CHAPTER TWO

REVIEW OF LITERATURE

2.0 INTRODUCTION

This chapter reviews literature on writing in ESL and ESP with an emphasis on writing styles and strategies. The composing process together with the two main approaches to writing: the product approach and the process approach, are discussed to give an insight into writing styles and strategies. Legal writing is also discussed to show how it varies from writing in general.

2.1 WRITING IN ESL AND ESP

Writing is said to be a socially-situated act and the recent Writing Across the Curriculum (WAC) movement has reinforced the aims and experiences of the act. A primary research agenda for WAC has been firmly laid out by Faigley and Hansen (1985) as cited in Swales (1990).

If teachers of English are to offer courses that truly prepare students to write in other disciplines, they will have to explore and ascertain why those disciplines study certain subjects and why certain methods of enquiry are sanctioned. The teachers will also have to investigate how the conventions of a discipline shape a text in that discipline, how individual writers portray themselves in the text, how a text is read and
disseminated and ultimately how one text influences subsequent texts. In brief, teachers of English will be required to adopt a rhetorical approach to the study of writing in the disciplines whereby this approach will examine the negotiation of meaning among writers, readers and subject matters (Swales, 1990).

2.1.1 Writing in General

White (1980) in *Teaching Written English* says writing is producing a connected series of sentences which are grammatically and logically linked. When we write we usually have a communicative purpose in mind and we generally have something to write about. The writer writes for a purpose and a particular audience. The writer writes to communicate something to the intended audience and since this audience is not physically present, what is written must be clear, precise and unambiguous as possible. “In short we must produce a piece of discourse which embodies correctness of form, appropriateness of style and unity of theme and topics.” (White, 1980:16).

Lawrence (1972) in *Writing as a Thinking Process* assumes writing as a form of communication and that the process of writing is an active thinking process which demands a high degree of intellectual involvement whereby the writer has to think before he writes and while he writes.

White (1980) says Davies and Widdowson (1974) look at writing as Institutional and Personal. Institutional writing is the type of writing produced in the capacity of our professional roles such as school teacher or administrator. In Institutional writing, there are institutionalized
conventions as to how one writer behaves in relation to others who are members of the same institutional network. For instance, if a writer writes a business letter to his customer, there are conventions about what he will say and how it is to be said. Similarly, the members of the business community will abide by the same rules.

Personal writing on the other hand consists of personal letters (or conversations on paper) and creative writing.

Krashen's research in writing and instruction suggests that some aspects of the writing skill can be taught although there are limitations. The most general and obvious features of form and organization may be taught (Krashen, 1984).

Bamberg's study (1978, cited in Krashen, 1984) supports the generalization that good writers had more instruction on aspects of form. Shaughnessy (1977, cited in Krashen, 1984) studied unprepared freshmen and found that after one semester of low intensity instruction almost all students showed improvement.

2.1.1.1 The Composing Process

The Composing Process plays an important role in good writing. Krashen (1984) says studies have shown that good writers differ from poor writers in their composing process whereby the former have better and more sound procedures for getting their ideas down on paper. During the composing process, good writers place importance on planning, rescanning and revising (Krashen, 1984).
In the planning stage, a good writer is said to plan more than a poor writer but this does not always mean "prewriting" or the use of a formal outline. Emig's study (1975, cited in Krashen, 1984) of professional writers revealed that very few used the standard outline form but all reported some kind of planning of content and organization before writing (Krashen, 1984).

Research has also shown that good writers spend a long time thinking before beginning to write, whereas poor writers only sometimes think a long time before beginning to write, and rarely make any written plans or notes preferring to begin by just beginning.

Interviews conducted by both Rose (1980) and Sommers (1980) as cited in Krashen (1984) show that not only do good writers plan more, they also have more flexible plans – they are more willing to change their ideas as they write and to revise their outline as new ideas and arguments emerge.

In the process of writing, the good writer pauses and rescans his text more often. "Rescanning helps the good writer to maintain a sense of the whole composition or conceptual blueprint." (Krashen, 1984:15).

