

[2024] PBRA 255

## Application for Reconsideration by Aziz

### Application

1. This is an application by Aziz (the Applicant) for reconsideration of a decision of the Parole Board, following an oral hearing on 4 September 2024, not to direct release.
2. Rule 28(1) of the Parole Board Rules 2019 (as amended by the Parole Board (Amendment) Rules 2022, 2023 and 2024) (the Parole Board Rules) provides that applications for reconsideration may be made in eligible cases (as set out in rule 28(2)) either on the basis (a) that the decision contains an error of law, (b) that it is irrational and/or (c) that it is procedurally unfair. This is an eligible case, and the application was made in time.
3. I have considered the application on the papers. These are:
  - a. The dossier now comprising 483 pages including the decision letter (DL), the subject of this application.
  - b. The application dated 27 November 2024 submitted by the Applicant, and a 'second part' received from the Applicant on 10 December 2024.

### Background

4. The Applicant is now 69 years old. In November 2006, for an offence of attempted murder, he was sentenced to imprisonment for public protection. His tariff expiry date was 23 November 2010. His case had last been considered by a Parole Board panel on paper in May 2022 and resulted in the panel declining to direct his release. A previous oral hearing in January 2020 had reached the same conclusion as had other panels considering his case after his tariff expiry date.

### Request for Reconsideration

5. The application for reconsideration is dated 27 November 2024, with a second part added a few days later.
6. The grounds for seeking a reconsideration of the case are set out below in full although some words were hard to read:


*"27th November, 2024  
'Procedurally unfair'*

 3rd Floor, 10 South Colonnade, London E14 4PU

 [www.gov.uk/government/organisations/parole-board](http://www.gov.uk/government/organisations/parole-board)

 [info@paroleboard.gov.uk](mailto:info@paroleboard.gov.uk)

 @Parole\_Board

 0203 880 0885

*"Dear [Panel chair],*

*I was horrified with my deep consternation I found the Oral Hearing of the 4<sup>th</sup> September rather farcical and absurd. [The psychologist member] dominated the meeting the method of his questions tacitly I felt like he was representing the ministry vice and virtue of Taliban. So provocative the resemblance of [former wing psychologist] to [a woman the Applicant had previously had a relationship with] I should be answering that specific question in 2020 session of Oral hearing, despite the matter was scrutinised thoroughly in the group meeting at HMP []. As psychologists it is expected to understand the nature of the vicissitude of our very existence.*

*"I'm 69 and the 19 year in the cacophonous milieu of incarceration certainly affected my memory. I could extempore for an hour and an hour a garrulous interlocutor person, now reached to the point of talking to someone I pause, thinking for words of course it's embarrassing. My health at the precarious state, insomnia, diabetes, partially blind and mobility problems.*

*"[The HMPPS forensic psychologist] conducted the 5 hours assessment and drew the picture of my past, present and future. The most shocking part; if I'm released I could kill my wife, daughter, son and commit a suicide. I came to prison with only one victim after 19 years my risk level is rated very high.*

*"I'm not sure of which cutting age crystal-ball this professional Seer used. In fact I'm aghast to witness the justice system of the land allow these clairvoyant and oracles to operate within the prison system. According to the views of detractor psychology, pseudo science, causes more harm than benefit. Psychology is based on the synthetic. A synthetic statement refers to external evidence. 'The cat is outside the door' is synthetic. No detailed explanation of the meaning of 'cat' or door can ever prove the matter one way or the other – you have to go and look. But an analytic statement simply explains the meaning of its own terms. The statement 5 plus 5 equals 10 is analytic. Unlike other psychologists [the HMPPS forensic psychologist] refused to meet me in order to discuss the final version of her assessment. I must declare that during our last meeting [she] requested that I should communicate with her. If you switch the same request to my side then there would be a dire repercussion accusing me for flirting (sic) with [her]. Nevertheless in her testimony to the Board every sentence ended with word grandiosity reiterated profusely. Let me clarify I'm deciple (sic) of Tomas Paine who said: the world is my country, people are my brethren & do good is my religion. I do not feel that I'm above anyone, not beneath anyone but equal to other. It is irrelevant for me that [her] social status whether born and brought up in the council estate or have aristocratic background, I felt some inherent detestation towards me, in my part I have profound respect for her, 5 hour meeting is not enough to know someone!*

*"The reason of [the community offender manager (COM)'s] repudiation is not arcane, he is one incompetent brain damaged lunatic, that is my incisive interpretation of working with him as community Offender Manager. The latest documents I've received on page 12 "2.29, ....he found it difficult to determine whether [the Applicant] has developed an insight into his areas of risk or whether he has simply learned what to say in order to secure his*



*release" very impressive argument I think [the COM] should go back to his erstwhile profession as a local refuse collector. What a cliché, every prisoner of the world wants freedom regardless how heinous the nature of his/her crime is. Sadly [the COM] is not the only insane pleb i'm embattled and embroiled with he is not going to bite the hands that feeds him.*

*"As far as the prison-based psychologists they're nothing more than the Magician conjuring Rabbit out of Hat. SURE THEY TURNED ME INTO A LIVING MONSTER. To juxtapose those who facilitate therapeutic work in prison they are very cordial, benign people showing empathy but in contrast with those doing assessment, they are heartless army; apathetic, malign monster I found bulk of trainee psychologists very dull and dim witted (sic). Bizarrely some of them are moonlighting working with an escort agency.*

*"I've been sitting doing nothing between 2022-2024, one year in [establishment A] and another year in [establishment B], been assessed by half dozen psychologists and [a forensic psychologist in training] was the person assessed me in 2022 there were no recommendations for further intervention programme. So was the [establishment A] report concluded that there is no need for further intervention work to be conducted. There is a long list of various programmes I've had completed successfully there is a sense of poignancy, they were not good enough according to [the HMPPS forensic psychologist] [the COM].*

*"In fact, Clinical Judgement is rarely a measurement at all, in the sense that it doesn't produce a number on a scale. It mostly expressed in phrases like 'I feel that...,' 'It seem that...,' or 'In my opinion...' " (p 234 Bad Psychology 2018 Dr Robert A. Ford, a retired consultant forensic prison psychologist).*

*"Check the risk factors in dossier p.370 did not appear in the parole documents except for 3.6 and 3.7 the nonsense of the Community Manager proposes.*

*"I'm intrigued, on p3 dossier summary 439 pages 447-457 were subject to non-disclosure. Are they from victim false statement or State Intelligence MI5/MI6?*

*"If I live in an egalitarian democratic society There should be transparency and accountability. During one of the meetings with [the HMPPS forensic psychologist] I showed her a report published in The Sunday Times January 28,2024 about Terezia Javorska ex wife of John Simpson,79 was the BBC political editor 'a communist spy' Tereza, the director of the World Service Slovak section, Julia Llewellyn Smith wrote, she was blackmailed by the Soviet. During my time with working in Pashtu section I've mingle with her and people working at various department at the cafeteria, so I could also be on the security radar.*

*My 4 years 14 days tariff reached 19 years, I suspect there should be some as joint enterprise non-disclosure at the desk of Parole Boards.*



*"Bearing in mind I'm serving IPP sentence, the sentence is condemned by the human rights "despite the sentencing protocol being widely condemned, including by the UN, its abolition did not apply retrospectively, leaving thousands trapped with no release date until the Parole Board deems them safe to be let out. Morally wrong that IPP prisoners are left to rot".(Britain former top Judge John Thomas, a former Lord Chief Justice, wrote letter to the CONVERSE November 2024).*

