Neutral Citation Number: [2023] EWHC 266 (Admin)

Case No: CO/2930/2022

IN THE HIGH COURT OF JUSTICE
KING'S BENCH DIVISION
ADMINISTRATIVE COURT
SITTING IN MANCHESTER

Thursday, 9th February 2023

Before:
MR JUSTICE FORDHAM

- -

Between:

THE KING (on the application of JOHN ALLAN)	**Claimant**
- and -	
PAROLE BOARD FOR ENGLAND AND WALES	**Defendant**
-and-	
SECRETARY OF STATE FOR JUSTICE	**Interested Party**

- -
- -

The **Claimant** in person by video-link
The **Defendant** and **Interested Party** did not appear and were not represented

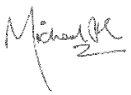
- -

Hearing date: 9.2.23
Judgment as delivered in open court at the hearing

- -

Approved Judgment

I direct that no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.



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THE HON. MR JUSTICE FORDHAM

Note: This judgment was produced and approved by the Judge, after using voice-recognition software during an ex tempore judgment.

MR JUSTICE FORDHAM:

Introduction

1. By a claim for judicial review filed on 8 August 2022 the Claimant challenges the decision of the Defendant ("the Parole Board") in June 2022 (a) refusing to direct his release from prison and (b) recommending to the Interested Party ("the SSJ") that he remain detained in open conditions. By an Order of HHJ Pearce KC on 11 October 2022 the claim for judicial review comes before me today as a "rolled up" hearing. That means that permission for judicial review will be considered and, if granted, the Court would go on to deal with the substantive hearing today. The essential question, in applying the test for permission for judicial review, is this: Am I satisfied that there is some arguable ground for challenging the Parole Board's June 2022 decision with a realistic prospect of success? The Claimant appeared in person, by video link from HMP Preston. He was at HMP Berwyn and had been moved to HMP Haverigg on 17 February 2022. He was transferred to HMP Preston on 10 October 2022.

2. Neither the Parole Board nor the SSJ (who was joined as a party pursuant to the Order of 11 October 2022) has participated in these judicial review proceedings. That does not mean that they agree that judicial review should be granted. What it means is that they have left it to the Court to decide the issues in the case and do not wish to make any submissions or provide any materials. The solicitors at the Government Legal Department (GLD) acting for the Parole Board and the SSJ each received communications from the Court at my request. I was anxious to have an update as to whether the position their clients had previously adopted in these proceedings was maintained. Their responses confirmed that that was the position. I told the Claimant at the start of today's hearing that I had caused those communications to take place and that those had been the responses. The Parole Board is a judicial body which often takes an entirely neutral position in any judicial review challenge. But in doing so the Parole Board makes clear that it is willing to assist the Court, should the Court require any assistance. That became important in this case for two reasons. Both of them relates to the detailed 30-page decision document ("the Full Decision") which sets out the detailed reasons for the decision which is being impugned in these judicial review proceedings. One reason concerned the absence from the Court papers of the Full Decision; the other linked reason concerned how the Full Decision had been communicated to the parties.

Obtaining the Full Decision

3. The Claimant acts in person and is detained. His judicial review Claim Form (Form N461) recorded that he was "awaiting" certain materials. In particular, he said in the Claim Form that he was awaiting the Full Decision. What he did have was the Parole Board's three page summary of that decision ("the Summary Decision"). He included the Summary Decision within his claim documents filed with the Court. When, in my pre-reading yesterday for today's hearing, it became obvious that the Full Decision – which is the target for judicial review – had not been placed before the court by anybody, I took steps to communicate with GLD to ask that it be provided to the Court. GLD provided the Court with three documents: the Full Decision and two letters written by the Claimant to the Parole Board. I explained to the Claimant at the beginning of today's hearing what I had done and why. I asked the Claimant what, in the circumstances, he wanted to do and I gave him various options to consider. I did that

