

[2024] PBRA 105

Application for Reconsideration by Smith

Application

1. This is an application by Smith ('the Applicant') for reconsideration of the decision of a panel of the Parole Board ('the Board') who on 25 April 2024, after an oral hearing on 19 March 2024, issued a decision not to direct the Applicant's release on licence and not to recommend that he should be transferred to an open prison.
2. Rule 28(1) of the Parole Board Rules 2019 (as amended by the Parole Board (Amendment) Rules 2022) provides that applications for reconsideration may be made, either by the prisoner or by the Secretary of State for Justice, in eligible cases (which are specified in rule 28(2)). The Secretary of State is the Respondent to any application by the prisoner and will be referred to as such in this decision.
3. An application may be made in any eligible case on one or more of 3 grounds:
 - (a) that the decision contains an error of law;
 - (b) that it is irrational;
 - (c) that it is procedurally unfair.
4. This is an eligible case, and the application was made within the prescribed time limit.
5. I am one of the members of the Board who are authorised to make decisions on reconsideration applications, and this case has been allocated to me. I have considered the application on the papers. The documents which have been provided to me and which I have considered are:
 - (a) the dossier of papers provided by the Respondent, which now runs to 286 numbered pages and includes the panel's decision;
 - (b) the submissions by the Applicant's legal representative in support of the application for reconsideration; and
 - (c) an e-mail from the Public Protection Casework Section of the Ministry of Justice ('PPCS') dated 21 May 2024 providing some further information to assist me but stating that the Respondent does not wish to submit any representations in response to the application.

Background and history of the case

6. The Applicant is aged 45. He is serving a sentence of imprisonment for public protection ('IPP') for causing grievous bodily harm with intent and two offences of false



imprisonment (the 'index offences'). The victim of all these offences was the Applicant's former intimate partner.

7. The sentence was imposed in February 2007. The Applicant's minimum term ('tariff') was set at 4 years less the time which he had spent in custody awaiting trial. His tariff expired in April 2010 and he was released on licence in August 2016.
8. The Applicant has since then been recalled to prison on 4 occasions. His most recent recall was in June 2023.
9. His case has been referred by the Respondent to the Board to decide whether to direct the Applicant's re-release on licence and, if not, to advise the Respondent about the Applicant's suitability for a transfer to an open prison.
10. It is unnecessary for present purposes to describe the index offences in any detail. It is sufficient to note that before those offences the Applicant already had a history of domestic violence and that the judge in passing sentence for the index offences stated that the Applicant was obsessively jealous and wanted control over his partner: the judge also said that the Applicant was an extremely dangerous man when he lost his temper and that he bore the illusion that others should bear the responsibility for his loss of temper.
11. It is also unnecessary to describe in detail the circumstances of the Applicant's first three recalls save to say that he had not committed any criminal offences whilst on licence.
12. The Applicant's latest recall was the result of his arrest by the police following an incident at a public house. He had been in an on/off relationship for some years with a woman (Ms W) who at the time of the incident worked at that public house. The circumstances of the incident will need to be described below. The police believed that the Applicant had committed offences against Ms W, but she and the Applicant both deny that that was the case. In the absence of sufficient evidence to substantiate the allegations the police decided that no further action should be taken against the Applicant. The Applicant and Ms W are both anxious to resume their relationship when they are able to do so. At the present time they are not permitted to have any contact with each other.
13. The Applicant's case was considered in October 2023 by a single member MCA panel of the Board who directed that it should proceed to an oral hearing. As noted above the oral hearing was held on 19 March 2024. It was conducted by video link. The panel comprised an Independent Chair, a Psychologist Member and another Independent Member. The Applicant was legally represented. The dossier at that stage comprised 256 numbered pages.
14. Oral evidence was given at the hearing by;
 - (a) the Prison Offender Manager (the 'POM'), who is responsible for managing the Applicant's case in prison,
 - (b) the Community Offender Manager ('COM'), who would be responsible for managing the Applicant's case if he was released on licence and
 - (c) the Applicant himself.



15. The Applicant sought a direction for re-release on licence. The POM supported release on licence but the COM did not.
16. Some further information was requested by the panel and was duly provided by the COM.
17. It was agreed that the Applicant's legal representative would provide his closing submissions in writing. There was an unavoidable delay in his being able to do so, which explained the delay in the panel being able to issue their decision.

The Relevant Law

18. The panel correctly set out in its decision letter the test for release on licence and the issues to be addressed in making a recommendation to the Secretary of State for a progressive move to open conditions.

The Parole Board Rules 2019 (as amended)

19. Rule 28(1) specifies the types of decision which are eligible for reconsideration. Decisions concerning whether the prisoner is or is not suitable for release on licence are eligible for reconsideration whether (a) made by a paper panel (Rule 19(1)(a) or (b)) or (b) made by an oral hearing panel after an oral hearing (Rule 25(1)), as in this case, or (c) by an oral hearing panel which makes the decision on the papers (Rule 21(7)). Decisions concerning the termination, amendment, or dismissal of an IPP licence are also eligible for reconsideration (rule 31(6) or rule 31(6A)).
20. Rule 28(2) specifies the types of sentence in respect of which decisions are eligible for reconsideration. These are (a) indeterminate sentences (Rule 28(2)(a)), (b) extended sentences (Rule 28(2)(b)), (c) certain types of determinate sentence subject to initial release by the Parole Board Rule 28(2)(c)) and (d) serious terrorism sentences (Rule 28(2)(d)).
21. The decision of the panel in this case not to direct release on licence is thus eligible for reconsideration. As will be explained below the Applicant is seeking reconsideration of that decision on the ground of irrationality. No procedural unfairness or error of law is suggested. The panel's decision not to recommend a transfer to open conditions is not eligible for reconsideration.

Irrationality

22. In **R (DSD and others) v the Parole Board** [2018] EWHC 694 (Admin) (the "Worboys case"), the Divisional Court set out the test for irrationality to be applied in judicial reviews of Parole Board decisions. It stated at paragraph 116 of its decision:

"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."



23. 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.
24. The Administrative 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.
25. 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**.

The Application for Reconsideration in this case

26. The application for reconsideration was made by the Applicant's legal representative on his behalf on 10 May 2024. The arguments advanced in the application will be discussed below.

The reply on behalf of the Respondent

27. The Respondent is entitled to submit representations in response to the application. As I have indicated above PPCS have provided some further information to assist me but they state that the Respondent does not wish to make any representations in response to the application for reconsideration.

Discussion

28. Before discussing the arguments advanced by the legal representative in support of this application I need to examine the reasons given by the panel for deciding not to direct the Applicant's release on licence. The panel focussed, as was to be expected, on the events which had occurred since the Applicant was last released on licence, and in particular on the incident which led to his latest recall. There was some dispute about some of those events and the panel accordingly applied the law relating to 'allegations' as explained by the Supreme Court in the case of **Pearce [2023] UKSC 13**. I will deal in turn with the various matters which the panel had to consider.

The abandoned telephone call in December 2022 and the additional licence conditions

29. The panel recorded the evidence about these matters as follows: *"On 17 December 2022 [Ms W] made a 999 call to police which was abandoned by her, but it was alleged that [the Applicant] would not leave her address when asked to do so. [The Applicant] acknowledged to his COM that there had been an argument but [said] that no violence had taken place (and none was reported). [Ms W's] son H, then aged 12, was present at the time and, although there are few details available as to what occurred, it is known that H subsequently elected to go and live permanently with his biological father. As a result of that incident, Probation obtained additional licence conditions that would*



prevent [the Applicant] from having contact with H without permission and exclude him from visiting [Ms W's] home address."

30. The panel later in their decision recorded the Applicant's own evidence about these matters, as follows: "*[The Applicant] acknowledged that [his relationship with Ms W] had been turbulent and that for several months prior to recall it had been an 'on/off' relationship. Recounting the abandoned 999 call, [the Applicant] noted that he and [Ms W] had been having an argument that night as they often did. [Ms W's] reaction was always to tell him to leave the house, which he felt was unfair, because that was the address that he was required to live at. He had made that point to [Ms W] on previous occasions, but she still threatened to call the police if he did not leave. [The Applicant] acknowledged that he goaded [Ms W]; he was not sure at what point she dialled 999 or whether she even intended to*".
31. The panel's conclusions in relation to these matters were as follows: "*There is no evidence to dispute [the Applicant's] account of what actually happened. However, the panel were concerned about the nature of the relationship between [the Applicant] and [Ms W] where there were frequent arguments and instructions for him to leave the property (however unreasonable) which he did not do. The panel considered that [the Applicant] had remained in a turbulent relationship with [Ms W] and continued to live with her, which put both of them at risk; there were no allegations of physical violence, but the panel were concerned about likelihood of coercion by [the Applicant] within the relationship.*" I will come back to the issue of coercion below.

