

Best practices in legal writing for lay audiences: *Decision writing for the Local Government Ombudsman (UK)*

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The reason for the project

The Local Government Ombudsman is an independent body. It investigates complaints from the public about services provided by various public bodies in England. These include local authorities, schools, and adult social care providers. There is no charge for the LGO's services. Citizens who bring a complaint can vary from an articulate and literate middle-class interest group complaining about a local planning decision, to elderly or disabled residents of care homes (with help from voluntary advice services). Some disputes involve lawyers; most do not.

Who are the LGO's readers?



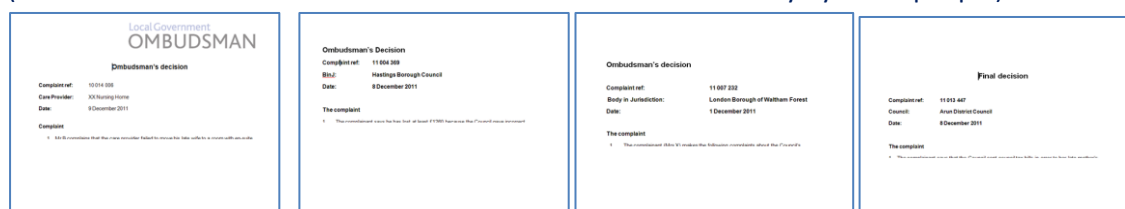
In 2011 the LGO had about 120 investigators in London, York and Coventry. Some have a legal background, others in teaching or in administration. Their main output is written decisions on the outcome of complaints. In 2011 the LGO was issuing about 11,000 of these a year. About 1% were published; the rest were seen only by the parties and their advisors.

Decisions of the LGO interest more than just the parties to a complaint. They are relevant to local authorities seeking to achieve good standards of administration, and they also interest politicians and consumer groups.

The trigger for change was the LGO's decision to start publishing all decisions online, excluding only the most confidential and sensitive, where publication could harm the participants. The aim was to:

- improve transparency, making all outcomes open and accessible to stakeholders.
- improve accountability, enabling enhanced public scrutiny of the LGO service.
- give a balanced and comprehensive picture of the full range of complaint outcomes.

At the same time, the LGO wanted to improve clarity, and to improve consistency in presentation (which had not been an issue when most decisions were seen only by a few people).



The decisions would **not** be re-edited before publication; what was sent to the parties is what the public would see.

Identifying what changes to make

A range of management and decision-writers spoke to us, to identify what was needed.

We also had the benefit of user research commissioned by the LGO in 2007 and 2010. This included the following conclusions:

- “Virtually no complainants ... think that the process can be fair or thorough if it does not go in their favour. (Although they say it is possible in theory, none ever feel it was in their case).”
- “While not getting the desired outcome can lead to dissatisfaction with the service received, getting the expected outcome does not in its own right make a customer delighted.”
- “It is those who feel they have received a fair and prompt investigation with effective communication who are the happiest with the service received.”

Users also had specific suggestions for improving the written decisions they received:

- “Readers largely wanted to see the Provisional View decision or a summary at the start of the document and not to be hidden at the end.”
- “Advocates and complainants alike wanted to know the decision first without the ‘long-winded’ route to get to it. Many respondents suggested moving this upfront or providing a summary of the key points at the start of the document with the decision forming part of this summary.”
- “Some language was felt to be too legalistic and not plain English that could be understood by the average member of the public.”

It seemed that dissatisfied complainants were quick to suspect bias. Decisions written in “officialese” could contribute to this impression. The user research quoted some of these complainants’ comments:

- “they’re all from the same branch or root of the tree; the Ombudsman, the Council, whatever, they all go back to the Government at Whitehall, all these legislation and rules and regulations. And they’re all supporting each other.”
- “They are not independent and they don’t act as independent. They are just working on behalf of the council. They are all local government workers so they work together and don’t want to know about me on the outside.”

What we did

Working with management, we drew up a 1-page list of written standards for what makes a good decision, in content and presentation, marshalled under 3 general principles: satisfying complainants, legally sound, and clear. Here are the standards for clarity:

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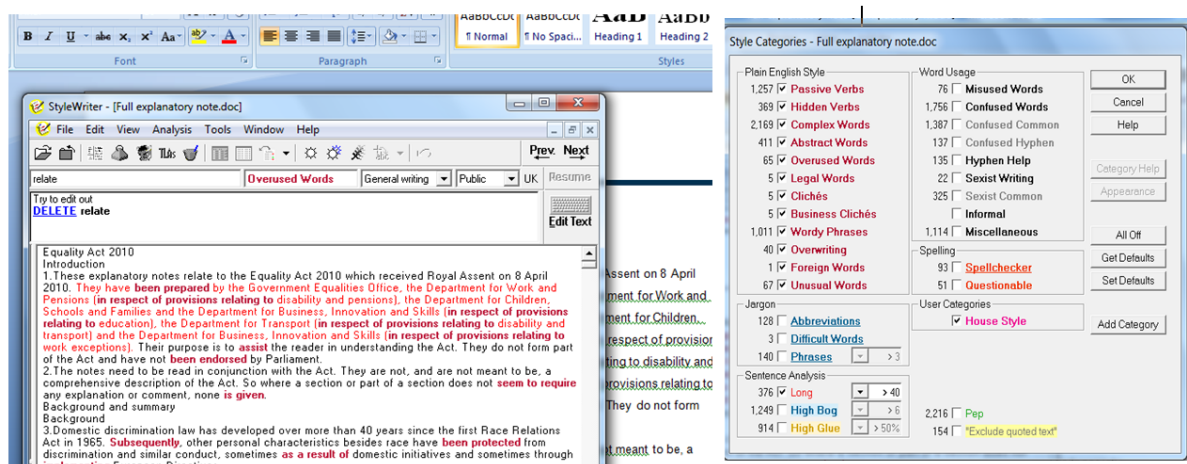
Clear	5	Structure	Decision statement follows the standard structure. Any events listed are in date order, unless another way is clearer.
	6	Easy to read	Maximum StyleWriter scores: Style 40 Sentence length 20 Passive verbs 20
	7	Short	Include only the material information needed to explain the decision. No extraneous detail.

The LGO also gave all its writers StyleWriter software, to help them achieve and measure a good standard of plain English. For example, it measures:

- Average sentence length.
- Active voice (number of passive verb forms in every 100 sentences).
- Short, simple language (incidence in every 100 sentences of word patterns that make the text harder to read.)

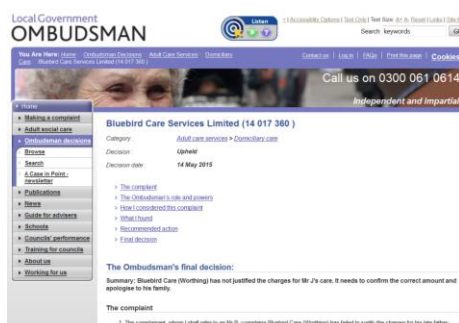
StyleWriter also helps writers to achieve the desired standards by identifying points to edit and offering advice and alternative suggestions. Writers can focus on one measure of clarity at a time, or edit for all possible difficulties at once.

StyleWriter v4 – Style check and readability statistics



(The text illustrated is from an explanatory note on legislation, not an LGO document.)

For consistency, and to bring the answer up front as requested in the user feedback, the LGO introduced a new template decision. This put a summary of each decision up front, although it has been pushed down the screen in the published decisions, which now look like this:



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We ran a programme of training to introduce the template, standards, software and plain English, to motivate writers to use plain English and to show them how to achieve it. We taught all the usual things but illustrated every point with examples from real decisions. This training was attended by all investigators, and also by management – Assistant Ombudsmen and Deputy Ombudsmen. This sent the important message to participants that management understood and supported the points covered.

The LGO had standard text for describing its powers and duties. We offered to edit these into plainer English but the LGO did it alone. This text, before and after, was a powerful example to writers of the LGO's approved style. (Another good example was the detailed guide the LGO developed to go with the single page of standards.) The revised text scored very well on StyleWriter. This was necessary because writers were trying to achieve target maximum StyleWriter scores, and anything introduced as standard text should not make the targets harder to achieve.

Standard text

Original: The Local Government Ombudsman the power to decide whether to start, continue or discontinue an investigation into any complaint (Section 24A(6) Local Government Act 1974). We are publicly funded to provide a service without charge to citizens who have suffered an injustice as a result of a @ council or some other authority acting with maladministration or failing in its provision of service, @ the actions of a care provider @ the actions of a school. The Ombudsman must use the resources available to her as effectively as possible. This means that we will not start or continue an investigation once we are satisfied that @ it is highly unlikely that we would find maladministration @ the actions complained about have not caused an injustice @ the type and extent of injustice does not warrant the public expense of our involvement.

Standard text – as revised in 2012

Revised : The Ombudsman service is publicly funded, and the Ombudsman has to decide how to do the greatest good with limited resources. So we have to decide which complaints to look into, and for how long. We will only look into a complaint while we believe that the possible injustice, caused by poor practice, would justify the cost of the investigation.
Local Government Act 1974, section 24A(6)

Standard text – as used in 2015

[The Ombudsman] provides a free service, but must use public money carefully. She may decide not to start or continue with an investigation if she believes:

- ...
- the injustice is not significant enough to justify her involvement.
- ...