because the Claimant told me at today's hearing that he has "never seen" the Full Decision. He told me that he made a written "application" to the offender management unit ("OMU") at HMP Haverigg on 30 June 2022 using an "application form", requesting it. He told me that he made a further written application on 17 July 2022, again to the OMU at HMP Haverigg asking for the Full Decision. And he told me that at a meeting on 25 July 2022 he verbally asked, for a third time, for the Full Decision. As he accepts, and I can see from the two letters in August 2022 provided to me by the GLD, he did not ask the Parole Board in those letters to provide the Full Decision. He told me he has never asked the Parole Board to provide the Full Decision, and said that he had "been told" to communicate with the OMU. He also told me that he had not made any request after 25 July 2022 for the Full Decision. And he confirmed that he had not asked his solicitor for it either. With the assistance of one of the Officers at HMP Preston – who kindly came, at my request, into the video link room so that I could explain the position and what I wanted to happen – it was possible, promptly and effectively, to email to HMP Preston the 30-page Full Decision and have it printed and handed to the Claimant. I had received it yesterday afternoon from GLD and had read it, as I had explained. But I had no other way yesterday afternoon of getting a copy to the Claimant in time for the hearing. The Claimant was able to see and scan through the Full Decision. He told me that he was able to see that it was reflected in the three page Summary Decision with which he was familiar.

4. I identified various "options" for the Claimant to consider. I asked him to think about what he wanted to happen in those circumstances. One option I explained involved him being able to make oral representations, and then the Court taking a break while he had whatever time he needed to read and digest the Full Decision, after which we could resume and he could say anything further that he wanted to say in the light of it. Another option I explained involved the hearing being adjourned to allow him to read and consider the Full Decision and then, later in the day, we would commence the hearing and he could make his oral representations in one go. The third option that I explained would have involved adjourning this case today to be heard on another day. I make clear that my provisional view was that I was not attracted to that third option if it could be avoided. A full-court day had been kept free for this case. A video link had been arranged with the prison for the full day. I would have been anxious to avoid adjourning this case unless it was necessary to do so.

5. What the Claimant said he wanted to do, having reflected on the position, involved a fourth option. He told me that he wanted to proceed now with his submissions. He recognised that I had the Full Decision and had read it. He said that the three page Summary Decision was clear and that he could see that the Full Decision had been summarised within it. He asked me to proceed to hear his representations. He asked me to consider them in the light of everything I had heard and read. He said he did not want to take up the options that would have involved him having time to read and digest the Full Decision document and then address the Court. I told the Claimant that I wanted to be very clear about that, and that he was exercising a choice. He recognised that. I explained that I would be recording all of this in a judgment, and that is what I am now doing. I am satisfied that there has been a full and fair opportunity afforded to the claimant. I am prepared, in the circumstances, to proceed in the way that the Claimant has chosen. That is what I am doing.

6. There was one further development during the hearing. My clerk came into the court-room at my request, with her laptop. I was able to identify steps that I wanted to be taken, each of which was explained at the time by me to the Claimant. I asked for an email to go to the GLD solicitors, to explain that we were in the hearing, to summarise what I had been told by the Claimant, and to say that if either the Parole Board or the SSJ wanted to make any observations they would need to do so urgently and by email. As a consequence I have seen a copy of the email that was sent by the Parole Board. It bears the dates of 24 June 2022. It says, in capitals and bold: "Important Notice. Decision Letter. Please see attached panel decision relating to Parole Board". It then gives the Claimant's name. It continues: "For your necessary information, action and records. Kindly ensure the Claimant receives a copy of this decision". That email is addressed to a number of recipients. They include the solicitor who had acted for the Claimant on the parole review and at the Parole Board hearings which had taken place on 27 January 2022 (when it was adjourned) and had then taken place on 18 March 2022. That same solicitor had made representations on 8 June 2022 to the Parole Board, something which is recorded in the Full Decision and was something to which I drew the Claimant's attention. As I have mentioned, the Claimant told me that he had not asked his solicitor for the Full Decision. He said that the summary was "enough" for him and that it "was not surprising" to him that he had not been sent it by the solicitor.

7. I am not making any finding of fact nor am I making any assumption about what happened in this case in relation to the Full Decision and its communication; nor what happened in this case in relation to requests which were made to the OMU and any responses. I am not in a position to make any findings of fact and it is inappropriate for me to make any assumptions. I do not need to make findings or assumptions for the purposes of dealing with this application for permission for judicial review. I have the Claimant's points in writing and orally today. He has set out very clearly the basis on which he seeks to challenge the June 2022 decision of the Parole Board. I have the summary and I also have the Full Decision. I am fully able to evaluate the arguability of the claim. And, for the reasons I have explained, there is no possible risk of any unfairness or injustice so far as the process is concerned. I will therefore proceed to consider the substance of the case. I have set out everything so far in some detail but, in my judgment, it is important to have taken the steps I have described and to record that that is what the Court has done.

