



Plain Language Association International (PLAIN)

Fourth Biennial Conference Proceedings

Toronto, Canada — September 26 - 29, 2002

AT THE HEART OF COMMUNICATION
across disciplines and around the world

International Plenary Panel:
Plain Language Progress Around the World

Plain Language Developments in Ireland:

An Overview

Brian Hunt

Presented to the Fourth Biennial Conference of the PLAIN Language Association International, September 27, 2002

www.betterregulation.ie

Copyright © 2002, Brian Hunt

Table of Contents

1. Introduction

2. Government - The Public Sector

- What is a protected structure?
- How does an owner or occupier know which works require planning permission?
- Plain Language Laws
- Ombudsman, Information Commissioner
- Insurance Ombudsman

3. Business - The Private Sector

- Industry Leaders
- Primary Services - Telephone, Electricity and Gas
- Insurance Companies
- Banks

4. Concluding Remarks

**International Plenary Panel:
Plain Language Progress Around the World**

Plain Language Developments in Ireland: An Overview

Brian Hunt¹

1. Introduction

The adoption of plain language in Ireland is making slow but steady progress. My experience would seem to suggest that an organisation's positive view of plain language is not always apparent from their activities or output. As a consequence, in order to ascertain the views of many organisations, I had to engage in communication directly with them.

There appear to be a number of stages which an organisation goes through prior to adopting plain language – awareness of plain language and a favourable attitude towards plain language being two key steps. All of the businesses and organisations which I contacted were aware of the drive towards plain language. Also, they were all receptive and very positive about the role which they see plain language playing in their organisation. Of the organisations which I contacted, only a small number had a tangible plain language policy in place. The others strongly favoured and actively encouraged its use. The development of a policy is a significant step along the road towards attaining plain language – and many of the organisations which I contacted are moving firmly in that direction.

2. Government - The Public Sector

It might be reasonable to expect that on a subject as important as plain language, that the Government might take a leading approach. However, in Ireland this has not been the case. The private sector have clearly taken a lead in the adoption of plain language. Our Government have not yet published a policy on plain language. Despite the absence of an identifiable policy on plain language, virtually all of the leaflets and guides published by the various Government Departments are written in a plain and reader-friendly way. For example, the following is an extract from a brochure produced by the Department of the Environment on planning legislation:

¹ Dip. L.S., B.A., M.Litt., Dip. L.S., Dip. Int. Arb., A.C.I. Arb. (Ireland). © 2002.

“What is a protected structure?”

A protected structure is a structure that a local authority considers to be of special interest from an architectural, historical, archaeological, artistic, cultural, scientific, social or technical point of view. Details of protected structures are entered by the authority in its Record of Protected Structures, which is part of the Development Plan. Each owner and occupier of a protected structure is legally obliged to ensure that the structure is preserved. ...

How does an owner or occupier know which works require planning permission?

An owner or occupier of a protected structure may request the local authority to issue a declaration indicating the types of works that could be carried out without affecting the character of the structure or any element of the structure which contributes to its special interest. These works would not require planning permission. A local authority will, in general, issue such a declaration within three months of receiving a request.”²

In 1999, a Government Report entitled “Reducing Red Tape: An Action Programme of Regulatory Reform in Ireland” recommended that “All Departments should be required to provide user-friendly information to client groups and easily-read guides to legislation”.

Plain Language Laws

In its report entitled “Statutory Drafting and Interpretation: Plain Language and the Law”, (LRC61-2000) the Irish Law Reform Commission strongly advocate the use of plain language in legislation. Among other things, it recommended the use of familiar and contemporary language in legislative drafting; shorter and less complex sentences; the active, rather than the passive voice; positive statements rather than negative ones; and, increased use of examples, maps and diagrams.

In November 2001, a legislative Drafting Manual was prepared in the Office of the Parliamentary Counsel for use by drafters. This Manual commends the use of plain and simple language in so far as that is possible without giving rise to ambiguity. It advocates the use of plain language in the following terms:

² Department of the Environment, “A Guide to Protected Buildings”.

