

ENGLAND AND WALES / JUDGMENT

Goldsbrough, Application for Reconsideration [2026]

PBRA 86 (27 April 2026)

[2026] PBRA 86

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[2026] PBRA 86 Application for Reconsideration by Goldsbrough Application 1. This is an application by Goldsbrough (the Applicant) for reconsideration of a decision of an oral hearing panel dated 21 March 2026. The decision of the panel was not to direct 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 dossier, the application for reconsideration drafted by the Applicant, the decision of the oral hearing panel and the representations by the Secretary of State (the Respondent). Request for Reconsideration 4. The application for reconsideration is dated 2 April 2026. 5. The grounds for seeking a reconsideration are set out below.

Background

6. The Applicant is serving a sentence of imprisonment for public protection for attempted robbery. The brief details of the index offence are set out below. The Applicant was aged 21 at the time of the sentencing for the index offence. The Applicant was aged 37 at the time of the oral hearing decision. The Applicant's tariff expired on 7 April 2012. The Applicant was released following a Parole Board hearing on 4 May 2021. He was recalled on the 13 May 2021. Current parole review 7. The Applicant's case had been adjourned in October 2025 as the Applicant had found difficulty in seeking legal advice. The panel also noted in October 2025 that there had been a recent change in allocated Community Offender Manager (COM)

and limited opportunity for that COM discuss matters with the Applicant. Although the Applicant was keen to proceed with the hearing, the panel decided that the matter should be adjourned in his best interests. The matter was reconvened on 2 February 2026. A legal representative had been appointed and attended the hearing. During the course of the hearing the legal representative became unwell, and the matter could not therefore proceed to a conclusion and was further adjourned. The case was concluded on 11 March 2026 after the panel reconvened. The Applicant was legally represented on both occasions. 8. As noted above the final panel hearing took place on 11 March 2026. The panel consisted of a panel chair who was also a psychologist member of the Parole Board, an independent member of the Parole Board and a third panel member who was also a psychologist member of the Parole Board. The Relevant Law 9. The panel correctly sets out in its decision dated 21 March 2026 the test for release and the issues to be addressed in making a recommendation to the Respondent 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)). 12. A decision to recommend or not to recommend a move to open conditions is not eligible for reconsideration under rule 28. This has been confirmed by the decision on the previous reconsideration application in Barclay

[2019] PBRA 6 . Irrationality 13. 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. 14. 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. " 15. 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). 16. 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. 17. 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. 18. 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 19. 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. 20. 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. 21. The overriding objective is to ensure that the Applicant's case was dealt with justly. Error of law 22. 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. 23. 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. Other Transfer to Open Conditions 24. The test to be applied when considering the question of transfer to open conditions is the subject of a well-established line of authorities going back to R (Hill) v Parole Board [2011] EWHC 809 (Admin) and including R (Rowe) v Parole Board

