[2021] PBRA 100

the Parole Board
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Application for Reconsideration by Samuel

Application

1. This is an application by Samuel (the Applicant) for reconsideration of the decision of a panel of the Board (the panel) which on 13 May 2021, after an oral hearing on 30 April 2021, issued a decision not to direct his release on licence and not to recommend his move to an open prison.

2. The case has been allocated to me as one of the members of the Board who are authorised to make decisions on applications for reconsideration.

3. The following documents have been provided for the purpose of this application:

- The 339-page dossier provided by the Secretary of State, which includes the panel's decision.

- Representations submitted on 20 May 2021 by the Applicant's solicitor in support of the application.

- An e-mail from PPCS dated 1 June 2021 stating that on behalf of the Secretary of State they offer no representations in response to the application.

Background

4. On 19 August 2008, at the age of 38, the Applicant received a sentence of imprisonment for public protection ('IPP') for attempted rape. His minimum term (3 years and 6 months less the time which he had spent in custody on remand) expired in August 2011. He has remained in closed prison establishments throughout his sentence.

5. On 15 November 2019 his case was referred to the Parole Board by the Secretary of State to decide whether to direct his release on licence and, if not, to advise the Secretary of State about his suitability for a move to an open prison. This is the fifth review of his case by the Board, all previous reviews having resulted in decisions not to direct his release on licence or to recommend a move to an open prison.

6. In due course it was directed that the case should proceed to an oral hearing, and the case was allocated to the panel.

7. At the hearing release on licence was recommended by all the professional witnesses (three probation officers and a prison psychologist who had assessed the Applicant on behalf of the Secretary of State), but the panel did not agree with that recommendation.

The Relevant Law

The test for re-release on licence

8. The test for re-release on licence is whether the Applicant's continued confinement in prison is necessary for the protection of the public. This test was correctly set out by the panel in the introductory section of their decision.

The rules relating to reconsideration of decisions

9. Under Rule 28(1) of the Parole Board Rules 2019 a decision is eligible for reconsideration if (but only if) it is a decision that the prisoner is or is not suitable for release on licence.

10. A decision that a prisoner is or is not suitable for release on licence is eligible for reconsideration whether it is made by

a) a paper panel (Rule 19(1)(a) or (b)) or

b) an oral hearing panel after an oral hearing, as in this case, (Rule 25(1)) or

c) an oral hearing panel which makes the decision on the papers (Rule 21(7)).

11. Rule 28(1) of the Parole Board Rules 2019 provides that applications for reconsideration may be made in eligible cases on either or both of two grounds: (a) that the decision is irrational or (b) that it is procedurally unfair.

12. The decision of the panel in this case not to direct release on licence is thus eligible for reconsideration. It is made on both grounds. The decision not to recommend a move to an open prison is not eligible for reconsideration.

Irrationality

13. In **R (DSD and others) v the Parole Board [2018] EWHC 694 (Admin) (the "*Worboys case*")**, the Divisional Court set out the test for irrationality to be applied in judicial reviews of Parole Board decisions. It stated at para. 116

> *"the issue is whether the release decision was so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."*

This was the test which had been set out by Lord Diplock in **CCSU v Minister for the Civil Service [1985] AC 374** and applies to all applications for judicial review.

14. The Divisional Court in **DSD** went on to indicate that in deciding whether a decision of the Parole Board was irrational, due deference had to be given to the expertise of the Parole Board in making decisions relating to parole.

15. The Board, when deciding whether or not to direct a reconsideration, adopts the same high standard as the Divisional Court for establishing *'irrationality'*. The fact that Rule 28 uses the same adjective as is used in judicial review cases in the courts shows that the same test is to be applied. The application of this test to reconsideration applications has been confirmed in previous decisions under rule 28: see **Preston [2019] PBRA 1** and other cases.

Procedural unfairness

16. Procedural unfairness means that there was some procedural impropriety or unfairness resulting in the proceedings being fundamentally flawed, and therefore producing a manifestly unfair, flawed, or unjust result. These issues (which focus on how the decision was made) are entirely separate from the issue of irrationality which focusses on the actual decision.

17. It has been established that the things which might amount to procedural unfairness include:
    (a) A failure to follow established procedures;
    (b) A failure to conduct the hearing fairly;
    (c) A failure to allow one party to put its case properly;
    (d) A failure properly to inform the prisoner of the case against him or her; and/or
    (e) Lack of impartiality.