Background

8. The background is that the Claimant was convicted of the murder of his partner and sentenced to a mandatory life sentence in March 2000 when he was aged 48. According to the papers before me, he became eligible to be considered for release in February 2021. He was categorised as Category D a year earlier, in February 2020. The Parole Board recommended in March 2020 a transfer to open conditions, but that only took place on 17 February 2022.

The Claim for Judicial Review

9. Two grounds for judicial review of the Parole Board's decision of June 2022 are advanced in the claim. The first is that the Parole Board failed to take account of relevant considerations. These centre around two features of the case in particular. The first is the Claimant's medical condition and what he characterises as a "drastic change" in that medical condition with clear relevance to the question of assessing risk on any

release. Linked to that first feature are points made about facilities, and about facilitated recovery. The second is the position so far as concerns requests for release on temporary licence (ROTL) made in February and May 2022 culminating in a meeting on 24 May 2022. These, and the features and considerations relating to them, are the aspects of the case said by the Claimant to constitute relevant considerations to which the Parole Board failed to have regard in breach of its basic public law duty to do so. The second ground for judicial review is that the Parole Board's decision refusing to direct the claimant's release was unreasonable. Emphasis is placed on what are said to have been "conditions" which were imposed by the Parole Board and were "unachievable" by the claimant. In particular they are the condition of undertaking ROTL and the condition to build a better relationship with the probation officer. The Claimant submits that it is a practical impossibility to obtain ROTL, or to build a better relationship with the probation officer. In his oral submissions today the Claimant confirmed that he maintains the points made in writing including as to the relationship with probation, who he emphasises he has taken steps to keep updated, but which he says was unachievable as a condition.

10. The two points which have been emphasised in very helpful oral submissions relate to ROTL and health. The essence of the argument about ROTL, as I see it, is as follows. In its June 2022 decision the Parole Board has identified as a "condition" on any release of the Claimant the undertaking by him of ROTL. But that condition is one with which the Claimant "cannot comply". The Parole Board should have appreciated that impossibility. There had already been February 2022 and May 2022 requests for ROTL, both of which had been refused. The refusal of ROTL was in part linked to health-related matters. It is true that a series of grants of ROTL – or more particularly special ROTL – had been made to attend hospital appointments. That included attending a test on 17 May 2022; and attending the appointment on 24 May 2022 when the Claimant was given a diagnosis of bowel cancer; it included the colonoscopy on 13 June 2022; and it included an operation on 21 September 2022 (it having at that point been decided to proceed straight to surgery rather than radiotherapy). The papers before me refer to some 6 ROTLs for hospital appointments but the Claimant told me there had been a few more than that. However, that sort of ROTL is not the condition that the Parole Board was imposing. It was instead a special category of Special Purpose Licence ("SPL"). The fact that the Claimant could get SPL for health-related reasons is no indication that he would be able to comply with the ROTL condition identified by the Parole Board. Furthermore, there is an obvious bar on the Claimant undertaking any ROTL. That is because the relevant ROTL Policy Framework document (reissued on 18 December 2020) states at §4.9 that an indeterminate sentence prisoner is subject to "restricted ROTL" and that prisons listed in Annex A have been "designated" as being able to provide "restricted ROTL". Annex A gives a list which does not include HMP Haverigg. The Claimant says that three of those Annex A listed prisons (Thorn Cross, Sudbury and Kirkham) have all refused to receive him given his health conditions. It follows from all this that what the Parole Board was requiring by way of condition in June 2022 was impossible for him to comply with. Asked by me about a May 2022 document, the Claimant's response was that HMP Haverigg could "implement ROTLs", but only for "good reason" and there would need to be a "reason". This is the first of the key issues arising in the claim for judicial review.

11. The second key topic relates to health conditions. The essence of the point, as I saw it, is as follows. The Claimant has long-standing and significant health conditions. They

are serious and were already in decline at the time of the Parole Board's hearings in January and March 2022. He has been wheelchair-bound since May 2021. In addition to the known health conditions and mobility issues, all of which were obviously relevant to the question whether he would be a risk to the public on release, there was then the significant development of his cancer diagnosis. The chronology is this: a test on 17 May 2022; an initial diagnosis identified on 23 May 2022; the result being given to the Claimant on 24 May 2022; and then the colonoscopy on 13 June 2022. All of this was a highly relevant consideration to the Parole Board's risk assessment and one which was not, or not adequately, taken into account by the Parole Board. Although the Claimant's solicitor would not have told the Parole Board about the cancer diagnosis, since the Claimant had not told her about it, nevertheless one of the consequences of the SPL which was in place when the result was given on 24 May 2022 was that the OMU was or should have been aware of the new initial cancer diagnosis. That is because there was a prison officer or prison officers "in the room" at the time when that news was given to the Claimant. That information should have found its way to the Parole Board in time for deliberation prior to its decision. That is the second of the key issues arising in the claim for judicial review.

