

ENGLAND AND WALES / JUDGMENT

Baker, Application for Reconsideration [2026] PBRA 87 (27 April 2026)

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[2026] PBRA 87 Application for Reconsideration by Baker Application 1. This is an application by Baker (the Applicant) for reconsideration of a decision of a Panel of the Parole Board dated 3 March 2026, following an oral hearing, 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 decision of the Panel; · The application for reconsideration; and · The dossier now comprising 267 numbered pages. Request for Reconsideration 4. The application for reconsideration is dated 25 March 2026 and states that reconsideration is sought on the basis that there are material factual inaccuracies and procedural concerns which may have impacted the fairness and outcome of the hearing and it is further submitted that the decision may be unsafe due to material errors of fact and a failure to properly weigh relevant considerations. 5. Accordingly, despite this application being made on the Applicant's behalf by his solicitor, it is not easy to identify the statutory grounds for reconsideration which are relied on.

Background

6. On 30 November 2022, at the age of 56 and following a trial, the Applicant received an extended determinate sentence of imprisonment comprising a custodial element of six years and an extended licence period of three years for causing a female child under 13 to engage in sexual activity together with concurrent determinate sentences of imprisonment for sexual communication with a child and meeting a child following sexual grooming. 7. The parole eligibility date is given as 4 October 2025, the conditional release date as in

October 2027 and the sentence expiry date (SED) as 3 October 2030. 8. The Applicant met the victim shortly after her twelfth birthday. Their contact began through an online platform and quickly became sexualised. Over a prolonged period he engaged in explicit sexual communications with the child and groomed her in order to facilitate in-person meetings. 9. The Panel found that the index offences involved the deliberate grooming and sexual exploitation of a vulnerable child over a sustained period of time and that this behaviour was consistent with the Applicant's previous conviction for a similar sexual offence and demonstrated an entrenched pattern of offending. 10. The Panel noted the Applicant's previous lack of compliance, longstanding social isolation and reported mental health vulnerabilities. He was assessed as presenting a high risk of sexual recidivism, there was no professional support for release and the Panel concluded that he continued to present a significant risk of serious harm to children in the community. Current parole review 11. The Applicant is now aged 60. His case was referred to the Parole Board in January 2025 by the Secretary of State for Justice (the Respondent) to consider whether or not it would be appropriate to direct his release. 12. His review was heard on 19 February 2026 by a three-member Panel of the Board comprising an independent member (who chaired the hearing) and two specialist psychologist members. 13. The Panel considered the dossier and heard evidence from: · the Community Offender Manager (COM); · the Prison Offender Manager (POM); and · the Applicant who was legally represented throughout. 14. On 3 March 2026 in its written decision the Panel declined to direct the Applicant's release. The Relevant Law 15. The Panel correctly sets out the test for release in its decision. Parole Board Rules 2019 (as amended) 16. 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)). 17. 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 18. 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. 19. 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. " 20. In *R(on the application of Wells) -v- Parole Board* 2019 EWHC 2710 (Admin) 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). 21. 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. 22. 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. 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. 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 uncontested 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. Reconsideration as a discretionary remedy 27. Reconsideration is a discretionary remedy. That means that, even if an error of law, irrationality, or procedural unfairness is established, the Reconsideration Member considering the case is not obliged to direct reconsideration of the panel's decision. The Reconsideration Member can decline to make such a direction having taken into account the particular circumstances of the case, the potential for a different decision to be reached by a new panel, and any delay caused by a grant of reconsideration. That discretion must of course be exercised in a way which is fair to both

