

# Support Material

This support material accompanies *Practical English Language Skills for Lawyers: Improving Your Legal English* by Natasha Costello and Louise Kulbicki. It contains Teacher Notes and Audio Notes.

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# Teacher Notes

## Introduction

These teacher notes provide teacher tips, extra activities, and helpful resources to support teachers using this book. They may also be useful for students who are self-studying. Any website links referred to in these teacher notes are up to date as of 1 December 2022. The authors are not responsible for this third-party content and these teacher notes are not endorsed by these third-party websites. Please check and comply with the terms and conditions of any websites and resources referred to in these notes.

### Quick references

1. Most chapters contain Phrase banks. These may be helpful for activities in other chapters. Here is a table of the Phrase banks for a quick reference:

Chapter	Phrase bank	Expressions for:
1. Networking	1.1 1.2 1.3 1.4 1.5	Talking about your networking experience Joining someone at a networking event Making small talk at a networking event Exchanging contact details and ending a conversation Following up after a networking event
2. Telephoning and conference calls	2.1 2.2 2.3	Making and answering telephone calls Explaining the problem and asking for clarification Participating in a conference call
3. Client meetings	3.1	A first meeting with a client
4. Legal writing	4.1	Writing short emails An email of advice
5. Presentations	5.1 5.2 5.3	The introduction to a presentation Describing a slide Dealing with questions
6. Social media marketing	6.1 6.2 6.3 6.4	Giving an opinion and talking about social media issues Commenting on a social media post Writing a social media post Introducing and concluding a podcast episode
7. Job applications and interviews	7.1 7.2	Writing a covering letter Answering and asking questions in an interview
8. Contract drafting and review	8.1	Explaining contract clauses to a client
9. Contract negotiations	9.1 9.2 9.3 9.4	Talking about your negotiating experience Inviting the other side to make a proposal and making a proposal Making counterproposals and accepting Compromising

10. Alternative dispute resolution	No phrase banks	
11. Advocacy	11.1,11.3 11.2	Comparing: expressing similarities and differences Telling a story for the particulars of claim

2. Some chapters also contain Vocabulary notes, Grammar notes, Pronunciation notes, and Punctuation notes which may be helpful for activities in other chapters. Here is a table of these for a quick reference:

Chapter	Vocabulary notes	Grammar, Pronunciation, and Punctuation notes
1. Networking	Experience or experiences	None
2. Telephoning and conference calls	To hold on or on hold	None
3. Client meetings	Problem, issue, matter Heads of terms	Verbs for giving advice
4. Legal writing	To write or to draft IRAC	Punctuation of salutations and closings in emails
5. Presentations	None	None
6. Social media marketing	Licence or license	None
7. Job applications and interviews	Advert Covering letter and CV Enclose or attach	Verb tenses in CVs Pronunciation of advert
8. Contract drafting and review	Agreement or contract Draft Schedule Warranty or guarantee	Pronunciation of schedule Pronunciation of hereinbefore and therein
9. Contract negotiations	Other side, other party, counterparty To mark up or to red line Upcoming or up-and-coming Position and interest BATNA ZOPA	None
10. Alternative dispute resolution	Shall in arbitration clauses Midnight clause and pathological clause Multi-tiered dispute resolution clause Defendant and respondent	None
11. Advocacy	QC, KC, and Silk Parties to a case Trade marks Relief or remedy Ethos, pathos, and logos May it please the court and to appear A bundle and an exhibit	Pronunciation of clerk Pronunciation of 'v' in a court case citation Pronunciation of My Lord, My Lady, and My learned friend

3. Each chapter refers to an area or areas of law. Some chapters, such as Chapter 1: Networking, refer to many different areas of law whereas other chapters have scenarios based on one particular area of law. Here is a table showing the main areas of law referred to in each chapter for a quick reference:

Chapter	Areas of law
1. Networking	Commercial contracts, M&A, Construction, Arbitration, TMT, Technology and IT, Media, Real estate, Tax
2. Telephoning and conference calls	Intellectual property, Commercial litigation
3. Client meetings	Commercial contracts, Commercial litigation
4. Legal writing	Employment law, Commercial contracts, Real estate
5. Presentations	Corporate law
6. Social media marketing	Data protection and privacy, Technology and IT, Media, Commercial law, Commercial contracts, Commercial litigation.
7. Jobs applications and interviews	Commercial law, M&A, TMT, Data protection and privacy, IT, Fintech, Corporate and governance, Financial regulation, Commercial contracts
8. Contract drafting and review	M&A, Commercial contracts
9. Contract negotiations	Commercial contracts, Real estate
10. Alternative dispute resolution	Commercial litigation, Dispute resolution, Oil and gas, Joint venture agreement, Employment law
11. Advocacy	Commercial litigation, Intellectual property

The following websites can help you to get an overview of these areas of law:

- <https://www.thelawyerportal.com/careers/areas-of-law/areas-legal-practice/>
- <https://www.chambersstudent.co.uk/practice-areas>
- <https://www.allaboutlaw.co.uk/law-careers/areas-of-law>
- <https://www.lawcareers.net/Barristers/BarristerPracticeAreas>
- <https://www.lawcareers.net/Solicitors/SolicitorPracticeAreas>

## Interactive resources

Here are some suggestions of online resources you can use to make your lessons more interactive:

- Google docs: <https://docs.google.com/> . For example, get students to work in groups on a shared Google Doc for a writing task.
- Mentimeter: <https://www.mentimeter.com/> For example, use this to collect students ideas when brainstorming ideas.
- Kahoot: <https://kahoot.com/> For example, use Kahoot to make an interactive quiz to test students on skills and vocabulary.

## Repeatable exercises

Throughout the book there may be exercises where you can add on these extra activities:

- Write an attendance note after a meeting or a call. Use Exercise 2.23 in Chapter 3: Client meetings as a guide.
- Write a follow up email to the client or the other side to summarise a meeting. See Chapter 4: Legal writing.
- Assessment. Use the Self Assessment and Peer Assessment Questions in Appendix A.
- Give an opinion on the advantages and disadvantages of something. Use Exercise 2.19 in Chapter 3: Client meetings as a guide.
- Summarise a text or an audio. Use Phrase bank 8.1 as a guide.
- Give feedback to others on a task. Use Exercise 2.16 in Chapter 5: Presentations as a guide.
- Read the title or heading and ask students: *What do you think this chapter/part is about? What does [word from title/heading] mean?*
- If your students are practising lawyers, ask them these additional questions with exercises related to processes and scenarios. *In your experience, is this process the same in your jurisdiction? Is this scenario similar to something you have experienced?* Use the examples of comparative language in Exercise 2.4 and 3.4 in Chapter 11: Advocacy as a guide.

## Self-study

If you are self-studying with this book you may want to find a study buddy.

# Chapter 1: Networking

## 1. Introduction

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1.1 **Alternative answers:** b. could be *on* or *via*; f. could be *on* or *with*.

### 1.2 Post-exercise

**Extra activity:** Ask students how they feel about networking. Introverted students may not feel comfortable networking.

**Helpful resources:** Some websites that may be helpful for introverted students are:

- <https://www.16personalities.com/articles/networking-for-introverts>
- <https://www.16personalities.com/articles/networking-support-for-introverts-examination-and-exercises-to-get-you-going>

**Teacher tip:** Students may be confused about the definition of *networking*. For example the Cambridge dictionary defines networking as:

- ‘the activity of meeting people who might be useful to know, especially in your job’* and
- ‘the process of connecting computers together so that they can share information’*

Tell students that this chapter refers to the first definition and that *networking* is an uncountable noun.

1.4 **Teacher tip:** Take note of the events that students mention. You can use these as extra example scenarios in Exercise 3.11.

## 2. Preparing for a networking event

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### 2.8 Post-exercise

**Extra activity:** Ask students to search online to find an event relevant to lawyers or law students where they could do networking. Students should then:

- explain what the event is about;
- why they would like to attend this event;
- identify a person they would like to meet and talk to; and
- explain why they would like to meet this person.

**Helpful resources:** Websites which may be helpful for this activity are:

- <https://www.aija.org/en/upcoming-events.html>
- <https://www.americanbar.org/events-cle/>

## 3. At a networking event

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3.3 **Teacher tip:** Ask students to read all the options and statements first, before listening to the audio.

### 3.4 Post-exercise

**Extra activity:** Ask students to research how introductions are made in a particular country. Is it more common to use first names or second names? Is it appropriate to shake hands or is another gesture used?

**Helpful resources:**

- <https://www.wintranslation.com/cross-cultural-naming-conventions/>
- <https://hbr.org/2012/01/how-to-network-across-cultures>
- [https://www.canr.msu.edu/news/diversity\\_of\\_greetings\\_communicating\\_and\\_making\\_that\\_first\\_impression\\_posit](https://www.canr.msu.edu/news/diversity_of_greetings_communicating_and_making_that_first_impression_posit)
- <https://www.countrynavigator.com/blog/greetings-across-cultures/>

### 3.7 Post-exercise

**Extra activity 1:** Ask students these questions:

- Text 1.6 contains a section *Find what to talk about*. What phrases would be appropriate to start a conversation with small talk?
- Text 1.6 contains a section *Keep the conversation going*. How would you feel if the new person you started talking to did not ask you any questions?
- Text 1.6 contains a section *Pay attention to culture*. Have you experienced any cultural differences when you have engaged in small talk at a networking event?

Students can then read and discuss this article:

<https://erinmeyer.com/one-reason-cross-cultural-small-talk-is-so-tricky/>

**Extra activity 2:** Students read these six principles from Dale Carnegie's book, *How to Win Friends and Influence People*<sup>ii</sup> and discuss whether these are relevant for making small talk.

#### **Six Ways to Make People Like You**

*Principle 1: Become genuinely interested in other people*

*Principle 2: Smile*

*Principle 3: Remember that a person's name is to that person the sweetest and most important sound in any language*

*Principle 4: Be a good listener*

*Principle 5: Talk in terms of the other person's interests*

*Principle 6: Make the other person feel important—and do it sincerely*

- 3.9 **Teacher tip:** In question b. the questions can relate either to the topics that Leya and Feven were discussing in Audio 1.3 or to new topics.
- 3.10 **Teacher tip:** An alternative expression to ‘*Where are you from?*’ in the **Origins** section in Phrase bank 1.3 is ‘*Where are you based?*’.
- 3.11 **Teacher tip:** For more scenarios, use the student examples mentioned in Exercise 1.4 and the Texts in Exercise 2.4. Here are some other scenarios:

#### Practise making small talk scenarios

You have just arrived at a conference on commercial law and you do not know anybody ...	You are a junior lawyer at a law firm. Your boss is on the telephone and has asked you to go and meet a new client in reception ...	You go for an interview at a law firm in London. You are met by a junior lawyer who will take you to meet a partner at the firm ...
You are at an event organised by your law firm for its international clients ...	You are an intern at a large law firm. You are stuck in the lift with the senior partner of the firm ...	You are in the office kitchen, getting a coffee, and a new English-speaking colleague comes in ...
You are waiting for a negotiation meeting to start. The other side’s lawyers are there, but you are still waiting for their client to arrive ...	You are a law student and have been sent by your law faculty to meet a visiting English-speaking lecturer at the main train station ...	You have just met a potential client at a conference about commercial law and you want to find out more about their company ...

#### 3.14 Post-exercise

**Extra activity 1:** Ask students if it is appropriate to talk about work at a networking event in their culture. If so, how would they talk about it? Would they talk directly about their own achievements or talk more modestly?

**Extra activity 2:** Discuss the different types of lawyers in England and the USA, for example, *solicitor*, *barrister*, *attorney*. Ask what type of lawyers there are in the students’ jurisdiction. Ask what type of legal professional your students are or what they would like to be in the future. Teach students the difference between an *in-house* lawyer (a lawyer who is an employee of a company and that company is the lawyer’s only client) and a lawyer who works in a law firm. Ask students if in-house lawyers exist in their jurisdiction and if they would prefer to work for a company or a law firm.

Pay attention to false friends such as:

- *Notary* in English compared to *notaire* in French
- *Advocate* in English compared to *avocat* in French, *abogado* in Spanish, *advogado* in Portuguese, and *avvocato* in Italian

See also Chapter 11: Advocacy, Exercise 1.1.

- 3.15 **Extra activity:** Students read the transcript for Audio 1.4 and identify the questions used.

- 3.16 **Teacher tip 1:** Ask students whether they think listening is important in small talk and talking about business and why. They should be able to understand that active listening is important in making conversation. It helps you gather information so that you can ask relevant questions to continue the conversation.

**Teacher tip 2:** Students may be confused by the questions: *What's it like working in Singapore? What's it like working at an international law firm?* in the Answer key for this exercise. Explain to students that *What is it like [verb + ing] something?* and *What is [noun] like?* mean *describe this activity or thing and give your opinion about it.*

3.17 **Pre-exercise**

**Extra activity:** Ask students to brainstorm phrases for talking about work or studies, for example:

- *I am a 1<sup>st</sup>/2<sup>nd</sup>/3<sup>rd</sup>-year law student at [university].*
- *I am currently studying [subject(s)].*
- *I am a [area of law] lawyer.*
- *I work in a company/law firm.*
- *I deal with contentious/non-contentious matters.*
- *I work in the area of [area].*
- *I specialise in [area].*
- *I advise clients on [area] matters.*

For more vocabulary to talk about work experience, see Chapter 6: Social media marketing and Chapter 7: Job applications and interviews.

**Teacher tip:** In this exercise students can practise the present perfect tense and the correct use of *for* and *since*. For example: *I have been working as an in-house lawyer for ten years/since 2012.*

- 3.18 **Extra activity:** Ask students how they would ask for a new contact's name in their culture.
- 3.21 **Extra activity:** Ask students how they would end a conversation in their culture. Ask them how contact details are exchanged in their culture.

3.25 **Pre-exercise**

**Extra activity:** Students may be nervous about doing this activity as they may feel outside of their comfort zone. Remind them that this is natural and this is how they would really feel going to a real-life networking event where they would have to speak English.

Refer students to the preparing for networking checklist in Exercise 2.1. Ask them to think about what they can do before the role play that will help them feel more comfortable. For example, more introverted students could bring a friend and students who are worried about what to say could plan some questions to ask speakers from the information given in the Conference programme.

**Teacher tip:** During the role play, if you notice students struggling to have conversation, remind them of the topics and expressions in Phrase bank 1.3.

## 4. Following up after an event

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4.6 **Post-exercise**

**Extra activity:** Ask students to create their own follow up message for a new contact they made in Exercise 3.25. To make it interactive, students could use this online tool to create a phone message dialogue: <https://ifaketextmessage.com>

## Extra resources

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### Videos

- All About Law videos, useful videos about being a solicitor or trainee: <https://www.allaboutlaw.co.uk/law-careers/advice-videos>
- Student Edge video 'A Day in The Life of a Lawyer', a useful video about being a lawyer (Australian): <https://www.youtube.com/watch?v=TpMJ2XlzO-0>
- The University of Law UK, 'My Life as a barrister', why students choose a career as a barrister: <https://www.youtube.com/watch?v=AWZi2Mpl8hM>
- BBC Learning English, Networking vocabulary (for beginner students): <https://www.youtube.com/watch?v=Qk-69B86pEo>

### Podcasts

- The Business English Podcast: <https://www.businessenglishpod.com/category/socializing/>
- The Study Legal English Podcast: <https://studylegalenglish.com/course/networking-lawyers-course/>
- The Law School Tool Box Podcast: <https://lawschooltoolbox.com/podcast/>
- How I Lawyer Podcast: <https://www.howilawyer.com/>
- Law and Language Podcast: <https://uslawessentials.com/law-language-podcast/>

### Websites and blog posts

- LawCareers.Net: lots of information (and some podcasts) about careers in law: <https://www.lawcareers.net/>
- Law Skills, 'A Day in the Life of a Barrister': <https://www.lawskills.co.uk/articles/2017/07/day-life-barrister>
- Law School Toolbox, 'How do you know what to talk about while networking': <https://lawschooltoolbox.com/legal-networking-101-how-do-you-know-what-to-talk-about-while-networking/>
- Harvard University, list of networking questions: <https://hls.harvard.edu/bernard-koteen-office-of-public-interest-advising/opia-job-search-toolkit/networking-questions-to-ask/>
- Zen Legal Networking, articles about networking for lawyers: <https://www.zenlegalnetworking.com/tag/networking/>

### Book

- Robert Gibson, *Bridge the Culture Gaps* (Nicholas Brearley Publishing 2021)

## Chapter 2: Telephoning and conference calls

The scenario in this chapter is based on intellectual property. For information about intellectual property see the following websites:

- <https://www.wipo.int/about-ip/en/>
- <https://www.thelawyerportal.com/careers/areas-of-law/intellectual-property-law-what-do-intellectual-property-lawyers-do/>

See also Chapter 11: Advocacy which deals with other aspects of intellectual property.

## 1. Introduction

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### 1.1 Pre-exercise

**Extra activity:** Ask students to describe a recent telephone or conference call they had in English. Then ask students to see Exercise 1.1 and choose an appropriate emoji for how they felt during that call.

- 1.3 **Teacher tip:** Take note of the students' answers and explain that you will look at how to deal with problems on a call later in this chapter. You can use the students' answers as extra scenarios in Exercise 3.9.

## 2. Making and answering telephone calls

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- 2.5 **Teacher tip:** The symbol '-', pronounced *dash* in email addresses, is also sometimes pronounced *hyphen*. For an example of the pronunciation *hyphen* in an email address, see Audio 6.5 in Chapter 6: Social media marketing.

- 2.6 **Extra activity:** Students could record their voicemail greeting on their own telephones in real life.

## 3. Preparing for a telephone call

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- 3.1 **Teacher tip:** Note the difference between the phrasal verb *to fill someone in on something* which means to inform someone about something, and the phrasal verb *to fill in* or *to fill out* which means to complete a document. For example, *I will fill in the claim form.*

- 3.4 **Teacher tip:** Encourage students to complete the Glossary with translations of these words and phrases in their own language. More explanation of a *letter before claim* is given in Chapter 3: Client meetings, Exercise 3.3.

**Extra activity:** Ask students to research how design rights are protected in their jurisdictions. See this website for information about protecting design rights at the EU Intellectual Property Office website here: <https://euipo.europa.eu/ohimportal/en/designs>

### 3.5 Pre-exercise

**Teacher tip:** Audio 2.3 refers to a *lap desk*. You might want to check that students understand what type of product this is, before playing the audio. It is a type of portable desk that you can place on your knees.

- 3.9 **Teacher tip:** For more scenarios, use the student examples mentioned in Exercise 1.3.

## 4. Participating in conference calls

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- 4.2b **Extra activity:** Students can watch the short video of the lawyer appearing as a cat: [https://www.youtube.com/watch?v=lGOofzZOyl8&ab\\_channel=GuardianNews](https://www.youtube.com/watch?v=lGOofzZOyl8&ab_channel=GuardianNews)

- 4.3 **Extra activity:** Ask students to read the statements and predict whether they are true or false before reading Text 2.3.

- 4.4b **Extra activity:** Ask students to research the differences between *high-context* and *low-context* cultures, a concept originally developed by Edward Hall. Low-context cultures are more direct and will give messages explicitly. They may therefore be more likely to interrupt and talk over each other. High-context cultures are more implicit and nuanced in how they communicate and are more likely to want to be invited to speak. Have students noticed these differences in their video conferences?

**Helpful resources:**

- Erin Meyer, Low Context vs High Context Societies:  
[https://www.youtube.com/watch?v=r-uUUMxt390&ab\\_channel=ErinMeyer](https://www.youtube.com/watch?v=r-uUUMxt390&ab_channel=ErinMeyer)
- <https://hbr.org/2014/05/navigating-the-cultural-minefield>

4.6 **Teacher tip:** See also Chapter 4: Legal writing, for more on writing emails.  
**Extra activity:** Ask students to brainstorm agenda items for the meeting and include these in a bullet-point list in the email.

4.7 **Teacher tip:** The purpose of this activity is for students to be able to identify the different parties and their lawyers in this scenario. You could also use this activity to highlight the language used to introduce yourself in a conference call.

4.9c **Extra activity:** Ask students to suggest whether there is anything else that Claire should do after this conference call. For example, she should make an attendance note for her file. See Chapter 3: Client meetings, for more on attendance notes.

4.11 **Teacher tip:** Students should match the verbs and particles as they are used in Audios 2.4 and 2.5. There are other possible combinations of these verbs and particles, to form other phrasal verbs. Identifying these could be an extra activity. Here are some examples:

Phrasal verb	Definition
to <b>run out</b> of something	to have none left
to <b>hand out</b> something	to give something to people, for example in a classroom
to <b>drop in</b>	to visit someone, usually without an invitation
to <b>go over</b> something	to discuss something in more detail
to <b>come up</b> with something	to think of an idea
to <b>get ahead</b>	to be successful in your job

4.12 **Teacher tip:** The definitions in Exercise 4.12 relate to these phrasal verbs in the context of the conference call in Audios 2.4 and 2.5. Some of these phrasal verbs may have other meanings in other contexts. For example:

Phrasal verb	Alternative meaning
to <b>run over</b>	to hit something with a vehicle
to <b>get back</b> to something	to continue doing something that you were doing earlier
to <b>wrap up</b>	to wear warm clothes
to <b>drop out</b>	to not finish something, for example a university course
to <b>come in</b>	to enter a room

4.12 **Extra activity:** Ask students to make sentences with these phrasal verbs, so that they can practise using them.

4.14 **Pre-exercise**

**Teacher tip:** In large classes, divide the students into groups of 6: one client and two lawyers for each party. In one-to-one classes, the student can play the role of one party and the teacher can play the role of the other party. Set a time limit for the role play and instruct students to make sure they use the expressions they have been given within the allotted time.

Students can also review other expressions in Phrase bank 2.2 for explaining the problem and asking for clarification.

**Extra activity:** Ask students to prepare for the role play by researching and discussing other possible solutions to the dispute. For example, Agile Design could license their design to Ideal Home in exchange for a fee. The parties could use a method of ADR (alternative dispute resolution) instead of going to court. See Chapter 10: Alternative dispute resolution, for more about different methods of ADR.

The focus of this exercise is on using appropriate expressions for participating in conference calls. But you could also see Chapter 9: Contract negotiations, for more about preparing for a negotiation and negotiation strategies.

## Chapter 3: Client meetings

### 1. Introduction

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#### 1.1 Pre-exercise

**Extra activity:** If the students are practising lawyers, ask them the following questions:

- What type of meetings do you attend?
- Who do you have meetings with?
- Where do those meetings take place: face-to-face or online?
- How often do you have meetings in English?
- What cultural differences have you experienced in meetings?

If the students are not yet practising law, ask them to predict what type of meetings lawyers attend.

Students can then compare their answers to these questions with their answers to Exercise 1.1.

Emphasise to students that this chapter focuses on face-to-face meetings with clients. See Chapter 2: Telephoning and conference calls, for a client meeting on the telephone or by video conference.

**Teacher tip:** Refer to the vocabulary note in Chapter 9: Contract negotiations for the expression 'other side'.

- 1.4 **Teacher tip:** Refer to students' answers to the pre-exercise 1.1 extra activity above. It may be appropriate in some cultures for business meetings to take place during a meal at a restaurant. Also see the teacher notes for Chapter 2: Telephoning and conference calls, Exercise 4.4b on differences between high and low-context cultures.

### 2. A first meeting with a client

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#### 2.1 Pre-exercise

**Extra activity:** Students are going to read a scenario about a lawyer's first meeting with a client. In other words, the lawyer has never met the client before. Ask students what their objectives would be in a first meeting with a client. Then compare the students' answers with Exercise 2.1c.

**Teacher tip:** The objectives of a client meeting will depend on the purpose of the meeting. See for example Chapter 9: Contract negotiations, which explains how to prepare for a contract negotiation meeting.

- 2.2 **Extra activity:** Read Rules 6.1 and 6.2 in the Solicitors Regulation Authority of England and Wales Code of Conduct: <https://www.sra.org.uk/solicitors/standards-regulations/code->

[conduct-solicitors/](#). Ask students to compare this with the rules that regulate conflicts of interest in their own jurisdiction.

### 2.3 Pre-exercise

**Extra activity:** If students have already completed Chapter 1: Networking, ask them to give examples of small talk that Katie could use at the beginning of her first meeting with Mike.

**Teacher tip:** The client meeting scenario between Katie and Mike is about a contract law issue. You may need to pre-teach or revise contract law vocabulary with the students. For example, you could ask students to watch this video and answer the following questions: [https://www.youtube.com/watch?v=HrZDpDvxqJo&list=PLRXyknBDMNN1Rbc5L7PRUhfLtJPrjGcp8&ab\\_channel=USLawEssentials](https://www.youtube.com/watch?v=HrZDpDvxqJo&list=PLRXyknBDMNN1Rbc5L7PRUhfLtJPrjGcp8&ab_channel=USLawEssentials)

1. What elements are needed to form a contract?
2. Is this similar to or different from the elements needed to form a contract in the student's jurisdiction?

In particular, for Audio 3.1 make sure that students understand that the expression *terms* of a contract means the contents of the contract and *specifications* of the machine means the detailed description of the machine. The expression *heads of terms* is explained in the vocabulary note later in this chapter after Exercise 2.15.

**Helpful resource:** 'What is a contract' (website article): <https://weagree.com/clm/contracts/contract-law-explained/what-is-a-contract/>

- 2.7 **Teacher tip:** As there is no video to accompany the audio track, ask students to assume that Katie maintains eye contact and nods her head during her meeting with Mike. You could also discuss other types of positive body language such as a posture which faces towards the client.

### 2.14 Pre-exercise

**Teacher tip:** Refer to the question words in the word cloud. While most open questions start with words beginning with *wh...* other expressions such as *tell me...*, *explain more about...*, and *describe...* can also be useful for encouraging the client to tell their story. Encourage Student A to follow up on their partner's answers with more open questions. Encourage Student B to give short answers to the questions, to allow time for Student A to ask more questions.

### 2.15 Post-exercise

**Extra activity 1:** Ask students what the legal status of a heads of terms document is in their jurisdiction. What would their advice be in this scenario? Would there be a legally binding contract between MPJ and Organibars in their jurisdiction? Take note of the students' answers here and use them as extra practice in Exercise 2.16.

**Extra activity 2:** In the UK Supreme Court case of *RTS Flexible Systems Limited v Molkerei Alois Müller GmbH* [2010] UKSC 14, Lord Clarke talked about '*the perils of beginning work without agreeing the precise basis upon which it is to be done*'. Ask students to discuss what this statement means and whether they agree with it.

- 2.16 **Teacher tip:** A common mistake is for students to use the infinitive form after these verbs, for example: *I suggest to sue Organibars*. Another common mistake is for students to confuse the word *advice* (noun) with *advise* (verb).

**Extra activity 1:** Ask students to look at the usage of the different forms of verbs for giving advice on Google NGrams <https://books.google.com/ngrams> or another similar corpus.

**Extra activity 2:** Ask students to practise giving advice, using their answers above from Extra activity 1 to Exercise 2.15

- 2.19 **Teacher tip:** See Chapter 10: Alternative dispute resolution for more reasons why the parties to a dispute may prefer litigation or may prefer alternative dispute resolution. When comparing two points, it is not necessary for the expression *on the one hand* to precede the expression *on the other hand*.
- 2.20 **Extra activity 1:** An engagement letter sets out the terms on which a lawyer will act for a client. This can also be called a *retainer agreement* or a *retainer*. Ask students what this is called in their language. Find examples of engagement letters and compare the terms that they include. Would there be similar terms in the students' jurisdiction? For example, is it usual for lawyers to charge a fixed-fee or to charge on an hourly-rate basis for their work in their jurisdiction?

**Helpful resources:** Some English law firms publish their terms of engagement on their websites, for example:

- <https://www.keystonelaw.com/terms-of-engagement>
- <https://www.kearns.co.uk/terms/>

And you can also find a sample client care letter and terms of business here:  
<https://complianceoffice.co.uk/shop/#home/category/5aad03dbedb4f4473e3e76db/view-item-details/5d517c166c13ad0010f33932/>

**Extra activity 2:** Read Rules 8.2 to 8.5 in the Solicitors Regulation Authority of England and Wales Code of Conduct: <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-solicitors/>. Ask students if there are similar rules about handling complaints in their jurisdiction.

- 2.22 **Teacher tip:** Encourage students to give precise examples from the transcripts of how Katie has achieved each objective.
- 2.23 **Post-exercise**  
**Extra activity:** Ask students to write an email from Katie to Mike with a summary of their meeting. You may wish to wait until you have completed Chapter 4: Legal writing, before attempting this activity.

### 3. Explaining a legal procedure

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- 3.1 **Teacher tip:** Audio 3.3 contains litigation vocabulary but there is no need to pre-teach this as it is explained in Audio 3.4. Instead, in this exercise, ask students to focus on the effectiveness of Paul's explanation to the client. Chapter 11: Advocacy also contains language used in litigation.
- 3.4 **Teacher tip 1:** Explain to students that they should complete the gaps in the diagram. The sentences in the diagram are not exactly the same as the audio. For example, in the audio Paul says: *First, we, as lawyers, would check the limitation period*, whereas in the diagram it says: *The lawyer checks the [limitation period]*.
- Teacher tip 2:** This exercise also works well as a dictation. Read the transcript for Audio 3.4 aloud to the students, who have to complete the gaps in the diagram.

### Extra resources

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#### Video

- An English law student talks about her client interviewing assessment on the Legal Practice Course: [https://www.youtube.com/watch?v=-7rjN6qN6Lw&ab\\_channel=EveCornwell](https://www.youtube.com/watch?v=-7rjN6qN6Lw&ab_channel=EveCornwell)

## Books

- Annabel Elkington, John Holtam, Gemma Shield, and Stephanie Verlander, *Skills for Lawyers 2022/2023* (The University of Law 2022)
- Robert Gibson, *Bridge the Culture Gaps* (Nicholas Brearley Publishing 2021)
- Erin Meyer, *The Culture Map* (Public Affairs 2016)

# Chapter 4: Legal writing

This chapter is about the types of writing that lawyers do in their daily work, not academic writing. The examples of legal writing in this chapter are short emails, longer emails of advice, and memoranda. The five key skills for legal writing mentioned in this chapter could also be used in other types of writing, such as briefs, judgments, and legislation. Contract drafting is dealt with separately in Chapter 8: Contract drafting and review.

The scenarios in this chapter are set in the context of employment law. For more information about employment law see here:

- <https://www.thelawyerportal.com/careers/areas-of-law/what-is-employment-law-how-to-become-an-employment-lawyer/>
- <https://www.acas.org.uk/advice>

## 1. Introduction

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1.1b **Teacher tip:** Encourage students to talk about their own writing: what types of writing do they do and who are their readers? You could also ask students to provide examples of their own writing to discuss as you go through this chapter. But check that their writing does not contain any confidential information before doing this.

### 1.1 Post-exercise

**Extra activity:** Read the full interview of Ruth Bader Ginsburg by Bryan Garner in the *Scribes Journal of Legal Writing*.<sup>iii</sup> What other tips does Ruth Bader Ginsburg give about legal writing? Try to find some of her United States Supreme Court opinions for examples of how she writes. You can find United States Supreme Court decisions here: <https://www.oyez.org/>.

## 2. Writing short emails

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### 2.1 Pre-exercise

**Teacher tip:** This part of the chapter is about writing short emails. For longer emails, see the next part of the chapter. In Exercise 2.1 students write a short email before completing the following sections. This is so that they can make comparisons between what they have written and the information in the exercises which follow. Remember that you can also use the students' own writing examples to make comparisons. In English, the spelling *email* or *e-mail* is correct.

**Extra activity:** Ask students to read the definition of *non-competition clause* in the Glossary. Encourage students to complete the Glossary with a translation of this phrase in their own language.

2.4 **Teacher tip:** A *salutation* is the phrase that you use to start an email. A synonym is a *greeting*. See the Answer key for an explanation of the salutations in this exercise.

- 2.5 **Teacher tip:** As mentioned in the introduction to Exercise 2.5, the language for salutations is evolving. The salutation *Mx* can be pronounced *mɪks* or *məks*.

Before writing to someone, you could check to see how that person signs their correspondence. Exercise 2.4a is an example of a person including pronouns in their signature. Common pronouns are:

- (*she, her, hers*)
- (*he, him, his*)
- (*they, them, theirs*). In this example, *they* is being used in the singular form.

If someone includes their pronouns, this can help the reader understand how they would like to be addressed.

Other salutations, such as *Dear Dr. [surname]* or *Dear Professor [surname]* are naturally gender-inclusive.

Also note that culturally, British and American clients and lawyers will often move quite quickly to using first names, especially lawyers who specialise in non-contentious work.

**Helpful resources:**

- Article on the use of *Dear Sirs*: <https://www.lawgazette.co.uk/news/clifford-chance-bans-gendered-language-in-legal-templates/5106740.article>
- Video from the Solicitors Regulation Authority about inclusive workplaces for non-binary and trans people: <https://www.sra.org.uk/sra/news/events/on-demand-events/inclusive-workplaces/>

**Extra activity:** You could also look at other examples of gender-inclusive legal writing using this resource: <https://www.interlawdiversityforum.org/guide-to-gender-neutral-drafting>

- 2.6 **Teacher tip:** Ask students if they have used any other expressions for ending their emails. Some people end their emails with the informal expressions *Many thanks* or *Cheers*.
- 2.7 **Teacher tip:** Students often find it difficult to know what level of formality to use. Email 1 uses polite language that would be appropriate for an email to a client or a lawyer. The level of formality can depend on culture and hierarchy (you may write more formally to someone more senior in your law firm). If in doubt, students can take the lead from the person writing to them. But we do not recommend that students copy the style of Email 3.
- 2.8 **Teacher tip:** The purpose of this exercise is to familiarise students with different English abbreviations, acronyms, and buzzwords as these are often used by English-speaking clients or lawyers. Encourage students to share other examples of these that they have seen. You could also see this article: <https://www.bbc.co.uk/bitesize/articles/z4hdcqt>
- 2.9 **Teacher tip:** Some people like to start emails with an expression such as *I hope you are well* or (more formal) *I trust you are well*, but other people think that this is unnecessary, especially in short emails.
- 2.12 **Teacher tip:** Expression (f) is grammatically correct but is old-fashioned and is not commonly used by native speakers.

### 3. Five key skills for legal writing

- 3.2b **Extra activity:** To make this exercise more interactive, cut out the numbered points using the template below and then ask students to group the points together, as in the example.

Template to cut up:

1. For the restrictions in Jeff's contract to be enforceable, they must be reasonable.
2. In his position as a senior manager, Jeff has had access to confidential information and client data.
3. There are different types of restrictions in Jeff's contract: a non-competition clause and a non-solicitation clause.
4. There are risks in setting up his business sooner than six months after he leaves his existing job.
5. Recent case law states that a restriction for six months after the end of employment is reasonable.
6. The non-competition clause states that Jeff is prevented from being involved in any business or activity which competes with his employer's business.
7. The restrictions in Jeff's contract last for six months after the end of his employment.
8. The factors that the court will look at when deciding if clauses are reasonable include the length and scope of the restrictions and the seniority of the employee.
9. Jeff has the option to wait six months or to try to negotiate a release from the restrictions.
10. The non-solicitation clause states that Jeff is not allowed to solicit the business of any of his employer's customers.
11. The risks are that Jeff's employer could try to obtain an injunction and compensation if Jeff does not comply with the restrictions in his contract.
12. The restrictions in Jeff's contract are probably reasonable as they are limited to a six-month period.
13. Jeff needs to decide how he wants to proceed.

3.2b **Teacher tip:** If students are finding this exercise difficult, help them by using the Answer key to ask them these questions:

- Which points relate to the facts of the case and the types of restriction in Jeff's contract?
- Which points relate to the legal issue and how the courts apply the law?
- Which points are Anthony's opinion on how the law applies to the facts of the case?
- Which points explain alternative options for the client to consider?

3.3 **Teacher tip:** Encourage students to think about different possible sequences here and see the Answer Key. Ask them why it might be better for the lawyer's advice to come first?

3.5 **Teacher tip:** Students will also need to change the notes in Exercise 3.3 from the third person singular into the second person singular, for example from *his* to *your*.

#### **Post-exercise**

**Extra activity:** Ask students to reflect on Skill 1 by looking at examples from their own legal writing. How have they planned and organised their content? Students can use the Self-assessment questions in Appendix A.

3.7 **Extra activity:** Ask students to research whether the concept of *redundancy* exists in their jurisdiction.

3.8 **Teacher tip:** Encourage students to read the definition of *memorandum* in the Glossary and to note that it is not the same as a *memorandum of law* in AmE.

3.12 **Teacher tip:** If students are finding this exercise difficult, ask them to try to summarise in one sentence what the paragraph is about.

#### **Post-exercise**

**Extra activity:** Refer to Exercise 3.5 and reread the email you wrote to Jeff (or look at the suggested answer in the Answer key). Identify the topic sentences.

3.13 **Teacher tip:** There are no universally agreed rules about punctuation of lists. This paragraph follows the Oxford Guide to Plain English<sup>iv</sup> which suggests that a listed item which is not a complete sentence should begin with lower case letter and end without punctuation except for the last item in the list which ends with a full stop. Other style guides may have different rules.

#### 3.14 **Post-exercise**

**Extra activity:** Ask students to reflect on Skill 2 by looking at examples from their own legal writing. How have they helped their reader navigate their document? Students can use the Self-assessment questions in Appendix A.

#### 3.24 **Post-exercise**

**Extra activity:** Ask students to reflect on Skill 3 by looking at examples from their own legal writing. How could they improve their sentences? Students can use the Self-assessment questions in Appendix A.

3.25 **Extra resource:** For more information about what plain language means, including details of an ISO plain language standard due to be published in 2023, see here:

<https://www.iplfederation.org/>

### 3.28 Post-exercise

**Teacher tip:** Encourage students to look at the Legalese to Plain English Quick Reference in Appendix B. Check that they understand what the words and expressions mean. Students could also add translations for these words and expressions in their own language. See also Chapter 8: Contract drafting and review for more explanation of *here-* and *there-* prefixes.

**Extra activity 1:** Ask students to reflect on Skill 4 by looking at examples from their own legal writing. Do they use plain English? Students can use the Self-assessment questions in Appendix A.

**Extra activity 2:** Ask students to look at other types of legal writing to see if they are written in plain English or legalese. For example, students could look at:

- English or American legislation. See <https://www.legislation.gov.uk/> or <https://law.justia.com/>
- English or American case law. See <https://www.supremecourt.uk/> or <https://www.oyez.org/>. And see this link for an English family law case written in plain English: <https://www.bailii.org/ew/cases/EWFC/OJ/2018/B12.html>

**Extra activity 3:** Ask students to practise replacing legalese with plain English. Students can use their examples from Extra activities 1 and 2 and the Legalese to Plain English Quick Reference in Appendix B.

**Teacher tip:** You can also find examples online of ‘before’ and ‘after’ texts, for example: <https://centerforplainlanguage.org/before-and-after-describing-a-law-without-legalese/> or in the Plain Language column in the Michigan Bar Journal: <https://www.michbar.org/generalinfo/plainenglish/home>

### 3.31 Post-exercise

**Extra activity:** Review students’ answers to Exercise 1.1c. Did students identify the five key skills for legal writing in this chapter?

## Extra resources

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### Videos and podcasts

- <https://studylegalenglish.com/episode53/> - Christopher Rathbone talks about Plain Language in Legal English Writing
- [https://www.ted.com/talks/sandra\\_fisher\\_martins\\_the\\_right\\_to\\_understand](https://www.ted.com/talks/sandra_fisher_martins_the_right_to_understand) - Sandra Fisher-Martins talks about the right to understand legal and other documents.

### Websites

- <https://www.adobe.com/legal/legal-innovation.html> - the Adobe Legal Department Style Guide
- <https://www.iplfederation.org/> - The International Plain Language Federation, which brings together three organisations working in plain language: the Center for Plain Language, Clarity, and PLAIN: Plain Language Association International
- <https://clearest.co.uk/> - The Plain Language Commission (UK). This includes a guide on writing clearly.
- <http://www.plainenglish.co.uk/> - The Plain English Campaign (UK). This includes a guide on how to write in plain English.

### Books

- Mark Adler and Daphne Perry, *Clarity for Lawyers* (3<sup>rd</sup> edn, The Law Society 2017)
- Martin Cutts, *Oxford Guide to Plain English* (5<sup>th</sup> edn, Oxford University Press 2020)
- Bryan A. Garner, *Legal Writing in Plain English* (2<sup>nd</sup> edn, University of Chicago Press 2013)

- Ross Guberman, *Point Made: How to Write Like the Nation's Top Advocates* (2<sup>nd</sup> edn, Oxford University Press 2014)
- Neil James, *Writing at Work: How to write clearly, effectively and professionally* (Allen & Unwin 2007)
- Joseph Kimble, *Writing for Dollars, Writing to Please: The Case for Plain Language in Business, Government, and Law* (Carolina Academic Press 2012)
- Richard Wydick, *Plain English for Lawyers* (5<sup>th</sup> edn, Carolina Academic Press 2005)

## Chapter 5: Presentations

### 1. Introduction

- 1.1 **Teacher tip:** A presentation to a potential client in a tender process is also informally known as a *beauty contest*. This is when a law firm competes with other law firms to be instructed on a particular matter by a client.
- 1.2 **Teacher tip:** Take note of the students' answers here. You can refer to them in other parts of this chapter. Also use this exercise as an opportunity to revise the past simple and present perfect tenses with your students.

### 2. Preparing a presentation

- 2.1 **Pre-exercise**  
**Extra activity:** This part of the chapter looks at presentation planning. Refer to students' answers to Exercise 1.2. What did the students do to prepare for those presentations? Make a note of the students' answers here and refer to them in Exercise 2.2.
- Teacher tip:** This exercise introduces the scenario which will be followed in this chapter. It is set in the context of corporate law and includes different types of business structures. Some basic information about setting up a business in England can be found here: <https://www.gov.uk/set-up-business>. As an **extra activity**, you could ask students to research different types of business structures in their jurisdiction.
- 2.2 **Teacher tip:** Refer students to their answers to the extra activity in Exercise 2.1. What advice could they give Angus about preparing for his webinar based on their own experience of giving presentations?
- 2.3 **Extra activity:** Practise phrasal verbs. Listen to Audio 5.1 again and complete the following phrasal verbs. Each space represents one word. Then match the phrasal verbs to the correct definition on the right.

Phrasal verb (shown in <b>bold</b> )	Definition
a. <b>Fire</b> _____	1. to take more action
b. I thought we could <b>bring</b> _____	2. to learn
c. As we <b>go</b> _____ the series	3. to ask someone to help with a task
d. What we'd like the participants to <b>take</b> _____	4. to register

e. We also want them to <b>sign</b> _____	5. to invite someone to ask questions
f. Let's make sure we <b>follow</b> _____	6. to move forward

**Answers:**

a. away,5; b. in,3; c. through,6; d. away,2; e. up, 4; f. up,1

2.4 **Teacher tip:** This part of the chapter looks at the introduction to a presentation. Encourage students to watch the introductions to some presentations on legal topics, for example in webinars on law firms' websites, or here: <https://www.ted.com/topics/law>

2.5 **Teacher tip:** Emphasise to students that the expression *housekeeping* relates to general points about the organisation of the presentation, such as whether there will be any breaks, whether the presentation is being recorded, and asking people to turn off their mobile phones. It does not refer to the organisation of the content of the presentation.

2.6 **Extra activity:** Ask students to read the introductions aloud, so that they can practise their pronunciation.

2.7c **Teacher tip:** Refer students to their answers to the extra activity in Exercise 2.1. Did they use any other methods of capturing the audience's attention?

2.12 **Post-exercise**

**Extra activity:** Brainstorm other expressions for changing speakers in a presentation. For example:

*I will now pass over to [name].*

*I will now pass the mic to [name].* 'Mic' is short for microphone and is pronounced *mark*.

*Over to you [name].*

*I will now give the floor to [name].* This is more formal and might be more appropriate at an in-person event such as a presentation at a conference.

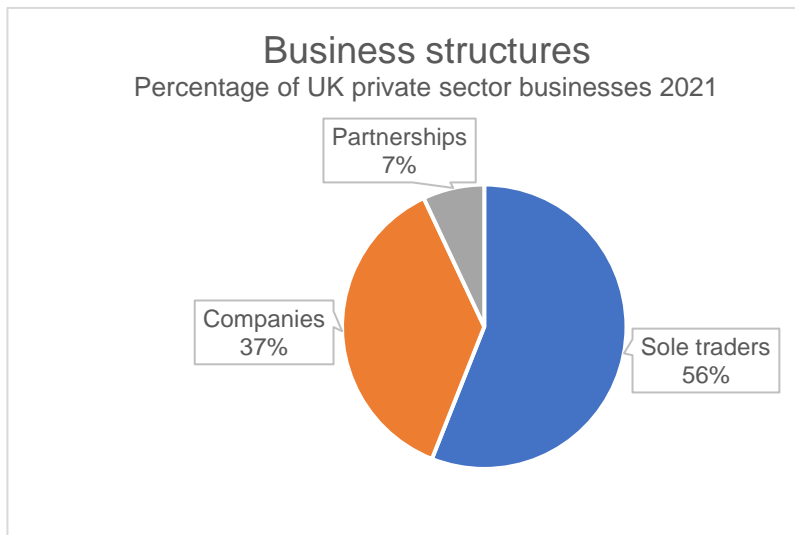
*I will now pass back to [name] or I will now hand back to [name].* Where you are changing to a speaker who has already spoken.

Practise changing speakers in a presentation. Use your scenario from Exercise 2.11 and expressions from Exercise 2.12 and your brainstorming.

2.17 **Extra activity:** Students could also watch and discuss this video interview where Erin Meyer talks about the culture of giving feedback at Netflix:

[https://www.youtube.com/watch?v=qV6b1Dzoebc&ab\\_channel=FRANCE24English](https://www.youtube.com/watch?v=qV6b1Dzoebc&ab_channel=FRANCE24English)

2.19 **Extra activity:** The chart on the slide referred to in Exercise 2.19 is a *bar chart*. Discuss other ways in which the information on the slide could be presented. For example, by using a *line chart* or a *pie chart*. Here is an example of the same information presented as a pie chart:



2.21 **Extra activity:** Ask students to create a slide on a topic of their choice which contains a chart, graph, or diagram and then describe it to a partner.