“A simple sentence is easier to understand than a complex or compound sentence. If the meaning of a complex sentence can be precisely stated in two or more simple sentences, use the simple sentences. If a word has the same meaning as a phrase, use the word. Omit needless words.”

It also encourages adherence to the following plain language principles:

- “use simple and familiar words unless they do not accurately express the intended meaning;
- use a single word, if possible, rather than a phrase;
- prefer verbs to noun forms;
- do not use different words to express the same meaning, or the same word to express different meanings;
- delete unnecessary words as they can lead to confusion and ambiguity;
- where possible, avoid Latin and French expressions, jargon, journalese and archaic words or phrases.”

There is a view which suggests that plain language cannot be fully embraced in the context of legislative drafting due to the need for absolute accuracy. This need for accuracy often precludes the use of plain and simple language – which by its nature lends itself easily to ambiguity and differing interpretations. The necessity for plain language legislation could also be questioned on the basis that it has never been established that ordinary citizens are even interested in reading legislation.

Explanatory memoranda are published with each Bill and they seek to explain the background and each provision of the Bill in plain and simple language. They are prepared by the Government Department sponsoring the Bill. Following the Law Reform Commission’s criticism of the decline in the standard of explanatory memoranda, the Office of the Parliamentary Counsel to the Government presented a Report to the Government Chief Whip entitled “Explanatory Memoranda: An OPC Perspective” (February, 2002). In the light of the complexity of much of our legislation, this Report suggested that the role which explanatory memoranda play should be enhanced, so as to become more simplified and informative for members of the public.

Also in February 2002, the Government published a Consultation Document entitled “Towards Better Regulation”. This document states that Ireland aspires to enacting high quality legislation, which it defines as laws which are “clear (well drafted), coherent (can be easily followed), effective (achieves its objectives) and accessible (can be easily located).”.

Ombudsman, Information Commissioner

Following a review by a ‘working group’, the Office of the Ombudsman and also the Office of the Information Commissioner are now using plain language. As part of the implementation of their plain language initiatives, a plain language policy is being developed. In the interim, staff undergo training in plain language. The following is an example of some of the plain language practices to which both Offices are now adhering to:

- The avoidance of Latin and other foreign language terms,
- The avoidance of legal and technical language, and where it is unavoidable explain its meaning,
- The avoidance of bureaucratic or pompous language,
- The avoidance of words like “herewith”, “pursuant”.

Insurance Ombudsman

In its recent Reports, the Insurance Ombudsman of Ireland has emphasised the need for insurance companies to “demystify” their language and has consistently called for the adoption of plain language:

“In previous years I drew attention to the need for simplification of the language of the insurance world. I would continue to urge companies to make this a priority. It would greatly improve communication and understanding between them and their policy holders.”

The 2000 Report goes on to point out the practical benefits which the adoption of plain language could have for all parties:

“It would generally improve communication and understanding between them and their policyholders. It would attract questions at the point of sale, would assist potential policy holders in fully understanding the essential features of the policy being sold, create more consumer satisfaction and fewer complaints to insurers.”.

3. Business – The Private Sector

Industry Leaders

Forfás is the National Policy and Advisory Board for Enterprise, Trade, Science, Technology & Innovation in Ireland. It is the body in which the State's legal powers for industrial promotion and technology development have been vested. Forfás has not yet developed a policy on plain language, but it strives to “communicate as effectively and clearly as possible”.

The Irish Business and Employers Confederation (IBEC) represents and provides economic, commercial, employee relations and social affairs services to some 7,000 companies and organisations from all sectors of economic and commercial activity. IBEC works to shape policies and influence decision-making in a way that develops and protects members' interests and contributes to the development and maintenance of an economy that promotes enterprise and productive employment. IBEC are in favour of plain language, and are particularly critical of the complex language used in Irish legislation.

