



OASIS RESEARCH WRITING

Legal Writing Series

How to Write a Professional Legal Memorandum

A Practical Guide for Law Students, Advocates, and Legal Researchers

Introduction

A legal memorandum is the working document of the legal profession. Long before a brief is filed or advice is given, someone has to work out what the law actually says, how it applies to a specific set of facts, and what conclusion follows from that analysis. That document is the legal memorandum.

It is not written for a judge. It is not written to persuade an opposing party. It is written for a colleague, a supervising partner, a client-facing counsel, or a future version of the researcher who will need to revisit the question months later. Its purpose is candour, not advocacy.

Every practising lawyer writes memoranda, whether they call them that or not. A litigator drafting a case-strategy note, an in-house counsel assessing contractual risk, a judicial clerk preparing a bench memo, and a law student answering a moot problem are all doing the same underlying task: identifying a legal question, researching the applicable law, and reasoning toward a defensible answer.

This guide sets out, in practical terms, how that task is done well. It covers the structure of a professional memorandum, the reasoning frameworks lawyers use to organise analysis, the research process that precedes drafting, and the common errors that separate a competent memorandum from a mediocre one.

What is a Legal Memorandum?

A **legal memorandum** is an internal analytical document that answers a specific legal question by applying the relevant law to a defined set of facts. It is a tool for reasoning, not a tool for persuasion.

Purpose

The purpose of a memorandum is to give the reader an honest, well-researched answer to a legal question, including the weaknesses in that answer. A memorandum that only presents the client's best case is not a memorandum; it is advocacy wearing the wrong clothes.

Audience



Memoranda are read by people who already understand the general area of law and need a specific, well-supported answer. This changes the tone: a memorandum can assume background knowledge that a brief written for a lay client cannot.

How a Memorandum Differs from Other Legal Documents

Document	Audience	Primary Goal	Tone
Legal Memorandum	Internal (colleagues, supervisors, clients)	Objective analysis and prediction	Neutral, balanced
Legal Brief	Court or tribunal	Persuade the decision-maker	Advocative, one-sided
Legal Opinion	Client, board, or third party	Formal, often reliance-bearing advice	Authoritative, definitive
Court Submission	Judge or bench	Argue for a specific outcome	Formal, persuasive

A brief argues; a memorandum evaluates. A legal opinion commits to a position the client can rely on; a memorandum informs the person who will eventually take that position. Confusing these documents is one of the fastest ways to undermine a legal writer's credibility.

Types of Legal Memoranda

Not every memorandum serves the same function. Recognising which type is required, before drafting begins, shapes everything from tone to structure.

Objective Memorandum

Written to inform, not to persuade. It presents both sides of an issue with equal analytical rigour, typically for internal use by a supervising lawyer who needs a neutral picture before advising a client.

Litigation Memorandum

Prepared in anticipation of, or during, litigation. It evaluates claims, defences, procedural risk, and evidentiary strength, and often informs case strategy and settlement decisions.

Research Memorandum

Focused narrowly on answering a discrete legal question, often as a building block for a larger document such as a brief, opinion, or client advisory.

Predictive Memorandum

Forecasts how a court is likely to rule on a given issue, based on precedent, statutory text, and reasoning by analogy. This is the most common form used in law school and early practice.



Internal Advisory Memorandum

Prepared for internal decision-making, such as advising a firm or organisation on regulatory exposure, compliance risk, or the viability of a proposed transaction.

Standard Structure of a Professional Legal Memorandum

A professional memorandum follows a predictable architecture. This predictability is a feature, not a limitation: a reader who already knows where to find the answer, the facts, and the reasoning can navigate the document quickly, even under time pressure.

Heading Block

Identifies the document: To, From, Date, Re/Subject, and often a matter or file number. This block allows the memorandum to be filed and retrieved correctly.

Question Presented

A single, precise sentence or short paragraph framing the legal issue in terms of the applicable law and the key facts. A well-framed question already signals the likely analytical path.

Brief Answer

A short, direct answer to the Question Presented, stated in one or two sentences, followed by the core reasons. The reader should be able to stop here and know the outcome.

Statement of Facts

A neutral, organised account of the facts relevant to the legal question, including facts that are unfavourable. Facts are stated, not argued.

Issues

Where a memorandum addresses more than one legal question, each issue is separated and framed with the same precision as the Question Presented.

Applicable Law

A summary of the governing statutes, regulations, and case law, presented before analysis begins so the reader has the legal framework in view.

Legal Analysis (Discussion)

The core of the memorandum. Each issue is analysed using the governing rule, applied to the facts, with counterarguments addressed directly.

Counterarguments

The strongest opposing position, addressed honestly rather than dismissed. Omitting this section is the single most common sign of an inexperienced writer.

Conclusion

A restatement of the answer in light of the completed analysis, including its degree of certainty.

Recommendations

Where appropriate, practical next steps: further research required, risk-mitigation options, or procedural actions.

IRAC and CREAC Methods

These are not competing philosophies; they are variations of the same reasoning skeleton, each suited to a different level of complexity.

IRAC — Issue, Rule, Application, Conclusion

The foundational structure taught to every law student. State the **issue**, state the governing **rule**, **apply** the rule to the facts, and state the **conclusion**. IRAC works best for single, self-contained legal questions.

CREAC — Conclusion, Rule, Explanation, Application, Conclusion

CREAC opens with the conclusion, so a busy reader gets the answer immediately. The **explanation** step, absent from IRAC, unpacks the rule through supporting case law before it is applied to the facts, which makes CREAC better suited to memoranda involving nuanced or multi-part rules.

CRRACC — Conclusion, Rule, Rule Explanation, Application, Counterargument, Conclusion

An extended form that formally builds in the **counterargument** step, making it the preferred structure for litigation memoranda and any analysis where the opposing position must be evaluated on its merits rather than mentioned in passing.

Choosing the Right Framework

Framework	Best Suited For	Key Strength
IRAC	Single, straightforward issues	Simplicity and clarity
CREAC	Multi-part or nuanced rules	Front-loaded conclusion, deeper rule explanation
CRRACC	Litigation and adversarial analysis	Built-in treatment of counterarguments

Step-by-Step Process

Experienced lawyers rarely draft a memorandum in one pass. The process below reflects how a memorandum is actually built, from instruction to final proofread.

1. Receive and clarify client instructions, including the precise question the client or supervisor wants answered.



2. Identify the legal issue or issues, distinguishing the core question from surrounding but non-dispositive facts.
3. Conduct legal research across primary and secondary sources to locate the governing rule.
4. Analyse case law to determine how courts have applied the rule to comparable facts.
5. Interpret relevant statutory language, including definitions, exceptions, and any conflicting provisions.
6. Identify binding and persuasive precedents, and assess their relative weight.
7. Consider policy factors that may influence how a court or decision-maker approaches the issue.
8. Draft the memorandum, following the standard structure and a chosen reasoning framework.
9. Edit for logical gaps, unsupported assertions, and structural clarity.
10. Proofread for citation accuracy, formatting consistency, and grammar.

Legal Research Before Drafting

No memorandum is stronger than the research behind it. Research should be treated as a distinct phase, completed and organised before the first sentence of analysis is drafted.

Primary Sources

Constitutions, statutes, regulations, and case law. These carry binding or persuasive authority and form the backbone of the Applicable Law section.

Secondary Sources

Treatises, law review articles, legal encyclopaedias, and commentaries. These do not bind a court, but they explain doctrine, surface leading cases, and reveal how scholars and practitioners frame unsettled questions.

- **Case law** — locate factually analogous precedents, not merely topically related ones.
- **Statutes and regulations** — read the full provision, not an isolated subsection, and check for amendments.
- **Commentaries and law journals** — useful for understanding doctrinal debates and emerging trends.
- **Online databases** — use citator tools to confirm a case has not been overruled, reversed, or distinguished into irrelevance.

Building a Research Strategy

Start broad, with a secondary source that maps the area of law, then narrow toward primary authority. Track every source as it is found, including citations that turn out to be unhelpful; knowing what was already checked prevents wasted repetition.



Writing Effective Legal Analysis

Analysis is where research becomes reasoning. The following techniques distinguish strong analytical writing from a mere summary of cases.

Rule Synthesis

Rather than listing cases one after another, synthesise them into a single, coherent statement of the rule, showing how multiple decisions fit together into one governing principle.

Applying Precedent

State the rule from the precedent, then explicitly map the facts of the precedent onto the facts of the current matter. Similarity in outcome should follow from similarity in facts, not assertion.

Distinguishing Cases

When a precedent appears unfavourable, identify the specific factual or legal difference that limits its application, rather than dismissing it outright.

Analogising Facts

Draw factual parallels precisely. A vague analogy invites a vague conclusion; a specific one produces a persuasive one.

Balancing Competing Authorities

Where authorities conflict, explain the basis for the conflict — jurisdictional split, differing statutory language, or evolving doctrine — and state which line of authority is more likely to control.

Persuasive Reasoning Within an Objective Frame

Even an objective memorandum benefits from disciplined reasoning: each conclusion should be supported by a stated rule and a specific fact, not by confidence alone.

Sample Legal Memorandum

The following illustrative example, involving a contract law question, demonstrates each structural component discussed above. Names, dates, and facts are hypothetical.

To: Supervising Partner

From: Associate, Contracts Practice Group

Date: 9 July 2026

Re: Enforceability of a Liquidated Damages Clause in the Meridian Supply Agreement

Question Presented



Under the governing state's contract law, is the liquidated damages clause in Clause 14 of the Meridian Supply Agreement enforceable, given that it fixes damages at 25% of the total contract value regardless of the timing or scale of the breach?

Brief Answer

Likely no. Courts in this jurisdiction enforce liquidated damages clauses only where the fixed sum represents a reasonable pre-estimate of anticipated loss. A flat 25% figure that does not vary with the timing or severity of breach is likely to be characterised as a penalty and struck down.

Statement of Facts

Meridian Supply Co. and the client entered a five-year supply agreement. Clause 14 provides that any breach, regardless of nature or timing, triggers liquidated damages of 25% of the total contract value. The clause does not distinguish between early-stage and late-stage breaches, nor between minor and material non-performance.

Applicable Law

The governing rule, drawn from established contract doctrine, permits liquidated damages clauses where the sum fixed is a genuine pre-estimate of loss likely to result from breach, assessed at the time of contracting. Clauses that impose a fixed, undifferentiated penalty regardless of the actual or anticipated loss are unenforceable as penalties.

Discussion

The clause's flat percentage structure is its central weakness. Because 25% applies identically whether breach occurs in month one or month fifty-nine, and whether the breach is trivial or total, the clause does not track anticipated loss — it imposes a uniform deterrent, which is the defining feature of a penalty rather than a genuine pre-estimate.

Meridian may argue that a flat percentage offers commercial certainty and reflects the parties' sophisticated, arm's-length bargaining. This argument has some force: courts do give weight to genuine commercial agreement between sophisticated parties. However, commercial certainty alone has not been sufficient, on its own, to rescue clauses that otherwise bear the hallmarks of a penalty — a fixed sum untethered to the scale of loss.

The absence of any graduated structure — for instance, a lower percentage for early or partial breach — is likely to be read as evidence that the clause was designed to deter breach outright, rather than to compensate for it.

Conclusion

The clause is more likely than not to be found unenforceable as a penalty. This conclusion carries moderate, not high, certainty, given the absence of case law addressing an identical fact pattern.

Recommendation



Advise the client to renegotiate Clause 14 into a tiered structure that varies with the timing and severity of breach, which would materially improve its prospects of enforcement.

Common Mistakes

Most weak memoranda fail for a small, recurring set of reasons.

- **Weak issue framing** — a vague or overly broad Question Presented that does not signal the legal test being applied.
- **Poor or shallow research** — relying on secondary sources without verifying the underlying primary authority.
- **Excessive quotation** — stringing together quoted passages instead of synthesising them into original analysis.
- **Missing authorities** — omitting a directly relevant case or statute, particularly one that cuts against the writer's conclusion.
- **Thin analysis** — stating a conclusion without connecting it, step by step, to a rule and a fact.
- **Advocacy instead of prediction** — writing as though the memorandum must persuade, rather than inform.
- **Inconsistent or careless formatting** — irregular headings, inconsistent citation style, and uneven spacing.
- **Grammar and proofreading errors** — small mistakes that undermine the reader's confidence in the underlying research.

Professional Formatting Tips

Margins and Spacing

One-inch margins on all sides remain the professional default. Use 1.15 – 1.5 line spacing for readability without inflating length artificially.

Fonts

A single, conservative serif font throughout — Times New Roman, Garamond, or Cambria at 11 – 12 point — signals professionalism more reliably than any decorative choice.

Headings

Use a consistent, limited hierarchy — no more than three heading levels — so the document's structure is visible at a glance.

Citation Placement



Place citations immediately after the proposition they support, not bundled at the end of a paragraph, so the reader can verify each claim without losing context.

Page Numbering, Tables, and Appendices

Number every page after the first. Reserve tables for genuine comparisons rather than decorative effect, and move lengthy supporting material — full case texts, statutory excerpts — to a labelled appendix rather than the body.

Citation Style

Citation convention depends on jurisdiction and institutional practice, but the underlying discipline is universal: every proposition of law must be traceable to its source.

Bluebook

The dominant citation system in United States legal writing, governing case citations, statutory citations, and short-form references across subsequent citations to the same authority.

OSCOLA

The standard citation system across the United Kingdom and much of the Commonwealth, distinguished by its footnote-based approach and minimal use of in-text citation.

APA (Where Applicable)

Used occasionally in interdisciplinary or policy-adjacent legal writing, particularly where a memorandum draws on empirical or social-science sources alongside legal authority.

Indian Legal Citation Practice

Indian legal writing typically follows conventions set out in guides such as the Indian Law Institute style or the Bluebook as adapted by Indian law journals, citing reported judgments by volume, reporter, and page, alongside the court and year.

When to Cite — and When Not To

Cite every rule, every holding relied upon, and every quoted or closely paraphrased passage. Do not cite well-settled, uncontroversial background law that no informed reader would dispute; over-citation of the obvious dilutes the citations that actually matter.

Memorandum vs Brief

Feature	Legal Memorandum	Legal Brief
Purpose	Objective analysis	Persuade a court



Feature	Legal Memorandum	Legal Brief
Audience	Internal	Judge or tribunal
Tone	Balanced, neutral	Advocative
Treatment of weaknesses	Disclosed fully	Minimised or reframed
Typical use	Pre-litigation evaluation	Court filing

Memorandum vs Legal Opinion

Feature	Legal Memorandum	Legal Opinion
Formality	Working document	Formal, often signed
Reliance	Internal use only	Client or third party may rely on it
Certainty of conclusion	May remain provisional	States a definite position
Typical author	Associate or researcher	Senior counsel or partner

Best Practices Used by Experienced Lawyers

- Write the Question Presented last, after the analysis is complete — it is easiest to frame precisely once the answer is known.
- Keep a running research log, so every source and its relevance can be reconstructed without repeating the search.
- State the counterargument in its strongest form before responding to it; a weak counterargument proves nothing.
- Read the memorandum aloud during editing — awkward reasoning is easier to hear than to see.
- Separate drafting from editing into distinct sessions; editing immediately after drafting misses structural problems.
- Ask a colleague unfamiliar with the matter to read the Brief Answer alone and state the conclusion back — if they cannot, the answer needs rewriting.

Frequently Asked Questions

How long should a legal memorandum be?



Length depends on the complexity of the issue, not on convention. A single, narrow question may be answered well in two pages; a multi-issue matter may reasonably run to fifteen or more. Length should track analytical necessity, not habit.

What is the difference between a predictive and an objective memorandum?

A predictive memorandum forecasts a likely outcome; an objective memorandum presents both sides evenly without necessarily forecasting a result. In practice, most predictive memoranda are also objective in tone.

Should a memorandum include the writer's personal opinion?

No. A memorandum should present a reasoned prediction grounded in law and fact, not a personal view. Where genuine uncertainty exists, the memorandum should say so rather than substitute opinion for analysis.

Is IRAC still relevant in professional practice, or only in law school?

IRAC and its variants remain the underlying skeleton of professional legal writing, even where a finished memorandum does not label its sections that way. The structure is compressed, not abandoned.

How many cases should a memorandum cite?

As many as the analysis genuinely requires, and no more. A memorandum citing every marginally related case dilutes its own persuasive and analytical force.

Can a memorandum reach an inconclusive answer?

Yes, and often should. Where authority is genuinely split or unsettled, stating that uncertainty honestly is more valuable to the reader than a false show of confidence.

What is the biggest difference between a strong and a weak memorandum?

Strong memoranda apply the rule to the specific facts, sentence by sentence. Weak memoranda summarise the law and then assert a conclusion without showing the connecting reasoning.

Should a memorandum address counterarguments even if the answer seems obvious?

Yes. An unaddressed counterargument, however weak it may seem, signals to the reader that it was not considered, which undermines confidence in the entire analysis.

How is a memorandum different from a case brief prepared for class?

A case brief summarises a single decision. A legal memorandum answers an original question by synthesising and applying multiple sources of law to a new set of facts.

What tools help most when drafting a memorandum?

A reliable citator to confirm case validity, a disciplined research log, and a consistent template for structure. Tools support the process; they do not replace analytical judgment.

Professional Legal Memorandum Checklist



A printable checklist for final review before circulation or submission.

- ☐ Question Presented is specific, neutral, and references the governing legal standard.
- ☐ Brief Answer gives a direct answer before the reasoning begins.
- ☐ Statement of Facts includes unfavourable facts, not only favourable ones.
- ☐ Applicable Law is stated before analysis begins.
- ☐ Each issue follows a consistent reasoning framework (IRAC, CREAC, or CRRACC).
- ☐ Every legal proposition is supported by a citation.
- ☐ At least one genuine counterargument is addressed on its merits.
- ☐ Conclusion restates the answer and its degree of certainty.
- ☐ Citation style is consistent throughout the document.
- ☐ Formatting — margins, fonts, headings, spacing — is uniform.
- ☐ Document has been proofread in a separate pass from drafting.
- ☐ A colleague unfamiliar with the matter can restate the conclusion after reading only the Brief Answer.

Conclusion

A professional legal memorandum is judged by one standard: whether a reader who trusts the writer's judgment can act on the document without redoing the underlying work. That standard is met through disciplined structure, honest treatment of counterarguments, and analysis that connects rule to fact at every step, not through polish alone.

The frameworks, structures, and habits set out in this guide are not decorative conventions. They exist because they consistently produce memoranda that are faster to read, easier to trust, and more defensible under scrutiny — which is, in the end, the entire purpose of the document.