

Clear legal writing is possible—with a little help from the computer

Don't sign your contract unless it's in clear English

In a league table of clear writing style, lawyers would be in the relegation zone along with management consultants and technology professionals. The legal profession has a bad reputation when it comes to using the written word. Long and convoluted sentences, archaic expressions, wordy phrases, clauses within clauses, complex words and abstract and vague drafting are the hallmarks of typical legal documents. Does it have to be like this? No it doesn't. One law firm—Denton Wilde Sapte—has shown legal writing can be clear and concise.

Denton Wilde Sapte wanted to change the way its 700-plus lawyers wrote. No easy task. They had developed their writing style over years and many didn't see the need to change or thought they had good drafting skills. Today, Denton Wilde Sapte clients are full of praise for the firm's writing style. One energy company representative said: "Beautiful note, flows like a mountain stream." Another said: "Of the numerous law firm updates I receive, I think this is one of the best. Short and concise and with just enough information."

Most law firms recognise that clear drafting is necessary, but any training initiatives fail as employees revert to the writing style of the thousands of documents that come across their desks. So how is Denton Wilde Sapte changing the culture and writing style within the firm? It's a story any law firm can learn from.

DEFINING THE PROBLEM

When Denton Wilde Sapte audited 400 of its documents in 2006 there was not a standard style. The firm used plain English software to measure each document. The software found writing ranging (according to the program's Style Index) from 13—rated as excellent, to

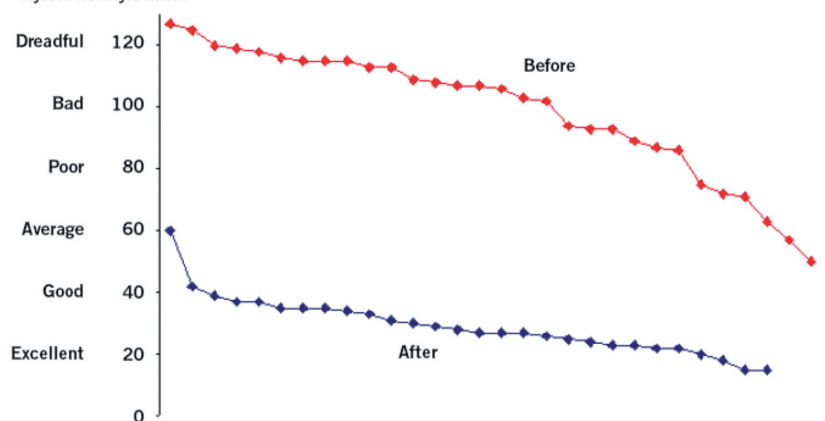
179—rated as dreadful. The average Style Index was 85—better than much traditional legal writing, as you would expect from a commercial law firm, but still over four times the level recommended for good style. There was no noticeable difference based on seniority—partners were scarcely better at writing than their junior colleagues.

CHANGING LEGAL DRAFTING WITH STYLEWRITER

Denton Wilde Sapte Director of Legal Training, Cathy Wilcox, realised that simply running a traditional writing course was not enough. "We had to change hearts and minds and we needed a way to guarantee everyone kept to the new, clear style. Training alone was not enough. We used Editor Software's plain English editing software, StyleWriter."

Measuring success

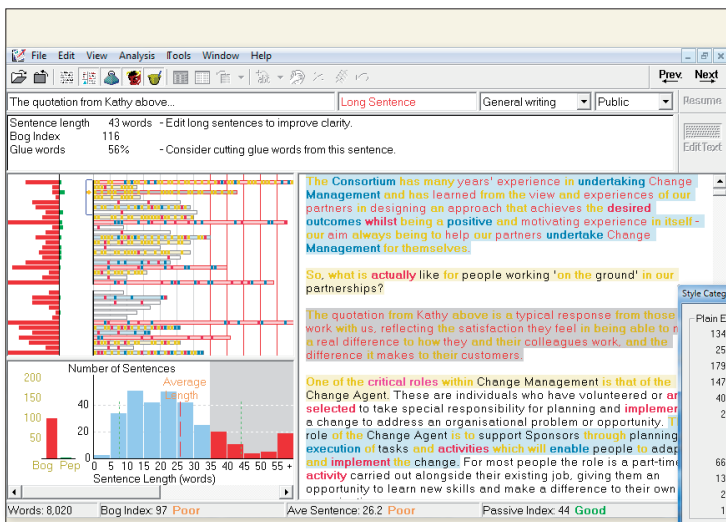
Stylewriter style index



Denton Wilde Sapte measured its boilerplate clauses with StyleWriter software when rewriting them in plain language.

