Extracts from OPC Annual Reports that relate to plain language

Extract from the 1996-97 OPC Annual Report

3.9　Drafting style

The Office has a policy of drafting Bills as simply as possible without losing precision, accompanied by a commitment to continuous improvement of drafting styles and approaches. The Office has been wary of using the expression "plain English" to describe our drafting style, because of the difficulty of defining that expression and because of the wide range of attitudes to "plain English" among communications experts both in Australia and elsewhere.

In 1993 the then Minister for Employment, Education and Training asked the National Board of Employment, Education and Training and the Australian Language and Literacy Council to "review current developments and assess needs in plain English and accessible reading materials in the public and private sectors". The Board and Council reported in June 1996 (*Putting it Plainly: Current Developments and Needs in Plain English and Accessible Reading Materials*).

A substantial part of the report is devoted to the question "What is plain English", including whether "Plain English" is different from "plain English". Submissions were commissioned from communications experts with different attitudes to the question, and the Board endorsed explanations of "plain English" provided by the Communication Research Institute of Australia and by Ms Kristine Brown and Ms Nicky Solomon, as follows:

> Our approach to the design and development of comprehensible documents is holistic. We conceive of the problem as a communicative one in which the goal is to ensure people are able to find the information they need, understand what they have found and, where necessary, act on the information to ensure their entitlements, rights and/or obligations. (Penman & Sless, Communication Research Institute of Australia, 1995)

> [Plain English is the] use of language and design features so that a document is appropriate to its purpose, the subject matter, the relationship between the reader and writer, the document type and the way the document is used. (Brown & Solomon, 1995)

The Office endorses these approaches to producing documents in general. However, the approaches require a lot of filling-out before they can be applied to the production of any particular class of document. Our approach to the special class of documents drafted by the Office, namely Bills, is based on a recognition of two principles:

- That Bills may serve, or may be expected to serve, a number of different purposes, that there may be a conflict between serving those different purposes, and that the conflicts may need to be resolved in different ways for different kinds of Bills.

- That, in seeking to ensure that people are able to use Bills effectively, we may have to choose between a range of available drafting and communications approaches which may appear to conflict with each other, and that the conflicts among the many available

approaches to drafting may need to be resolved in different ways for different kinds of Bills and for different kinds of provisions within a single Bill.

We are also constrained by the need to maintain some consistency in format across the statute book and, significantly, by the fact that Acts are not static documents but are regularly amended. This requires us to draft Bills so as to facilitate future amendments of the resulting Acts.

The possible purposes for a Bill (or the Act which it will become) include the following:

- to be the law;
- to communicate the proposed law to members of Parliament who must decide whether to pass it;
- to provide a manual for those responsible for administering the law;
- to provide instructions for those required to comply with, or entitled to benefit from, the law;
- to provide a general statement of policy intentions, leaving the details to be filled in by subordinate legislation, administrators or the courts;
- to provide a detailed statement of policy and procedures so as to minimise the influence of anyone other than the Parliament.

The possible approaches to the drafting of Bills include the following:

- apply the rules for good or clear writing (this covers rules such as favouring short words and short sentences, putting the main idea first, avoiding the passive voice, and keeping the subject of a sentence close to the verb);
- use an appropriate format (in early 1996, the Office adopted a new document design based on modern design principles and developed with the help of a number of communications and design experts);
- focus on reader needs, including through document testing and by taking account of research on reading techniques and information from cognitive psychology about matters such as short-term memory and the development of schemata to assist comprehension;
- ensure that the structure and organisation of Bills are coherent;
- use context or purpose-setting provisions to explain what is going on, such as objects provisions, simplified outlines and statements of key principles;
- use "linking" words to show relationships, such as "but", "however", "although";
- use "extrinsic aids", such as subsection headings, notes, reader's guides, and asterisks to identify defined terms;
- use diagrams, such as tables, flow-charts, concept maps and other graphics, for context-setting, as operative provisions or as extrinsic aids.