parties. The reply on behalf of the Respondent 28. In representations dated 15 April 2026 the Respondent helpfully provides submissions in relation to two issues which I will consider, where relevant, in the following section of my decision. Discussion 29. In dealing with the grounds for reconsideration, it is necessary to stress certain matters of basic importance. The first is that the Reconsideration Mechanism is not a process by which the judgement of the Panel when assessing risk can be lightly interfered with. Nor is it a mechanism in which the member carrying out the reconsideration is entitled to substitute his/her view of the facts in place of those found by the Panel, unless, of course, it is manifestly obvious that there was an error of fact of an egregious nature which can be shown to have directly contributed to the conclusion arrived at by the Panel. 30. The second matter of material importance is that when deciding whether a decision of the Parole Board was irrational, due deference has to be given to the expertise of the Parole Board in making decisions relating to parole. 31. Finally, where a Panel arrives at a conclusion, exercising its judgement based on the evidence before it and having regard to the fact they saw and heard the witnesses, it would be inappropriate to direct that the decision be reconsidered unless it is manifestly obvious that there are compelling reasons for interfering with the decision of the Panel. 32.

- (a) The Applicant suggests that his, " Parole paperwork was not properly retained, having been shredded, which has limited his ability to fully review and respond to the material relied upon by the Panel." However, the POM reports, " [The Applicant] chose to leave his copy of the dossier in the office where his parole hearing took place. It was subsequently destroyed in accordance with GDPR requirements. To my knowledge, [he] has not requested another copy of the dossier. It was made clear to him that a further copy could be provided should he wish, but no such request has been received." It is also recorded in the preamble to the decision, " [The Applicant] claimed that he had not seen all of the reports contained in the dossier, including the COM's report. However, the COM confirmed that she was confident that he had done so as he had raised issues that had been included in her report. [The Applicant's solicitor] confirmed that it was his belief that his client had been provided with the full dossier, but that in any event he had discussed the content of the dossier with him." 33. In the light of the reassurance provided by the solicitor to the Panel it is difficult to see how he has felt it proper to raise this issue on behalf of the Applicant. I find that in this regard there has been no procedural unfairness. 34.
- (b) In the introduction to the decision it is incorrectly stated that the sentence expiry date (SED) is 4 October 2031. The Respondent's representations confirm that the correct date is 3 October 2030. The Applicant submits that this is significant and , "may have adversely influenced the Panel's assessment of risk and proportionality in determining whether release was appropriate". 35. The SED seems to have played no part in the Panel's decision-making nor is there any indication that it placed reliance on the incorrectly stated SED, which would appear to have been merely a typographical error. 36.

- (c) The Applicant suggests that the Panel should have taken account of the fact that the victim has not chosen to submit a Victim Personal Statement (VPS) and did not support the Applicant's prosecution. 37. In fact, the trial judge found, "Such was the influence that you managed to exert over her, this seriously damaged child refused to support the investigation or subsequent prosecution and maintained contact with you for several months afterwards, even describing you as a friend" and I note that the victim's father provided a statement to the trial court describing the impact of his behaviour upon the victim. In addition, it appears that the victim did engage with the Victim Contact Scheme on more than one occasion for the purpose of this parole review and, while initially indicating that she would file a VPS, ultimately chose not to do so. Her decisions both in relation to the court proceedings and this parole review are in my view of no relevance to the Panel's decision and I find no procedural unfairness here. 38.
- (d) I take together the Applicant's representations in relation to his mother's circumstances, his previous positive engagement in the community and his willingness to complete interventions on licence. I find that, in essence, these simply amount to further submissions in support of the application for release which could, and perhaps were, made on the Applicant's behalf during the hearing. 39. None of these points, in my view, amount to procedural irregularity and I find that the Applicant's complaint that no progress has been made in allocating him to an appropriate offence-focused intervention was not a matter for the Panel and is not an issue for me. 40. I find that the Panel clearly set out its findings following an exercise of its judgement and properly explained its reasons for concluding that, applying the appropriate test, it was necessary for the protection of the public that the Applicant remain confined. 41. I am in no doubt, applying the appropriate tests, that there is no basis upon which the Panel's decision not to direct the Applicant's release falls to be reconsidered. Decision 42. For the reasons I have given, I consider that this application for reconsideration is entirely without merit and it is refused. Peter H. F. Jones 27 April 2026
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