    This is not an exhaustive list. The fundamental question on any complaint of procedural unfairness is whether, viewed objectively, the case was dealt with fairly.

"Duty of enquiry"

18. One situation which may give rise to a finding of irrationality or procedural unfairness is where a panel has made a decision in the absence of an important piece of evidence which might have made a difference to the decision and which the panel might reasonably have been expected to obtain (adjourning the hearing, if necessary, for that purpose).

19. The relevant principles, applied by the courts when a challenge is brought to any decision made by a public body, were summarised as follows in **R (Plantagenet Alliance Ltd) v Secretary of State for Justice [2014] EWHC 1662 (Admin):**

    (1) The obligation upon the decision maker is only to take such steps to inform himself as are reasonable;
    (2) Subject to a *Wednesbury* challenge, it is for the public body and not the court to decide upon the manner and intensity of inquiry to be undertaken;
    (3) The court should not intervene merely because it considers that further inquiries would have been sensible or desirable. It should intervene only if no reasonable authority could have been satisfied on the basis of the inquiries made that it possessed the information necessary for its decision.

20. This is the approach which is followed by the Parole Board when considering an application for reconsideration of a panel's decision.

Request for Reconsideration

21. In helpful written representations the Applicant's solicitor advances three broad submissions in support of the application:

(1) The panel's decision not to direct release in this case was irrational in the circumstances;

(2) The panel disregarded relevant considerations or gave them insufficient weight; and

(3) The panel failed in its duty of inquiry, and its failure amounted to procedural unfairness.

22. I will explain below the ways in which the solicitor elaborates on these submissions.

Discussion

23. It is convenient to discuss first the submission that the panel's decision was irrational and then the submission that it failed in its duty of enquiry. Disregarding or failing to attach sufficient weight to relevant considerations is a species of irrationality, so I will consider the solicitor's first two grounds together under that heading.

24. Before addressing the specific grounds, I should make brief reference to some of the details of the history of the case as it appears from the dossier.

25. The Applicant has a long history of offending and has served a number of prison sentences which, as the panel observed, appear to have had little effect in deterring him from further offending. His offences have included violent ones (affray, assault occasioning actual bodily harm, assault with intent to resist arrest, battery and use of threatening behaviour/words) as well as non-violent acquisitive ones, criminal damage and possession of drugs. Probation records indicate that he has a history of domestic abuse of an intimate partner: that did not result in any conviction, but he has admitted it. Drugs and alcohol played a significant part in his offending.

26. The index offence occurred in February 2008. It took place in a car park following a party which the Applicant and the victim had both attended. The prosecution case, which the jury clearly accepted, was that the Applicant told the victim *'You are going to get raped'* and made a determined attempt to carry that threat into effect, which was only interrupted when a member of the public intervened. Even then he is said to have chased her around the car park until she was able to seek help. He was convicted after a contested trial. The sentencing judge, who had seen and heard the evidence, described the victim as young and vulnerable.

27. During his sentence the Applicant has continued to maintain his innocence of the index offence. The Parole Board is obliged by law to proceed on the basis that the

jury's verdict was correct: it has neither the authority nor the resources to re-investigate the case. Denial is not a risk factor (and can in some circumstances be a protective factor), but it may prevent an offender from completing risk reduction programmes which would demonstrate a reduction in his risk of serious to the public. Such programmes are not, however, the only way in which an offender can demonstrate a reduction in risk.

28. For a long time, the Applicant's behaviour during his sentence was poor, though it improved after he completed a thinking skills programme in 2012.

29. In 2011 he was assessed as unsuitable for a training course addressing sex offending because of his denial. In 2018 he spent a period in a specialist prison unit whose regime is designed to help offenders to progress, but after some months it became clear that it was not suitable for him. Other specialist prison units were considered but he either declined to go there or was thought to be unsuitable.

30. It was then recognised by the authorities that he required a bespoke treatment plan, and that was put into effect. It involved one-to-one sessions with two professionals, a clinical psychologist and a specialist probation officer.

Irrationality

31. The solicitor makes a number of criticisms of the decision under this heading, which I will consider in turn.

32. The solicitor points out that the clinical psychologist is part of a specialist service available for offenders serving indeterminate sentences for violent or sexual offences and who are *"post tariff"* and have failed to progress. This service is designed to support such individuals and to help them to progress. The solicitor submits that since this service was designed for offenders like the Applicant, and he had progressed well, it was irrational that the efficacy of this work was not accepted by the panel.

