

Commission spéciale sur les droits des enfants et la protection de la jeunesse

L'importance du langage clair

Dépôt de preuves le 25 mai 2020

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Bénéfices du langage clair sur l'efficacité du système de justice

Projet réalisé par En Clair avec le Commissaire à la déontologie policière

Description du projet : 2 lettres et 2 documents d'information simplifiés

Résultats : réduction du nombre d'appels de 16,2%



« Cette donnée est loin d'être une simple statistique dans notre rapport annuel de gestion! Elle signifie que notre force de travail est davantage investie à faire progresser le traitement des plaintes que nous recevons, plutôt que de prendre beaucoup de temps à expliquer aux plaignants ce que signifient nos écrits. » Marc-André Dowd, Commissaire à la déontologie policière.

Pour plus d'information : <https://enclair.ca/blogue/2019/1/10/en-clair-a-contribue-reduire-le-nombre-dappels-au-commissaire-la-dontologie-policriere>

Article sur le langage clair en droit traitant des avantages du langage clair en droit

Titre : *Le langage clair en droit : pour une profession plus humaine, efficace, crédible et prospère !*

Auteur : Stéphanie Roy, cofondatrice En Clair service-conseil inc.

Table des matières : (1) Ce qu'est le langage clair (2) Ce que n'est pas le langage clair (3) Les avantages du langage clair en droit.

Source : <https://www.erudit.org/fr/revues/cd1/2013-v54-n4-cd01015/1020657ar/>

Exemples d'avantages économiques :

Simplification de formulaires (Alberta, Canada)

En réécrivant 92 de ses 700 formulaires en langage clair, le ministère de l'Agriculture et du Développement rural de l'Alberta a économisé environ 3,5 millions de dollars par année. En effet, la diminution du nombre d'erreurs commises par la population en remplissant, les formulaires a permis de réduire considérablement le temps requis par le personnel pour le traitement de ces formulaires¹.

Simplification d'une loi (Colombie britannique, Canada)

Le personnel du greffe de la Cour des petites créances de la Colombie-Britannique a pu traiter 40 p. 100 plus de dossiers après avoir réécrit la nouvelle *Small Claims Court Act* (*Small Claims Act*, R.S.B.C. 1996, c. 430) en langage clair, ainsi que certains formulaires et brochures.²

Simplification d'un subpoena (ordre de comparaître à la cour)

En réécrivant un *subpoena* en langage clair, le gouvernement australien a économisé l'équivalent de 400 000 \$ AUD par année (Robert D. EAGLESON, *Writing in Plain English*, Canberra, Australian Government Publishing Service, 1990, p. 6). La diminution du temps requis pour traiter ce document a également permis de réassigner 26 des employés gouvernementaux à d'autres tâches.³

¹ Joseph KIMBLE, « Writing for Dollars, Writing to Please », (1996-1997) 6 *Scribes J. Leg. Writing* 1, 15

² CONSEIL DES TRIBUNAUX ADMINISTRATIFS CANADIENS, *L'alphabétisation et l'accès à la justice administrative au Canada : un guide de promotion du langage clair et simple*, 2005, p. 12, [En ligne], [www.ccat-ctac.org/fr/pdfs/literacy/LiteracyBook-FR.pdf] (27 septembre 2013), p. 15.

³ Joseph KIMBLE, « Writing for Dollars, Writing to Please », (1996-1997) 6 *Scribes J. Leg. Writing* 1, 19).

Exemples de projets pour des lois claires (design graphiques et ajouts d'exemples)

Lois australiennes comportant des exemples

Firearms Act 1996 – Australie

Sales, pledges, and other dispositions by mercantile agents

297 Sale, pledge, or other disposition by agent in possession with owner's consent is valid

- (1) This section applies if a mercantile agent (A) is, with the consent of the owner of goods (B), in possession of the goods or of the documents of title to the goods.
- (2) A sale, a pledge, or any other disposition of the goods made by A, when acting in the ordinary course of business as a mercantile agent, is as valid as if A were expressly authorised by B to make the sale, pledge, or other disposition.
- (3) However, subsection (2) applies only if the person who takes the goods under the disposition—
 - (a) acts in good faith; and
 - (b) does not, at the time of the disposition, have notice that A has no authority to make the disposition.
- (4) Subsection (2) is subject to the rest of this subpart.

Example

A person (A) runs a fairly substantial business of selling second-hand televisions, computers, and other electrical equipment as an agent on behalf of the owners of those goods.

Another person (B) gives B's television to A for the purposes of repair (rather than sale).

A, when acting in the ordinary course of his business, sells B's television to a consumer (C). C buys the television honestly and does not know that A has not been given authority to sell it.

C obtains good title to the television.

Compare: 1908 No 117 s 3(1)

11 Evidence of possession—firearms at premises

- (1) For this Act, a person is not taken to have possession of a firearm only because the firearm is at premises owned, leased or occupied by the person if—
 - (a) the person does not know that the firearm is at the premises; or

Example

Stuart buys a house from Bob. The house has ducted heating, and the old fireplace cannot be used. Bob owns a firearm but, before moving out, he hides it in a cavity in the house's chimney. Stuart does not know that Bob hid the firearm in the chimney. Stuart does not have possession of the firearm because he does not know that the firearm is in the chimney.

- (b) someone else who is authorised to possess the firearm—
- (i) is also at the premises; or
 - (ii) has the care, control or management of the firearm; or

Example—par (b) (i)

Charlotte is giving Bruce a lift in her car to a shooting range. Bruce is licensed and has his registered firearm with him. Charlotte is not in possession of the firearm because Bruce is authorised to possess the firearm and he is in the car.

Example—par (b) (ii)

Isabel and Roy share a house. Roy is licensed and stores his registered firearm in the house. Isabel does not have access to the firearm and has nothing to do with it. Isabel is not in possession of the firearm even when Roy, the person authorised to possess the firearm, is not at the house, because Roy is the person who has the care, control or management of the firearm.

Note 1 **Premises** includes vehicles (see dict).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

Projets prototypes réalisés par l'organisme Simplification center en Angleterre – Lois sur la jeunesse

La mise en page et le design graphique aident à la lisibilité de la loi.

This para represents a section level explanatory note. Occatium imporeped moluptas vollesit utem fuga. Edis autendisime maio. Itatio opta sequidi dollit fugiasperum faci blandit atiaspero blabo.

19 Local authority functions: supporting and involving children and young people

19.1 In exercising a function under this Part in the case of a CHILD OR YOUNG PERSON, a local authority in England must have regard to the following matters in particular—

- a the views, wishes and feelings of the child and his or her parent, or the young person;
- b the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;
- c the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;
- d the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes.

This para represents a section level explanatory note. Occatium imporeped moluptas vollesit utem fuga. Edis autendisime maio. Itatio opta sequidi dollit fugiasperum faci blandit atiaspero blabo. Nimi, serum labo. Sequate la dunt ipsandigname num quuntem invenis dolorum in reiciet ea connim et od quat eosapeditat dit maioribus imus minctia dercias plab ipis volum, sumque solorpore.

20 When a child or young person has special educational needs

20.1 A CHILD OR YOUNG PERSON has special EDUCATIONAL needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her.

20.2 A child of COMPULSORY SCHOOL AGE or a young person has a learning difficulty or disability if he or she—

- a has a significantly greater difficulty in learning than the majority of others of the same age, or
- b has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in MAINSTREAM SCHOOLS or MAINSTREAM POST-16 INSTITUTIONS.

20.3 A child under compulsory school age has a learning difficulty or disability if he or she is likely to be within subsection (2) when of compulsory school age (or would be likely, if no special educational provision were made).

Child. A child is a person who is not over compulsory school age (see section 579 of the Education Act 1996, applicable because of section 73(6) of this Act).

Young person. A person over compulsory school age but under 25 (see section 73(2)).

Education, educational. See section 73(3).

Compulsory school age. This is approximately from age 5 to 16. For the precise definition see sections 8 and 579 of the Education Act 1996, paragraph 2 of the Education (Start of Compulsory School Age) Order 1998 (SI 1998/1607) and paragraph 2 of the Education (School Leaving Date) Order 1997 (SI 1997/1970).



Mainstream school. See section 73(2).

Maintained school. See section 73(2).

Mainstream post-16 institution. See section 73(2).

Relevant early years education. See section 73(2) which directs you to section 123 of the School Standards and Framework Act 1998, as amended by paragraph 34 of schedule 2 of the Childcare Act 2006.