The allegation that the Applicant damaged Ms W's door on 19/20 May 2023

32. This allegation was one of those which led to the Applicant's arrest by the police: the allegation seems to have emerged when the police were investigating the incident which took place at the public house on the following day. The panel recorded the allegation as follows: "*It is alleged that on the 19 May 2023 [the Applicant] visited various premises looking for [Ms W] and that he went to her home address which he is prohibited from doing and caused damage to her front door by kicking it. Photographs were provided to the panel showing the extent of the damage to the door; the frame had become detached from the wall.*"
33. The Applicant's account of this matter was recorded by the panel as follows: "*[The Applicant] denied going to [Ms W's] home address on the night of 19/20 May 2023 or causing any damage to her door; he had been shown the photographs of her front door but told the panel that he did not cause the damage. [The Applicant] did acknowledge that twice in the past, together with neighbours, he had had to force [Ms W's] front door because she had either threatened or attempted suicide, which would account for the obvious, previous repair to the door.*"
34. The panel's conclusion about this matter was as follows: "*In assessing whether [the Applicant] breached the terms of his licence by visiting [Ms W's] home and then causing damage to her front door on 19/20 May 2023, the panel has seen GPS tag evidence that places [the Applicant] in the vicinity of [Ms W's] address but without the granularity to place him at the scene, or any other evidence that directly implicates him. Without a statement or testimony by [Ms W] the panel only has [the Applicant's] account of*



what happened and photographs of a badly damaged door, taken on 20 May 2023. The panel makes no finding of fact in relation to this element of the events that led to recall."

The incident at the public house on 20 May 2023

35. There is a dispute about why the Applicant went to the public house where Ms W worked. The allegation was that he had been looking for Ms W at various premises and, not having found her there, decided to go to her place of work to see if she was there.
36. The Applicant's account, as recorded by the panel, was as follows: "*[The Applicant] stated that he had been on his way to his probation appointment when [Ms W] called him. He was with someone else at the time and an argument ensued; at that time the relationship with [Ms W] was 'off'. Nonetheless, [the Applicant] maintained that [Ms W] sent him a message later on asking him to collect her from her place of work."*
37. There appears to have been no evidence that the Applicant had been looking for Ms W anywhere else and the panel made no finding about his reason for going to the public house. They understandably focused instead on what happened when he got there.
38. The allegation about that was summarised as follows in the panel's decision: "*It is alleged that [the Applicant] went to [the public house], which was closed at the time, where he damaged two of the locked doors and forced his way inside. Images of [the Applicant] inside the pub were captured on CCTV and clips have been made available to the panel together with photographs of the damage to the doors. A further allegation is that whilst he was in [the public house] he searched for [Ms W], found her and pulled her around causing a small cut or abrasion to her arm."*
39. The Applicant's account in evidence was recorded by the panel as follows: "*When he arrived at the pub it was closed, and he was told that Ms W was not there. Subsequently he asserts that he saw [Ms W] at a window and decided to go inside so pulled the door, which he acknowledged might have caused some damage but that he did not pull it hard and did not intend to damage it. He went inside and found [Ms W]. He admitted that he was 'pissed off' so he left, followed by [Ms W]. They had an argument outside the pub after which he got in his car and left. He denied causing any injury to [Ms W's] arm."*
40. He went on to tell the panel that, like anyone else, he could lose his temper but he was able to manage that now; a programme which he had completed in prison before his release on licence had helped him to deal with anger management and he did not now react with violence. Reflecting on the incident at the public house, he said that he was "*pissed off that she had called me there*" and that he was "*bemused, not in a rage*". He acknowledged that he should not have argued with Ms W and should have taken a step back, and that he should not have entered the public house.
41. The panel's conclusions about the incident were set out in their decision as follows:
- 'The CCTV images largely corroborate [the Applicant's] account that he went inside the pub, located [Ms W], left shortly afterwards and that she followed him outside. The minor injury to [Ms W's] arm could, in the view of the panel, have happened at any*



time and there is no evidence that it was caused by [the Applicant], even accidentally; accordingly, the panel places no weight on that element of the accusations.

