

## Possible form of direction on verdicts:

### Concluding remarks

*[Except in a case of insanity]*

"Let me draw this together for you members of the jury."

#### **Your task**

"You should consider all of the admissible evidence in the case. It is for you, the jury, to assess the quality, strength and effect of the evidence and decide [in relation to each accused] whether the Crown has proved, beyond reasonable doubt, the guilt of the/that accused on [the charge/each of the charges] the/that accused faces. It is your decision to make."

#### **Crown**

You should consider all of the evidence founded on by the Advocate Depute/Procurator Fiscal and the points made in [his/her/their] speech.

[For the various reasons [he/she/they] gave you, the Advocate Depute/Procurator Fiscal asks you to reject any part of the evidence given by the accused which exculpates [him/her/them].]

The Advocate Depute/Procurator Fiscal relies on all of the admissible evidence in the case, but particularly that identified in his/her/their speech, and invites you to find the/each accused guilty [of each charge he/she/they face(s)]."

#### **Defence**

"You should consider:

[the evidence of the accused; and]

all the evidence founded on, and the points made by, [the defence] in his/her/their speech(es).

[I have mentioned some of the points made but you must consider all of them (unless I have directed you to the contrary).]"

## General

"You have heard the evidence in the case.

There is sufficient evidence in law, if you choose to accept it, and if you draw the necessary inferences from it, for it to be open to you to find [each of] the accused guilty [on each charge]. It is open to you to find [each of] the accused not guilty [on any charge].

[It is open to you to find any or all of the accused not guilty. It is open to you to find some of them guilty and find the other or others not guilty.]

It is your decision what conclusion you reach.

If [the evidence of the/an accused, or] any evidence in the case, or the case as a whole, leaves you in reasonable doubt of the guilt of the/an accused [on a charge], you must find the/that accused not guilty [of that charge].

On the other hand, if you are satisfied of the/an accused's guilt [on a charge] beyond reasonable doubt, your duty is to return a verdict of guilty [for that accused] [on that charge]."

## Where there are multiple charges

"You must return a separate verdict [for each accused] on each charge."

## Verdicts

"There are two verdicts you can return on any charge:

- guilty, or
- not guilty

An accused found not guilty of a charge cannot be prosecuted again on that charge, save in exceptional circumstances.

It is not necessary that your verdict [on a charge] is unanimous, but for any verdict of guilty, there must be at least [ten (*where jury of 14 or 15*) / nine (*where jury of 13*) / eight (*where jury of 12*)] of you in favour of that guilty verdict.

So, before you can find the/an accused guilty [of a charge], there must be at least ten/nine/eight [as appropriate] votes for guilty. Otherwise, your verdict would be not guilty."

## **Where an alternative charge is to be considered by the jury**

*[One or more of the following directions should be given as appropriate:]*

- **Where the jury has a choice of guilty verdicts:**

*[This direction will be appropriate where a verdict of guilty on the main charge necessarily implies a finding of guilt in respect of the alternative charge. In that situation, votes for guilty on the main charge can, if necessary, be counted as votes for guilty on the alternative charge. This direction will be appropriate, for example, in cases of murder/culpable homicide, or dangerous/careless driving]*

"On charge [x] there are different possible guilty verdicts.

The/an accused could be guilty of [offence A], or [offence B]."

*[Where conviction on the alternative charge is sought by the defence:*

"The Crown asks you to find the accused guilty of [offence A]. The defence say you should return a verdict of guilty of [offence B]. So, in practical terms, your verdict on this charge will be guilty of one or the other of those offences. A verdict of not guilty is not open to you.]

Before you could find the/an accused guilty of [offence A], there must be at least [ten/nine/eight] votes for guilty of [offence A].

Before you could find the/an accused guilty of [offence B] the combined total of any votes for guilty of [offence B] and any votes for guilty of [offence A] would need to be at least [ten/nine/eight]."

- **Where the alternative charge arises only on acquittal of the main charge:**

*[This direction will be appropriate where votes for guilty on the main charge cannot be counted as votes for guilty on the alternative charge. In that situation, the jury ought to consider the main charge first, and consider the alternative charge only in the event of acquittal of the main charge.]*

"On charge [x] there are different possible guilty verdicts.

The/an accused could be guilty of [offence A], or of [offence B].

You should first consider [offence A]. If your verdict is guilty of [offence A], then that is the end of the matter and you need not consider [offence B]. However, if your

verdict on [offence A] is not guilty, you should then consider [offence B] and return a verdict on that offence."

*[Where conviction on an alternative charge is sought by the defence:*

"The Crown asks you to find the accused guilty of [offence A]. The defence say you should return a verdict of guilty on [offence B]. So, in practical terms, your verdict on this charge will be guilty of one or the other of those offences. A verdict of not guilty would not be open to you.]

Before you can find the/an accused guilty of either offence, there must be at least [ten/nine/eight] votes for guilty of that offence."

### **Where two charges arise from the same circumstances**

"You will have noted that charge [x] and charge [y] are said to arise from exactly the same circumstances. In law, you cannot convict a person of two different charges which are based on exactly the same set of facts. That would not be fair. So, if you are finding the/an accused guilty of these charges, you have to choose between them, and convict the/that accused of one charge and acquit of the other."

### **Where deletions might be made**

"If your verdict [on a charge] is guilty, you could delete any part of the charge not proved to your satisfaction, but what is left must amount to the crime, and describe how it was carried out."

### **Questions**

"If the manner in which you are voting, or considering voting, gives rise to any doubt or difficulty in identifying the correct verdict [in relation to any charge or an accused], then you can ask for further directions from the court."

### **Deliberations**

"When you start to consider your verdict(s), as I will ask you to do shortly, I suggest that you choose somebody who will speak for you when you return your verdict(s). You may find it helpful if that person chairs your discussions. You should ensure that each of you has the chance to have a say in your considerations."

## Delivering the verdict

"When you come back into the court, the clerk will ask who speaks for you and will then ask that person if you have reached a verdict/verdicts. Then, [on each charge,] the clerk will ask what your verdict is [in respect of each accused]. Your spokesperson should say guilty or not guilty as you have decided."

## Alternative verdicts

- **Where two different guilty verdicts are available to the jury.**

"In respect of charge [x], if your verdict is guilty, you should say "guilty of [*eg murder/dangerous driving*]" or "guilty of [*eg culpable homicide/careless driving*]" as you have decided.

Or:

- **Where the alternative charge only arises if the jury acquit of the main charge.**

"In respect of charge [x], if your verdict is not guilty, the clerk will then go on to ask for your verdict on the alternative charge [y] and you should say guilty or not guilty, as you have decided.

When you have given your verdict [on a charge], you will then be asked whether or not the verdict is unanimous. If your verdict is not unanimous you will not be asked for your voting numbers nor should the numbers be volunteered.

If your verdict [on a charge] is guilty, the clerk will ask whether you are making any deletions from the charge and, if so, what they are.

It would be useful for your spokesperson to write down your verdict(s) before you come back into court and to check with you all that it/they has/have been correctly recorded."

## Conclusion

"You must take such time as you require to consider your verdict(s), but do not rush to judgment. Your decisions are important for the Crown and for the accused. So, please give the case full and careful consideration. You should take a short period of time to reflect on the evidence and review your notes of the evidence at the start of your considerations.

Will you now please retire and consider your verdict(s)?

*[Depending on the time of day when the jury is retiring consideration might be given to an additional form of words such as:]*

[You are under no pressure from the court to reach your verdict(s) within any timescale. If you have not completed your considerations by later this afternoon, I will then invite you to stop your discussions and continue them tomorrow morning at 10am.]”