[2013] EWHC 3838 (Admin) , R (Hutt) v Parole Board

[2018] EWHC 1041 (Admin) . The test for transfer to open conditions is different from the test for release on licence and the two decisions must be approached separately and the correct test applied in each case. The panel must identify the factors which have led it to make its decision. The four factors the panel must take into account when applying the test are: (a) the progress of the prisoner in addressing and reducing their risk; (b) the likeliness of the prisoner to comply with conditions of temporary release (c) the likeliness of the prisoner absconding; and (d) the benefit the prisoner is likely to derive from open conditions. 25. 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. " Reconsideration as a discretionary remedy 26. 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 Secretary of State. 27. The Respondent offered no representations. Grounds and Discussion Grounds 28. The Applicant in this case submitted an application in person for reconsideration of the decision of a Parole Board panel. The grounds of the application were that the Applicant argued that he was 15 years over his tariff. He conceded that he had been released once by a Parole Board panel but been recalled and he had also been transferred to an open prison but had been unsuccessful in the open prison and had been returned to a closed prison. The Applicant however argued that the three professionals who gave evidence at his parole hearing namely the Prison Offender Manager (POM), COM and prison instructed psychologist, had all supported a direction for release. The Applicant argues that the panel were irrational in rejecting the views of the professionals. The Applicant further argued that he would be able to address his problems with addiction in the community and that he found the continuing incarceration a " heavy weight to bear ". Discussion 29. As noted above the Applicant is serving a sentence of imprisonment for public protection which was imposed some years ago. The Applicant had an extensive record of offending prior to the index offence. There were convictions for offences of common assault, possessing weapons and intimate partner violence. The Applicant's offending also involved victims who were children and (in the view of the panel) therefore vulnerable. The Applicant's index offence involved approaching a stranger demanding money and threatening to cut him if he refused to hand over money. The Applicant then punched the victim knocking him to the floor. The Applicant was recorded as walking away and then returning once again and punching the victim in the mouth making demands for cash. The background to the offending was obtaining money for drugs. The Applicant had been on licence for earlier offences of robbery, at the time of committing the index offence. There were 10 other offences taken into consideration at the time of sentencing. 30. In sentencing remarks, the sentencing judge had noted that the Applicant had been convicted of robbing teenage children and holding a knife to their throats. There had also

been injuries to victims associated with the violence during robberies. 31. The panel noted that the Applicant had had a troubled early history. The prison instructed psychologist in this case had suggested that the Applicant's childhood experiences had been likely to have led to feelings of rejection and neglect, as a result he had gravitated towards negative peers and engaged in antisocial and criminal activity. A dominant factor in the offending and subsequent difficulties in prison has been substance misuse. The prison instructed psychologist suggested that the substance misuse may be linked to deficits in the Applicant's emotional management, stress tolerance, problem solving, impulsivity and consequential thinking. 32. The psychologist had also analysed the Applicant's risk factors relating to intimate partner violence. The suggestion by the psychologist was that the Applicant had limited skills relating to communication and emotional regulation and therefore it was suggested that he resorted to intimidation and violence as means of expressing himself. These negative behaviours were also likely to be exacerbated by substance misuse. 33. On the basis of an analysis of the Applicant's historical behaviour and the views of professionals the panel identified the Applicant's risk factors as being: attitudes supportive of the use of instrumental violence and weapons; antisocial thinking; a criminal lifestyle; unstable accommodation; limited employment training and education; negative peer associations; poor emotional management; poor problem solving and decision-making; unhealthy relationships and substance misuse. There was also clear evidence of poor compliance within the prison regime which was a factor likely to impact upon the manageability of risk in the future. 34. With a background of these risk factors the panel sought to assess the degree to which the Applicant had evidenced a reduction in risk and the addressing of these risks in terms of the risk of serious harm to the public. 35. The panel noted that the Applicant had completed a thinking skills programme and an alcohol related violence programme and some non-accredited courses relating to substance misuse and life skills. 36. Following this work the Applicant had been subject to a direction for release in 2021. The 2021 (releasing) panel had noted that the Applicant was offered a place in a rehabilitation facility. However, despite the availability of support from, and a place in a rehabilitation unit, the Applicant was recalled after nine days, following his release from prison. The recall occurred in circumstances where there had been concerns about the Applicant's mental health, his alcohol consumption and his drug misuse. The Applicant himself told the current panel that he had not received proper help from the rehabilitation unit, which was why, in the view of the Applicant, the referral had failed. 37. In a subsequent parole review, in 2024, the Applicant came before a panel of the Parole Board who recommended a transfer to the open prison estate. The Applicant was subsequently transferred to an open prison. However, within 10 days of the transfer to the open prison the Applicant was transferred back to the closed estate as he had been using class A drugs. 38. Following the Applicant's return to the closed estate the panel noted numerous behavioural issues including damaging of his cell, being under the influence of drugs, being abusive to staff and being in possession of fermenting alcohol. 39. The current panel reviewed the Applicant's progress since his last parole review which was in 2024. The panel noted

