OUTER HOUSE, COURT OF SESSION

[2022] CSOH 10

P537/21

OPINION OF LORD WEIR

In the petition

IAN McLEAN

Petitioner

against

THE PAROLE BOARD FOR SCOTLAND

Respondents

Pursuer: Crabb; Drummond Miller LLP
Defender: Lindsay QC; Anderson Strathern LLP

27 January 2022

Introduction

[1] The petitioner is a life prisoner. He was convicted of murder on 4 November 1992 and sentenced to life imprisonment with a punishment part of 11 years. He is still serving that sentence at Her Majesty's Prison, Greenock. The respondents are the Parole Board for Scotland, a statutory body in terms of the Prisoners and Criminal Proceedings (Scotland) Act 1993 ("the 1993 Act").

[2] By this petition the petitioner challenges a decision taken by a panel of the respondents on 22 April 2021 by which it declined to order the release of the petitioner from custody on licence ("the decision"). The petitioner seeks reduction of that decision and an

order directing that a differently constituted Tribunal of the respondents reconsider the petitioner's application within a reasonable period of time. Finally, the petitioner seeks declarator that the decision was unlawful in respect that it constituted an act which was incompatible with his rights in that the respondents (a) misdirected themselves in law as to the correct test for release, and (b) acted unreasonably by failing to provide anxious scrutiny, failing to apply the evidence to their conclusions and failing to provide adequate reasons for their decision.

The legal framework

[3] The respondents were constituted by the 1993 Act and, in accordance with section 20(1), must discharge their functions in accordance with its terms.

[4] Section 2 of the 1993 Act is concerned with the duty to release life prisoners. Section 2(4), (5), and (5A) are relevant to the present application and provide as follows:

> "**2.— Duty to release discretionary life prisoners.**
>
> […] (4) Where this subsection applies, the Secretary of State shall, if directed to do so by the Parole Board, release a life prisoner on licence.
>
> (5) The Parole Board shall not give a direction under subsection (4) above unless—
>
> (a) the Secretary of State has referred the prisoner's case to the Board; and
>
> (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
>
> (5A) Where, on the disposal of any reference of a life prisoner's case under section 28(4) of the 1989 Act, under subsection (5)(a) above, subsection (5C) or (6) below or section 17(3) of this Act or under paragraph 34, 38 or 42 of the schedule to the Convention Rights (Compliance) (Scotland) Act 2001 (asp 7), the Parole Board declines to direct that the prisoner be released on licence, it shall—
>
> (a) give the prisoner reasons in writing for the decision not to direct his release on licence; and

> (b) fix the date when it will next consider the prisoner's case under this section, being…a date not later than two years after the date of its decision to decline to direct the release of the prisoner."

Background

[5] The punishment part of the petitioner's sentence expired on 13 September 2002. On 24 January 2003 he was released on licence. On 25 January 2007 he was charged with breach of peace and an assault on his partner. His licence was revoked and the petitioner was returned to custody. The petitioner was again released on licence on 17 June 2011. On 28 July 2015 his licence was revoked after he received a fixed penalty notice for drinking alcohol in a public place. On 4 April 2018 the petitioner was again released on licence. In November 2019, while he was out on licence, the petitioner's partner died of cancer. On 12 February 2020 the respondents revoked the petitioner's licence. This followed from the petitioner being found in the company of a missing vulnerable female and being found intoxicated in a bar in Paisley.

[6] On 24 February 2020, having referenced the circumstances of his recall, a prison-based social worker reported to the respondents that the petitioner's risk assessment had been updated and that he presented a high risk of general offending. He did not meet the threshold for a risk of serious harm assessment, but could not return to supported accommodation because of what was deemed superficial compliance with such housing support. The petitioner would therefore have to access homeless accommodation upon his release. On 7 March 2020 a Mr McGarrigle submitted an Early Release Officer's Report in which he stated that the petitioner had behaved well in prison. However, on 9 March 2020, a community social worker, Thomas Cloherty, submitted a detailed home background

report, as part of a parole/life prisoner review, in which he referenced the petitioner's assault charge from 2007. He concluded:

> "[I have] serious reservations regarding [the petitioner's] future functioning without [supported accommodation] which, in itself, was insufficient to manage him in the community last time…"

[7] Such were the circumstances in which, on 22 April 2020, the respondents refused to direct the petitioner's release on licence. On 21 January 2021 Mr Cloherty submitted a further home background report. He again refused to support the petitioner's release on licence. As regards future risk he stated:

> "The disinhibiting role of [the petitioner's] alcohol use in his violent offending, and indeed in all three instances of breakdown in his compliance with supervision, has been significant, and a return to any use of alcohol is feared likely to quickly escalate to a chaotic level, and would be felt likely to increase the likelihood of violent reoffending."

