



Neutral Citation Number: [2023] EWHC 368 (Admin)

Case No: 2021/21/YOR

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

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 08/03/2023

The decision of
THE HONOURABLE MR JUSTICE GARNHAM
On the review of the tariff in the case of
LIAM DOUGLAS-O'CALLAGHAN

This judgment was handed down remotely at 10:30am on 8 March 2023 by circulation to the parties or their representatives by email and by upload to the National Archives

Garnham J:

Introduction

1. On 11 May 2012, in the Central Criminal Court, Liam Douglas-O’Callaghan, together with a co-defendant, Horace Campbell, was convicted of murder. On 14 May 2012 Mr Douglas-O’Callaghan was sentenced to be detained during Her Majesty’s Pleasure. The Judge directed that the appropriate term to be served before he was entitled to apply for parole was 18 years. It was directed that the 381 days Mr Douglas-O’Callaghan had served prior to sentencing should count towards the sentencing imposed.
2. Mr Douglas-O’Callaghan now applies for a review of the minimum term set by the trial judge. The original submissions in support of that application were dated 9 March 2022; whilst I was in the process of completing this review I received further submissions, these dated 22 February 2023. I have taken all these submissions into account.
3. The application has prompted the compilation of a “tariff review dossier” by the National Offender Management Service (“NOMS”), which has been referred to me. I have read that dossier. My role is to review the current tariff and, if appropriate, recommend a reduction based on one or more of the criteria set out below.
4. The Lord Chancellor and Secretary of State for Justice has agreed to honour any recommendations I may make.
5. In conducting this review I have had regard to the judgments of the House of Lords in *R (Smith) v SSHD* [2005] UKHL 51, of Hooper LJ in the case of *Martin Anselmo* and of Bean LJ in *R (OAO Cunliffe) the Secretary of State for Justice* [2016] EWCH 984 (Admin).

The Index Offence

6. On 17 April 2011 Devon Scarlett was shot dead in the back garden of a house in Marcus Grove Way in Brixton, South London.
7. In sentencing Mr Campbell and Mr Douglas-O’Callaghan, the trial judge, HHJ Hawkings, said this:

“On 17 April 2011 you, Horace Campbell had a trivial argument with Devon Scarlett in McDonalds, Brixton. He had not treated you with the respect you felt that was your due. You called Liam O’Callaghan; instructed him to bring a lethal firearm. Once he arrived the two of you quickly dispatched Devon Scarlett without mercy each, in my view, equally responsible for [the] act of his murder. The Prosecution put the case on the basis that it matters not who pulls the trigger and I deal with you on that basis. You, Horace Campbell, are 28 years of age, and you, Liam O’Callaghan, 18 years of age. Horace Campbell, in my view, you are not only responsible for your own actions that morning but also for putting Liam O’Callaghan in the predicament he now is, having been found guilty of murder.

The statement of the sister of the deceased, Cristine Rowe, has been read: “*he will be greatly missed by his relatives and friends, you have deprived our children of a father...*”

O’Callaghan, you were under 18 at the time of the offence so your case for sentencing is that you are detained during Her Majesty’s Pleasure...

Dealing with O’Callaghan’s case it involved a firearm which is a substantially [aggravating] fact. It was premeditated because you arrived bringing the firearm with you and you had it available, loaded, ready for use. The victim suffered violence having been shot...The gun was not destroyed because it was made available for other criminals after the incident. I deal with you on the basis of no previous convictions. That is a mitigating feature. Your condition, ADHD, has a very limited mitigation in my view. I have read the report of the doctor.

The Court of Appeal says in fixing the terms in the case of the defendants who have jointly committed murder, one being over 18 and one under 18, the term that they must serve before they are entitled to apply to the parole board I should fix the starting point that Parliament has ordained for each and move it towards position where the difference between the two terms is no more than a fair reflection of the age difference.”

8. The Judge went on to sentence Mr Campbell to a minimum term of 32 years. Addressing Mr O’Callaghan, he said,

“You, O’Callaghan, willingly brought the loaded gun to the scene and played your full part of the murder at the scene that is a substantially aggravating feature. I have identified all the other features. In my view the appropriate term you have to serve before you’re entitled to apply for parole...is one of 18 years. Both of you have served 381 days towards the sentence I have just passed.”

