

## SUMMARY



**Date considered:** 21 September 2022

### **Sentence**

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 8 years.

### **Test for release**

2. Before it could direct release, the Tribunal had to be satisfied that it is no longer necessary for the protection of the public that the offender should be confined.

### **Decision**

3. The Tribunal was satisfied on this matter, and directed release subject to licence conditions.

### **Reasons for decision**

4. In reaching its decision, the Tribunal considered:
  - a) the circumstances of the index offence, and any offending history;
  - b) formal risk assessments prepared on the offender;
  - c) the offender's conduct since sentence, and intentions if released;
  - d) all relevant information in the dossier; and
  - e) the evidence heard at the hearing.
5. The Board are concerned about the serious nature of the index offence and the offenders recall offences. The Board note that no social workers in their reports or both social workers who gave oral evidence were supportive of the offenders release at this stage and recommended that they be tested through less secure conditions. The Board understand the reasoning for same and accept that whilst gradual reintegration to the community is appropriate in certain cases, it is not the applicable test and the Board do not consider it necessary in the offenders case.
6. The Board again, whilst acknowledging the violence used in the index offence and the recall offences do not consider that the offenders record within or outwith of custody evidences that they repeatedly uses violence. The recall offences has resulted in the offender being back within the custodial environment for approximately four and a half years. Prior to that he was back in the community for approximately seven years and on the whole faired reasonably well, save the recall incident. The offender has previously been through the Open Estate process.
7. The Board note that the offender is not deemed to be a Risk of Serious Harm and that both social workers in their oral evidence did not think that upon release there would be any imminence to the offender posing any harm. The Board

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consider that there is a robust risk management plan in place with appropriate licence conditions, including additional licence conditions to help ease the offenders transition back into the community and to mitigate any risk. The Board considered that this was a finely balanced judgement and on the application of anxious scrutiny and the applicable test in an overall assessment of risk, the Board were not satisfied that it was necessary for the protection of the public that the offender remains confined.

8. The Board encourage the offender to forge a relationship with their Supervising Officer in the community which the Board considers to be pivotal to their success. The Board note that the offender was accepting of any licence conditions. The offender should know that any breach of licence condition or reoffending could result in them being returned to custody for a considerable period of time.