12. The remedies sought in the judicial review proceedings are (a) to quash the Parole Board's decision and (b) to make a mandatory order for the claimant's immediate release on licence under probation supervision.

My Decision

13. I have carefully considered everything that I have read in this case and what the Claimant has said to me in writing and also orally at today's hearing. In my judgment, the claim for judicial review is not arguable with any realistic prospect of success. I am therefore going to refuse permission for judicial review. The question of a substantive hearing today does not therefore arise. It is important that I explain the reasons that have led to this assessment of the viability of the claim.

The Health Issues

14. The Parole Board's oral hearing was on 18 March 2022 having been adjourned from 27 January 2022. The Claimant was represented by his solicitor. The oral hearing involved various individuals attending to assist the Parole Board. The Claimant himself was participating. But there were 11 listed witnesses attending the oral hearing. They included: a healthcare worker from HMP Berwyn; a healthcare representative from HMP Haverigg; a social worker from the Wirral Council; a representative of Wirral Housing Options; the senior probation officer (standing in); an independent psychologist instructed on behalf of the Claimant by his solicitor; a resettlement worker from HMP Berwyn; prisoner offender managers from both HMP Berwyn and HMP Haverigg; and the community offender manager. The March hearing was two months prior to the initial diagnosis of the bowel cancer on 23 May 2022 communicated the following day. The colonoscopy came a month later on 13 June 2022. The Parole Board's decision was issued in June 2022 and the email that I have seen this morning is dated 24 June 2022. I have not been provided with the dossier of documents that were was before the Parole Board. But I do know that there were update documents because the Claimant has provided an extract from a five page update in May 2022. I also know from the documents which the Claimant has filed that representations had been made by his solicitor (Ms Bender) on 16 March 2022 emphasising that the Claimant's "health

is relevant to his risk and risk management". That was in the context of his having been wheelchair-bound, he tells me, from May 2021 onwards. Issues relating to health conditions and health needs were at the forefront of a lot of the features of the case. To take an example, health condition had been central to the delay which had arisen so far as his transfer to open conditions was concerned. The picture is clear that the Claimant already had significant health conditions and health needs and these were already being said to be "relevant" to "risk". The independent psychologist's report dated 7 May 2021, an extract from which has been provided by the Claimant, referred to his "significant physical health needs" and to "significant changed circumstances".

15. The Parole Board, in the Summary Decision provided in the claim documents by the Claimant, confirms that the Panel considered the contents of the dossier which had been prepared and updated by the SSJ. It also confirms that the Parole Board had the report of the independent psychologist which had been commissioned by the Claimant's solicitor. It too confirmed that among those called at the hearing to assist the panel was a member of the prison's healthcare team. In its "risk assessment", recorded in the Summary Decision, the Parole Board recorded that evidence was presented at the Parole Board hearings regarding the Claimant's progress and custodial conduct; and that his "healthcare needs" had presented some problems but he had engaged well. It is clear that materials relevant to health conditions were taken into account by the Parole Board. The Parole Board had to assess risk and could only direct release if satisfied that continued confinement in prison was no longer necessary for the protection of the public. The Parole Board was not satisfied for reasons which it explained: the belated transfer to open conditions had not allowed sufficient time for testing of progress; the probation officer could not recommend release on licence at this point; the release plan was not yet robust enough to manage the Claimant in the community.

16. There is no indication that the Parole Board had in mind the very recent diagnosis of the bowel cancer. But that is entirely unsurprising. The Claimant accepts that his solicitor made representations on the question of risk to the Parole Board on 8 June 2022, on the updated position. But he accepts that he had not informed his solicitor of the news he had been given on 24 May 2022, nor that the colonoscopy was due to take place on 13 June 2022. I cannot accept, even arguably, that the decision of the Parole Board is vitiated in public law by virtue of the OMU not communicating what was said at a medical appointment with a clinician at which news of a medical condition was communicated to the Claimant. Indeed there could, as it seems to me, have been ground for criticism if unilateral action had been taken in the context of confidential medical information. In any event, the OMU are not the defendant in this claim for judicial review. The question is whether there is anything, arguably, that vitiates the Parole Board's decision. The Claimant could – if he wished – communicate with his solicitor the latest information about his health. He did not do so. He can therefore neither criticise her for not making that point in her 8 June 2022 representations to the Parole Board; nor criticise the Parole Board for not having regard to that latest medical news.

