



WRITING BYLAWS

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Writing a good bylaw is an art. It is very different from writing other types of documents, including [reports](#), [memos](#) and [letters](#). Read on to find out more...





1 THE PROCESS

You should always start the bylaw-writing process by asking yourself what exactly you want the bylaw to achieve.



Handy hint!

Try asking yourself the following questions:

- ✚ what exactly is the bylaw meant to achieve?
- ✚ what "situation" is the bylaw meant to correct or remedy?

Consider the following process:



1.1 CONSULTATION

Consult with councilors and officials to make sure that you understand –

- ✚ the purpose of the bylaw; and
- ✚ the subject of the bylaw.



Think it through!

Imagine that you need to write a bylaw on water supply. You need to have an understanding of how water supply works (ie. its technical aspects) before you can write the bylaw.



Handy hint!

Talk to officials who work in water supply and try to develop an understanding of how water supply works.





1.2 PREPARE A FIRST DRAFT

It is often hardest to prepare the first draft, but take a deep breath and write the first draft of your bylaw.



Danger!

The first draft of your bylaw will often be fairly rough and should not be used as a final draft.

1.3 CONSULT AGAIN

Ask officials to comment on –

- the technical aspects covered by the bylaw; and
- the way in which the bylaw is written.



Handy hint!

Be open to constructive criticism of your first draft. Good criticism can often help you to substantially improve the quality of your document.

1.4 EDIT THE DRAFT

Edit the draft to –

- ✗ correct spelling, grammatical and punctuation errors; and
- ✗ make appropriate amendments based on constructive criticism received.



1.5 FINALISE THE BYLAW

Once you have made necessary amendments, try and leave the bylaw aside for a few days and then come back to it for a final edit.



Think it through!

Leaving the bylaw aside for a few days allows you to look at the bylaw with "fresh eyes". New idea will emerge when you look at the bylaw again.



2 WORDS

Words are strange things. They are the basic units through which we communicate with others, but they are so open to misunderstanding and abuse. Here are some simple rules to follow...

2.1 SIMPLE IS GOOD!

It is often tempting to use long, sophisticated words.



Handy hint!

In bylaw drafting remember that your goal is to create a bylaw which is readable and understandable by as many people as possible in your community.



Danger!

There is always a danger to use complicated words in order to show how clever we are. But that is not the point – you are striving for a bylaw which is **easily** understandable!





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Handy hint!

Once you have prepared a first draft, go through your bylaw and look at each word used. Consider whether any word may be replaced with a simpler word.



X-ample!

"A street trader shall regularly **eradicate** any litter left on his or her site" could be changed to "A street trader shall regularly **remove** any litter left on his or her site".



2.2 KEEP IT SHORT AND SIMPLE!

We are also often tempted to use **unnecessary** words.



Think it through!

Often what we say could be re-said in a much shorter and clearer manner.



Think it through!

Consider your draft bylaw and ask whether each word is in fact necessary to convey your meaning. Where words just duplicate the meaning, consider removing them.



X-ample!

"A street trader shall **eradicate, remove** and appropriately **dispose** of any litter left on his or her site", could be replaced with "A street trader shall regularly **remove** any litter left on his or her site".



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2.3 DEFINITIONS



It is often appropriate to define terms used in your bylaw.



Think it through!

A definition provides a technical explanation for the meaning of a term.



X-ample!

"Street trading" means the selling of any goods, or the supplying of any service, for reward in a public road or public place.

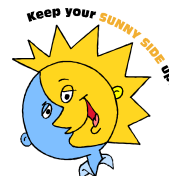
2.4 ORDINARY MEANING

Words can have different meanings. You need to be sure that the words you are using in your bylaw are used in a way which have the ordinary meaning ascribed by the average member of the community.



Danger!

Don't use a word other than in its ordinary meaning unless you provide a **definition**.



2.5 CONSISTENCY

The terms used in your bylaws should be used consistently.



Think it through!

You should not use one term to describe an object in part of the bylaw and then use another term elsewhere to describe the same object.



X-ample!

If you are writing a street trading bylaw, refer to "street trader" throughout rather than both "street trader" and "informal trader".

2.6 ABBREVIATIONS

Be careful about using abbreviations unless these have been appropriately defined.



Think it through!

Even if appropriately defined, abbreviations can be tiresome as the reader is forced to constantly refer back to the definition section. Consider using the full name or word rather than an abbreviation.

3 STRUCTURE

3.1 THE GOLDEN RULE

Your bylaw should be structured in a logical manner, so that the ideas flow naturally.



Handy hint!

Think about what you want your bylaw to achieve and then consider the order in which you should deal with matters. The order should be logical and make sense to the reader.



X-ample!

If you were writing Street Trading Bylaws you might provide the following structure:

- definitions;



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- the creation of street trading areas;
- conduct by street traders which is prohibited;
- the street traders obligation to keep their site clean;
- the removal and impoundment of street trading equipment and goods;
- offences and penalties.



3.2 PARAGRAPHS

There are two things to bear in mind when writing the paragraphs which constitute your bylaw:

- paragraphs should be kept as short as possible;



Think it through!

A reader will lose track if your paragraph is too long. A long paragraph is difficult to read and confusing.

- each paragraph should contain a separate idea;



Think it through!

Each paragraph should contain, and explain, a separate idea.



Danger!

Make sure that a single idea is not dealt with across two or more paragraphs.



3.3 NUMBERING

It is useful to number the paragraphs of your bylaw.



Think it through!

Numbering is useful because it provides an easy way of referring to a specific part of the bylaw. Without numbering, we would have to say "Have a look at the third paragraph on the third page of the Street Trading Bylaw". However, with paragraph numbering we can say "Have a look at paragraph 5(3) of the Street Trading Bylaws".

The numbering system is usually as follows

Number	Paragraph	Example
1.	Main paragraph	1. An authorized official may remove and impound any property of a street trader -
1(1)	Sub-paragraph	1. An authorized official may remove and impound any property of a street trader - (1) which he or she reasonably suspects of being used in connection with street trading with street trading if -
1(1)(a)	Sub-sub-paragraph	1. An authorized official may remove and impound any property of a street trader - (1) which he or she reasonably suspects of being used in connection with street trading which - (a) he or she finds at a place where street trading is restricted or prohibited provided that -
1(1)(a)(i)	Sub-sub-sub paragraph	1. An authorized official may remove and impound any property of a street trader - (1) which he or she reasonably suspects of being used in connection with street trading which - (a) he or she finds at a place where street trading is restricted or prohibited provided that -



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		(i) he or she is of the opinion that an infringement of these bylaws has been committed; and etc
--	--	--

Main paragraphs are normally indicated by a numeral.



X-ample!

1.

Sub-paragraphs are then indicated by a numeral in brackets.



X-ample!

(1)

Further sub-paragraphs are indicated by lower case letters and roman numerals in brackets.



X-ample!

(a)

(i)

This numbering system indicates the structuring and relative ordering of the paragraphs in question.



Handy hint!

There are often cross references between paragraphs in a bylaw.



Think it through!

For example: "Subject to the provision of paragraph 6(a), a street trader may..."



Danger!

During the editing process (please see [The Process](#)), make sure that you update and correct any cross references if you have deleted or added paragraphs. You must check, for example, that paragraph 6(a) "still exists and" still refers to the paragraph you intend it to.



3.4 HEADINGS

It is useful to give paragraphs in your bylaws a heading



Think it through!

A heading helps the reader to understand the overall structure of the bylaw and gives the reader a quick sense of what the topic of the paragraph in question is.



Handy hint!

Make sure that you use simple headings which correctly reflect the content of the paragraph.



3.5 PROVISO

A proviso is a provision in a bylaw which limits the scope or operation of a previous provision in the bylaw.



X-ample!

Consider the following paragraphs in a Water Supply Bylaw:



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"The council must require a consumer to deposit a sum of money as security to cover the estimated costs of water to be consumed: *provided that* the council may on written application by consumer accept from him or her a guarantee in respect of the sum of money".



Think it through!

The proviso in the example above limits the operation of the paragraph. The paragraph provides that council must demand a deposit, but the proviso says that council may at its discretion waive the deposit if the consumer provides an appropriate guarantee for payment of the water account.

Provisos are useful as a drafting tool because they allow the person drafting the bylaw to build in provisions which limit the operation of paragraphs.



Danger!

Be careful about using too many provisos as they can be difficult for the reader to understand and follow.

4 CONTENT

4.1 NO LEGALESE, PLEASE!

Legalese is a type of writing which uses lots of legal terminology and long complicated sentences.

When writing "legal" documents, such as bylaws, it is tempting to lapse into legalese but there is world-wide trend against the use of legalese, and in favour of the use of plain English.



Handy hint!

Check your bylaw to make sure that it has the minimum amount of legalese possible.



4.2 TOO CASUAL

While we should avoid excessive legalese, at the same time your document is an official document and should not be written in too casual or too informal a manner.



4.3 GENDER NEUTRALITY

Wherever possible, try to draft your bylaw in a manner which is gender neutral.

A gender neutral bylaw is a bylaw which is not drafted to favour either the male or female genders.



X-ample!

"An authorized official may, whenever **he** is of the view that..." could be changed to "An authorized official may, whenever **he** or **she** is of the view that..."

4.4 GENERAL APPLICATION

Bylaws should be drafted to, as far as possible, apply generally to all people in the communities under your area of jurisdiction, rather than to a specific person or class of persons.

4.5 REPETITION OF OTHER LAWS

It is common to find bylaws repeating the provisions of other laws, by copying those provisions into the bylaw.





Think it through!

Repetition of other laws is often done with the motive of creating a bylaw which is a "one stop" source of all the law on a particular topic. However, this does not create a good bylaw because you should stick to the topic of your bylaw.



Handy hint!

Attach an explanatory memorandum to your bylaw, referring the reader to other relevant laws.

5 GRAMMAR, PUNCTUATION AND SPELLING

5.1 GRAMMAR

Grammatical rules can be complicated, but here are a few pointers that will help you in drafting good bylaws.

5.1.1 Subjects, verbs and objects

A verb is word that shows action.



X-ample!

The dog **bit** the postman.

"Bit" is the verb as it shows the action of biting.

A subject is the thing which carries out the action (re: the verb).



X-ample!



The **dog** bit the postman.

"The dog" is the subject as it is the dog that carries out the biting.

An object is a thing which is acted upon by the subject.



X-ample!

The dog bit **the postman**.

"The postman" is the object as he was bitten by the dog.



In drafting bylaws, it is important to –

- ◆ identify the subject, verb and object in each of your sentences; and
- ◆ to make sure that no unacceptable gaps are left between these three items.



Think it through!

Long gaps between subject, verb and object can lead to confusing sentences.

5.1.2 The active voice

Sentences may be written in either the active or passive "voice".



Think it through!

An active voice shows the subject acting.



X-ample!

The dog bit the postman.





Think it through!

A passive voice shows something acting on the subject.



X-ample!

The postman was bitten by the dog.

Passive sentences are sometimes appropriate, but are complicated and sometimes difficult to understand. You should generally use the active voice when writing bylaws.

5.1.3 Present tense

Present tense shows the action happening in the present rather than –

 in the future; or



Think it through!



Future tense shows action happening in the future.



X-ample!

The dog will bite the postman next time he comes around.

 the past tense;



Think it through!

Sentences in the past tense show the action happening in the past.



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X-ample!



The dog bit the postman last Tuesday.

It is best to write your bylaws in the present tense.

5.1.4 The imperative mood

Sentences written in the imperative mood are in the nature of a command or order.



X-ample!

No street trader shall obstruct the passage of pedestrians along any pavement or public road.

Bylaws should generally be written in the imperative mood.

5.2 PUNCTUATION

You need to bear in mind the following types of punctuation when drafting bylaws.



5.2.1 Commas

A comma (,) is used to separate a list of items where the list occurs in one line.



X-ample!

The owner of any property on which council installs a meter **shall provide a place satisfactory for the installation of a meter, ensure that council has unrestricted access to the meter at all time and be liable for the costs of any damage to the meter.**

Commas may also be used to separate clauses and phrases in a sentence.



X-ample!

"The consumer shall, prior to the restoration of his or her water supply, pay the prescribed fee".

5.2.2 Semi colons

A semi colon (;) is used to separate a list of items which does not occur on the same line.



X-ample!

No customer shall permit –

- (1) the wasteful discharge of water from water fittings;
- (2) pipes or water fittings to leak;
- (3) an overflow of water to persist; or
- (4) an inefficient use of water to persist.

Depending on the meaning, the second to last item in a list of items such as that mentioned above ends with a "; or" or "; and".



5.2.3 Hyphen

A hyphen (-) is used to indicate the start of a list where the list contemplates a sentence with the previous words.



X-ample!

No customer shall permit –

- (1) the wasteful discharge of water from water fittings;
- (2) pipes or water fittings to leak;
- (3) an overflow of water to persist; or
- (4) an inefficient use of water to persist.



Think it through!

Note that the list continues the prior sentence "the wasteful discharge of water from water fittings" continues the words "No customer shall permit...".

5.2.4 Colons

A colon (:) is used at the beginning of a list where the items in the list do not complete a sentence with the previous words.



X-ample!

The council may waive any of the provisions of these water bylaws if it is of the opinion that the operation of that provision would be unreasonable in the circumstances, provided that council shall not waive any part of these bylaws which would result in the following consequences:

- (1) a wastage or excessive consumption of water;
- (2) the endangering of public health or safety; and
- (3) the non-payment for any water or related services.



Think it through!

Please note that the words "a wastage or excessive consumption of water;" do not complete the sentence commencing "The Council may...". Therefore a colon (:) is used.

5.3 SPELLING



Check each of the words in your bylaw for the correctness of spelling.



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Danger!

Be careful about using the Spell Check function in your word processing software. Spell Check does not pick up all spelling errors and may have, for example, been using American English rather than South African English as a standard.

Please feel free to use our Problem Solver [How do I...Check My Draft Bylaw for Quality?](#)

Well done! You have completed the "Writing Bylaws" module!