The Relevant Criteria

9. There are three possible grounds on which the tariff may be reduced:
- i) The prisoner has made exceptional and unforeseen progress during sentence;
 - ii) The prisoner’s welfare may be seriously prejudiced by his or her continued imprisonment and the public interest in the offender’s welfare outweighs the public interest in a further period of imprisonment lasting until expiry of the current tariff
 - iii) There is a new matter which calls into question the basis of the original decision to set the tariff at a particular level.
10. Only the first of these is relied upon in the present case.
11. As to that first criteria, specific factors indicative of exceptional progress may include a prisoner having demonstrated:
- an exemplary work and disciplinary record in prison;

- genuine remorse and accepted an appropriate level of responsibility for the part played in the offence;
 - the ability to build and maintain successful relationships with fellow prisoners and prison staff; and
 - successful engagement in work (including offending behaviour/offence-related courses) with a resulting substantial reduction in areas of risk.
12. Consideration will be given to whether this progress has been sustained over a lengthy period and in more than one prison. It is not to be assumed that the presence of one or all of these factors will be conclusive of exceptional progress having been made in any individual case. Whether the necessary progress has been made will be a matter to be determined taking into account the specific factors present in each case.
13. Mr Douglas-O'Callaghan's tariff is due to expire on 29 April 2029.

Representations

14. As part of the original application, I was provided with a number of documents, including a letter from Mr Douglas-O'Callaghan himself, a series of references from friends and family, and copy correspondence from his prison.
15. Mr Douglas-O'Callaghan begins his letter with the following:
- “In 2012 I was sentenced to be detained under Her Majesties Pleasure for 18 years (a life sentence). It has been almost, 11 years since that date, and as then, I remain deeply saddened by the thought that a family has lost their loved one, and the effect on others affected. Over these years in jail, I have reflected on the magnitude of the loss to the victim's family, and the depth of the pain that would have been felt by them.”
16. He goes onto explain that
- “Upon first arriving in prison, I was lost and dejected, it was a period of inconsistent behavioural patterns as I was attempting to find belonging based on others. As I grew, the time in incarceration gave me a platform for self-reflection.”
17. He says that he then *“engaged and completed programs pertaining to my offending behaviour and how I can address the risks which are attached to them. In 2014, I worked one to one with a psychologists, to work on the inconsistent behaviour I was displaying in custody as well as the root cause of some of my behaviours.”* He then completed a Thinking Skills Programme (“TSP”) *“with the hope gaining a better understanding of the reasoning behind why I may have been carrying out some negative behaviours”*. In 2018, he completed RESOLVE, which he describes as *“an intense course which looks deeper into ones actions and thoughts”*.
18. He explains the effect of those courses:
- “I strongly believed that these programs as well as my faith were paramount to my change. I began to understanding about myself. I understood how

important my own personal boundaries and beliefs are in my decision making were. I realised that I was giving away my autonomy when I chose to be guided by the acceptance of those around me as opposed to what I knew to be the correct action. “

19. He explains how he has completed a series of educational courses. He says he has seen himself *“mature drastically in thinking and in actions. each day spent in jail initially gave me clarity and renewed perspective. I am no longer the lost boy easily led and seeking validation, instead a man, with the capacity to adapt, learn and grow. For several years now I have been dedicated to character growth and education.”*
20. He says that in 10 May 2019 he ran 10k for the “March for Men” event in aid of Prostate Cancer. On 25th November 2019, he used a rowing machine to row 300 meters 315 times, to help raise money for a child’s cancer treatment. Currently he is involved in a fitness competition. If he wins, he says he will donate the prize funds to a mental health charity.

21. He concludes his letter as follows:

“I am now guided by my positive principals, upheld by my own internal constructs of right and wrongs, and as I have done for many years in my sentence, when given the opportunity to hopefully leave here one day, I will stand by the man I have become, with the conviction to do what is right, always, and to lead with patience and empathy and by example to those vulnerable to the mistakes I made by continuing my charity work.”

