

Legal Writing

Guide

by

The Uni Tutor



THE UNITUTOR

Custom Essays

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Writing Rules

1. Use Plain Language

"Writing in plain language is just writing in clear, straightforward language. There are no hard-and-fast rules. There are no international standards or infallible tests. The main thing to remember is that if what you have written could be unclear or confusing for your reader, you should rewrite it so that it becomes clear and unambiguous".

2. Use Short and Simple Everyday Words

Use "keep" rather than "retain"; "need" rather than "require".

3. Avoid Legal Jargon

Avoid legal jargon – those archaic words and expressions for which modern English words can be substituted or which can be left out altogether; for example, "hereinafter", "hereunto".

Use terms of art, however, which are short accurate expressions of complex legal ideas like "tenants-in-common", "fee simple", "consideration".

4. Avoid Foreign Words

Avoid foreign words like "sui juris". We have an alternative – "with legal capacity".

5. Avoid Word Clusters

Use a single word rather than a circumlocutory phrase. Use "under" rather than "under the provisions of".

If a word that has no substantive meaning can be left out entirely, do so.

Avoid "we should point out that" or
"we refer to previous correspondence and advise that"

6. Use Normal Sentence Structure

Use words in the order in which they would be used in everyday speech:

Avoid	Use
Part 4 to the contrary notwithstanding	despite Part 4
the lender so far as it has the power so to do	the lender, so far as it has the power [to do so]
without the consent in writing of the lender first had and obtained	without first obtaining the written consent of the lender

7. Use Positive Statements

State matters positively as positive statements are easier to understand than negative ones:

Avoid

the Secretary may not register shares without the consent of the Director

regulations not consistent with the Act

shareholders other than those having Class B shares may

persons without a licence may not

Use

the Secretary may only register shares with the consent of the Director

regulations inconsistent with the Act

shareholders having Class A shares may

persons with a licence may

Do not state the negative as well as the positive:

Avoid

A and B hold as joint tenants and not as tenants in common

"**Listed Company**" means a company that has been admitted to the official list of a securities exchange and has not been removed from that official list

shareholders other than those having Class B shares may

persons without a licence may not

Use

A and B hold as joint tenants

"**Listed Company**" means a company that is on the official list of a securities exchange

shareholders having Class A shares may

persons with a licence may

Avoid negative words such as "unlike", "hardly", "scarcely".

8. Use Present Tense

Use the present tense in definitions:

Avoid

"**Member**" shall mean an Employee who has been admitted to membership of the Fund

"**Person**" shall include a partnership, a company and includes a person acting in the capacity of a trustee

"**In-house asset**" shall have the meaning given to it in Regulation 16A of the Superannuation Regulations

Use

"**Member**" means an Employee who has been admitted to membership of the Fund

"**Person**" includes a person acting in the capacity of a trustee, a partnership and a company

"**In-house asset**" has the meaning given to it in Regulation 16A of the Superannuation Regulations

Use the present tense where you are providing for an existing situation and for the consequences of some future event:

Avoid

this agreement shall be governed by
the law of the United Kingdom

if the buyer shall default

Use

this agreement is governed by the law
of United Kingdom

if the buyer defaults

9. Use Active Voice

Use active rather than passive voice as it is easier to read, simpler and more concise. It is also precise because it makes clear who does what. If you use passive voice, you can have a grammatical sentence but one which does not impose an obligation on anyone.

Avoid

shares may be issued by the directors

the conclusion was reached by the
judge

proceedings may be commenced for
the recovery of money

if the obligations under clause 12 are
not performed on or by the Completion
Date

Use

the directors may issue shares

the judge concluded

secured creditors may commence
proceedings for the recovery of
money

if the seller does not perform his
obligations under clause 12 on or by
the completion Date

10. Avoid Provisos

Do not use false provisos. The formulae "Provided", "Provided that" or "Provided always" are generally wrongly used to state an exception or qualification, to introduce the several stages of consecutive operation or to introduce an inconsistency.

Instead:

- (a) substitute "except" or "but" for the proviso:

Avoid

the Lender may demand payment of
the loan PROVIDED THAT it may not
do so unless the Borrower has failed to
make an interest payment

use

the Lender may demand payment of
the loan but it may not do so unless
the Borrower has failed to make an
interest payment

- (b) use a full stop and start a new sentence omitting the proviso:

the parties will bear their own costs arising out of the preparation of this Agreement PROVIDED THAT they will bear any stamp duty chargeable on this Agreement equally

the parties will bear their costs arising out of the preparation of this Agreement. The parties will bear equally any stamp duty chargeable on this Agreement

- (c) recast the sentence:

Avoid

all such monies, costs, expenses, outgoings and liabilities shall be added to and form part of the principal sum and be repayable accordingly PROVIDED THAT such moneys, costs, expenses, outgoings and liabilities shall be limited to reasonable amounts reasonably incurred by the Mortgagee.

