
 - v. "Translationisms"
3. Q&A

Introduction to Plain Legal English

Plain English is presenting information so that in a single reading, the intended audience can read, understand and act upon it. Plain English means writing with the audience in mind and presenting information clearly and accurately.

<http://www.plainenglish.co.uk/campaigning/past-campaigns/legal/drafting-in-plain-english.html>

Introduction to Plain Legal English

Plain English writing:

- is respectful of the reader.
- is appropriate to your audience.
- draws on common, everyday language.
- explains technical words in everyday language.
- attempts to interest readers and hold their attention.

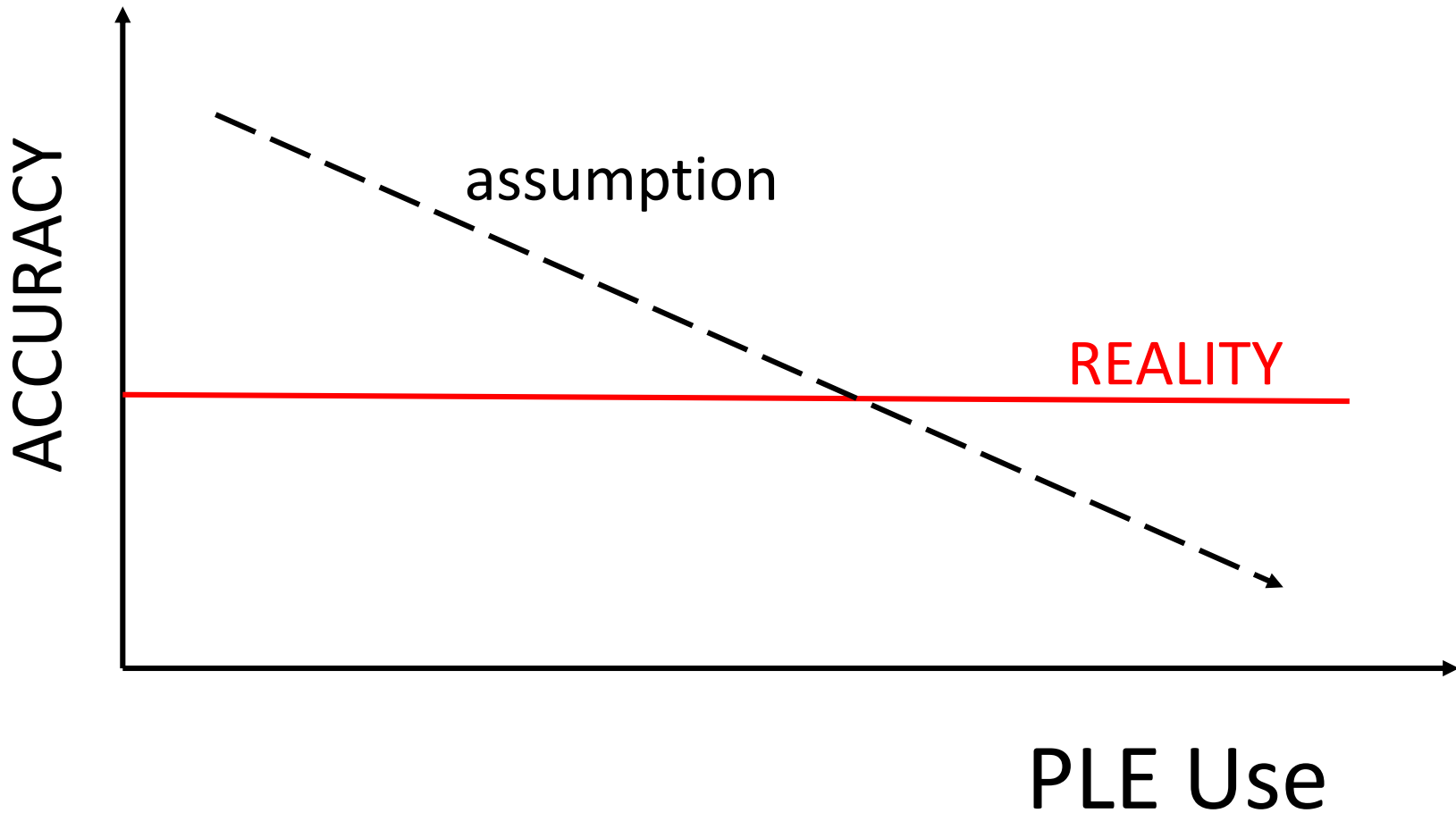
<https://www.plainenglish.com.au/about-plain-english>