When good writers reread, they actually pause to plan what to write next. Pianko (1979, cited in Krashen, 1984) says that these good writers rescans to see if their plans fit and then pause again to reformulate.

While in the act of writing, there is a possibility of losing a sense of the whole essay. Being aware of this problem, good writers therefore reread and rescans so as to review their goals and overall plan and to consider improvements as well as incorporate new ideas (Krashen, 1984).
According to Krashen, studies on the composing process also indicate that good writers revise more than poor writers do. The writers revise differently, with better writers focusing on content and less able writers revising on surface form. Professional writers view revision not basically as rewarding or simply a matter of finding the best words to express facts. Instead to them revision is, according to Sommers (1980, cited in Krashen, 1984), an effort to "find the line of argument. The first draft may just be an attempt to define their territory, while subsequent revisions help experienced writers continue to create meaning." (Krashen, 1984:15).

Research by Faigley and White (1981, cited in Krashen, 1984) showed that professional writers made more content revisions whereby the revisions made a major difference in the meaning of the essay (Krashen, 1984).

Krashen (1984) suggests that differences in revision can be summarized as follows:

The focus of experienced writers is on content in revision whereas inexperienced writers focus on mechanics, grammar and spelling.

The findings of research on the composing process has indicated that more successful writers do not always utilize a strictly linear plan but on the other hand, some experienced writers actually plan first, write a draft and then revise in that order. Good writers also verbalize the thinking process as they write, their main concern being the reader, and their audience. They spend more time thinking about the effect they want to make on the reader and how to present themselves to the reader. On the whole it can be said that good writers plan more, reread and rescan more (Krashen, 1984).
Krashen summarizes that the composing process shows that writing does not consist of simply creating an essay from start to finish in one smooth linear flow. It is in Shaughnessy's words, a "messy process that leads to clarity." (Krashen, 1984: 18). The good writer understands this, but the poor writer may not.

### 2.1.1.2 Product Approach to Writing

The product approach, according to Lim (1994), looks at writing as a product with a primary focus on linguistic and rhetorical form. This approach assumes that learning to write is merely internalizing a set of linguistic rules and rhetorical patterns that are considered ideal models and applying these in written products. If the writers are able to produce error free writing which conforms to the linguistic and rhetorical norms, then they are considered to be successful in their writing. Other aspects such as quality of ideas and the message intended to be conveyed by the writer are of secondary importance and even ignored. In teaching writing, grammatical rules and rhetorical styles are drilled in the hope that written products would conform to the standards emphasized. This approach is product-centered, whereby the emphasis is on the composed product or end product of writing rather than on the composing process. "One important assumption of this approach is that the writing process is linear, with the writer following a series of rigid steps that will lead to the appropriate completion of the task." (Lim, 1994:18).

### 2.1.1.3 Process Approach to Writing

The process approach came about due to dissatisfaction with the product approach, the main criticism against it being that it did not encourage creative thinking and writing (Lim, 1994).
Kelly (1984) says that ESL teachers had concentrated mainly on product whereby they aimed to produce students who can write grammatically correct sentences, linked with appropriate sentence connectors. Students are trained to write in paragraphs by using the models approach, usually in chronological order.

Kelly suggests that in the teaching of writing, the writing process itself should be given consideration rather than the end-result or product because if emphasis is on form too early in the writing process, it inhibits creative ability in writing (Kelly, 1984).

According to Kelly (1984), this new view of teaching writing has grown out of research into how people actually write. She says that James Britton’s 1975 The Development of Writing Abilities (11-18), Janet Emig’s 1971 The Composing Process of Twelfth Graders and Donald Graves’ 1973 and 1975 investigations into the writing processes of 7-year-old children have been influential studies.

Kelly further says that Murray (1980) sees “writing as a process of inter-action, not a series of logical steps. It is an act of discovery and while the process entails at least three stages which he calls “rehearsing”, “drafting” and “writing”, the three stages interact repeatedly in order to discover meaning.” (Kelly, 1984:85).

Murray, according to Kelly, outlines the three stages as: the first or the “rehearsing stage” which is the taking of information, absorbing ideas and beginning to play with ideas and concepts. The second or “drafting stage” is finding what it is one wants to say and finally, the third stage, “revising”, is developing ideas insufficiently elaborated in the draft, deleting sections which are irrelevant and superfluous and rearranging if necessary. “Murray sees these
stages as recursive rather than linear; to learn what to do next the writer looks within the piece of writing rather than following a plan or following a model.” (Kelly, 1984:85).

Zamel corroborates this approach as a process of discovering and making meaning. In the process of writing, ideas are explored, clarified and reformulated and as the process continues, more new ideas develop and assimilate into existing patterns of thought (Zamel, 1983).

Process-orientated research has shown that there is a difference between good and bad writers in the way they write and the kind of strategies they employ. Process researchers like Sommers (1980) and Zamol (1983) as cited in Lim (1994) who have investigated the writing process of experienced writers have made an attempt to find what strategies these writers use to guide themselves successfully through the writing process. Their findings reveal that there are differences in the writers’ revision strategies and their perceptions of audience and the purpose of writing (Lim, 1994).

2.1.2 Legal Writing

Professor Zechariah Chafee, Jr. a scholar of exceptional talent, once wrote: “Words are the principal tools of lawyers and judges, whether we like it or not.” (Chafee, 1941:318-382). This observation on the relationship of law and language is confirmed by other scholars who have noted that “the law is a profession of words” (Melinkoff, 1963:vii) and that “words in their proper order are the raw materials of the law.” (Birkett, 1956:127-135) as cited in Re, E.D. and Re, J.R. (1993).
According to Re, E.D. and Re, J.R. (1993) in Brief Writing and Oral Argument, in legal writing the writer must think of the purpose of the composition and the audience for whom it is written. In other words, the writer must know why he is writing and for whom he is writing. Before the writing of a document begins, the author must decide whether the document is intended to be an objective presentation of the facts or law; or designed to persuade the reader to adopt a particular view of the facts or law. These are two very different forms of communication thus the material will be presented in a different way depending on the objective which the writer seeks to achieve.

The legal writing process has additional demands, whereby the writer is constrained by the text which consists of the facts and the law. Hence the legal writing process implies an exactness or precision that distinguishes legal writing from other literary compositions. Responsibility is also an essential requirement. Hence legal composition may be more difficult than other forms of literary composition due to the demand of the legal writing process. "In legal writing, the author is constrained to record what the facts accurately reveal and must conform to the restraints of style and form mandated by rules of court." (Re, E.D. and Re, J.R., 1993:2).

Re, E.D. and Re, J.R., (1993) suggest that in legal writing, the author should remember what may be called the ABC's of legal writing. These letters represent three indispensable requirements of legal writing in general i.e. Accuracy, Brevity and Clarity.

In all legal writing, the author must set the facts and law with honesty, candor and specificity. Unfavourable facts or precedents cannot be omitted or mistated. Frankness and honesty is essential in legal writing and all assertions of facts must be supported by the record.
In *Brief Writing and Oral Argument* (1993), Re, E.D. and Re, J.R. explain brevity as a flexible standard of conciseness in relation to the complexity of the case. In legal writing, events must be described succinctly, testimony must be compressed and there must be an economy of words.

Besides accuracy and brevity, clarity in legal writing is of paramount importance because to serve their intended purpose, legal documents must be clearly written. Facts and ideas conveyed by the writer in his legal document should not give rise to doubt.

The writer should have the facts clearly in mind and begin the task of conveying that knowledge to the reader by way of selecting the right word, i.e. the precise word that conveys the exact meaning intended.

Legal writers ought to write in language that is gender neutral. The generic "he" is to be avoided not merely by removing the word "he" and substituting a noun for the pronoun but while retaining the precise meaning, the writer must use language that is neither stilted nor awkward. For example, "If the attorney requests a stay, the court should grant the request unless it prejudices the opposing party (Re, E.D. and Re, J.R., 1993:8).

Legal writing also requires literary style which includes the choice of words, choice of sentence length and structure, and manner of expression in writing. A legal writer can acquire a rich vocabulary, clarity of expression and a literary style from the experience acquired in the actual writing of legal documents (Re, E.D. and Re, J.R., 1993).

In the legal vocabulary, certain words convey a definite meaning to the lawyer and to the court. These are "words of art" which make for clarity and understanding. They are
professional short cuts to express certain concepts (Re, E.D. and Re, J.R.). In legal documents, it is usually necessary and proper to use words such as "corpus", "certiorari", "dictum" and "recognizance". Certain Latin maxims are also frequently used such as "Res Ipsi Loquitus".

Legal writing is also not devoid of legalese which

"is characterized by long convoluted sentences, archaic expressions and unnecessary words. At least two characteristics of legalese: double or triple words with the same or similar meanings and the archaic expressions, have their roots in the development of the English language. The unwieldy sentences are probably an accident of style, oral punctuation, the advert of printing, and the nature of lawyers." (Pratt, 1993:223).

According to Pratt in _Legal Writing: A Systematic Approach_ (1993), the use of two or even three parallel words to express the same idea, archaic expressions and long convoluted sentences did not disappear from legal language as they did from standard written and spoken English because of the nature of legal education. Prior to law schools, those desiring to enter the profession apprenticed themselves to practicing attorneys and emulated the style of their masters.

According to Pratt (1993), despite the advent of law schools, legalese persists not because it is perpetuated by law schools, but by practising attorneys whereby lawyers still use the apprenticeship system in order to learn the practical side of the law practice. Law clerks, on the other hand, modify existing forms from previous cases to create documents for present cases.
Nevertheless the present trend is not to adopt a legalese style but the clear English style (Pratt, 1993). Writing in English means conveying ideas directly to the reader using simple sentences with precise vocabulary that conveys the writer’s intended meaning.

Robinson’s (1973) opinion is that the language form of legal documents is highly disciplined (the case and condition precede the main legal sentence); it is constrained in that certain grammatical forms are eschewed (the verbal forms are limited) and certain words carry limited meanings (the word “shall” is modal rather than temporal). Thus those who draft legal documents will face difficulties unless they have a mastery of the principles of writing legal documents and an understanding of the language of the law and of generality of expressions. Robinson defines legal drafting as “the synthesis of law and fact in a language form.” (Robinson, 1973:1).

2.1.2.1 Research Studies on Legal Writing

In the past decade or so, there has been a spate of scholarly investigations on language use in a wide variety of legal contexts. In Applied Linguistics, it is seen that the main concern has been to design and teach language support courses for academic as well as professional legal purposes.

Research has been done on the written language of the law under four major categories, i.e. pedagogic, academic, judicial and legislative (Bhatia, 1987).

Swales (1982) and Wickrama (1982) as cited in Bhatia (1987), have studied textbook writing in law. Swales studied the role of cases in legal description and of explanation in textbooks. His findings were that as the texts move from description to discussion, there is a steady
increase in the number of cases referred to. Wickrama indicates that “within a particular legal
textbook one may come across a significant variation in the rhetorical structuring of legal

There have been recent attempts to study legislative writing by Bhatia (1987). His
investigation was an attempt to find out why legislative writing is written the way it is.
According to Bhatia, there has also been some work on frozen legal documents like contracts,
agreements and insurance policies by Shuy and Larkin (1978), Wright (1979, 1980) and Wright
and Reid (1973).

Bhatia has also done a number of researches and studies on legal language. In his book,
*Analyzing Genre, Language Use in Professional Settings* (1993), he discusses two genres of the
written medium, namely legislation and cases. Bhatia attempts to answer the question “why are
legislative provisions written the way they are?” In order to understand the complexity of
legislative statements, he says we need to understand the communicative purposes these
statements are meant to serve and the constrains that are imposed on the drafting of these
provisions.

According to Bhatia (1987), writing of legal cases follow a definite pattern. “Almost all
cases begin with a description of the facts of the case.....” (Bhatia, 1987:230). Affidavits too
display this pattern where the heading carries the facts of the case.

Further research in this field has been done by Wainman and Wilkinson (1983). In their
article *Language Teaching Projects for the Third World* published in ELT Documents: 116
(1983), they mention that they are attempting to design a course directly related to the language
needs of practicing lawyers in Malawi because the law course at the University of Malawi has
to fulfill two purposes. On the one hand, it has to offer a conventional legal academic education and on the other, provide a practical training so as to equip students with the necessary expertise to enter into legal practice directly upon graduation. Language expertise is of particular importance to a lawyer. The ability to write clearly and concisely is important to a lawyer, as this skill is a permanent record of his competence and an advertisement of his abilities, as unskillful writing will have several repercussions. According to Wainman and Wilkinson, in legal writing what should be kept in view is, "...the principles of clarity with brevity, completeness and politeness and the need to avoid "officialese" or "gobbledygook"" (Wainman and Wilkinson, 1983:165).

2.2 WRITING STYLE

2.2.1 General Writing Style

Writing style is a term that refers to the writing preferences or tendencies of an individual, which are consistent in him or her. These writing characteristics that pertain to an individual differentiate one writing style from another.

Tibbets (1969) defines writing style as "the total effect of sentences." This "total effect" is the result of many things in a writer’s writing. These include the words a writer employs, the sentence types (and even the punctuation) a writer chooses, the ideas the writer communicates and an indefinable something called "personality".

Tibbets further says that, a writer can learn from accomplished writers by imitating their styles and adopting elements in them that the writer likes.
Trimmer (1995) says that in writing, 'style' refers to how something is said, i.e. how the writer arranges sentences and words and what the ideas or message that the writer wishes to convey are. He further says that the most subtle changes in sentences or diction can alter the ideas or message intended. Trimmer defines style concisely as, "the way something is written." (Trimmer, 1995: 258).

Trimmer further explains that when you write something you must consider your attitude towards your subject, your relationship with your readers, and the language you use to express your ideas. The tone of your writing reveals the decisions you have made about your attitude towards your subject and your relationship with your readers, whereas the language you use to express your ideas is revealed in the choices you make as you develop your purpose. If a clear sense of purpose guides you through all the choices, which are consistent from planning through revision, then you will exhibit a distinctive style.

2.2.2 Legal Writing Style

Bhatia (1993) suggests that legal language is a complex discourse form.

"It has been claimed that syntactic and discoursal features of legislative writing are in various ways interconnected, in the sense that the apparent legal requirement of expressing something by means of nominal expressions with a variety of qualifications would bring in syntactic discontinuities, thus making the discoursal structure of the sentence not only complex but compound as well." (Bhatia, 1993:105: citing Swales and Bhatia, 1983).
Therefore, it is necessary to look at some of the predominant syntactic features of legal language. The most important syntactic properties, particularly those which will help us to understand regularities of organisation of these genres are (i) sentence length (ii) nominal character and (iii) complex prepositional phrases and bionominal and multinominal expressions (Bhatia, 1993).

Sentence length is usually long and sentences are nominal in character than the ones generally encountered in ordinary everyday usage. The next striking syntactic feature of legal language is the use of complex prepositional phrases with a P- N- P (Preposition + Noun + Preposition) structure. Some typical examples of such structures are ‘for the purpose of’, ‘in respect of’, ‘in accordance with’, ‘in pursuance of’, ‘by virtue of’ etc.

According to Swales and Bhatia (1993), the use of complex prepositions instead of simple ones for instance, “by virtue of”, instead of “under” and ‘for the purpose of’ in place of ‘for’ is rather preferred in legal writing simply because “………. the specialist community claims with some justification, of course ……. that the simple ones tend to promote ambiguity and lack of charity.”(Bhatia, 1993: 107).

According to Bhatia (1993), binominal or multinominal expression is a sequence of two or more words or phrases belonging to the same grammatical category having some semantic relationship and joined by some syntactic device such as ‘and’ or ‘or’.

Examples include:

i) signed and delivered

ii) in whole or in part
iii) to affirm or set aside

iv) act or omission

v) advice and consent

vi) by or on behalf of; under or in accordance with

vii) unless and until

viii) consists of or includes

ix) wholly and exclusively

x) the freehold conveyed or long lease granted.

Legal draftsmen have a special fascination for expressions like these. Bhatia says, “This is an extremely effective linguistic device to make the legal document precise as well as all inclusive.” (Bhatia, 1993:108).

Paul Rylance (1994) in his book *Legal Writing and Drafting* has gone to great lengths and depths to explain the art of legal writing and drafting. He has combined the related skills of legal writing and drafting and goes on to deal with the general principles of legal writing and drafting. Rylance says that good writing is clear thinking on paper and has its foundation in thinking, planning and organisation. Rylance’s work is of significance to this study because we get a broad spectrum and understanding of why lawyers write the way they do.

Rylance specifies that of the many ways to order writing, the most common are:

a) chronological order; setting out the sequence of events.
b) categorical order; information sorted under categories.

c) ascending order of complexity; simplest first

d) descending order of importance; most important last (Rylance, 1994:11).

In my opinion, for the drafting of affidavits Rylance's "ascending order of importance," i.e. most important last, is the most applicable. Rylance says, "You can use ascending order of importance to good effect in persuasive writing where you invite your reader to conclude in your client's favour." (Rylance, 1994:12).

In legal writing, the long sentence is the hallmark of lawyers. Rylance (1994) says that lawyers have a tendency to express everything in one mammoth sentence because lawyers' instincts are to anticipate all foreseeable evidence.

In the case of words and phrases, according to Rylance (1994) legal language is made up of complex or unfamiliar words and phrases. There are occasions where the use of complex words is unavoidable. Sometimes, particularly with technical words, there will be no alternative but to use an unfamiliar word. Sometimes the use of unfamiliar words is unavoidable where they have a precise technical legal meaning for example, in conveyancing, it would be inappropriate and unwise to depart from words such as 'fee simple', 'trust for sale', or 'conveyance'. In wills, expressions such as 'residue' or 'testamentary expenses' are common. If a technical legal expression is used then it requires no further definition in a formal document such as an agreement, will or conveyance. Rylance (1994) explains concisely why legal language is written the way it is. Legal writing thus requires skill because it is not easy for lawyers to explain legal jargon in lay terms.
2.2.3 Writing of Affidavits.

An affidavit is the sworn evidence of a witness. It is a written statement made by a witness of her or his evidence in a civil proceeding. It is given on oath or affirmation. Through an affidavit there is communication between the witness and the court. The content of an affidavit "is dictated by substantive rules of evidence and their form by rules of Court, their style involves a choice of language and by good drafting they occasionally excite interest in the Judge who finally determines the issues." (Donohoe, 1996:2).

Bryson (1985) in his article How to Draft an Affidavit says that a counsel in the drafting of an affidavit must possess knowledge of the law of evidence and of the practice about the form in which evidence is received; must comprehend the issues and their relevance; must have the capacity to marshal facts in order; together with circumstances so as to produce a complete narration; must have acquired command of the English Language; and finally must have knowledge of the rules and practices of the Court about the form of affidavits.

The drafting of affidavits depends on the rules of Court so the drafter must study the applicable rules and forms first. If an affidavit does not abide by the set rules then the serious consequences are either the witness’s evidence will not be put before the court to varying degrees depending on whether or not the entire content of the affidavit or only part of the affidavit is ruled inadmissible; the client may lose the proceeding and be caused expense that could have been avoided and the firm may have to pay costs (The College of Law, 1996 : 17).

Ethical considerations also play a role for a legal practitioner preparing an affidavit. The solicitor owes a duty to the client and to the court whereby he has to serve the clients' interest and must not also mislead the court either by doing something or omitting to do something.
(The College of Law, 1996). In the context of affidavits, a solicitor must "..... deal frankly and truthfully with the court in regard to the preparation and filing of affidavits." (The College of Law, 1996: 17).