Use

all such money, costs, expenses, outgoings and liabilities which shall be limited to reasonable amounts reasonably incurred by the Mortgagee, shall form part of the principal sum and be repayable accordingly.

- (d) use "and" instead of the proviso if the ideas being expressed are conjunctive.
- (e) if the ideas being expressed are alternatives, divide them into separate clauses or paragraphs joined by "or" or "and" simply subdivide the text into separate clauses without any connectives:

Avoid

the Trustee may distribute funds PROVIDED THAT it has a surplus of funds and PROVIDED THAT the beneficiaries are over 21 and FURTHER PROVIDED THAT no loans to beneficiaries are outstanding

Use

the Trustee may distribute funds if:

- (a) it has a surplus of funds; and
- (b) the beneficiaries are over 21; and
- (c) no loans to beneficiaries are outstanding

11. Use Precise Words

Be precise in your choice of words and do not rely on context to resolve ambiguities:

Avoid

Demise

Use

death; lease; conveyance; convey

11.1 Clarify meaning

Choose words which have only one meaning or if words have more than one meaning make it clear which meaning you intend:

Avoid

Decision

New

Usecourt's judgment;
reasons for judgment

additional; alternate; substitute

11.2 Avoid "he", "she", "him", "her", etc

Do not use "he", "she", "him", "her", "his", "hers", "its", "they", "their", "it" unless there is no confusion about which party is being referred to:

Avoid

the Tenant and the Landlord agree that
he will make all structural repairs

Use

The Tenant and the Landlord agree
that the Tenant will make all structural
repairs

11.3 Use of "this"

"This" is ambiguous. It can refer to an idea or thing, one word or a whole sentence. Make sure the reader always knows what "this" means. If in doubt, add the appropriate noun: "this clause", "this document", "this reasoning".

11.4 Avoid general references

Avoid general references such as to the appointment of a director "under this Deed" if there is more than one mechanism for appointment.

11.5 Use of qualifying words

Place qualifying words near the expression to be qualified:

Avoid

the defendant refused to service the
belonging to the man who had insulted
him with good reason

Use

with good reason the defendant
refused to service the car belonging
to the man who had insulted him

11.6 Use of tabulation

Use tabulation where there are a number of references to which a qualification could relate:

Avoid	Use
To the children of X and Y (when X & Y are not married)	(a) the children of X; and (b) Y
	or
	To the children of:
	(a) X; and (b) Y

11.7 Use of consistent word signals

Use precise transitions such as "if ... then" but make sure they are complete.

12. Use Consistent Language

Use the same word or expression for the same concept throughout the document. The reader will know immediately that you mean the same thing. If you refer to "the contract", do not later refer to it as "the document", "the agreement" or "the instrument"; if you refer to "a proposal", do not later refer to it as "a suggestion".

13. Use of "shall", "may" and "must"

Use "must" or "must not" (rather than "shall" and "shall not") to impose a positive or negative obligation. Use "may" or "may not" when conferring or limiting a right, power or privilege. Legislation traditionally treats "shall" as establishing a requirement. However, in other contexts "shall" is read as meaning either "must" or "may" and is therefore ambiguous.

Avoid	Use
Notice of appeal shall be lodged within 14 days	the party may appeal by lodging notice of appeal within 14 days
he shall receive compensation	he is entitled to compensation

14. Avoid "such", "the said", "aforesaid", "same"

These words are rarely seen outside legal documents; they can either be replaced by more usual words like "the", "that" or "those", or left out entirely.

15. Use of "any", "each", "every" and "all"

Use these words sparingly. Reserve them for emphasis only. In most cases, the words "a" or "an" can be substituted for "any" and "each":

Avoid	Use
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each applicant must complete the prescribed form

an applicant must complete the prescribed form

if the tenant commits any breach of the Lease

If the tenant commits a breach of the Lease

The word "all" can in most cases be deleted without changing the meaning:

avoid

use

all shareholders may vote

shareholders may vote

16. Use "will" not "shall"

Where it is necessary to use the future tense, use "will" not "shall" unless the documents speaks in the first person:

Avoid

Use

the Developer agrees that it shall convene monthly meetings of the Development Control Group

the Developer agrees that it will convene monthly meetings of the Development Control Group

17. Use of "and" and "or"

Use the words "and" and "or" carefully.

