

# Legal Writing



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## CHAPTER 7

### FINISHING AND POLISHING YOUR WRITING

Essays and problem question answers are not just about the ideas that are contained within them, although they are obviously extremely important. They are also about communicating those ideas and the evidence you have to back up your assertions in an effective and stylish fashion. The way in which you communicate those ideas will make it easier or harder for you to persuade the reader around to your way of thinking. The more gaps you leave in your arguments, and the more clumsy the way in which you express your ideas, the more likely it is that you will lose the reader and the chance to get your point across. This chapter considers the important stage of finishing and polishing your answer before handing it in to be marked and provides some hints to help you make the most of your writing.

#### FINISHING AND POLISHING YOUR WRITTEN WORK

Finish the first draft of your essay.

Leave it alone for 24 hours.

Return to your essay.

Read the draft to check it as a whole.

Reread the question or problem and then reread your draft once through.

Take note of the ideas and arguments in the draft.

Start at the beginning and ask yourself:

- 'Have I answered the question?'
- 'Do I need to rearrange the order of ideas so that they flow?'
- 'Have I explained where my arguments are going throughout the essay?'
- 'Have I grouped together ideas that point in one direction?'

Make any changes.

Read the draft again to check individual paragraphs.

Ask yourself for each paragraph:

- 'Have I stated the point I am making?'
- 'Have I explained my point?'
- 'Have I provided evidence to back up the point?'
- 'Have I cited all my sources?'
- 'Have I rounded off the point by explaining its relevance to the question?'

Reread one final time to check your spellings and grammar are correct and that your essay looks professional.

It is difficult to reflect on your own work, and particularly if you finish your first draft and then move to polish and finish it straightaway. Leaving a period of 24 hours between completing your draft and starting to polish it will allow the issues to settle in your mind. It will also make it easier to view your essay objectively, to read it as the marker will read it. Students tend to lose 'easy' marks by failing to polish their work. Spelling errors are avoidable (although I'll leave you to spot how many you can find in this book!) as are formatting problems, missing footnotes and poor editing mistakes. Just for fun, an example that would not be atypical would be something like this:

Parliamentary supremacy is a theory of how what power Parliament has to legislate ... theorists such as Dicy have set out the basic tennents of the theory.<sup>1</sup>

While the ideas contained in those two sentences would give a student some marks, they may equally have resulted in a drop of overall essay mark because the essay was so badly finished. In addition, the citation (like the one at the bottom of this page) is missing and the point is not fully made.

### **Linking ideas into an argument**

Once you have written your essay or your problem question answer it is important that you read through your draft. You may have assigned one paragraph for each idea and you may have explained how the idea related to the question. However, it is difficult to link each of the ideas together in your essay at the same time as writing them down for the first time. Most students, and indeed many academics, do not know what they think about a subject until they have either discussed the ideas or written them down. Consequently, it is hard to develop and link ideas at the point when you are trying to get them down on paper. Instead, it is important to give yourself a break from your essay once the first draft is completed, to let the ideas settle in your mind for a day or so, and then to return to your draft to link those ideas together in your essay.

Linking ideas is simply a way of explaining how one idea fits with the next, so that the reader can develop a picture of how the ideas relate to one another. One of the easiest ways of doing this is to group those issues that appear to point to one answer in your essay, for example, issues that appear to be in favour of a proposition in a title, and those that appear to be against a proposition. Alternatively, you may wish to adopt a thematic approach. You may wish to balance one paragraph which argues in favour of one point of view, with a following paragraph that appears to contradict it, before moving onto the next theme on your list. There are many different ways to link ideas, but the important part of argument construction is that the reader can follow the development of your ideas, rather than that you adopt a particular pattern.

Problem question answers should be structured so as to move logically through the legal issues that must be proved or disproved, met or not met, in order for the legal points to be settled. Some legal issues are prerequisites and if

these have not been met, then the client may have no case at all. For example, a judicial review case cannot be brought if a client cannot demonstrate that the body that carried out the act, omission or made the decision that is the subject of the dispute, falls within the definition of a public body or a public authority. A problem question answer should address this issue early on as, if it cannot be proved, the client will have no case regardless of whether the other legal and factual issues can be proved. Take your lead from the general principles of law that govern the legal situation that is the subject of the problem.

