

[2024] PBRA 82

## Application for Reconsideration by Low

### The Application

1. This is an application by Low (the Applicant) for reconsideration of a decision dated 13 March 2024 by a panel of the Parole Board (the panel) following an oral hearing held on 11 March 2024 refusing his application for release but recommending to the Secretary of State (the Respondent) a move to open conditions.
2. Rule 28(1) of the Parole Board Rules 2019 (as amended by the Parole Board (Amendment) Rules 2022) provides that applications for reconsideration may be made in eligible cases (as set out in rule 28(2)) either on the basis (a) that the decision contains an error of law, (b) that it is irrational and/or (c) that it is procedurally unfair. This is an eligible case, and the application was made in time.
3. A decision to recommend or not to recommend a move to open conditions is not eligible for reconsideration under Rule 28. This application therefore requires me to decide only whether the panel's decision not to direct the Applicant's release was irrational.
4. I have considered the application on the papers. These are the decision of the panel, the dossier which runs to over 500 pages and written submissions in support of the application prepared by the Applicant's representatives.

### Background

5. The Applicant is now 47 years of age. The Applicant's victim in the index offences was 19 years old and pregnant with her first child. She was walking home alone at night when the Applicant attacked her from behind pressing a seven inch bladed knife to her neck and ordering her to the ground. The Applicant robbed her, threatening her with use of the knife. He indecently assaulted her, compelled her to remove her clothes and attempted to rape her. It was only her disclosure that she was pregnant that stopped the Applicant attempting to rape her. Before leaving, the Applicant stole her necklace from around her neck and some of the contents of her handbag and threatened to find her and kill her if she informed the police.
6. The Applicant has an extensive history of offending amounting to some 11 convictions for 44 offences including acquisitive offences such as theft, attempted burglary and forgery. He was first convicted of indecent assault in July 1993, again in September 1993 (aged 16) and for a third time in August 1994 (aged 17); the victims in all these offences being females unknown to him assaulted in public places. His record shows that he has offended whilst on bail on some 20 occasions. Taken together with the index offences. the panel described the Applicant's record



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as indicative of an entrenched pattern of offending, demonstrating that he has the capacity to cause serious harm.

7. When sentencing the Applicant to life imprisonment in November 1996 for the index offences the judge noted the gravity of his offending and said:

*"The details of the present offences and those of the recent past offences force me to the conclusion that you pose a serious threat to the safety and welfare of young women".*

8. The minimum custodial term or tariff imposed by the judge expired in April 2003. As the panel noted the Applicant was at the time of the oral hearing by a substantial margin post-tariff. This was the Applicant's eighth review of his life sentence. He has spent the majority of his sentence in the most secure conditions. He was re-categorised from Category B to Category C in February 2018. He progressed to open conditions between September 2019 and January 2020 but was returned to closed conditions. He returned to open conditions from October 2020 to December 2021. Prior to the current review he was previously reviewed by a differently constituted panel in June 2022 when he did not apply for release, acknowledging that having spent over half his life in custody (approximately by then 26 years) he said he needed a gradual reintegration back into the community.

### **The current parole review**

9. The panel who heard his review on 11 March 2024 comprised of two independent members and a psychologist member who heard evidence from the Community Offender Manager (COM) and the Prison Offender Manager (POM) and the Applicant himself who was represented by the same legal representatives who had appeared on his behalf in 2022.

### **The Request for Reconsideration**

10. On 3 April 2024 the Applicant's representatives lodged written submissions in support of the application for a reconsideration essentially on the basis that the panel's decision was irrational in that:

- (i) The panel failed to provide sufficient reasons for rejecting the unanimous recommendations of the professional witnesses who were supportive of release.
- (ii) The panel placed significant and disproportionate weight on what was described as rule breaking behaviours on the part of the Applicant.
- (iii) The panel's concerns regarding the Applicant's impulsivity were misplaced.
- (iv) The panel erred in concluding that warning signs of heightened risk would not necessarily be apparent in the Applicant's case.

### **The Relevant Law**

*Parole Board Rules 2019 (as amended)*

11. Rule 28(1) of the Parole Board Rules provides the types of decision which are eligible for reconsideration. Decisions concerning whether the prisoner is or is not suitable for release on licence are eligible for reconsideration whether made by a paper panel



(rule 19(1)(a) or (b)) or by an oral hearing panel after an oral hearing (rule 25(1)) or by an oral hearing panel which makes the decision on the papers (rule 21(7)). Decisions concerning the termination, amendment, or dismissal of an IPP licence are also eligible for reconsideration (rule 31(6) or rule 31(6A)).

12. Rule 28(2) of the Parole Board Rules provides the sentence types which are eligible for reconsideration. These are indeterminate sentences (rule 28(2)(a)), extended sentences (rule 28(2)(b)), certain types of determinate sentence subject to initial release by the Parole Board (rule 28(2)(c)) and serious terrorism sentences (rule 28(2)(d)).

### *Irrationality*

13. The power of the courts to interfere with a decision of a competent tribunal on the ground of irrationality was defined a long time ago in **Associated Provincial Houses Ltd v Wednesbury Corporation (1948) 1KB 233 (CA)** by Lord Greene in these words:

*...if a decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere'.*

14. The same test applies to a reconsideration panel when determining an application for reconsideration of a decision on the ground of irrationality.

15. In **R (DSD and others) v the Parole Board [2018] EWHC 694 (Admin)**, the Divisional Court applied this test to Parole Board hearings when an irrationality challenge to a panel decision is made. The court said 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.”*

16. **DSD** is therefore an important case in setting out the limits of a rationality challenge in parole cases. Since it was decided another division of the High Court in **R (on the application of Secretary of State for Justice v Parole Board [2022] EWHC 1282 Admin) (the Johnson case)** adopted a 'more modern' test set out in the case of **Wells [2019] EWHC 2710 (Admin)**.

17. In **Wells** the judge set out what he described as 'a more nuanced approach' at paragraph 32 of his judgment when he said:

*“A more nuanced approach in modern public law is to test the decision – maker’s ultimate conclusion against the evidence before it and to ask whether the conclusion can (with due deference and with regard to the Panel’s expertise) be safely justified on the basis of that evidence, particularly in a context where anxious scrutiny needs to be applied”.*

18. It must be emphasised that this is not a different test to the **Wednesbury** reasonableness test. The interpretation of and the application of the **Wednesbury** test in parole hearings as explained in **DSD** was binding on the judge in the case of **Wells**.



19. What is clearly established by all these authorities, which are binding on the Parole Board, is that it is not for the reconsideration member deciding an irrationality challenge on a reconsideration, or a Judge dealing with a Judicial Review in the High Court, to substitute his or her view for that of the oral hearing panel who had the opportunity to see the witnesses and evaluate all of the evidence. It is only if a reconsideration member decides that the decision of the panel did not come within the range of reasonable conclusions that could be reached on all of the evidence, that he or she should allow the application.
20. Panels of the Board are wholly independent and are not obliged to adopt the opinions or recommendations of professional witnesses. In **DSD** the court made it clear 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. A panel's duty is clear and it is to make its own risk assessment and to evaluate the likely effectiveness of any proposed risk management plan. That will require a panel to test and assess the evidence and decide what evidence they accept and what evidence they reject. While the views of the professional witnesses must of course be properly considered by a panel deciding on release, the panel is not bound to accept their assessment. The panel must however make clear in its reasons why it is disagreeing with the assessment of the witnesses.
21. The giving of reasons by a decision maker is "*One of the fundamentals of good administration*" (**Breen v Amalgamated Engineering Union [1971] 2 QB 175**). When reasons are provided, they may indicate that a decision maker has made an error or failed to take a relevant factor into account. As I understand the principles of public law engaged in deciding this application, an absence of reasons does not automatically give rise to an inference that the decision maker has no good reason for the decision. Neither is it necessary for every factor to be dealt with explicitly for the reasoning to be legally adequate in public law. The way in which a panel fulfils its duty to give reasons will vary, depending on the facts and circumstances in any particular case. For example, if a panel is intending to reject the unanimous evidence of professional witnesses then detailed reasons will be required. In **Wells** at paragraph 40 the court said:
- "The duty to give reasons is heightened when the decision maker is faced with expert evidence which the panel appears, implicitly at least, to be rejecting".*
22. When considering whether the decision in this case is irrational, I will keep in mind that it is the decision of the panel who are expert at assessing risk. Importantly, it was the panel who had the opportunity to question the witnesses and to make up their own minds what evidence to accept. It is extremely important that I do not substitute my judgment for theirs. My function is to decide whether the panel in this case erred in law or reached a decision that was unreasonable and/or procedurally unfair in some respect.

### The reply on behalf of the Respondent

23. The Respondent has indicated that he does not wish to make any submissions in response to this application.

### The Panel's Decision



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24. Given the submissions made on behalf of the Applicant, it is necessary to refer in some detail to the evidence considered and recorded by the panel in their decision.

### *Risk*

25. The panel found that the Applicant's risk factors included the absence of an intimate relationship; an impulsive and unstable lifestyle; a lack of purposeful and structured activity which included a lack of stable accommodation or employment; he struggled to resolve problems and would adopt emotional or avoidant responses; a willingness to use violence and to carry and use weapons; he had attitudes that were supportive of the use of sexual violence; he was sexually preoccupied; he believed he had an entitlement to sex while having feelings of sexual inadequacy; his association with negative peers; insecure attachments to others; difficulties in managing negative emotions and feeling that everyone else is wrong.

26. The panel had the benefit of four psychological reports and assessments carried out in August 2010, November 2018, April 2021 and May 2022. Having reviewed all the available information the panel agreed with the risk assessments provided by the COM that the Applicant should remain assessed as posing a high risk of serious harm to the public. In so finding the panel accepted that the Applicant had made progress in developing insight into his risks and that his behaviour had been relatively stable since his previous review in June 2022. The panel balanced that progress against (i) his offending history and patterns of past behaviour (ii) concerns regarding his consequential thinking skills (iii) the fact that he continued to make impulsive decisions for his own gain (iv) a lack of developed resettlement plans and (v) the potentially destabilising effect of any progression. In so doing the panel found that until there was evidence that he could maintain the undoubted positive changes he had made outside of a custodial controlled environment his risk remained high. Additionally, the panel expressed concerns that the Applicant's risk factors may not be observable given the opportunistic nature of his more serious offending. Again, the panel balanced those concerns against the fact that he was currently motivated to disclose sexual thoughts and reached the conclusion that the Applicant's level of openness with professionals could fluctuate if he was struggling to cope or was experiencing external stress.

27. The panel concluded that there were a number of protective factors that have developed over time, which included the Applicant's ability to cope, which has improved his insight into his risk factors and his levels of engagement as shown by the lack of evidence of drug misuse. Whilst noting these positive developments and whilst accepting that the Applicant was motivated to build a law abiding life for himself, the panel expressed the view that the Applicant would benefit from developing his engagement with pro-social activities and support services which in his case were in the panel's opinion in their "infancy" and lacking in a number of important areas.

### *Prison Conduct*

28. The panel noted that at the time of the Applicant's review in 2022, he made no application for release. The 2022 panel recommended to the Respondent that the Applicant should progress to open conditions. This recommendation was not accepted, the Respondent having concluded that further work should be done by



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the Applicant to address his substance misuse, consequential thinking and motivation to progress, in addition to concerns regarding previous failures in open conditions.

29. It is submitted in support of the application for reconsideration on the Applicant's behalf that the panel placed significant, inappropriate and disproportionate weight upon what is described as "rule breaking". The panel outlined the relevant facts in their decision as follows:

- i) In May 2023, the Applicant was found in possession of unauthorised items, namely containers containing approximately two litres of fermenting liquid. The Applicant told the panel that he knew his conduct was in breach of the rules but he decided to break them anyway because he had been offered two vapes by other prisoners in return for allowing his cell to be used in his absence for others to drink "hooch". He added in his evidence to the panel that he did not consider this breach of the rules to be significant. The panel noted that it was around this time that the Applicant had suffered a bereavement of a member of his close family and that he wanted vapes as a coping mechanism.
- ii) In another incident in April 2023, the Applicant received a negative behaviour warning having displayed aggressive behaviour (throwing food) and a poor attitude.
- iii) Security entries record an allegation that the Applicant assaulted another prisoner in July 2023, about which there was no further information and no disciplinary action was taken.
- iv) Another security entry alleged that he had received suspicious money over several months commencing in October 2023. In relation to the money, the Applicant told the panel that he used it to buy items for another prisoner on several occasions. The Applicant said in his evidence to the panel that he knew he had contravened the rules but had seen "little harm" in doing so. The POM commented upon this conduct on the part of the Applicant in the following way:

*... "Although this is not directly related to risk of serious harm, it does raise concerns regarding [the Applicant's] willingness to abide by prison rules when he feels there is a personal gain which in his perspective is likely to outweigh any consequences. It also further indicates a susceptibility to influence from others".*

30. In dealing with these incidents the panel indicated that it was in agreement with the evidence of witnesses that this behaviour:

*... "still indicates that [the Applicant] has a propensity to break the rules for his own personal gain and he can make impulsive decisions with no regard for the potential consequences of such decisions".*

31. The panel refer to a more recent security entry in January 2024, which showed the Applicant provided a positive test for synthetic cannabinoids. The POM told the panel that the allegation made against the Applicant was dismissed. It is also noted that the Applicant was honest in telling staff that he had used another prisoner's vape which contained spice and that he had done so because he was suffering from back





pain and the drugs he had been prescribed by Healthcare had not alleviated that pain. In his evidence, the Applicant told the panel that he accepted his decision making was sometimes poor.

32. The panel concluded that whilst it was to the Applicant's credit that he was open about his use of drugs, the incident provided further evidence:

*... "that [the Applicant] can still struggle to consistently implement appropriate decision making skills".*

### *The evidence of the professionals*

33. The psychological evidence before the panel is in the four reports to which I have already referred. No oral evidence was given by any of the reporting psychologists. The most recent report was dated May 2022, that is one month before the hearing of the previous review. This report supported a move by the Applicant to open conditions, essentially to enable further testing of coping and self-management and to enable the Applicant to gradually integrate back into the community. It is clear from the panel decision in 2022 that all of the professional witnesses in that review were not supportive of release into the community.

34. The POM in the current review, while expressing concerns about the Applicant's behaviour in prison, was supportive of release stressing the Applicant's engagement, his positive behaviour, the absence of substance misuse and the lack of any offence paralleling behaviours. In the POM's view the Applicant's risk of serious harm was not imminent and warning signs of increased risk including substance misuse and a lack of willingness to engage would be evident. It was the POM's opinion that a move to open conditions would not develop any further understanding of the Applicant's risk. The POM placed emphasis on the proposed accommodation that had been earmarked, but not yet finalised, providing monitoring, supervision and psychologically informed support.

35. The COM based his recommendation upon that provided by the POM for similar reasons, describing the risk management plan as "robust". The COM placed weight on the Applicant's ability to be open and honest with professionals. It was the COM's view that further offence focused work could be undertaken in the community concentrating on substance misuse, thinking skills and reintegration. The COM acknowledged that in just three contacts with the Applicant their working relationship was positive. The COM noted concerns with the Applicant's custodial conduct and recognised some evidence of impulsivity. However, the COM said that the Applicant's generally positive behaviour outweighed any concerns. The COM in his evidence to the panel identified key indicators of risk as including a hesitancy to answer direct questions, a serious relapse into substance abuse and evidence of a pattern of impulsive behaviour.

### *The Applicant*

36. The Applicant told the panel he felt ready for release and that he had changed significantly as a result of his sentence. He said he no longer thinks about sex all the time and was clear he did not want to create more victims. When questioned regarding his future, he said he hoped to find work but was under no illusion that this would be hard. He added that being in a relationship was not a priority for him.



He said he did not know exactly where his extended family lived but he hoped to rebuild ties with them. He hoped a family member would support him and visit him once a month. He said he wanted to engage with substance misuse services and that having a mentor would assist him. After finding out about the nature of the proposed accommodation he was hopeful it would help him. He described his relationship with the COM as “ok”, having spoken a couple of times.

### *The Risk Management Plan*

37. It is well understood that a risk management plan is designed to provide external controls to reduce a prisoner’s risk of serious harm to the public. External controls cannot on their own reduce the prisoner’s risk: there needs to be a combination of internal and external controls if risk is to be effectively managed.

### *The Panel’s Findings and Conclusions*

38. The panel made clear that they had reached their conclusions having considered the contents of the dossier, all the oral evidence and the submissions made on behalf of the Applicant by his legal representative. The panel indicated that in making its own risk assessment it had taken into account the seriousness of the index offences, the Applicant’s criminal history and the work he had undertaken since being sentenced. Against all that, it had balanced the current risk assessments, the custodial conduct and the opinions of the professionals.

39. The panel expressed serious doubts about the proposed risk management plan and doubted whether it would be sufficient to manage the Applicant’s risk when taking into account his past patterns of behaviour, his lack of experience residing in the community and the ongoing concerns the panel had regarding incidents of poor thinking and decision making. The panel accepted that he had made progress since the last review and was motivated to engage with the proposed risk management plan. It concluded that given his offending history, the lack of firm resettlement plans and the various noted concerns, what was required before release was more evidence of the Applicant’s ability to manage his behaviour outside of a prison setting. The panel concluded that the risk management plan as it stood would not be sufficient to manage the risk posed by the Applicant until there was clear evidence of his ability to manage his risk outside of closed conditions, particularly in the period following his move on from the monitored and supervised accommodation.

40. The panel accepted there was no core risk reduction work outstanding and recorded in the Applicant’s favour that despite being refused a move to open conditions in 2022 and the death of his grandmother, he had demonstrated that he was able to manage his behaviour without recourse to drugs or any sexual violence or inappropriate behaviour to women. The panel found that he had developed coping strategies whilst in closed conditions. Despite all those positive indicators the panel concluded that there had been a number of incidents where the Applicant had made poor decisions which involved him breaking the rules for his own advantage. While having to acknowledge that these incidents in themselves did not result in serious harm being caused to others, the panel found that his poor decision making and rule breaking did, as was suggested by at least one professional witness in evidence,





indicate ongoing issues with impulsivity. The panel noted that the progress made by the Applicant since the last review was achieved in a supportive and controlled prison environment which did not reflect the challenges he would encounter in the community. The panel concluded that poor decision making and rule breaking were relevant factors to be taken into account when it came to assessing the Applicant's future risk.

41. While the panel accepted the Applicant was prepared to be open with professionals, it found that this did not provide a sufficiently firm basis to find that he would necessarily share any changes in his thinking with those responsible for him in the community.
42. Having assessed the Applicant as posing a high risk of serious harm to the public and while finding that risk not to be imminent, the panel nonetheless retained significant concerns at the potential speed at which the Applicant's risk could increase should he become destabilised, overwhelmed or if he felt he was not progressing as he had wished. The panel concluded that it did not share the confidence of the professional witnesses that warning signs of increased risk would necessarily be apparent, not least because monitoring of increased risk would be reliant upon self-disclosure, a facet of the Applicant yet to be tested in the community.
43. Without a fully developed resettlement plan, taken together with his extremely limited experience of functioning in the community, the panel's concern was that should his plans fail, or should he feel unsupported or unable to cope and function, this could lead to instability and thereby increase the likelihood of him turning back to damaging coping strategies including substance misuse and/or an increase in harmful thoughts about sex.
44. The panel went on to consider and recommend progression of the Applicant to open prison conditions.

### Analysis of the Applicant's grounds

45. Having set out in some detail a summary of the background to and assessment of the Applicant's offending, his past and present circumstances and the panel's analysis of and conclusions upon that evidence, it is appropriate at this point to consider the Applications submissions further.
46. **Ground (i)** - It is submitted that the panel failed to provide sufficient reasons for rejecting the unanimous recommendations of the professional witnesses who were in favour of release.
47. There are within this ground two aspects to consider which require separate consideration. **First**, the question of the panel's entitlement not to adopt the recommendations of the professional witnesses. **Secondly**, whether the panel sufficiently addressed their obligation in public law to provide reasons for the conclusions they reached.



48.I have earlier in this decision set out the relevant law. In **DSD** the court also considered the Parole Board's role in risk assessment as follows:

*"117.The evaluation of risk, central to the Parole Board's judicial function is in part inquisitorial. It is fully entitled, indeed obliged, to undertake a proactive role in examining all the available evidence and the submissions advanced...The individual members of a panel, through their training and experience, possess or have acquired skills and expertise in the complex realm of risk assessment..*

*118.The courts have emphasised on numerous occasions the importance and complexity of this role, and how slow they should be to interfere with the exercise of judgment in this specialist domain.*

*133.A risk assessment in a complex case is multi-factorial ,multi – dimensional and at the end of the day quintessentially a matter of the judgment of the panel itself,"*

49.It is extremely important, as I have said in paragraph 20 above, to appreciate that panels are wholly independent and are not obliged to adopt the opinions and recommendations of professional witnesses. Due deference has to be given to the expertise of panels which are under a duty to make its own risk assessment and evaluate the effectiveness of any proposed risk management plan. It follows that a panel is not required to follow recommendations of professional witnesses provided it has evidence based reasons for doing so. In my judgment the conclusions the panel reached not to follow the recommendation of the professional witnesses were plainly within the range of reasonable conclusions available.

50.Turning to the challenge made on behalf of the Applicant that the panel failed to provide adequate reasons for the decisions it reached. Considering the panel's decision as a whole, it is in my judgment clear that the panel while repeatedly acknowledging the progress the Applicant had made, while taking that progress into account in his favour, went on to weigh that evidence against other relevant evidence and explain why they had serious concerns and the reasons for them. Just one example will suffice; the panel's decision explains in some detail the doubts the panel had about the effectiveness of the risk management plan and the matters it took into account when reaching the conclusion that the plan was insufficient to manage the Applicant's risk notwithstanding the creditable progress he had made.

51.I find that the panel throughout the decision fulfilled their obligation to provide evidence based reasons for the conclusions it reached. Ground **(i)** fails.

52.**Grounds (ii) and (iii)** - These two grounds can conveniently be taken together.

53.It is, in effect, submitted in **Grounds (ii)** and **(iii)** that relatively trivial, non-violent, non-sexual incidents amounting to rule breaking bear no relation to the Applicant's risk of causing serious harm and do not provide a safe basis for suggesting that the Applicant had continuing issues with acting impulsively.

54.It is noteworthy that the panel expressed itself to be in agreement with the professional witnesses that the rule breaking behaviour showed that the Applicant retained a propensity to break rules for his personal gain and continues to make impulsive decisions with no regard to the potential consequences.



55. In my judgment the criticisms levelled at the panel on these matters is without foundation. The panel accepted without hesitation that despite a number of positive indicators of progress on the part of the Applicant since his last review there were incidents in which he had made poor decisions which led to him breaking rules for his own advantage. The panel accepted that while none of the incidents resulted in serious harm, nonetheless in their assessment they provided evidence of ongoing issues with impulsivity. The panel also noted that the progress the Applicant had made since 2022 was achieved in a supportive and controlled prison environment which could not reflect the challenges he would face in the community. In the panel's judgment these matters were clearly relevant to future risk. In my judgment the panel were fully entitled to consider and ultimately take these matters into account and reach conclusions upon them. Those conclusions were well within the range of reasonable conclusions open to them to reach.

56. I find that there is no merit in either **Ground (ii)** or **Ground (iii)** and both fail.

57. **Ground (iv)** - It is submitted that it was wrong for the panel to find that warning signs of increasing risk would not necessarily be apparent.

58. The starting point in considering the merits of this ground is the panel's assessment that the Applicant posed a high risk of serious harm to the public. The panel went on to make it clear that while not finding his risk to be imminent, it retained significant concerns at the potential speed at which the risk could increase in certain specified circumstances. This led the panel to the conclusion that they could not share the apparent confidence of the professional witnesses bearing in mind that the panel concluded on the evidence that the monitoring of increased risk in the community would be reliant on the Applicant's self-disclosure.

59. I am required to test the panel's conclusion by asking whether the one they reached can be justified on the basis of the evidence that the panel considered. I am in no doubt that it can be fully justified and further I find it was explained adequately. There is no merit in **Ground (iv)** which fails.

## Conclusions

60. This case was by no means straightforward. The index offending was very serious and harmful. At the centre of this review was a prisoner aged 47 with a lengthy criminal record who had been made the subject of a life sentence and was by the time of his current review some 21 years post-tariff.

61. In my judgment, the panel, with considerable care and thoroughness provided a balanced and fair-minded analysis of all of the relevant evidence, information and material before them. Clearly, they were left with real concerns about important matters which included the Applicant's risk level, the lack of sufficiently detailed resettlement plans and his manageability if he was to be re-released into the community.

62. I find that the panel did not fall into error and did not fail to take relevant matters into account. In my judgment it satisfied its public law duty to provide evidence-



based reasons that sufficiently explained and justified the conclusion it had reached to refuse release.

63. In my judgment it cannot be sensibly argued that this was a decision that no reasonable panel could have come to and accordingly I find the decision is not irrational.

### **Decision**

64. For the reasons I have given, I do not consider the decision of the panel irrational. Accordingly, the application for reconsideration is refused.

**HH Michael Topolski KC**  
**23 April 2024**

