



Nottingham  
Law School  
Nottingham Trent University

# ALT 60<sup>th</sup> anniversary event – law and language

**Law and Language: Future Directions**

**Jane.ching@ntu.ac.uk**



“Law is language. It is not solely language, since it is a social institution manifested also in non-linguistic ways, but it is a profoundly linguistic institution. Laws are coded in language, and the processes of the law are mediated through language.”

John Gibbons, 2003

# What people *think* lawyers do with language



- Lawyers enjoy a little mystery, you know. Why, if everybody came forward and told the truth, the whole truth, and nothing but the truth straight out, we should all retire to the workhouse.
  - Dorothy L Sayers
- The laws and the stage, both are a form of exhibitionism.
  - Orson Welles
- Those who lie, conceal and distort everything and slander everybody
  - Jean Girardoux
- It is a strange trade that of advocacy. Your intellect, your highest heavenly gift is hung up in the shop window like a loaded pistol for sale.
  - Thomas Carlyle

# What *lawyers* think lawyers do with language

- ...lawyers, whose trade it is to question everything, yield nothing, and talk by the hour? ...
  - Thomas Jefferson
- Lawyers spend a great deal of their time shovelling smoke.
  - Oliver Wendell Holmes
- Lawyers -- a profession it is to disguise matters.
  - Thomas More



**Prescribe, describe, persuade,  
translate**



# Prescribe



## ■ Applying for declaration

(1) This section applies where a person who is missing—

(a) is thought to have died, or

(b) has not been known to be alive for a period of at least 7 years.

(2) Any person may apply to the High Court for a declaration that the missing person is presumed to be dead.

(3) The court has jurisdiction to hear and determine an application under this section only if—

(a) the missing person was domiciled in England and Wales on the day on which he or she was last known to be alive,

(b) the missing person had been habitually resident in England and Wales throughout the period of 1 year ending with that day, or

(c) subsection (4) is satisfied.

(4) This subsection is satisfied if the application is made by the spouse or civil partner of the missing person and—

(a) the applicant is domiciled in England and Wales on the day on which the application is made, or

(b) the applicant has been habitually resident in England and Wales through

(5) The court must refuse to hear an application under this section if—

(a) the application is made by someone other than the missing person's

(b) the court considers that the applicant does not have a sufficient inter

(6) This section has effect subject to section 21(2).



### *Presumption of Death Act 2013*

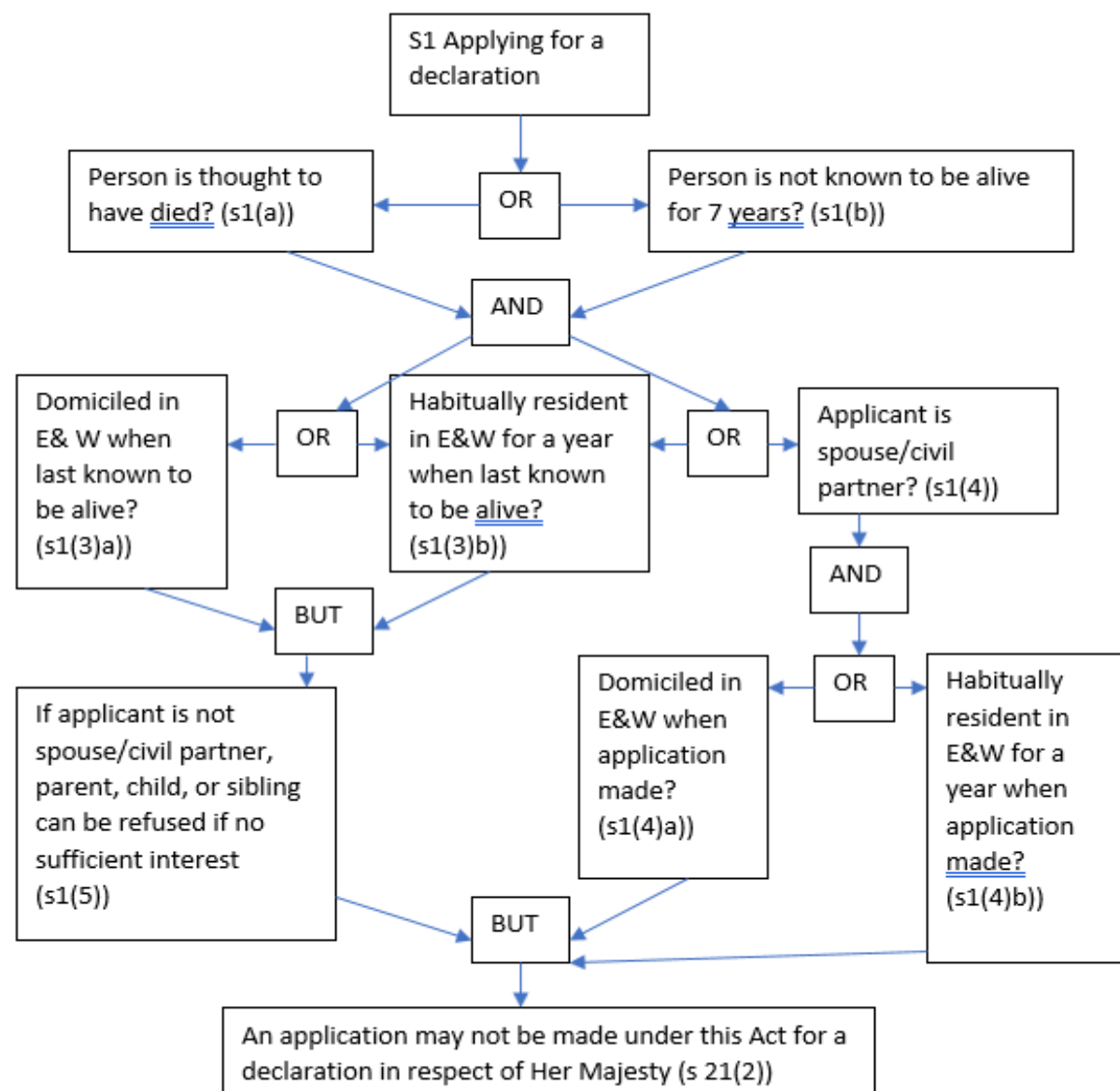
#### **2013 CHAPTER 13**

*An Act to make provision in relation to the presumed death of missing persons; and for connected purposes.*

*BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—*

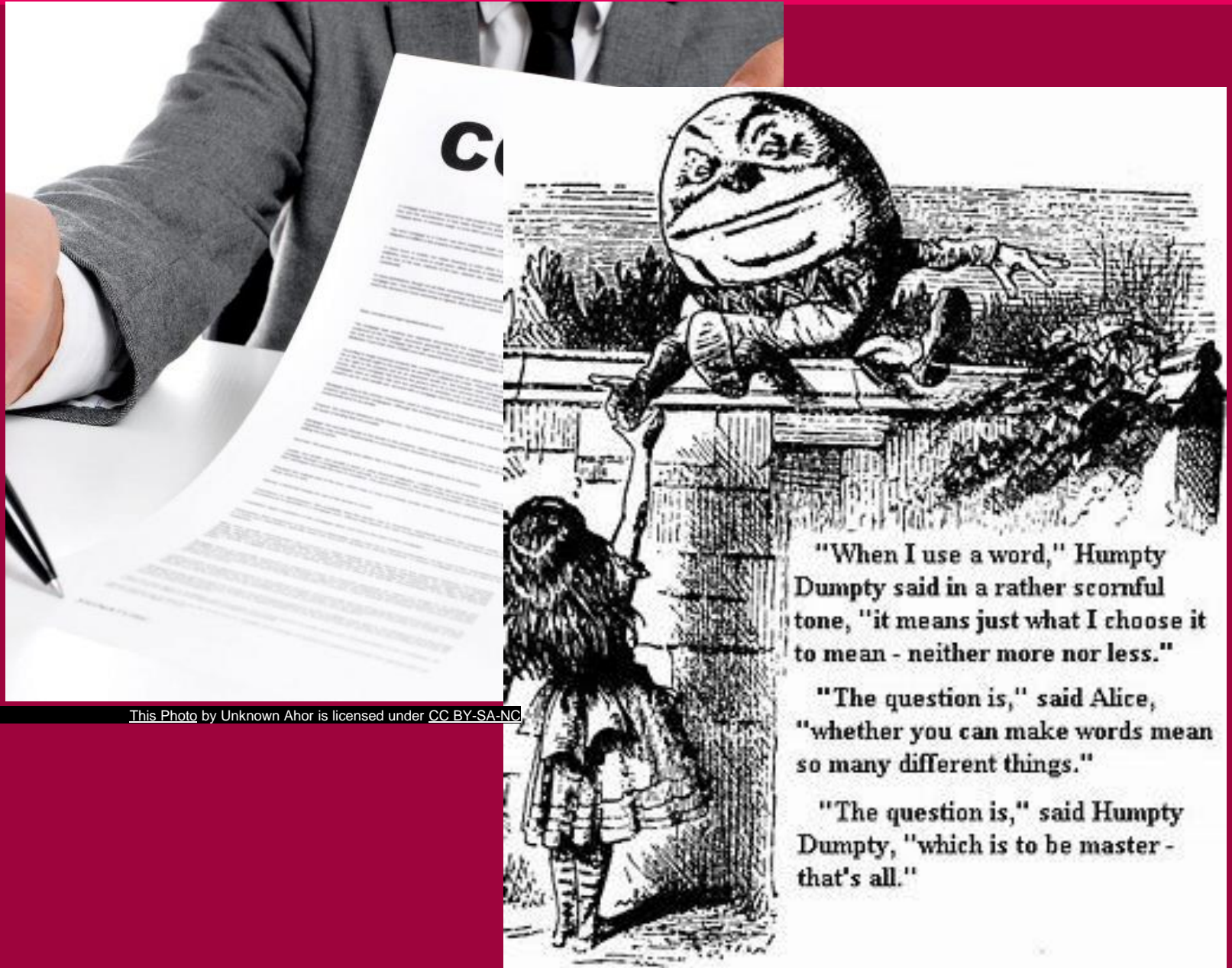
*[26th March 2013]*







# Describe



**Most litigated: reasonable, agree, timely, offer, notify, send, receive, and, or, best efforts (reasonable endeavors), (not) unreasonably withheld, consent, representation, condition, material knowledge, material adverse effect, notice, effective notice, prior notice, constructive notice, notification, termination, expiration, effective date, timely .**

**Eversheds Sutherland LLP 2011**

# Success is:

- Unlikely/improbable
- 15%
- Likely/probable
- 70%
- Possible
- 15% - 95%
- You have:
  - A good chance of winning
  - A small chance of losing
- So “beyond a reasonable doubt” means ..?



# Persuade

**“I know you lawyers can with ease,  
Twist words and meanings as you  
please; That language, by your skill  
made pliant, Will bend to favour every  
client”**

**John Gay**



**You can go about your business. These aren't the 'droids you're looking for...**

O **perilous** mouths,  
That bear in them one and the self-same  
tongue,  
Either of condemnation or approval;  
Bidding the law make court'sy to their will:

***Measure for Measure***





# Sometimes it's just listening to what is said (or not)

- **C**-- Did you ever kiss him?
- **W**--Oh, dear no. He was a peculiarly plain boy. He was, unfortunately, extremely ugly. I pitied him for it.
- **C**--Was that the reason why you did not kiss him?  
...
- **C**--Did you say that in support of your statement that you never kissed him?  
...
- **C**--Did you ever put that forward as a reason why you never kissed the boy?  
...
- **C**--Why, sir, did you mention that this boy was extremely ugly?





Project

## Accent Discrimination and the Bar

**Unit(s) of assessment:** Communication, Cultural and Media Studies, Library and Information Management

**Research theme(s):** [Safety and Sustainability](#)

**School:** Nottingham Law School; School of Social Sciences

### Overview

In the 21<sup>st</sup> century, accent prejudice continues to be an issue which reduces social mobility for large numbers of people within the UK. Language is not explicitly protected under the Equality Act 2010 and therefore accent can form a basis on which to discriminate, particularly in elite professions.

This inter-disciplinary team is interested in approaches to research within the fields of Linguistics and Law to help understand more about implicit accent bias affecting barristers. The importance of accents in the workplace and how speakers are judged for having non-standard accents will be investigated. We will examine whether Received Pronunciation (RP) is regarded as the 'appropriate' way to speak for barristers.

Barristers specialise in presenting formalised legal arguments before courts and tribunals. As a result, considerable proficiency is placed



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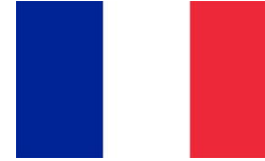
# Translate

**...through a translator, one can be heard and understood in places where otherwise one is mute. ... translation offers both an image of the constraints upon a lawyer's ability to represent fully his client's story and a model for recognizing and managing ...changes in meaning in a way that may empower ... the client.**

**Cunningham 1991**

- Temporarily pausing a trial or court hearing
  - Adjournment (UK)
  - Continuance (USA)
- Bail (English)
  - Releasing someone from custody on condition they attend their court hearing
- Bail (French)
  - A lease of a piece of land
- Cargo (English)
  - Property being delivered on (eg) a ship
- Cargo (Spanish)
  - Burden (as in “burden of proof”)
- Trespass (English)
  - Enter someone else’s land without permission
- Trépas (French)
  - Death

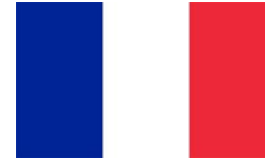
Goods and chattels



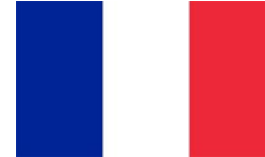
Will and testament



Breaking and entering



Give, devise and bequeath ...



# Translating (or not)

“My client was not there on the night of the offence...”

“My client instructs me that he was not there on the night of the offence ...”

*Alex Lawrie Factors v. Morgan and others* [2001] CP Rep 2, CA.

“Yo soy culpable”

# Implications





**It is the demands of the values and reasoning practices of the law that call forth the language students need to deploy, but it is only through language that students can enact the legal expertise they are required to demonstrate. An inclusive curriculum needs to incorporate both.**

**Moiraitis and Murphy, 2013**

**... a significant number of students have problems understanding the meaning of the words and phrases adopted by law academics when providing feed-back.**

**Jones and Ellison, 2020**

Widespread concerns are noted regarding the development of legal **writing**, and, to a somewhat lesser extent, research and reasoning skills. A discrete assessment in the skills of research, **writing** and critical thinking is therefore recommended as a necessary and proportionate response.

*Recommendation 10*

*The balance between Foundations of Legal Knowledge in the Qualifying Law Degree and the Graduate Diploma in Law should be reviewed, and the statement of knowledge and skills within the Law Statement should be reconsidered with particular regard to its consistency with the Law Statement and in the light of the other recommendations in this report. A broad content specification should be introduced for the Foundation subjects. The revised requirements should, as at present, not exceed 180 credits within a standard three-year Qualifying Law Degree course.*

*Recommendation 11*

*There should be a distinct assessment of legal research, **writing** and critical thinking skills as set out above in the Qualifying Law Degree and in the Graduate Diploma in Law. Educational providers should retain discretion in setting the context and parameters of the task, provided that it is substantial to give students a reasonable but challenging opportunity to demonstrate their competence.*

- 1.8
  - a) Use correct and appropriate vocabulary, **English** grammar, spelling and punctuation for all communications.
  - b) Speak fluent **English**.
- 1.9
  - c) Adapt language and non-verbal communication taking into account the needs of the audience.
  - d) Use appropriate listening and questioning techniques when obtaining information.
  - e) Request and provide clarification of meaning when appropriate.
  - f) Recognise and respond appropriately to communications from others (verbal or non-verbal).
  - g) Exercise good **English** language skills [1.8].
  - h) Write with clarity, accuracy and precision.
  - i) Speak articulately and fluently.
  - j) Present arguments cogently and succinctly.
- 1.10
  - a) Apply effective analytical and evaluative skills to their work [1.5].
  - b) Take responsibility for their decisions.

6. Legal drafting

Overview

This is a computer-based assessment. Candidates will be given 45 minutes to complete the task. This may take the form of a document already drafted but it may also involve drafting a document from scratch.

Assessment objective

Candidates can demonstrate they are able to draft a document for a client.

Assessment criteria

Candidates will be assessed against the following criteria:

Skills

1. Use clear, precise, concise and acceptable language.
2. Structure the document appropriately and logically.

Application

3. Draft a document for a client.
4. Draft a document for a professional body.

For further information, see the Legal Drafting section of the Law Statement.

15 min de lecture

[INTERVIEW] « Nos étudiants ne savent plus écrire »

Actualités

À l'ère du numérique, un professeur d'université tire la sonnette d'alarme et nous livre ses inquiétudes face au faible niveau d'orthographe des étudiants, et notamment en droit : scandale d'État, professeurs inadaptés, causes d'un tel niveau, pires fautes commises, influence sur la notation des copies, impact sur la vie professionnelle mais aussi conseils pour améliorer son français... Découvrez l'interview de Mme Denizot. ↴



Interpretation 302-2

A law school may also identify any additional learning outcomes pertinent to its program of legal education.

Standard 303. CURRICULUM

A Guidance Memo is available here:  
[https://www.americanbar.org/groups/legal\\_education/accreditation/consultants\\_memos/](https://www.americanbar.org/groups/legal_education/accreditation/consultants_memos/)

- (a) A law school shall offer a curriculum that requires each student to satisfactorily complete at least the following:
- (1) one course of at least two credit hours in professional responsibility that includes substantial instruction in rules of professional conduct, and the values and responsibilities of the legal profession and its members;
  - (2) one **writing** experience in the first year and at least one additional **writing** experience after the first year, both of which are faculty supervised; and
  - (3) one or more experiential course(s) totaling at least six credit hours. An experiential course must be a simulation course, a law clinic, or a field placement, as defined in Standard 304.

# Potential for research and education



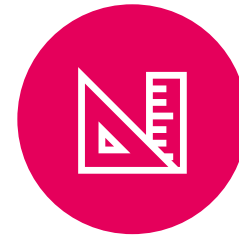
EXPRESSIONS  
OF RISK



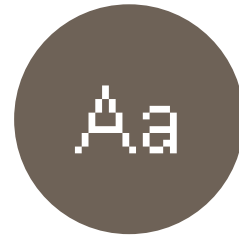
FORMALITY AND  
INFORMALITY IN  
THE COURTS



CHALLENGES  
OF  
TRANSLATION



LEGISLATIVE  
DRAFTING AND  
ANALYSIS



LEGAL WRITING  
AND PLAIN  
ENGLISH



**Justice Sheehan**

And such news of an amicable settlement having made this Court happier than a tick on a fat dog because it is otherwise busier than a one legged cat in a sand box and, quite frankly, would have rather jumped naked off of a twelve foot step ladder into a five gallon bucket of porcupines than have presided over a two week trial of the herein dispute, a trial which, no doubt, would have made the jury more confused than a hungry baby in a topless bar and made the parties and their attorneys madder than mosquitoes in a mannequin factory;

**IT IS THEREFORE ORDERED AND ADJUDGED** by the court as follows:

- American Bar Association, *ABA Standards and Rules of Procedure for Approval of Law Schools 2024-2025* (American Bar Association, Section of Legal Education and Admissions to the Bar 2024) <[https://www.americanbar.org/content/dam/aba/administrative/legal\\_education\\_and\\_admissions\\_to\\_the\\_bar/standards/2024-2025/2024-2025-standards-and-rules-for-approval-of-law-schools.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2024-2025/2024-2025-standards-and-rules-for-approval-of-law-schools.pdf)> accessed 10 June 2025
- Anon, ‘« Nos étudiants ne savent plus écrire », Aude Denizot’ (*PamplermousseMagazine*, 9 February 2023) <<https://www.pamplermousse-magazine.co/post/interview-orthographe-aude-denizot>> accessed 10 June 2025
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- —, ‘“Is He a Barrister or Not?”: A Study on Perceived and Actual Accentism at the Bar of England and Wales’ (2024) 31 *International Journal of Speech, Language and the Law* 1
- Cunningham CD, ‘A Tale of Two Clients: Thinking about Law as Language.’ (1989) 87 *Michigan Law Review* 2459
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- Underhill K, ‘Tick on a Fat Dog’ (*Lowering the Bar*, 1 October 2015) <<https://www.loweringthebar.net/noteworthy-court-orders/tick-on-a-fat-dog>> accessed 10 June 2025
- Webb J and others, ‘Setting Standards: The Future of Legal Services Education and Training Regulation in England and Wales’ (*Legal Education and Training Review* 2013) <<http://letr.org.uk/the-report/index.html>> accessed 10 June 2025



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