

Buddhists, Running, and Plain Language in Calgary (Part One) **by Christine Mowat**

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Several years ago, I carefully copied an intriguing logical puzzle into my journal. The source is now lost to me, but here is the puzzle:

One morning, exactly at sunrise, a Buddhist monk began to climb a tall mountain. narrow path, no more than a foot or two wide, spiraled around the mountain to a glittering temple at the summit. The monk ascended at varying rates of speed, stopping many times along the way to rest and eat dried fruit he carried with him. He reached the temple shortly before sunset. After several days of fasting and meditation, he began his journey back along the same path, starting at sunrise and again walking at variable speeds with many pauses along the way. His average speed descending was, of course, greater than his average climbing speed. Show that there is a spot along the path that the monk will occupy on both trips at precisely the same time of day.

In the early eighties, I had used the puzzle in writing workshops to illustrate brainstorming strategies. Recently, while cleaning out my study, I came upon the puzzle again.

This time, I couldn't figure out an answer.

First I drew two pictures with stick figures on the spiral ling paths starting at the bottom and the top respectively, both with sunrises. That got me nowhere.

Then I tried mathematical formulas. If the average first day speed equals X , the average second day speed equals Y , and the length of the mountain path is 30 kilometres, is there a point Z where the monk will be at the same time each day? Aaarrgh! It was, at least for me, too difficult with algebra.

The next day I telephoned an engineer friend whose first retort, on hearing the puzzle, was that there could be no such spot on the trail. His next musings went like this: "What if on the first day the monk covered all but the last two feet in 15 minutes, sat there until just before sunset, and then finished the walk? (What kind of a mind produces this kind of thinking? I was in awe.) No, it's impossible - even counter-intuitive," he concluded.

Several days later, on an early August morning, I was out running in the ravine below my house. For variation, I often choose the different directions of a circular route, the better to see fresh views of the mountains. Suddenly, I had a mental image of a figure running one way and superimposed on that was a second image of the same figure running the other way. In both images, the figure began to run at sunrise. Of course, at some point along my ravine trail, the figure "met" her match going the other way, and "to meet" means to meet at the same time in the same place. Fortunately no one was there to hear my burst of laughter. My mind had restructured the problem.

I use this somewhat lengthy example on purpose. I believe the same kind of strenuous change in perspective is required for legal writers to move from traditional legal writing to plain language.

In this article, I will provide a case history of how one Calgary, Alberta corporation began to change its gas marketing agreements into plain language. But I will need to come back to Buddhist enlightenment to draw conclusions about successfully implementing plain language. Though the case history is a personal profile of one company's progress, it may provide directions for other groups.

A context for improving legal language in Calgary

Since 1980, I have been a writing consultant to the petroleum industry, management schools, government, and business. In the early days, law departments would send individual lawyers to general business writing workshops, and so we had several dozen lawyers over the years. One such lawyer suggested that Wordsmith Associates design a workshop specifically for legal writers. Thus began my informal Ph.D. in legal writing -- but with a specialization in plain language. It took two years to research initially and several other years of practice to refine.

The first legal writing workshop conducted with an instructor colleague was the most difficult workshop of my career. It became clear to me that, in the eyes of lawyers, only lawyers could teach legal writing. Since that workshop, I have always co-instructed with a lawyer. However, it has taken considerable time to introduce each lawyer instructor to the writing research, philosophy, pedagogy and the plain language literature which informs our programs. Peg James, past Director of the Plain Language Project of the British Columbia Continuing Education, was the first such lawyer to work with me.

Progress in Calgary was slow, in part because lawyers' time is so expensive that removing them from two full days' of work seemed counter-productive to many decision makers. As well, it was difficult to identify the appropriate person to speak to about training. Some firms have principals whose mandate is to organize continuing education; others leave it to administrative assistants or managers. A third group share the responsibility among several people, and as a marketer, I was often shuffled from one to another. The process was inordinately time-consuming.

Lawyers, whose stock in trade is words, are reluctant to consider admitting that they might benefit from writing training. In addition, our business was focussed on general business writing for professionals, and the specialized law marketing was often impractical. I depended on word of mouth. By 1993, we had had about 500 lawyers go through our workshops. All but one large Alberta government workshop were two-day 14-hour sessions with not more than 20 participants. One Calgary law firm has held three workshops, but mostly for young lawyers.

With the passage of the first Plain Language legislation in the Commonwealth, the Alberta Financial Consumers Act, a persistent obstacle, lawyers' lack of knowledge about Plain Language, began to be overcome. About the same time, the Canadian Bar Association and Canadian Bankers' Associations published their report on Plain Language, the Decline and Fall of Gobbledygook. All of its recommendations were subsequently adopted.