(a) "X and Y may" can mean:

- (1) X and Y together may; or
- (2) X by himself and also Y by himself may.

(b) "X or Y may" can mean:

- (1) X by himself may, Y by himself may; or
- (2) X by himself may, Y by himself may, both X and Y may.

To make the meaning clear use:

(a) the expressions:

"either X or Y or both"
"either X or Y but not both"
"any one of"
"any combination of"
"both of"
"all of"

(b) tabulation:

Avoid

where the seller terminates the contract, the seller may forfeit the deposit and keep all the instalments paid or sue for damages

Use

where the seller terminates the contract, the seller may forfeit the deposit and:
 (a) keep all the instalments paid; or
 (b) sue for damages

18. Avoid "and/or"

Never use "and/or" as it is ambiguous. It forces the reader to consider all the alternative meanings and to guess which one was intended. It is also difficult to read and can lead to absurdity.

avoid

the Bank may require the Company and/or the shareholders to provide it with security

the vendor may sell and/or retain the property

use

the Bank may require the Company or the shareholders or both to provide it with security

the vendor may sell the property or the vendor may retain the property

19. Use of Singular and Plural

Use a singular legal subject whenever possible to avoid both ambiguity and the inadvertent creation of joint rights or obligations:

Avoid

the parties may terminate this agreement by 3 weeks' notice in writing

the directors must disclose their interests in shares, debentures and contracts

the directors may delegate their powers to committees consisting of such of their number as they think fit

Use

a party may terminate this agreement by giving to the other 3 weeks' notice in writing

a director must disclose any interest in shares, debentures and contracts

the directors may delegate any of their powers to a committee or committees consisting of such of their number as they think fit

If you use the plural, make it clear whether the obligations imposed are joint or several or both:

Avoid

A and B agree with C that they will on 1 April 1993 pay to C the sum of \$5

Use

A and B jointly and severally agree with C that they or one of them will on

20. Use Gender-Neutral Language

Our language does not cope very well with the fact that both men and women participate in society; our language does not make it easy to refer to both male and female genders together.

To avoid using the alternative form "his or her", try these methods to be gender-neutral in your writing:

- (a) repeating the generic noun:

Avoid

the Trustee may pay the amount at his or her discretion

Use

the Trustee may pay the amount at the Trustee's discretion

- (b) substituting "a" or "the"

Avoid

his or her agent

a prospective employee must submit his or her resume

Use

the agent

a prospective employee must submit a resume

- (c) select neutral words:

Avoid

draftsman

authoress

poetess

Use

drafter

author

poet

- (d) recast the sentence in plural:

Avoid

the applicant should fill in the document using his or her own handwriting

Use

applicants should fill in the document using their own handwriting

- (e) recast the sentence so that 'you' is the pronoun:

Avoid

the applicant should fill in the document using his or her own

Use

you should fill in the document using

21. Spelling

21.1 Macquarie Dictionary

Use the Macquarie Dictionary to check any spellings of which you are unsure.

21.2 Easily confused nouns and verbs

Confusion can arise over the following:

- (a) licence (noun) with license (verb):

You must renew your driving licence annually; you will then be licensed to driven a car.

- (b) practice (noun) with practise (verb):

You must renew your practising certificate annually; you will then be entitled to practise as a solicitor in private practice.

- (c) advice (noun) with advise (verb):

In our letter of advice we advised you to...

- (d) effect (noun or verb) with affect (noun or verb). Effect used as a noun means a result or consequence:

'the lad had a sweeping effect'.

Effect used as a verb means to produce, bring about, make happen:

'the lobby group effected a change in the law'.

Affect used as a noun means a feeling or emotion; used as a verb it means either to influence, act on or produce a change in:

'the law affected police procedures';

or to make a show of or pretend:

'to affect ignorance'.

Avoid

to produce an affect

to affect a change in the law

to be affected by the change in the law

Use

to produce an effect (n)

to effect a change in the law (v)

to be effected by the change in the law (v)

to effect ignorance

to affect ignorance (v)

21.3 Plural Forms

'Data', 'media', 'criteria', 'phenomena' and 'memoranda' are plural forms.