Preparing an affidavit involves rules of court governing very basic matters of form. This general form of affidavits as prescribed by Atkin's Court Forms (1979) is as follows:

1. **Heading of Affidavit**

2. **Introductory Part of Affidavit**

3. **Body of Affidavit**

4. **Jurat**

5. **Conclusion of Affidavit**

1. **Heading of Affidavit**

   The affidavit is entitled in the cause or matter in which it is sworn. If there is more than one plaintiff or defendant then the full name of the first is stated followed by "and others." Besides that, where a cause or matter is entitled in more than one matter it is sufficient to state the first matter followed by the words "and other matters."

2. **Introductory part of Affidavit**

   According to Atkins (1979), the affidavit must be expressed with the name of the deponent: example, "I, J.R. (or "we J.R. and S.D.) followed by his place of residence and his occupation or, if he has none, his description. If the deponent is giving evidence in a professional capacity, the affidavit may, instead state the address at which
he works, the position he holds and the name of his firm or employer. The introduction then goes on to say the deponent makes oath and says “as follows.”

3. **Body of Affidavit**

   The body contains facts as the deponent is able to prove of his own knowledge. The evidence in this part of the affidavit must be divided into paragraphs numbered consequently and each paragraph should as far as possible be confined to a distinct portion of subject (The College of Law, 1996). In this section, the legal personnel concerned uses his flair for English to put forth his facts. The language used is authentic, complex, detailed and complete with the intention, “…… to discuss and negotiate justice.” (Khoo, 1994: 53). Lawyers require adequate linguistic ability to express their matter. ‘Linguists and applied linguists have also begun to recognise the enormous potential of the language of law as one of the richest resources of linguistic data. (Bhatia, 1987 : 227 ).

4. **Jurat**

   This is the ending of an affidavit. An affidavit must be signed by the ‘deponent’ and the jurat must be completed and signed by the person before whom it is sworn. The words “before me” should always be included.

5. **Conclusion of Affidavit**

   Every affidavit must be endorsed below the jurat with a note stating on whose behalf the affidavit is filed.
Besides the general format for drafting affidavits, the style used to draft affidavits should be given emphasis. Since an affidavit is sworn evidence of a witness, the evidence should be put in chronological order. The evidence must be clear, readily comprehensible and admissible. An affidavit should not sound like ordinary speech, instead powers of expression with the language of the affidavit will be an advantage. Finally, correct spelling and grammar play a vital role, because they concentrate the reader’s attention on the substance, whereas errors create distractions (Bryson, 1985).

2.3 WRITING STRATEGIES

2.3.1 General Writing Strategies

Strategies are specific methods or possible ways to approach and solve a particular problem. In the writing process to make writing more effective and to generate ideas the writer has to utilize writing strategies. These writing strategies vary between skilled and unskilled writers.

Sommer's investigation (1980, cited in Zamel, 1982) showed that proficient writers in their composing process use revision as a writing strategy because revising is an integral part of composing for it leads to further writing.

Zamel's (1983) account of research into the composing processes of advanced ESL students showed that each of these writers have individual strategies for dealing with different aspects of the composing process. If skilled writers were unable to proceed with their writing then the strategies used were either they chose to write a note to themselves to return to the problem later and chose instead to continue writing in order not to 'lose' the idea that had
suggested itself or after rereading their texts several times they discovered how to go on writing. Other skilled writers were well aware that they could leave half finished thoughts and return to them later; that idea did not always come to them when they sat to write but may come at the strangest time.

Perl (1980, cited in Kelly, 1984), in studying the strategies of more skilled writers discovered "retrospective structuring" i.e. movement forward occurs only after one has reached back. Murray (1980, cited in Kelly, 1984), on the other hand, sees writing as recursive rather than linear and to learn what to do next the writer looks within the piece rather than follow a plan or a model. Zamel further reports "......... the more skilled writers devised strategies that allowed them to pursue the development of their ideas without being side tracked by lexical and syntactic difficulties." (Zamel, 1983; 175).

