



19. RPP  
CD Section 75

**The First-tier Tribunal  
(Health, Education and Social Care Chamber)  
Mental Health**

Mental Health Act 1983 (as amended)  
The Tribunal Procedure (First-tier Tribunal) (Health, Education and Social Care Chamber) Rules 2008

Case Number: Case Number:

Date of Application:

**Patient:**

Conditionally Discharged Mental Health Act 1983

A patient granted a conditional discharge made by the Secretary of State  
on

Responsible Authority:

Hospital:

Before

Miss K. Chahal (Judge)

Dr P. Egleston (Medical Member)

Mr N. Bonson (Specialist Member)

Hearing held remotely on 24<sup>th</sup> February 2023

History

The patient is currently subject to a conditional discharge with the condition(s) set out below without any conditions.

1. will remain in custody at or other custodial establishment.

Decision

The tribunal directs that the restriction order shall cease to have effect and the patient shall cease to be liable to be detained in hospital.

Representation

Patient: Mr R. Pezzani (Counsel)

Mr Joseph Railton (Legal representative)

Responsible Authority: Ms A. Kelly (Counsel)

Mr Luke Appleton (Legal Representative)

Secretary of State: Not represented.

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Attendance by Patient at the remote hearing

The Patient attended the hearing

Pre-Hearing Medical Examination of the Patient

A pre-hearing examination of the patient was not indicated under the Rules.

Announcement of Decision

The decision was announced at the end of the remote hearing.

The Tribunal considered

Oral evidence from

Written evidence from [redacted] and [redacted] Judges  
Sentencing remarks [redacted] PNC, Various directions, [redacted] Skeleton Arguments on behalf of Responsible Authority 30/11/2022, Arianna Kelly Skeleton Arguments on behalf of Responsible Authority 18/01/2023, and Roger Pezzani Skeleton arguments on behalf of [redacted] 28/11/2022 and 23/02/2023.

Various case management directions, Previous First Tier Tribunal Decision 12/05/2022, Rio Entries, CPA Meeting [redacted] Gate Keeping Assessments [redacted] 23 and [redacted] and Board of Directors Inquiry [redacted]

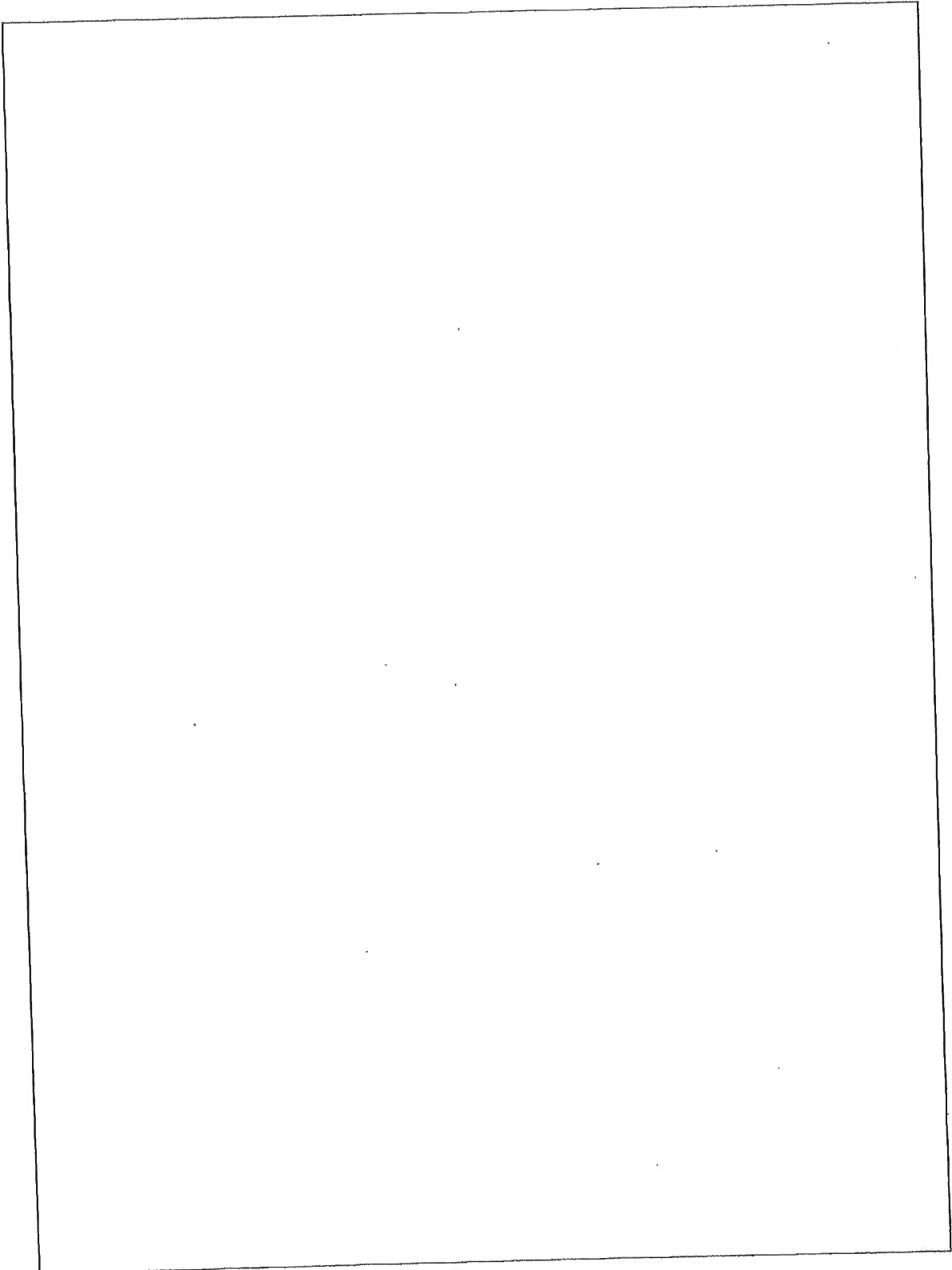
Other material, namely Secretary Of State Statement and Statement of Responsible Authority.

Jurisdiction, Preliminary and Procedural Matters

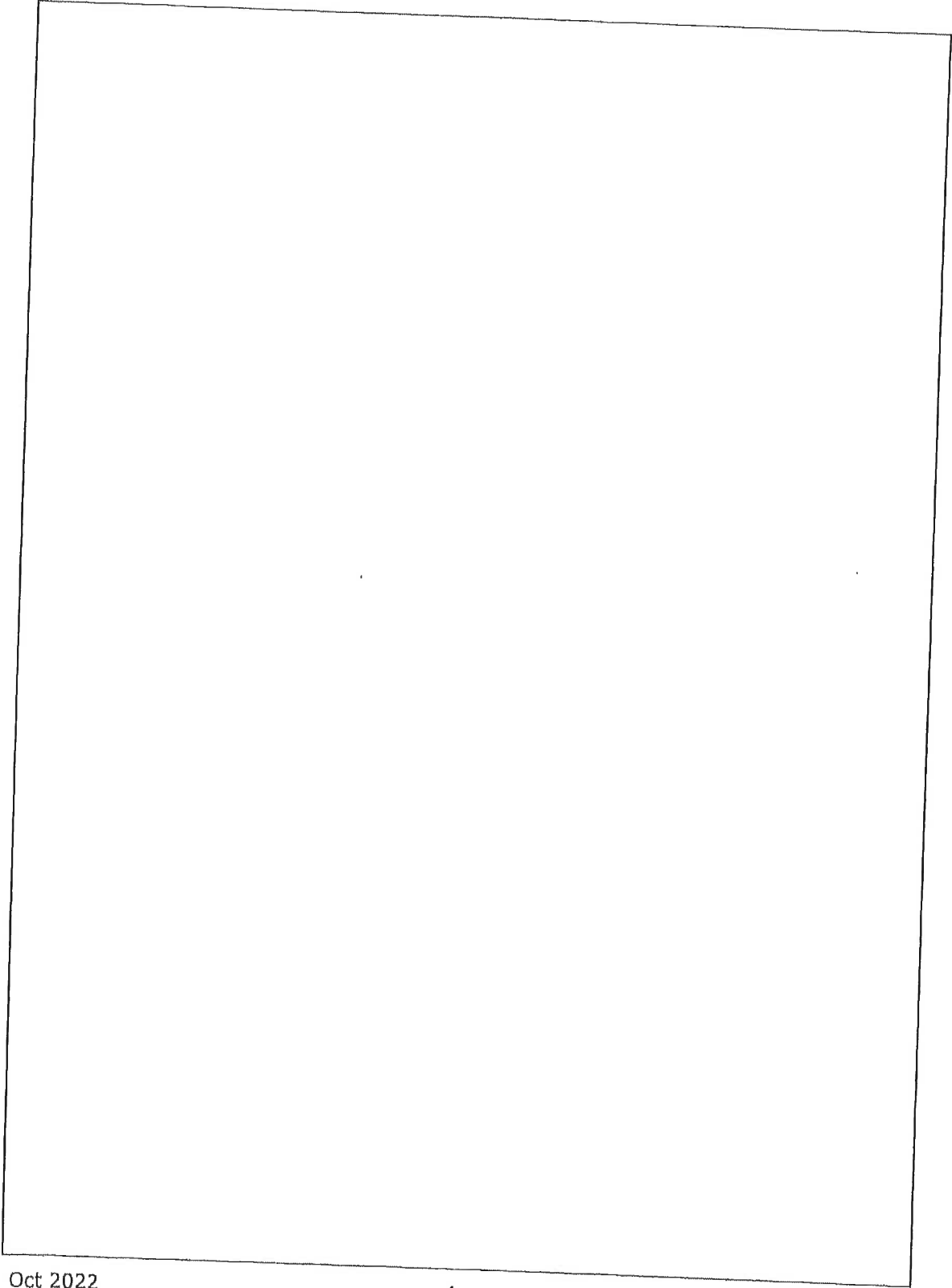
1. The tribunal is satisfied that it has jurisdiction to consider this application.
2. This has been a remote hearing. The form of remote hearing was video. The documents that the tribunal was referred to are as listed under "Written evidence" (see above). The order made is described at the beginning of these reasons.

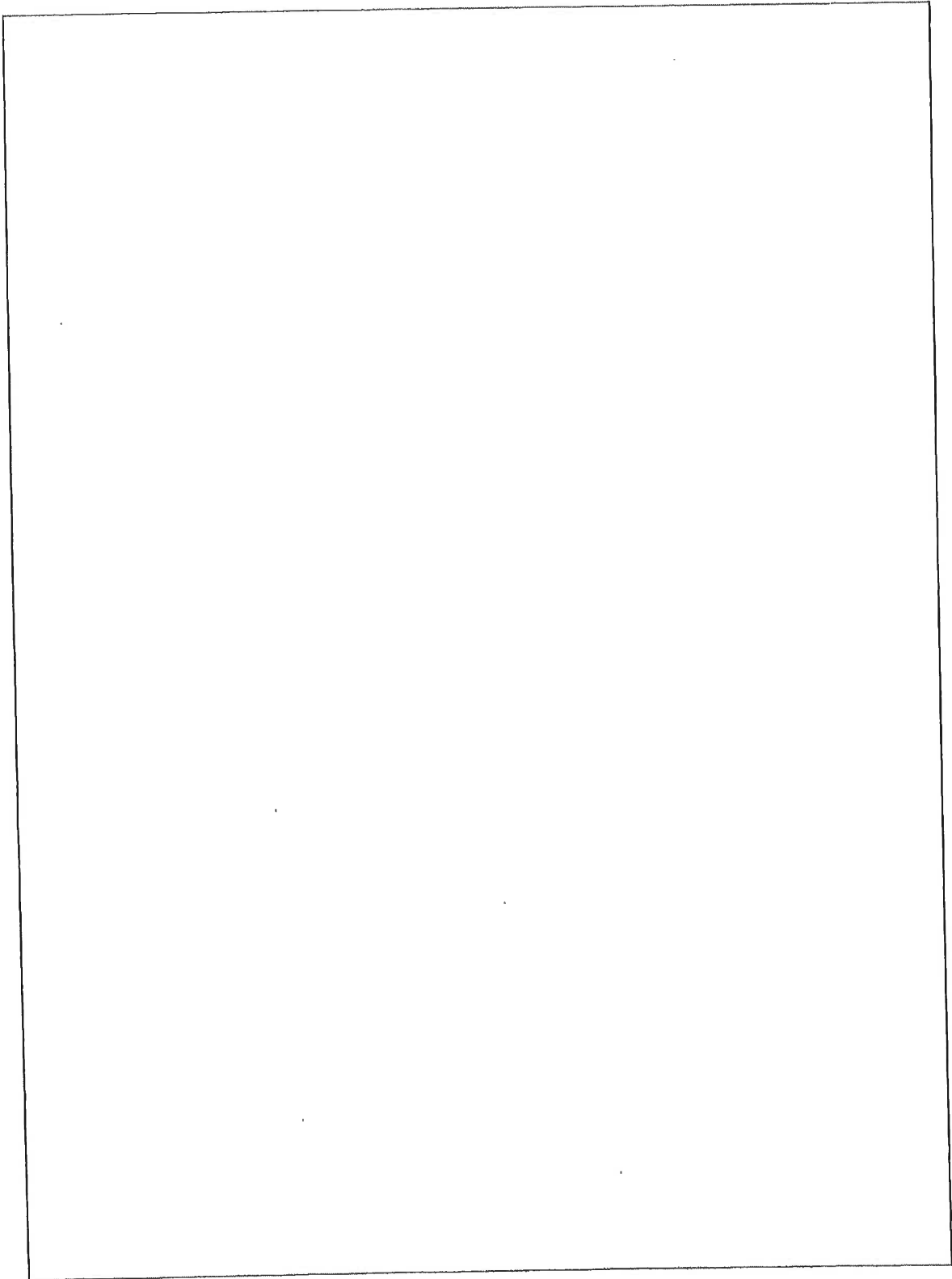
Reasons

1. The tribunal is mindful of the guidance of the High Court in R (on the application of SC) & SoS Health [2005] EWHC 17 (Admin). In particular, the tribunal must consider such matters as the nature, gravity and circumstances of the patient's offence; the nature and gravity of the patient's mental disorder – past, present and its likely future prognosis (including the risk and likelihood of a recurrence or exacerbation of any mental disorder); the risk and likelihood of the patient re-offending; the degree of harm to which the public may be exposed if the patient re-offends, and the risk and likelihood of the patient needing to be recalled in the future for further medical treatment in hospital. The tribunal should also consider the nature of any conditions previously imposed (whether by the tribunal or the Secretary of State), the reasons why they were imposed, and the extent to which it is desirable to continue, vary and/or add to them.
2. In relation to each of these various matters, the tribunal has reached the following conclusions for the reasons that the tribunal now gives.
- 3.



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21. OUR FINDINGS

22. We had regard to authorities and skeleton arguments on behalf of both parties. We exercise our discretion in favour of for the following reasons:

23. We had sympathy with the arguments made by the Responsible Authority that the framework remains valuable and that the benefits of remaining on the conditional discharge will also enable to be on the most appropriate framework for

managing her mental health on her release and that she should be subjected to dual frameworks that will work alongside each other. The applicants' arguments are that the life licence with Parole Board conditions could attempt to replicate the Mental Health Act (MHA) framework.

24. The Responsible Authority argues that there are very good reasons to prefer the mental health framework which is designed for managing risks specifically around mental health, stated that the MHA framework is essentially a medical one. She argued that both frameworks are required. It is operated with central involvement from clinicians and practitioners who specialise in helping people with mental disorders. While it is accepted that those overseeing life licences and parole will be managing individuals with mental disorders, it is not the same expertise than the one she is currently under in the event she requires ongoing liability to detention. Further, life licence conditions could only facilitate a transfer to hospital after she was recalled to prison, which would both increase the restrictions on and slow the process of her inpatient admission if one were required.
25. submitted that the maintenance of s41 also allows for continuity of care for between the different settings in which she may be residing. She referred to Dr evidence above and notes at paragraphs 74-76 of her report referring to the benefits of remaining under a team with continuity of care for her, which exist both now and would continue to exist after her eventual release from prison.
26. R (on the application of SC) & SoS Health [2005] EWHC 17 (Admin) is relevant but this has to be considered that Conditional Discharge envisages discharge into the community long term and the criteria were formulated to manage risk in the community. serving a life sentence in Prison; the sentence is years, and she is unable to apply to Parole Board until Prison sentence is her future pathway. The risks are currently contained in Prison. is fully compliant with her care and treatment plan and if she were to deteriorate the recall power could not be used as she is not a community patient and she would be transferred under section 47/49. The recall power currently has no relevance in her management of mental health and risk. It currently serves no useful purpose. We are being asked by the Responsible Authority to consider its value in years in the event she may be released by the Parole Board on Licence.
27. Legally we have to consider the purpose of section 41 currently, not in or years when she may or may not be released on Life Licence. We are unable to foresee or speculate what would happen in years. Her current life imprisonment is relevant in our consideration. The section 41 order is not required NOW but we are being asked to consider its relevance in years, until then it will remain dormant, the circumstances are not foreseeable, and it is clear the restriction order will serve no useful purpose for next years.
28. We had regard to risk and management of the risk that Responsible Authority are concerned about. The life sentence will never end. will be released only (i) once she has served the minimum term and (ii) if the Parole Board is satisfied that detaining her is no longer necessary for the protection of the public. If she is ever released, she will remain on licence for the rest of her life, and if she is then thought to be a risk to the public, she will be recalled to prison; there is no need for her to have committed another offence in order to be recalled. If she is recalled to prison and requires hospital treatment, the statutory transfer provisions will be available then as they are now, and the transfer can be expedited under section 47/49.

29. [redacted] will be entitled to apply to the Parole Board for release on life licence in around [redacted] when she is [redacted] years old. The Parole Board will then consider whether the risk of serious harm can be managed safely in the community, and if so persuaded, then her release will be directed on life licence, subject to standard and bespoke conditions. In addition, she will be eligible for section 117 aftercare. If it finds that the risk is not safely manageable, then release will not be directed. If asked by the Secretary of State to do so, the Parole Board will also consider the appropriateness of recommending transfer to open conditions.

30. Life licence is similar to a s.73 of the Act (conditional discharge) and is robust in managing risk, a life licence can include bespoke and unique conditions to manage her mental health in the community. The Parole Board would need to be satisfied that she will be managed by skilled psychiatric professionals in the community, without which they would not order release given her serious risk history. The purpose of a life licence is to ensure that a released prisoner's risk is managed, however that risk arises. Where deterioration in mental state is associated with risk, that is a factor that will be taken into account in the bespoke formulation of licence conditions. Life licence is a more stringent protection from harm than a restriction order because if a conditionally discharged patient refuses to abide by the conditions of discharge, they may be recalled to hospital only if the Secretary of State has evidence to satisfy him that the criteria for compulsory admission to hospital are satisfied, whereas in the case of a life licence, if the prisoner does not abide by the licence conditions they may be recalled to prison immediately.

31. The purpose of the restriction order which will remain dormant and subsumed into and superseded by the purpose of the life licence is redundant. Both employ the same means to address that risk: conditional release, tailored to the individual prisoner's circumstances.

32.

33. It is clear that [redacted] will be managed by Life Licence in future and that section 41 currently serves no real useful power now or in next [redacted] of a century. We are satisfied that statutory supervision, currently serves no purpose.

Judge  
Date: