

Plain English

The magazine of Plain English Campaign - Issue 44 (April 2000)

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MP calls for laws in plain English

A Labour MP has called for Plain English Campaign to test the clarity of all proposed legislation on the public.

Brian White, member for Milton Keynes North East, led a debate on the language used in parliamentary drafting. His suggestions included:

- using, wherever possible, plain English instead of legalese in parliamentary bills;
- adding a 'purpose clause' in each Act of Parliament to make clear what the new law is intended to do; and
- letting Plain English Campaign independently test every draft bill on the public to find any potential confusion.

He told Parliament that 'The aim should be to ensure that as many bills as possible get a Crystal Mark... we should replace the old formalities with concise, simple, familiar and precise language.

'By making our legislation unnecessarily complex, we do a disservice to our democracy by placing citizens at the mercy of the bureaucratic state and by making it easier for people to make the legitimate excuse that they did not understand what we were asking of them.'

Speaking the day before the debate, Mr White denied claims that this was another example of 'dumbing down'.

'This doesn't mean producing legislation that resembles an infant's reading book, but it does mean making a greater effort to use everyday language wherever possible.

'There's no point drafting convoluted legalese to be sure of precision if people then can't disentangle the meaning. The lawyers are always going to argue over the interpretation anyway, so it's far better that Parliament gives them something clear to work with.'

Plain English Campaign's founder-director Chrissie Maher said Mr White should be applauded. 'This might seem like an impossible goal, but I learned years ago that aiming for the 'impossible' never hurts. Every step we can take towards clearer



Brian White MP

legal drafting brings us closer towards true democracy.

'Frustrated ministers and company bosses often ask what it will take to finally make me happy and stop me battling. If we ever reach the day when every law that affects the ordinary people of Britain is tested on the public to make sure we have a fighting chance of understanding it, then I'll think about hanging up my campaigner's hat!'

Surprisingly, the legal profession lent its support to the proposals. Leading trade magazine 'Solicitor's Journal' said it supported 'any such move towards clear, understandable wording in all forms of legislation and legal documents.

'For far too long, lawyers have kept the mysteries of their profession to themselves, hiding behind a veil of almost impenetrable, complex and convoluted wording.'

For highlights of Mr White's speech in the Commons, please turn to page 4. If you have access to the Internet, you can read our arguments for plain-English drafting at:

www.plainenglish.co.uk/drafting.html

A legal case in the House of Lords may open the door to clearer legislation.

A case involving the Arbitration Act 1996 led to debate over the intended meaning of a particular clause. It appeared that the words the draftsman had used did not give the legal force for which the Act was designed.

This point went to the House of Lords to be decided. The Law Lords decided that a court could use its discretion in interpreting a law, as long as they did not change the aims of that law.

The decision is a further blow to the argument that legislation has to be complicated for the sake of precision. Draftsmen can now put more emphasis on making the law's message clear. They will know that courts can use common sense in settling any argument over the meaning of particular words and phrases.

Not everyone who produces gobbledygook tries to hide from their sins. Mail order company Oxendales agreed with criticism from our supporters and vowed to set things right.

After several readers of our magazine sent us pieces of Oxendales' waffle, we passed on the public's concern to the firm. Marketing manager Christopher Metcalfe sent a good-natured reply:

'The letter, I think, celebrates our legal department's finest hour. The marketing department will certainly be more involved in the future to make sure that what we send our customers is in a form that can be easily understood.'

If you've ever been confused by parking regulations, we would like to hear from you.

Several readers, who have been faced with what they believe to be unfair parking fines, have asked us to give an opinion on the clarity of signs and leaflets.

We would like our supporters' help in some informal testing. We are looking at printing some of the disputed materials in this magazine and letting you give your interpretations. We will then pass the findings on to the people who sent the material in.

If you have anything you would like us to use in this feature, please write to us.

The business of jargon

Plain English Campaign's 'Ambassador to Scotland' appeared on television to talk about office jargon – and found herself confronted with waffle!

Sybil Law, of ScottishPower, gave an interview to the Kirsty Wark show after a survey showed 20% of people admitted using jargon they didn't understand just to fit in at work. The study highlighted new 'buzzword phrases' such as:

- blue sky ideas;
- holistic approach; and
- helicopter view.

After Sybil gave her crystal-clear views on management-speak, the producer gave her a consent form to sign. Sybil said, 'I have never seen such a lot of gobbledygook in my life.'

'The wording was to the effect that I gave the BBC inalienable and unconditional rights to this interview. Not only now, but for all times, across the universe, on any kind of recording or retrievable system in existence now or yet to be invented.

'I immediately offered to put the form in plain English but was graciously turned down!'

After the interview, our supporters sent so much office jargon to our New Mills headquarters that even Chrissie Maher had to scratch her head.



Sybil Law

'I couldn't work out where this waffle had come from until it finally hit me – it had to be the work of new technology.

'We fed all the new phrases into a computer and managed to create a gobbledygook generator.

'When we hit the go button and the computer informed us that "forward-looking companies invest in quality organisational paradigm-shifts", we knew we'd cracked it!'

You can see the gobbledygook generator in action on our website at: www.plainenglish.co.uk/examples.html

The real world

A new regular column with the uncensored views of Chrissie Maher.

There have been several surveys and reports published recently on financial and medical terms, which say that public awareness of what the jargon means is very low. You'd think this would make me happy, but the way the results have been reported just makes me mad... and sad.

Maybe it's just an easy headline, or maybe it's a way for research 'experts' and academics to make a name for themselves. But the message that's been given out is that we, the ordinary public, are stupid. Terms like 'clueless' and 'financially illiterate' give the impression that this lack of understanding is down to our shortcomings.

Why don't the researchers consider the possibility that the jargon is the problem?

Crystal Clear Day is coming on 30 June.

We are launching a new event to celebrate the Crystal Mark. Companies from around the world will come together at Old Trafford, home of Manchester United, to meet and greet other organisations which have gained the Crystal Mark.

Chrissie Maher explained how the event differed from our awards held every December.

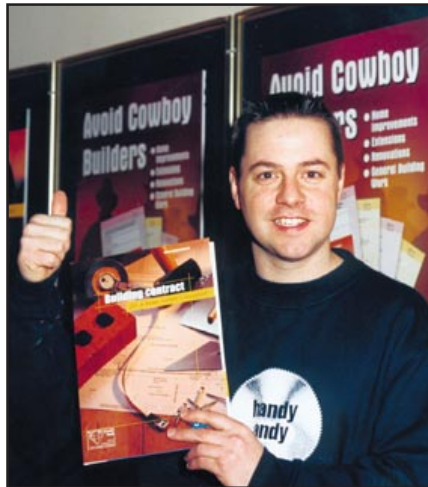
'The awards are a competition, where people win by being the best of the year in a particular category (or the worst, for the Golden Bulls). Crystal Clear Day is about celebrating all the organisations that have put in hard work to earn the Crystal Mark - our coveted standard of clarity.

'We often say that the awards, and particularly the Golden Bulls, are just one day out of the year. It's a shame that the hard work of the other 364 days can easily get overshadowed. Well, as 2000 is a leap year, we thought we'd use the extra day as a celebration of all that achievement.'

As well as recognising the astonishing range of documents that have earned the Crystal Mark, we will present silver, gold and platinum certificates to organisations that have achieved 25, 50 or 100 Crystal Marks. We are also planning to present a truly momentous Crystal Mark.

Look out for full coverage of the event in our next issue.

Building on clarity



'Handy' Andy Kane

Moving home is traditionally one of the most stressful experiences of your life, but two new Crystal Marked documents will help take away some of the worry.

A new plain-English contract for building work will help defuse any potential misunderstanding between homeowners and builders. Beverly Hughes, the government minister responsible for the construction industry, helped launch the Joint Contracts Tribunal's new contract last month. She explained how the contract 'uses clear and simple language to ensure that both parties in the arrangement understand precisely what is expected of them.'

'Changing Rooms' star 'Handy' Andy Kane also helped the launch, warning disreputable builders that their days are numbered. 'Using this contract is an excellent way of avoiding the cowboy,' he said. 'A competent builder will have no difficulty abiding by it. The cowboys will run a mile.'

It's not just those building a new home who will benefit from the Crystal Mark. BBG Surveyors, part of the Bradford and Bingley group, have relaunched their 'SecureMove' survey. Not only have the terms and conditions of the survey earned the Crystal Mark, but the group's surveyors have been trained to write their reports using plain-English techniques.

Operations director Peter Bray reported 'positive feedback' from customers. He added that other 'surveying companies are beginning to consider plain English as a vital ingredient to their reports, rather than a marketing gimmick.'

These documents follow the lead of the Federation of Master Builders, a trade group that produced Britain's first Crystal Marked building contracts last year.

The contracts cover private work worth up to £25,000, and commercial and industrial work up to £250,000.

This month regional director Ron Wilson said that the first year's use of the contracts proved that plain English is the only way to go.

How can you possibly look at their statistic that 80% of us don't understand what a 'retirement annuity' means and think this proves the public is stupid? That 80% must include well-educated university graduates, and if they are confused, what chance does everyone else stand?

I'm not going to act like a 'research expert' here and carry on quoting statistics; I just want to use common sense arguments. The plain English cause isn't fighting for everything to be in words of one syllable so that we can have our hands held all the way. Plain English is about granting everyone a right to make informed decisions. It's a simple deal - you give us crystal-clear information about your products and we'll take the responsibility for our choices.

University professors may well chuckle away at the 'ignorance' of ordinary people, but people's finances and health are no laughing matter. Reporters know there is a problem, and we mustn't let them blame an easy target.

Academics can't be questioned because they have letters after their names. Businesses can't be upset too much because they provide the advertising. So the ordinary public are blamed for the misfortune of not having a voice.

Well, I've got letters after my name and my own business, and I'm definitely part of the ordinary public. And after 30 years of campaigning, I've come to a crystal-clear conclusion:

Thinking it's the public who should be blamed for a lack of understanding is the true ignorance.



Westminster waffle watch

Lords and MPs have continued their daily battles for a touch of clarity in parliamentary affairs. Members of both houses picked up on baffling clauses in the Electronic Communications Bill.

MP Alan Duncan highlighted a prime piece of Westminster waffle.

'References in this Part to the provision of a cryptography support service include references to the supply of, or of any right to use, computer software or computer

hardware if, and only if, the supply is intended to be no more than incidental to the provision by the same person of cryptography support services not consisting in such a supply.'

Speaking in a very plain manner, Mr Duncan revealed that 'I have woken up in the dead of night trying to understand it.

'I know that the minister is sympathetic to my plight, that she would like me to sleep peacefully and therefore that she will explain exactly what it means. However, I say

again that if she can explain it to the Committee, would it not be possible to bung it back to the parliamentary draftsman with a gentle request to put it in plain English? The bill will then be clear to laymen, and legislators like us who are responsible for enacting it.'

Perhaps wary of the Department of Trade and Industry's unfortunate record in recent Golden Bull awards, minister Patricia Hewitt graciously agreed to ask the draftsmen to take a second look.

Meanwhile in the House of Lords, Earl Errol spoke on another complex clause from the same legislation.

'I seem to remember there was a great deal of talk about trying to write our laws in clearer English and we debate that possibility from time to time.

'There is an excellent body called the Plain English Campaign which has been very good at writing all sorts of banking information and my credit card information in English which I can now understand.

'Would it be an idea if it looked at this?'

Unfortunately his suggestion was not followed up. However, the Government is expected to redraft the offending passage before the Electronic Communications Bill passes into law.