Introduction to Plain Legal English

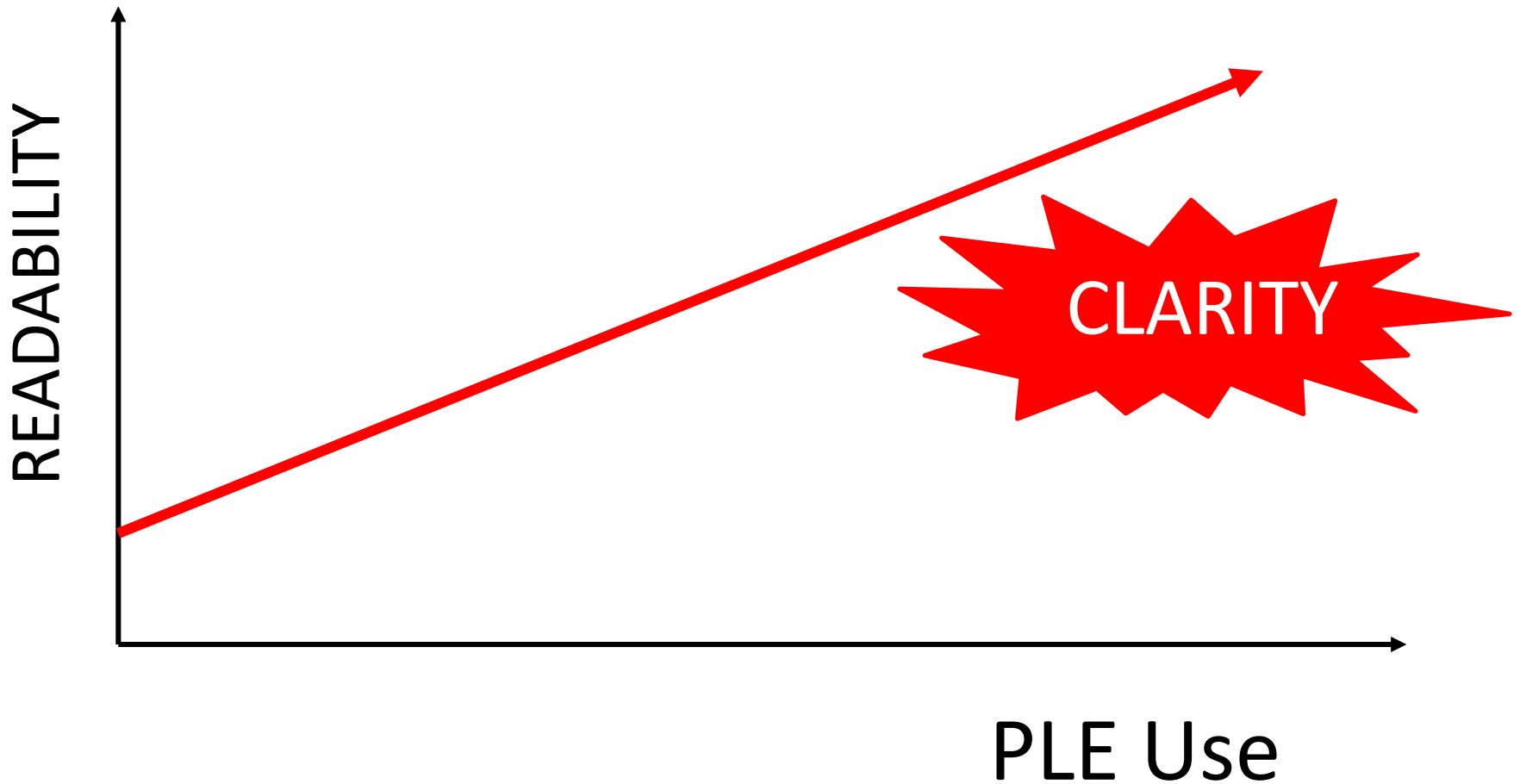


READABILITY

Introduction to Plain Legal English



Introduction to Plain Legal English



Today's 5 Points

1. Wordiness
2. Legalese [bad guy image]
3. Redundancy
4. Nominalisation
5. “Translationisms”

1. Wordiness

With the
exception of

In reference
to

[sick green smiley]

The fact of the
matter is

For the
reason that

There is ... that
It is ... that

Until such
time as

In the event of

With regard to

[sick green smiley]

1. Wordiness

At this point in time...

= **Now**

[John Dean photograph]

John Dean, White House
Counsel under President Nixon

1. Wordiness

Wordy	Concise
According to	Per
As a result of	Consequently/therefore
Due to the fact that	Due to/since
During the period	During
For the reason that	Since/because
For a period of	For
In reference to	About
Until such time as	Until
With regard to	Regarding/about
With the exception of	Except
Whether or not	Whether

1. Wordiness

of

=

[red flag image]

- Change into possessive?
- Replace with another preposition?
- Convert active to passive
- Remove more clutter?

[hmmm?? smiley]

1. Wordiness

Commission of Services

→ Service Commission

Cooperation of Licensee

→ Licensee's Cooperation

Method of Payment

→ Payment Method

Method of Notification

→ Notification Method

Date of Issue

→ Issuance Date

Loss of Profit

→ Profit Loss

Allocation of Roles

→ Role Allocation

Upon the expiration of
the Agreement