Before: score for each precedent, from highest to lowest, before rewriting.

After: score for each precedent, from highest to lowest, after editing into plain language.



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The screenshot shows two dialog boxes. The 'StyleWriter Help' dialog box is open to the 'Newsletters' section, which provides tips on writing newsletters. The 'Style Categories' dialog box is also open, showing a list of categories such as 'Plain English Style', 'Word Usage', 'Jargon', and 'Sentence Analysis'. The 'Word Usage' section is expanded, showing a list of words and their counts, such as 'Passive Verbs' (134), 'Hidden Verbs' (25), and 'Complex Words' (179).

Why just spell-check when you can edit for style, clarity, readability and your house-style rules.

The firm's plain language initiative started in January 2006 when their boilerplate precedents went through the StyleWriter software. The program scores the writing style and shows where and how to edit the document. It has three key measures:

- The Style Index** — A measure of poor style faults.
- Sentence Length** — A key to ease of reading.
- Passive Index** — A measure of the most common style fault.

An excellent, clear writing style typically scores below 20-20-20 for each of these measures. How did the original precedents score? An unflattering average 93-25-35—scores typical of any law firm. But after some hard editing, prompted by StyleWriter, the average scores fell to 26-15-8 showing the documents were in a clear and readable style. The key measure of clarity, the Style Index, shows the remarkable change in the clarity of the firm's boilerplates.

CHANGING THE CULTURE

As well as redrafting key documents, the firm wanted to change the writing style of authors. "We knew we had to change the culture so we ran half-day training sessions and used StyleWriter to help put the training ideas into practice," says Cathy Wilcox. "The StyleWriter software is an excellent way of reinforcing the principles of plain language. Most fee earners and many support staff have attended the training sessions and are enjoying using the software."

Just as important has been the way senior managers and clients have reacted. So often training initiatives fail because senior people want it done the old way. But within the firm, senior partners have attended the training and encouraged staff to write in the new clear style. The firm's Chief Executive claimed the training was "Excellent—one of most useful courses I have attended." The training also changed the views of sceptics: "Very relevant, even if I didn't think I needed it beforehand." There's active encouragement for clear writing throughout the firm—from the top down.

The feedback from clients has also been positive. Busy clients are becoming less tolerant of indigestible, time-consuming information. They increasingly value and choose lawyers who communicate clearly.

RUNNING A SUCCESSFUL WRITING PROGRAM

Denton Wilde Sapte ran a successful writing program because the firm took these steps.

- 1 Agreed with senior management that change was necessary and needed.
- 2 Used StyleWriter to audit the current writing standards.
- 3 Designed and delivered a half-day course to all fee-earners and many support staff.
- 4 Issued StyleWriter to employees to back up the training.
- 5 Reviewed and measured the results.

The savings in better administration, improved client relations and repeat business made this a worthwhile investment.

CAN OTHER LAW FIRMS CHANGE THE WAY THEY WRITE?

The work at Denton Wilde Sapte shows law firms can change the way they write. It is an issue they must tackle. Lord Justice Rix, former head of the Commercial Court, speaking at Denton Wilde Sapte about plain language in commercial contracts said:

“ You cannot rely on the old for ever; you cannot keep on patching; from time to time you have to have a proper overhaul. That is what plain English is about. And if you do not carry out that overhaul, then the risk of simply carrying on in the old way is greater than the risk of undertaking the new. ”

Will other legal firms take up the challenge? Well there's no excuse as the training and software is there—all it takes is the desire to change and the commitment to see it through. Clear writing is simply clear thinking on paper.

Changing from old-fashioned legalese to a clear and concise style is a challenge facing all law firms. Until now, it was impossible to change the poor drafting habits common to all organisations. Now with StyleWriter, management support and training, clear English in every document is possible. Will your firm take up the challenge? It's your choice. ■