(Local Government Act 1974, section 24A(6))

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After the initial project launch and training, the biggest change was in management to ensure the template, training, standards and software were all used. The one-page standards (including StyleWriter scores) were used in the regular supervision process, for giving writers feedback on their job performance. Decisions written for publication were checked to begin with, until each writer was approved to publish decisions unchecked, on the basis of their performance. Training continued on all aspects of decision-writing; training on the burden of proof was particularly effective in raising awareness of the decision-making involved in applying the balance of probability test.

The results

Thanks to the new format, you can see a consistent format on the LGO website and every decision begins with a statement of the result.

On the whole, the writers enjoyed the training. They were not keen on the idea of having to work with a new template. However, they soon saw that it gave them the chance to mention, up front, the good results achieved when, say, a council reconsidered its actions or decided to offer compensation during the investigation process. Some aspects of the training (on content as well as on writing skills) showed them their own work in a new light. There were the usual teething problems as everyone learned to use the new template and publication process.

Two years after the first training, one writer said; “My documents have halved in length and doubled in clarity. I thus get work done more quickly and my readers understand my texts better. This is important as we publish our decisions on the organisation’s website and they have to be clear for general readers. As we all use StyleWriter, I can also understand colleagues’ decisions in subject areas I do not normally cover.”

The StyleWriter scores show a great change in the writing style. Sample decisions taken by the LGO at the start of the process to illustrate the range of writing styles scored as follows.

LGO Samples – December 2011

Sample	Words	Ave Sentence	Passive Index	Style Index
1	891	20.0 Good	30 Fair	72 Poor
2	1581	19.8 Good	53 Bed	69 Fair
3	1031	18.3 Excellent	28 Fair	66 Fair
4	780	21.3 Fair	57 Bed	70 Fair
5	862	24.0 Poor	18 Good	68 Fair
6	873	21.1 Fair	33 Fair	75 Poor
7	1381	19.6 Good	55 Bed	66 Fair
8	748	21.6 Fair	55 Bed	69 Fair
9	404	26.1 Bed	86 Bed	84 Poor
10	1407	22.3 Fair	33 Fair	83 Poor
11	692	21.4 Fair	45 Poor	80 Poor
12	999	18.2 Excellent	51 Bed	80 Poor
13	3040	22.4 Fair	57 Bed	75 Poor
14	2325	24.4 Poor	34 Fair	77 Poor
15	1650	20.5 Good	24 Fair	67 Fair

This was comparable to a small random selection of other Ombudsman decisions I looked at in 2014. (This was not formal research or commissioned by the LGO.)

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Other recent published Ombudsman decisions

Document	Words	Ave Sentence	Passive Index	Style Index
Scottish Public Services Ombudsman Summary	369	12.9 Excellent	7 Excellent	97 Poor
Financial Ombudsman Decision	1479	30.5 Bad	42 Poor	108 Bad
Pensions Ombudsman Decision	1920	30.4 Bad	36 Poor	110 Bad
Public Services Ombudsman for Wales Report	7449	20.4 Good	54 Bad	86 Poor
Prisons and Probation Ombudsman Report	5161	20.6 Good	60 Bad	72 Poor

More samples were scored in 2014 from writers who were seen as still needing to improve. The difference is startling; in plain English style, so far as it can be measured by computer, these writers were doing far better than most writers in 2011.

Sample	Words	Ave Sentence	Passive Index	Style Index
LGO	1068	18.9 Excellent	38 Poor	44 Fair
Coventry	898	15.1 Excellent	19 Good	53 Fair
Samples	974	20.4 Good	11 Good	64 Fair
– Jan 2014	2338	21.1 Fair	72 Bad	96 Poor
	2528	17.2 Excellent	26 Fair	48 Fair
	1195	17.5 Excellent	27 Fair	41 Fair
	1068	15.3 Excellent	19 Good	45 Fair
	514	14.9 Excellent	19 Good	33 Good
	1032	18.1 Excellent	20 Good	69 Fair
	854	15.9 Excellent	18 Good	32 Good
	1959	17.0 Excellent	17 Good	46 Fair
	1247	19.0 Good	21 Fair	33 Good
	3380	18.9 Excellent	13 Good	34 Good
	2691	19.8 Good	17 Good	38 Good
	1012	17.2 Excellent	2 Excellent	35 Good
	1458	17.7 Excellent	6 Excellent	22 Good
	2969	16.0 Excellent	27 Fair	41 Fair
	1563	15.2 Excellent	10 Excellent	39 Good
	2080	16.5 Excellent	13 Good	35 Good
	1024	16.9 Excellent	14 Good	43 Fair
	954	16.6 Excellent	14 Good	49 Fair
	907	17.6 Excellent	10 Excellent	48 Fair
	450	14.0 Excellent	3 Excellent	33 Good
	357	16.6 Excellent	5 Excellent	25 Good
	294	12.1 Excellent	4 Excellent	27 Good
	1661	18.3 Excellent	24 Fair	39 Good
	1416	17.9 Excellent	31 Fair	60 Fair
	1141	18.7 Excellent	24 Fair	67 Fair
	1463	18.8 Excellent	41 Poor	60 Fair
	805	18.2 Excellent	17 Good	43 Fair