21.4 Titles of Acts, articles, etc

Do not change the spelling of titles of Commonwealth Acts, ordinances or regulations or of articles or organisations to conform to this guide.

21.5 Clients' and parties' names

Take particular care with the spelling of clients' and parties' names.

22. Use Short Sentences and Tabulation

Use short sentences (preferably no longer than 3 lines) and tabulation to aid clarity. Break up long sentences into separate clauses and tabulate into paragraphs within clauses. Clauses and sub-clauses are whole sentences; paragraphs and sub-paragraphs are items in a list within a sentence. Begin a new clause when you want to cover a new topic. Use tabulation to help the reader see immediately the structure of a list.

23. Use of General and Particular Words

23.1 General statement followed by specific examples

When a general statement is followed by a number of specific examples anything not expressly included will be construed as having been intentionally excluded in accordance with the maxim *expressio unius est exclusio alterius*:

The statement 'If either trustee is at any time unable to act by reason of death, disability or absence from the country, the other shall act alone' would be construed as excluding the resignation of a trustee.

If it is necessary to enumerate particulars, use the expressions 'including but not limited to' or 'including without limitation':

A reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns.

23.2 General words following specific words

General words which follow specific words will be construed in accordance with *ejusdem generis* rule to be limited to the same class or category as those preceding specific words:

The terms of an easement which permitted access by 'cars, motorcycles, buses, trucks and other vehicles' would be construed as covering only motor vehicles and not horsedrawn vehicles.

To avoid the application of the rule use the following expression:

[general words] including without limitation...

or

another [general word] whether of the same kind as those previously listed or not.

23.3 Associated words

Be careful with associated words. Where two words or expressions are placed together, one normally including the other, the general is then presumed not to include the particular:

If reference is first made to 'land and buildings' and then to 'land' the word 'land' by itself does not include buildings.

Conversely, if two ideas are associated in a way that indicates the first is included in the second a further reference to the second will by implication include the first:

If reference is first made to 'gold and other minerals' and then to 'minerals' the word 'minerals' includes gold.

24. Use Consistent Numbering

24.1 Recommended system of numbering

Use the following system of numbering and lettering except where there is a reason to depart from it:

1. Clause (whole sentence).
2. Clause, introductory words:
 - (a) paragraph; and
 - (b) paragraph.
3. Heading
 - 3.1 Sub-clause (whole sentence)
 - 3.2 Sub-clause:
 - (a) paragraph;
 - (b) paragraph; or
 - (c) paragraph:
 - (i) sub-paragraph:
 - (A) sub-sub-paragraph; or
 - (B) sub-sub-paragraph; and
 - (ii) sub-paragraph;

resuming words of sub-clause.

Example:

11.1 The office of a Trustee becomes vacant if the Trustee:-

(a) being an individual:

(A) becomes bankrupt or makes any arrangement or composition with creditors generally or;

(B) becomes of unsound mind;

(b) being a company:

(A) an official manager is appointed pursuant to the Corporations Law; or

(B) a meeting of the Trustee's creditors is called.

11.2 The Trustee...

24.2 Introductory words of clause or sub-clause

The introductory words of a clause or sub-clause, before a series of paragraphs, end with a colon(:).

24.3 Paragraphs

Each paragraph starts with a lower case letter and ends with a semicolon(;).

24.4 List of paragraphs

An 'and' or 'or' appears at the end of the second last paragraph in a list depending on whether the paragraphs are cumulative or alternatives.

24.5 Introductory and resuming words of clause

Words in each paragraph must be consistent with the introductory and resuming words of the clause or sub-clause.

24.6 Beyond sub-sub-paragraphs

Avoid dividing text beyond the level of sub-sub-paragraphs.

25. Cross-References

Make any cross-references as specific as possible. If clause 10 can only affect clauses 30 and 31, make clauses 30 and 31 'subject to' clause 10 or rewrite clause 10 to refer to clauses 30 and 31. However, in some cases, you may want or need to use 'blanket' provisions such as 'subject to this deed' or 'despite any other provision to the contrary'. Use these carefully as they may allow unintended interpretations of the document. You may find it an aid to clarity to put references to clauses and schedules in bold type (which can be removed in the final version).

In referring to other provisions in a document:

Avoid

if the landlord serves a notice under sub-paragraph (iv) of paragraph (c) of sub-clause 1 of clause 23

Use

if the landlord serves a notice under clause 23.1(c)(iv)

26. Headings

Use headings to indicate the content of each clause. Headings should be short and should describe but not summarise the provisions to which they relate. State in the interpretation clause that headings are for reference only and do not form an integral part of the document.