The following are extracts from Brian White MP's speech in the House of Commons on plain English and legal drafting.

I acknowledge the help of Plain English Campaign, which, since this debate appeared on the Order Paper, has given me some interesting material.

We should start by asking whose interests we serve. In every sphere of life, in government and business, we are moving from being a producer-oriented society to being one in which users and consumers come first. It is unfortunate that Parliament lags behind. The interests of our constituents should be the primary focus when we draft legislation.

A myth exists that some language is 'right' and some 'wrong'. In truth, language evolves. For example, there is currently an interesting debate about Spanish as Hispanics in the United States of America are changing the language. Language changes.

My main concern is legalese language that is difficult to understand. By that, I mean such things as unnecessary technical terms, the impersonal style of Bills, twisted word orders, needless repetition or elaboration,

unhelpful layout, long sentences, use of double negatives, use of passive verbs rather than active ones and so on.

If we expect people to follow the law, it is important that they understand it. I hope that I am a reasonably intelligent person, but, if I have to read every bill three or four times before I understand it, there really is something wrong. Acts of Parliament should not just be for lawyers and MPs. That difficulty in understanding legislation is a problem for our democracy.

An example occurred this week when the Joint Committee on Statutory Instruments was considering a regulation on the working families tax credit, which is one of the best measures that the Government have introduced and has helped many people. The tax credit is paid through employers. The statutory instrument details how it should be paid and in what circumstances. The Committee Clerk could not understand a particular part of the regulation. If someone as eminent as a Clerk can misunderstand such a crucial piece of legislation, which is the cornerstone of the Government's policy to help people out of poverty, what hope has a small business man or woman of understanding it?

We use pre-legislative scrutiny a great deal now; it is becoming the norm. I welcome that innovation. Part of the consultation process ought to be to submit every draft bill to the Plain English Campaign.

The aim should be to ensure that as many bills as possible get a Crystal Mark, although certain technical bills might not be able to achieve it.

I understand that the Scottish Parliament would have achieved that mark recently, but for a few minor points.

In Canada, the Uniform Law Conference's drafting conventions say:

'An Act should be written simply, clearly and concisely, with the required degree of precision, and as much as possible in ordinary language.'

If there were any Tory Members here, I would upset them with my next quote because even the European Union guidelines say that:

'the wording of an Act should be clear, simple, concise and unambiguous.

'The use of technological terminology should be appropriate, and Acts should not include redundant or archaic words and phrases.'

Food for thought

The Government has launched a crystal-clear appeal for the public's views on food labelling.

Agriculture ministers acted after a survey showed three-quarters of consumers find terms such as 'natural' and 'pure' misleading. Around half those questioned said they had difficulty finding the information they were looking for on food labels.

Baroness Hayman, the food safety minister, responded by launching the 'Better Labelling Initiative'. This is a scheme to give ordinary people a way of giving their views and suggestions to the Government. A leaflet about the scheme, which earned the Crystal Mark for its clarity, is being distributed in supermarkets and libraries.

Anyone with comments on food labelling can send an e-mail to: a.betterlabel@jfssg.maff.gov.uk

Or, you can write to:

Baroness Hayman
Better Food Labelling
MAFF
FREEPOST
LON15319
London
SE8 5BP.



Baroness Hayman

I accept that change is not the easy option. It would be easier to continue with jargon, legalese and convention. I recognise that it is hard to achieve precision, clarity and ease of understanding and that Parliamentary drafters would have to do a lot more thinking. However, it does not help legislation if we produce bills with 127-word sentences and excessive detail. That leads to complexity, obscurity and uncertainty.

(Britain's) Freedom of Information Bill states:

'Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely

'(a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant',

when the applicant is simply asking for a copy of a record.

The Irish Freedom of Information Act says:

'A head may give access under this Act to a record providing the requestor with

'(a) A copy of the record'.

The Australian Act says:

'Access to a document may be given to a person in one or more of the following forms . . .

'(c) Provision by an agency of Government of a copy of the document.'