17. In any event none of this, in my judgment, can go anywhere in the context of the risk assessment in this case. The fact is that the Parole Board was not satisfied, on the test that they were required to apply. They certainly did not think that the mobility issues and serious health conditions, the worsening health condition, together with the other circumstances including the claimant's age, served to eliminate risk. They were very well aware of all of those features of the case and the argument had been made by the

solicitor that "health" was relevant to "risk". It is, in my judgment, impossible to accept that – even had the Parole Board been told the latest news from 24 May 2022 and about the colonoscopy and had they therefore foreseen radiotherapy or surgery – this could have made a difference to their decision given the way in which they assessed risk, given the legal test that they were obliged to apply in relation to release, and given the reasons that they identified as reflected in the Summary Decision.

18. I interpose, at this stage, that all of those conclusions are strongly reinforced by the contents of the detailed 30 page Full Decision. However, in the circumstances that I described earlier and given that the position is in any event clear without reference to that document, I will not make further reference to it at this stage.

19. I recognise that, at the heart of this case, are concerns raised by the Claimant relating to his bowel cancer diagnosis. The Claimant makes number of points relating to access to medical services within a custodial setting, by contrast with released on licence, and within different locations in the prison estate. I understand and appreciate the significance of all of that from his perspective. But those points provide no basis for impugning the Parole Board's decision of June 2022. I add that, as that decision records, there will be another parole review in due course. I also note that it is not said that essential medical services have been unavailable to the Claimant. On the contrary, as I have mentioned, it is recorded in the papers that ROTL was granted on at least six occasions for hospital appointments. The papers also record that the move to HMP Preston was identified as appropriate in order to undertake what was envisaged namely radiotherapy. The Claimant was moved to HMP Preston. As I have mentioned, the surgery took place on 21 September 2022 in fact overtaking the plan for radiotherapy, and it was after the operation that the Claimant was then transferred to HMP Preston. On the face of it, essential medical services have been provided, all undertaken in a custodial setting. The target for judicial review is and remains the Parole Board's decision of June 2022, which is unimpeachable in public law terms so far as the health issues are concerned, for the reasons I have explained.

ROTL and "Conditions"

20. I turn to the questions relating to ROTL and "conditions". So far as the refusals of ROTL are concerned, it is plain that the Parole Board had before it the Update written in May 2022. The Parole Board made reference to the lack of sufficient time to experience temporary release from prison which might have tested the Claimant's progress and reliability. But that was a fair observation given the date (17 February 2022) on which he had moved to open conditions. The evidence in the Update about ROTLs did not record that they were impossible. What was recorded was a meeting on 24 May 2022 suggesting steps for the Claimant to take and providing him with a new ROTL form. It was recorded that that form had not yet been returned. It was clear to the Parole Board that there had been previous refusals. But it was not being said that there was no prospect of ROTL. I have described the points made by the Claimant, by reference to the relevant Policy Framework. But in this case the Parole Board had a specific Update from HMP Haverigg which was the prison to which the Claimant had now been transferred. That May 2022 Update – which is included within the Claimant's claim bundle – told the Parole Board that the paperwork for ROTLs was key in making any progress and required a number of measures to be considered and "implemented" by HMP Haverigg to facilitate these. That document was informing the Parole Board that ROTLs were in principle capable of being "implemented". That, moreover, was in

the context not of the SPL arrangements for the various hospital visits but for the sort of ROTL that would be relevant to continued progress in order to assist with a reappraised risk picture. Again, all of that is strongly reinforced by the Full Decision. It is sufficient for me to record: that one of the witnesses at the hearing, the prison offender manager at HMP Haverigg, is recorded as outlining the ROTL process; that there is a discussion at various stages to the position as it was understood; and that the community offender manager also gave evidence to the Panel about ROTL and what would be needed. In my judgment, there was nothing "impossible" being identified when ROTL was being discussed.

