

**[2023] PBRA 214****Application for Reconsideration by Gleadhill****Application**

1. This is an application by Gleadhill ('the Applicant') for reconsideration of the decision of a panel of the Parole Board ('the panel') who on 21 November 2023, after an oral hearing on 16 November 2023, made a decision not to direct his release on licence.
2. I am one of the members of the Parole Board ('the Board') who are authorised to make decisions on reconsideration applications, and this case has been allocated to me.

**Background**

3. The Applicant is aged 37 and is serving an indeterminate sentence for public protection ('IPP') which was imposed on 12 June 2008 for an offence of manslaughter. The minimum term which he was required to serve in prison (his 'tariff') was set at 5 years and 6 months less the time which he had served in custody on remand.
4. The offence of manslaughter (the 'index offence') occurred in November 2007 when the Applicant was aged 21. He was living at a multi-occupancy address. He had been drinking heavily, and he set fire to the address. One of the other occupants was deaf and did not hear the alarm. She suffered significant burns and smoke inhalation and died shortly afterwards.
5. When questioned by the panel about the index offence the Applicant said that he had not had any sort of relationship with the victim, she was just a neighbour. He said the offence had been triggered, in his view, by depression, alcohol, and not being able to see his daughter.
6. There is some evidence that, before the index offence and subsequently when in the community on licence, the Applicant committed acts of domestic violence against intimate partners.
7. In 2005 he was convicted of common assault against his then partner: he was said to have put his hand around her throat making it difficult for her to breathe.



8. The Applicant made good progress during his sentence for the manslaughter offence. His tariff expired on in May 2012 and in March 2016 he was released on licence by direction of the Board.
9. Whilst on licence he began an intimate relationship with another woman (Ms S). He did not disclose this relationship to probation: when it came to light, he said that he did not regard it as a relationship which needed to be disclosed as it was purely sexual. There were a number of police callouts during his relationship with Ms S. It appears to have been a volatile relationship with some aggression on both sides, and there was an incident when Ms S fell out of a window. This resulted in the Applicant's recall to prison in May 2018. The circumstances of the incident were unclear and there was no prosecution. The Applicant appears to have shown little or no empathy for Ms S who had suffered extensive injuries in her fall.
10. In August 2019 a panel of the Board directed that the Applicant should be re-released on licence. According to the decision of that panel he admitted to them that he had committed assaults against Ms S and other intimate partners for which he had not been convicted. The 2019 panel was impressed by his apparent honesty: they wrote in their decision: *"Your ability to be open and honest is to your credit; such openness will assist the effectiveness of future supervision sessions."*
11. However, in his evidence to the present panel the Applicant retracted his admissions about domestic violence and said that although he had verbally abused his partners, when under the influence of alcohol, he had never assaulted any of them. The panel was therefore confronted by a conflict of evidence.
12. Where there are disputed issues of fact a panel is expected, where it can, to make findings of fact as to where the truth lies. Parole proceedings are classified as civil proceedings and the standard of proof required in civil proceedings is proof on a balance of probabilities, not the higher standard of proof applicable in criminal proceedings. In this instance the panel decided that it was more likely than not that the Applicant's admissions to the 2019 panel were true and his evidence to the present panel in respect of those admissions was not true.
13. As a result of the decision of the August 2019 panel the Applicant was re-released on licence on 13 September 2019. He then started an intimate relationship with a woman (Ms L) whom he had known since childhood and who had two children from a previous relationship.
14. There were several police call outs during his relationship with Ms L. In one instance it was recorded that the Applicant had become verbally aggressive as a result of being told that he could not enter Ms L's house; in another that he had grabbed Ms L's arm in the course of a verbal altercation; and in a third that he had smashed a window at Ms L's home. In all these incidents he had been drinking heavily. His behaviour when sober was generally good.

*Events leading to the latest recall*

15. The Applicant was recalled to prison again in November 2022. The circumstances leading to this recall were the subject of some dispute at the hearing and the panel found itself again having to make a finding of fact about where the truth lay.