22. I have also read the supporting references Mr Douglas-O’Callaghan has supplied from his sisters, namely Cheyenne Foster-Douglas, Patrese Foster Douglas, Leann O’Callaghan and Natasha Smith O’Callaghan, and from Marley Jack Edwards, Stephanie Azubike, his friends. They all speak warmly of Douglas-O’Callaghan’s character and positively about his development whilst in custody.
23. I have also read three letters of congratulations addressed to Mr Douglas-O’Callaghan from his prison governors. One is particularly impressive. Governor Jamie Bennett wrote on 19m June 2019:

“Dear Liam,

On 17 June 2019 a conflict broke out during the movement from workshops. You intervened in order to try to resolve the problem. You showed great responsibility and courage by stepping in. There is no question that had you done so, the incident could have been far more serious. Thankfully, on this occasion, no one was seriously harmed.

It is a sad reality of prison life that violence does occur. This can result in people receiving serious injuries. In the heat of the moment when this is happening it can be very difficult to choose what to do. Many people simply freeze or decide it is not their responsibility. You did not do this. In that moment you took the responsibility upon yourself. You acted as a member of a community rather than an individual. You showed a cool head and a compassionate heart. I am full of admiration for you and how you reacted.

Thank you for stepping in and demonstrating the very high standards of personal conduct.”

24. It is submitted on behalf of Mr Douglas-O’Callaghan, that at the time of the offence he was a young man of previous good character, who was “*sentenced based on no previous convictions and no police cautions*”. Since his sentence, it is said, he has dedicated himself to ensuring that he makes a positive contribution to the prison community and his sentence rehabilitation.
25. In 2013, Mr Douglas-O’Callaghan converted to Islam in the belief that this would assist in his path to peace and rehabilitation. It is said that he did so voluntarily and that he was not radicalised.
26. It is acknowledged that he was subject to two adjudication for assaults, in 2013 and in 2017. I am told that these matters were referred to the police for outside investigation but subsequently dismissed and no further action taken. It is said that on each occasion Mr Douglas-O’Callaghan intervened in an incident to assist a friend and had no intention of causing harm to a prison officer. .
27. It is pointed out that in February 2016 he completed the TSP, and that the post programme report identifies that he “*demonstrated an excellent understanding*” of how to stop and think, problem solve, see the whole picture and maintain perspective. In 2018 he completed the Resolve programme, the post programme report on which noted that he “*adhered to the conditions of success and demonstrated a good understanding of the material*”. It is accepted that he has continued to deny that he was guilty of murder. It is argued however that, despite that denial, he has participated in offending related programmes designed to help him reduce his risk of reoffending and to contribute to his changed attitudes.
28. It is said that he was keen to begin an Open University course and has this as a personal goal. There have been recent changes to the rules on funding and the prison will not provide funding until the prisoner is six years away from the end of his tariff. It is submitted that he accepts this, wishes that he could start sooner but is determined to achieve a higher educational qualification from his time in prison. He submits that one positive of a reduction in the Minimum Tariff would be the opportunity to access Higher Educational achievement at an earlier stage
29. In 2020 Mr Douglas-O’Callaghan had his Category A status removed. This, he submits, was both a significant step forward in itself and a significant means of achieving further progress. Category A is necessarily restrictive, and he wished to achieve more from his sentence than that categorisation would permit. By being re-categorised as Category B he was able to move to another prison, where it was hoped he would be able to access further prison treatment and rehabilitation courses and programmes. He moved to HMP Dovegate in October 2020 and, whilst this was a progressive step, the effect of COVID 19 on the management of prisons meant his access to developmental opportunities was restricted.
30. However, he submits, once again he has not let this inhibit his progress. He has continued to apply for roles of responsibility such as listener, mentor, equalities representative, Health Champion and the Foreign National Prisoner representative. He has managed to complete the Victim Awareness course and did so to a high

standard, as his current Prison Offender Manager records in her dossier report. It was assessed that he had progressed significantly in his custodial sentence.