*"My 19 years incarceration has been under strict scrutiny all the accusations are unfounded baseless no proof no verification, Page 438 of the Dossier an entry made in June "Intel suggests [the Applicant] may be reading a lot of psychology books & is trying to find out what is the model they currently use to do his assessment for his upcoming parole hearing, perhaps to influence/manipulate the outcome & may believe he is too complex a person for female trainee specialist to properly assess him(High)" .signed by Security Collator []. I submit a general application request [the security collator] to meet me in person to verify his statement, I wrote that he was acting as Aushwitz (sic) Camp Gatekeeper. [The security collator] wrote back to inform me the words in the dossier are not his case closed. I construe that is nothing more than intimidation and creating fear in my heart. And I ponder this act was aim to impose gagging order on me. There is however no freedom of speech in prison system. Almost 90 per cent of the prison population did not complete education every prison in the land has education & a library the government should have closed education and the library of every prison. I consider them HUNGRY WOLVES & HYENAS IN A PETTICOAT, each one wants a slice of my life.*

*"I served as a juror at [] Crown court twice the jury declares the charge of guilt/not guilty in public. The mental torture of two month delay was like sitting under the Sword of Democles (sic). My hands were stain with blood, I cleanse it with my tear but the hands of the prison-base termagant psychologists are stain with the blood of those 90 !PP prisoners haplessly committed suicide. In 1979 I was exposed to coercive interrogation, they made confession under torture. My analytical judgment; That was more humane compare to the IPP sentence of long imprisonment. The justice system is corrupt to the core. Finally, if my release is impossible due disproportionate to the offence, restore death penalty.*

*With Regards  
[The Applicant]*

7. On 10 December 2024 further submissions were received from the Applicant which I reproduce below:

*"I have discovered some more serious errors and act of sabotage on the latest parol (sic) decision paperwork.*

*"On page 7 under analysis of change 2.4 "[The Applicant] admitted to offering [the former wing psychologist] £10,000 for a holiday as a thanks for the kindness*



*that she had shown him." First of all misleading statement. The sum of 10k was taken from the suicide note, I bequeathed to [the former wing psychologist], it was a posthumous gift. That money was in my prison account, in fact I was an extreme fluster state. Later when I checked my account there was £1.300 I could bequeathed £11.300 or ever penny.*

*"My letter of 6 pages published in the dossier on the P.S. offering [the former wing psychologist] a holiday, bearing in mind there was no mention of £10,000. Despite the fact that I spoke about this matter in detail at the group meeting at []. This was an issue in which the chair person of 2020 oral hearing asked me, if offering a holiday was appropriate to a member of staff. I simply replied yes and gave my reasons.*

*"Yet another bizarre issue. I read on page 370 dossier "Risk Factors" 5. "...there was an incident where you (me) touched her ([the former wing psychologist]) waist, inappropriately, where you found it difficult to accept criticism." This is yet another method of sabotage. Read the real version on page 156 part 8.11 "Sometime later another resident ([], the real culprit) touched [the former wing psychologist's] waist to mover her in a queue."*

*"I could only envisage however compiled the dossier particularly the addendum, not only incompetent, vindictive and malign monster smear my name."*

## **Current parole review**

8. This case was first referred to the Parole Board in October 2023.

## **The Relevant Law**

9. The panel correctly sets out in its DL the test for release.

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

10. Rule 28(1) of the Parole Board Rules provides 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 made by a paper panel (rule 19(1)(a) or (b)) or by an oral hearing panel after an oral hearing (rule 25(1)) or by an oral hearing panel which makes the decision on the papers (rule 21(7)).

11. Rule 28(2) of the Parole Board Rules provides the sentence types which are eligible for reconsideration. These are indeterminate sentences (rule 28(2)(a)), extended sentences (rule 28(2)(b)), certain types of determinate sentence subject to initial release by the Parole Board (rule 28(2)(c)) and serious terrorism sentences (rule 28(2)(d)). This is an eligible sentence.

### *Irrationality:*



12. In **R(DSD and others) -v- the Parole Board 2018 EWHC 694 (Admin)** the Divisional Court applied this test to parole board hearings in these words 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."*
13. This test was set out by Lord Diplock in **CCSU v Minister for the Civil Service [1985] AC 374**. 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 Parole Board in making decisions relating to parole. The Board, when considering whether or not to direct a reconsideration, will adopt the same high standard for establishing "irrationality". The fact that Rule 28 contains the same adjective as is used in judicial review shows that the same test is to be applied.
14. The **DSD** case is an important case in setting out the limits of a rationality challenge in parole cases. Since then another division of the High Court in **R (on the application of Secretary of State for Justice v Parole Board [2022] EWHC 1282 Admin) (the Johnson case)** adopted a *"more modern"* test set out by Saini J in **R (Wells) v Parole Board [2019] EWHC 2710 (Admin)**.
15. In the **Wells** case Saini J set out "a more nuanced approach" at paragraph 32 of his judgment when he said: *"A more nuanced approach in modern public law is to test the decision – maker's ultimate conclusion against the evidence before it and to ask whether the conclusion can (with due deference and with regard to the panel's expertise) be safely justified on the basis of that evidence, particularly in a context where anxious scrutiny needs to be applied."*
16. It must be emphasised that this is not a different test to the Wednesbury reasonableness test. In the **Wells** case Saini J emphasised at paragraph 33 that *"this approach is simply another way of applying"* the Wednesbury irrationality test.
17. What is clearly established by all the authorities is that it is not for the reconsideration member deciding an irrationality challenge on a reconsideration – or a judge dealing with a judicial review in the High Court – to substitute his or her view for that of the panel who had the opportunity to see the witnesses and evaluate all of the evidence. It is only if a reconsideration member considering the application decides that the decision of the panel did not come within the range of reasonable conclusions that could be reached on all of the evidence, that he or she should allow the application.
18. Panels of the Board are wholly independent and are not obliged to adopt the opinions or recommendations of professional witnesses. The panel's duty is clear and it is to make its own risk assessment and to evaluate the likely effectiveness of any proposed risk management plan. That will require a panel to test and assess the evidence and decide what evidence they accept and what evidence they reject.



19. Once that stage is reached, following the guidance provided by such cases as **Wells**, a panel should explain its reasons whether or not they are going to follow or depart from the recommendation of professional witnesses.
20. The giving of reasons by a decision maker is "*one of the fundamentals of good administration*" (**Breen v Amalgamated Engineering Union [1971] 2 QB 175**). When reasons are provided, they may indicate that a decision maker has made an error or failed to take a relevant factor into account. As I understand the principles of public law engaged in deciding this application, an absence of reasons does not automatically give rise to an inference that the decision maker has no good reason for the decision. Neither is it necessary for every factor to be dealt with explicitly for the reasoning to be legally adequate in public law.
21. The way in which a panel fulfils its duty to give reasons will vary depending on the facts and circumstances in any particular case. For example, if a panel is intending to reject the unanimous evidence of professional witnesses then detailed reasons will be required. In **Wells** at paragraph 40 Saini J said: "*The duty to give reasons is heightened when the decision maker is faced with expert evidence which the panel appears, implicitly at least, to be rejecting*".
22. When considering whether this decision is irrational, I will keep in mind that it is the decision of the panel who are expert at assessing risk; importantly it was the panel who had the opportunity to question the witnesses and to make up their own minds what evidence to accept. As I have already observed, it is extremely important that I do not substitute my judgment for theirs. My function is to decide whether the panel in this case erred in law or reached a decision that was *Wednesbury* unreasonable and/or procedurally unfair in some respect.

### *Procedural unfairness*

23. 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 to the issue of irrationality which focusses on the actual decision.
24. In summary an Applicant seeking to complain of procedural unfairness under rule 28 must satisfy me that either:
- (a) express procedures laid down by law were not followed in the making of the relevant decision;
  - (b) they were not given a fair hearing;
  - (c) they were not properly informed of the case against them;
  - (d) they were prevented from putting their case properly;
  - (e) the panel did not properly record the reasons for any findings or conclusion; and/or
  - (f) the panel was not impartial.
25. The overriding objective is to ensure that the Applicant's case was dealt with justly.