→ When the Agreement
expires

Writing Goal



READABILITY

1. Wordiness

- Does a word/phrase add MEANING?



[thinking smiley]

1. Wordiness - Checklist

- ① Be CONCISE
- ② Delete, replace “of”
- ③ Remove clutter
- ④ Find red flags
- ⑤ [Your own reminder]

Today's 5 Points

1. Wordiness
2. Legalese
3. Redundancy
4. Nominalisations
5. “Translationisms”



2. Legalese

Definition:

the formal and technical
language of legal documents

<https://en.oxforddictionaries.com/definition/legalese>

2. Legalese

- Traditional wording
- Bureaucratese
- Sesquipedalianism
- Shall

[Calvin yuck image]

2. Legalese – Traditional Wording

- aforementioned
- aforesaid
- regardless
- wherein
- whatsoever
- witnesseth
- hereby
- herein
- hereinafter
- hereof
- hereto
- hereunder
- herewith
- ~~hereafter~~

[hmmm?? smiley]



Is it
necessary?

2. Legalese – Traditional Wording

“WHEREAS, the foregoing witnesseth the pitfalls herein of legalese as aforesaid, the end of the matter is thus: write plainly”

Duke McDonald; *The Ten Worst Faults in Drafting Contracts*

Write plainly.

2. Legalese – Bureaucratese

Definition:

a style of language, used especially by bureaucrats, that is full of circumlocutions, euphemisms, buzzwords, abstractions, etc.

<http://www.dictionary.com/browse/bureaucratese>

2. Legalese – Bureaucratese

- such
- said
- foregoing
- at issue
- in question
- same
- but not limited to
- The party of the first part
- which...which...that
- ...