2.22 **Post-exercise**

**Teacher tip:** Refer students to their answers to the extra activity in Exercise 2.1. How did they conclude their presentation?

## 3. Delivering a presentation

3.1 **Teacher tip:** You could also refer students to their answers to Exercise 2.4.

### Extra resources

#### Books

- Patrick Barry, *Good with Words: Speaking and Presenting* (Michigan Publishing 2021)
- Nancy Duarte, *HBR Guide to Persuasive Presentations* (Harvard Business Review Press 2012)

## Chapter 6: Social media marketing

### 1. Introduction

1.3 **Post-exercise**

**Extra activity:** Students may already know a lot of vocabulary for talking about social media. If they do not, you can use the following resources to ensure students know social media vocabulary and how to use it:

- <https://www.onestopenenglish.com/download?ac=18105>
- <https://englishlive.ef.com/blog/english-in-the-real-world/english-expressions-social-media/>
- <https://englishlive.ef.com/blog/language-lab/11-fun-english-social-media-abbreviations-meanings/>

## 2. Creating your profile and building your network

### LinkedIn

**Teacher tip:** If LinkedIn™ is not popular in the jurisdiction of your students it may still be a helpful platform to use to make connections in other jurisdictions. If it is banned in your students' jurisdiction ask if there is a platform which is similar. The information in this section may still be helpful for students to complete, as it will help them think about content they could include in a CV, website, or legal directory.

You can do these activities with students and they can work directly on their LinkedIn™ profiles or they can write answers on paper and complete their profile for homework. At the end of these notes there are templates that you can print off and give to students to work on.

As a teacher, you may want to create your own LinkedIn™ profile to use as an example to show students. Alternatively, you may not want students viewing your profile. Make sure you adjust your privacy settings in accordance with your preferences.

As a teacher, make sure you comply with the LinkedIn™ branding policy (available here <https://brand.linkedin.com/policies>) when teaching this section. For example, taking screenshots of people's LinkedIn™ profiles to include in teacher slides is in general prohibited.

LinkedIn™ provides some helpful training videos on creating a profile which could be useful for your training:

<https://www.linkedin.com/learning/rock-your-linkedin-profile/got-skills-adding-skills-and-getting-endorsed?autoplay=true>

#### 2.1 Pre-exercise

**Extra activity:** Ask students to visit LinkedIn™ and write down which sections are included in people's profiles. Note that students will only be able to access the platform if they have signed up for a (free) account. Note that some people will be able to see if you have viewed their profile.

#### 2.2 Pre-exercise

**Teacher tip:** Audio 6.1 introduces two students, Ethan and Sofia, who appear throughout this chapter. Please note that in the audio tracks Ethan says *yeah* in most places rather than *yes* as in the transcripts.

#### 2.5 Post-exercise

**Extra activity:** Ask students to brainstorm other ways they can make their profile stand out. You can ask questions about including a photo, for example:

- a. Do you think it is important to have a photo on your profile?
- b. How do you feel when you see a profile without a photo?
- c. What is appropriate or inappropriate for a photo?

One way to make your profile more attractive is to create a LinkedIn™ banner. This is the large image at the top of your profile. Watch this video:

<https://www.youtube.com/watch?v=Pa2uhHTssLo>

Then ask students to create their own banner using a (free) account on <https://www.canva.com/>. Afterwards, they can present their banner, explaining how they designed it and what impression it gives to people.

You can also ask students to create a professional profile photo. In some cultures, it may be inappropriate for students to take a photo of themselves. If this is the case, they may be able to use an alternative picture which still represents their work, for example, a photo of a law degree certificate, or a photo of a law office.

Make sure that students are using images with an appropriate licence which allows them to use these images for free. They should not be using random copyrighted images they find on the internet. This website provides images for free: <https://unsplash.com/> but be sure to check the licence information here on usage: <https://unsplash.com/license>.

- 2.8 **Extra activity:** Get students to visit LinkedIn™ and find a profile that they like. They must explain why they think it is well-written.
- 2.9 **Teacher tip:** Remind students that they will usually only be able to include client names in their profiles with the clients' permission due to the lawyer's duty to keep client information confidential. Additionally, remind students that displaying their email address on a social media profile may mean they receive spam emails. If students are not comfortable publicly displaying their email address, they can avoid including this.
- 2.14 **Teacher tip:** This activity could open up a discussion about what skills lawyers need. For further exercises related to skills see *The skills that recruiters are looking for* in Chapter 7: Job applications and interviews.
- 2.16 **Post-exercise**  
**Teacher tip:** In Audio 6.3 Sofia says that *cheers* is too informal. *Cheers* is a BrE informal ending to an email or message. Usage and perceptions of *cheers* differs across cultures, but it usually gives the impression of being very informal, relaxed, and casual. For this reason, it is usually not appropriate in professional contexts, especially when communicating with someone for the first time or someone you maintain a professional relationship with.

However, some people do use *cheers* in a professional context when emailing people they know well or where the relationship is more friendly and not strictly a business relationship. For example, see the email that Ethan (employee) receives from Tim (employer) in Exercise 2.20. We could assume from Tim's email that he is a relaxed boss who considers his employees as friends. This could open up a discussion with students as to the level of formality required in emails and messages in their culture.

For more exercises on levels of formality in writing see Chapter 4: Legal writing.

**Extra activity:** Students can write a polite recommendation request to someone they would like to give them a recommendation.

- 2.20 **Teacher tip:** See Teacher tip in 2.16 about *cheers*.
- 2.21 **Post-exercise**  
**Extra activity:** There is a growing trend to use symbols and emojis in social media profiles. For example:

Emojis: ✓ tick ★ star → arrow

Symbols: ≫ » arrows ❖ \* ● bullet points ① ② ③ Numbers

Ask students:

- What do you think about using emojis and symbols in your social media profile?
- Which social media platforms do you think they are appropriate for?
- What impression does it give about you?

**Helpful resources:** These articles are helpful for learning more about branding.

- <https://lawyerist.com/marketing/branding/>
- <https://medium.com/digital-marketing-lab/the-ultimate-guide-to-creating-a-personal-brand-in-2021-dfee8fb0666a>

### 2.23 Post-exercise

**Extra activity:** Ask students to find and connect with people on social media.

## 3. Engaging with your connections

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### 3.1 Post-exercise

**Teacher tip:** *Witness tampering* (AmE) and *witness intimidation* (BrE) is a crime where someone tries to interfere with the outcome of proceedings by trying to improperly influence a witness.

**Extra activity :** Ask students to research the rules which regulate the legal profession in their own jurisdiction.

**Extra resources:** The Law Society of England and Wales has a helpful guide to understand social media usage for lawyers. To read this you must sign up (free) to the website: <https://www.lawsociety.org.uk/en/topics/business-management/social-media>

This article by the American Bar Association gives some helpful tips for lawyers to follow on social media:

[https://www.americanbar.org/groups/business\\_law/publications/blt/2014/01/03\\_harvey/](https://www.americanbar.org/groups/business_law/publications/blt/2014/01/03_harvey/)

3.5 **Teacher tip:** Make the activities in this section on posting on social media more interactive by using Padlet to allow students to write posts in a closed environment. This video explains how to use Padlet: <https://youtu.be/dC69Sr-OQik>

### 3.8 Postexercise

**Extra activity:** Ask students to find a post on a social media platform and explain what it is about, who it could help, and what impact the post could have on the author's reputation.

3.13 **Helpful resources:** Students could use these websites to either create an image or find an image to post. See also the teacher note for Exercise 2.5 above about using images:

- <https://www.canva.com/>
- <https://unsplash.com/>

3.14 **Helpful resource:** <https://www.npr.org/2018/11/15/662116901/teaching-podcasting-a-curriculum-guide-for-educators>

3.16 **Teacher tip 1:** Katia pronounces Ethan's email address as *ethan dot mowry at express hyphen law dot a i*. The symbol '-' can also be pronounced *dash* in email addresses. See the teacher note in Exercise 2.5, Chapter 2: Telephoning and conference calls.

**Teacher tip 2:** In Audio 6.5, Ethan says *10 million* but he means *10 million euros* as in the transcript.

**Helpful resource:** This website explains more about fines under the GDPR: <https://gdpr.eu/fines>.

### 3.22 Pre-exercise

**Extra activity:** Ask students to find an article in a legal blog and explain what it is about and why it is interesting.

**Example independent bloggers:**

IP lawyer: <https://ipdraughts.wordpress.com/>

Contract lawyer: <https://www.adamsdrafting.com/blog/>

Construction contract lawyer: <https://500words.co.uk/blog/>

SCOTUS blog: <https://www.scotusblog.com/>

UKSC blog: <http://uksblog.com/>

**Example law firm blogs:**

<https://blogs.dlapiper.com/>

<https://www.cliffordchance.com/insights/resources/blogs.html>

[https://www.allenoverly.com/en-gb/global/blogs\\_landing\\_page](https://www.allenoverly.com/en-gb/global/blogs_landing_page)

<https://www.linklaters.com/en/insights/blogs>

<https://www.freshfields.com/en-gb/our-thinking/our-blogs/>

3.23 **Helpful resources:** Here are some websites which allow users to schedule social media post:

- <https://buffer.com/>
- <https://www.hootsuite.com/>
- <https://later.com/>

Generally these websites are not free, although there may be a free trial or a limited free account.

**Extra activity 1:** Ask students to research international holidays such as: *When is Micro-, Small and Medium-sized Enterprises Day?*

You can find other international holidays using the UN's calendar here:

<https://www.un.org/en/observances/international-days-and-weeks>


Students could plan posts for international days related to the legal profession or their practice area.

**Extra activity 2:** Play a game where you read a scenario from the following options and students have to quickly describe what they would do on social media in response to each scenario.

**Social media scenarios**

You see a link for a law course which a friend of yours could be interested in ...	A recruiter posts a law job you are interested in on LinkedIn™ and you want further information ...	A colleague posts an interesting article about data protection on LinkedIn™ ...
A law professor you met at a law careers workshop sends you a connection request on LinkedIn ...	You met a partner of a law firm at a commercial law event and you want to connect on LinkedIn ...	You find an on-line article in a legal journal which you think will be useful for a colleague ...
You met a potential client at an event and you want to send them an email asking for a follow up meeting ...	A lawyer you follow on Twitter™ posts about using plain English in contracts ...	You went to a workshop about the future of law and want to send a presenter a follow-up message ...

## Individual social media profile template

<p>Profile photo</p>  <p>Banner picture</p>
<p>Section 1: Personal Information</p>
<p>Section 2: About</p>
<p>Section 3: Experience</p>
<p>Section 4: Education</p>
<p>Section 5: Licenses &amp; Certifications</p>

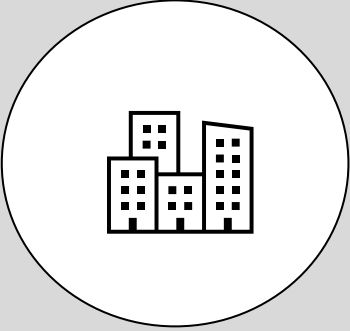
Section 6: Volunteer Experience

Section 7: Skills Endorsements

Section 8: Recommendations

Section 9: Accomplishments

## Law firm social media profile template

<p>Company logo</p>  <p>Banner picture</p>
<p>Section 1</p> <p>Company Name:</p> <p>Industry: e.g. Legal Services, Translation, Education</p> <p>Location:</p> <p>Tagline: e.g. We are lawyers who understand business.</p>
<p>Section 2</p> <p>Description:</p>
<p>Section 3</p> <p>Website:</p> <p>Company size: (approximate number of employees)</p> <p>Type: e.g. Partnership, Public Company, Self-employed, Privately Held</p> <p>Year Founded:</p> <p>Specialties: e.g. BigLaw, NewLaw, LegalTech</p>

## Chapter 7: Job applications and interviews

### 1. Introduction

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- 1.1 **Teacher tip:** Encourage students to look at the Answer key for this exercise as it gives an explanation of the different methods in the boxes. Examples of job boards are <https://indeed.com/> and <https://www.monster.co.uk/>.

Ask students which of these methods are common in their country. And ask students to explain any other methods they have used that are not mentioned here.

- 1.2 **Teacher tip:** This exercise focuses on synonyms for typical vocabulary used in job adverts. If students ask about any of the acronyms or abbreviations used in the adverts, refer them to Exercise 1.4 where there is a separate question about these. Note that Adverts 1 and 3 are also used for other exercises later in this chapter.

1.4 **Post-exercise**

**Extra activity:** Ask students to find real-life examples of job adverts in the legal sector which contain these or other abbreviations and acronyms. Students can look at law firm websites, LinkedIn™, the job boards mentioned in Exercise 1.1 above, or these websites:

- <https://jobs.thelawyer.com/jobs/>
- <https://www.lawcareers.net/Jobs>
- <https://www.lawcrossing.com/>

### 2. The recruitment process

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- 2.2 **Teacher tip:** In part (a) to Exercise 2.2, students should focus on listening for the *skills* that are mentioned. In part (b), students will complete the table with the *examples* of the skills.

- 2.3 **Teacher tip:** If students are finding the concept of *commercial awareness* difficult to understand, they can see this guide: <https://www.lawcareers.net/commercial-awareness> or watch this video:

[https://www.youtube.com/watch?v=n9RX84t96wQ&ab\\_channel=LawCareersNet](https://www.youtube.com/watch?v=n9RX84t96wQ&ab_channel=LawCareersNet)

- 2.4 **Extra activity:** Alternative activities here could be to:

- Do a presentation on one of these topics. See Chapter 5: Presentations
- Do a podcast episode or write a blog post on one of these topics. See Chapter 6: Social media marketing.

- 2.6 **Teacher tip:** An example of a psychometric test is the Watson Glaser test. For an explanation of this test and some sample questions see this link: <https://www.thelawyerportal.com/solicitor/training-contract-overview/watson-glaser-test/>

- 2.7 **Teacher tip:** The recruitment process may differ depending on culture and on whether the applicant is applying for work experience, a junior legal position, or a senior legal position.

**Extra activities:** The recruitment process could include other types of activities, which you could incorporate here or at the end of this chapter. See this link for more information about different types of assessments, including presentations, writing tasks, and an example of an in-tray exercise: <https://www.law.ac.uk/employability/programmes/legal-careers-guide/preparing-for-assessments/>.

You could also use skills from these Chapters:

- Chapter 1: Networking

- Chapter 4: Legal writing
- Chapter 5: Presentations

### 3. Applying for a job in the legal sector

#### 3.1 Pre-exercise

**Teacher tip:** The job advert in this section relates to banking and fintech. For more information on these areas of law see the following websites. As an **extra activity** you could ask students to research what fintech means and describe a day in the life of a fintech lawyer:

- <https://www.thelawyerportal.com/careers/areas-of-law/how-to-become-a-banking-and-finance-lawyer/>
- <https://www.allaboutlaw.co.uk/stage/areas-of-law/fintech->
- <https://www.chambers-associate.com/career-moves/so-you-want-to-be-a-fintech-lawyer>

3.5 **Teacher tip:** Expressions such as *truly honoured* or *deeply honoured* are what you might say if you receive an award but in England these phrases could be considered too effusive for a covering letter.

3.6 **Teacher tip:** For a suitable ending for the letter and for more on writing skills see Chapter 4: Legal writing.

3.7 **Teacher tip:** For this exercise, students can use one of the job adverts in Exercise 1.2 or they can use the websites mentioned above in the Extra activity for Exercise 1.4 to find a job advert. Alternatively, ask students to invent their dream job, and they can apply for this.

#### Post-exercise

**Extra activity:** Ask a partner to review your covering letter, using the Peer-assessment questions in Appendix A.

#### 3.15 Post-exercise

**Extra activity:** Write Angela's email to Anna Fischer, attaching her covering letter and CV. Use the following template:

#### Template for sending covering letter and CV

From: *[sender's name and address]*  
 To: *[recipient's name and address]*  
 Subject: *[suitable subject line]*

*[salutation]*

I am writing to apply for the position of *[job position]*.

I attach my covering letter and CV and look forward to hearing from you.

*[ending]*

*[sender's name]*

- 3.16 **Teacher tip:** Students can find CV templates in Microsoft Word and on <https://www.canva.com/>. Remind students that while a creative CV design may look attractive, it could be rejected if a computerised screening process is used by recruiters.

**Post-exercise**

**Extra activity:** Ask a partner to review your CV, using the Peer-assessment questions in Appendix A.

## 4. Preparing for a job interview with a law firm

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- 4.7 **Extra activity:** Students can also practise a legal interview using this website: <https://candidates.shortlist.me/practice-interviews/>
- 4.9 **Teacher tip:** You can find other example questions here: <https://www.law.ac.uk/resources/blog/how-to-answer-challenging-interview-questions-and-land-your-dream-job/>
- Extra activity:** With a partner, practise asking and answering the commercial awareness questions from this website: <https://www.lawcareers.net/Explore/CommercialQuestion>
- 4.11 **Teacher tip:** An alternative way to do this activity in a group would be to use the fish bowl technique. This is where students watch other students doing an activity (in this case, an interview) and then provide feedback.
- 4.12 **Post-exercise**  
**Extra activities:** Refer to the teacher note for Exercise 2.7 above for other activities that you could incorporate here.

## Chapter 8: Contract drafting and review

This chapter provides an introduction to contract drafting. It looks at different types of commercial contracts, the typical structure of a commercial contract, and common contract language. It does not discuss all the clauses in a commercial contract. Other examples of contract clauses can be found in Chapter 9: Contract negotiations and in Chapter 10: Alternative dispute resolution. For specialist books on contract drafting, please see the extra resources at the end of the teacher notes for this chapter.

This chapter includes an example contract which has been prepared for the purpose of illustrating contract structure and language in some of the exercises. The example contract is an incomplete document and should not be used in legal practice.

**Teacher tip:** Encourage students to provide contract examples from their own practice to discuss as you go through this chapter. Check with students that their contracts do not contain any confidential information before doing this.

It can be difficult to find examples of well-drafted contracts. Some law firms use Practical Law Company's templates and drafting notes, but this requires a subscription:

<https://uk.practicallaw.thomsonreuters.com/>

Contract examples can also be found on these websites. Note that some of these are signed copies of negotiated contracts rather than templates:

- <https://contracts.onecle.com/>
- <https://www.lawinsider.com/> (subscription required)

- <https://community.weagree.com/model-contracts/>

See also the teacher notes for Exercise 3.17 in Chapter 10: Alternative dispute resolution for a template settlement agreement.

Other contract examples can be found in the books listed in the extra resources at the end of the teacher notes for this chapter.

## 1. Introduction

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- 1.1 **Teacher tip:** It is usually the client who negotiates the business deal and then produces a set of terms for the lawyer to incorporate into a draft contract. The lawyer's role is to reflect the deal that has been made and advise the client about any legal risks. However, if the lawyer is acting for a small business, they may also get involved in the negotiation of the deal. For more about contract negotiations see Chapter 9: Contract negotiations, in particular Exercise 2.1 on the different stages of the contracting process.
- 1.2 **Teacher tip:** Encourage students to think about questions (b) and (c) before checking the Glossary.

### Post-exercise

Ask students to read the Vocabulary note on *agreement or contract* and do these extra activities:

**Extra activity 1:** Students look at contract examples and see whether the titles refer to *contract* or *agreement*.

**Extra activity 2:** Students read these two definitions from Black's Law Dictionary<sup>v</sup> and decide which has a broader meaning:

'*agreement*. 1. A mutual understanding between two or more persons about their relative rights and duties regarding past or future performances; a manifestation of mutual assent by two or more persons.'

'*contract*. 1. An agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law <a binding contract>.'

Suggested answer:

The commentary for the definition of *agreement* in Black's Law Dictionary says: "The term 'agreement,' although frequently used as synonymous with the word 'contract,' is really an expression of greater breadth of meaning and less technicality. Every contract is an agreement; but not every agreement is a contract. In its colloquial sense, the term 'agreement' would include any arrangement between two or more persons intended to affect their relations (whether legal or otherwise) to each other. An accepted invitation to dinner for example, would be an agreement in this sense; but it would not be a contract, because it would neither be intended to create, nor would it in fact create, any legal obligation between the parties to it."

## 2. Contract structure

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- 2.1 **Teacher tip 1:** This exercise looks at the typical structure of a commercial contract but students may also have seen definitions placed in a schedule at the end of the contract.

**Teacher tip 2:** For more advanced groups, ask students to predict the answers to this exercise and complete the contract structure diagram before listening to Audio 8.2. They can then listen to the audio and check that their answers are correct.

**Post-exercise**

**Extra activity:** Students read the Vocabulary note on *schedules*, then look at other contract examples and see whether they contain schedules, exhibits, appendices, or annexes.

- 2.2 **Teacher tip 1:** In the introductory paragraph, notice how ‘Seller’ and ‘Buyer’ are defined using brackets and inverted commas.

**Teacher tip 2:** Usually the contract schedules would contain much more information. In the example contract, only the schedule headings have been given (and just one warranty in schedule 4) as illustrations of typical matters that would be included.

**Extra activity:** Students look at other contract examples and label the different parts of the contract. An alternative activity is to find a short contract, cut it into different sections corresponding to the different parts of a contract, and ask students to put the sections in the correct order.

### 3. Contract language

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- 3.3 **Teacher tip:** Encourage students to look at other contract examples and find examples of words with a *here-* or *there-* prefix and explain their meanings.

Here are some additional examples:

- *here-*  
Each Party has all necessary corporate power and authority to execute and deliver this Agreement and to perform its covenants and obligations hereunder.  
  
In this clause, *hereunder* means under this Agreement.
- *there-*  
Any reference in this Agreement to a statute includes any statutory modification consolidation or re-enactment thereof and any order regulation permission consent or direction made thereunder or deriving validity therefrom.

In this clause, *thereof* means of that statute, *thereunder* means under that statute, and *therefrom* means from that statute.

The *there-* prefix can also be translated as *the*. So in this example, *thereof* can mean of *the* statute, *thereunder* can mean under *the* statute, and *therefrom* can mean from *the* statute.

- 3.4 **Post-exercise**

**Teacher tip:** Encourage students to look at the Legalese to Plain English Quick Reference in Appendix B for more examples of *here-* and *there-* prefixes.

For more on *here-* and *there-* prefixes also see: Kenneth A. Adams, *A Manual of Style for Contract Drafting* (4<sup>th</sup> edn, American Bar Association 2017).

You could also see this Law Insider resource on plain language in contracts:

<https://www.lawinsider.com/resources/contract-teardown/kanye-wests-contract-in-plain-english>

- 3.6b **Teacher tip:** In contract drafting, the modal verb *may not* is also used for a prohibition.

- 3.7 **Post-exercise**

**Extra activity:** Text 8.1 says that ‘While modern legislation in the UK and the USA uses the word *must* for imposing obligations, the word *shall* is still commonly found in commercial contracts’. Ask students to look at contract examples and legislation examples

to see which modal verbs are used for imposing obligations. Students can find details of UK legislation here: <https://www.legislation.gov.uk/> and USA legislation here: <https://law.justia.com/>

### 3.10 Post-exercise

**Extra activity:** Students could look at other contract examples to see if there are any ambiguities in the expressions of time.

### 3.11 Teacher tip:

In clause 2, while *promptly* might not be precise, the clause is clear about the possible consequences if payments are not made on time.

For more about expressions of time generally, see Kenneth A. Adams, *A Manual of Style for Contract Drafting* (4<sup>th</sup> edn, American Bar Association 2017), Chapter 10: References to time.

### 3.12 Pre-exercise

**Extra activity:** Improving sentences is one of the five key skills for legal writing mentioned in Chapter 4: Legal writing. If students have already completed Chapter 4, ask them:

1. What other key skills for legal writing are mentioned in Chapter 4?
2. What three ways of improving sentences are mentioned in Chapter 4?

### 3.13 Post-exercise

**Teacher tip:** You could include additional discussion with your students about termination clauses. For example, you could ask students whether, in their jurisdiction:

- they would include similar provisions in a termination clause
- there is anything else they would include in a termination clause
- there are any other ways of terminating a contract

Students could also look at termination clauses in other contract examples.

### 3.15d Teacher tip:

Here is another way of writing this answer. Using the expression *any or all of the following* makes it clear that these restrictions can be cumulative:

For a period of one year immediately following termination of the Employee's employment, the Employee shall not do any or all of the following:

- (a) Solicit or entice any Company employee to leave the Company.
- (b) Accept into employment or use the services of any person who is a Company employee on the Termination Date.
- (c) Directly or indirectly engage or be interested in any business carried on in competition with any of the business of the Company.
- (d) Use any of the Company's trading names.

Notice that in this formulation each subsection is a complete sentence, beginning with a capital letter and ending with a full stop.

## 4. Contract review

### 4.5 Extra activity:

Students look at other contract examples and find *efforts* or *endeavours* expressions.

### 4.6 Teacher tip:

For more on prioritising which contract terms to negotiate, see Chapter 9: Contract negotiations, Exercise 2.8.

4.9 **Teacher tip:** Encourage students to try to explain each clause in one sentence.

**Extra activity:** Ask students to explain the other boilerplate clauses in the example contract (clauses 9 to 12). Or to explain clauses in other contract examples.

## 5. The future of contracts

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### 5.6 Post-exercise

**Teacher tip:** Encourage students to look at the World Commerce & Contracting website, which includes a video about how Shell have used legal design to improve their commercial contracts: <https://www.worldcc.com/Research/Contract-Design-Simplification>. Students could also look at this website for examples of comic contracts: <https://creative-contracts.com/examples/>.

5.7 **Teacher tip :** Check that students understand what a *liquidated damages* clause is. This is where the parties have agreed in advance the compensation to be paid if there is a breach of contract. In the common law system, the compensation must usually represent a genuine pre-estimate of loss. If it amounts to a penalty, in other words a punishment for non-performance, then the clause will be invalid and the court will determine damages on the usual common law principles.

The clause in this exercise also refers to the expression *time of the essence*: see Exercise 3.11 for an explanation of this.

Students could use the World Commerce & Contracting Contract Pattern Design Library for other design ideas: <https://contract-design.worldcc.com/library>.

## Extra resources

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### Podcasts

- <https://studylegalenglish.com/> Study Legal English contains a number of different podcast episodes on contract drafting.

### Websites

- <https://weagree.com/clm/contracts/> Online drafting contracts book

### Books

- Cynthia M. Adams and Peter K. Cramer, *Drafting Contracts in Legal English: Cross-Border Agreements Governed by U.S. Law* (Aspen Publishers 2013)
- Kenneth A. Adams, *A Manual of Style for Contract Drafting* (4<sup>th</sup> edn, American Bar Association 2017)
- Mark Adler and Daphne Perry, *Clarity for Lawyers* (3<sup>rd</sup> edn, The Law Society 2017)
- Mark Anderson and Victor Warner, *Drafting and Negotiating Commercial Contracts* (4<sup>th</sup> edn, Bloomsbury Professional 2016)
- Sarah Fox, *How to Write Simple and Effective Small Works Contracts in 500 Words* (Kindle edn, 500 Words Ltd. 2020)
- Bryan A. Garner, *Garner's Guidelines for Drafting and Editing Contracts* (West Academic Press 2020)
- Tina L. Stark, *Drafting Contracts: How and Why Lawyers Do What They Do*, (2<sup>nd</sup> edn, Wolters Kluwer 2014)

## Chapter 9: Contract negotiations

This chapter deals with a supply of goods agreement. See *Sale of goods contract* in the Glossary. Here is a brief explanation of contract clauses included in this chapter:

- Payment/Payment terms: A clause setting out the rights of one party to be paid and the obligations of the other party to make payments.
- Force majeure: See Glossary.
- Warranty: See Exercise 4.6 Chapter 8: Contract drafting and review.
- Delivery: A clause setting out the rights of one party to have goods delivered and the obligations of the other party to deliver.
- Jurisdiction: See *Governing law and jurisdiction clause* in Glossary.
- Term: See Exercise 3.9 Chapter 8: Contract drafting and review.
- Subletting: A clause setting out the rights and obligations of a tenant to sublet the rented property to a third party.
- Alterations to the Property: A clause setting out the rights and obligations of a tenant to alter the rented property.
- Termination: See Glossary.

### 1. Introduction

- 1.1 **Teacher tip:** Teach students that *negotiation* and *negotiations* can both be used to refer to a single meeting where a negotiation takes place. For example: *I am preparing for a negotiation/I am preparing for negotiations*. *Negotiations* can also be used to refer to many meetings where negotiations take place. For example: *Working as a contract lawyer, I have acted for many clients in negotiations*.

If students do not know the meanings of *negotiate* and *negotiator* teach these meanings:

- <https://dictionary.cambridge.org/dictionary/english/negotiate>
- <https://dictionary.cambridge.org/dictionary/english/negotiator>

**Extra activity:** Ask students to read the 7 SRA Principles for lawyers in England and Wales and compare these to the rules in their own jurisdiction: <https://www.sra.org.uk/solicitors/standards-regulations/principles/>. Then ask students to discuss how these principles could affect their behaviour in negotiations.

- 1.2 **Post-exercise**  
**Extra activity:** Ask students to discuss how negotiating as an in-house lawyer could be different from negotiating as a lawyer working in a law firm. For example, an in-house lawyer will only negotiate on behalf of the company they work for whereas a lawyer working in a law firm will negotiate contracts on behalf of many different clients.
- 1.4 **Teacher tip:** Encourage students to give specific examples. Take note of the scenarios they mention. You can use these scenarios for extra negotiating activities.

### 2. Preparing for contract negotiations

- 2.1 **Teacher tip:** Students may get confused between *the lawyer* and *the other side's lawyer*. In Audio 9.1 when Jakob mentions *us* or *RB Motors* this corresponds to *the lawyer* in this exercise. When Jakob mentions *them* or *Autologica* he means the *other side* or the *other side's lawyer*.

**Post-exercise**

**Extra activity:** If your students have experience negotiating contracts, ask them whether the process mentioned in the exercise is similar to what they have experienced in real life. What was the same? What was different?

2.5 **Post-exercise**

**Extra activity:** Ask students to read this article to open up a discussion about culture in negotiation: <https://hbr.org/2015/12/getting-to-si-ja-oui-hai-and-da>

2.6 **Pre-exercise**

**Extra activity:** Find some examples of these types of clauses (payment terms, force majeure, warranty) and ask students to label them with the correct heading. See Teacher Notes for Chapter 8: Contract drafting and review, for ideas about where to find contract examples.

2.7 **Teacher tip:** Refer to the answer to Exercise 3.11 in Chapter 8: Contract drafting and review to understand the expression *time is of the essence*.

