Legal English: Contract Drafting and Negotiating Masterclass

- Writing legal opinions, correspondence memoranda and email
- Drafting pre-contractual documentation
- Drafting general contractual terms and specific clauses
- Negotiation skills for lawyers
- Tactics, techniques and personalities
- Negotiating key clauses

Advanced Contract Law

- Warranties, representations and entire agreement clauses
- Liability risk protection including indemnities, exclusion and limitation of liability clauses
- Remedial clauses and damages
- Force majeure
- E-contracts
- Termination

Course Director:
Sue Wright
International legal expert on banking and loan structuring

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Agenda

Day 1: Legal writing and contract drafting skills

Registration commences at 8.30
Programme runs from 9.00 - 5.00 daily

Legal writing
- The art of legal writing
- 4-stage process of writing

Structure and style of legal writing
- Legal letters, emails, memoranda and opinions
- Components of legal communications
- Plain English
- Content organisation
- Marketing in legal correspondence
- Effective language style - concise, clear and forceful
- Paper advocacy - persuasive legal writing

Understanding contract purpose and form
- Back to basics
- Purpose
- Specific purpose
- Various forms and their aim
- Terms

Preliminary agreement forms
- Memorandum of understanding
- Letter of intent
- Term sheet
- Authority to proceed
- Scope of work
- ND/Confidentiality agreement

Structure and format of agreements
- Parties
- Recitals
- Interpretation
- General terms
- Commercial terms
- Boilerplate
- Warranties, representations and undertakings
- Taxation liabilities

Industry specific terms
- Intellectual property and third party rights
- Schedules
- Execution

General drafting pitfalls
- Time
- Vagueness
- Verbosity
- Weak grammar
- One idea, one clause
- Jargon and legalese
- Active vs. passive voice
- Schedules and annexures
- Punctuation
- Precedents

Checklist and procedures for drafting
- Style guides and best contract style
- Instruction sheets
- Checklist for drafting agreement
- Checklist for drafting individual clauses
- Deal sheet
- Draft control
- Standard terms and battle of the forms
- Dealing with multiple drafts

Common terms and phrases
- “Best or reasonable endeavours”
- Joint and several
- “Time is of the Essence”
- Drafting warranties
- Drafting indemnities and limitation of liability clauses
- Drafting termination clauses
- Subject to contract

Day 2: The art of negotiating

Introduction to negotiation
- Consensus sought: commercial gain or dispute resolution
- What is a legal negotiation?

Negotiating skills
- Basis of good negotiation - 3 A’s
- Attributes of a good negotiator and how to attain them
- Key skills in a negotiation

Negotiation styles and tactics
- Understand your personality/identify your style
- Versatility of style
- Tactical mannerisms
- Tactical devices

Preparing to negotiate
- Team selection and role allocation
- Use of facilitator
- Fact finding and key issue identification
- Playing devil’s advocate
- Entry and exit positions
- Parking issues

Models of negotiation
- Positional
- Distributive
- Integrative
- Principled

Negotiation checklist

Negotiation process
- Opening
- Bargaining
- Closing in agreement

Troubleshooting
- Inequality of bargaining power
- Dealing with hostile parties
- Recognising the tricks people play
- Managing multi-party negotiations
- Understanding verbal and non-verbal signals
- How to kick-start a stalled negotiation

Biography

Siobhan Cool

Siobhan is General Counsel and Group Secretary to the Skywest and Aviation Groups, which are variously traded on the ASX and the secondary markets of the LSE and operate an Australasian airline and an international aircraft leasing business. She led Skywest’s legal team in the asset acquisition of the airline and each group’s subsequent public listing and her role now covers various transactional work including the negotiation, purchase, finance and leasing of aircraft, corporate governance and compliance issues as well as day-to-day legal matters for the group.

Siobhan spent seven years as a barrister in private practice in Australia dealing with commercial litigation, intellectual property and criminal law defences. Her international work experience includes private and public sector work in Australia, Ireland and the United Kingdom, where she dealt primarily with commercial litigation, intellectual property and criminal law defences. Her academic experience involves past positions with the National University of Singapore, the University of Queensland and Griffith University, Queensland.

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Advanced Contract Law

COURSE OBJECTIVES
- To strengthen your knowledge of complex contractual terms including indemnities, warranties and exclusion clauses
- To refresh your knowledge of the law surrounding breach, termination and liquidated damages, enabling you to draft tighter provisions and ensure greater protection for your stakeholders
- To discuss the most important aspects of contracts required to tackle the issues above with better confidence and familiarity with the law
- To leave with the updated knowledge, practical skills and experience to enhance your workshop experience. You will participate in class discussions and drafting exercises to reinforce your lecture and to test your knowledge.

WHO SHOULD ATTEND?
- Contract managers
- Finance managers
- Controllers
- Business development managers
- In-house legal counsel
- Legal advisors and consultants
- Project financiers
- Financial directors and financial controllers
- Marketing and sales directors and managers
- Contract managers

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Introduction
- Freedom of contract
- Purpose of formalising contracts

Representative clauses
- Representations
- Warranties
- Entire agreement clauses

Liability risk protection
- Limitation of liability clauses
- Exclusion clauses
- Indemnities
- Guarantees and Letters of Comfort

Practical exercise: delegates will break into teams to draft warranties and representation statements based on hypothetical deal sheets. Each team will then verify the other’s proposed warranties.

Exit and remedial clauses
- Delay and default
- Force majeure
- Non-waiver clauses
- Termination
- Liquidated damages
- Service credits

Rules of contract interpretation
- Contra proferentum
- Parol evidence rule
- Prior negotiations rule
- Implied terms
- Distinction between terms and conditions

Day 2

Boilerplate
- Assignment
- Payment
- Retention of title
- Set-off
- Severability
- Taxation liabilities
- Third party rights

E-contracts
- Use
- Elements of the e-contract
- Shrink-wrap contracts
- Click-wrap contracts
- Browse-wrap contracts
- Emergence of e-signatures
- Drafting checklist for enforceable e-contracts

Practical exercise: delegates will review and redraft various clauses.

Siobhan has also served as a member of several prominent boards such as the Council for the Bar Association of Queensland where she was Assistant Secretary for three years, as well as the Management Committees of the Caixton Centre Inc. (QLD) and the Australian & New Zealand Association of Singapore.

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- Legal English: Contract Drafting and Negotiating Masterclass (2-day)
- Advanced Contract Law (2-day)

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- Number of staff that require training:
- City:
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- What you hope to achieve:

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- Insurance and Reinsurance - 0289
- Law Firm - 0024
- Pension Fund - 0393
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- Private Equity - 0433
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- Venture Capital Company - 0557
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