

35. Separate Consideration of Charges – Multiple Defendants Confronting Multiple Charges

35.1 Legislation

[Last reviewed: March 2025]

Nil.

35.2 Commentary

[Last reviewed: March 2025]

Where multiple Defendants stand trial together, direction should be given that the case against each should be considered separately. If evidence is given which is not admissible against all defendants, the judge should instruct the jury that they must decide the case against each defendant solely on the evidence admissible against each of them. This will require the judge to specify which evidence may be considered for each defendant, as well as which evidence is inadmissible against each of them.

Reference may be had to *R v Vecchio & Tredrea* [\[2016\] QCA 71](#) and *R v SCO & SCP* [\[2016\] QCA 248](#), [166]-[172]. In *R v SCO & SCP*, the trial judge gave the 'orthodox direction' on separate consideration, but failed to specify 'that the bulk of the evidence was admitted only against one accused'. The lack of distinction made between evidence against the first Appellant and the evidence against the second led to a successful appeal.

35.3 Suggested Direction

[Last reviewed: March 2025]

Although the Defendants are being tried together, you must give the cases against, and for, each of them separate consideration. Separately consider the evidence admitted in relation to that Defendant [whether adduced against him/her or in his/her favour].

In respect of each charge, each Defendant is entitled to have the case decided on the evidence, and on the law, that applies to [him/her], and as it relates to each particular charge.

[Outline the evidence that is admissible against each Defendant where necessary. In particular, where evidence is admitted against one Defendant only, that must be explained to the jury].

And so, you must return separate verdicts in respect of each Defendant, and separate verdicts on each charge.

(Where appropriate, add): Of course, as the evidence is different [in the separate cases and] in respect of the different offences, your verdicts need not be the same, whether in respect of the charges or the Defendants.