27. Punctuation

Use punctuation consistently and correctly to make the document easier to read. However, the meaning should be clear even if the text is unpunctuated.

28. The Full Stop (.)

A full stop is used to mark the end of a sentence that is a statement or command, or after a sentence containing an indirect question:

We have decided to go to Manly.

Please wait for our Melbourne office to reply.

In acronyms and abbreviated names of widely known organisations full stops may be omitted:

AMA MDU

29. The Ellipsis (...)

Three spaced stops are used to show that words have been omitted from a quoted passage:

'every juror ... must before being empanelled ... make and subscribe ... an oath of allegiance'.

If the ellipsis comes at the end of a sentence, it should be followed by the punctuation normally required.

30. The Question Mark (?)

A question mark follows a direct question:

Have you received the contract yet?

After a question of courtesy a full stop suffices:

Will you please sign the contract where indicated and return it to us.

31. The Comma (,)

Commas separate clauses, phrases and words in sentences, in order to direct the reader to their correct relationship. They indicate necessary pauses for breath and control the fall of emphasis in the sentence. The modern tendency is to use no more commas than is essential for clarity.

Use a comma to separate long coordinate clauses joined by 'and', 'but', 'for', 'or', 'nor' or 'yet':

They feel more and more the heavy burden of steadily advancing years, and would like to find a smaller house.

However, short coordinate clauses do not require a comma:

I haven't looked into the matter and I don't intend to. Your firm may act for such clients but ours would not.

When enumerating items in a sentence, use commas to separate all but the last:

By next year we will need 3 additional solicitors, a good experienced librarian, 2 senior secretaries, another receptionist and some kind of filing clerk.

A comma is needed to separate introductory clauses or phrases from the main clause in the sentence:

Having said that, I shall not refer to the matter again.

As it is so long since you visited us, I think you should stay overnight.

A comma is not needed when the introductory phrase is very short and no misreading is possible:

Within seconds you will have the remainder of the documents by facsimile.

Adverbial clauses following the main clauses are not normally set off by a comma:

Compare: Having said that I will not refer to the matter again.

Having said that, I will not refer to the matter again.

Compare: The communists say the coalition parties are likely to win the next election.

The communists, say the coalition parties, are likely to win the next election.

Commas should be used to mark off direct quotations and to separate clauses or phrases that come between the subject and the verb, or to make expressions that function as 'asides':

This, by coincidence, was the beginning of a far more mysterious chain of events.

His Honour commented, 'In my opinion, this is the most outrageous application of the *Noxious Weeds and Infestive Vermin (intermediate) Regulations 1936* that it has ever been my misfortune to hear'.

Mary Smith, the well-known writer, was also included in the New Years Honours List.

Commas should be used to separate names from titles and occupations:

Captain Cook, RN.

John, Duke of Norfolk

32. The Semicolon (;)

The semicolon separates parts of a sentence that require a stronger break than that marked by the comma but are too closely related to be broken into separate sentences:

The company will not fail; it will continue regardless of the bankruptcy of two of its directors.

The past is a different country; they do things differently there.

A semicolon is used to separate main clauses joined by 'however', 'accordingly', 'moreover', 'thus' and other conjunctive adverbs:

Judgment has been given in the negative; thus, we shall have to reform our habitual practice in the matter.

Your survey confirms the need for rented computer services; we disagree, however, that our client lacks the flexibility to provide such service.

A semicolon is used to separate more clearly phrases that are already punctuated with commas:

The practice of Medicine is an art, not a trade; a calling, not a business; a calling in which your heart will be exercised equally with your head.

A semicolon is used to separate parallel clauses where the connecting conjunction is omitted:

To be poor and not complain is difficult; to be rich and not complain is easy.

33. Quotation Marks (' ')

Use single quotation marks (' ') to enclose the exact words of a writer or speaker, whether or not these form a complete sentence. Double quotation marks (" ") are only used for a quotation within a quotation:

'Yes, that is the situation', she replied.

I refer you to what the biographer of Mme Curie calls 'this entrancing story of her strange experience in Poland under Russian Tsar, "born in servitude and chained in our cradles"; of gay dancing days and sleigh rides; of secret society

for patriots and "exile to the frozen plains of Siberia" waiting for anyone who was found out.'

Our client's message read, 'Please ignore the wording "No correspondence will be entered into" in the terms and conditions of the Beauty Contest.'