Once you are sure that you have linked your ideas and that together they answer the question, then the final stage is to check your draft for spelling, grammar, footnotes and formatting issues.

## Grammar and punctuation

Grammar worries most people a little bit and many of us a lot. It is one of the things that crops up time and time again in student feedback from assessments. Grammatical issues are not quite the same as stylistic ones – people adopt different styles of writing but sentences do need to be grammatically correct if they are to be understood. You are encouraged to adopt your own style of writing, within certain limits, but you do need to adhere to the basic rules of grammar. If you are unsure about punctuation issues you may wish to read *Eats, Shoots and Leaves*<sup>2</sup> which is a humorous and practical guide to grammar, and has also become a bestseller. There are some general rules that I shall mention here.

You must write in fully formed sentences, even if you are in a hurry and even if there is a much funkier way of writing the sentence in text message format. Surprising though it may sound, essays are occasionally submitted in which ‘you’ has become ‘U’ and ‘to’ has become ‘2’. Funny though this is, this style will not achieve good marks for a student in an assessment unless the marker has a particularly odd sense of humour:

- Sentences must begin with a capital letter.
- Sentences must end with a full stop.
- Any words that are being quoted, where the words belong to someone else and not to the student, must be in quotation marks and must also be referenced.
- Capital letters should only be used in the middle of a sentence for proper nouns or for abbreviations (assuming these have been defined earlier in the written work) or for other defined words.
- Check to see whether you are using a plural or a possessive. There are a couple of words that trip up some students:

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2 Truss, L, *Eats, Shoots and Leaves: The Zero Tolerance Approach to Punctuation* (London: Profile Books, 2003).

'It is' when shortened becomes 'it's' with an apostrophe. An apostrophe is not used for 'its' when it is used to explain that the thing in question belongs to 'it'. An example would be: 'Parliament has the power to self-regulate. Its power derives from parliamentary privilege.'

- Each new idea should be discussed in a new paragraph, and in a single paragraph. In other words, do not start a new line for each new sentence.

Many of us feel that we need more help with our grammar. Consider using a grammar book to assist you in your writing to begin with and with luck you will find that your grammar gradually improves throughout your course. If you feel that you need extra help, then ask your tutor whether there is a workshop or a module at your university that will help you to develop your writing skills.

## Style issues

Style is a personal thing and written style is no different. However, there are conventions about the style you should adopt in writing an essay or an answer to a problem question. The conventions include whether the writer should write in the active or passive voice and whether to refer to third parties as 'him' or 'her'. Different types of written work require different styles of writing. This book has been written in a relatively informal style, making use of 'you' and 'I' to communicate skills techniques to you in what I hope is a clear way in a form of conversation. This style may also be appropriate for reflective essays, in which you reflect on your skills development. Nonetheless, grammar and punctuation rules still apply. However, most essays and problem question answers should adopt a style more similar to that seen in traditional textbooks, journal articles and cases. Formal written style is less personal and more distanced.

Problem questions are, to a certain extent, forms of professional writing. They are a mode of communicating a professional opinion to another professional. These tend to be written without reference to 'you' or 'I', but instead use phrases such as 'it is considered that' rather than 'I consider' or 'I think'. This adds authority to the opinion, as it makes the decision to be one that has been arrived at after professional deliberation; it gives it the aura of a professional rather than a personal decision. The more formal style provides extra gravity and distance and thus adds authority to it.

Essays and answers to problem questions are usually written in the passive voice. An example of the passive voice and the third person would be:

Parliamentary supremacy has been examined to establish whether supremacy has been eroded as a result of the UK's membership of the EU.

An example of a similar sentence written in an active voice and in the first person would be:

I consider here whether parliamentary supremacy has been eroded by the UK's membership of the EU.

This second example shows two of the stylistic concerns that tutors may have with students' work. The convention is that written assessments are written in the third person and the passive. There is no mention of 'I think', or 'My view is' or 'My opinion would be that'. It may seem rather strange, but that is the way it

is. The assessment is personal to you in that you have done the research and the reading, made the notes, dissected the question, planned it and written an answer, but what you find and therefore what you write is supposed to be universal rather than personal – you are, rightly or wrongly, supposed to have hit upon the truth, or at least a truth, backed up by evidence, rather than simply a personal opinion. Some tutors may prefer you to write in the first person, in which case you should obviously follow their instruction. However, it is more usual to be expected to write in the third person. This book breaks many of the conventions by writing directly to you, rather than writing to an impersonal audience, because it is trying to communicate directly with you. Generally, it is more acceptable to write in an impersonal voice, to provide professional distance and some weight to the writing.