33. As the panel recorded in its decision, the dossier provided by the Secretary of State contained a positive progress report from the clinical psychologist. She explained that the focus of her sessions with the Applicant was to explore the triggers to his anger and developing ways to manage that anger: he explored grief and loss as well as childhood trauma. She stated that the Applicant would require consistent support in the community to adapt to life experiences and that that might be provided by mental health services or check-ins. The panel questioned the Applicant about what he had learned from his sessions with the clinical psychologist and recorded that he was able to give various examples.

34. The panel also recorded that since September 2020 the Applicant had engaged in 16 one-to-one sessions, via telephone, with the specialist probation officer. The specialist probation officer told the panel that the Applicant had engaged well and that he believed the Applicant understood his risk factors and was motivated to change. The specialist probation officer said he was proud of the Applicant's progress during the sessions. He believed that the Applicant understood that parties in a relationship should be equal. The Applicant had been able to tell him how he would handle difficult scenarios.

35. In its decision the panel complimented the Applicant for his participation in the work he had done with clinical psychologist and specialist probation officer and accepted that he had made some progress. He was, for example, able to cite some of the relapse prevention strategies which he would use if released on licence.

36. However, the key question which the panel had to decide was whether the Applicant's reduction in risk was sufficient to show that his risk of serious harm to the public would be manageable on licence in the community. To decide that question the panel, as it was bound to do, questioned him closely and recorded its conclusions as follows:

"All professionals support your release. The panel notes that all professionals are impressed by your level of insight into your areas of risks. However, even when considering your nervousness on the day, the panel members, who each put questions to you, did not find your evidence to be insightful. The panel notes that you found some aspects of therapy at [the specialist prison unit] difficult and even during the panel's questioning of you, it was clear that you required extensive probing. You were able to speak eloquently about your lifestyle and future resettlement plans, but this was not the case when speaking about your areas of risk."

37. It is clear that the panel took fully into account the work which the Applicant had done with the specialist probation officer and the clinical psychologist, but they were not persuaded that that work (or any other work which the Applicant had completed) was sufficient to equip him with the insight and skills necessary to avoid a return to serious offending.

38. A panel is of course entitled to make its own assessment, on the basis of its own observations of the prisoner's evidence, of his insight into his areas of risk. When I first read the papers in this case I was a little concerned that there might be an alternative explanation for the difference (noted by the panel) between the Applicant's ability to speak eloquently about other matters and his relative difficulty in explaining his understanding of his areas of risk (and strategies for addressing them).

39. My concern was based on the Applicant's solicitor's statement that: *"During the hearing [the Applicant] was criticised by the panel chair for referring to his notes despite this being agreed with [the clinical psychologist] as a suitable aide memoire to assist him at his hearing."* I wondered whether the Applicant might perhaps have been disconcerted by this criticism to an extent that he was unable to articulate his insight into his areas of risk.

40. I therefore requested the following further information from the solicitor:
    (a) at what stage of the hearing did this happen?
    (b) did the solicitor raise the point at the time, and if so what was the panel chair's response? and
    (c) how, if at all, was the matter resolved?

41. The solicitor duty responded (from memory*):*

"During his evidence, we recall, [the Applicant] was answering questions from the first panel member …. [He] had answered questions about the index offence, his family and relationship history. [He was] then being asked about his offending behaviour work and time in [the specialist prison unit]. While doing so [he] was holding his notes but, in our view, was not reading from them. The panel chair interrupted [him] and asked what he was reading from. [The Applicant] explained he had some notes to help him. The panel chair said that [the Applicant] should not be reading from notes: the purpose was for him to give evidence. [The Applicant] was told not to read from his notes and to answer the questions without referring to them. The hearing continued. At the time we did not raise any point and the hearing continued.

42. I then decided that it was necessary to listen to the audio recording of the hearing. There was a significant delay in the recording being provided but I have now listened to it and it is clear that the Applicant was not in any way *"thrown"* by the panel chair's interruptions (there were in fact two, both of them appropriate and courteous).

43. On the first occasion the panel chair interrupted the questioning by the first panel member to say that she could see that the Applicant had some papers in front of him. She asked what they were, and the Applicant said that they were his own personal notes which he had written out. The panel chair apologised for interrupting and said that she just wanted to know what the papers were. She added *"Don't worry".*

44. Later on, in answer to a question by the same panel member, the Applicant said, *"can I read these notes?"* and without objection proceeded to read out some quite lengthy notes which he had made.