mixed reports, both positive and negative. The Applicant had reported that he had debts relating to drug misuse and issues with other prisoners. He had placed himself in self-isolation for short periods of time. It was unclear whether these voluntary self-isolation decisions were based upon safety and well-being relating to other prisoners or an attempt to abstain from substance misuse. The panel also noted however that there had been several adjudications. The adjudications related to threatening to harm a person with a pair of scissors, threats and abuse relating to prison officers and possessing unauthorised items including unprescribed medication in his cell. 40. There had also been evidence of substance misuse including positive drug tests and concerns by staff that the Applicant appeared from time to time to be under the influence of substances. 41. The panel also noted that the Applicant's POM had been encouraging the Applicant to move on to either a drug recovery wing (DRW) or the creating future opportunities (CFO) wing (a wing aimed to improve the outcomes for lifers and IPP prisoner's). The Applicant told the panel that he had declined to take up these recommendations because he had been told by other prisoners that the two wings were not positive environments and that he had placed some weight on the views of other prisoners. 42. At the hearing itself the Applicant's POM indicated a cautious recommendation that the Applicant be released. This was on the basis that, although it was accepted that the Applicant had not addressed his substance misuse, there had been no proven use of violence by the Applicant for some considerable time. The POM took the view that substance misuse was likely to be a continuing issue in the community but felt that it could be addressed by interventions in the community. 43. A prison instructed psychologist had also made a detailed assessment of the Applicant's current risk. In the view of the psychologist the Applicant had various vulnerabilities and had a sense of hopelessness about the future and was likely to be self-sabotaging his progress and turning to substance misuse to manage difficult emotions. The psychologist took the view that the Applicant's vulnerabilities were enhanced within the custodial setting rather than mitigated. It had been suggested that the Applicant should engage with the Intensive Intervention Risk Management Service (IIRMS) which would assist in offering a pathway to managing difficulties in the community. Meetings were arranged with the Applicant at the prison, however he declined to meet with the professionals relating to IIRMS. The Applicant subsequently told the Parole Board panel that he had experienced some anxiety about the appointments that were coming up and had therefore placed the appointment slips in the bin and forgotten about them. 44. The Applicant's COM gave evidence to the panel. The COM noted that the Applicant's engagement had been somewhat inconsistent in the sense that he had declined to engage in various video link meetings which had been set up by the COM. Despite these difficulties, the Applicants COM indicated that the Applicant had apologised for the disengagement. The COM took the view that although the Applicant's commitment to compliance was a likely concern, the recommendation (by the COM) remained one for release. The panel noted that the Applicant's decision to opt in and out of supervision and engagement would be a major difficulty - in particular in identifying warning signs that risk was increasing. 45. The panel accepted that there had been a robust risk management plan suggested by the COM.