'[The Applicant] acknowledges that he may have accidentally damaged the door to the pub when he went inside. However, when examining the extent of the damage shown on the photographs, the panel have concluded, on the balance of probabilities, that considerable force must have been used. The doors are very solid, with substantial bolts which have been pulled away from the door at the bottom; there is substantial damage to the door frame at the top also. The panel does not believe that the damage was accidental and makes a Finding of Fact – that [the Applicant] used considerable force to enter the ... public house and in doing so caused substantial damage to the door. These findings do not imply that [the Applicant] necessarily committed a criminal offence.

'Having come to this conclusion about the damage to the door and the forced entry to the pub, the panel were concerned about the degree of anger and agitation shown by [the Applicant] in the incident. He is seen running in all of the CCTV images and, discounting any physical injury to [Ms W], the panel was extremely concerned about the emotional and psychological harm caused. It is the panel's view that coercion may well have been a factor in [Ms W's] decision not to proceed with any formal complaint against [the Applicant]. It is evident that [the Applicant] was neither wanted or welcome on that occasion and that is evident in the body language of the publican and [Ms W]. The fact that [Ms W] did not leave the premises with [the Applicant] would indicate that she did not want him to collect her.'

42. I should point out that parole proceedings are classified as civil proceedings and accordingly the civil standard of proof applies and not the criminal one. The criminal standard is proof beyond reasonable doubt but the civil one is proof on the balance of probabilities (i.e. that the allegation is more likely than not to be true).

Breach of a bail condition

43. The Applicant was arrested on 20 May 2023 on suspicion of three offences alleged to have resulted from the events of that day (stalking, assault occasioning bodily harm and criminal damage). When questioned by the police he exercised his right to remain silent. He was released on bail, one of the bail conditions being that he should not contact Ms W who the police believed to be the victim of the three alleged offences.
44. A decision was made by the police on 11 June 2023 that there was insufficient evidence to substantiate any of those allegations, and the Applicant was notified on 12 June 2023 that no further action was to be taken against him. It appears that he had been bailed until 19 June 2023, and his bail was formally cancelled on that date.
45. By that time the Applicant's licence had been revoked (on 2 June 2023) and he was in prison. The Applicant and Ms W were under the impression that the bail conditions no longer applied after the Applicant was notified that no further action was to be taken against him. They were in regular telephone contact and indeed Ms W arranged a prison visit to see the Applicant on 15 June 2023. When probation became aware of those matters the visit was cancelled and contact was stopped. Probation's view was that



"there were concerns that [the Applicant] was coercing Ms W". Both the Applicant and Ms W were resentful of probation's actions. They expressed their views quite forcefully.

46. Probation asserted that the Applicant was breaching his bail conditions by his telephone contact with Ms W between 12 June 2023 and the stopping of their contact at the request of probation. The panel understandably attached no weight to that point.

The panel's explanations for their decision

47. Having set out their findings in relation to the facts the panel explained their decision as follows:

'The panel has considered carefully the differing professional opinions of the POM and the COM in relation to [the Applicant's] suitability for release.

'[The POM] supported release, having worked with [the Applicant] for nine months and having witnessed his behaviour stabilise during that time and having seen overall compliance with the prison regime. [The POM] acknowledged that there were risk factors active during the last period on licence but believed that further risk reduction work could be completed in the community. [The POM] acknowledged however, that he did not have experience of managing offenders in the community.

'[The COM] had significant concerns about [the Applicant's] risk, in particular to intimate partners and to Ms W. He had the benefit of having spoken to [Ms W] and felt that she was still being coerced. [The COM] believed that core risk reduction work still needed to be completed in custody to address relationships, anger management, thinking skills and domestic abuse.

'In making its decision, the panel gave significant weight to the behaviour that led to recall, described by the senior probation officer at the time of the recall as 'offence paralleling'. The panel has itself determined that [the Applicant] was acting in a high state of emotion on 19/20 May 2023 and that he was sufficiently aroused that he forced his way into the public house causing substantial damage as he did so. The damage is not in itself of great concern, rather it is the reason for forcing his way in, to get to [Ms W] in a heightened state of emotion, when he ought to have walked away. To that extent, the panel sees clear offence paralleling behaviour with the index offence and with the second recall, where [the Applicant] admits that he should have walked away.