That is simple and everybody understands it. Why do we need to make it unnecessarily complex and ensure, through the tautology of language, that people do not understand what we are asking them to do?

The British bill has 86 clauses and seven schedules; the Irish Act has 48 clauses and three schedules. By making our legislation unnecessarily complex, we do a disservice to our democracy by placing citizens at the mercy of the bureaucratic state and by making it easier for people to make the legitimate excuse that they did not understand what we were asking of them.

There is a myth that plain English is not legally accurate, but that has been steadily and repeatedly shattered. In the United States, 44 states have some form of requirement for plain English, and there has never been a case in which a contract has been declared less legally valid because of the use of the plain English.

We need to replace the long sentences, the verbiage and the countless double negatives. I do not understand why we have to frame legislation in negative terms. We should replace the old formalities with concise, simple, familiar and precise language.

We have started to modernise government, but I recognise that there is a long way to go. Although I do not expect the Minister to wave a magic wand and accept everything that I say, I seek a commitment from the Government that they will consider the issues. I hope that they will examine purpose clauses, the language of Bills and review the way that we legislate.

In 1997, the Prime Minister said that we had been elected as new Labour and that we intended to govern as new Labour. I think that he has been true to his word.

In fact, Plain English Campaign said that its finest hour was when the Lord Chancellor introduced the Access to Justice Act 1999, which ended Latin usage in the courts.

If we can do that in government why cannot we do it in legislation? Let us have a third pillar and start to legislate as new Labour with plain language.

Two Plain English Campaign globetrotters chalked up another 10,000 miles as they spread the word in the United States and Finland.

George Maher and John Wild first flew to Houston, Texas for the international 'Plain Language in progress' conference, joining speakers from Europe, South Africa, New Zealand, Canada and the United States.

'It's always amazing to see how plain English has spread around the world,' George said. 'When I saw some of the younger delegates there, I remembered back to when I was just 19 and we launched Plain English Campaign in Westminster. Now there are people across the globe who can't remember a time when there wasn't a campaign against gobbledegook.'

Just when our hardy duo had adjusted to temperatures in the mid-70s, they were off to the Finnish capital, Helsinki. Anything above freezing point was considered a warm day!

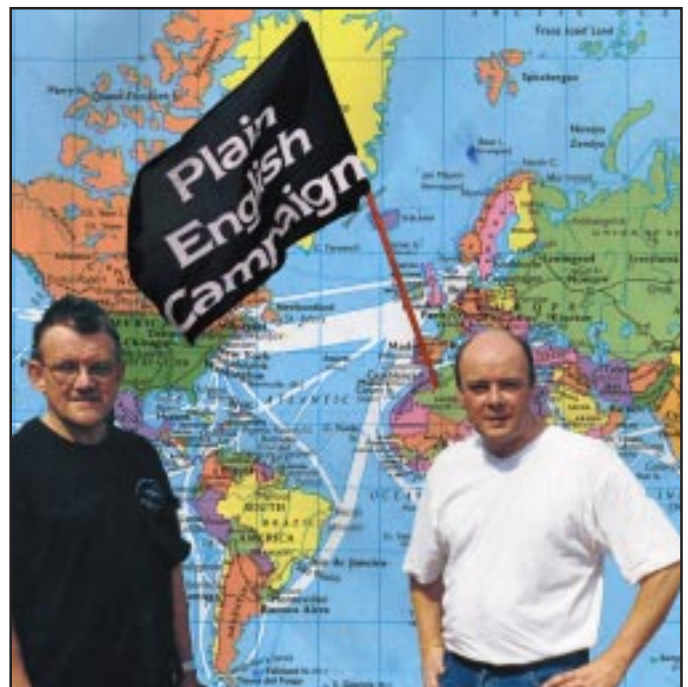
They gave a presentation on the history of the

A tale of two cities

Campaign as part of a European language conference and even made the local press.