31. It is argued that Mr Douglas-O'Callaghan has an exceptional work and disciplinary record, and that he has completed the programmes required of him in an excellent manner. It is said that he has demonstrated that he has an acceptable level of responsibility and genuine remorse for his offence. He submits that all this has been sustained over a lengthy period and in more than one prison and that in these regards he matches the criteria for the change in his minimum tariff. He says that he has demonstrated exceptional progress in other aspects of his custodial life too; he points out that in his last two prisons he has contributed to enhancing prison life by doing work for charity. In Long Lartin this was recognised by the Governor in a letter of thanks. In HMP Dovegate he has organised, through the gym staff, an inter-wing fitness competition with the opportunity to raise money by having a small fee for entry and the winner choosing a Mental Health charity that to which they would wish to donate.
32. The additional representations dated 22 February 2023 set out Mr Douglas-O'Callaghan's progress over the last year. I note, in particular, that he was moved to HMP Erlestoke in June 2022 where he has been carrying out voluntary work as an inclusion and diversity representative and working with young prisoners. In both instances, it seems, he has been a positive influence on other prisoners. The officers responsible for this work, Officer Charlotte Lea and Officer Catherine Wedding, both speak highly of him. I have seen reports from some of the prisoners he has helped which detail the considerable assistance he has provided.
33. It is argued that Mr Douglas-O'Callaghan's behaviour over the last year adds further support to his application.

The Dossier

Attitude to the offence

34. For the purposes of his initial OASys report in August 2012, Mr Douglas-O'Callaghan gave the following account of what happened on.

'He stated that he had been at his house with his partner immediately prior to the offence and added that as his partner had to leave the address early (before his mother returned) he had been awake when Mr Campbell called him. Mr O'Callaghan maintained that Mr Campbell called to request that he bring him £300 which he had previously given to him to look after and he had agreed to do this. When questioned, he said that he had not thought it strange that he had called for that amount of money at that time as he thought Mr Campbell had been out for the evening and had planned to continue socialising. Furthermore, he said that he had not thought the situation strange that he had been given £300 to 'look after' in the first place as he had not considered this a large amount of money (despite reporting to have been in receipt of £200 per month state benefits) to have in cash. Regardless of his statements regarding the £300, it is evidently the case that Mr O'Callaghan is attempting to deny bringing Mr Campbell a loaded weapon by claiming he had instead brought him money on demand. Mr O'Callaghan insisted that when he had approached the scene, there

had been an altercation in which he had attempted to intervene. He stated that the victim had called upon friends of his after the altercation in the fast food restaurant and that he saw his friend was in danger. He maintained that the victim had the gun and that he had approached him to wrestle this away from him, during which, he had himself been shot, as had the victim.'

35. Mr Douglas-O'Callaghan denied having beaten the victim. He said that he had fled the scene and that the offence had happened because he had been 'unlucky'. He denied any culpability or motivation to cause injury.

36. That account is plainly inconsistent with the account of the incident presented by the prosecution and accepted by the jury at his trial. Mr Douglas-Campbell maintained for some years that he was appealing his conviction, although there is nothing in the papers I have seen to suggest he has made any progress in that regard.

37. In a Tariff Assessment Report, completed following a meeting and interview with Mr Douglas-O'Callaghan on 12 April 2021, Natalie McArdle, Prison Offender Manager, says

Mr Douglas-O'Callaghan has also recently completed in-cell victim awareness work to a high standard, evidencing the understanding of the impact his offending and generic offending has upon others. He accepts responsibility for being present at the time of the index offence and expresses regret and remorse for his decision making at this time and states he is keen 'to be able to give back' to the community and society as a whole. (Emphasis added.)

38. In his latest OASys, completed on 7 June 2021 by Mr James Counsell, it is noted that

Although Mr Douglas-O'Callaghan continues to maintain his innocence, he now readily admits his propensity to have misguided loyalty. He related this to the absence of his father and people not living up to expectations which led him to feel let down. He therefore held the view that he "could not leave people" as he perceived this as letting others down. He therefore would get involved in conflict for his peers, which in turn gave him a sense of belonging and fitting in. This theory is supported by the Judge's sentencing remarks which indicate that in their view, Mr Campbell was responsible not only for his own actions but for putting Mr Douglas-O'Callaghan in the predicament. This was further compounded by his comments during a psychiatric report stating he was scared and fearful of Mr Campbell. Whilst this does not excuse the behaviour of Mr Douglas-O'Callaghan it goes some way, in my assessment, to understand the motivation for his actions.