16. Some facts appear to have been agreed. On the evening of Saturday 19 November 2022 the Applicant and Ms L were out at a bowling club where the Applicant had a great deal to drink. Ms L was drinking too. They had left a babysitter to look after Ms L's children. On the way back to Ms L's address the Applicant fell over and sustained some facial injuries. Later on Ms L's 15-year-old son telephoned the police and said that the Applicant was shouting at his mother.
17. The panel set out in their decision the following summary of the evidence of the police officers who attended Ms L's address:

*"The panel had the benefit of a police report about this incident .... The panel took the view that there was sufficient material upon which to reach a conclusion on the basis that there was a fairly detailed police report and the police had deployed a body-worn camera to corroborate their report. Neither the panel nor [the Applicant] had seen the video. However the panel took the view that on the balance of probabilities the police report was likely to be a reflection of the contents of the body-worn camera.*

*The facts as recorded by the police were that around midnight the police had received an emergency call from Ms L's home. The call had come from her 15 year old son. The son reported an argument and the call-taker noted that a disturbance could be heard in the background. Upon arrival the police reported that shouting could be heard upstairs and windows were wide open. The front door was locked. After repeated knocking the door was answered by Ms L. The police reported that she looked afraid but said nothing.*

*The police were allowed to enter and observed [the Applicant] who had blood on his face, on his eyebrow and on his nose. He told the police he was okay. He was asked how he got the injuries and he said he had fallen on the way home after he had been out drinking with Ms L. Ms L was asked what had happened and she said that there had been an argument: [the Applicant] had accused her of having men round and she wanted him to leave but he wouldn't. She wanted him removed by the police.*

*The police observed facial injuries to Ms L and asked how they had occurred. Ms L did not reply and looked down. The injuries were reported to be a cut or graze across the bridge of the nose, swelling between the eyebrows, and bruising below her eyes. When asked again Ms L said she did not know how she got the injuries. She then said that she also had fallen over. She said that a babysitter had spent half an hour with [the Applicant] and Ms L when they had got back from being out. The babysitter had left an hour and half before the police arrived. Ms L said that the babysitter would be able to confirm seeing [the Applicant's] injuries, but not hers.*

*Ms L then said that she was concerned for the safety of the (female) police officer who was with [the Applicant] at the time. [The Applicant] was reportedly shouting. The police said that Ms L looked nervous and frightened.*

*Ms L's son was asked about what had happened, he said his mother and [the Applicant] had been shouting. [The Applicant] had 'started on' his mother and then ['started on him as well.'] He said that his mother and others had been in the bedroom and [the Applicant] was trying to force his way in. He said that at some point [the Applicant]*



*and his mother were in a bedroom together and that he heard something like someone had fallen over and he heard his mother cry out.*

*The police then reported that [the Applicant], when being arrested and taken away, resisted arrest and became violent which necessitated the police calling further units. During this altercation with the police [the Applicant] was alleged to be calling a female officer [unpleasant names]."*

18. In his evidence at the hearing the Applicant stated that the police had been lying. He accepted that there had been a verbal argument between himself and Ms L but nothing more. He accepted that he had accused Ms L of going with other men, but he attributed that to him "*just being abusive*" and he would not have accused her if he had not been drunk. He denied that he had used any violence to Ms L. He said that Ms L had fallen over on the way home from the bowling club which might account any injuries she had suffered.
19. The Applicant's account was supported by Ms L in her statement which was included in the dossier. She stated: "*In no way was [the Applicant] being physical towards me that night like the police are saying. He was verbally aggressive due to too much alcohol which I told them when they were questioning me that night. I told them I will not be pressing charges as [the Applicant] did not assault me in any way. I have now heard that the police are saying that I had marks on me and saying it was [the Applicant]. That is not true at all. I was covered in mud from me and [the Applicant] falling over on the way home from bowling that night which I told the police about and that was it. My friend [Ms E] was round that night as she had been babysitting and came again the next day and at no point did she witness any marks on me ... [The Applicant] would never act the way he did that night had he not been drunk... The only blips he has are down to drinking and he knows that is the only problem. I believe this has been handled so wrong by the police and probation. He did nothing that night to deserve to be recalled to prison."*
20. Confronted by the conflict between the police evidence and that of the Applicant and Ms L, the panel's conclusions, and their reasons for them were as follows:

*"The panel carefully considered the evidence in this case. The accepted evidence from [the Applicant] was that there had been a verbal altercation that was clearly an aggressive altercation given the fact that the police had been called and on the strength of the behaviour of [the Applicant] once the police arrived.*

*The panel were concerned that Ms L had visible injuries. The panel was satisfied on the balance of probabilities that there were injuries and indeed this was accepted by [the Applicant]. There was no direct evidence as to how those injuries had occurred. However a crucial factor so far as the panel were concerned was the fact that Ms L indicated clearly to the police that when Ms L and [the Applicant] arrived home the babysitter would have observed his injuries, but would not be able to account for her injuries. By implication Ms L did not have injuries when she first arrived home. [My emphasis]*

*So far as the panel were concerned this was a crucial admission. Coupled with the calling of the police and the [Applicant's] aggressive behaviour the panel concluded on*



*the balance of probabilities that the injuries had occurred as a result of an altercation with [the Applicant].*

*The panel were unable to come to a conclusion as to whether it was a direct application of force or some injury resulting from a scuffle or altercation of another sort. However the injuries numbered more than one and therefore were of concern. The panel rejected the evidence of [the Applicant], namely that the injuries occurred on the way home by way of a fall. The panel took the view that if Ms L had been injured on her way home from the venue she would have immediately told the police that the babysitter could confirm the injuries on both parties, rather than specifically say that the babysitter could only confirm injuries to [the Applicant].*

*For this reason the panel reached a conclusion, on balance, that injuries occurred to Ms L as a result of an altercation and the behaviour of [the Applicant].”*

### **The current review of the Applicant’s case**

21. On 12 December 2022 the Applicant’s case was referred by the Secretary of State (‘the Respondent’) to the Board to decide whether he should be re-released on licence and, if not, to advise the Respondent about his suitability for a move to open conditions. On 23 February 2023 a single member MCA panel of the Board directed that the case should proceed to an oral hearing, and in due course it was allocated to the panel. The panel comprised a judicial chair and an independent member.
22. Before the hearing on 16 November 2023 the panel had read and considered the 241-page dossier provided by the Respondent. At the hearing they took oral evidence from three witnesses. The witnesses were (a) the Prison Offender Manager (‘POM’) who is responsible for managing the Applicant in prison, (b) the Applicant himself and (c) the Community Offender Manager (‘COM’) who will be responsible for managing the Applicant if he is re-released on licence. The Applicant was legally represented by a solicitor.
23. The Applicant was seeking a direction for re-release on licence and, failing that, a recommendation for a move to an open prison. The POM and the COM both supported re-release on licence. The panel, in its decision issued on 21 November 2023, decided not to direct re-release and not to recommend a move to an open prison. On 29 November 2023 the Applicant’s solicitors submitted a request for reconsideration of the panel’s decision not to direct re-release on licence.

### **The Relevant Law**

24. The test for release on licence is whether the Applicant’s continued confinement in prison is necessary for the protection of the public.

### **The Parole Board Rules 2019 (as amended)**

25. Under Rule 28(1) a decision is eligible for reconsideration if (but only if) it is a decision that the prisoner is or is not suitable for release on licence. A decision not to recommend a move to an open prison is not eligible for reconsideration.