### Formatting and presentation issues

Most coursework will have to be word-processed and, if you are not sure how to use a computer, then it is as well to take the opportunity of free computing lessons at university as soon as possible in your university career. It may feel comforting to put this off, but it will place you under more pressure at the point when you have to write your assessments.

Appropriate presentation is usually one of the assessment criteria against which your essay or problem question will be judged. Markers will obviously expect far more from you in presentation terms as regards coursework, when you have the time to work on formatting and presentation, than for work written under exam conditions. Check to see whether your course has standard requirements for word processed answers. If not, then you may wish to make use of the following points:

- case names should be underlined if handwritten or italicised or in bold, or underlined if word processed;
- quotation marks are usually “”, but may be “””. Some people use “” for the main quote and “”” for quotes that come within the main quotes;
- quotations are usually kept within a paragraph unless they are three or four lines long, in which case they may be put on a new line and indented from the left;
- numbers are usually written in words for numbers one to nine and then in figures from 10 onwards;
- phrases such as ‘for example’ should normally be written in full in the main body of an essay but may be abbreviated to ‘eg’ in footnotes;
- abbreviated words such as ‘don’t’, ‘won’t’, ‘shouldn’t’ should normally be written in full as ‘do not’, ‘will not’, ‘should not’;
- footnote numbers usually come at the end of sentences and after punctuation.<sup>3</sup> It is not that important, but do adopt a consistent approach;

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3 This is unless you need to refer to more than one footnote in a sentence in which case you may put a footnote in the middle of a sentence, or unless the footnote relates to one point in a sentence that contains more than one point.

- headings should also be consistent. In other words, make sure that headings of the same level (sub-heading one, for example) look the same throughout your essay. Adopt a different style of heading for the next level of headings down.

Once you have checked the presentation and formatting issues, you are ready to move onto the final checking stage.

## FINAL CHECKS

Reread the question.

Revisit any materials handed out with your assessment.

Revisit any instructions you were given with the assessment including the word limit.

Check the deadline date.

Consider the assessment and grading criteria.

Read through your essay one last time to check that it reads well, the references are complete and there are no typographical or spelling errors.

**Word limit** – you are unlikely to achieve a good mark if you have written well under the word limit as the word limit indicates the level of detail and analysis that you need to include in your answer. Answers that are well over the word limit may also be penalised. Check the word limit and the way it is calculated (are footnotes included in the limit for example?) with your lecturer.

**Deadline date** – you may be penalised quite substantially if you fail to meet the deadline.

**Materials that have been handed out with the essay title** – has your lecturer provided any other materials that you may need to refer to in order to answer the question fully?

**Assessment and grading criteria** – check how you are being assessed. Chapter 1 provides some assistance on what assessment and criteria mean as regards your writing.

Finally, make sure that you have handed your work in by the deadline. Many universities do not award a mark to work that has been handed in late, unless you are able to show extenuating or special circumstances. All your hard work may be wasted, if you hand your work in late.

## EXERCISE 1: TEST YOUR UNDERSTANDING OF STYLE ISSUES

Rewrite the following sentences in an appropriate style for an essay:

- 1 'I think that parliamentary supremacy has been lost as a result of Britain joining the European Community.'

- 2 'The *Factortame* case played an important role in our understanding on the way in which European law must be interpreted by the courts. We now know that given a straight fight between British law and European law, European law will win.'
- 3 'We don't really know whether the Human Rights Act has been semi-entrenched within the British constitution, as no Parliament has yet attempted to repeal it. I think that Parliament would face a public outcry if it did try to repeal the Human Rights Act and so I believe that, in real terms, the Human Rights Act is really entrenched.'

Read through a previous essay you have written. How does your written style compare against the style you will adopt in future essays? What are the differences and how will you alter your written style in the future, if at all?



# SUMMARY

## CHAPTER 7

By finishing and polishing your written work, you hope to pick up on gaps in your arguments, poor use of expression, spelling and formatting errors, and missing footnotes. This stage always takes longer than you think, so allow at least 24 hours to complete this stage before handing work in to be marked.

Once you have completed your essay in draft:





