

## DECISION SUMMARY



**Date considered:** 29 August 2024

### Sentence

1. The offender is serving an indeterminate sentence, of which the minimum term in custody was 11 years and 8 months.

### Test for release

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.

### Decision

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

### Reasons for decision

3. 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.
  - e) the level of community testing undertaken.
  - f) the evidence heard at the hearing.
4. The offender was sentenced to life imprisonment for the murder of their victim in a vicious attack. They had a number of prior offences of violence committed whilst facing a situation of conflict. It is noted by the panel that these were relatively minor and the last one had been committed several years prior to the index offence. It is also noted by the panel that they have been involved in one violent incident throughout their life sentence.
5. The offender has been a largely compliant prisoner and there have been no issues with alcohol or substances until an apparent result for an unlawful substance in 2022, in what is now accepted to be an erroneous test in a context of a substantial number of consecutive negative drug tests. This meant the offender was downgraded to closed conditions where they have remained whilst awaiting a return to HMP Castle Huntly (OE). The various errors and delays which have led to the lengthy delays are at best unfortunate but are not the focus of the panel's assessment of their risk. Nevertheless, the panel does attach some weight to the fact that when confronted by this extremely challenging situation the offender has not engaged in challenging, confrontational or disruptive behaviour.

## DECISION SUMMARY

6. Social workers who both gave evidence to the panel do not support the offender's release at present and would wish them to be subjected to further testing of their key risk factors in the community prior to release on licence. The panel understands and respects this view however the panel is required to balance the level of risk of the offender committing an act of serious harm, the "*life and limb test*", against the impact of the continued confinement of the offender.
7. The panel has applied anxious scrutiny in relation to the offender's case and with a carefully considered Risk Management Plan (RMP) designed to manage the offender's key risk factors, the panel is satisfied that their risk can be safely managed and that public protection no longer necessitates that they remain confined.
8. In reaching this decision the panel had particular focus on the level of access to the community which the offender had already experienced over a four year period without any incident; the gap of several years prior to the index offence of any violent conduct in the community; the limited displays of any violence during their prison sentence; the period of several years since their last misconduct report; the terms of the post programme reports outlining the work and attitude of the offender in undertaking these programmes; their reaction to the erroneous downgrade and delays in their return to the OE; the licence conditions designed to identify any risk taking behaviours at an early stage and the representations made by the offender both in writing and in their evidence to the oral hearing.
9. 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.

## DECISION SUMMARY