'I couldn't understand a word of the article except our names and Plain English Campaign,' John said. 'But it was interesting to find that even Finland, a country with one of the world's lowest illiteracy rates, still has problems with people using language in a way that baffles the reader.'

As always, neither trip cost the British taxpayer a penny. 'Adding stamps to our passport isn't what plain English is about,' George explained. 'But gobbledegook isn't just a British problem - it's a threat all over the planet.'



For more details on plain English around the world, you can visit www.plainenglish.co.uk/international.html

Nominations for the 21st Plain English Campaign Awards are now open

The 2000 Awards are scheduled for December and nominations are open now for the following categories.

- **Plain English** (the open category)
- **Inside Write** (for internal government documents)
- **Media** (for radio, television and newspapers)
- **Golden Bulls** (for prime gobbledegook)
- **Foot in Mouth** (for a baffling verbal statement)

We have replaced the Crystal Clear Trophies with our new Crystal Clear Day on 30 June, when we will celebrate all Crystal Mark documents.

To nominate a document or organisation, please write to us at

PO Box 3

New Mills

High Peak

SK22 4QP.

You can also e-mail us at:

info@plainenglish.co.uk

For all the categories, except the Media Awards, please send us a copy of the document or extract you are nominating.

For the Media Awards, please tell us why you think your choice should win. We have national and regional categories for newspapers, television and radio. There is also a special award each year for a broadcasting personality.

You are welcome to nominate your own work in any category, but we cannot accept nominations for any documents that Plain English Campaign staff have worked on.

You would be forgiven for thinking that legalese is an entirely British sin. The image of lawyers in wigs spouting pompous waffle may seem like something that could only happen in this country. Unfortunately legal gobbledegook has a rich history in the United States.

The good news is that the spirit of Plain English Campaign is alive in America. Even the President has joined the crusade. He has announced a goal that, by January 2002, every government letter or report sent to the public will be in plain English.

One of the earliest leaders of the clear-communications fight in America was David Mellinkoff, Professor of Law at the University of California. In his famous book 'The Language of the Law', he wrote that 'the principle of simplicity would dictate that the language used by lawyers agree



Professor Joseph Kimble

United against gobbledegook

with the common speech, unless there are reasons for a difference... If there is no reason for departure from the language of common understanding, the special usage is suspect.'

A lawyer since 1939, Professor Mellinkoff battled to end the type of lawyer's language that Jonathan Swift once described as 'a peculiar Cant and Jargon of their own, that no other Mortal can understand.' Sadly Professor Mellinkoff died last December but, as he said, ending legalese is 'a steady job, not ended with yesterday's pleading, today's opinion, nor with [my] book. Cleansed of words without reason, much of the language of the law need not be peculiar at all. And better for it.'

His work will continue through efforts such as the plain-English committee of the Michigan State Bar (the state's legal authority). This group has been working for plain English since the early 80s and aims for the day when 'legalese is instantly detected as the putrid smell of decaying flesh slowly rotting away on the page.'

The committee runs a plain-English column in the 'Michigan Bar Journal' every month, edited by Joseph Kimble, another veteran of the crusade for legal clarity. He argues that plain English is 'if anything, more precise than traditional legal writing; it takes hard work and embraces a wide range of principles; it can be forceful and literary; and it's fitting for any occasion.'

His latest example of legal lunacy was last year's impeachment trial

of President Clinton. When the Senate had reached its conclusion, legal administrators highlighted the problem of relying on old cases. Instead of writing a new declaration for the result, they based the text on the last presidential impeachment trial – that of Andrew Johnson in 1868!

The official version read:

'The Senate, having tried William Jefferson Clinton, President of the United States, upon two articles of impeachment exhibited against him by the House of Representatives, and two-thirds of the Senators present not having found him guilty of the charges contained therein: it is, therefore, ordered and adjudged that the said William Jefferson Clinton be, and he is hereby, acquitted of the charges in this said article.'

