

## **Lies Told By The Defendant (Going only to credit)<sup>1</sup>**

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**You have heard questions [or have heard submissions from the prosecution] which attribute lies to the defendant.<sup>2</sup> You will make up your own mind about whether he was telling lies and, if so, whether he was doing that deliberately.**

**If you conclude that the defendant deliberately told lies, that is relevant only to his credibility. It is for you to decide whether those suggested lies affect his credibility.**

**However, you should bear in mind this warning: do not follow a process of reasoning to the effect that just because a person is shown to have told a lie about something, that is evidence of guilt.<sup>3</sup>**

[The mere fact that the defendant tells a lie is not in itself evidence of guilt. A defendant may lie for many reasons, for example: to bolster a true defence, to protect someone else, to conceal disgraceful conduct of his, short of the commission of the offence, or out of panic or confusion. If you think that there is, or may be, some innocent explanation for his lies, then you should take no notice of them.<sup>4</sup>]

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<sup>1</sup> This direction is appropriate to avoid the risk of the jury engaging in an inappropriate process of reasoning in relation to lies by the accused. The direction is not appropriate in relation to lies by a complainant: *OKS v Western Australia* [2019] HCA 10 at [19].

<sup>2</sup> If the prosecution has submitted to the jury that the lies are relevant to guilt, an *Edwards* direction (No. 38.1) is required: *R v Sheppard* [2010] QCA 342; cf *R v Lacey & Lacey* [2011] QCA 386 at [81], [83] and [153].

<sup>3</sup> The direction is an adaptation of the suggested direction in *Zoneff v The Queen* (2000) 200 CLR 234 at 245 [23]. The direction has been modified to take into account the observations of the Court of Appeal in *R v Sheppard* [2010] QCA 342. The words, “It is for you to decide what significance those suggested lies have in relation to the issues in the case...” have been deleted to avoid the possibility that the lies will be used impermissibly. See also *Dhanhoa v The Queen* (2003) 217 CLR 1. For an example of a direction suggested by the Court of Appeal where the appellant was intoxicated at the time of the subject event, see *R v Frank* [2010] QCA 150 at [43]. See also *R v Scott* [2011] QCA 343.

<sup>4</sup> *Chevathen & Dorrick v The Queen* (2001) 122 A Crim R 441 at [28]-[32].