

Plain Words (Part 1)

By Joseph Kimble

I write this article—and offer the list below—with some trepidation. I will be accused of promoting baby talk, of constricting and dumbing down the language, of denying writers their expressive voice, and of corrupting legal discourse. That's the fate of anyone who believes that lawyers should write in a plainer style.

I have tried to address these false charges—these myths about plain language—in other articles.¹ For now, I'll settle for just a few reminders about my list.

First, it deals with the choice of words. And vocabulary is just one part of plain language. Plain language, rightly understood, involves all the techniques for clear communication: planning the document, designing it, organizing it, constructing sentences, choosing words, and testing mass documents on typical readers.

Second, plain language has nothing against expressiveness in the right place, like a persuasive brief. But there is little room for literary flair in statutes, rules, contracts, wills and trusts, forms, and most pleadings. Besides, the words on the left below, under “Instead of,” are not so fresh or forceful that they might create a pleasing effect.

Third, some of those words are more stodgy than others, and we could argue about where each one falls along the line from “not so bad” to “never use.” (I'd rather take a kick in the shins than use *cognizant of* or *requisite* or *utilize*, for instance.) Every writer has to make these choices, always with the audience and context in mind.

Fourth, the choice of words may depend on more than just simplicity. It may depend on the rhythm or sound of the sentence. And, of course, the choice may depend on precision. By all means, use the longer, less familiar word if you think it's more precise or accurate. When in doubt, check a book on usage or a dictionary that discriminates between synonyms.²

Finally, your readers will not notice an occasional big word. But they will notice—even unconsciously—a tendency toward inflated diction, and they will not be impressed or persuaded.

The great H.W. Fowler got it right almost 100 years ago:

Prefer the familiar word to the far-fetched.

Prefer the concrete word to the abstraction.

Prefer the single word to the circumlocution.

Prefer the short word to the long.

*Prefer the Saxon word to the Romance.*³

In my high-school English class (before English became “Language Arts”), we had to learn ten vocabulary words each week. It occurred to me that I might be rewarded for sprinkling these words like salt on my papers. So in one essay, I did just that. When it came back, there were two words on the cover: “turgid, inflated.” Grade: C –.

Remember what Fowler said. And remember what George Bernard Shaw said: “In literature the ambition of a novice is to acquire the literary language; the struggle of the adept is get rid of it.”⁴

Instead of...

accede to
accompany
accomplish

Consider

grant, allow
go with
do, achieve

Instead of...

accordingly
accumulate
additional
additionally
adjacent to
administer
advantageous
advise
afford
aggregate
allocate
alter
alteration
alternative
anticipate
append
apprise
approximately
ascertain
assist
assistance
attain
attempt (verb)
biannually
calculate
category
cease
cognizant of
commence
commencement
commitment
communicate
compensation
complete (verb)
comply with
component
comprise
conceal
concept
concerning
concur
consequence
consequently
consolidate

Consider

so, therefore
gather, get, have
more, added, other
and, also
close to, near, next to
manage
useful, helpful
tell, recommend
give
total
give, divide, set aside
change
change
other, other choice
expect
attach
tell, inform
about, almost, roughly
find out, learn, determine
help
help
reach, become
try
twice a year
work out, figure
kind, class, group
end, stop
aware of, know
begin, start
beginning, start
promise
write, tell, talk
pay, payment
finish, fill out
follow, meet
part
consist of, contain
hide
idea
about, on, for
agree
result
so, therefore
combine, join

Instead of...	Consider	Instead of...	Consider	Instead of...	Consider
constitute	make up	indicate	say, show, suggest	objective (noun)	goal, aim
construct	build, make	indication	sign	obligate	bind, compel, require
contiguous to	next to, bordering on	individual (noun)	person	obligation	debt, duty, responsibility
currently	now (or cut it)	inform	tell	observe	see, watch, follow, obey
customary	usual	initial	first	obtain	get
decrease (verb)	reduce, lower	initiate	begin, start, set up	obviate	avoid
deem	consider, think, treat as	inquire	ask	occasion (verb)	cause
defer	delay, put off	institute	begin, start, set up	occur	happen
demise	death	interrogate	question	ongoing	continuing, active
demonstrate	show, prove	locate	find, place	opt for	choose
depart	go, leave	magnitude	size	optimum	best
designate	appoint, name, choose, set	maintain	keep, continue, support	option	choice
desire	wish, want	manner	way	parameter	limit, boundary, guideline, condition
desist	stop	maximum	most, largest, greatest	participate	take part
detain	hold	modification	change	per annum	a year
diminish	lessen, reduce	modify	change	personnel	people, staff
discontinue	stop	necessitate	require	peruse	read with care, review
disseminate	send out, distribute	necessity	need, requirement	per year	a year
donate	give	notification	notice	place (verb)	put
duration	time, rest	notwithstanding	despite	portion	part
effectuate	carry out, bring about	numerous	many		
elapse	pass				
elucidate	explain, clarify				
employ	use				
employment	work, job				
encounter	meet, face, run into				
endeavor (verb)	try				
ensure	make sure				
entitled to	has a right to				
enumerate	list, name				
equivalent	equal, the same				
evince	show				
exclude	leave out				
exhibit (verb)	have, show				
expedite	hasten, speed up				
expend	spend				
expenditure	payment, expense, cost				
expiration	end				
facilitate	make easier, help				
following (preposition)	after				
formulate	work out, devise				
forward (verb)	send				
frequently	often				
furnish	give, provide				
hence	so, therefore				
however	but				
identical	same				
illustrate	show				
impact (verb)	affect, influence				
implement	carry out, begin, start, create, set up				
inception	start, beginning				

Instead of...

possess
preclude
preferable
premises
prescribed
present (verb)
previous
previously
principal
prior
proceed
procure
promulgate
provide
provided that
purchase (verb)
pursuant to
receive
regarding
reimburse
remainder
render
represents

Consider

have, own
prevent
best, better, preferred
place, property
set, required
give
earlier, last, past
before, earlier
main, chief
earlier
go, go ahead
buy, get
make, issue, pass
give, send
if, but
buy
under
get
about, on, for
repay, pay back
rest
make, give
is, makes up, stands for

Instead of...

request (verb)
requisite (adjective)
reside
respond
responsible for
retain
selection
semiannually
similar to
solely
specified
submit
subsequent
subsequently
sufficient
summon
terminate
thus
transmit
transpire
utilize
visualize

Consider

ask
needed, required
live
answer, reply
causes, has charge of
keep
choice
twice a year
like
only
named, set out
send, offer
later
later, afterwards, then
enough
send for, call
end, stop
so
send
happen
use
think of, imagine



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international plain-language organization), and the drafting consultant to the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States.

FOOTNOTES

1. See *Answering the Critics of Plain Language*, 5 Scribes J. Legal Writing 51 (1994-1995); *The Great Myth That Plain Language Is Not Precise*, 7 Scribes J. Legal Writing 109 (1998-2000).
2. E.g., Theodore M. Bernstein, *The Careful Writer* (1972); Roy H. Copperud, *American Usage and Style: The Consensus* (1980); Bryan A. Garner, *A Dictionary of Modern American Usage* (1998); Bryan A. Garner, *A Dictionary of Modern Legal Usage* (2d ed. 1995); Funk & Wagnalls *Modern Guide to Synonyms* (S.I. Hayakawa ed. 1968); Webster's *New Dictionary of Synonyms* (1973).
3. H.W. Fowler and F.G. Fowler, *The King's English* 11 (1906; 3d ed. 1931).
4. Quoted in John R. Trimble, *Writing with Style* 183 (2d ed. 2000).