All legislation prepared in the Office uses a range of these approaches, as appropriate. The following recent Bills contain good examples of particular approaches:

- Export Market Development Grants Bill 1997 (flow-charts, coherent structure and organisation);

- Public Service Bill 1997 (simple language and short sentences, linking words (see subsections 66(3) and 71(7));

- Telecommunications Bill 1997 (simplified outlines);

- Retirement Savings Accounts Bill 1997 (subsection headings, notes);

- Aged Care Bill 1997 (overview provisions, notes, examples, tables (see section 85-1));

- Tax Law Improvement Bill 1997 (concept maps (see for example section 20-105), tables, notes, examples, marking of defined terms).

Extract from the 1998-99 OPC Annual Report

3.9 Drafting style

OPC has a policy of drafting Bills as simply as possible without losing precision, accompanied by a commitment to continuous improvement of drafting styles and approaches.

Our current approach to the special class of documents drafted by OPC, namely Bills, is based on a recognition of 2 principles.

- That Bills may serve, or may be expected to serve, a number of different purposes, that there may be a conflict between serving those different purposes, and that the conflicts may need to be resolved in different ways for different kinds of Bills.

- That, in seeking to ensure that people are able to use Bills effectively, we may have to choose between a range of available drafting and communications approaches which may appear to conflict with each other, and that the conflicts among the many available approaches to drafting may need to be resolved in different ways for different kinds of Bills and for different kinds of provisions within a single Bill.

We are also constrained by the need to maintain some consistency in format across the statute book and, significantly, by the fact that Acts are not static documents but are regularly amended. This requires us to draft Bills so as to facilitate future amendments of the resulting Acts.

The possible purposes for a Bill (or the Act which it will become) include the following:

- to be the law;

- to communicate the proposed law to members of Parliament who must decide whether to pass it;

- to provide a manual for those responsible for administering the law;

- to provide instructions for those required to comply with, or entitled to benefit from, the law;

- to provide a general statement of policy intentions, leaving the details to be filled in by subordinate legislation, administrators or the courts;

- to provide a detailed statement of policy and procedures so as to minimise the influence of anyone other than the Parliament.

The possible approaches to the drafting of Bills include the following:

- apply the rules for good or clear writing (this covers rules such as favouring short words and short sentences, putting the main idea first, avoiding the passive voice, and keeping the subject of a sentence close to the verb);

- use an appropriate format (in early 1996, OPC adopted a new document design based on modern design principles and developed with the help of a number of communications and design experts);

- focus on reader needs, including through document testing and by taking account of research on how readers deal with and absorb information;

- ensure that the structure and organisation of Bills are coherent;

- layer the rules (i.e. by stating the general or most common case first and the exceptional or uncommon case later);

- use context or purpose-setting provisions to explain what is going on, such as objects provisions, simplified outlines, overview provisions and statements of key principles;

- use "linking" words, such as "but", "however" and "although", to show relationships;

- use "extrinsic aids", such as subsection headings, notes, reader's guides, and asterisks to identify defined terms;

- use diagrams, such as tables, flow-charts, concept maps and other graphics, for context-setting, as operative provisions or as extrinsic aids.

All legislation prepared in OPC uses a range of these approaches, as appropriate. The following recent Bills (some now Acts) contain good examples of particular approaches:

- Electronic Transactions Bill 1999 (coherent structure, simplified outline);

- Federal Magistrates Bill 1999 (coherent structure, simplified outline);

- *Broadcasting Services Amendment (Online Services) Act 1999* (simplified outline, notes, subsection headings);

- *A New Tax System (Bonuses for Older Australians) Act 1999* (overview statement, notes, examples and tables);

- *A New Tax System (Goods and Services Tax) Act 1999* (coherent structure, layering of rules, overview and outline statements, notes, tables and highlighting of defined terms).