**DRAFTING INDICTMENTS**

**Miranda Moore QC**

1. **Get the format correct**

Always The Queen, even if you are acting for a local authority etc, never Regina.

Get the name of the defendant as right as you can in all the circumstances.

Only put in what you need to, no immaterial particulars.

Unnecessary to state value (unless it is necessary, but be ready to know it)

Not always necessary to state the place, unless it is. (on licensed premises for example)

1. **Write down exactly what you think has been done**

Don’t rely on what a CPS lawyer has charged

Check it is an offence

Look for alternatives

Consider lessor but included offences

1. **Crib from an example in Archbold**

No shame in it.

Also do a legal search on the offence and look at an indictment in an authority if it is an unusual offence.

1. **Check dates of offence**

If you can’t be specific, don’t be.

Not a material averment, until it is

Legislation changes

Sentencing changes

Sexual offences, particularly historic ones are a minefield.

Age of defendant may be important for sentencing AND beware doli incapax

Age of complainant is very important and must be included if a child

An offence might straddle two ages CHECK.

Look at transitional provisions whenever you straddle two Acts.

1. **Is it a series of offences a “course of conduct”?**

Is it possible or right to put more than one action in a single count? CPR10.2(2)

General deficiency charge?

Beware duplicity (the indictment must not be double) CPR 10.2

Could there be different defences to different allegations.

Be clear, set out under the Count which document you are referring to

1. **Sample or Specimen**

On a date other than in Count …….

Make sure the Judge has sufficient to pass a proportionate sentence to the offending.

Help the Court where you have a mass of charges by putting the exhibit ref on a copy of the indictment.

Also, where specimens put how many examples of the same behaviour there is.

1. **Conspiracy v substantive**

Consider the dangers of being left with only one defendant.

Put to your election.

1. **Tactical indicting**

Order of defendants is the prosecutions choice (within reason)

Who do you have a defence statement from?

Who answered questions in interview?

Who blames who else?

Is there another way of indicting the same thing that will lesson evidential problems?

**Check for cut and paste gremlins**