

Appendix 11.2 – Summing up and legal directions

[NB/ A summing up must always be tailored to the particular facts and circumstances of the individual case].

Introduction

1. I am now going to sum up to you.
2. I shall give you directions on the law which you must take from me and apply to the evidence.
3. I shall also remind you of the evidence to enable you to make factual findings that will support your conclusion.
4. You have heard all the evidence in this case. The evidence includes the evidence of witnesses from the witness box, statements of witnesses that were read, other documentary evidence, [items of property, photographs, CCTV, etc].
5. Your findings must be based solely on the evidence you have heard or seen in court. You must ignore anything else, such as media coverage of the case. It is irrelevant.
6. If I appear to express a particular view about the evidence, you must ignore it, unless you agree with it. It is your view of the evidence that matters.
7. This is not a trial; it is an inquest into a death, a fact-finding inquiry to find out how [name] died. It is not concerned with attributing blame. It is simply a way of establishing facts.
8. In order for you to decide the facts, you must make an assessment of the evidence. It is up to you what you make of each witness, in terms of their credibility and reliability. What evidence do you accept and what evidence do you reject? That is a matter for you. It is open to you to accept one part and reject another part of a witness's testimony.

The four questions

- The evidence has been directed towards answering four questions. Who was the deceased? When, where and how did [name] come by his/her/their death? You must also reach an overall conclusion about the death. You must not express an opinion about other matters or make recommendations.

The Record of Inquest

1. Once you have made your findings in relation to the four questions and reached a conclusion you must record these and sign one copy of the Record of Inquest. You have copies of this form in front of you and must complete all the sections. I shall give guidance as to how you approach individual sections.

Section 5

1. I shall deal with this first. These are the details which are required for the death to be formally registered. [In this case there is no dispute about them and I therefore direct you to enter the following [details]]. [*Alternatively, if there is conflicting evidence, state that it will be covered later and is for the jury to determine*].

Section 1

1. I direct you to enter the full name of the deceased.

Section 2

1. You are required to determine the medical cause of death. You will recall from [the evidence of the pathologist] that the correct format for recording this is to show the disease or condition directly leading to death i.e. the immediate cause of death, under 1(a), with underlying conditions in sequence under 1(b), 1(c) and 1(d) [if appropriate].
2. This has not been a subject of dispute in this case and I therefore direct you to record the following [details]. *[Alternatively, if there is conflicting evidence, state that it will be covered later and is for the jury to determine.]*

Section 3

1. This is where you should record when, where and how the deceased came by his/her/their death. You will see from the wording on the form that you should include the wider circumstances of the death where section 5(2) of the Coroners and Justice Act 2009 applies. [It applies/does not apply in this case].
2. What you write down in section 3 is a matter for you. It should be brief, neutral and factual, expressing no judgment or opinion, without naming individuals.
3. Restrict your findings to answering the three key questions: when, where and how did he/she/they come by his/her/their death. Add a separate piece of paper if you need more space.
4. [As this is a case where the wider circumstances should be recorded, you should include factual findings on relevant issues specific to this case, about which you have heard evidence. I suggest that this includes the following issues [list issues]. You may include other issues that you consider important provided they are relevant to the circumstances of the death]. [Examples may be given: ‘No night-time cell checks were carried out’ rather than ‘Officer A should have checked the cell’, ‘Prescribed drugs were not administered’, not ‘Nurse B was negligent and forgot to give the drugs’.]

Section 4

1. Finally, you are required to record your conclusion in section 4. This should not be considered until you have agreed the factual foundation for it in section 3. I shall now direct you as to what conclusions you should consider, and in what order.
2. In this case, there are [three] possible conclusions. They are alternatives and I shall deal with each of them in turn.

Conclusions

- [List available conclusions, preferably in writing. Indicate the essential elements about which the jury must be satisfied and the level of certainty required (i.e. whether it is more likely than not).
- Indicate the order in which conclusions should be considered. Identify the evidence capable of supporting each conclusion.]
- Those are the [three] alternative conclusions. One of those [three] conclusions must be entered in Section 4.

Other directions

Expert evidence

- Let me say a word or two about expert evidence. In this case you heard the evidence of [name(s)], which I will summarise shortly.
- Expert evidence is designed to help you with things which are likely to be outside your own experience. An expert should be independent and neutral, trying to assist the court. As with all evidence you are entitled to accept the expert evidence or reject it or any part of it as you see fit, [although in this case there is no dispute about it].

Hearsay

- Let me also say a word about hearsay evidence. You will need to consider the evidence of witness [name] who gave what is called hearsay evidence. This is evidence of what a witness hears from someone else about an event that they themselves have not seen or heard. [*Alternatively, the jury may be dealing with a document produced by a witness who did not write it – include details*].
- You must be cautious about this kind of evidence. It is still evidence in the inquest but it comes from someone who is not here and cannot be asked questions about it.
- You should consider the circumstances in which it was given. Is it good reliable evidence or could it be from someone who has a reason to distort the truth?
- It is for you to consider how reliable it is and how much weight should be given to it. It is evidence that requires careful scrutiny by you, being fair and sensible about it. You must decide what weight, what value, you can give to it. You may give it considerable weight, or some modest weight, or little weight, or no weight at all. That is for you to decide.

Evidence

- I shall now review the evidence in the inquest.
- [Summarise the evidence in a logical order, sometimes chronological, but not necessarily in the same as the order of witnesses. Have a clear plan. Outline the approach you intend to take. Group together evidence relating to particular issues e.g. chronology (day, date, time and place), medical cause of death, evidence as to state of mind, systems. Indicate where there has been no dispute and where the evidence has been a subject of challenge. Indicate where evidence supports other evidence and where there are inconsistencies. Cross-reference to pages in the jury's bundle of documents. Try not to be too lengthy.]

Final remarks

- Before you retire to consider your findings, I must give you these further legal directions.
- First, you may not express any opinion on any matter other than giving answers to the four questions and providing details for registration.
- Second, your conclusion must not be framed in such a way as to appear to determine any question of criminal liability on the part of a named person or civil liability.

- I must also repeat the warning I gave you before. You decide this case solely on the evidence which you see and hear in this court. Do not do your own research or look anything up on the internet. This is most important.
 - You must reach if you can a unanimous conclusion, one with which you all agree. There may come a time when I can accept a majority decision and if so I shall call you back into court and give you further directions.
 - You are under no pressure of time. You must take as long as you need to discuss the issues, reach your findings of fact and determine your conclusion(s).
 - When you have completed the Record of Inquest, I shall check to make sure there are no errors or inconsistencies. Then you will be called back to court and asked to read it out.
 - If you have not already done so, please elect a foreperson to chair your discussions and to speak on your behalf when you return to court.
 - If you want further directions, on the law or the evidence, send a note. The court will reassemble so I can provide them.
 - Members of the jury, when the jury bailiff/usher/coroner's officer is sworn I shall ask you to retire to consider your findings and conclusion and enter them on the Record of Inquest.
 - Please take all your documents and personal notes with you.
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