45. A little later, when the same panel member asked another question, the panel chair said that she could see that the Applicant wanted to read some more notes but it would be better if he told the panel in his own words what he wanted to say. She added that if he wished his notes could be added to the dossier

46. Having listened to the recording I am satisfied that I can exclude the possibility that the panel mistook the reason for the Applicant's difficulty in demonstrating insight into his areas of risk.

47. I am bound, therefore, to conclude that the panel was fully entitled to its assessment of the Applicant's lack of insight, and in those circumstances I cannot accept the submission that the panel disregarded the one to one work or attached insufficient weight to it.

The availability of a continuation of the one-to-one work in the community

48. The solicitor points out that given the Applicant's complex presentation he has, unusually, two probation officers appointed to manage his case in the community. One has known the Applicant for over 11 years and the other the specialist

probation officer will be able to continue his bespoke individualised work well into the Applicant's time on licence. The work is based on well recognised models, and the evidence was that at the time of the hearing there were a further 27 sessions to work through. The specialist probation officer told the panel that this work had addressed all areas of risk. The solicitor therefore submits that it was irrational of the panel not to direct release on licence so that the work could continue in the community.

49. The difficulty with this submission is the panel's express finding, explained above and based on its own testing of the Applicant's current insight into his risks, that the work thus far completed with the specialist probation officer had not in fact resulted in sufficient insight into his risks to enable them to be managed safely in the community. Unless and until that was achieved, it would not be appropriate for the necessary further work - even if available in the community - to be completed there.

Going against the recommendations of the professional witnesses

50. It is correct, as pointed out by the solicitor, that all the professional witnesses (including the prison psychologist) supported release on licence. They all gave evidence that they believed that the Applicant's risk of serious harm was not imminent, and that the risk management plan proposed by probation would be effective to manage his risk in the community. The solicitor submits that it was irrational for the panel to reject their views.

51. It is well established that a panel of the Board is not obliged to follow the recommendations of professional witnesses: the panel's responsibility is to make its own independent assessment of the prisoner's risk. However, it is also well established that, if the panel is rejecting the unanimous recommendations of all the professional witnesses, it must provide adequate reasons for doing so. If it fails to do so, or if its reasons can be shown to be flawed, its decision may be regarded as irrational.

52. In its decision in this case the panel carefully analysed the evidence of the professional witnesses and gave detailed reasons for its decision not to follow their recommendations. None of the professionals' opinions was unqualified, as the panel was able to explain.

53. In the concluding parts of its decision the panel summarised its views of the professionals' evidence as follows:

"Notwithstanding that you have been assessed by the prison psychologist as having completed the necessary breadth and intensity of intervention, the panel is not satisfied that you, or professionals, have fully explored, understood and addressed, your sexual offending or intimate partner violence. In the panel's opinion, insight into this area of your risk is essential and remains outstanding. Consequently, the panel was bereft of any evidence to indicate how you would prevent such serious behaviour from happening again. Insofar as you have undertaken work to address your offending behaviour, the panel is not yet satisfied of the impact of that work on your level of risk. Accordingly, the panel is not satisfied that the risk you pose can be managed on IPP licence. Further, your coping strategies in respect of

managing your preoccupation with sex, maintaining healthy relationships and refraining from alcohol and substance misuse are assessed by the panel as being underdeveloped.

"Mindful of the above, when applying the legal test, and the analysis set out above, the panel assesses that it continues to be necessary for the protection of the public that you remain in prison and it does not therefore direct your release.

"The Panel's assessment is that essential/core risk reduction work remains outstanding. The outstanding areas of risk require treatment in closed prison conditions before release and progression can be considered."

These reasons cannot be regarded as being in any way inadequate or flawed.

54. Even if, as the professionals believed, the Applicant's risk to the public was not imminent, that - whilst certainly a relevant factor - did not necessarily mean that the test for release on licence was met. In an IPP case the Board is not concerned only with a prisoner's risk to the public in the short term: it is required to consider his longer-term risk as well.

Failure to record accurately the evidence of the professional witnesses

55. The solicitor quotes extensively from the evidence of the professional witnesses and submits that the panel either disregarded or attached insufficient weight to the parts of the evidence which he quotes. He summarises his submission as follows:

'Specifically, for the reasons set out above we submit the panel failed to accurately record the evidence of all the professional witnesses that all core work had been completed; [the Applicant] had developed internal tools to manage risk; the panel placed too much emphasis on the single conviction for a sexual offence.'