The panel also noted that various risk assessments had been applied using psychological tools. In essence it was posited that the Applicant posed a high risk of serious harm to members of the public and a medium risk of serious harm to children at the time of the hearing. These assessments being based upon the Applicant's longer term historical criminal behaviour and the more recent concerns relating to substance misuse and emotional dysregulation while in prison. 46. As noted in Wells above the panel were obliged to take account of the recommendations of professionals particularly in circumstances where the panel took a different view. 47. The panel specifically addressed the professional opinions of the various witnesses giving evidence in this case. So far as the POM was concerned the panel took the view that there was cautious support for a direction for release. The POM said that he was " more leaning towards " release and the manageability in the community. The POM indicated that he saw elements of a positive change since the last review by the Parole Board. 48. The prison instructed psychologist also supported release. The psychologist took the view that the Applicant would be proactive in seeking support in the community if he needed it and that he had the internal coping mechanisms to self-manage until appropriate help were available should things deteriorate. 49. The Applicant's allocated COM had changed during the review period. The Applicant's previous COM, in a report in 2025, had not supported release as there had been concerns by the earlier COM that the Applicant continued to demonstrate an inability to manage substance misuse within the structured setting of custody, and therefore that these problems would be likely to escalate if he were released into the unstructured environment of the community. 50. Following the change of COM the panel heard from the current COM who confirmed a change of view. It was submitted, by the newly appointed COM, that the Applicant could be safely managed in the community despite concerns about instability and substance misuse in custody. It was a view of the current COM that the Applicant's risk could be managed under the proposed risk management plan. 51. The panel considered the position of the professionals. The panel also considered the evidence of the Applicant himself. The panel were obliged to take a holistic view of the evidence. It is well understood that panels of the Parole Board are not obliged to adopt the opinions and recommendations of professional witnesses. It is their responsibility to make their own risk assessment and to evaluate the likely effectiveness of any risk management plan proposed. They must make up their own minds on the totality of the evidence that they hear including any evidence from the Applicant. They would be failing in their duty to protect the public from serious harm (while also protecting the prisoner from unnecessary incarceration) if they failed to do just that. As was observed in the divisional Court in DSD they have the expertise to do it. 52. However, the panel were also obliged to explain clearly the reasons for resiling from the views of professional witnesses, as set out in the case of Wells (above). 53. The panel firstly considered the long-standing substance misuse problems suffered by the Applicant. The professionals appeared to take the view that violence and serious harm was not necessarily associated with substance misuse. The professionals also were confident that the Applicant would seek help. However, the panel noted that the Applicant found difficulty in accepting

personal responsibility for his problems and sought to blame others for his failure on licence and his return to closed conditions in the past. This, in the view of the panel was indicative of an inability to take personal responsibility for his behaviour and therefore challenge the view that the Applicant would seek help and acknowledge difficulties were he in the community. 54. Whilst there had been no evidence of physical violence associated with drug misuse in prison, the panel were clearly entitled to take account of the index offences and the fact that the Applicant appeared to turn to violent behaviour in circumstances where he needed to fund a drug misuse problem. 55. The panel also doubted the confidence of the professionals and the Applicant that he would fully engage with the risk management plan. The panel noted that the Applicant had refused to engage in the DRW or the CFO which were both recommendations by professionals aiming towards supporting ongoing stability and managing drug misuse. The panel noted that the Applicant appeared to rely more on the views of fellow prisoners than upon those of professionals in respect of managing his difficulties. The panel also noted that the Applicant had initially declined to engage with his COM on occasions and with IIRMS - again matters of concern as they related to the Applicant's ability to comply with the risk management plan and licence conditions and therefore manage his risk of serious harm. 56. The panel's overall conclusion was that the Applicant had failed to demonstrate that he had developed sufficient insight or capability to fully and consistently engage with the risk management plan. The panel also concluded that the views of the professionals were not commensurate with the evidence adduced at the hearing and within the dossier. The panel considered that the professional opinions were heavily weighted in favour of benefiting and supporting the Applicant. The panel, however, were clearly obliged to apply the codified public protection test and to consider the risk of serious harm to the public rather than any potential benefits to the Applicant. 57. Having considered the detailed considerations within the panel's decision, it is clear that the panel had carefully explained the reasons why they were not persuaded by the recommendations of the professionals. Where a panel arrives at a conclusion exercising its judgement based upon the evidence before it and having regard to the fact that they saw and heard the witnesses and the Applicant, it will 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. I am not persuaded that there are such compelling reasons in this case. The basis for the panel's decision was clearly set out in the decision and was in accordance with the panel's duty to apply the public protection test. Decision 58. For the reasons I have given, I do not consider that the decision was irrational and accordingly the application for reconsideration is refused. HH Stephen Dawson 27 April 2026 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII URL: <https://www.bailii.org/ew/cases/PBRA/2026/86.html>

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Prepared on 24 October 2026 · Esheria