26. Reconsideration will only be directed if one or more of the following three grounds is established:
- (a) It contains an error of law or
  - (b) It is irrational or
  - (c) It is procedurally unfair.
27. A decision that a prisoner is or is not suitable for release on licence is eligible for reconsideration whether it is made by:
- (a) A paper panel (Rule 19(1)(a) or (b)) or,
  - (b) An oral hearing panel after an oral hearing, as in this case, (Rule 25(1)) or,
  - (c) An oral hearing panel which makes the decision on the papers (Rule 21(7)).
28. The panel's decision in this case not to direct release on licence is thus eligible for reconsideration. The application for reconsideration is made on the grounds of irrationality. Some of the submissions presented on behalf of the Applicant also suggest that there was procedural unfairness. No error of law is alleged.

#### *Irrationality*

29. In **R (DSD and others) v the Parole Board [2018] EWHC 694 (Admin)**, the Divisional Court set out as follows the test for irrationality to be applied in judicial reviews of Parole Board decisions. It said at para. 116,
- "the issue is whether the release decision was so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it."*
30. This was the test which had been set out by Lord Diplock in **CCSU v Minister for the Civil Service [1985] AC 374** and applies to all applications for judicial review. The Divisional Court in **DSD** went on to indicate that, in deciding whether a decision of the Parole Board was irrational, due deference had to be given to the expertise of the Board in making decisions relating to parole.
31. The Parole Board, when deciding whether or not to direct a reconsideration, adopts the same high standard as the Divisional Court for establishing 'irrationality'. The fact that Rule 28 uses the same adjective as is used in judicial review cases in the courts shows that the same test is to be applied. The application of this test to reconsideration applications has been confirmed in previous decisions under Rule 28: see, for example, **Preston [2019] PBRA 1**.
32. Other cases establish that the reasons why a panel's decision may be found to be irrational include (a) the giving of manifestly disproportionate or inadequate weight to a relevant consideration and (b) a failure to provide adequate reasons for the rejection of the unanimous recommendations of professional witnesses.

#### *Procedural unfairness*

33. Procedural unfairness means that there was some procedural impropriety or unfairness resulting in the proceedings being fundamentally flawed, and therefore producing a manifestly unfair, flawed, or unjust result. These issues (which focus on how the

decision was made) are entirely separate from the issue of irrationality which focuses on the actual decision.

34. The kind of things which might amount to procedural unfairness include:
- (a) A failure to follow established procedures;
  - (b) A failure to conduct the hearing fairly;
  - (c) A failure to allow one party to put its case properly;
  - (d) A failure properly to inform the prisoner of the case against him or her; and/or
  - (e) Lack of impartiality.
35. The overriding objective in any consideration of a prisoner's case is to ensure that the case is dealt with fairly.

### **The application for reconsideration in this case**

36. The application was made by the Applicant's solicitors on his behalf, but the grounds advanced appear to have been written by the Applicant himself. There are a number of grounds which I will discuss in turn below.

### **The Respondent's position**

37. The Respondent is a party to all parole proceedings (the other party being the prisoner) and is therefore entitled to make representations to the Board in response to an application for reconsideration by or on behalf of the prisoner.
38. By e-mail dated 4 December 2023 the Public Protection Casework Section ('PPCS') of the Ministry of Justice ('MOJ') stated that the Respondent offers no representations in response to this application.

### **Documents considered**

39. I have considered the following documents for the purpose of this application:
- (a) The dossier provided by the Respondent for the Applicant's hearing, which now runs to 265 pages and includes a copy of the panel's decision;
  - (b) The representations submitted in support of the application for reconsideration; and
  - (c) PPCS' e-mail of 4 December 2023.



### **Discussion**

40. It is convenient to discuss in turn the various grounds advanced in support of this application. Although they are all presented under the heading of irrationality some of them are really allegations of procedural unfairness and I will deal with them as such.

### **Allegations of procedural unfairness**


**Ground 1: "The decision was returned within 3 days; therefore, I believe that the panel have not taken the care and attention in considering all of the evidence in such a short space of time."**

41. I am afraid there is nothing in this ground. Panels normally try to issue their decisions as soon as they can after the hearing, while the oral evidence is fresh in their minds.

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It is also desirable not to keep the prisoner in suspense for any longer than is necessary.

42. If a panel have other professional or personal commitments the decision may have to be delayed until nearer the end of the 14-day time limit within which oral hearing decisions must be issued (unless there are compelling reasons to extend the deadline). However, if other commitments do not get in the way and the panel are able to devote much of their working time to drafting the decision, three days is an entirely reasonable time within which they may be able to produce it.
43. It should also be borne in mind that the panel will have devoted a great deal of time before the hearing to the preparation of the case and, in order to cut short the time required to draft the decision after the hearing, some panels like to prepare in advance a draft for those parts of the decision which are likely to be non-contentious.
44. In the present case the panel clearly devoted a great deal of care and attention to their decision. It runs to 18 pages plus the three pages of standard explanations at the end. The history of the case and the panel's reasons for their decision are explained in great (and accurate) detail.

**Ground 2: "I feel that the panel chair has taken responses to the questions unfairly and was then biased in the decision. I also felt that the both panel members had a personal issue with me and I don't feel that they even read the written references that were provided and the written evidence from [Ms L] in terms of what occurred on the day in question Finally, I feel that the panel members were biased. I felt under pressured and rushed during my evidence, and as a result was unable to give good evidence as I have done before."**

45. To evaluate this complaint, I have listened to the audio recording of the hearing. As I expected the panel chair began with the usual polite introduction. Evidence was then taken from the POM, the Applicant, and the COM (in that order); each witness was questioned first by the independent member, then by the panel chair and then by the solicitor; closing representations were then made on the Applicant's behalf by the solicitor.
46. Before I listened to the recording, I had read the panel's decision which included a summary of the closing submissions made by the solicitor. In those submissions the solicitor stated that the Applicant "was able to respond to fairly robust examination with reasonable replies."
47. On listening to the Applicant's evidence, I found that that statement by the solicitor was entirely accurate. There are occasions when a panel member has to question a prisoner robustly and challenge parts of his evidence. That was done in this case by the panel chair. His questioning was well within the bounds of what is appropriate. He even explained to the Applicant after challenging parts of his evidence: "We needed to go through that because we have a legal duty to do so. I know it's upsetting for you to be challenged but we have a legal duty to do it."





48. I listened carefully to the Applicant's responses to the challenging questions. It was clear that, so far from being "put off his stride", he was able to give robust answers and say what he wanted to say.
49. I could not detect any sign of bias on the part of either of the panel members.
50. I cannot believe for one moment that the panel had not read and carefully considered the references and Ms L's written evidence, which were contained within the dossier. The panel were fully entitled on the whole of the evidence to reject the Applicant's and Ms L's account of the incident leading to the Applicant's recall. On listening to the recording of the hearing I noted that, whilst the Applicant understandably placed a good deal of reliance on Ms L's evidence, the panel chair pointed out that she was not an impartial witness: she loved the Applicant and wanted to have him home with herself and her children.
51. This point was reiterated in the panel's decision when they stated:
- "In relation to the incident which led to [the Applicant's] recall was that the panel were satisfied on the balance of probabilities that Ms L was injured after an incident involving violent behaviour by [the Applicant]. The exact process of being injured is not ascertainable, however the panel found that the injuries were attributable to [the Applicant's] behaviour. Arising from that finding the panel had substantial concerns about [the Applicant's] insight into his own behaviour, and further are concerned about the risk to Ms L who, the panel determine, feels constrained [not] to be open about [the Applicant's] behaviour,( a common occurrence with partners in Ms L's position)."*
52. The panel's reasons for rejecting the Applicant's and Ms L's account were clearly set out in their decision (see paragraph 20 above) and cannot be said to be in any way unfair (or irrational).

### **Allegations of irrationality**

**Ground 3: "As stated, the POM and COM were both recommending release under robust RMP (Risk Management Plan), to which there was a contingency in place of an AP (Approved Premises) but this was not spoken about in any depth with the COM during evidence. It was confirmed in the decision that the RMP was robust but then the Panel provided contradictory remarks saying [risk] cannot be managed under that same RMP."**

53. There are two points here: (1) the likely effectiveness or ineffectiveness of the risk management plan and (2) the panel's decision not to follow the recommendations of the two professional witnesses.

The likely effectiveness or ineffectiveness of the risk management plan.

54. A risk management plan is designed to provide external controls to reduce a prisoner's risk of serious harm to the public. External controls cannot on their own reduce the prisoner's risk: there needs to be a combination of internal and external controls if risk is to be effectively managed.

55. The panel expressly considered both the proposed external controls and the suggested internal controls. The external controls to be provided by the risk management plan were certainly robust. However, for reasons explained below there were significant concerns about the Applicant's internal controls and his current ability to manage his own risks in the community.

The panel's decision not to follow the recommendations of the professional witnesses.

56. A panel of the Board are not obliged to follow the recommendations of professional witnesses, even if they are unanimous. It is the panel's responsibility to make their own assessment of the prisoner's risk of serious harm and its manageability on licence in the community. However, if they depart from the recommendations of the professionals, they must explain their reasons for doing so.
57. That is what the panel did in this case. They wrote in their decision:

*"The panel considered the clear recommendations of both the POM and the COM that risk could be managed. The Panel disagreed with their assessment of the ability to manage risk in the community.*

*Whilst accepting and applauding [the Applicant's] exemplary behaviour in custody, the panel were not persuaded that this element of his behaviour was helpful in terms of assessing his management of the risk of domestic violence.*

*The panel took the view that [the POM] had relied too heavily on reports of a good work ethic and general good behaviour in custody. There had been little emphasis on the issue of relationships and addressing these problems. The panel understood that [the POM] felt unable to address these issues because of [the Applicant's] denial of any relationship issues, however the panel were not constrained by the absence of a court conviction or by denial, and took the view that there was insufficient evidence of [the Applicant] addressing the issue of relationships and domestic violence. The panel noted not only the behaviour which led to the recall, but also a pattern of behaviour which began when [the Applicant] was a young man and has continued intermittently throughout his adult life, with various reports, set out in the dossier, of violent incidents in the presence of or directed towards partners.*

*So far as the recommendation of [the COM] was concerned, again the panel took the view that the absence of a court conviction, coupled with [the Applicant's] denial, too heavily influenced the recommendation. [The COM] accepted that a behavioural intervention was required, he felt that [the Applicant] needed to be motivated over time into accepting the need.*

*[The COM] was understandably sceptical of the value of an intervention until [the Applicant] gained insight into the presenting difficulty. Whilst the panel fully endorse the fact that undertaking interventions, without a commitment to or acceptance of the issue, is likely to be limited in value, the panel is obliged to consider the public interest rather than the interests of [the Applicant].*

*The panel took the view that [the Applicant] had not, as at the date of the hearing, sufficiently addressed his risk of serious harm to partners and that further work, in addition to alcohol intervention, was required. The panel's view was that until [the*



*Applicant] was able to demonstrate that his risk was understood by him and others and that he had acquired techniques and learning to address those risks, the risk of serious harm to the public (particularly partners) remained at a level that the panel deemed it was necessary in order to protect the public from serious harm, that he remain confined."*

58. I can see no fault in any of this reasoning.

**Ground 4: "I feel that the wrong assumptions have been made without any factual evidence to support those assumptions".**

59. I cannot see any instances of this happening. The panel's findings insofar as they were adverse to the Applicant were all fully supported by evidence.

**Ground 5: "It is clear from the evidence that I am not wholly reliant on the alcohol tag, which was clearly not the case. I asked for this provision to assist in reducing risk and to prove that I had no intention to return to using alcohol which ultimately reduces risk. That being said this is not wholly reliant on the tag to give the Board more confidence that alcohol will not be an issue moving forward".**

60. The difficulty with this argument is that, whilst the Applicant is well aware that alcohol is a significant risk factor, there are other risk factors into which he shows little or no insight.