56. Whilst the professionals believed that all core risk reduction work had been completed, there were sound reasons for the panel's conclusion that that was not the case. It had been accepted that because of his complex needs the Applicant was not suitable for the conventional programmes designed to address risk factors in cases of his kind. As the panel recorded, when it was proposed that he should be offered one-to-one bespoke psychological sessions in place of those programmes, it was assessed that his main identified treatment needs included addressing past trauma, emotional management, core beliefs, mistrust and hyper-vigilance, conflict in intimate relationships, sexual preoccupation, entitlement, and adversarial sexual attitudes.

57. The clinical psychologist report summarised the work which she had done with the Applicant. According to her report that work was focussed on past trauma and anger management. She wrote that the Applicant had engaged well and made good progress in those areas. But there is no reference in her report to sexual preoccupation, entitlement or adversarial sexual attitudes (areas which the Applicant would normally have been expected to address through a sex offender treatment programme). In those circumstances the panel was clearly entitled to its conclusion that it could not be satisfied that the Applicant, or professionals, had

fully explored, understood and addressed his sexual offending or intimate partner violence, leaving those as areas of risk which remained outstanding.

58. **The Applicant's 'toolbox'.** 'Toolbox' is a convenient expression used by professionals to describe a collection of strategies ('tools') which an offender may have developed to help him to avoid re-offending. Where an offender has complex risk factors, as the Applicant has, to be effective his 'toolbox' needs to include a range of strategies to address the various aspects of his risk. The Applicant had certainly developed some 'tools' but, as explained above, the panel was entitled to conclude that there were areas of risk which remained outstanding and for which he had not developed the necessary 'tools'.

59. **The single conviction for a sexual offence**. It is correct that the Applicant has only one conviction for a sexual offence (the index offence, for which he is serving IPP) but that was a very serious one, on which the panel rightly focussed. The panel was entitled to its conclusion that it needed to be explored fully. Indeed the prison psychologist, whilst recommending release on licence, acknowledged that (a) the Applicant would need to be given adequate support to prepare for such a direct transition (b) it was imperative that he should engage in ongoing work and that (c) he would benefit from further support around developing healthy relationships and understanding some of his beliefs and attitudes that might still need to be challenged and explored.

Failure to record accurately the Applicant's evidence about his use of drugs and alcohol before the index offence

60. In their decision the panel recited the Applicant's evidence on this topic as follows: *'You acknowledged consuming "lots of lager", "cannabis and cocaine"* The solicitor states that this is inaccurate and that what the Applicant said, as recorded in his own note, was *'drinking, smoking, taking cocaine'.*

61. There does not appear to be any significant difference between these two versions. The Applicant has consistently stated that he used to drink substantial quantities of lager as well as using cannabis and cocaine. In a different passage in their decision, dealing with his general misuse of alcohol, the panel recorded him as saying: *'You said that you are not an alcoholic but that you enjoy your drink. You said that you had a problem with alcohol and used to be violent. There were occasions when you would consume seven pints and vodka a couple of times a week. You said that you would become violent when you consumed spirits and admitted to drinking vodka and spirits on the evening of the index offence.'* The accuracy of this passage is not challenged.

62. It is clear that misuse of alcohol is a major risk factor for the Applicant, and the panel had, of course, to assess the likelihood of a return to it. They recorded his evidence on that point as follows:

'Your relapse prevention plan in relation to alcohol is centred around drinking in moderation in social situations. You began by saying you would limit yourself to a "few beers" and when pressed to quantify what this might look like for you, you initially said "three or four pints", which then became "four or five weaker beers". You said that six pints would be "too much" but it would depend on the strength

(volume) of alcohol. Also, you said that you did not think you would resume drinking spirits.'

63. This evidence did not suggest that the Applicant had any properly developed strategy to avoid a return to the problematic use of alcohol.

Failure to take into account the value of the Applicant's time at the specialist prison

64. The solicitor criticises the way in which the panel in its decision dealt with this topic, which the solicitor submits was critical as it brought about a change in the Applicant's presentation.

65. The panel recorded the length of time which the Applicant had spent at the prison during which he engaged in the regime before being found unsuitable for continued participation, partly because he maintained his innocence of the index offence and partly because he did not like to hear others disclosing their offences. Whilst the panel did not specifically refer to it in their decision, there was evidence that while at the specialist prison the Applicant presented with disturbed behaviour (such as shouting out at night, threats to do harm and difficulty communicating coherently) which was apparently triggered by issues brought up in the groups.

