

Watch a Senior Lawyer Edit the Two Clauses

I started by reading the entire agreement and jotting down the purpose of each term in the margin. [video: A copy of the agreement with “Purpose” handwritten in the margin beside each of the terms] The agreement is between the law firm and a person who will get confidential information in order to do some work for the firm. The firm needs to make sure that its confidential information stays secure. [video: Image of a lawyer handing a document to a client. Confidential is stamped across the screen, followed by a lock] After spending some time checking that the clauses flowed logically, I was ready to edit for clarity. [video: The narrator checks through the clauses]

You’ve asked me to walk you through how I edited Terms 3.1 and 4.2 as examples. [video: The two clauses appear on screen]

[video: clause 3.1] Term 3.1 covers two points. First, the parties can end the agreement by sending a written notice. Second, all the confidentiality terms continue after the agreement ends.

[video: clause 4.2] Now as for term Term 4.2, I found it much more difficult to unravel. I think the firm wants the right to tell the supplier **how** to do the job. The key words are “supplier... shall... deliver ... more effectually” [video: The words “supplier”, “shall”, “deliver”, “more effectually” are highlighted].

[video: the first sentence of clause 3.1] Ok – getting down to the details.

Looking at 3.1, I’d like to change three things in the first sentence. I prefer the simpler word “end” rather than “terminate”, because it’s less pompous and everybody knows what it means to end an agreement. [video: “terminate” is replaced with “end”]

The phrase “to the other party” is unnecessary. [video: “to the other party” is crossed out]

And the sentence can be more direct. I can zero in on passive voice by looking for the prepositions “by” and “of”. [video: the word “by” is circled]

I’ll edit the first sentence to read:

“Either party can give written notice to end the Agreement.”

[video: the second sentence in clause 3.1] Now the second sentence has a lot of words between the subject and verb. The subject is “All sections” [video: “All sections” is highlighted] – with a long, long modifier coming before the verb “shall survive”. [video: “shall survive” is highlighted]

I am going to get rid of the long-winded modifier by boiling it down to its essence – the confidentiality term. [video: “confidentiality terms” is written in the margin]. The clause refers to other provisions, but there aren’t any other terms, so that can go. [video: “other provisions” is

crossed out]. And then I'm getting rid of the "remain in force" and "shall survive" because that's all legalese. [video: "remain in force" and "shall survive" are crossed out] Then I will get rid of the word "such" in two places because that's jargon. [video: both occurrences of "such" are crossed out]

I think the true subject of the sentence is "the confidentiality term", and, what we want is for the confidentiality terms to "bind the parties" after the agreement ends. [video: "bind the parties" is written in the margin]

I think it should read:

"After the agreement ends, the confidentiality terms continue to bind the parties."

And better yet, I can combine the two sentences so that now it reads:

"3.1 Either party can give written notice to end the Agreement, but the confidentiality terms continue to bind the parties."

So now I've condensed 56 words into 19 words.

[video: clause 4.2] Term 4.2 is full of jargon, legal twins and triplets, and empty adverbs. And it is a classic passive voice sentence. Somebody must have cut and paste the term from a very old document. At least I hope it was from a very old document. It's time to overcome the fear that we need to repeat every "tested term" that's ever been used. I want our firm to be known for clarity, not verbiage.

First, I am getting rid of all the legal twins and triplets. Lawyers aren't paid by the word and when readers see these double and triple word combinations they start to worry that they don't understand what they're reading.

So there's no difference between "at all times," and "from time to time" and they aren't really needed. [video: "at all times" and "from time to time" are highlighted and then crossed out]

"Make, do, execute, deliver" is a quadruplet we can do without. [video: "make", "do", "execute", and "deliver" are highlighted] And the next phrase, "cause to be made, done, executed and delivered", just doubles it all up into an octuplet. [video: "cause to be made", "done", "executed" and "delivered" are highlighted] I think it can all be summed up by the word "do". [video: "make" and "execute, deliver or cause to be made, done, executed and delivered" are crossed out].

Next we can boil down "acts, deeds, assurances, and things" [video: "acts", "deeds", "assurances", and "things" are highlighted] into one word, "things" [video: "acts, deeds, assurances and" are crossed out].

"Implementing" and "carrying out" mean the same thing. [video "implementing" and "carrying out" are underlined]

And what does “**effectually** implementing” and “**true** intent” mean? [video: “effectually” and “true” are circled] Sometimes adjectives and adverbs added for emphasis make the sentence less clear. I winced when I read “true intent” – really – is there such a thing as false intent in an agreement?

Finally, there is an actor missing from this sentence. Who is giving the supplier the reasonable notice?

Here is my rewrite that goes from 58 words to 25.

“4.2 The firm will give the supplier reasonable notice of any problems with the work and the supplier will take reasonable steps to correct them.”