*Other*

26. It is possible to argue that mistakes in findings of fact made by a decision maker result in the final decision being irrational, but the mistake of fact must be fundamental. The case of **E v Secretary of State for the Home Department [2004] QB 1044** sets out the preconditions for such a conclusion: *"there must have been a mistake as to an existing fact, including a mistake as to the availability of evidence on a particular matter; the fact or evidence must have been "established", in the sense that it was uncontentious and objectively verifiable; the appellant (or his advisors) must not have been responsible for the mistake; and the mistake must have played a material (though not necessarily decisive) part in the tribunal's reasoning."* See also **R (Alconbury Developments Ltd) v Secretary of State for the Environment, Transport and the Regions [2003] AC 295**, which said that in order to establish that there was a demonstrable mistake of fact in the decision of the panel, an Applicant will have to provide "objectively verifiable evidence" of what is asserted to be the true picture.
27. In **Oyston [2000] PLR 45**, at paragraph 47 Lord Bingham said: *"It seems to me generally desirable that the Board should identify in broad terms the matters judged by the Board as pointing towards and against a continuing risk of offending and the Board's reasons for striking the balance that it does. Needless to say, the letter should summarise the considerations which have in fact led to the final decision. It would be wrong to prescribe any standard form of Decision Letter and it would be wrong to require elaborate or impeccable standards of draftsmanship."*

**The reply on behalf of the Secretary of State**

28. The Secretary of State has offered no representations in respect of this application.

**Discussion**

29. The application – set out in full above – does not indicate what the grounds for seeking a reconsideration of the case are or under which head – irrationality or procedural irregularity – the particular complaint is said to fall. I shall deal with the points made in the grounds as best I can.

a. *"I found the Oral Hearing of the 4th September rather farcical and absurd. [The psychologist member] dominated the meeting the method of his questions tacitly I felt like he was representing the ministry vice and virtue of Taliban."*

The panel was a two-member panel. As is normal in such hearings the majority of the questions were asked by the member who was not the Chair, with the Chair following up on any topic she wished to raise or amplify. There is no procedural irregularity in this way of conducting parole hearings.

b. *"So provocative the resemblance of [the former wing psychologist] to [a woman the Applicant had previously had a relationship with] I should be answering that specific question in 2020 session of Oral hearing, despite the matter was scrutinised*





*thoroughly in the group meeting at HMP []. As psychologists it is expected to understand the nature of the vicissitude of our very existence."*

I have taken this ground to concern references to the women referred to respectively as the wing psychologist and a friend whom he had known before his arrest for the index offence - see pages 146, 147 and 196 of the dossier in the reports of the registered forensic psychologists. I have found nothing irrational or procedurally irregular in the references – direct and indirect - to this matter in the DL at paragraphs 1.5, 2.5 and 2.25 or the way in which, in paragraph 2.5, the DL dealt with the Applicant's description of a meeting with a trainee psychologist.

*c. "I'm 69 and the 19 year in the cacophonous milieu of incarceration certainly affected my memory. I could extempore for an hour and an hour a garrulous interlocutor person, now reached to the point of talking to someone I pause, thinking for words of course it's embarrassing. My health at the precarious state, insomnia, diabetes, partially blind and mobility problems."*

The panel clearly was aware of, and made proper allowance for, the age and health - mental and physical - of the Applicant, who was legally represented. See e.g. paragraphs 2.16 and 3.8 of the DL.