<http://www.simplificationcentre.org.uk/downloads/papers/SC15LayoutLegislation-v2.pdf>

Children and Families Bill		
<p><i>impareped moluptas volessit utem fuga. Edis autendissime maia. Itatio opta sequidi dollit fugiasperum faci blandit atlaspero blabo.</i></p>	<p>19 Local authority functions: supporting and involving children and young people</p> <p>19.1 In exercising a function under this Part in the case of a CHILD or YOUNG PERSON, a local authority in England must have regard to the following matters in particular—</p> <ul style="list-style-type: none"> a the views, wishes and feelings of the child and his or her parent, or the young person; b the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned; c the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions; d the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and to help him or her achieve the best possible educational and other outcomes. 	 <div data-bbox="909 378 1128 567" style="border: 1px solid gray; padding: 5px; background-color: #e0e0e0;"> <p>Child. A child is a person under 18 (source?)</p> <p>Young person. A person over compulsory school age but under 25 (see section 73(2)).</p> </div>
<p><i>This para represents a section level explanatory note. Occatium impareped moluptas volessit utem fuga. Edis autendissime maia. Itatio opta sequidi dollit fugiasperum faci blandit atlaspero blabo. Nimi, serum labo. Sequate la dunt ipsandigname num quuntem invenis dolorum in reiciet ea cornim et od quat eosapeditat dit maioribus imus minctia dercias plab ipis volum, sumque solorpore.</i></p>	<p>20 When a child or young person has special educational needs</p> <p>20.1 A CHILD or YOUNG PERSON has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her.</p> <p>20.2 A child of COMPULSORY SCHOOL AGE or a young person has a learning difficulty or disability if he or she—</p> <ul style="list-style-type: none"> a has a significantly greater difficulty in learning than the majority of others of the same age, or b has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions. 	 <div data-bbox="909 756 1128 945" style="border: 1px solid gray; padding: 5px; background-color: #ffff00;"> <p>Alan D • 7 Nov 2013</p> <p>Note that 'child' is defined differently in other contexts – for example, the [Something] Act 1997</p> </div>

<http://www.simplificationcentre.org.uk/downloads/papers/SC15LayoutLegislation-v2.pdf> : Waller R (2015). Layout for legislation. Technical Paper 15. London: The Simplification Centre.

Exemple d'un jugement écrit au « je » où le juge s'adresse directement au jeune comme dans une lettre

<http://www.bailii.org/ew/cases/EWFC/HCJ/2017/48.html>

Un extrait :

13 July 2017

Dear Sam,

It was a pleasure to meet you on Monday and I hope your camp this week went well.

This case is about you and your future, so I am writing this letter as a way of giving my decision to you and to your parents.

When a case like this comes before the court, the judge has to apply the law as found in the Children Act 1989, and particularly in Section 1. You may have looked at this already, but if you Google it, you will see that when making my decision, your welfare is my paramount consideration – more important than anything else. If you look at s.1(3), there is also a list of factors I have to consider, to make sure that everything is taken into account.

The information I have comes from a variety of sources. There are the papers from the old proceedings years ago. There are more papers from the proceedings this year, especially your own statements, your mum and Paul's statements, your dad's statements, and the report of Gemma, the Cafcass officer. Then there is the evidence each of you gave at court. I have taken all this into account.

When I was appointed as a judge, I took the oath that every judge takes to apply the law in a way that is fair to everybody. Some people will say that this or that decision isn't fair, but that's usually their way of saying that they don't like the decision. People who like decisions don't usually say they are unfair. Here, your father loudly says that Cafcass is biased against fathers and during the hearing it became clear that he doesn't have much confidence in me either. He is entitled to his view, but I can tell you that I found no sign of bias on Gemma's part; on the contrary, I found her someone who had thought very carefully about you and your situation and used her professional experience of many, many family cases to reach an honest view of what would be for the best.

The decisions that I have to take are these: (1) should you go and live in Scandinavia? (2) should you become a citizen there? (3) if all your parents are living in England, should you spend more time with your dad? (4) if your dad goes to Scandinavia, and you stay here, how often should you see him?

Here are the main matters that I take into account:

en clair

5043 rue Saint-Dominique
Montréal (Québec) H2T 1V1
(438) 398-8836

<https://enclair.ca>