

ment to enter upon the premises adjoining the said flat hereby demised and the retained property for the purpose of cleaning and executing repairs and alterations to the said flat as the same shall be necessary making good to the Lessor or to the tenants or occupiers of such adjoining premises all damage thereby occasioned

This could be a right to enter

the premises which adjoin (a) the flat or (b) the retained property

or only

the premises which adjoin both the flat and the retained property

or (though [b] would be superfluous)

(a) the premises adjoining the flat or (b) the retained property.

And does "as the same shall be necessary" apply to the access or the cleaning"? (In passing, why do lawyers always expect people to "enter (go inside) upon (on top of)", when they cannot be in both places at once and everyone else just "enters"?)

Sometimes the sentence structure is deliberately distorted "because everyone does it". So we have:

(The vendor sells) ALL THAT the premises.

"Or"

Careful drafters should particularly beware "or".

Executed or signed

(as in the example on the previous page) does *not* cover both possibilities as was intended, but asserts neither.

And in the example under "word order" near the top of this page, does the donee of the power have a choice of people only one of whom need be satisfied with the standard of work?

Pouring words in

Some lawyers are so complacent about their style that they retain absurdities, even after they have been pointed out, rather than correct them.

An office lease called upon the tenant to pay a share of the landlord's expenses

in constructing repairing rebuilding cleansing

painting and decorating the foundations walls and principal load-bearing timbers roof and other structural and external parts of the Building

The tenant didn't mind the landlords decorating the foundations if they wanted to, but was disinclined to pay for it. "Would you rather I listed everything separately?" asked the drafter, who left it as it was.

Similarly, a developer's standard contract for sale provided for

conduits for the supply to and from the land hereby agreed to be sold of sewage water gas electricity and telephone supplies.

I was assured that the developer had no intention of delivering sewage to my clients. But what was meant by "the supply of telephone supplies"?

Split infinitives

I vote with the conservatives against splitting infinitives, except in the rare case that the split is needed to avoid ambiguity.

I have no scholarly justification. Split infinitives sound clumsy, and they grate on my ears. But some of the alternatives are equally clumsy, often quite unnecessarily. I heard recently:

... made no attempt realistically to estimate the demand.

This is ambiguous as well as gauche. They might have said:

... made no attempt to estimate the demand realistically.

It might even be worth a (usually condemned) nominalisation:

... made no attempt to provide a realistic estimate of the demand.

And a recent *Gazette* quoted Law Society President Martin Mears quoting a House of Commons committee report as saying

... has failed to resolve satisfactorily this problem

when the natural phrasing would have been

... has failed to resolve this problem satisfactorily.

Absent-minded drafting

It is ironic that "traditional" legal writing is usually anything but traditional. I doubt the same wording is often used twice unless its source on both occasions is the same computer file. It is the legal *style* that is common, and *ideas* are copied, but the *wording* varies from one document to another. (See *Tried and tested: the myth behind the cliché* on p.43.)

Busy lawyers, dictating from memory what they think is standard, often produce nonsense. Because they do not think what they are writing, it passes unnoticed. I recently saw:

The land situated at and known as land off Norwich Road.

The plot had just been carved out of a much larger area on which an estate was being built. Did the writer imagine that the locals referred to our little piece - but not the adjoining plots - as "land off Norwich Road"? Did he think it sensible to describe land as "land .. known as land"? Since he clearly wasn't an idiot, I can only assume that he was asleep.

Even this short and simple letter had to be complicated and rendered ungrammatical:

Dear Sirs,

17 Longwind Road Brockley SE4 - X Ltd from Collins

Thank you for your letter of 31st ultimo and acknowledge safe receipt of the enclosure therein.

Yours faithfully

Secretive drafting

As I took a break from writing this column to work on a client's lease I came across this among the definitions at the beginning:

"the demised premises" means the premises hereby demised and where the context so admits includes any part thereof and anything erected thereon and the rights easements and priveleges appurtenant thereto

But where *are* the premises? The next clause should have helped:

IN CONSIDERATION ... THE LESSOR doth hereby DEMISE AND LEASE unto the Lessee A L L THAT ...

Are we about to find the answer? No.

... the premises described in the First Schedule hereto TOGETHER WITH the rights set out in the Second Schedule hereto

I finally found the first schedule on the 5th of the document's 13 unnumbered pages. It is so unfriendly that I reproduce it as I see it:

[(a)] ALL [THAT] [~~THOSE two~~]piece[s] of land situate at West Molesey in the County of Surrey being on the South side of Dundas Gardens

. at West Molesey aforesaid being part of the Hurst Park No.2 Estate and ~~/being together/~~ known or intended to be known as No. 16 in Dundas

. Gardens aforesaid as the same is ~~/are/~~ for the purposes of identification only delineated and described on the plan and thereon coloured pink ~~/and yellow/~~ TOGETHER with the Lessee's house ~~/and the garage/~~

This verbal and visual mess could have been simplified by defining the property as

16 Dundas Gardens, West Molesey, Surrey, [approximately?] shown on the plan by red edging

and providing that

The landlord lets the property to the tenant.

Readers are invited to compete for a small prize which will be given to the wittiest drawing of this house in a style matching that of the paperwork.

A rogue *Times* law report

It took me 10 minutes to work out how this 129-word introductory sentence fitted together:

Since upon an individual's bankruptcy, any right of his to receive income support did not vest in his trustee, the general rule that the creditor of a bankrupt could not plead a debt owed by him to the bankrupt, that had been constituted prior to the sequestration, in compensation of a debt owed by the creditor the bankrupt arising after the sequestration, did not apply to prohibit the Department of Social Security from setting off an obligation of the bankrupt's to repay a social fund loan that predated his sequestration against his right, after his sequestration, to receive income support, because the reason for the general rule was to prevent a creditor from pleading compensation of debts against the trustee to

the prejudice of the general body of creditors.

Why is it so difficult?

- Far too many different ideas are crammed into a single sentence.
- It is three or four times longer than a sentence should be.
- There is a comma missing after the first word, which confuses the phrasing.
- Other commas are wrongly used.
- "To" is missing after "creditor" at the end of the 7th line.
- Forty badly punctuated words, comprising several phrases, separate the subject "the general rule" from the main verb "did not apply".

Although the punctuation is poor the piece would have been impossible without the clues it gave to the phrasing.

Who was that spouse I saw you with last night?

Spouse is defined as the person to whom the Cardholder is legally married or the person with whom the Cardholder is cohabitating as husband and wife and has been cohabitating for at least two years provided that where there is a legally undissolved marriage and cardholder is cohabitating with a person as husband and wife and has been so cohabitating for at least two years, the spouse is the person with whom the Cardholder has been cohabitating.

That was no spouse. That was my wife.