39. Mr Counsell continues:

Mr Douglas-O'Callaghan has shown some understanding of the impact his offence would have had in terms of the local community and the victims family. He still however denies significant aspects of his involvement in the offence which does inhibit his ability to explore the offence fully. His appeal of the conviction also impacts on this. (Emphasis added.)

40. Whilst continued denial of responsibility for the offence is not, in my judgment, necessarily a bar to reduction of the minimum term, it may impact upon an

assessment of an offender's progress in prison, his maturity and outlook, and the risk he might pose on release. If he does not acknowledge his offence, it will inevitably be more difficult to address the root causes of the behaviour in issue.

Progress as recorded in detention

41. It is recorded in the latest (2021) OASys report that Mr Douglas-O'Callaghan's behaviour was initially volatile whilst in custody. That is echoed in his own statement made in support of this application. Mr Counsell, its author, noted that in the early years of his sentence Mr Douglas-O'Callaghan was involved in a number of incidents, including assaulting prison staff and protests at height. These occurred in a group setting, suggesting, according to Mr Counsell, that he continued to be influenced by his associates. More recently, however, his behaviour has improved; Mr Counsell notes that the last negative behaviour entry on NOMIS is from May 2019 when Mr Douglas-O'Callaghan blocked a member of staff from getting to an incident. Mr Counsell says that *“although this behaviour is not good and causes disruption, there has been no behaviour indicative of serious harm since 2014”*.
42. It is reported that whilst in custody Mr Douglas-O'Callaghan has shown a good attitude to employment. He is currently employed in a workshop as a Key Worker. According to Mr Counsell, this demonstrates an improved attitude when compared to his attitude at the beginning of his sentence. Mr Douglas-O'Callaghan has successfully applied to complete a Maths A Level through distance learning and is keen to complete as much education and as many vocation courses as he can whilst in custody. He has so far completed PICTA and BICS courses.
43. Mr Counsell records some further positive features in Mr Douglas-O'Callaghan's behaviour. He notes that during interview he was able to evidence his learning by talking through situations and identifying where he has used the skills he had learnt. Mr Counsell says Mr Douglas-O'Callaghan has learnt to set goals for himself and was able to maintain his motivation to work towards being downgraded from Category A, a change he achieved in 2019. He has also been recognised for his efforts in raising money to help a young child in need of expensive treatment.
44. Mr Counsell notes that Mr Douglas-O'Callaghan engaged with his sentence plan throughout, completing one-to-one psychology work and, in 2016, the TSP. The report into the TSP noted how he had:

“reflected on his risk factors at the time of his offence and has developed an understanding of the skills to manage these more effectively and maintain positive relationships with others who can support him in achieving his goals. He is now encouraged to keep practicing these skills therefore assertive communication will be set as a post-course objective, so he will be more confident in using it in the future when managing risk.”
45. In addition, between January and March 2018, Mr Douglas-Campbell took part in a “Resolve” course. “Resolve” is a moderate intensity cognitive-behavioural intervention that aims to reduce violence in medium to high risk adult male offenders. It appears that Mr Douglas O'Callaghan attended 20 out of the 22 group sessions and all of the individual sessions whilst on the programme. He missed two group deliveries due to pre-booked visits. It appears he participated properly and

constructively. He produced a portfolio of work completed on the programme which it was said demonstrates *“that he has made steps towards thinking about his offending behaviour in more detail and considered what may have contributed to his previous use of violence and aggression.”*

46. In the report on his participation in the Resolve course, the following conclusion were drawn:

On insight and awareness: *“it is encouraging that Mr Douglas O’Callaghan has started to explore his learning history in order to identify the factors that have contributed to his use of violence and aggression in the past. For example growing up witnessing violence being used by his peers. It should be noted that (he) chose not to complete a GAM diagram on his index offence during the programme due to appealing his conviction and maintaining his innocence in relation to this”*.

On impulsivity, he *“has considered his impulsive behaviour by reflecting on times where he has responded to situations quickly... His next steps are to identify whether there have been any times where his violence has been more planned. In doing so, he will have the opportunity to consider what skills would be most useful for him in terms of managing these situations.”*

On attitudes and beliefs, he *“has demonstrated an understanding of his ‘Old Me’ and how his attitudes and beliefs have impacted upon his use of violence and aggression.”*

On hostile thinking, he *“has started to recognise some of the hostile thoughts that have linked to his use of violence and aggression. This has been demonstrated through his use of the ‘Helicopter Tool.’ (He) has also started to explore the impact his thoughts have had on his past behaviour and he is encouraged to continue...”*

On emotion management, he *“has been open to exploring his emotions and arousal levels ... Here, he has identified skills that he has been able to use such as ‘Self Talk’ and ‘controlled breathing’. (He) has also recognised when he could have used the skills more effectively to deal with situations. This demonstrates his openness to learn and take forward new skills from the programme...”*

On interpersonal skills, he *“has made progress... More recently he has been able to build professional relationships with staff. It is positive that the evidence suggests (he) is currently interacting well with others, and it is hoped that this will assist him in building a healthy foundation of support for the future.”*

On risk management, *“he has been able to recognise a number of his risk factors, including feeling disrespected and being loyal. He has also been able to identify his protective factors that can steer him away from using violence and aggression in the future. For example his goal of going home and his family. (He) has demonstrated how he can manage his risk of “being loyal” through completing his ‘New Me Life Plan’.*

47. In the Tariff Assessment Report, completed following a meeting and interview with Mr Douglas-O'Callaghan on 12 April 2021, Natalie McArdle, Prison Offender Manager, set out her opinion as to how he had changed. She said:

Whilst I have only supervised Mr Douglas-O'Callaghan for a short period, it is my opinion that he has indeed undergone a significant change in maturity and his outlook on life. Having discussed this directly with him, he is able to reflect that at the time of the index offence he was impressionable and lacking in self esteem and confidence in expressing his own opinions. He believes that his time in custody has involved self reflection and that he is now more confident in expressing himself, in addition to this, he acknowledges that he no longer has the desire to 'fit in' or be 'cool' as he did at the time of the offence. At the time Mr Douglas-O'Callaghan states that he felt strongly that involvement with negative influences was motivated by feelings of loyalty, however he has since determined that there 'is a fine line between loyalty and stupidity' and that his loyalty at the time of the offence was somewhat misplaced.

48. As to his progress in response to the course he has undertaken, she said:

I would assess that Mr Douglas-O'Callaghan has progressed significantly during the current custodial sentence. He has engaged in Thinking Skills Programme (2015) and RESOLVE (2018) and clearly is able to evidence and demonstrate the skills he learnt / developed during the completion of this work and continues to utilise these within the custodial setting. Furthermore, a HCR-20 completed in 2018 indicates that he has completed significant and appropriate work to address identified risk factors.

49. In respect of custodial behaviour, she noted that

Mr Douglas-O'Callaghan has been on the enhanced IEP regime since 2019 which would further evidence both stable and settled behaviour as expected from a life sentenced prisoner. In addition to this, he has no proven adjudications on file since 2018, some three years previously. (Emphasis added.)

50. As to his motivation, she says:

Mr Douglas-O'Callaghan has completed a BICs course, ICT qualifications, Islamic Courses and is currently working towards achieving his A Level in Maths. He presents as highly motivated to seek out appropriate vocational courses to prepare him for employment opportunities in the future.

51. On the risk he poses, she says:

"The current OASys dated 2020 identifies the following risk areas; Lifestyle and Associates, Emotional Wellbeing, Thinking and Behaviour and Attitudes. Certainly, it would be my assessment that Mr Douglas-O'Callaghan continues to progress in these areas, in part utilising skills from the offending behaviour programmes he has previously completed. Further evidence of his continued progression

can be seen within his custodial record, sustained enhanced IEP status and lack of recent adjudications. To my knowledge at the current time there are no security or behavioural issues that may be cause for concern.”