### 3. During a Negotiation

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3.2 **Pre-exercise**

**Extra activity:** Ask students what they would do at the beginning of the negotiations. How would they break the ice? This could be a good opportunity to revise some of the small talk skills for students who have studied Chapter 1: Networking. You could ask students to think of a small talk dialogue between Jakob and Clarissa and role-play this or incorporate an introduction and small talk into Exercise 3.6.

3.3 **Teacher tip:** Statement a. uses *looking forward to working*. It is a common mistake in English to use the construction *looking forward to [verb in base infinitive]* for example, *I am looking forward to discuss this with you*. Remind students that the correct construction is *looking forward to [verb + ing]* for example, *I am looking forward to discussing this with you*.

3.7 **Post-exercise**

**Extra activity 1:** Ask students to match the verbs on the left, used in Exercise 3.7, to the phrasal verbs and idioms on the right. The first answer is given as an example.

Verb	Phrasal verbs and idioms
a. to explain	1. to go over (phrasal verb)
b. to clarify	2. to put it/this/something in a nutshell (idiom)
c. to reword	3. to go back (phrasal verb)
d. to return	4. to put it/this/something another way (idiom)
e. to say	5. to get across (phrasal verb)
f. to summarise	6. to shed some light on (idiom)

**Answers:** b. 6; c. 4; d. 3. e. 5; f. 2

Then get students to replace the words in Exercise 3.7 with the phrasal verbs.

**Answers:****Asking for clarification and explanation**

- I didn't understand what you said. Could you please *explain* → *go over* it again?
- Thank you for *explaining* → *going over* those points, but I'm afraid we don't understand. Could you elaborate?
- Could you *clarify* → *shed some light on* your point please? What did you mean by ...?

### Giving explanations and clarifications

- d. No problem. I'll try to *explain* → *go over* this further.  
 e. Let me *reword this* → *put this in another way*. In other words we mean ...  
 f. *Returning* → *going back* to my point, what I was trying to say → *get across* was ...

### Summarising your understanding

- g. Thank you for *clarifying* → *shedding some light on* that point. So we understand that ... is that correct?  
 h. If I understood correctly, you mean ... Is that right?  
 i. Let me *summarise* our understanding of your point. → put it in a nutshell. You would like ... because ... Did I miss out anything?

**Extra activity 2:** Get students to continue writing their dialogue from Exercise 3.6 including phrases to clarify, explain, and summarise, and then role-play what they have written with a partner. Alternatively, you can incorporate language to clarify, explain, and summarise into Exercise 3.9.

- 3.9 **Teacher tip:** Ask advanced students, in addition to the task described in Exercise 3.9, to negotiate the point '*the Supplier shall promptly and at its own cost arrange for redelivery*' where Jakob wants to include this and Clarissa does not want to include this.

### Post-exercise

**Extra activity:** Ask students to read this example dialogue for reaching a compromise and compare it to their own:

Clarissa: *We'd like to make a counterproposal. We understand where you're coming from and we accept the first part of this clause in principal but we'd like to suggest an alternative for the second part. We'd prefer to state the tolerance level in the contract rather than in each order to give Autologica certainty. We suggest a tolerance level of 15% which we think is fair. What do you think?*

Jakob: *We are happy to include a percentage in the contract, but we were thinking of a limit of around 5%. Let's say we meet in the middle, at 10%.*

Clarissa: *Yes I think we can agree to that. We hope you will have flexibility on the next part ...*

- 3.14 **Teacher tip:** Adjectives and adverbs are used in different ways and may not be automatically replaceable. Here are the possible replacements for the exercise:

Clarissa: So, let's move on to clause 7.3. Jakob, I'll be clear with you. This amendment is *absolutely* → *pretty/probably/quite/just* impossible for us.

Jakob: Ok. Let's see. Well, Clarissa, I'm afraid that actually *this is quite an important* → *this is an absolutely important/this is absolutely an important/this really is an important/this is really an important/this is an incredibly important/this is a totally important/this is totally an important* point for our client.

Clarissa: Yes, we can understand that, but including *time is of the essence* is a *huge* → *a minor/a small/quite a/probably a/perhaps* a problem for us. *It's something we are totally not* → *It's something we are not quite/it's something we are just not/It's probably not something we are/it's perhaps not something we are* willing to change.

Jakob: I hear what you're saying, but it seems like we have a *little bit of* → *big/major* disagreement. Let me just have a word with my client ... Eymen, let's have a quick chat about this ...

OK so I understand ... ~~I'm sorry~~, delivery is *pretty* → *really/incredibly/totally* significant for us. ~~Perhaps you could~~ → *you must* reconsider your position.

Clarissa: Listen, I can see that we've reached a sticking point here. Let's take five, grab a coffee and move on to another clause. We can come back to this later.

Jakob: Right. OK.

### 3.15 Pre-exercise

**Teacher tip:** Ask the students for their experience of negotiating. Find out if they have dealt with deadlock in the past and if so, how.

#### Post-exercise

**Extra activity 1:** Teach students the five conflict styles:

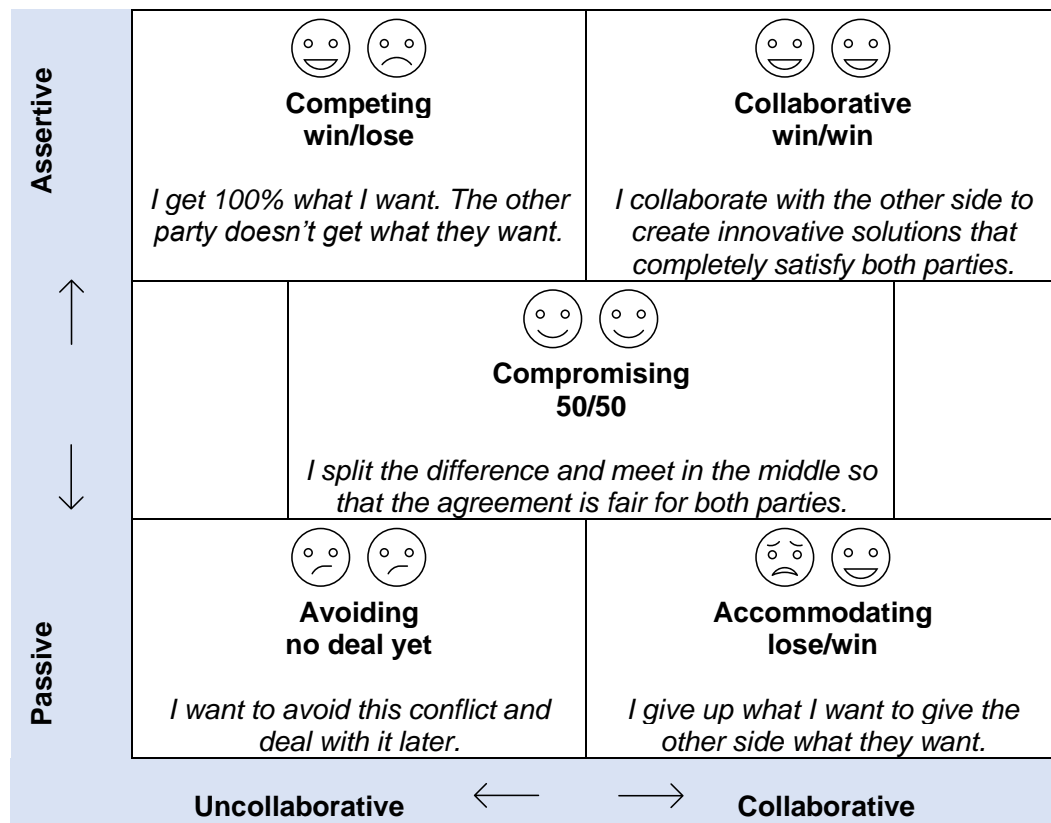
- competing
- accommodating
- compromising
- collaborating
- avoiding

Note that these styles have been developed by research. See:

- Blake, R., Mouton, J. *The Managerial Grid: The Key to Leadership Excellence* (Houston: Gulf Publishing Co 1964)
- Thomas, K. W., & Kilmann, R. H. 'Comparison of Four Instruments Measuring Conflict Behavior.' (1978) *Psychological Reports*, 42(3\_suppl), 1139–1145.

Ask students to look at the following diagram showing these five negotiating styles and discuss the following questions:

- Which style did you use in your negotiation in Exercise 3.9?
- What are the pros and cons of each style?
- Which style do you think you have?



Alternatively, there is a free downloadable sheet here:

<https://www.govloop.com/resources/conflict-management-cheat-sheet/>

Then students could take a survey to find out their own conflict style. A free survey is available here: <https://www.usip.org/public-education-new/conflict-styles-assessment>

A paid-for version is available here: <https://kilmanndiagnostics.com/overview-thomas-kilmann-conflict-mode-instrument-tki/>

- 3.20 **Teacher tip:** What is considered as an acceptable payment period differs across jurisdictions and there may be rules specified in statute in the students' jurisdiction. Encourage your students who are practising lawyers to discuss this.
- 3.23 **Teacher tip:** Note that in reality the jurisdiction clause is often negotiated at the same time as the governing law clause. However, to simplify this exercise, it only focuses on jurisdiction. More advanced students with contract negotiating experience could negotiate the governing law alongside the jurisdiction. For more on dispute resolution clauses see Chapter 10: Alternative dispute resolution.

## 4. A negotiation role play

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### 4.1 Pre-exercise

**Teacher tip:** Give students a set time to prepare e.g. 30 minutes and a set time to negotiate e.g. 30 minutes. Stop the negotiations after this time even if they haven't reached a full agreement and ask them to close the negotiations. If you watch the negotiations, try to avoid interfering, even if things get difficult, as this will help students resolve things themselves.

### 4.2 Post-exercise

**Extra activity:** Ask students to read the common information of the other side and then redo their Self-Assessment Questions. Ask them: Did reading this extra information change how you have assessed yourself?

## Extra resources

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### Websites

- Learning about negotiations: <https://www.watershedassociates.com/learning-center>
- Culture in negotiations: <https://hbr.org/2015/12/getting-to-si-ja-oui-hai-and-da>
- This chapter does not teach psychological techniques in negotiations. If you are interested in these you could start by researching *over confidence*, *reciprocity*, *anchoring effect*, *availability bias*. This course teaches these <https://www.coursera.org/learn/negotiation-skills> and they are covered in the George J. Siedel book mentioned above.

### Books

- Roger Fisher, William L. Ury, Bruce Patton, *Getting to Yes: Negotiating Agreement Without Giving In* (3<sup>rd</sup> edn, Penguin Publishing Group 2011)
- George J. Siedel, *Negotiating for success: Essential strategies and skills* (Van Rye Publishing LLC 2014)
- Barry Tomalin; Mike Nicks, *World Business Cultures: a handbook* (Thorogood Publishing Ltd 2014)
- Chris Voss, Tahl Raz, *Never Split the Difference: Negotiating As If Your Life Depended On It*, (1<sup>st</sup> edn, Harper Business 2016)
- Damian Ward, *Contract negotiation handbook: Getting the most out of commercial deals* (Wiley 2011)

## Chapter 10: Alternative dispute resolution

This chapter is about commercial arbitration and commercial mediation. State-State arbitration/mediation, Investor-State arbitration/mediation and family mediation are not covered in this chapter.

Note that the language used in arbitration agreements and proceedings is international and both American and British English terms are used. For example, in arbitration proceedings the AmE *direct examination* (noun) is more common than the BrE *examination in chief* (noun), whereas the BrE *application* (noun) is more common than the AmE *motion* (noun). However, the language preference in a specific arbitration will depend on the arbitrators, lawyers, and parties involved.<sup>vi</sup>

Chapter 11: Advocacy contains language used in arbitration documents and proceedings.

## 2. Arbitration

### Teacher tip:

Students may be interested in the types of disputes in arbitration. See these resources for statistics on arbitration:

- <https://www.hkiac.org/about-us/statistics>
- <https://www.lcia.org/lcia/reports.aspx> <https://sccinstitute.com/statistics/>
- <https://iccwbo.org/media-wall/news-speeches/icc-unveils-preliminary-dispute-resolution-figures-for-2021/>

### 2.2 Pre-exercise

**Teacher tip:** This task is appropriate for C1 level. Lower-level students may attempt it but they may struggle. For lower-level students you may want to teach this vocabulary with simplified definitions first:

- **Institutional arbitration:** arbitration which is administered by an official institute. The institute is called an arbitration institution.
- **Ad-hoc arbitration:** an arbitration which is not administered by an official institute. It is left to the parties and arbitrators to administer.

See this article distinguishing between institutional and ad hoc arbitration:

<https://www.pinsentmasons.com/out-law/guides/institutional-vs-ad-hoc-arbitration>

- **Arbitration rules:** rules which govern the arbitration procedure which may be set by the arbitration institution or the parties.

Example arbitration rules:

- <https://iccwbo.org/dispute-resolution-services/arbitration/rules-of-arbitration/>
- [https://www.lcia.org/Dispute\\_Resolution\\_Services/lcia-arbitration-rules-2020.aspx](https://www.lcia.org/Dispute_Resolution_Services/lcia-arbitration-rules-2020.aspx)
- <https://siac.org.sg/siac-rules-2016>

- **Arbitrator:** an independent and impartial third party who adjudicates in arbitration.

This is a helpful guide for drafting an arbitration clause:

<https://www.pinsentmasons.com/out-law/guides/drafting-an-arbitration-clause>

**Teacher tip:** When answering the questions to Exercise 2.2, encourage students to use language from Exercise 2.19 Chapter 3: Client meetings for expressing advantages and disadvantages. There are examples of comparative language in Exercise 2.4 and 3.4 in Chapter 11: Advocacy. This tip also applies to Exercise 2.4.

**Post-exercise**

**Extra activity:** Ask students to read and discuss this article on language usage in arbitration:

- <http://arbitrationblog.kluwerarbitration.com/2021/11/07/arbitrators-dont-speak-esperanto-the-difficulties-and-dominance-of-english-as-a-procedural-language-in-arbitration/>

Another helpful article on this topic is:

- Guido Carducci, 'Multilingual arbitrations: Optimizing Parties' Agreements, Scope, Costs, Award-making' (2018) New York Dispute Resolution Lawyer Vol.1, p.31

2.4 **Teacher tip:** This task is appropriate for C1 level. Lower-level students may attempt it but they may struggle. For lower-level students you may want to teach this vocabulary with simplified definitions first:

- **Seat:** the jurisdiction whose arbitration law governs the arbitration process.
- **Governing law of the contract:** the substantive law of the contract which will be used to determine disputes.
- **Governing law of the arbitration clause:** the law which is used to determine whether or not the arbitration agreement itself is valid.

2.5 **Teacher tip:** Most arbitration institutions have their own model clauses which you can find on their websites. You can ask students to find another model clause and compare it to the model clauses in this exercise. For example:

- [https://www.ciarb.org/media/2614/model\\_arbitration\\_clauses\\_ciarb\\_rules\\_12\\_2015.pdf](https://www.ciarb.org/media/2614/model_arbitration_clauses_ciarb_rules_12_2015.pdf)
- <https://www.ciarb.org/media/2612/contract-clause.pdf>

2.7 **Pre-exercise**

**Extra activity:** Ask advanced students to read these blog posts and summarise them:

- [https://www.adr.org/blog/how\\_to\\_avoid\\_drafting\\_a\\_really\\_bad\\_arbitration\\_agreement\\_part\\_1](https://www.adr.org/blog/how_to_avoid_drafting_a_really_bad_arbitration_agreement_part_1)
- <https://www.adr.org/blog/how-to-avoid-drafting-a-really-bad-arbitration-agreement-part2>
- <https://www.adr.org/blog/how-to-avoid-drafting-a-really-bad-arbitration-agreement-part3>
- <https://www.adr.org/blog/How-to-Avoid-Drafting-a-Really-Bad-Arbitration-Agreement-PART-4>

2.8 **Post-exercise**

**Extra activity:** Students can write an email to Finn summarising the meeting. Refer to Chapter 4: Legal writing on writing emails as a guide.

2.10 **Post-exercise**

**Extra activity:** Ask students to role play this following dialogue between Marlon and Finn. In this dialogue Marlon explains the order of proceedings in arbitration. Then ask students to take it in turns to summarise the arbitration process. Note that the structure of arbitration proceedings is covered in Chapter 11: Advocacy.

Marlon: Hi Finn, so I'll explain the arbitration process to give you a broad idea about what generally happens in institutional arbitration.

Finn: OK, thanks Marlon.

Marlon: Right. So, firstly, it's really important for parties to follow any pre-arbitration steps, for example, if there is a multi-tiered dispute resolution clause in the

contract, parties must attempt to settle, probably via negotiation or mediation first. If they can't settle, the claimant initiates arbitration by sending a notice to arbitrate to the respondent and filing this with the arbitration institution.

Finn: Ok so the claimant starts the process.

Marlon: Yes. And after this, the respondent should send a reply to the claimant and the arbitration institution. This reply is called an 'answer'. Oh, and by the way, sometimes this 'notice to arbitrate' is called a 'request to arbitrate'. It's the same thing.

Finn: Ok thanks. So, what happens next?

Marlon: Next, the parties appoint the arbitrator or arbitrators, and this is confirmed by the arbitration institution. After that there will normally be some preliminary meetings between the parties and arbitrators to decide procedural matters. Then, parties and lawyers need to prepare and exchange written documents.

Finn: Right, yes of course.

Marlon: Then we come to what the parties have been waiting for! It's the actual arbitration itself. And the arbitration hearing can be very similar to court proceedings. First of all the claimant makes their opening statement.

Finn: Sorry, what's an opening statement?

Marlon: It's where a party presents their case, stating what they hope to prove during the hearing, and why an award should be rendered in their favour. Don't worry, it's the lawyer who would give this, not you, the client.

Finn: Ok, good.

Marlon: Following this, witnesses for the claimant are called to give their direct evidence and there is also the cross-examination. So, you as a witness on behalf of the claimant would most likely be required to give evidence during this stage. Then the defendant gives their opening statement and presents evidence. Then after this, the claimant and the respondent make their closing statements where they conclude their case. And finally, after some deliberations, the tribunal renders its award.

Finn: Sorry, what is the award?

Marlon: Yes, sorry, that's the judgment or the decision of the arbitrators.

Finn: OK, thanks Marlon.

### 2.11 Post-exercise

**Extra activity:** Ask students to read and summarise a section in this document:

- <https://iccwbo.org/content/uploads/sites/3/2022/02/icc-arbitration-and-adr-commission-report-on-leveraging-technology-for-fair-effective-and-efficient-international-arbitration-proceedings.pdf>

Information explaining the context of this document is available here:

- <https://iccwbo.org/publication/icc-arbitration-and-adr-commission-report-on-leveraging-technology-for-fair-effective-and-efficient-international-arbitration-proceedings/>

## 3. Mediation

**Teacher tip:** Ask students to watch this video: 'What is mediation?', to introduce the topic: <https://www.youtube.com/watch?v=N1Lejx7aDy4&t=43s>

- 3.1 **Teacher tip:** Introduce the topic by asking students what skills they think a lawyer needs for mediation.
- 3.3 **Teacher tip:** Exercises 3.3 and 3.4 can be adapted into role plays between Luca and Sofia for a more dynamic activity.
- 3.6 **Post-exercise**  
**Extra activity:** Ask students to read this checklist. Then listen again to Audio 10.4 and tick the options that the mediator mentions.

#### Mediator's opening statement checklist

1. Introduce yourself.
2. Ask parties to introduce themselves.
3. Talk about logistics e.g. mobile phone usage, bathrooms, breaks, fire exits.
4. Explain what mediation is.
5. Explain the mediation process e.g. plenary sessions and caucuses.
6. Explain your role as mediator e.g. neutral third-party, facilitator not adviser.
7. Check you do not have a conflict of interest.
8. Explain the parties' roles e.g. act in good faith, listen and ask questions, be respectful.
9. Explain parties' rights e.g. right to confidentiality, right to leave process.
10. Check parties or representatives have the authority to settle.
11. Explain the settlement agreement e.g. it is legal document, binding only once signed.
12. Confirm the mediation agreement is signed.
13. Check if anyone has any questions.

- 3.8 **Pre-exercise**  
**Teacher tip:** Introduce the topic by asking students what skills they think a mediator needs.  
**Extra activity:** Ask students to watch this *Active Listening* video to introduce the topic:  
<https://www.youtube.com/watch?v=-effHp940jE&t=15s>
- 3.9 **Post-exercise**  
**Extra activity:** Continue this listening exercise with a role play between the mediator and Richard. The mediator must ask the same questions as in Exercise 3.9, but directed to Richard. Richard can use the following information:

#### Richard, witness

Richard says that Sofia used to be good at her job. During the pandemic her work declined to an unacceptable level. Richard tried to tell Sofia that she needed to improve but she ignored him. She was angry at work and this made other team members unhappy. The work environment was really tense due to Sofia's behaviour and other staff members complained to Richard saying they would quit if Sofia didn't do a better job and improve her behaviour. Richard tried to speak to Sofia about this and said he would try to hire more staff to help with the situation but the company couldn't afford it in the end. All the other employees understood that the company was facing difficulties and that everyone needed to do a bit of extra work to support the team. Sofia was the only person who didn't understand. One day she walked out of work and quit. Her behaviour was irrational, she should have talked through her problems with Richard first. When Sofia left work, everyone else had to do more work. The hotel is short-staffed and is still going through financial difficulties.

- 3.11 **Helpful resources:** Use these helpful resources for students to find out more about reframing:

- Video: <https://youtu.be/us3jWEy0yqY>
- Article: [https://www.beyondintractability.org/essay/joint\\_reframing](https://www.beyondintractability.org/essay/joint_reframing)
- Reframe examples: <https://tammylenski.com/conflict-resolution-tools/reframes/>

### 3.15 Pre-exercise

**Extra-activity:** Ask students these questions:

- Have you ever had a client who was involved in a conflict and who had unrealistic expectations about how to resolve the conflict? For example, going to court to claim a small amount of damages? What happened?
- Have ever been in a conflict yourself where either you or the other side had unrealistic expectations of how to resolve the conflict? What happened?

Here is a helpful article about reality testing:

<http://www.beyondintractability.org/essay/reality-testing>

### 3.17 Pre-exercise

**Teacher tip:** Read through the common information with students to ensure they understand the language.

Give students a set time to prepare e.g. 30 minutes and a set time to mediate e.g. 30 minutes. Stop the mediation after this time even if they haven't reached a full agreement and ask them to close the mediation. If you watch the mediation try to avoid interfering, even if things get difficult, as this will help students resolve things themselves.

#### Post-exercise

**Extra activity:** Ask students to use the following resources as a guide to draft their own settlement agreement containing what they agreed in their mediation role play. They should take into account drafting skills they have learnt in Chapter 8: Contract drafting and review.

- <https://www.acas.org.uk/settlement-agreements>

Note that the template settlement agreement available using this link is for employees who are still employed by their employer. Therefore, it contains a clause related to termination of employment. Students can delete or adapt this clause in their own version.

A simpler template mediation settlement agreement is available here:

- <https://www.cedr.com/foundation/currentprojects/mediationcontractclause/>

### 3.18 Post-exercise

**Extra activity:** Ask students to read the common information of the other parties and then redo their Self-Assessment Questions. Ask them: Did reading this extra information change how you have assessed yourself?

## Extra resources

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### Videos

- Training videos on arbitration: <https://youtube.com/playlist?list=PLNsrw4KMG77uUyba6tcasIANHqY1TnmRW>
- Chartered Institute of Arbitrators videos on mediation and arbitration: <https://www.youtube.com/c/ciarb/videos>
- Centre for Effective Dispute Resolution videos for mediation: <https://www.cedr.com/video/>
- Example commercial mediation: <https://youtu.be/jNrwwtcTMMY>
- An example showing a conflict where there is currently no claim, however, it displays some techniques used in mediation: <https://youtu.be/hcnqQd8skOo?t=91>

- Example mediation:
  - Joint Mediation Part 1: <https://www.youtube.com/watch?v=MjihUDkk63E>
  - Private meeting Pauline: [https://www.youtube.com/watch?v=rsOr\\_p—3ZM](https://www.youtube.com/watch?v=rsOr_p—3ZM)
  - Private mediation James: <https://www.youtube.com/watch?v=CylXQ8RfHbY>
  - Joint mediation 2: <https://www.youtube.com/watch?v=WSGY9X2fzEM>

### Websites and blogs

- <http://mediationblog.kluwerarbitration.com/>
- <http://arbitrationblog.kluwerarbitration.com/>
- <https://ciarb.org/news/>
- Helpful FAQs about mediation: <https://ama.asn.au/australian-mediation/#Definition-of-Mediation>
- <https://www.adr.org/blog/home>
- <https://www.cedr.com/commercial/resources/>

### Books

- Bermann, *International Commercial Arbitration in a Nutshell* (West Academic 2020)
- Nigel Blackaby, Constantine Partasides QC, Alan Redfern, Martin Hunter, *Redfern and Hunter On International Arbitration* (6<sup>th</sup> edn, OUP 2015)
- Fiona Boyle, Deveral Capps, *A Practical Guide to Lawyering Skills*, (4<sup>th</sup> edn, Routledge 2019)
- Jonathan Dingle, John Sephton, *Practical Mediation: A Guide for Mediators, Advocates, Advisers, Lawyers, and Students in Civil, Commercial, Business, Property, Workplace, and Employment Cases* (Law Brief Publishing 2017)

## Chapter 11: Advocacy

This chapter covers trial advocacy not appellate advocacy. Students sometimes practise trial advocacy in university through mock trials. Mooting is where they practise appellate advocacy. At trial, lawyers have to present evidence and persuade the judge (or jury in some cases) that their case is true. In appellate advocacy the lawyer must argue that the previous decision of the lower court was not correct and persuade the judge to correct this error. Trial advocacy was chosen in this chapter as it is the first step of advocacy. Additionally, as arbitration does not have a mechanism for appeal, techniques used in trial advocacy are relevant for arbitration.

For differences between trial and appellate advocacy see this article:

- <https://lawgazette.com.sg/practice/practice-matters/trial-advocacy-and-appellate-advocacy-as-different-as-chalk-and-cheese/>

This chapter deals with intellectual property. For information about intellectual property see here:

- <https://www.wipo.int/about-ip/en/>
- <https://www.thelawyerportal.com/careers/areas-of-law/intellectual-property-law-what-do-intellectual-property-lawyers-do/>

## 1. Introduction

### 1.1 Pre-exercise

**Extra activity:** Ask students to read these resources and summarise the court structure in England and the USA:

Federal court system of the USA:

- <https://www.justice.gov/usao/justice-101/federal-courts/>

Court system in England:

- <https://www.judiciary.uk/about-the-judiciary/the-justice-system/court-structure/>

Then ask students what the court structure is in their own jurisdiction.

### Post exercise

**Extra activity 1:** Ask students to read these 2 articles and summarise them. You could also ask students whether they would prefer to be a solicitor or a barrister.

- <https://www.thelawyerportal.com/blog/what-is-a-silk-lawyer/>
- <https://www.thelawyerportal.com/careers/difference-between-solicitor-and-barrister/>

### Extra activity 2:

Match the type of lawyer who does litigation on the left to the correct role on the right.

Lawyer	Role
1. <i>barrister</i>	a. focuses on litigation work but can also do transactional work (USA and England)
2. <i>solicitor-advocate</i>	b. specialises in advocacy (England)
3. <i>litigator</i>	c. has taken a further qualification to gain the same rights of audience as barristers to represent clients in all courts and can do transactional and non-transactional work (England)

Answers: 1. b; 2. c; 3. a

See also Extra activity 2 in Teacher notes for Exercise 3.14 Chapter 1: Networking.

- 1.3 **Extra activity:** Ask students to watch a clip showing litigation from a legal drama or film, for example:

American legal dramas:

- Suits
- How to Get away with Murder
- Better Call Saul

British legal dramas:

- Judge John Deed
- Silk
- The Split

Ask students how the litigation in the clip compares to their own experience.

## 2. Written advocacy

### 2.2 Post-exercise

**Teacher tip:** Some students may use the word *summons* to refer to various court documents. A summons is an official notice requesting the recipient to do something in

relation to a lawsuit. The term is rarely used in England now due to changes to Civil Procedure Rules. For example, many specific types of summons, such as *writ of summons*, have now been replaced with *claim form*. The claim form is the document that gives official notice of a lawsuit in England. Some forms of summons still exist in England, for example a *witness summons* which was previously called a *subpoena*.

In the USA *summons* and *subpoena* are still used.

**Extra activity:** Ask students to look at and compare these templates:

**Templates for the USA:**

A complaint

<https://www.uscourts.gov/forms/pro-se-forms/complaint-civil-case>

A summons

<https://www.uscourts.gov/forms/notice-lawsuit-summons-subpoena/summons-civil-action>

A subpoena

<https://www.uscourts.gov/sites/default/files/ao088.pdf>

**Templates for England:**

A claim form

<https://www.gov.uk/government/publications/form-n1-claim-form-cpr-part-7>

A witness summons

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/785017/n20-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785017/n20-eng.pdf)

**Template for arbitration:**

Request to arbitrate

<https://www.international-arbitration-attorney.com/model-request-for-arbitration/>

**Teacher tip:** It can be difficult to find real examples of completed court documents online. The system used to purchase real examples is:

<https://efile.cefile-app.com/login>

These books contain examples:

- Kevin Browne and Margaret Catlow, *Civil Litigation 2021/2022*, (The University of Law 2021)
- David Emmet, *Drafting* (Oxford University Press, 20th Edn. 2020)
- Robert McPeake (editor), *Advocacy* (Oxford University Press, 20th Edn. 2020)

These websites can be used to find case documents in the USA:

<https://dockets.justia.com/> and here <https://pacer.uscourts.gov/>.

## 2.11 Post-exercise

**Extra activity:** Ask students to read and summarise this article:

<https://globalarbitrationreview.com/guide/the-guide-advocacy/fourth-edition/article/written-advocacy>

**Teacher tip:** There are many resources online about storytelling in trial advocacy. Be aware that if these are written for a US audience, they will most likely be about techniques to persuade a jury rather than a judge or arbitrator. These techniques may still be useful

for your students. You could encourage students to discuss what the differences could be, and why, between persuading a judge or arbitrator compared to a jury.

### 2.13 Post-exercise

**Teacher tip:** The vocabulary in Phrase bank 11.2 can be adapted to talk about a breach of contract. If you are working with students who deal with breach of contract claims, ask them to tell a story about one of their cases with the following adapted vocabulary. You can tell the students to make up party names to avoid revealing the real party names which may be confidential.

