

LEGAL METHOD / REASONING AND WRITING SUMMARY



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Legal Reasoning and Writing

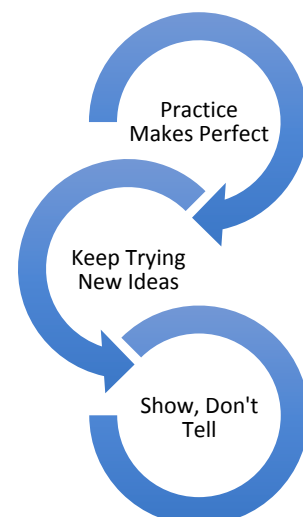
Generally

When we think about lawyers and legal writing, a certain complexity and challenge comes to mind. Television programs such as the popular “Suits” or “Law and Order” show us that when lawyers speak and write, they give long and verbose sentences, using strong and savvy, academic terminology. The truth is this is you should not do this. Complicated sentences are hard to read, annoying and tacky. Sentences that drag on are completely unnecessary and a waste of your time. No reader wants to pick up a piece of writing that is so verbose and complicated that they are confused. Confused readers become annoyed. Annoyed readers give bad marks. Remember this.

The great news is, great legal writing is a skill that can be **learned** and **practiced**. The best legal writers are those who have brushed up on their general writing skills (such as correct spelling and grammar) and continue to practice. When it comes to the reasoning and writing paper, your marker will be assessing you mostly on procedural elements, not substantive. What this means is, your lecturer will be looking for evidence that you know and understand the legal writing tool kit, you know how to use it, and you know how to apply it. Once you understand **how** your lecturers are going to read your answers and **what** they are looking for, practicing for your assignments and exam will be a breeze.

A Few Things to Keep in Mind

- **Practice makes perfect:** take advantage of every workshop to use the practice questions provided and try out your new techniques as you go. Do not fool yourself into thinking that the rules are so simple that you don't need to practice. A good writer understands the rules, a great writer can illustrate them through writing. The difference is in practice.
- **Don't be afraid to get it wrong:** most questions will have a bulk of possible answers. The key is being confident and arguing correctly and firmly. Whether what you arrive at is what the marker would have chosen does not matter – your marker will be looking at your method, not only your ultimate result.
- **Show, don't tell:** this is something that you must bear in mind **at all times**. It is very tempting to lay out the specific rule for your marker *then* delve into using it. This is a big trap for many law students and wastes valuable time and energy. The key to this kind of writing is assuming your marker has *some* understanding of the legal writing tool kit, and they do not need to have it explained to them in great detail. Instead, they will recognise the different pieces as you use them in your writing. We do this by knowing the legal tool kit inside and out, and practising its application.
- **Because this course is testing your skill as opposed to your memory** it doesn't matter whether a case is real or hypothetical. What this means is, your lecturer may well give you hypothetical fact situations to work with alongside real case law. For the purposes of this course, it shouldn't make any difference to you



whether a case or example you are given is true or not. It is all to test your skill level. Don't get caught up on the true/false, hypothetical/real issue – your lecturer will likely use the two interchangeably in your assignments and exams. Treat every opportunity and example as an opportunity to learn and show your abilities.

- **Relax, you've got this!** Everything gets easier and starts to click into place the more you use it and continue to practice. Keep doing your best and ask questions of your lecturers and tutors when you have the opportunity to do so.

This module will give you opportunities to reflect on what you've learned and practice examples. Take advantage of these and do your best – you can even revisit these as you complete new sections and revise your answers. Every attempt brings you closer to a better grade.

Time to Brush-Up

Writers are expected to use the correct spelling, grammar and prose in every piece they write. There are a series of grammatical and spelling issues that should be addressed at this stage. It may seem like taking a step backwards, but many markers will mark a perfectly reasonable and well researched answer down for lack of correct grammatical structure and adherence to the correct spelling, pronouns, or tense. Even the best writers need to revise the basics every now and then. You might find it handy to create your own reminder-guide on a sheet of paper that you can continue to refer back to when writing your assignments and preparing for your exams.

Your university will have a set of **specific marking criteria** that includes consideration of grammatical, spelling, and referencing errors. You should familiarise yourself with the associated penalties and bear this in mind when writing your assignments and exams. These are easy points to retain when you adhere to the correct rules.

Forms of Speech

Noun	People, Places, Things, Concepts, Ideas	The Prime minister; Wellington
Proper Noun:	Names of People or Places (always capitalised)	Auckland; Wellington; John; Mary
Common Noun:	Ordinary Things or Objects (not often capitalised)	Table, chair, door, mat, dog, cat, fish
Verb	An Action, Activity, or Current State of Being: <i>Happy, sad, nonchalant, run, jump, walk</i>	Mary walked her dog down the street
Pronoun	A title attributed to an individual based on individual characteristics: <i>Mr, Mrs, He, His, Him, She, Her, Hers, Them, They, Their</i>	That is her jumper; This is Mr Humphrey; Their Dog jumped the fence and ran off
Adjective	A descriptive word or phrase to expand on a noun	Sam is short and plump
Adverb	Changes or adds context to a verb, adjective or other adverb	John hurriedly opened the office door
Preposition	A term used to show the relationship between words in a sentence (Directional, Temporal, or Spatial)	Mary walked towards her car; John looked across the room
Conjunction	A word that links statements together in a sentence	
Co-ordinating	Connecting similar words or phrases together. <i>But,</i>	Mary and John like the beach,

Conjunction:	<i>and, so, yet, however, nor</i>	however Mary prefers the snow (dominant) Mary loves going to the beach however (subordinate) she doesn't like black sand beaches
Subordinating Conjunction:	A term that follows a dominant clause, providing further information. <i>For example, however, but, on the other hand, therefore, in conclusion</i>	
Conjunctive Adverbs:	Conjunctive Adverbs: To connect whole sentences together. <i>On the other hand, however, in addition, further, more specifically</i>	Mary likes going to the beach, however she much prefers to go to mountain for the snow and skiing
Correlative Conjunction:	This is both a co-ordinating conjunction and a different word.	Both Mary and John were upset at the terrible weather.
Interjection	A word or phrase used to describe an emotion or feeling. Can be part of an existing sentence or a sentence on their own. <i>Wow, boy oh boy, man, crazy, fantastic, stupid</i>	Should always be avoided in legal writing

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