61. The panel wrote in their decision, after making their findings about the incident which led to the Applicant's recall:

*"Of some concern to the panel was not only the fact that the evidence on the balance of probabilities indicated [the Applicant's] responsibility but the important fact that [he] was not able to accept responsibility for his behaviour and importantly accept that there may exist an issue of his inability to control his emotions and his violence towards partners.*

*The panel would reiterate that [the Applicant] himself accepted fully that his use of alcohol was damaging to himself and to those around him. [He] attributes all of the difficulties and problems with relationships to the alcohol use. [He] was asked by the panel whether he felt that in addition to alcohol use he had difficulty with controlling his emotions in relationships. He was asked, why, when he had taken an excess of alcohol, the outcome of that alcohol misuse often resulted in harm or distress to female partners. [He] firmly indicated that the issue was entirely associated with alcohol and not with any issues relating to managing relationships, jealousy, or the like."*

62. The POM said in her evidence that the Applicant had achieved all the targets set for him in prison. Those targets included doing work on relationships and examining his recall. In reality, the work was undertaken by being given workbooks. Although he had completed the workbooks in relation to issues such as alcohol, he had not addressed relationship issues, choosing to leave those sections blank. As the panel pointed out, that would appear to have been because he did not feel there were any issues in relation to his relationships.



63. In assessing the Applicant's risk factors the panel wrote:

*"The panel considered the suggested risk factors in the earlier decision to release [the Applicant]. The panel took the view that clearly the primary risk factor was alcohol. This was evidenced by a long history of incidents with alcohol misuse as a background. Also of concern is the issue of poor emotional self-management which may be the background to difficulties with partners and in relationships. The panel took the view that a current risk factor is the minimisation of difficulties in relationships and an inability to accept the possibility that alcohol misuse was not the entire answer to the incidents and difficulties that have occurred in the past."*

**Ground 6: "The probation services put licence conditions in place to prevent even going round to [Ms L's] address, which was confirmed as accepted by myself and the GPS tag would have confirmed that this wouldn't have been a concern".**

64. In the short-term Ms L would be protected to some extent by a condition prohibiting him from going to Ms L's address, but they would clearly be seeing each other at other locations and, as the Applicant told the panel, his long-term plan was to live with Ms L and the children. The panel of course, had to consider the Applicant's longer-term risks as well as his shorter-term ones.

**Ground 7: Both POM and COM confirmed in evidence that there remains no outstanding core risk reduction work available in custody and that the only way this risk could reduce further would be to undertake a community-based programme.**

65. It is correct that there are no further accredited risk-reduction programmes available to the Applicant in prison, and there are some programmes available in the community. However, that does not mean that the Applicant can only reduce his risk through community-based programmes. As the panel pointed out (see below) there is a range of options which the Applicant and his POM can explore. The Applicant's difficulty is his current inability to recognise the need to address the issue of relationship difficulties and the risk which he is likely to present in future if they remain unaddressed. The panel's view (to which they were fully entitled) was that it would be unsafe to release him into the community while that risk remains.

**Ground 8: "I feel that the Parole Board did not take account of my protective factors including a new baby and confirmed job offer, which is still available at this time".**

66. I do not think there is anything in this point. The panel expressly acknowledged the various protective factors in their decision.

## Decision

67. I have carefully considered the panel's decision and I cannot find any irrationality in it, nor can I find any procedural irregularity in the panel's conduct of the case. The findings of fact which they made were clearly ones to which they were fully entitled, and on the basis of those findings it was certainly reasonable for them to decide that the test for re-release on licence was not met. Other panels might have reached different



conclusions but that is not the test for reconsideration: some irrationality or procedural unfairness must be shown if an application for reconsideration is to succeed, and it has not been in this case.

68. I am satisfied that that the panel's conclusions were entirely reasonable and in the light of all the matters discussed above I am afraid I must refuse this application.

**Jeremy Roberts**  
**22 December 2023**