'In his evidence, [the Applicant] was able to articulate a degree of theoretical insight into his offending behaviour and what might constitute domestic abuse but, despite having previously completed appropriate risk reduction work, he has not been able to demonstrate that he can apply that knowledge in the community or that he has the control mechanisms in place to manage his behaviour when he becomes agitated, and his emotions take over.

'In the view of the panel, [the Applicant] needs to complete more work on relationships, anger management and thinking skills before he will be ready for re-release; the exact nature of that work is for HMPPS to determine through a PNA or other psychological assessment. The panel is of the view that there is outstanding core risk reduction work.



The panel has determined that it remains necessary for the protection of the public that [the Applicant] be confined and makes no direction for his release."

48. HMPPS is His Majesty's Prison and Probation Service and a PNA is a programme needs assessment by a psychologist.
49. I can now turn to the arguments deployed by the Applicant's legal representative in support of the application for reconsideration. Those arguments are clearly and helpfully set out and I will respond to each of them in turn.
50. **Submission 1:** *"We submit that there is no evidence within the dossier that an outstanding core risk reduction was required or identified for the Applicant. The only work recommended by professionals was the BBR course that can be completed in the community."*
51. **Response:** I am afraid that there was ample evidence, set out with great care and detail in the panel's decision, to support the conclusion that before he could safely be re-released on licence the Applicant needed to improve his relationship and anger management skills through risk reduction work in prison.
52. The referral note issued by the Respondent specifically states that *"The Board is asked to give full reasons - which will be disclosed to the prisoner - for any decision, direction or recommendation it makes and to include any continuing areas of risk that need to be addressed The Board should note that it is not being asked to comment on or make any recommendation about ... any specific treatment needs or offending behaviour work required."*
53. That is why the panel correctly stated that *"the exact nature of that work is for HMPPS to determine through a PNA or other psychological assessment"*. There are various forms of work which a prisoner in the Applicant's position can undertake, and a PNA is a useful means of identifying which is the most suitable.
54. **Submission 2:** *"The Panel failed to give adequate weight to the evidence of the POM who has worked closely with the Applicant for the 9 months prior to the Oral Hearing or the emailed statement from Ms W, but relied heavily on the evidence of a single phone call between the COM and Ms W to conclude that she was being coerced by [the Applicant]"*.
55. **Response:** It is not uncommon for the views of a POM to differ from those of the COM, and where that happens the panel has to choose between them. In this case the panel explained the reasons for their preference for the views of the COM. It was a matter for them to make that decision and their approach cannot be regarded as irrational.
56. The panel clearly read and took into account the emailed statement from Ms W but were fully entitled, whilst understanding her desire to be able to resume her relationship with the Applicant, to regard her statement as presenting less than a full and accurate picture of that relationship.
57. The question of coercion is always a difficult one where there is a suspicion that it is taking place or may do but, in the nature of things, no positive proof. It is to be noted



that the panel made no finding of fact about coercion but regarded the risk of it taking place as a 'matter of concern' which could and should be taken into account in any risk assessment. That was something permitted by the decision in **Pearce**, and I believe the panel's approach was a reasonable one given (a) the volatile nature of the relationship between the Applicant and Ms W, (b) the COM's belief and (c) the facts of the incident of 20 May 2023 as found by the panel.

