

FACTSHEET 5

Using Plain English

WHAT IS PLAIN ENGLISH?

'Plain English' is a style of English that assists clear and accurate communication.

Plain English does not mean using simple words or 'dumbing down' the message.

Plain English involves all parties in the courtroom adapting their speech to avoid saying things that will cause confusion for the interpreter or the party with limited English proficiency.

Plain English also assists people who speak English well, but lack legal literacy.



WHY IS IT IMPORTANT THAT I USE PLAIN ENGLISH?

It is a fundamental duty of any judicial officer to ensure that proceedings are conducted fairly. Those involved in legal proceedings must be able to understand what is being said, including by judicial officers.

Using plain English is particularly important when judicial officers and lawyers are explaining legal processes and concepts.

Using plain English will help ensure **access to justice** and **procedural fairness** for people with limited English or legal literacy, whether or not they require an interpreter.

Although it is desirable to use plain English, the degree to which this is necessary and possible will depend on the sophistication of the witness, the level of skill and qualification of the interpreter and the complexity of the subject matter of the speech.

HOW DO I SPEAK IN PLAIN ENGLISH?

There are different strategies you can use to speak in plain English, such as those outlined in the Law Society Northern Territory, *Indigenous Protocols for Lawyers*¹ :

¹https://lawsocietynt.asn.au/images/stories/publications/indigenous_protocols_for_lawyers.p

1. Use active voice, avoid passive voice

For example, instead of:

“She was arrested”, try:

“The police arrested her”.

2. Avoid abstract nouns

Replace nouns that refer to something intangible with verbs or adjectives. For example, instead of:

“His anger led him to violence” try:

“He was angry. That made him violent”.

3. Avoid negative questions

For example, instead of:

“So, you didn’t report the trouble?” try:

“Did you report the trouble?”

4. Define unfamiliar words

Use the word, then attach a short descriptive statement. For example, instead of:

“This is Crown land” try:

“This is Crown land. Crown land is land the government owns”

5. Put ideas in chronological order

For example, instead of:

“Prior to leaving the hotel, you had a drink?” try:

“You had a drink at the hotel. Is that true? Sometime after that, you left the hotel. Is that true?”

6. Use one idea in one sentence

Break paragraphs into several sentences. For example:

“The government wants to make communities safer. That can happen if people solve arguments quickly. Mediation is one way to solve arguments. In a mediation people talk about their problems. A neutral person called a mediator helps them solve their problems.”

7. Avoid using “if” or “or” to discuss hypothetical possibilities

Use ‘maybe’ to indicate multiple possibilities. For example, instead of:

“If the corrections officer approves, you can go to the football game” try:

“Maybe the corrections officer approves, and then you can go to the football game”.

8. Place cause before effect

Be wary of the word ‘because’. For example, instead of:

“You were angry because he insulted your sister?” try:

“He insulted your sister and this made you angry. Is this true?”

9. Indicate changing topic

For example, try:

“I’ve finished asking about your job. Now I need to ask you about your family”.

10. Avoid prepositions to talk about time

For example, instead of:

“They will make a decision over the next three months” try:

“They will think about this for three months – maybe less than 3 months - and they will decide what to do”.

11. Avoid figurative language

For example, instead of:

“I want to make sure that we’re on the same page” try:

“I want to make sure we understand each other”.

METHOD OF SPEAKING

In addition to speaking in plain English, judicial officers should speak slowly, and with appropriate pauses, to assist the interpreter in their duty of interpreting.

RECOMMENDED NATIONAL STANDARDS FOR WORKING WITH INTERPRETERS IN COURTS AND TRIBUNALS

The Judicial Council on Cultural Diversity (JCCD) developed the *Recommended National Standards for Working with Interpreters in Courts and Tribunals*² to establish recommended and optimal practices for Australian courts, with the aim of improving access to justice and procedural fairness.

² <https://jccd.org.au/wp-content/uploads/2022/05/JCCD-Recommended-National-Standards-for-Working-with-Interpreters-in-Courts-and-Tribunals-second-edition.pdf>

³ https://ards.com.au/uploads/Downloads/15/39-15.Legal_Dictionary_plain_English_version.pdf

Standard 14 – Plain English says:

“Judicial officers should use their best endeavours to use plain English to communicate clearly and articulately during court proceedings” – refer to pages 49-50 of the Annotated Standards for detailed advice.

OTHER RESOURCES

While there are different plain English legal glossaries, two particularly recommended Australian resources include:

- *The Plain English Legal Dictionary: Northern Territory Criminal Law*³, and
- *Glossary of common court, tribunal and legal terms for interpreters (QLD)*⁴.

CONTACT

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⁴ https://www.courts.qld.gov.au/__data/assets/pdf_file/0011/487478/djag-pub-legal-glossary-for-interpreters.pdf