21. But nor, in my judgment, was the Parole Board – even arguably – identifying a "precondition". What the Parole Board had already done was conduct its assessment of the question of risk. For the reasons it had given, and applying the relevant test, it could not be satisfied that the Claimant could be released without there being the relevant risk to the public. In those circumstances, the Parole Board concluded that it would not direct release. The Parole Board went then went on to consider whether to recommend that the Claimant continue in open conditions. On that issue, the Parole Board concluded that it was appropriate to recommend such a course. In its decision – taken from the Summary Decision – the Parole Board recorded that, on considering the relevant criteria for open conditions, it proposed that the Claimant remain in current conditions where he could be further tested. That was against the backcloth where the Parole Board had said, in its risk assessment, that there had been insufficient time to experience ROTL which might have tested his progress and reliability. I do not accept, even arguably, that the Parole Board was identifying a rigid precondition prior to any question of release. What it was identifying was a factual reality relating to risk and one aspect of the ways in which there could be an appropriate testing in open conditions.

22. Finally, I turn to the point that was advanced in writing about relations with probation. What the Parole Board said in the Summary Decision was that the Claimant should remain in current conditions and could develop working relations with his probation officer. That was part of the rationale for the recommendation that open conditions should continue. In my judgment, there is no arguable public law error in the Parole Board having identified that as an appropriate aspect of its decision. But nor in my judgment was there any arguable public law error in the Parole Board having regard to that feature of the case, when it was assessing questions of risk. Once again, although all of this is clear from the documents that were filed with the Court, it is strongly reinforced when the Full Decision is considered. To take an example in the Full Decision (at §2.48) the Parole Board explains the importance of an open transparent and trusting relationship with the probation service and that in the absence of such relationship it could not accept a view previously expressed about signs of an increased risk being readily observable. The Parole Board also recorded (§3.8) that the prison offender manager from HMP Berwyn had told the January 2020 hearing that the Claimant had a negative relationship with probation, but this was believed to be improving. Then (at §3.10, repeated at §3.13) the Parole Board noted the Claimant's frustration about difficulties in contacting the probation officer and said that it was not the Panel's role to apportion responsibility for difficulties in the Claimant's relationship with the probation service, its role being to assess risk and arrangements for management. Having carefully examined all the materials and considered the points that have been advanced in writing and orally, I can see no arguable public law error by reference to this point, or any of the others.

Conclusion

23. The claim for judicial review in my judgment is not a viable one. It has no realistic prospect of success and I therefore refuse permission for judicial review. There is no question of any order for costs since neither the Parole Board nor the SSJ have participated. Where permission for judicial review is refused at an oral hearing in the High Court, and except in a case which is a "criminal cause or matter", a Claimant is entitled – if they wish to do so – to make an application to the Court of Appeal. I mention that so that the Claimant, who is detained and acts in person, is aware of his rights. The timeframe is 7 days.

Addendum

24. Having delivered my judgment, the Claimant raised a point with me. He says that the Parole Board could not been aware that his mobility problems extended to his being "wheelchair-bound". That is because he was not in fact wheelchair-bound in May 2021 (as he told me during the hearing), but only in May 2022. That would be another point that could have been made by his solicitor in her representations of 8 June 2022. I did take several opportunities during the hearing to be clear that the Claimant was telling me that he had been wheelchair-bound from May 2021. Be that as it may, he now tells me that in fact it was May 2022 and he has apologised for any misunderstanding. It is appropriate that I make clear that the critical points are these. The extent of his health conditions and mobility position, such as they were, were all put forward and able to be put forward to the Parole Board on his behalf. The known position, so far as his health conditions and mobility were concerned, was plainly not ignored but was taken into account. The Claimant and his solicitor had the full and fair opportunity to make the Parole Board aware of anything they said was relevant that had arisen prior to the decision. The Parole Board cannot be criticised for any point of which it was not made aware. And this could not have made a difference given the conclusion to which the Parole Board came in relation to risk. Given the emphasis placed on these changed circumstances, it is I think appropriate for me to record that the Parole Board specifically identified in its Detailed Decision that there were "likely to be a number of vulnerable individuals residing" at "any suitable move-on accommodation" who "would be at risk of financial exploitation" (§2.5). That observation is one illustration of the way in which, and the reasons why, the Parole Board was not satisfied, on the question of protecting the public against risk of harm, by reference to the Claimant's health conditions. I have added this oral ex tempore Addendum in light of the point that the Claimant has made following delivery of my judgment.

9.2.23