

## SUMMARY



**Date considered:** 24 January 2023

### **Sentence**

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 13 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. 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 serious harm must be at a level that outweighs the hardship of keeping a prisoner detained after serving the punishment part of his sentence.
6. Applying these principles to the offender's case, the starting point for the Tribunal's consideration was the evidence from both the Prison Based Social Worker (PBSW), the Community Based Social Worker (CBSW) and the Community Based Social Worker Team Leader (CBSW, TL). that there is no evidence that the offender poses an imminent risk of harm to the public. The Tribunal accepted the evidence of the social workers that there was no evidence that the danger posed by the offender involved a substantial risk of serious harm to the public. In reaching this conclusion, the Tribunal noted that although the offender has misused substances in custody, this has not led to them using violence and they have not been involved in violence either before the index offence or in the 21 years that have passed since.
7. The offender's social workers did not recommend his release. In considering the social work recommendations, the Tribunal noted that they placed significant weight on the offender's previous downgrades from National Top End (NTE) and a lack of community testing to allow public protection to be fully assessed. The

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social workers spoke of the benefits that the offender would derive from undertaking a community work placement and progressing to the Open Estate in terms of successful reintegration into the community. The Tribunal agreed with the social work evidence on the offender's risk assessments and their positive progress during their latest 20 month period at NTE. However, in exploring the social work recommendations, the Tribunal noted that the downgrades did not relate to violence or serious offending. The offender's most recent period at NTE had been different, with them displaying an ability to put their programme learning into practice to manage their risks. In reaching this conclusion, the Tribunal noted there was no intelligence during this review period, no misconduct reports and consistent positive reports from staff working with the offender on a regular basis.

8. In considering the offender's suitability for release, the Tribunal had regard to the impact of the offender's continued detention more than 7 years past the expiry of the punishment part of their sentence. The Tribunal noted that although the offender may be able to commence a community work placement in February 2023, there would be a further delay of over 12 months before the offender may be able to progress to the Open Estate. Given the social work evidence that the offender does not pose a risk of serious or significant harm to the public, the Tribunal concluded that their continued detention so far past the expiry of his tariff would not be commensurate with their risk. It was open to the Tribunal to fix a short review period to allow the offender to complete a community work placement. However, the Tribunal noted that the offender previously had two periods on community work placement and although these were not successfully completed, the issues arising on these did not indicate an increased risk of serious or significant harm to the public.
9. In the offender's evidence to the Tribunal they stated a clear plan to manage their risks in the community, by employing similar strategies to those they had used during this period at NTE.
10. 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