[“Just Say No” button image]

2. Legalese – Bureaucratese

Reasons to use bureaucratese/jargon:

- User wants to hide something.
- User wants to seem smart.
- User wants reader to think user knows something reader does not.

<https://madamgrammar.com/tag/bureaucratese/>

2. Legalese – Bureaucratese

What did they
really mean?

Why can't they
write clearly?

[Boy confused image]

I'll look stupid
if I don't
understand

Your
reader

Huh?

2. Legalese – Sesquipedalianism

Definition: containing many syllables;
given to using long words

<http://www.dictionary.com/browse/sesquipedalian>

eg:

- obligate	V	oblige
- utilise	V	use
- methodology	V	methods
- notification	V	notice

- Hippopotomonstrosesquipedaliophobia V fear of long words

2. Legalese – Sesquipedalianism

In rebuttal:

Never use a long word,
when a short one will do.

George Orwell,
author of *Animal Farm*
and *1984*

[George Orwell picture]

2. Legalese – Sesquipedalianism

Long

administer

→

advantageous

→

aggregate

→

allocate

→

alter

→

anticipate

→

append

→

ascertain

→

assistance

→

cognizant of

→

commence

→

Short, Common

manage

useful, helpful

total

give, share

change

expect

attach

learn

help

aware of

begin, start

Writing Goal

READABILITY

~~Traditional wording~~ ~~Bureaucratese~~ ~~Sesquipedalianism~~

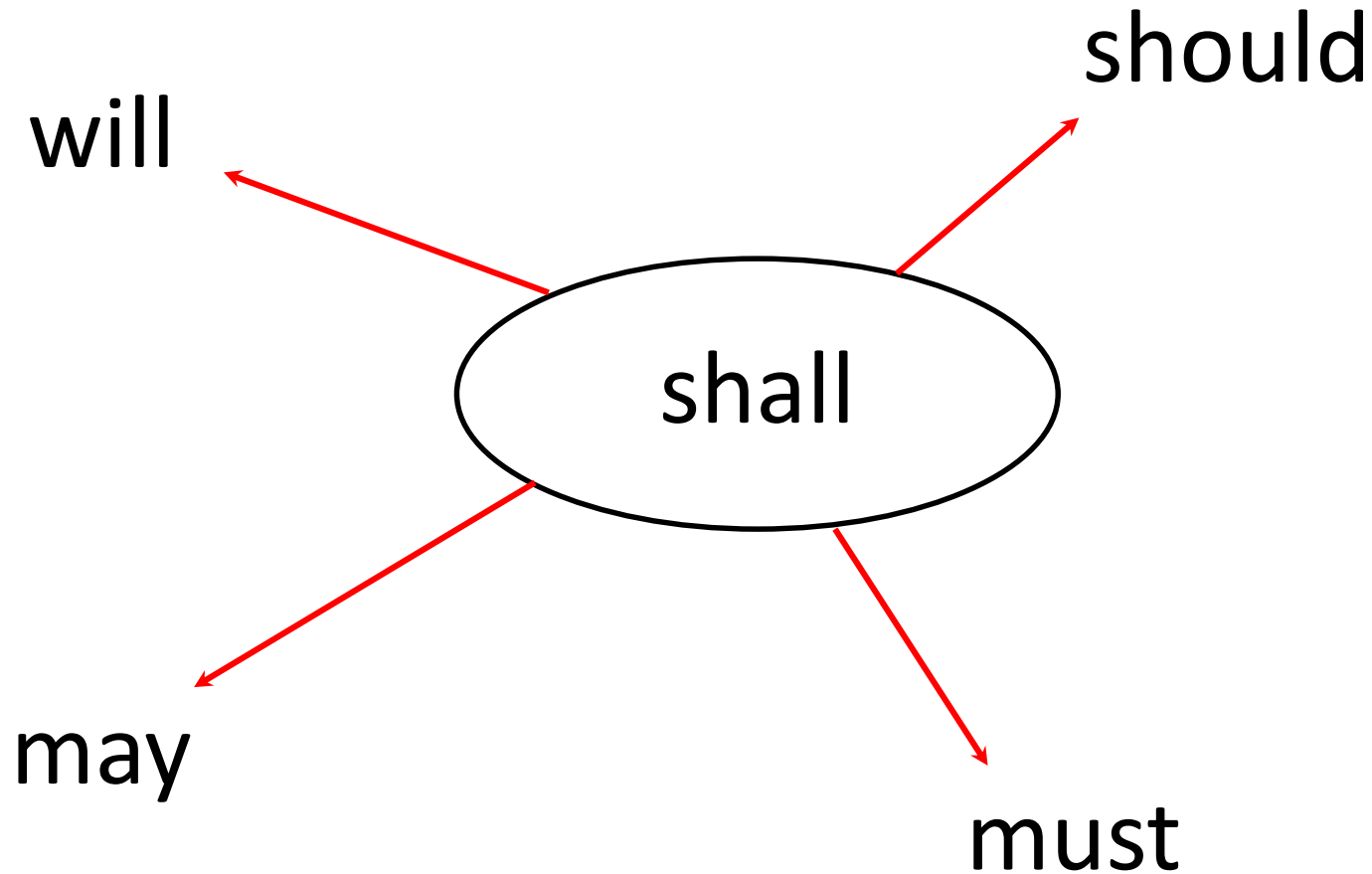
- ✓ Be clear
- ✓ Remove clutter
- ✓ Use common words