Quotation marks should not be used to enclose an indirect quotation:

Mary said she thought it would rain.

However, quotation marks may be used to distinguish one or more words to show that they are given exactly as in the source:

The 1924 Act provides that is the 'duty' of every elector to record his vote at each election.

The Bureau noted the approach of 'very unsettled' weather.

Use single quotation marks to set off colloquial words, words used facetiously, nicknames, slang, coined expressions and technical words when you wish to draw attention to their technical usage:

Economists describe this as the 'gross national product'.

Enclose in quotation marks the titles of articles, essays, chapters and sections of books. (Titles of whole books and separately published monographs should be in italics):

I refer you to chapter 'Population and Economic Structure' in CDG Cole and Raymond Postage: *The Common People 1746-1964*.

At the end of a quotation, put comma or stop inside the quotation mark, a semicolon or colon outside the quotation mark and an exclamation point or question mark inside or outside, depending on whether it is your punctuation (outside) or part of the original passage quote (inside):

When I say 'We know,' that is how I understand the evidence; you may view it differently.

It is said, 'Very well, there go their dividends'.

The distinction is conveniently expressed by the terms 'fixed capital' and 'circulating capital'; the latter must be the subject of entry in the Profit and Loss Account.

He shouted 'Stop, thief!' but the robber got away.

'Am I my brother's keeper?' he asked.

When a quotation is broken by 'he said' or a similar expression, the interruption is normally preceded and followed by a comma. The punctuation should always, however, be kept as close as possible to the original. If the original contained a colon, semicolon or a dash at the break point, that punctuation is retained within the quotation mark; but where the original had a full stop it is replaced with a comma and the full stop moved to the end of the interruption. A capital letter then follows after the next quotation mark:

'I might have evaded the question,' he said, 'if only I had gone to Ireland.'

'The Governor shall appoint a Board of three persons,' reads the Scottish Act, 'the Registrar of Companies or his deputy to be the Registrar of the Board.'

'Consumer spending on durables was up 1 per cent," the report said.

'Net exports declined,' [Where the original reads: Consumer spending on durables was up 1 per cent. Net exports declined].

If the matter is quoted, it should be reproduced exactly even if it contains errors. Insert 'sic' or editorial comments within square brackets:

'The child's essay began: 'My family lives in London but we used to live in Milton Keynes [sic] which is much smaller.'

34. The Colon (:)

The colon marks a pause or degree of separation somewhat shorter than that marked by a full stop.

A colon directs attention to the statement that follows it. It is a strong mark of punctuation and signals that everything that follows is an amplification, elaboration or itemisation of the statement that goes before:

Our client stocks all sizes: small, medium, large and extra large.

There was only one word for it: catastrophic.

This is the company's plan: to open a new factory in Alice Springs and save the cost of transporting goods to the outback.

35. The Apostrophe (')

Use an apostrophe to create the possessive form of a noun:

seller's	belonging to one seller
sellers'	belonging to more than one seller
the Trustee's duty	the duty of the Trustee

Do not use an apostrophe to form possessive of pronouns:

its	belong to it
yours	belonging to you
theirs	belonging to them
whose	belonging to whom
ours	belonging to us
hers	belonging to her

Use an apostrophe as a substitution for a letter or letters:

it's	it is
you're	you are

don't

do not

but as a rule do not use contractions in legal writing.

If a word is already plural – e.g. men, children – the apostrophe precedes the final 's': e.g. men's shoes, children's playground; but if the word already ends in 's' the apostrophe follows: e.g. employees' pensions, boys' gymnasium, the Smith' departure for Europe.

Words in the singular, including names, that end in 's' should normally be written with an apostrophe 's' in the possessive case:

St Mark's Church
Miss Simple's curriculum vitae

In the case of certain ancient classical names and of names ending in 'ses', 'sus', the final 's' is commonly omitted. Thus:

Moses' Law; Jesus' teachings; Ulysses' adventures;
Sophocles' tragedies; Xerxes' campaigns.

Where the sense of the noun is adjectival rather than possessive (i.e. where the expression might be replaced by a 'for' phrase) no punctuation is required:

a boys high school; the Teachers Training College; visitors book; National
Aborigines Week; owners manual.

There is an increasing use of the apostrophe for names of cities and countries and institutions:

Melbourne's weather; Indonesia's army; Channel Seven's sports coverage;
Friday's entertainment.

