

DECISION SUMMARY



Date considered: 21 February 2024

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 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) all relevant information in the dossier; and
 - e) the evidence heard at the hearing.
5. The offender's index offence was of the utmost seriousness. The panel also recognises that their involvement in other criminal activity had a part to play in the surrounding circumstances of the offence. The panel also notes that the offender was recalled to prison after a period of a few months in the community on licence in 2021. The panel considered the issues which were key to their licence being revoked at that time.
6. Since their return to custody the panel notes that the offender appears to have engaged well with the prison regime. They have completed an offender-based programme and the panel noted the programme report within the dossier. The panel also noted group engagement, his recent behaviours and progress within an education course. This along with the offender's evidence suggests to the panel that they have thought carefully about how to better prepare themselves for release than was the case before their short lived period in the community in 2021.
7. The offender's community based social worker who gave evidence at the oral hearing and their prison based social worker do not support their release at this time. They recommend that they progress to the Open Estate (OE) for them to seek to provide evidence of their manageability in the community. In that event

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they would not likely have the opportunity of home leave periods, and testing would likely be limited to unescorted periods of day release.

8. In any event the legal test before the panel is not one of manageability in the community, which of course is the test which applied and led to the offender's recall to prison. Whilst the panel recognises that the manageability of the offender in the community will present challenges both to them and the supervising social workers and is linked to an extent to the potentiality of further offending, the panel have to be satisfied that it is necessary for public protection that they remain confined.
9. The offender committed their grave index offence at the age of 21. They are now 47 years old. Prior to the commission of the index offence they had a limited record of convictions, none of which involved violent offending. In the intervening period of almost 26 years, the offender has been in prison save for the period in 2021, when they were released on licence. They have not been involved in any incidents of violence during their time in custody. Whilst in the community they were involved in a single incident although the panel notes that they were not charged with their involvement in this incident and the evidence before the panel suggests that they may have been a victim rather than a perpetrator. Taking that into account the panel considered the evidence which might suggest whether the offender will return to violent offending, such as they occasioned in the index offence or cause serious harm to members of the public, if released.
10. The offender's punishment part of their sentence expired in May 2011. The panel accordingly have applied anxious scrutiny to the case and have weighed up the factors presented in support of their being kept in custody awaiting transfer to the OE against the impact of the continued confinement of the offender. Whilst further testing will be available at the OE it will likely be of a relatively limited level and although helpful, the panel agrees with the submission of the offender's solicitor that it is not necessary in this case.
11. Taking account of the offender's lack of violent conduct before and after their extremely serious index offence, their conduct in custody since their recall to prison in 2021 and the plans to manage their risk on strict licence conditions, the panel concludes that it is no longer necessary for the protection of the public that they remain confined and direct their release.

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