Professor Kimble's version, while having the same legal force, is somewhat simpler:

'After a trial on two articles of impeachment against the President, William Jefferson Clinton, fewer than two-thirds of the Senators present have found him guilty. Therefore, it is ordered that he be acquitted.'

The Michigan Bar Council once set a target of eliminating legalese from all legal documents in the state by 2000. Although this target has not been met, the fight will continue. As George Hathaway, chair of the state's plain-English committee, asked: 'How much longer can it be before legalese simply becomes forgotten words no longer used by young lawyers and legal secretaries in the new century?'

Dear Plain English Campaign

I am an 11 year old girl who knows nothing about electrical equipment or how to work complicated parts of them so, when I bought a new video player (with my Christmas money), I thought I would have to ask my Dad or brother to read the instructions and then translate it into English I could understand.

A day later when we had set it up (and I had used the basic buttons to watch a video), I decided I ought to attempt to read through the 'recording' and 'how to

use the timer' pages. As I worked out the pages to turn to, I noticed a little sign of a crystal with a message above it in the corner of the booklet, which I read with great interest. After reading a few pages I discovered I could actually understand what they were telling me to do.

I was amazed and couldn't believe that if language could be made so difficult by adding complicated words, it can be made so easy by taking them away. A lot of work and brains must have gone into it.

Thank-you very much for your help and understanding.

Yours sincerely

Leila Rouse, Taunton, Somerset

Congratulations

The following organisations have achieved their first Crystal Mark since our last issue.

Aberdeenshire Council
Alliance Unichem plc
British Dental Association
Cheltenham Borough Council
Co-operative Insurance Services
Cox Insurance Retail Division
De La Rue plc
Cumbria County Council
East Lothian Council
Galpharm International Limited
GT Railway Maintenance Limited
Guildford Borough Council
Heritage Lottery Fund
Homechoice (Aberdeen) Limited
Kent Magistrates' Courts Service
Liverpool Victoria Friendly Society
National Asylum Support Service
National Patients' Access Team
North London TEC
Northern Ireland Court Service
Nuneaton and Bedworth Borough Council
Pagan Business Law
Proprietary Association of Great Britain
Quinn Life Direct
Residential Landlords Association Limited
Restormel Housing Trust
Scottish Enterprise Tayside
Southern Health and Social Services Council
Staffordshire County Council
Stockport Metropolitan Borough Council
Tesco Personal Finance Limited
Thomas Cook Holidays
University of Hertfordshire
Watchdog (BBC)
Wells Carpets
West Dunbartonshire Council
West Sussex Council
Wigan Council

Chalk and talk

We are holding a series of one-day seminars, each covering plain English on a particular topic.

The events will be a mix of practical training and guest lectures from industry experts.

We hope that as well as showing what plain English can do, the seminars will be a good opportunity for organisations to share their plain-English skills.

The seminars are at London's Jarvis International Hotel (Regents Park). For more details, please call our training manager Helen Mayo on **01663 744409**.

Please do not delay as places are strictly limited.

Wednesday 26 July

Housing Benefit forms and Council Tax forms

Tuesday 22 August

Grammar re-visited (forms, leaflets and agreements)

Friday 22 September

Information technology versus plain English

Friday 27 October

Medical information (NHS Trust information and information on 'over-the-counter' medicines)

Friday 3 November

Legal agreements versus plain English

Tuesday 7 November

Accountancy information provided by banks, pension companies and building societies (end-of-year accounts)

Stop press

Our new A to Z of financial terms is now available on our website at www.plainenglish.co.uk/FinanceA-Z.html

Open courses

We still have places available on several of our one-day open courses. These courses introduce plain English, and are an excellent 'taster' for what we can offer businesses.

The dates are:

- **Wednesday 14 June** (London);
- **Wednesday 12 July** (London); and
- **Wednesday 19 July** (Manchester).

We also have a few places left on our Grammarcheck course in London on Thursday 13 July.

For more details or to book your place, please call our training manager Helen Mayo on **01663 744409**.