58. **Submission 3:** *"The Panel placed undue weight to the damage caused to the Public House door during the events that led to recall, especially as the Police Report and CCTV footage evidence could not determine that the extensive damage was caused by [the Applicant] when he visited the Pub."*
59. **Response:** The panel were entitled to interpret the evidence available to them. Their approach to findings of fact was impeccable and fair to the Applicant (they did not find the allegations of damaging Ms W's door, stalking and assault to have been proved). The Applicant admitted that he had forced the door of the public house open and that he might have caused some damage to it. I do not think the panel can be faulted in finding, on balance of probabilities, that the Applicant used 'considerable force'. In any event the amount of force used does not really matter. It was the way that the Applicant was behaving that does matter. The panel was, on his own admission, 'pissed off' and the panel were certainly entitled (on their own observations of the CCTV) to find that he was in a stage of significant anger and agitation.
60. **Submission 4:** *"The Panel failed to highlight that the further evidence that they requested after the Oral Hearing on the 19 March 2024 substantially contradicted the COM reports in the Part A, Part B and Part C reports. In fact, the COM stated in the Part B report dated 21 June 2023 that "at the time of writing I do not have an update but I have been in contact with the police to ascertain progress of the arrest (pg. 94 of the dossier)." Whereas the additional information from probation after the Oral Hearing confirmed that probation was aware that [the Applicant's] police bail was removed on 19 June 2023."*
61. **Response:** I am not sure that it is correct to say that the additional information from probation confirmed that on 21 June 2023 probation were aware that the Applicant's bail had been removed. The statement by the COM which was added to the dossier after the hearing was ambiguous: it simply stated that *"The Applicant's bail conditions were from 2nd June until the 19th of June 2023. So this is the period of time where he could not engage with [Ms W] which he did. He had a prison visit scheduled on the 15th of June 2023. However, this visit was stopped when discovered by probation"*. It is unclear from this when it was that probation became aware that there was to be no further action by the police.
62. The information provided by PPCS on 24 May 2024 for the purposes of this application is also ambiguous on the question of when probation became aware that there was to be no further action by the police. If this issue had been relevant to my decision on this application I would have requested further evidence to establish the position. However, I am satisfied that this issue is not relevant to my decision. If probation did misstate the position in the report of 21 June 2023 that would of course have been highly regrettable but I cannot see that it has any real bearing on the current assessment of



the Applicant's current risk of serious harm to the public. If there was a misstatement (and these things do happen) it is highly unlikely that it was a deliberate lie. It is most likely to have been the result of a failure of communications within probation's organisation. I note that the report in question was written by somebody else on behalf of the then COM (not the COM who was to give evidence at the hearing).

63. **Submission 5:** *"The Panel stated that they felt that the Risk Management Plan was relatively robust but could be further strengthened by making electronic devices available for scrutiny and ensuring that messages could not be deleted. They went on to state that even with that added safeguard the main concerns were around [the Applicant's] behaviour in intimate relationships, which required strong internal protective factors, insight into forms of abuse and, in [the Applicant's] case better anger management. The Panel were concerned that these internal factors were not sufficiently developed. We submit that this assessment is irrational as it failed to give adequate weight to the fact that [the Applicant] has not committed any violent offence in the last 17 years and there is no evidence of his association with negative peers even after spending considerable time in the community."*
64. **Response:** I am afraid I cannot agree that there was any irrationality in the panel's view that the Applicant's internal factors had not been sufficiently developed. The panel acknowledged that the Applicant had not associated with negative peers when in the community. The panel's concerns were not about such associations but about his risk within intimate relationships.
65. It is accurate to say that the Applicant had not committed any offences of violence within or outside intimate relationships: that was an important point which the panel acknowledged. But his relationship with Ms W had been a turbulent one and the incident at the public house had illustrated his difficulty in managing his emotions within an intimate relationship. It is to the Applicant's credit that he had managed to avoid physical violence against Ms W on that occasion but it is all too easy for an incident of that kind to escalate into violence. A lot depends on the reaction of the other party whose response might provoke a violent reaction.
66. The legal representative made other submissions which were directed at the panel's decision not to recommend a move to open conditions, but since that decision is not susceptible to reconsideration I need not refer to those submissions here.

Decision

67. All in all I am afraid that I cannot agree that the panel's decision not to direct the Applicant's re-release on licence was in any way irrational within the meaning explained above. If I may say so the panel's decision was exceptionally well reasoned and well presented. This was not an easy case and some panels might have decided it differently but that is not the test for reconsideration. I am sympathetic to the desire of the Applicant and Ms W to be able to resume their relationship, and probation will need to be careful not to obstruct their wishes in a way which interferes with their rights under the Human Rights Act. I hope they will be able to rebuild the relationship in a safe way, but they are more likely to be able to do so if the Applicant can first learn more about his risks and how to manage them.



68. For the reasons which I have explained above my decision must be to refuse this application.

Jeremy Roberts
28 May 2024