2. Legalese – “shall”

shall

[sick green smiley]

2. Legalese – “shall”



2. Legalese – “shall”

What’s the problem with “shall”?

1. First, lawyers regularly misuse it to mean something other than "has a duty to."
2. Second—...—it breeds litigation.
3. Third, nobody uses "shall" in common speech.

<http://www.plainlanguage.gov/howto/wordsuggestions/shallmust.cfm>

2. Legalese – “shall”



2. Legalese – “shall”

Use “**must**”.



But, if you have to use it,

○○○○

[hmmm?? smiley]

shall =
“has the duty to”

Today's 5 Points

1. Wordiness 
2. Legalese 
3. Redundancy
4. Nominalisations
5. “Translationisms”

3. Redundancy

Definition:

needless string of words with the same or nearly the same meaning.

aka: doublets and triplets

3. Redundancy

aid and abet	made and entered into
by and between	new and novel
cancel, annul and set aside	null and void
covenant and agree	object and purpose
deem and consider	of sound mind and memory
due and payable	over and above
fit and proper	part and parcel
final and conclusive	perform and discharge
full faith and credit	power and authority
give, devise and bequeath	right, title, and interest
heirs and assigns	save and except
indemnify and hold harmless	sole and exclusive
legal and valid	successors and assigns
liens and encumbrances	terms and conditions

3. Redundancy

Choose best word for context

[confused stickman image]



READABILITY




3. Redundancy

But, are they ever acceptable?

- breaking and entering
- cease and desist
- good and sufficient
- had and received
- keep and maintain
- lands and tenements
- ready, willing, and able
- will and testament



Today's 5 Points

1. Wordiness 
2. Legalese 
3. Redundancy 
4. Nominalisations
5. “Translationisms”

4. Nominalisation

Definition:

nouns formed from verbs

eg:

- discussion
- refusal
- cancellation
- conclusion
- performance
- explanation

4. Nominalisation

Why is it bad?

[sick green smiley]

- Buries the verb
- Seems more passive
- Meanings become obscured

4. Nominalisation

make a decision	→	decide
give a proposal	→	propose
make a determination	→	determine
make a request	→	request
conduct negotiations	→	negotiate
hold discussions	→	discuss
conduct an investigation	→	investigate

[triangle warning image]

Often creeps in with 「～する・行う」 verbs

4. Nominalisation

Hints to identify a nominalisation

Nouns

ending in

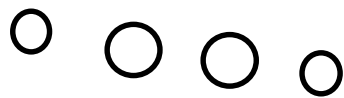
- -tion
- -sion
- -ing

Verbs

- make
- perform
- undertake
- give
- be
- grant
- have
- offer
- conduct
- carry out

4. Nominalisation

Think ACTIVE



1. WHAT is the action?
2. WHO is doing it?

[hmmm?? smiley]

Today's 5 Points

1. Wordiness
2. Legalese
3. Redundancy
4. Nominalisations
5. “Translationisms”

5. Translationisms

- ✓ Active over passive voice
- ✓ Keep related elements close
- ✓ Use present tense
- ✓ No run-on sentences
- ✓ Bits and pieces

5. Translationisms – Active over Passive

Active voice:

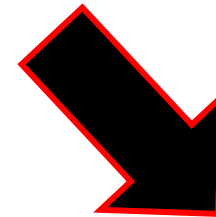
is used to show that the subject is doing the acting.

Passive voice:

is used to show that the subject is on the receiving end of the action.

5. Translationisms – Active over Passive

[stop sign image]



Active
voice

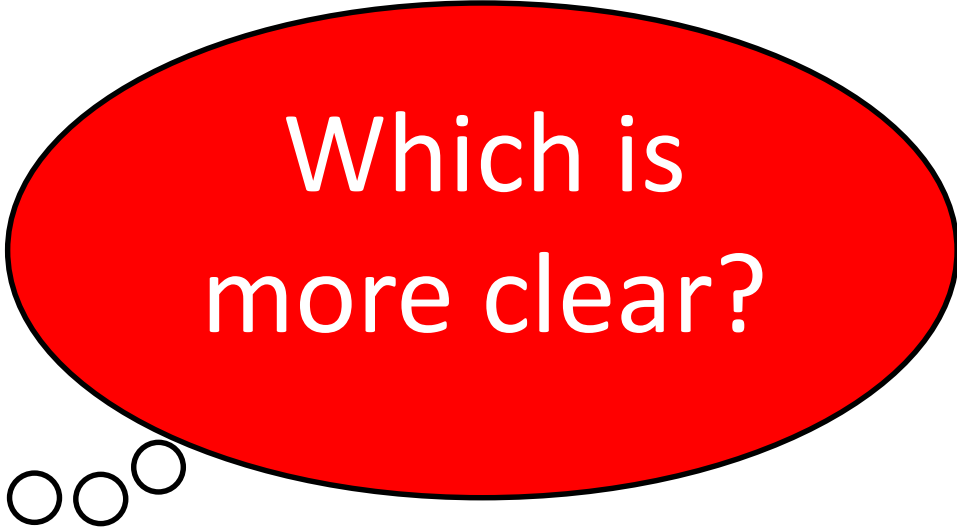
[hmmm?? smiley]

5. Translationisms – Active over Passive

When passive voice should be used

- When intentionally trying to hide the identity of the actor.
- When the action is more important than who does it.
- When it is easier to understand than the active voice.

5. Translationisms – Active over Passive



Which is
more clear?

[thinking smiley]

5. Tr'nsisms – Keep related elements close

- Keep related elements close

[only examples a and b]

5. Tr'nsisms – Keep related elements close

- Keep related elements close
 - Date placement
 - Adverbs – which word are they describing?
 - Relative clauses - what are they modifying?

