

DECISION SUMMARY



Date considered: 25 April 2023

Sentence

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 14 years.

Test for release

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

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

Reasons for decision

4. In reaching its decision, the panel 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) the extensive offence-focused work undertaken and evidence of utilising the learning in custody;
 - e) the engagement with professionals in recent years;
 - f) the pattern of self-disclosing concerns and issues pertinent to their risk and seeking support to deal with these;
 - g) the insight into risk factors, early warning signs and personality traits;
 - h) the evidence from the psychologist and prison based social worker that there would be a build-up to any offending;
 - i) the previous period spent in open conditions;
 - j) all relevant information in the dossier; and
 - k) the evidence heard at the hearing.
5. The statutory test for the release of life prisoners was discussed, and in order to justify the continued confinement of a life sentence prisoner, the danger posed by the prisoner must involve a substantial risk of serious harm to the public. The Board must take a 360 degree view when considering this and the serious harm must be at a level that outweighs the hardship of keeping a prisoner detained after serving the punishment part of their sentence.
6. The starting point for the Board in considering the offender's release was the circumstances of the index offence. However, the panel had to apply anxious scrutiny to the question of whether the danger now posed by them involves substantial risk of serious harm to the public. The offender is now almost 24 years

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past the expiry of the punishment part of their sentence and therefore the panel had to be satisfied that the level of serious harm they poses outweighs the hardship of keeping them detained.

7. The panel heard evidence from three witnesses, each of whom spoke to the current level of risk the offender is assessed to pose and the most likely reoffending scenarios.
8. While the Community Based Social Worker (CBSW), the Prison Based Social Worker (PBSW) and the psychologist agreed on the level of risk the offender is assessed to pose their views on their suitability for release differed. The CBSW explained that they were not recommending release, on the basis there was not enough evidence from community testing to say that the offender will be able to manage themselves alongside the external risk management controls that would be put in place. The PBSW explained that they were not recommending release, on the basis that they would want to see some unescorted community access before being confident in making this recommendation. The psychologist supported the proposition of release for the offender with a robust risk management plan, which was likely to involve offender accommodation services. The psychologist explained that their support for release related to the assessed level of risk and their view that there would be sufficient warning signs for professionals to act on the risk management plan before harm is caused.
9. In considering the witnesses' evidence, the panel noted the offender's lack of previous convictions and that there has only been one violent incident in custody, which was 15 years ago. The offender's openness and honesty was clear in their evidence, in which they candidly discussed their concerns for release. The psychologist's view was that the offender would be open and honest about any issues they were experiencing in supervision and the PBSW agreed that they were likely to disclose any issues arising, as has been their pattern in custody. Overall, the panel preferred the evidence of the psychologist, which was more closely aligned to the Board's test for release and was focused on risk. The panel also concurred with the psychologist that a lot of weight could be placed on their level of self-disclosure in terms of working with professionals and keeping the public safe.
10. While the CBSW and PBSW preference was for the offender to be tested by way of unescorted community access, the panel concurred with the psychologist that some evidence of their ability to manage their risks could be derived from their lengthy period of time spent in open conditions over 20 years ago. In reaching this conclusion, the panel noted that although they breached the rules, they did not cause harm during this time. The psychologist's evidence was that the offender appears to have a real understanding of themselves and an ability to manage their triggers in terms of anger and rumination in custody. The offender's understanding of their risk factors, triggers and personality traits was clear from their evidence at the hearing. While the panel understood social work preference for more recent unescorted community access, it was not persuaded that this was essential in order to be satisfied that the test for release was met. The panel considered that the social work recommendations related more to concerns about how the offender would adapt to the community after such a lengthy period in custody. The panel concurred with the evidence of the

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psychologist and the PBSW that the offender's early warning signs leading to an increase in risk would likely involve a build-up in concluding that these would be detectable and manageable in terms of the community risk management plan.

11. The panel also took into account the CBSW evidence on the contingency plan that would be put in place in the event the offender's release was directed, with all relevant partners convening on an emergency basis to agree the necessary supports and monitoring, suitably assessed accommodation being sourced, and an urgent request for a bed at offender accommodation services being made.
12. Accordingly, the Board directed release on licence conditions which it deemed lawful, necessary and proportionate to manage the offender's level of risk in the community.