66. The panel went on to state: *'When the Panel asked you about your learning from [your time at the specialist prison], you said that you struggled to talk in a group setting, found yourself getting into arguments with other prisoners and were experiencing difficulty staying calm. When your legal representative asked you about the benefits of being at [the prison] you said that you were able to talk openly about your issues and share your emotions with others.'*

67. This was a fair summary of the evidence. The solicitor submits that the panel should have added that that the Applicant in his evidence agreed to complete group work in the community where, with the support of probation, he would be able to manage better due to attending for each session and then leaving. At the prison he had to remain on the wing with all the participants, which was problematic for him. Whilst it might have been better if the panel had specifically drawn attention to that evidence, in the context of the case as a whole I cannot believe that their decision would have been any different if they had done so.

Reliance on an instance of poor behaviour in prison

68. The solicitor submits: *'The panel have reported that [the Applicant] received a negative warning in December 2020 for being rude and offensive towards a female officer. However they have not reported [the Applicant's] evidence that he immediately sought support from another officer and there were no other concerns with this officer since.'* He goes on to point out that [the prison probation officer] was of the opinion that this demonstrated how the Applicant had changed.

69. Again, it might have been better if the panel had specifically mentioned this evidence. However, it did record that the Applicant's custodial behaviour had continued to improve since his last review by the Board. It complimented him on

that, whilst correctly pointing out that good custodial behaviour is not a reliable indicator for future sexual offending and intimate partner violence.

70. In this context I cannot regard the omission to mention the evidence relied on by the solicitor as evidence of irrationality.

Personality traits

71. The solicitor criticised the panel for having, whilst recording the psychologist's view that it would be beneficial for the Applicant to further develop his understanding of problematic personality traits, failed to record that this had been addressed through a referral, and acceptance, on the regime to help people recognise and deal with their problems pathway.

72. I cannot accept the validity of that criticism. A regime to help people recognise and deal with their problems is described as 'a jointly commissioned initiative that aims to provide a pathway of psychologically informed services for a highly complex and challenging offender group who are likely to have a severe personality disorder and who pose a high risk of harm to others, or a high risk of reoffending in a harmful way.' Acceptance of a prisoner onto a regime to help people recognise and deal with their problem's pathway does not, in itself, do anything to reduce his risk to the public. It may, of course, lead in due course to improved management of his risk, but that stage had not been reached and the panel found on reasonable grounds that the professionals involved in the case had not yet explored some the Applicant's important areas of risk (see above).

Conclusions on irrationality

73. This is an unusual and difficult case, and other panels might have reached different conclusions. However, that is not the test which I am required to apply. I can only direct reconsideration of the panel's decision if I can make a finding of irrationality within the meaning explained above. Having carefully considered the various points raised by the solicitor, I am afraid I cannot make such a finding.

Procedural Unfairness

74. The primary suggestion made by the solicitor in support of the ground of procedural unfairness is that the panel should have adjourned the case so that the clinical psychologist could be called to give oral evidence. He relies on the prison psychologist's evidence that her knowledge of the one to one work delivered by the clinical psychologist Ms A was limited to the report in the dossier; and he submits that the panel should have adjourned the review to seek the clinical psychologist so that they could explore the full nature of the work and determine whether all aspects of risk had been addressed.

75. The difficulty with this submission is that, even if (which is doubtful) the clinical psychologist could have added anything significant to her report, it could not have altered the panel's very clear finding that the Applicant had been able to demonstrate to them a sufficient degree of insight into his risks to justify a conclusion that the test for release on licence was met.

76. The next suggestion is that the case should have been adjourned for an assessment of the Applicant's suitability for a training course addressing sex offending. However, it had already been decided (as explained above) that he was unsuitable for such programmes and that the best way of addressing his outstanding areas of risk was the one-to-one work with professionals. The problem was that that work had not yet sufficiently addressed (if at all) sexual offending or intimate partner violence. The best way of addressing those areas of risk was therefore a continuation of the one-to-one work.

77. It follows, I am afraid, that neither of the grounds advanced under the heading of procedural unfairness can meet the test for establishing a duty of further enquiry.

Decision

78. For the reasons set out above I cannot allow this application, and the panel's decision must stand.

Jeremy Roberts
28 June 2021