52. Although not formally part of the dossier, I also have regard in this context to the recent report of Officer Woodhouse, an officer on the wing of HMP Erlestoke where Mr Douglas-O’Callaghan is currently held. Officer Woodhouse speaks well of his conduct, noting he was on that wing

“for around 7 months before moving to [another wing] which is the most trusted wing in the prison. (He) has always been polite and respectful to staff and other prisoners around the establishment and always shows behaviour of a super enhanced prisoner.”

Discussion

53. On the basis of the material discussed above, I draw the following conclusions:

- i) Mr Douglas-O’Callaghan does not accept he was guilty of the offence for which he was sentenced, and that makes it more difficult to address the root causes of his behaviour;
- ii) Nonetheless, he has expressed regret and remorse for his decision making at the time of the murder and he accepts responsibility for being present at the relevant time;
- iii) He has successfully completed victim awareness work and has demonstrated an understanding of the impact of his offending;
- iv) In the initial years of his sentence, his behaviour was volatile and he was subject to disciplinary processes. His early behaviour included assaulting prison staff and conducting protests at height;
- v) His behaviour has improved significantly from then and he has had no substantive disciplinary findings for some years;
- vi) His positively good conduct has led to him being downgraded to cat B and earned him commendation from his Governor on a number of occasions;
- vii) He has shown a good attitude to employment and to study;
- viii) He has engaged with his sentence plan, and has completed one-to-one psychology work and the TSP and Resolve courses;
- ix) Over the last few years, he has involved himself in charity work, and in work assisting other prisoners;
- x) The progress he has made has been sustained at a number of different prisons;
- xi) In his current establishment, he is housed on the “*most trusted wing*” has the status of “*super enhanced prisoner*”;

- xii) Overall, he has become more self-aware, less impulsive, more mature, less aggressive, more open, less easily influenced by poor peer pressure, more confident and self-reliant, and more stable and settled.
54. In my judgment, the evidence demonstrates that Mr Douglas-O'Callaghan has a good work record and, after a poor start, can now claim to have a good disciplinary record. Since at least 2017, he has shown that he is able to build and maintain successful relationships with fellow prisoner and with prison staff, and is able to do so in different establishments. It appears he has learnt that what matters is not whether he comes across as "*cool*" or whether he can "*fit in*" with particular peer groups, but how his conduct affects his whole community. He appears to understand that "*loyalty*" to particular individuals does not justify behaviour which is harmful to others and that, in contrast, he is now in a position to provide positive leadership to other prisoners.
55. Mr Douglas-O'Callaghan has made solid progress in all these areas. But progress from what was a fairly poor start is to be expected and, in my judgment, it cannot properly be said, as yet, that these traits have become imbedded or that his progress has been "exceptional".
56. There is now evidence of genuine recognition of the harm caused to others by his conduct at the time of the instant offence. That is undoubtedly good news. But the remorse he shows appears to be directed, not to his own behaviour at the time of the offending, but only to the consequences of that behaviour. There seems to be substantial hesitancy in accepting responsibility for his crime. He has successfully engaged in courses offered by the prison service designed to address areas of risk and offending behaviour, but that is limited by his reluctance to admit he was guilty of the offence of which he was convicted. And that, in my judgment, makes it more difficult to conclude, as yet, that there has been a substantial reduction in areas of risk.

Conclusion

57. In all those circumstances, whilst it is clear that Mr Douglas-O'Callaghan has made, and continues to make, real progress, I am unable to conclude that in any of the relevant areas that progress has been exceptional, or that it has been sustained over an appropriately lengthy period.
58. In consequence, I cannot recommend any reduction in the minimum term.
59. Given the progress that has been made, however, it seems to me at the very least possible that Mr Douglas-O'Callaghan will be able to maintain the necessary progress in the coming years so as to justify a further application for a reduction in his minimum term.



08/03/2023