

ENGLAND AND WALES / JUDGMENT

Adamson, Application for Reconsideration

[2026] PBRA 89 (01 May 2026)

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[2026] PBRA 89 Application for Reconsideration by Adamson Application 1. This is an application by Adamson (the Applicant) for reconsideration of a paper decision dated 12 March 2026 not to direct his release. 2. Rule 28(1) of the Parole Board Rules 2019 (as amended by the Parole Board (Amendment) Rules 2025) (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 the paper decision, the dossier consisting of 235 pages and the application for reconsideration. Request for Reconsideration 4. The application for reconsideration is undated. It has been drafted by legal representatives on behalf of the Applicant. The grounds submit error of law, irrationality and procedural unfairness. 5. It submits that there was an error of law in the Duty Member's conclusion that the case was not eligible for reconsideration, that there was procedural unfairness in the failure to direct an oral hearing, to properly and fully consider the Applicant's submissions, in reaching a conclusion based on incomplete evidence, that there was irrationality in reaching a conclusion not justified on the evidence, without considering relevant factors and failing to recognise a " functional impasse ".

Background

6. The Applicant received a sentence of life imprisonment on 18 May 2004 following conviction for murder. His tariff was set at thirteen years. On 27 May 2014 he was sentenced to three years imprisonment to run consecutively, for sexual assault on a male child prior to the murder. Current parole review 7. The Applicant's case was referred to the Parole Board by the Secretary of State (the Respondent) in January 2026 to consider whether or not it would be appropriate to direct his release. If the Board did not consider it appropriate to direct release it was invited to advise the Respondent whether the Applicant should be transferred to open conditions. 8. The case was considered on the papers. The panel did not direct the Applicant's release nor make a recommendation for open conditions. The Relevant Law 9. The panel correctly sets out in its decision letter of 12 March 2026 the test for release and the issues to be addressed in making a recommendation to the Secretary of State for a progressive move to open conditions. 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)). Decisions concerning the termination, amendment, or dismissal of an IPP licence are also eligible for reconsideration (rule 31(6) or rule 31(6A)). 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)). Irrationality
12. The power of the courts to interfere with a decision of a competent tribunal on the ground of irrationality was defined in *Associated Provincial Houses Ltd v- Wednesbury Corporation* 1948 1 KB 223 by Lord Greene in these words " if a decision on a competent matter is so unreasonable that no reasonable authority could ever have come to it, then the courts can interfere". The same test applies to a reconsideration panel when determining an application on the basis of irrationality.
13. In *R(DSD and others) v- the Parole Board* 2018 EWHC 694 (Admin) a 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. "
14. In *R(on the application of Wells) v- Parole Board* 2019 EWHC 2710 (Admin) Saini J set out what he described as a more nuanced approach in modern public law which was "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". This test was adopted by a Divisional Court in the case of *R(on the*

application of the Secretary of State for Justice) -v- the Parole Board 2022 EWHC 1282 (Admin).

15. As was made clear by Saini J this is not a different test to the Wednesbury test. The interpretation of and application of the Wednesbury test in Parole hearings as explained in DSD was binding on Saini J. It follows from those principles that in considering an application for reconsideration the reconsideration panel will not substitute its view of the evidence for that of the panel who heard the witnesses.
 16. Further while the views of the professional witnesses must be properly considered by a panel deciding on release, the panel is not bound to accept their assessment. The panel must however make clear in its reasons why it is disagreeing with the assessment of the witnesses. Procedural unfairness 17. 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. 18. 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. 19. The overriding objective is to ensure that the Applicant's case was dealt with justly. Error of law
 20. An administrative decision is unlawful under the broad heading of illegality if the panel: a) misinterprets a legal instrument relevant to the function being performed; b) has no legal authority to make the decision; c) fails to fulfil a legal duty; d) exercises discretionary power for an extraneous purpose; e) takes into account irrelevant considerations or fails to take account of relevant considerations; and/or f) improperly delegates decision-making power.
 21. The task in evaluating whether a decision is illegal is essentially one of construing the content and scope of the instrument conferring the duty or power upon the panel. The instrument will normally be the Parole Board Rules, but it may also be an enunciated policy, or some other common law power.
 22. In the cases of *Osborn v Parole Board*
- [2013] UKSC 61 , the Supreme Court comprehensively reviewed the basis on which the Parole Board should consider applications for an oral hearing. Their conclusions are set out at paragraph 2 of the judgment. The Supreme Court did not decide that there should always be an oral hearing but said there should be if fairness to the prisoner requires one. The Supreme Court indicated that an oral hearing is likely to be necessary where the Board is in any doubt whether to direct one; they should be ordered where there is a dispute on the facts; where the panel needs to see and hear from the prisoner in order to properly assess

risk and where it is necessary in order to allow the prisoner to properly put his case. When deciding whether to direct an oral hearing the Board should take into account the prisoner's legitimate interest in being able to participate in a decision with important implications for him. It is not necessary that there should be a realistic prospect of progression for an oral hearing to be directed. The reply on behalf of the Secretary of State

23. The Respondent has submitted no representations in response to this application.
Discussion Ground 1 - Error of law
24. The Applicant's submission is that the Duty Member's conclusion that the case was not eligible for reconsideration is wrong in law. This ground is misconceived and without merit. This decision of the Duty Member is not one that can be challenged via the reconsideration mechanism (which only applies to the decision not to direct release). At worst the Duty Member's conclusion, set out in note format was not immediately clear. However, even if wrong in law the decision letter made it clear that the case was eligible for reconsideration and the application for reconsideration has been accepted and is being considered. Ground 2 - Procedural Unfairness, absence of a fair hearing
25. The Panel's conclusion that the Applicant was not ready to engage in offence focused work and that there was a clear pathway to progression was based on evidence in the dossier. The Applicant's explanations for why he was not ready to engage in offence focused work did not require an oral hearing to articulate and would not have made a difference to the conclusion, which he did not appear to dispute, that the work was available and necessary before release could be considered. Ground 3 - Procedural Unfairness, failure to engage with representations
26. This ground which is vague and unclear does not indicate where the unfairness lies. The value, comprehensiveness and professionalism of the Psychology Case Advice Note (PCAN) is not undermined by the fact that it was prepared by a trainee psychologist as it was clearly counter signed by a senior supervisor and was clearly, accurately and fairly reasoned. Contrary to the submissions in the grounds, the decision deals in great detail with the psychological report and in particular the fact that the Applicant failed to adequately engage with the programme proposed. It was of course always open to the Applicant to commission his own report for consideration. Ground 4 - Procedural Unfairness, decision based on incomplete evidence
27. The grounds submit that the panel relied on the PCAN which was not a full assessment. If there was incomplete evidence, it was of the Applicant's making. As the PCAN noted, the Applicant was "hesitant to engage" and "felt he was not ready for the process".
28. Having carefully considered the decision and the dossier, I am satisfied that there was no procedural unfairness in the panel's decision. The decision covered all relevant issues sufficiently, clearly and fairly. It was not necessary for the panel to see or hear the Applicant, his written submissions were taken into consideration, he did not challenge the necessity of offence focused work nor that he had not undertaken that work. In those circumstances

there is nothing further an oral hearing would have added, and the application fails to identify such. Ground 5 - Irrationality, conclusion not justified on the evidence

29. This submission is not one that is supported by the decision. Questions of commitment and motivation are matters of concern to the panel. The Applicant's willingness to engage is clearly a positive factor in his favour but was not a determinative factor in the decision. Ground 6 - Irrationality, failure to consider relevant factors
30. The application submits that the decision failed to consider the impact of autism spectrum disorder (ASD) traits, cognitive functioning and responsivity needs as being relevant to engagement and progression. This ground is without merit, not least as the Applicant informed Probation that the assessment could not be done as his legal representative was going to request an independent psychology report. No independent psychology report has been submitted. The panel considered the matters in the dossier including the fact that it was recommended that he undertake an ASD assessment. Ground 7 - Irrationality, failure to recognise a functional impasse
31. The application submits that the reasoning was flawed in rejecting the existence of an impasse regarding a pathway to progression. There is no merit to this ground. The barriers to engagement and progression identified by the Applicant are entirely of his making. His delayed engagement with his representative, his reluctance to move institution to complete programmes, his claim of requesting an independent psychology report are failures on his part to progress towards his release. There is no impasse in this case and no basis for this ground.
32. None of the grounds arguing irrationality meets the test. The decision is clearly, fairly and thoroughly considered and does not reach the high bar for irrationality. These grounds cannot therefore succeed. Ground 8 - Impact of the absence of an oral hearing
33. The real concern for the Applicant was the refusal of an oral hearing. The panel had regard to the principles in Osborn, Booth & Reilly [2013] UKSC61, there was no reason to believe that oral evidence would assist in: resolving any disputes concerning facts which would be relevant to risk; providing information that might mitigate the apparent level of risk presented; or, would enable clarification of any points materially relevant to the assessment of risk, which are already clearly set out in the reports in the dossier. I am satisfied therefore that the refusal of an oral hearing did not render the decision unsafe and therefore this ground is also rejected. Decision
34. For the reasons I have given, I do not consider that the decision was irrational or procedurally unfair and accordingly the application for reconsideration is refused. Barbara Mensah 01 May 2026 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII URL: <https://www.bailii.org/ew/cases/PBRA/2026/89.html>

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