*d. "[The HMPPS forensic psychologist] conducted the 5 hours assessment and drew the picture of my past, present and future. The most shocking part; if I'm released I could kill my wife, daughter, son and commit a suicide. I came to prison with only one victim after 19 years my risk level is rated very high.*

*"I'm not sure of which cutting age crystal-ball this professional Seer used. In fact I'm aghast to witness the justice system of the land allow these clairvoyant and oracles to operate within the prison system. According to the views of detractor psychology, pseudo science, causes more harm than benefit. Psychology is based on the synthetic. A synthetic statement refers to external evidence. 'The cat is outside the door' is synthetic. No detailed explanation of the meaning of 'cat' or door can ever prove the matter one way or the other – you have to go and look. But an analytic statement simply explains the meaning of its own terms. The statement 5 plus 5 equals 10 is analytic. Unlike other psychologists [the HMPPS forensic psychologist] refused to meet me in order to discuss the final version of her assessment. I must declare that during our last meeting [she] requested that I should communicate with her. If you switch the same request to my side then there would be a dire repercussion accusing me for flirting (sic) with [her]. Nevertheless in her testimony to the Board every sentence ended with word grandiosity reiterated profusely. Let me clarify I'm deciple (sic) of Tomas Paine who said: the world is my country, people are my brethren & do good is my religion. I do not feel that I'm above anyone, not beneath anyone but equal to other. It is irrelevant for me that [her] social status whether born and brought up in the council estate or have aristocratic background, I felt some inherent detestation towards me, in my part I have profound respect for her, 5 hour meeting is not enough to know someone!"*

I have considered the reports within the dossier from the HMPPS forensic psychologist and the panel's summary of her findings and recommendations at paragraphs 2.7-11 and 2.21-27 of the DL. While, following her interview with the Applicant, she was initially in favour of a move to open conditions for the Applicant,



by the time she came to give her evidence and after hearing the evidence of the Applicant at the hearing she was of the opinion that he needed to stay in closed conditions for further work only available in closed conditions. It is fair to say that her comment that he 'has a specific world view and personality traits. He is already formulating a response of what he wants you to know rather than answering the questions' is supported by the terms in which the application is drafted. There was no irrationality in the panel choosing to accept her recommendation and that of the other witnesses following the hearing of all the evidence.

e. *"As far as the prison-based psychologists they're nothing more than the Magician conjuring Rabbit out of Hat. SURE THEY TURNED ME INTO A LIVING MONSTER. To juxtapose those who facilitate therapeutic work in prison they are very cordial, benign people showing empathy but in contrast with those doing assessment, they are heartless army; apathetic, malign monster I found bulk of trainee psychologists very dull and dim withed (sic). Bizarrely some of them are moonlighting working with an escort agency."*

This passage does not purport to be a ground of appeal save possibly to the extent it suggests that the HMPPS forensic psychologist witness was incapable of giving proper evidence. No such suggestion was made at the hearing or following it by the legal representative. The panel was entitled to conclude that the witness was a competent and persuasive one.

f. *"I've been sitting doing nothing between 2022-2024, one year in [establishment A] and another year in [establishment B], been assessed by half dozen psychologists and [a forensic psychologist in training] was the person assessed me in 2022 there were no recommendations for further intervention programme. So was the [establishment A] report concluded that there is no need for further intervention work to be conducted. There is a long list of various programmes I've had completed successfully there is a sense of poignancy, they were not good enough according to [the HMPPS forensic psychologist] [the COM]."*

*"In fact, Clinical Judgement is rarely a measurement at all, in the sense that it doesn't produce a number on a scale. It mostly expressed in phrases like 'I feel that...', 'It seem that...', or In my opinion... " (p 234 Bad Psychology 2018 Dr Robert A ford, a retired consultant forensic prison psychologist)."*

The years between 2022 and 2024 were carefully considered by the panel. Ultimately the panel had to decide whether on the evidence it heard from all the witnesses including the Applicant, and the submissions made on his behalf, assisted by expressions of professional opinion, the Applicant should be released.

g. *"Check the risk factors in dossier p.370 did not appear in the parole documents except for 3.6 and 3.7 the nonsense of the Community Offender Manager proposes."*

This appears to be a reference to the matter considered above at b. and the previous wing psychologist at HMP []. The risks identified by the panel – both "statistical" and related to actual incidents – are clearly and accurately stated throughout the DL at paragraphs 1.8, 2.23, 2.24, 2.25, 3.12, and in its conclusion at 4.1-7.