Phrase bank 11.2	
<p><b>Introduction</b></p> <p><i>The Claimant alleges that the Defendant has [actions done e.g. failed to make payments due for products supplied] which constitutes [cause of action e.g. a breach of contract].</i></p> <p><i>This is a claim for [remedy e.g. damages] arising out of [cause of action e.g. a breach of contract]</i></p> <p><b>Characters</b></p> <p><i>The Claimant [name] is a registered company in [jurisdiction], with its registered office at [address]. The Claimant is a company which [describe business activities]. To the best of the Claimant's knowledge the Defendant [name] is [describe Defendant's business]</i></p>	<p><b>Middle</b></p> <p><i>The Parties entered into a contract on ... [describe contract]</i></p> <p><i>The Defendant has breached the contract in that: [describe contract breach]</i></p> <p><b>End</b></p> <p><i>By reason of these acts of [cause of action e.g. contractual breach], the Defendant has caused the Claimant loss and damage. The claimant seeks [describe remedy].</i></p>

### 2.14 Post-exercise

**Extra activity:** Ask students to read and summarise this article explaining what logos, ethos, and pathos mean:

- <https://law.marquette.edu/facultyblog/2014/01/logos-ethos-and-pathos-in-persuasive-writing/>

Then present this legal aphorism to students:

*"If you have the facts on your side, pound the facts. If you have the law on your side, pound the law. If you have neither on your side, pound the table."* – anonymous  
<https://quoteinvestigator.com/2010/07/04/legal-adage/>

Ask students to discuss what it means and whether they agree with it. Students should be able to see that it refers to different ways to persuade. One interpretation could be this: If you have strong facts, you could present these to show that you should win because it is the fair thing. If the law is in your favour, you could argue that the judge should rule in your favour because it is logically right. If someone is angry it may mean that they have neither a good factual basis nor a good logical argument to win.

Another quote you could present for discussion is this:

*"... think of logos, pathos, or ethos think of them as dials, right? You have three dials. And you can't turn all the dials to 100. Right? You can't turn them all the way up. You can't be telling the terrible story of what happened, while trying to be seen as the most honest lawyer of all time for your ethos, while also making the logical argument, it doesn't work*

*like that. As one dial goes up, another dial goes down.*” – Jonah Perlin, Episode 117: Jonah Perlin – Persuasive Legal Writing (Interview), The Study Legal English Podcast (listen to the audio at 42:54) <https://studylegalenglish.com/episode117/>

- 2.16 **Helpful resource:** This website could help students identify the parts of speech: <https://parts-of-speech.info/>.

### 3. Oral Advocacy

#### 3.6 **Helpful resources:**

Court traditions in England:

- <https://www.judiciary.uk/about-the-judiciary/the-justice-system/court-traditions/>

Court etiquette in England:

- <https://www.gov.uk/guidance/what-to-expect-coming-to-a-court-or-tribunal>

Online court etiquette:

- <https://www.canadianlawyermag.com/practice-areas/litigation/translating-common-courtroom-etiquette-to-a-digital-environment/354626>

- 3.7 **Extra activity:** Ask students to watch some videos of lawyers in court in legal dramas, films, and real life. See note to Exercise 1.3 above for some examples of legal dramas. Discuss the poise of the lawyers.

- 3.11 **Helpful resource:** This video is about how to introduce yourself in court and arbitration: <https://legalenglish.hk/oral-advocacy-2-introducing-yourself/>

- 3.12 **Helpful resource:** See this article about modernising judges' titles in England and Wales: <https://www.lawgazette.co.uk/news/no-more-sir-or-madam-obsolete-dj-titles-axed/5114484.article>

#### 3.14 **Pre-exercise**

**Extra activity:** Ask students:

- *What did you do yesterday?*
- *Did you see a friend yesterday?*
- *Did you see me yesterday?*

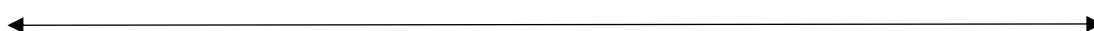
Ask them to discuss who (teacher or student) has more control over what is said in each question. Students should be able to see that the first question gives them more control, the second question gives them less control, and the third question gives them even less control.

#### **Post-exercise**

**Extra activity:** Ask students where they would place *examination-in-chief* and *cross-examination* on the following scale.

Witness in control

Lawyer in control



*Witness has complete freedom to say what he or she wants*

*Witness is limited in some way to give a more specific answer*

*Witness is prompted to give a very specific answer*

**Answer:** Examination-in-chief should be middle and to the left. Examination-in-chief should be on the right.

3.16 **Helpful resource:** This article is about direct and redirect examination in arbitration but is also relevant for litigation:

- <https://globalarbitrationreview.com/guide/the-guide-advocacy/fourth-edition/article/direct-and-re-direct-examination>

3.20 **Helpful resources:** These articles are about cross-examination in arbitration but are also relevant for litigation:

- <https://globalarbitrationreview.com/guide/the-guide-advocacy/fourth-edition/article/cross-examination-of-fact-witnesses-the-civil-law-perspective>
- <https://globalarbitrationreview.com/guide/the-guide-advocacy/fourth-edition/article/cross-examination-of-fact-witnesses-the-common-law-perspective>

There are many examples of cross-examination in legal dramas and films as well as online. For real-life examples, search for the defamation case of John C. Depp, II v. Amber Laura Heard (CL–2019–2911) tried in the Fairfax Virginia, Circuit Court in 2022. Although this case was between individuals and not companies, it contains many examples of good advocacy.

3.21 **Teacher tip:** You could ask students to do this role play standing up before the class. Encourage students to use poise and voice to be confident and credible. You may also make it more realistic by allowing students to project some of the Exhibits they refer to on the screen during this activity.

There is no right or wrong way to do this activity. One line of questioning could be:

- |    |   |
|----|---|
| Q: | Mr Hassan, in your witness statement you state, “ <i>Bespeak is an app which uses a novel commuter programming process to connect to users’ social media accounts and automatically respond to posts.</i> ” Correct?  |
| Q: | Your Honour, I’d like to get Exhibit KH2 on screen please.  |
| Q: | Mr Hassan, you can see Exhibit KH2 which is the Claimant’s UK Patent No. 257980, correct?   |
| Q: | And the Bespeak patent is for, I quote, “ <i>A process for generating automatic reactions to social media communications. The app is composed of a post analyser system and a decision tree which connects to users’ emails, social media accounts, and online dictionaries to gather information ...</i> ”, correct? |
| Q: | And am I correct that patented processes must be new inventions?  |
| Q: | And patented process must not be in the public domain?  |
| Q: | Being in the public domain means information that everyone can see or know about?   |
| Q: | Mr Hassan, did you invent social media?   |
| Q: | Did you invent emails?  |
| Q: | Did you invent a decision tree?   |
| Q: | So, the process for Bespeak uses things which had already been invented, yes?   |
| Q: | The process for Bespeak uses things which everyone can see or know about, right?  |
| Q: | OK. You graduated from University of Cairo in 2016, correct?  |
| Q: | And your witness statements says that you were interested in AI in communications then, right?  |

- Q: And you are still interested in communications now, right?
- Q: So you haven't changed ideas, correct?
- Q: Your Honour could I get Exhibit KH1 on screen please.
- Q: This is an extract from your university thesis, which you wrote in 2016, is that correct?
- Q: I'm just going to read out an extract, you said "*Currently the law acts as a barrier to the development of AI. When companies patent ideas they block progress. I propose a new human right to global communication without barriers where people are free to connect across artificial geographical borders online. Information must stay within the public domain and not be privatised ...*" Did I read that correctly?
- Q: And you just admitted that your ideas have not changed since university correct?
- Q: And you understand that this case is about claims of a patent, correct?
- Q: A patent is a kind of intellectual property, right?
- Q: And something that is not in the public domain, correct?
- Q: And yet you applied for a UK patent for Bespeak in 2018, just a couple of years after you wrote this dissertation?
- Q: And now, you are despite saying that you don't believe in patents, you are now suing Incoms for patent infringement?
- Q: Let's talk about this patent infringement. You did just say that a patent is given to something not in the public domain, correct?
- Q: In your witness statement you state that you met Jasper Johnson in 2019, correct?
- Q: This was before the UK patent for Bespeak was granted?
- Q: And Jasper was already researching AI and communications?
- Q: Your Honour, could I get up Exhibit KH3 on screen please?
- Q: In January 2020 Jasper sent you a message stating "*So... Incoms offered me a job! We're working on automated communications too, but you know, using my university research... very different to your stuff.*" And you replied stating "*Oh congrats! Your research was so ground-breaking. Looking forward to hearing about it! And it's free! #Informationfreedomrevolution!*" You did not at that point state that he was infringing your patent?
- Q: And in the year January 2020 to January 2021 you did not inquire about the product that Jasper was developing?
- Q: And on 14 January 2021, there was an exchange of messages. You said "*Hey Jasper! Congrats on your app. It's very cool. But we need to talk ... it seems similar to Bespeak ...*". You did not state that Incoms was infringing your patent.
- Q: And Jasper said in response to your message "*No, trust me we figured out a different way to do things. Don't worry.*" To which you replied "*Yes, I trust you. But could we speak about it?*"
- Q: Did you trust Jasper?
- Q: When you trust someone you believe what they say?
- Q: You believed at that point that Incoms was not infringing your patent?

## Extra resources

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### Videos

- The Billion Dollar Code: <https://www.netflix.com/title/81074012> with court documents available here: <https://www.courtlistener.com/docket/4220416/artcom-innovationpool-gmbh-v-google-inc/?page=3>
- YouTube video about Trademarks & Intellectual Property films: <https://www.youtube.com/watch?v=k1JKKFz33h0>
- YouTube channels: <https://www.youtube.com/c/LawCrimeNetwork/>  
<https://www.youtube.com/c/COURTTV>
- Examples of appellate advocacy in England: <https://www.youtube.com/channel/UCvLfleTq5grIEkc7JvOpoxg>
- Oral advocacy videos: <https://legalenglish.hk/watch/oral-advocacy/>

### Websites

- <https://globalarbitrationreview.com/guide/the-guide-advocacy/fourth-edition> for advocacy in arbitration
- <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure/federal-rules-civil-procedure>

### Books

- Kevin Browne and Margaret Catlow, *Civil Litigation 2021/2022*, (The University of Law 2021)
- David Emmet, *Drafting* (20<sup>th</sup> edn, Oxford University Press 2020)
- Peter Lyons, *Advocacy*, (Wildy, Simmonds & Hill Publishing 2019)
- Thomas A Mauet, *Trial Techniques and Trials* (10<sup>th</sup> edn, Aspen Publishers 2017)
- Robert McPeake (editor), *Advocacy* (20<sup>th</sup> edn, Oxford University Press 2020)
- Iain Morley, *The Devil's Advocate*, (2<sup>ns</sup> edn, Sweet & Maxwell 2009)
- Tim Press, *Concentrate Intellectual Property* (4<sup>th</sup> edn, Oxford University Press 2019)
- Francis L. Wellman, *The Art of Cross Examination* (12<sup>th</sup> edn, American Bar Association 2010)

# Audio Notes

## Introduction

These audio notes accompany *Practical English Language Skills for Lawyers: Improving Your Legal English* by Natasha Costello and Louise Kulbicki. They show the audio track number for each exercise and list the audio credits.

The audios include a range of native and non-native speakers and are designed to be authentic. Most of the speakers speak at normal speed. Some students might find this difficult/too fast. Many media players nowadays allow you to adjust the speed of tracks. Therefore, if you need to adjust the tempo, please use an audio player that allows for this. Alternatively, read the transcript before listening, or while listening to the audio tracks to help.

## Audio tracks

Chapter	Audio track	Exercise(s)
1. Networking	1.1 1.2 1.3 1.4 1.5	2.3 3.2, 3.3 3.8, 3.9 3.15, 3.16 4.2, 4.3
2. Telephoning and conference calls	2.1 2.2 2.3 2.4 2.5	3.2 3.3 3.5, 3.6, 3.7, 4.5 4.7, 4.8 4.9
3. Client meetings	3.1 3.2 3.3 3.4	2.3, 2.7, 2.12, 2.22 2.15, 2.17, 2.18, 2.19, 2.20, 2.22 3.1, 3.2 3.3, 3.4
4. Legal writing	4.1 4.2 4.3	3.1, 3.2, 3.6, 3.15 3.7, 3.8 3.27, 3.28
5. Presentations	5.1 5.2 5.3 5.4 5.5 5.6	2.3 2.5 2.7 2.15, 2.16 2.23 3.3
6. Social media marketing	6.1 6.2 6.3 6.4 6.5	2.2, 2.3 2.10 2.16 3.1, 3.2 3.16

7. Job applications and interviews	7.1 7.2 7.3 7.4 7.5 7.6	2.2, 2.3, 2.4 2.5, 2.6, 2.7 4.2 4.4 4.6 4.8
8. Contract drafting and review	8.1 8.2 8.3 8.4	1.5, 1.6 2.1, 2.2, 2.3, 2.4 4.2, 4.3, 4.4, 4.5 4.6, 4.7
9. Contract negotiations	9.1 9.2 9.3 9.4 9.5 9.6	2.1, 2.2 3.2, 3.3, 3.4 3.7 3.10, 3.11, 3.14, 3.15 3.21, 3.22 3.25, 3.26
10. Alternative dispute resolution	10.1 10.2 10.3 10.4	1.4, 1.5, 1.8 1.6, 1.7, 1.8 2.1 3.5, 3.6, 3.7,
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## Credits

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Fabian Nilsson	Anton Flärd
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Annabelle	Bronte Tadman
Clerk 1	Bronte Tadman
Feven Tadesse	Bronte Tadman
Helena	Bronte Tadman
Sam	Bronte Tadman
Ethan Mowry	Darren Kuppan
Sanjit	Darren Kuppan

Sudhvir Singh	Darren Kupan
Marcin Wójcik	Dawid Sztuwe
Zhara	Gelan Badr
Edmund	James Dangerfield
Judge 1	James Dangerfield
Matt Hogan	James Dangerfield
Philip Prescott	James Dangerfield
Theo Powell	James Dangerfield
Victor	James Dangerfield
Asim	James Dangerfield
Daryl	James Dangerfield
Mr Lee	James Dangerfield
Leya	Judith Amsenga
Alice Mason	Laura Harling
Clarissa Porterfield	Laura Harling
Janice	Laura Harling
Sofia	Laura Harling
Sofia Horvat	Laura Harling
Sophie Driscoll	Laura Harling
Judge 2	Laura Harling
Lawyer	Laura Harling
Marlon Maier	Markus Schabbing
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Paul Turner	Tom Newman
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Brent Riley	Tom Newman
David Lin	Tom Newman
Ivan Sever	Tom Newman
Johnny Parker	Tom Newman
Mr Dixon	Tom Newman

<sup>i</sup> Networking <<https://dictionary.cambridge.org/dictionary/english/networking>> accessed 24 May 2022

<sup>ii</sup> Dale Carnegie, *How to Win Friends and Influence People* (Simon & Schuster 2009)

<sup>iii</sup> Bryan A Garner, 'Interviews with United States Supreme Court Justices' (2010) 13 *The Scribes Journal of Legal Writing* 134

<sup>iv</sup> Martin Cutts, *Oxford Guide to Plain English* (5<sup>th</sup> edn, Oxford University Press 2020) 89

<sup>v</sup> 'agreement' and 'contract', *Black's Law Dictionary* (9<sup>th</sup> edn, Thomson Reuters 2009)

<sup>vi</sup> Daniel Greineder (Peter & Kim) 'Arbitrators Don't Speak Esperanto: The Difficulties and Dominance of English as a Procedural Language in Arbitration' (*Kluwer Arbitration Blog*, 7 November 2021) / <<http://arbitrationblog.kluwerarbitration.com/2021/11/07/arbitrators-dont-speak-esperanto-the-difficulties-and-dominance-of-english-as-a-procedural-language-in-arbitration/>> accessed 12 January 2022