[8] On 25 January 2021 a Mr Wilson, hall manager at HMP Greenock, prepared a custody report containing observations of the petitioner's response to custody. Mr Wilson reported that it had been decided, at a Programme Case Management Board meeting on 2 December 2020, that there would be no benefit in the petitioner completing any programme work. Mr Wilson noted that the petitioner's current risk/need profile was high and the risk of serious harm was assessed as medium. Mr Wilson also referenced one misconduct report, which the petitioner received on 2 December 2020 for failing to have a secure seal on the mobile phone issued to him by prison staff.

[9] On 22 April 2021, at a remote hearing, a panel of the respondents heard evidence from Mr Brown under reference to the custody report of Mr Wilson dated 25 January 2021. From his evidence the panel drew the conclusion that the Risk Management Team at Greenock Prison was of the view that the petitioner did not require to progress to the Open Estate prior to release because he had been there on several occasions previously and had

demonstrated his ability to refrain from alcohol use for significant periods in the community. The panel also heard evidence from the petitioner. He is recorded as having disputed that he had an alcohol problem. He is also quoted as having stated: "I understand that if I take alcohol at any time it poses a risk to anyone. I choose now to abstain from alcohol. I have managed before to abstain for long periods of time in the community". The panel noted the terms of the risk assessments contained in the updated social work reports before it. It heard submissions from the petitioner's solicitor who emphasised his good conduct in a custodial setting and his intention to abide by his licence conditions and engage with addiction services on his release.

[10] Following the hearing the respondents' panel refused to direct the petitioner's release. The decision was reached unanimously, and the panel's reasons were expressed in the following terms:

> "…50. In reaching its decision, the Board took into account:
> a) the circumstances of the index offence and Mr McLean's offending history;
> b) his assessed high level of risk and needs;
> c) his long standing history of involvement in alcohol abuse and it's clear link to his offending;
> d) his conduct since sentence, and the circumstances of his three recalls to custody following his relapse to alcohol abuse;
> e) the decision of the RMT at HMP Greenock that Mr McLean is not suitable for progression to conditions of lesser security at this time and that he has outstanding needs to address in terms of his understanding and insight into his risks with his personal officer and social workers;
> f) the view of prison and community based social work that Mr McLean's release cannot be supported at this time for the detailed reasons within their reports in the dossier;
> g) Mr McLean's evidence to the hearing;
> h) all relevant information in the dossier; and,
> i) all other relevant information provided to the hearing.
>
> 51. The Board has sight of its last minute from 22 April 2020 at D1 .58-63 of the dossier. Little appears to have changed since that date.

52. The Board continues to have the same significant concerns in relation to Mr McLean and the high risk he poses when abusing alcohol, Mr McLean's lack of insight regarding this, and the very troubling circumstances of his recall.

53. The Board is pleased to note that the SPS appears to consider that Mr McLean is starting to address at least some of these concerns, although in his evidence, the Board could find little evidence of Mr Maclean's increased understanding and insight into his risks.

54. It appeared to the Board that in his evidence to the hearing, Mr McLean was not entirely candid nor did he demonstrate much insight into the very significant risks posed by him when abusing alcohol.

55. The Board considered that in his evidence to the hearing Mr McLean showed almost no insight into the risk he presents to vulnerable females when drinking.

56. The Board is pleased to note that Mr McLean now states that he will abstain from alcohol in the future. It notes however that he has said this in the past and that he has now been recalled to custody on three occasions having failed to abstain from alcohol.

57. The Board notes that the RMT at HMP Greenock is of the view that Mr McLean is not suitable for consideration for progression to the OE for the reasons stated within the information provided to the hearing by Mr Brown.

58. The Board is somewhat concerned by this view, given Mr McLean's history and continuing lack of insight and understanding into his risks. The Board is surprised by the SPS's view that Mr Maclean's progress and learning in these areas can be demonstrated without his behaviour in the community being tested, given that he is unlikely to encounter his two main risk factors of alcohol and vulnerable women until he is exposed to the community.