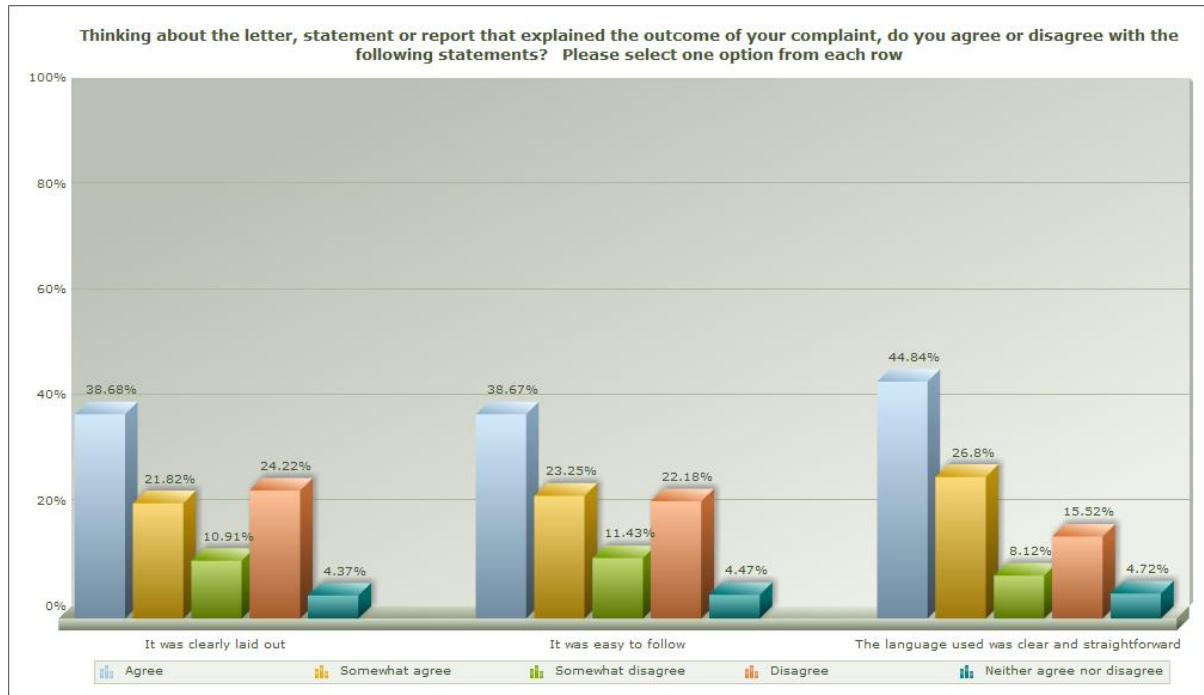
From the same review, of about 100 decisions, it seems that other writing habits tackled in the 2012 training had also gone. For example, in 2011 decisions commonly used this sort of formula: “There has been no fault on the part of the council which has led to significant injustice to the complainant.” This reflected the statutory test for a finding of maladministration. But it was frustrating to a citizen who would be left without any recognition that the council had done anything wrong or caused any injustice at all. Nothing like this was present in the 2014 sample decisions. In preparing for this talk, I browsed through some decisions on the LGO website. The third one I looked at said; “The Council has allowed for Mrs Q’s disability related expenditure. However, it has kept no record of the decision about her computer. That is fault by the Council. It needs to reconsider this matter and record it properly.” This approach was common in the 2014 samples.

As the teams moved to new offices and hotdesking, some people lost access to StyleWriter and there was an increased need for communication between the software’s users and the IT team who

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supported it. Also, many aspects of the writing standards couldn't be measured by computer, but only according to the opinion of writers and managers, so there was still room for disagreement.

The LGO continues to seek external feedback on its decisions, via its Public Advisory Forum and through its ongoing customer satisfaction survey, which is sent to all customers that receive a decision. This asks whether the decision was well laid out, whether it was easy to follow, and whether the language was clear and straightforward. Here are the latest results:



What can we learn from this?

This 2-year project teaches us that these methods work, when an organisation has a good reason for wanting to change, and a clear benefit to gain. That is, the organisation can change if management introduces and enforces clear standards, supported by training, templates, standard text and a model of good practice. I question whether any of these methods alone will make much difference to an organisation, although you can get pockets of change and you never know what seeds you may be sowing.

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