5. Tr'nsisms – Keep related elements close

- Adverb placement

S13: [gradually example]

T13:

R13:

5. Tr'nsisms – Keep related elements close

- Relevant circumstantial clause

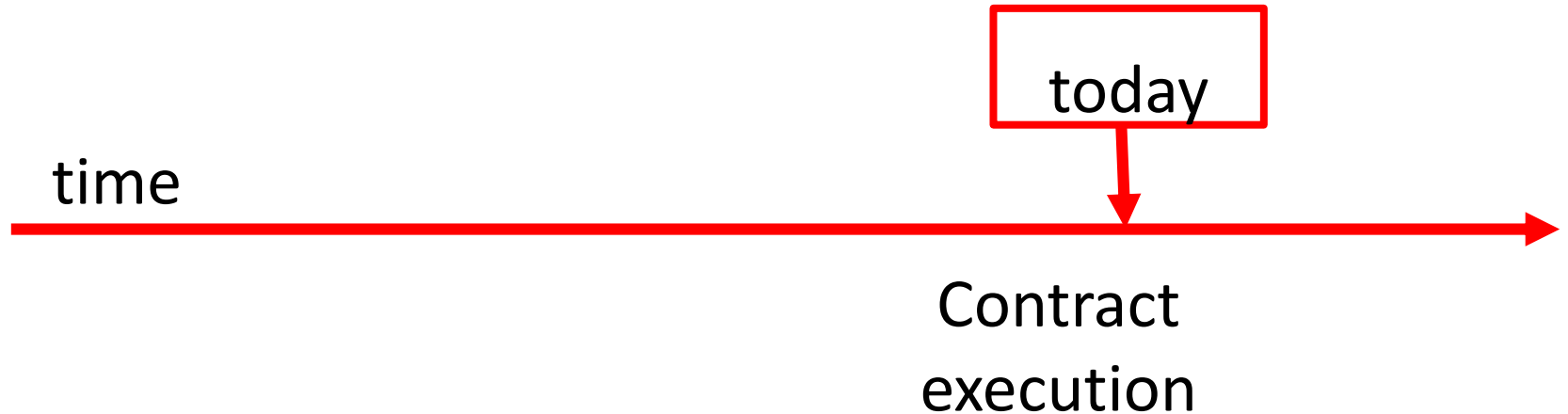
S14: [date example]

T14:

R14:

5. Tr'nisms – Present tense

➤ Present or future tense



Ex 2:

5. Tr'nisms – No run-on sentences

Ideal average sentence length:

20 words

(according to Brian Garner, *Legal Writing in Plain English*)

S15:

5. Tr'nings – No run-on sentences

T15:

Readability statistics:

5. Tr'nings – Avoid run-on sentences

[triangle warning image]

- Too long?
- More than one breath?
- Different subjects?
- Separate concepts?

5. Translationisms

- Checklist
 - Active over passive
 - Careful placement of related elements
 - Present tense
 - Shorter sentences

5. Translationisms – Bits and pieces

➤ Singular or plural?

Ex 5: [user example]

Ex 6: [invoice example]

5. Translationisms – Bits and pieces

➤ Singular or plural?

S17: [third party example]

T17:

5. Tr'nisms – Bits and pieces

➤ Whether to use “the”?

Ex 7:

Ex 8:

Writing goal:



READABILITY

5. Tr'nsisms – Bits and pieces

- Bits and pieces
 - Can “and/or” be used?

PLE general rule: either **AND** or **OR**

5. Tr'nisms – Bits and pieces

➤ A or any?

S18:

T18:

5. Tr'nsisms – Bits and pieces

➤ Principal clause up front

S19:

T19:

R19:

5. Translationisms

- Bits and pieces – checklist
 - Singular over plural
 - Decided use of “the”
 - AND or OR, not “and/or”
 - A over any
 - Principal clause up front

Today's 5 Points

1. Wordiness
2. Legalese
3. Nominalisations
4. Redundancy
5. “Translationisms”

Final Thought

[uphill battle image]

Reminder List

[signholder
image]

- ✓ Be concise
- ✓ Be clear
- ✓ Replace “of”
- ✓ Remove clutter
- ✓ Read out loud

ご清聴、ありがとうございました。
Thank you for listening!



Lisa Hew, Principal

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