59. The Board notes that neither prison nor community based social workers are able to support Mr McLean's release at this time for the reasons specified within their very detailed reports in the dossier.

60. The Board finds their assessments of Mr McLean's suitability for release to be well-founded and agrees entirely with their view that Mr Mclean cannot be managed safely in the community at this time.

61. The Board found the evidence of Mr McLean to be lacking in insight into the high risk he poses and the difficulties he is likely to face on his return to the community. The Board was concerned by Mr McLean's lack of detailed plans for release and a well formed and thorough relapse prevention plan.

> 62. In fixing a review period of 12 months, the Board took account of the information provided to the hearing by Mr Brown and the submissions made by Mr Nimmo.
>
> 63. The Board considered that to fix a review period of six months would serve no legitimate purpose given the long way to go before it is likely that Mr McLean will be in a position to be considered suitable for release.
>
> 64. It is not for the Board to 'trust' Mr Mclean to abstain from alcohol and abide by licence conditions in the community on release. The Board requires to be provided with real evidence that Mr McLean intends and is able to do so when he is in situations presenting the circumstances that he has found challenging in the past."

Submissions for the petitioner

[11] In moving the court to sustain his second and third pleas-in-law the petitioner submitted that the panel, in declining to authorise his release, had misdirected itself in law. Its consideration of the proposed risk management plan was irrational and unreasonable, and it had in any event failed to give adequate reasons for its decision.

[12] The release of life prisoners was subject to section 2 of the 1993 Act. To justify confinement after the expiry of the tariff period the "life and limb" test fell to be applied (*Brown* v *Parole Board for Scotland* [2021] CSIH 20, paragraph [36]). Thus the danger on the prisoner's release must involve a substantial risk of serious violence. What was necessary for the protection of the public was that the risk of re-offending was at a level that outweighed the hardship of keeping a prisoner detained after he had served the term commensurate with his fault (*R (on the application of Wells* v *Parole Board* [2019] EWCA 2710 (Admin.), paragraph 25). Continued detention post tariff depended on whether the prisoner posed a risk of committing offences that may occasion serious harm. Such an assessment was different from asking whether a prisoner would remain "offence free" (*Wells*, paragraph [27]).

[13] The court had a responsibility to submit the decision of the respondents to anxious scrutiny. In doing so the longer the time spent in custody after the expiry of the tariff, the more anxious that scrutiny should be, Moreover, the longer the prisoner served beyond tariff, the clearer should be the respondents' perception of the public risk in order to justify the continued deprivation of liberty (*Brown*, paragraphs [36]-[37]). Particularly anxious scrutiny was merited given the circumstances of the petitioner and the paucity of the reasoning as to why further confinement remained necessary in the public interest. Counsel referred to the history of the petitioner's earlier releases on licence and the circumstances in which his licence was revoked in March 2007, July 2015 and February 2020 (being the most recent revocation). He emphasised that there had been no prosecution as a result of the events giving rise to the petitioner's recall in 2007, and no violent conduct associated with either of the subsequent recalls.

[14] Against that background the petitioner submitted that, in refusing to direct his release, the respondents had effectively asked whether the petitioner was offence or alcohol free or whether he could be managed safely in the community. The panel had not addressed itself to the correct question, namely whether any potential risk posed by the petitioner was proportionate having regard to his continued detention long past the tariff date. The petitioner's risks and needs remained at medium. He had undertaken all offence-focussed work and had been to the Open Estate on two previous occasions. The evidence from the RMT was that the petitioner did not require to return to the Open Estate. He had not committed any violent act since the index offence, nor had he been charged with any offence, or acted in any other way, which came close to meeting the life and limb test.

[15] *Separatim* the respondents had acted unreasonably in refusing to direct the petitioner's release. While the community based social workers did not support the

petitioner's release it was apparent that they had failed to apply the correct test. The panel had failed to take a proactive approach to risk assessment either by citing the social workers and testing their evidence or submitting the whole evidence to examination and assessing the impact of confinement long beyond the tariff date.

[16] Finally, the petitioner submitted that the reasons given for the decision were inadequate. The panel had failed to explain why the petitioner could not be managed safely in the community. If it had concerns about the petitioner's use of alcohol and his encounter with a vulnerable woman where the life and limb test was concerned, an explanation should have been provided as to the basis upon which the evidence "cemented" those concerns.