36. The Hyphen (-)

Hyphens have a variety of uses in joining words or parts of speech to form compound expressions.

As a general rule, compounds should only be hyphenated when the combination alters the meaning of any part. If in doubt, consult the dictionary.

Many words that form a compound name or office are hyphenated:

son-in-law; Vice-captain

Hyphens form compound adjectives, for clarity, before a noun:

a white-collar crime; an ill-conceived project

When these expressions are reversed and no noun follows, the hyphen usually disappears:

The project was ill conceived.

Compounds containing an adverb ending in "ly" are not hyphenated:

a fully packed contained; an alphabetically arranged index

Avoid the 'suspension hyphen' unless it is impossible to express the idea in any other way:

Rewrite 'full and half-fare tickets' as 'full-fare and half-fare tickets'.

Use a hyphen to separate the same vowels in consecutive syllables:

re-enlist; pre-empt; re-entry

and to prevent other confusions:

bell-like (not belllike); teach-ins (not teachins).

Use a hyphen to avoid confusion between similar words:

recover, re-cover; reform, reform

Hyphenate compound numbers from twenty-one to ninety-nine and all fractions. No more than one hyphen should be used in expressing a fraction.

**forty-six participants
four twenty-fifths
three hundred and twenty-four dollars
ninety-nine hundredths
twenty-four sixty-eights**

37. The Dash (-)

A dash, like a colon, is a strong mark of punctuation. It may signal several different intentions and should therefore be used sparingly in legal writing, but it can be used to add colour and emphasis.

A dash may be used in place of a bracket to signal an afterthought or sudden change of thought:

What we meant was – buy why rake over old coals? – that you should have insured against fire.

The Land Rovers – I am reluctant to admit that there were three of them – all came round the bend on the wrong side.

For emphasis or clarity, use dashes instead of commas to set off explanatory phrases, summary statements and rhetorical repetitions; especially when the summary is introduced by all of these:

He predicted that the unemployment rate then prevailing – around 6.5 to 7% - might turn out to be the lowest it would ever be.

The strike will have serious effects for everyone – effects upon transport workers, upon service employees, upon employment in related trades.

New products, new markets, new jobs, increased leisure – these acts are the promises of the electronic revolution.

38. Parentheses ()

Curved brackets may be used in the same places as dashes. They give the expressions within them the effect of 'asides' or how-voiced explanations. Punctuation marks follow them just as they would have followed in the sentence without the parentheses:

There was no book of account (except the stock journal, to which I will refer presently) showing the quantity or value of the cotton in the mill at any one time.

They can improve the quality of our existing services (this statement is especially true for smaller banks).

39. Brackets []

Square brackets are used by a writer to enclose his own corrections or explanatory remarks in a quoted passage:

Said Mr Griswold, 'They [the Banks] just don't have enough work to keep their machines busy 24 hours a day'.

They may also contain an omitted word or the correct spelling of a misspelt word.

They are also used in the citation of cases where the year indicates the volume.

They should be used with [sic] indicating an error in a quotation not the responsibility of the transcriber.

40. Definitions

Use definitions sparingly and to avoid:

- (a) tedious repetition of detail; and
- (b) ambiguity caused by using different words or expressions throughout the document for the same person or thing.

Do not define words or expressions that are used with their ordinary meaning and do not define terms that occur only once or infrequently in a document.

Usually definitions should be listed alphabetically in a definitions clause at the beginning of a document. However, if a term which is necessary to define is referred to only in one part of the document, the definition should be given in that part.

Number of letter the individual definitions:

In this Agreement unless otherwise indicated by the context:

- (a) **'Child'** includes a step-child, an ex-nuptial child and an adopted child.
- (b) **'Subsidiary Company'** means a company in which the Employer has a controlling interest.

In the definitions clause each definition should begin with a capital letter, be enclosed in single quotation marks and be in bold type. In the rest of the document a definition should simply begin with a capital letter.

In a long document you should begin the definitions clause by stating that 'In this Agreement/Deed unless otherwise indicated by the context:'

Definitions should be in the present tense:

Avoid	Use
shall mean	means
shall include	includes
shall be	is
means and includes	means

If a definition is stated as X Y and Z, the meaning includes all 3 elements. If a definition is X Y or Z, the meaning may be any one of the 3 alternatives.