h. *"I'm intrigued, on p3 dossier summary 439 pages 447-457 were subject to non-disclosure. Are they from victim false statement or State Intelligence MI5/MI6?"*

As the Parole Board directions now in the dossier make clear, material which should have been submitted to the panel before the oral hearing was only submitted after it had concluded. The matter was considered, and the gist now at page 447 of the dossier was the result. While unfortunate that the matter was not dealt with in advance of the oral hearing it is clear that the applicant's legal representative – as is usual in such circumstances – had had a chance to consider the full material and raised no objection to the content of the summary which went into the dossier. Perhaps unsurprisingly in view of the index offence of attempted murder the victim was concerned for her personal safety if and when the Applicant is released. The question of the need to monitor and if possible prevent attempts by the Applicant to contact the victim upon his release was already set out in many parts of the dossier – see e.g. pp 372 (the previous Parole Board decision of 2020), 388-9, 423, 468, 470, 477 and 478.

While the late service of the material was procedurally 'irregular', the way in which it was dealt with and the existence of ample material already within the dossier to the same effect means that the irregularity fell far short of such an irregularity as to require the case to be reconsidered. In particular, as is clear from the material, there was no input from the Security Services.

i. *"If I live in an egalitarian democratic society There should be transparency and accountability. During one of the meetings with [the HMPPS forensic psychologist] I showed her a report published in The Sunday Times January 28,2024 about Terezia Javorska ex wife of John Simpson,79 was the BBC political editor 'a communist spy' Tereza, the director of the World Service Slovak section, Julia Llewellyn Smith wrote, she was blackmailed by the Soviet. During my time with working in Pashtu section I've mingle with her and people working at various department at the cafeteria, so I could also be on the security radar."*

It is hard to see the relevance of any of this passage to the question of the risk posed by the Applicant for the purposes of the parole hearing. The grounds do not suggest how it might be relevant to the panel's findings or this appeal.

j. *"My 4 years 14 days tariff reached 19 years, I suspect there should be some as joint enterprise non-disclosure at the desk of Parole Boards."*

Beyond pointing out the obvious in the first sentence it is not clear what support this lends to the grounds. The Parole Board has to deal with each case on the day of the hearing and assess the risk which the offender may present of causing serious harm if released.

k. *"Bearing in mind I'm serving IPP sentence, the sentence is condemned by the human rights "despite the sentencing protocol being widely condemned, including by the UN, its abolition did not apply retrospectively, leaving thousands trapped with no release date until the Parole Board deems them safe to be let out. Morally wrong that IPP prisoners are left to rot".(Britain former top Judge John Thomas, a former Lord Chief Justice, wrote letter to the CONVERSE November 2024)."*



This statement is not a ground of appeal but a comment on the present state of affairs concerning the IPP sentence. It is not for Parole Board – or individual panels - to change the law.

*l. "My 19 years incarceration has been under strict scrutiny all the accusations are unfounded baseless no proof no verification, Page 438 of the Dossier an entry made in June "Intel suggests [the Applicant] may be reading a lot of psychology books & is trying to find out what is the model they currently use to do his assessment for his upcoming parole hearing, perhaps to influence/manipulate the outcome & may believe he is too complex a person for female trainee specialist to properly assess him(High)" .signed by Security Collator []. I submit a general application request [the security collator] to meet me in person to verify his statement, I wrote that he was acting as Aushwitz (sic) Camp Gatekeeper. [The security collator] wrote back to inform me the words in the dossier are not his case closed. I construe that is nothing more than intimidation and creating fear in my heart. And I ponder this act was aim to impose gagging order on me. There is however no freedom of speech in prison system. Almost 90 per cent of the prison population did not complete education every prison in the land has education & a library the government should have closed education and the library of every prison. I consider them HUNGRY WOLVES & HYENAS IN A PETTICOAT, each one wants a slice of my life."*

As to the "intel" referred to at page 438 of the dossier and the applicant's challenge to it, there is no reference to it in the DL as having influenced the panel's decision. As to the other matters concerning his correspondence with the Security Collator, these too have no relevance to the validity or otherwise of the decision. The same applies to the comments in the last three sentences set out above.