Submissions for the respondents

[17] The respondents submitted that the decision was lawful and reasonable. In the first place, it was clear from the reasons given by it that the panel had correctly understood, and accurately applied to the petitioner's circumstances, the statutory test in section 2(5) of the 1993 Act. It had clearly considered the question whether it was no longer necessary for the protection of the public that the petitioner should be confined. In doing so the panel had had regard to the evidence relating to the petitioner's problems with alcohol and his lack of understanding and insight into the risks he presented. These were relevant and material considerations which could lawfully be taken into account.

[18] Secondly, the decision was reasonable and could safely be justified on the basis of the evidence before the respondents. The court required to show due deference to the respondents' expertise in the assessment of risk to the public (*AB* v *Parole Board for Scotland* 2020 SLT 975, paragraphs [64]-[65]; *Wiseman* v *Parole Board for Scotland* [2021] CSOH 88, paragraph [20]). In reaching its decision the panel took into account (i) the circumstances of

the index offence; (ii) the petitioner's assessed high level of risk and needs; (iii) the petitioner's longstanding history of involvement in alcohol abuse and its clear link to his offending; (iv) the circumstances of the petitioner's three recalls to custody following relapse into alcohol use; (v) the decision of the RMT that the petitioner was not suitable for progression to conditions of lesser security; (vi) the view of the prison and community based social workers that the petitioner's release could not be supported; (vii) the petitioner's evidence to the hearing; (viii) all relevant information in the petitioner's dossier, and (ix) all other relevant information provided to the hearing. It was clear that all relevant and material considerations were therefore taken into account.

[19] It was also clear that the panel had taken particular account of the high risk posed by the petitioner when abusing alcohol, the lack of insight he evinced in his evidence about that risk and the difficulties he was likely to face on his return to the community, and the lack of detailed plans for release. These were relevant and material considerations in light of which the decision was one which was reasonably open to the respondent to reach.

[20] Moreover, it was both lawful and reasonable for the panel to have regard to the written reports of the social workers, neither of whom supported the petitioner's release on licence. The terms of the reports, whose conclusions were consistent with the evidence at the oral hearing of the Lifer Liaison Officer, Mr Brown, were clear and understandable. They betrayed no error of approach or misunderstanding of the relevant legislation. Moreover, the petitioner's solicitor made no submissions to the effect that the social workers should be called to give evidence in person. In the circumstances, there was no need, or justification, for the social workers to be called to give evidence at the oral hearing.

[21] Finally, it was submitted that the panel provided adequate and comprehensible reasons (as set out above) which fully explained why it had reached the conclusion it did. It

gave a detailed explanation for why it was not satisfied that such risk as the petitioner still posed could be managed safely in the community. The informed reader was not left in any real and substantial doubt as to what the reasons for the decision were, and what material considerations were taken into account in reaching it (cf. *Crawford* v *Parole Board for Scotland* 2021 SLT 822, paragraphs [11]-[14]).

[22] The decision was, in any event, an interim decision which would necessarily be the subject of review in twelve months.

Analysis and decision

Law

[23] From the contents of the parole dossier lodged for the purposes of this case, I note that the punishment part of the petitioner's sentence expired on 13 September 2002. He was first released on licence on 24 January 2003. He has since been released on licence on two further occasions (22 June 2011 and 5 April 2018), and recalled on three occasions (6 March 2007, 29 July 2015 and, most recently, 14 February 2020). It is over 19 years since the expiry of the tariff.

[24] The statutory test in section 2(5) of the 1993 Act provides that the respondents shall not direct the release of a life prisoner on licence unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

[25] In *Brown* v *Parole Board for Scotland* the court gave consideration to the approach to be adopted, in applying the statutory test, in circumstances where a prisoner remained confined after the expiry of the tariff. The principles it expressed were derived from *R (on the application of Wells)* v *Parole Board*, a case involving a prisoner who remained in custody 12 years after the expiry of his tariff. The court expressed itself thus:

> "To justify continued confinement the danger posed by the prisoner must involve a substantial risk of serious harm to the public, ie. involving offences of serious violence. (From time to time reference has been made to a 'life and limb' test.) The longer the time in custody after expiry of the tariff the scrutiny should be ever more anxious as to whether the level of risk is unacceptable. Under the modern context specific approach to rationality and reasons challenges, in the area of detention and liberty, the court must adopt an anxious scrutiny of the decision. The court can interfere if the Board's reasoning falls below an acceptable standard in public law. The duty to give reasons is heightened if expert evidence is being rejected. It can be noted that the need for ever more anxious scrutiny as to whether the level of risk is unacceptable as time goes by is well established in England and Wales: see *Osborn* v *Parole Board,* Lord Reed at [2014] AC 1115, p.1153, paragraph [83]; *R (on the application of King)* v *Parole Board*, Lord Dyson MR at [2016] 1 WLR 1947, p.1956, paragraphs [37]-[39]. In the latter decision his Lordship referred to earlier authority that the longer the prisoner serves beyond the tariff 'the clearer should be the Parole Board's perception of public risk to justify the continued deprivation of liberty involved'."

[26] The court in *Brown* went on to recognise that a cautious approach is appropriate when public protection was in issue. However (paragraph [37]):

> "…as time passes it is not only legitimate but necessary for there to be appropriate appreciation of the impact of confinement well beyond tariff. The decision maker should ensure that it is apparent that this approach has been adopted and its reasoning should provide clarity as to why confinement remains necessary in the public interest…"

[27] As in *Crawford* v *Parole Board for Scotland*, cited above, there was no dispute between the parties as to the applicability of the principles expressed by the court in *Brown.* The petitioner, however, disputed that the decision met the standard which those principles desiderated.

The decision of 22 April 2021

[28] It is, in my view, clear that the decision was underpinned by legitimate ongoing concerns about the petitioner's abuse of alcohol, his lack of insight into the risk he posed when abusing alcohol, and the troubling circumstances of his latest recall to custody. The index offence was one of the circumstances which the respondents expressly took into

account. They could hardly do otherwise. It involved the fatal stabbing of a stranger within a group of associates, all of whom were alcoholics, at a time when the petitioner was intoxicated. In a life sentence report to the Home Secretary (JB, p.17) the original trial judge observed that

> "…the facts of the case illustrate that the defendant is an alcoholic and when drunk can erupt into spontaneous and motiveless violence of a dangerous degree…"

[29] In coming to the decision the material before the panel included an up to date report from the petitioner's prison based social worker, Emma Watterson. Ms Watterson's report contained a recent risk assessment from 14 September 2020. The results of that risk assessment indicated that the petitioner presented a high risk of general reoffending. The risk of serious harm was assessed as medium. Crucially, Ms Watterson went on to explain what a medium risk meant in practical terms. What it meant was that there were identifiable indicators of serious harm. The petitioner had the potential to cause such harm but it was unlikely he would do so unless there was a change in circumstances such as a failure to take medication, loss of accommodation, relationship breakdown and drug or alcohol use. Ms Watterson noted that the petitioner's most recent recall had been for breaching his licence by entering licensed premises, consuming alcohol, forming a relationship with a vulnerable woman who had escaped from hospital, and failing to keep his supervising officer updated on these matters.

[30] Ms Watterson also noted a theme, running through his records, of the petitioner withholding information from professionals rather than seeking assistance which, given the role of alcohol in the index offence, was of particular concern where his relapse into alcohol use in the community was concerned. In terms of the likelihood of reoffending Ms Watterson expressed the following opinion:

> "Lapse or relapse into alcohol use, denial rather than seeking help, frequenting peers known to have alcohol difficulties and forming relationships with vulnerable females are all inclined to increase the likelihood of reoffending. Based on criminal history and criminogenic factors such as alcohol and issues around relationships, likely behaviours would include violence (towards an adult make and/or female partner) and road traffic offences (such as driving while under the influence of alcohol entailing a risk to other road users). The potential seriousness ranges from physical and emotional harm to lethal (interpersonal violence) or catastrophic…The context of the index offence was [the petitioner's] chronic difficulties with alcohol and socialising with a group of others with alcohol problems. The balance prior to recall had shifted in favour of reoffending given peer choices, alcohol use and poor engagement with supervision/withholding information".

[31] The risk of serious harm assessment in Ms Watterson's report replicated themes of alcohol relapse and intoxication, together with minimization by the petitioner of alcohol as a perpetuating factor in maintaining the level of risk which existed. In that context the social worker expressed concern about evidence of lack of candour with community and prison-based social work and NHS Addictions staff. Ms Watterson noted that there were now some early indications that the petitioner was beginning to understand his risk factors better. In conclusion she stated that "[t]he shift is welcome and a sustained period of displaying such pro-social intent would now be required prior to considering the next appropriate move". Accordingly, release was not recommended at the time of writing.

[32] The panel also had available to it, for the purposes of the hearing on 22 April 2021, a Home Background Report by a community-based social worker, Thomas Cloherty. Mr Cloherty had worked with the petitioner since 2011. His report included information about the petitioner's background and personal circumstances, together with a detailed description of his life in the community, his compliance with licence supervision (or lack thereof), and the circumstances which gave rise to his most recent recall to custody. Mr Cloherty recorded that all three instances of recall to custody had been essentially due to the petitioner failing to disclose, or deliberately withholding, information material to his safe

management in the community. He also reported that the petitioner's relapse into alcohol misuse had resulted in the petitioner's supported accommodation with Renfrew Council on Alcohol Trust ceasing to be available.

[33] Mr Cloherty considered that the petitioner's profile indicated that his lifestyle within the community could quickly and seriously deteriorate upon alcohol use. He had a history of failing to disclose information considered significant and material to his supervision in the community by the relevant staff involved. Mr Cloherty too concluded that the petitioner could not be safely managed in the community.

[34] At paragraph [60] of the decision the panel recorded that it found the social workers' assessments of the petitioners' suitability for release into the community to be well-founded and expressed agreement with their view that the petitioner could not be managed safely in the community at that point in time. In my opinion that was a view which the panel was well entitled to reach on the material before it. The petitioner himself had recognised that he posed a risk "to anyone" if he took alcohol. Consumption of alcohol was a feature of the murderous attack which gave rise to the petitioner's life sentence. The reports available to the panel indicated a pattern of lack of candour, indeed dishonesty, on the part of the petitioner about his use of alcohol in the community.

[35] The petitioner submitted that the decision was unclear about what the panel conceived the nature of the petitioner's risk, if at liberty, to be. I consider that, to the informed reader of the decision, it would be quite apparent that the risk derived from the nature of the index offence and the petitioner's demonstrative capacity to commit the most violent of offences when he was intoxicated. If there was a suggestion in the petitioner's submissions that there was no evidence before the panel that the petitioner had actually committed any offences occasioning serious harm while in the community, that does not

seem to me to address the fundamental point that the panel had before it unchallenged evidence from his risk assessment that the petitioner did present an ongoing risk of causing serious harm to others in circumstances where he lost his supported accommodation and abused alcohol on release. The evidence of both social workers was to the effect that both of those criteria were now fulfilled, and Ms Watterson's assessment of the risk of serious harm fell to be considered in that light. In these circumstances I do not consider that there is any merit in the submission that the panel had done no more than ask whether the petitioner was offence or alcohol free or could be managed safely in the community.

[36] Moreover, there is no substance to the submission that the respondents should have cited the social workers to give evidence at the hearing or "[submitted] their whole evidence to examination". The reports, which formed part of the parole dossier, were detailed and their recommendations were clear. The petitioner was represented at the hearing. There was no suggestion by his representative that the social workers should have been called to give evidence. Nor do I consider that the panel can be criticised for expressing, at paragraph 58 of the decision, scepticism about the apparent view of the Risk Management Team at Greenock Prison that the petitioner was not suitable for consideration for progression to the Open Estate on the basis that he had been there on several occasions and demonstrated his ability to refrain from alcohol use for significant periods in the community. As the panel pointed out, the petitioner would be unlikely to encounter what were assessed to be his two main risk factors, alcohol and vulnerable females, until he was exposed to the community, and his behaviour there would again require to be tested.

[37] Accordingly, when regard is had to the totality of the parole dossier, and the unchallenged assessments of the social workers, and recognising too the respondents' own expertise in the assessment of risk to the public (*AB* v *Parole Board for Scotland*), the decision

was both lawful and reasonable, and expressed in language that was readily comprehensible to the informed reader. The panel was entitled to rely on the recommendations of the social workers, neither of whom supported the petitioner's release on licence. It is reasonable to infer, from the terms of the decision, that the panel also had regard to Ms Watterson's indications of a measure of progress in the petitioner's insight into his own risk factors when it fixed a review of the petitioner's case for April 2022. That too was a rational step to have taken in the circumstances.

Conclusion

[38] In the foregoing circumstances I shall sustain the respondents' third plea-in-law and refuse the petition. I shall reserve meantime all questions of expenses.