Do not insert substantive provisions into a definition:

Avoid	Use
'Completion Date' means 1 April 1993 on which date the Buyer must pay the balance of the purchase price.	'Completion Date' means 1 April 1993

41. Capitals

Use capital letters sparingly. Do not capitalise common words such as bill, departmental, judgment, solicitor, seller, lender, statutory, ministerial, government, parliament, federal, law, regulation, by-law, clause, paragraph, section, page.

Use capitals for:

- (a) Names and titles of specific persons and institutions:
John Fahey; the Prime Minister; the Australian Securities Commission;
- (b) Nationalities and religions and racial descriptions:
Australian, Aboriginal, Protestant, Caucasian;
- (c) Names of places:
New South Wales; Sydney; the Botanical Gardens;
- (d) Terms of address:
Mr, Mrs, Miss, Ms, Dr, Mr Justice, Her Honour;
- (e) Proprietary names and trade marks:
Wang; Hoover;
- (f) Days of the week, months of the year, ceremonies and historical periods:
Monday, March, Easter, Anzac Day, the Vietnam War;

- (g) Defined term:
the Company, the Borrower.

Major headings should be set entirely in capitals. For other headings, capitalise the first letter of the word and then only the words which would be capitalised in the text:

Avoid	Use
Effect of Termination	Effect of termination
Manner of Payment	Manner of payment
Time of the Essence	Time of the essence

In citing Acts, use the titles as they appear in statute books: *Conveyancing Act, Corporations Bill*.

International treaties, agreements and government programs should be capitalised when given in full: 'the Treaty on the Non-Proliferation of Nuclear Weapons', the First Home Buyers Scheme'.

Newspapers, journals and periodicals should be capitalised:

The Sydney Morning Herald
The Australian
The Bulletin

Do not capitalise the names of:

- (a) Legal documents such as contracts, leases, deeds, agreements, transfers, interrogatories, affidavits unless:
- (1) They have been defined: 'this Agreement'; or
 - (2) A particular document is being specifically referred to: 'Please sign both copies of the Lease where indicated and return the copies to us.'
- (b) Parties unless they have been defined: the company, the seller, purchase, vendor, the vendor's solicitor.

42. Abbreviations

Use abbreviations sparingly but correctly. Abbreviations are more frequently used in catalogues, business forms and technical writing than in ordinary business correspondence and reports. For the correct form of an abbreviation, consult your dictionary.

Use the following abbreviations:

before proper names:	Mr, Mrs, Dr, Messrs
after names:	Esq, FRACP
with hours, dates or numerals:	am, pm, BC, AD, No.

Other, less common abbreviations may be used provided they are known to the reader or are initially defined for him:

Technical terms: GST (Goods & Services Tax); CGT (Capital Gains Tax).

Organisational names: AMA (Australian Medical Association); MDU (Medical Defence Union).

43. Use Numbers

43.1 All numbers should be in figures only:

Avoid	Use
Six directors	6 directors
Nine thirty am	9.30 am
Nine o'clock	9 o'clock
Five minutes past nine in the morning	9.05 am
Eighteen years old	18 years old
Five dollars and eight cents	\$5.08
Nine per cent	9%
Six kilograms	6 kilograms
10 square metres/sqm	10m ²
Thirty thousand dollars (\$30,000.00)	\$30,000.00

43.2 The exception to this is when numbers begin a sentence.

Avoid	Use
3 directors constitute a quorum	Three directors constitute a quorum
\$200 is the full amount	The full amount is \$200

43.3 Monetary amounts

The following forms should be used for monetary amounts in text:

\$1 \$1,000 10c 99c \$1.01 \$1.50 \$10,234.05

43.4 References to part of a document

Use figures when you are referring to a part of a document which is itself identified by a number:

Avoid	Use
Clause five	Clause 5

43.5 'First', 'Secondly', 'Thirdly'

The correct sequence is 'First', 'Secondly', 'Thirdly'.

43.6 Units of measurement

Use metric not imperial units of measurement.

43.7 Fractions

Express fractions as decimals:

Avoid	Use
1/4	0.25
14 3/4	14.75

43.8 Years and spans of years

Years and spans of years should be expressed in the following terms:

Avoid	Use
1980-88; 1980-8	1980-1988
The 80's; eighties	The 1980s
The 18th century	The eighteenth century

43.9 Dates

Dates should be expressed:

- (a) In full in the form: **1 April 1993**;
- (b) In figures in the form: **1.4.93**.

However, the following are also appropriate forms:

The returns must be filed by 30 June each year.

The matter was set down for hearing on 1 April 1993 but was settled on the 14th.

The borrower must pay the mortgage on the tenth day of each month.