Plain language: a corporate case history

In May, 1992 Wordsmith was asked to conduct an Improving Legal Writing Workshop for the Legal Department of Western Gas Marketing Limited(WGM)* . From the outset, this workshop had all the earmarks of success. The workshop was not only company-initiated but had senior management support - one Vice-President even took the two-day workshop himself. Douglas McLean, Senior Manager, Legal, and Diane Pettie, Manager, Legal Services, (the former now General Counsel &

Corporate Secretary) were knowledgeable and enthusiastic about plain language and the prospects for a workshop-assisted process.

We retained most of the elements of Wordsmith's usual program, with one significant exception: we used their documents as work-in-progress materials for the workshop. WGM's objective was to gain help in transforming a number of standardized documents into plain language. Thus, the motivation was extremely high.

The heterogeneous composition of the workshop was interesting, too. Paralegals as well as lawyers from Calgary, Houston and Toronto offices were invited to attend. This ensured that different levels of employees involved in working with the documents all made an investment in the plain language transformations. I believe it is crucial that key writers and decision makers attend the plain language training sessions. An outsider cannot identify the right mix.

Our objectives as instructors did not include producing final documents. We wanted participants to "buy into" the philosophy of plain language, to gain the necessary tools to continue the work on their own, to have practice in both individual and collaborative group processes, and to participate in an individual conference on their own writing styles with one of the instructors.

The workshop

Although the workshop is designed to familiarize participants with the history and practice of plain language, the prime focus is on writing. Short presentations extended by group discussions are interspersed with a series of writing activities completed in groups, pairs or individually. Lecture format is not used.

Participants receive a 140-page manual, *Improving Legal Writing*, written and desk-topped following the writing principles the program espouses. A Glossary of Legal Terms, a CLARITY deskfinder, and a business journal complete the workshop materials. Because WGM provided me with so many materials beforehand, I was able to create a number of "before" and "after" transparencies.

Hands-on plain language

Our writing activities began with groups of four choosing documents they were interested in rewriting. Sections were allocated, and individuals worked on their own segments. In the evening, participants worked through two or three drafts and brought copies to class next day. The period of peer review was lively, exhilarating and frustrating. As so often happens in plain language "translating", ambiguities are uncovered and arguments arise about what is meant or should be meant.

Participants, however, were pleased with their new-found skills and they had struck, recast, clarified, deleted from, added to and redesigned their segments in the peer review groups. They frequently disagreed about how much or how little they could change. Even the paralegals, who were more timid than the lawyers about tampering with the encrusted legalese, began to feel some sense of empowerment and investment in the documents.

At the end of the workshop, the groups put their favourite showpieces on a transparency, and presented them to all of us. The group was pleased with the bold changes. We ended on a high note with participants realizing that the work was just a beginning.

Plain language "knitting groups"

After the workshop, WGM kept in touch. Diane Pettie reported that they had set up "knitting groups" to continue rewriting. Three months after the workshop, they sent me what they hoped was the last draft of their Canadian Industrial Sales Agreement. The Toronto office had actually begun rewriting the contract before the workshop. Several workshop participants, with others from Toronto, continued this rewriting, and held a series of conference calls to discuss changes.

The writing specialist's role

The role of outside writing consultants is always precarious: on the one hand, we are seen as more objective because we are outside specialists, and on the other hand, less knowledgeable because we are not "in the know" from the inside. As writing specialists, though, we often carry more weight when the matters are seen to be merely language issues. It is, however, often impossible to separate style from substance in the plain language translation process.

As differing opinions on the changes arose, my role was to offer an outside view and suggestions on the final draft. Because text decisions always rest with the writer, I offer suggestions in a tentative or question format, rather than a heavy-handed "If I were you" style. Here are several examples of suggestions:

- I believe both sentences say the same thing. Choose one?
- Substitute "must" for "will" to reflect the mandatory nature?
- Here's a possible rewrite of Clause XX. This version changes the order to reflect the reader's interests, creates shorter sentences, and is written in the active voice for directness.

Over the year and a half since WGM began to "plain" their documents (as Diane Pettie coined it), they are weaning themselves from outside help. They have produced 15 plain language documents now, all but four on their own.

The challenges to legal writers of "plained" documents summon another stage of enlightenment. Plain language, based on the seminal principle of writing for all the document's readers, inspired the Western Gas writers to adopt a new vision of legal writing. Their main goal was to write clear contracts for their customer readers. With the understanding and good will of their customers in hand, the courts and other lawyers are less likely to ever have to read the text.

For legal writers committed to excellence in writing, there are many spiral ling mountain marathons ahead.

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