Primary Services - Telephone, Electricity and Gas

Our largest telephone company – Eircom plc provides its staff with a brochure so as to encourage consistency in the implementation of its plain language objectives. This brochure promotes many aspects of plain language. It encourages;

- the omission of unnecessary words,
- the use of the active voice,
- the use of positive language,
- the use of short sentences,
- the use of short paragraphs,
- the avoidance of formal language, and
- the avoidance of jargon.

Though not having a tangible plain language policy in place, our largest electricity company (the ESB) and also our main gas company (An Bord Gáis) both enthusiastically advocate the use of plain language. The ESB are eager to “encourage the use of clear language, without unnecessary complication. We believe that the use of plain language helps us to inform our customers, staff and business partners with greater speed and accuracy.”. An Bord Gáis are similarly positive; saying that it “favours the use of clear and simple dialogue with its customers and among its employees. ... We view the use of simple words and plain language as key to providing good customer service.”.

Insurance Companies

Just as in legislative drafting, the use of plain language can be inhibited where there is a potential for legal uncertainty. This point was expressed by a number of insurance companies. They are clearly fearful that the adoption of plain language might diminish the rights of the client or the insurer.

As expressed by Allianz, this fear derives from the fact that “contract wordings are, in many cases, derived from legal precedent and legal custom and practice.”. Despite this, they are committed to using plain language in their contracts in so far as that is possible.

One of the leading life assurance companies, Eagle Star Life is strongly in favour of the use of plain language. However they point out - from a practical perspective - that plain language can not be used in all circumstances – particularly in long and detailed contracts involving substantial amounts of money.

Another major life assurance company, Irish Life have a Plain English Policy in place. In 1998 they began working with plain English consultants in the UK so as to ensure that its literature is expressed in plain and simple terms. In the company’s own words: “Using the plain English approach to writing means that Irish Life does not hide important information behind financial jargon or small print.”. They point out that they were the first ever Irish based financial services company to achieve both the “Crystal Mark” (awarded by The Plain English Campaign) and also the “Honesty Mark” which is testament to their commitment to the use and promotion of plain language. Staff training on the use of plain English is widely implemented within Irish Life, this is supported by a “Plain English Jargon Buster” on their

Intranet Site. At present they are rewriting all of their standard form letters which they will send to their plain English consultants for approval.

Banks

One of Ireland's major banks – the Bank of Ireland actively engages in the use of plain language. It avails of the services offered by plain language consultants in the U.K. – which they found to be “beneficial ... and extremely thorough”. As a result of this, some of the Bank's brochures now carry the “Crystal Mark”.

4. Concluding Remarks

While I am unable to report as much progress as I would like to, I feel that in Ireland we are making real progress towards eliminating the rhubarb and verbosity of times past. Until plain language has been embraced by all sectors of Irish society, the Irish public will have to battle with the complexity of terms and conditions, grapple with standard contracts and be baffled by standard type letters.

It is easy to become disillusioned with the slow speed at which plain language is being adopted. However, it is important to recognise that changing time-honoured practices and traditions is a slow and often difficult process. Though we would wish otherwise, it takes a considerable amount of time. Despite the fact that the benefits of plain language are undeniable and clear, in many cases the adoption of plain language requires active encouragement.

However, as I have outlined, the private sector has clearly taken a leading role in the adoption of plain language. The level of awareness and positive attitude towards plain language among businesses is very encouraging and augers well for the future of plain language in Ireland.



International Plenary Panel:
Plain Language Progress Around the World

Plain Language Developments in Ireland: An Overview

Brian Hunt

www.betterregulation.ie

Brian Hunt, Research Officer in the Office of the Parliamentary Counsel to the Government of Ireland, has recently published two articles about plain legal language: "Plain Language: The End of the Road for Recondite Legislation?" *Bar Review*, Vol. 7 (1) (2001); and "Plain Language: Is it Really the Answer?" *Stat. L.R.*, Vol. 23 (1) (2002).