2.3.2 Legal writing strategies

"Legal writers write to act, not to reflect" (Contanzo, 1993:5). Legal writing is action orientated and focussed on what the law means for a particular audience and it requires the author to turn to mass of data about the law into information about what the law means (Contanzo, 1993).

In legal writing, the author has to grab the reader’s attention using a heading related to content. The opening should be effective and can be written in several ways either by providing information, example “Twenty senior committee members met today to consider....”; asking a direct example, “Would you like to receive...”; coming straight to the point, example, “We need your assistance”; or using occasions, example, “Thank you for your phone call .........”. In some instances, if it is difficult and too time consuming to settle the attention – grabbing
opening, then it is advisable to write the body of the affidavit first i.e. the part of the affidavit containing the evidence and then add in the start and ending (The College of Law, 1996).

Legal writers sometimes do not know where to begin. To overcome this "white page syndrome" four commonly used techniques are suggested in the Seminar Papers on Legal Writing (1996). They are free writing, brainstorming, mind-mapping and the "So what" approach.

In "free writing", the writer has to write down the topic, then write down without being selective, at random everything that crosses his mind.

"Brainstorming" can be done alone or in groups. The writer has to write down the topic, then at random write down everything that is categorized as relevant. The next step is to group the ideas into related categories and finally to select a logical structure and prioritise ideas.

The most precise technique suggested is "mind mapping". When the writer has a fair idea of what he is going to say then the central idea should be put in the middle of the page and circled, followed by shooting off lines and sub-lines as the ideas begin to flow.

The last technique, the "so what" approach requires the writer to write down the question and ask himself "so what?" So in this technique the writer starts at "the answer" and works backwards to the "why".

It is suggested that all of these techniques "... unlock your mind, and your creative potential ... end the mental freeze by releasing the information your mind contains ... allow an
increasing level of particularity decreasing level of abstraction in your information flow, with corresponding variations in detail and structure (The College of Law, 1996:10).

Another strategy of legal writers is always starting with the main part, which is called "inverting the pyramid". The writer must give readers the information they need straight away, adding in background or backup later. Otherwise the reader will skim through to find the relevant points and in the process may miss your points and perhaps ignore details too.

Presentation of legal documents is also another strategy in legal writing. The use of numbered paragraphs, heading and sub-headings maximise the presentation of information as an effective adjunct to content and attention manipulation. The setting of the presentation guides the reader in prioritising information by providing a road map to the points made by the writer (The College of Law, 1996).

The endings of legal writing should either be positive, appreciative or just polite, thanking a client for instructions at the close of an instruction. If the writer wants the reader to act, then the reader should not be in any doubt about what action he is required to take, or what action the writer proposes he takes.

2.3.3 Strategies for Writing Affidavits.

Bryson (1985) says the best way to learn drafting of affidavits is by reading many affidavits. In this context, precedence plays a vital role. By referring to precedence and convention the writer has a guideline to depend on when drafting an affidavit.
2.4. CONCLUSION

Writing is often remarked to be the most difficult of the language abilities to acquire. At what stage does writing become difficult? It seems more likely that difficulties occur at the structuring stage. The real difficulty associated with writing can be traced to the communication stage. The circumstances in which written communication takes place and the social purposes, which it serves, are not the same as those of spoken communication. Writing cannot simply be said to be written speech. Davies and Widdowson are of the opinion that "writing is a social activity of a rather specialist and restricted kind, and to learn to write is to learn a kind of social behaviour." (Davies and Widdowson, 1974:178 as cited in Allen and Corder, 1974).

Thus the above researches and studies on writing show that writing is a normal social activity for the professional minority who produce institutional writing and, "... the institutional writing which professional people produce is by its nature circumscribed by conventions which serve as a guide to how writing is to be done." (Davies and Widdowson, 1974:179 as cited in Allen and Corder, 1974).

Therefore, to understand the writing styles of a certain discourse community, an indepth study of that institutional writing is required. This understanding will enable the researcher to draw up conclusions on the writing styles and strategies of the discourse community in question.