

**ANNEX C - Extract from Jury Manual, on Rape Myth Statutory Directions**  
(accessible [here](#)):

**“POSSIBLE FORM OF DIRECTION IN RELATION TO S.288DA: LACK OF COMMUNICATION ABOUT OFFENCE**

*"In this case you have heard evidence/questions asked of (name the complainer) suggesting that (name the complainer) did not tell/delayed in telling anyone about the offence/did not report/delayed in reporting the alleged commission of the offence to the police. Now, Ladies and Gentlemen you will have to give consideration to these matters but you will also need to bear in mind that there can be good reasons why a person against whom a sexual offence is committed may not tell others about it or report it or may delay in doing either of those things, and this failure or delay does not, therefore, necessarily indicate that an allegation is false. (If appropriate) You will also have to give consideration to the explanations given by (name the complainer) for the failure or delay in reporting matters to others including the police."*

**POSSIBLE FORM OF DIRECTION IN RELATION TO S.288DB(1): ABSENCE OF PHYSICAL RESISTANCE OR PHYSICAL FORCE**

*"In this case you have heard evidence/questions asked of (name the complainer) suggesting that sexual activity took place without any physical resistance on the part of (name the complainer). Now, Ladies and Gentlemen you will have to give consideration to these matters but you will also need to bear in mind that there can be good reasons why a person against whom a sexual offence is committed might not physically resist the sexual activity, and this failure to resist does not, therefore, necessarily indicate that an allegation is false. [If appropriate] "You will also have to give consideration to the explanations given by (name the complainer) for the failure to resist."*

**POSSIBLE FORM OF DIRECTION IN RELATION TO S.288DB(4): ABSENCE OF PHYSICAL RESISTANCE OR PHYSICAL FORCE**

*"In this case you have heard evidence/questions asked of (name the complainer) suggesting that the sexual activity alleged took place without the accused using physical force to overcome the will of (name the complainer). Now, Ladies and Gentlemen you will have to give consideration to these matters but you will also need to bear in mind that there can be good reasons why sexual activity can take place without someone using physical force to overcome the will of another in relation to that sexual activity. The fact that a person has not used physical force or the respondent does not resist does not necessarily mean that the sexual activity was consensual and thus does not, therefore, necessarily indicate that an allegation is false." [If appropriate] "You will also have to give consideration to the explanations given by (name the complainer) as to why no physical force was apparently used to overcome his/her will."*

**Current form of written directions addressing witness evidence**

Extracted from pages 73 to 74 of Appendix G, accessible [here](#)

**“Assessing evidence**

You will have to judge the quality of the evidence of witnesses. You should judge the evidence of all witnesses in the same way.

In doing so, you can look at their demeanour, or body language, as they gave evidence. You may want to be careful how much you can draw from the way a person presents. You do not know the witnesses and you do not know how they normally present. It can be hard to decide if a person is truthful or not just by their presentation.

What you can do is compare and contrast their evidence with other evidence in the case which you accept.

There are two aspects to the evidence of witnesses; credibility and reliability.

### **Credibility**

You will find the evidence of a witness on any particular matter to be credible when you are satisfied that the witness is doing their best to tell the truth about it.

### **Reliability**

Even the most honest witness doing their best to tell the truth about a particular matter may simply get it wrong. Their evidence about it may not be reliable. There may be various reasons for that, such as:

- the passage of time;
- poor hearing or eyesight; or
- the consumption of drink or drugs.

However even with such factors present you may still be prepared to accept the evidence as being reliable. It is very much a matter for your judgement as a jury, applying your collective experience and common sense.

You can only convict the accused on the basis of evidence which you find to be credible and reliable.

### **It is not all or nothing with the evidence of a witness**

You are free to accept the evidence of a witness in whole or in part. You may accept bits of what a witness has had to say and reject other bits. You may pick and choose as you see fit in light of what you make of the evidence. If you reject what a witness has said, either in whole or in part, that does not establish that the opposite is true. If you reject evidence for whatever reason just put it out of your minds as if it had never been given.

It may be that some evidence will be inconsistent in itself or when compared with other evidence. Quite often witnesses give differing accounts of the same event, especially if things happened quickly or unexpectedly. If there are discrepancies or differences you will have to decide whether you think they are important and undermine the evidence of a witness or witnesses. Can any discrepancies be explained?

For example:

- by the impact of traumatic events;
- by the passage of time;
- by differing powers of recall;
- by different viewpoints which witnesses might have had.

Ultimately, it is for you to decide if there are any differences and if so, whether they undermine the evidence of a witness or witnesses in whole or in part