*m. "I served as a juror at [] Crown court twice the jury declares the charge of guilt/not guilty in public. The mental torture of two month delay was like sitting under the Sword of Democles (sic). My hands were stain with blood, I cleanse it with my tear but the hands of the prison-base termagant psychologists are stain with the blood of those 90 IPP prisoners haplessly committed suicide. In 1979 I was exposed to coercive interrogation, they made confession under torture. My analytical judgment; That was more humane compare to the IPP sentence of long imprisonment. The justice system is corrupt to the core. Finally, if my release is impossible due disproportionate to the offence, restore death penalty."*

As to the first part of this ground it was unfortunate that through no fault of the Applicant or the Parole Board material was submitted late in the day which required consideration by the panel and no doubt by the Applicant's legal representative. However, the delay was small in comparison with the delays regularly faced by defendants in court at trial between verdict and sentence, or between an appeal against conviction or sentence and the eventual decision. It is natural that there are periods which can be stressful for those directly affected by the decisions but there is no case for characterising the delay in this case as procedurally unfair.

Nothing in the second part of the passage amounts to a claim that the decision was irrational or procedurally unfair, merely repeating the submission that the legislation concerning the IPP sentence should be repealed. Neither the Applicant nor the Parole Board can change the law currently in force.



## 30. The further grounds submitted:

a. The first concerns the matters referred to above at paragraph 7 and the incident many years earlier involving the prison psychologist. It is right to say that the Applicant is correct to point out a mistake in the DL which suggested that he rather than a fellow prisoner had touched the waist of the psychologist while he was at a prison between 2016 and 2018. However it is clear that the mistake was not an important consideration for the panel considering the Applicant's fitness for release some six or seven years later.

b. The remainder of the further material submitted has nothing to do with the rationality or the procedural regularity of the hearing.

## 31. I have dealt with the grounds submitted. However, in view of the fact that these grounds were submitted by the Applicant directly rather than on his behalf by his legal representative it may be helpful to summarise the professional recommendations before the panel at the hearing.

a. The Prison Offender Manager (POM), while accepting that the risk of serious harm to future intimate partners was not imminent, believed that further work was necessary in (closed) prison and did not recommend release. (Dossier page 419 and DL 2.14.)

b. The COM, who has performed that role for some 12 years, did make a "preliminary" recommendation that the Applicant be transferred to open conditions in December 2023 but his most recent report in April 2024 did not recommend release or transfer to open conditions. (Dossier pages 257 and 426 and DL 2.31.)

c. The psychiatrist had "cautiously" supported a move to open conditions in her report of March 2024 but changed her view during the evidence she gave at the hearing, which followed that of the Applicant. (Dossier page 392 and DL 2.27.)

## 32. In view of those opinions it is clear that the panel's decision not to direct the applicant's release could not be categorised as "irrational".

## 33. The hearing was a lengthy one – more than 3 hours 30 minutes - and the Applicant was legally represented. The POM gave evidence for more than 30 minutes, the Applicant gave evidence for more than 90 minutes, the psychiatrist for some 40 minutes, and the COM for some 25 minutes. At the conclusion of the hearing the Applicant was allowed to address the panel in person and was given some time to speak with his legal representative following which she made short closing submissions on the Applicant's behalf urging the panel to direct release in spite of the recommendations of the professional witnesses, referring to his good prison record and the facts that initial concerns with possible terrorist views were now no longer present, and that he is now a very different person to the man who committed the index offence. If the panel were to decline to direct release it was submitted that, in spite of the Applicant's opinion that he did not need a transfer to open conditions, the panel should consider such a recommendation.



34. There is nothing in the conduct of the hearing to support a claim of procedural irregularity.

**Decision**

35. Accordingly, this application is refused.

**Sir David Calvert-Smith**  
**20 December 2024**

