

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2231

Title: The Mayor's judicial review of the Parole Board's recommendation to release John Worboys

Executive summary

The Mayor has indicated his serious concerns about the decision of the Parole Board of England and Wales, reported on 4 January 2018, to recommend the release of John Worboys from prison. John Worboys was convicted in 2009 of 19 offences against 12 women, including one rape, although the total number of victims is believed to be much higher. Many of his crimes were committed in Greater London. He was sentenced on 21 April 2009 to an indeterminate sentence with a minimum term of 8 years (less time served), which expired on 14 February 2016. At an oral hearing on 8 November 2017 a panel of the Parole Board of England and Wales considered whether it was necessary for the protection of the public for John Worboys to continue to be detained. The decision to release Worboys so soon has caused very serious concern for his victims, many of whom still live in London, and among members of the public more widely. It is considered that the decision of the Parole Board of England and Wales should be subject to scrutiny by the courts to provide reassurance that it was lawful. The Mayor is therefore invited to agree to issue judicial review proceedings challenging the decision.

Decision

That the Mayor agrees to:

- Issue a judicial review claim with the Mayor as claimant against the Parole Board of England and Wales's decision to release John Worboys from prison; and
- If necessary, apply for interim relief against the Secretary of State for Justice to prevent John Worboys being released from prison before judgment has been given in the judicial review claim.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

30.1/18

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required – supporting report

1. The Mayor's judicial review of the Parole Board's recommendation to release John Worboys

- 1.1 The Mayor has indicated that he has serious concerns about the implications of the decision of the Parole Board of England and Wales to recommend the release of John Worboys from prison.
- 1.2 John Worboys was convicted in 2009 of 19 offences against 12 women, including one rape, although the total number of his victims is believed to be much higher (more than 100). Many of his crimes were committed in Greater London, where he lived and worked as a black cab driver. He was sentenced on 21 April 2009 to an indeterminate sentence with a minimum term of 8 years (less time served), which expired on 14 February 2016.
- 1.3 At an oral hearing on 8 November 2017 a panel of the Parole Board of England and Wales considered whether it was necessary for the protection of the public for John Worboys to continue to be detained. Following that hearing, on a date which has not been confirmed, the Parole Board decided to recommend John Worboys for release. The decision was first reported on 4 January 2018.
- 1.4 The Mayor is aware that the proposed release of John Worboys has caused very high levels of concern amongst his victims, many of whom still live in London, and amongst Londoners more widely. Mr Worboys is understood to own property in London and his victims fear that he will return to the area once he is released. No information has been provided about the likely conditions of release and whether there will be any restriction on Mr Worboys' ability to live or work in London.
- 1.5 It is of particular concern that there is no transparency around the Parole Board's decision-making process so that the public cannot know what factors were taken into account in reaching the decision to release him. By bringing a judicial review claim of the decision, the Mayor can ensure that the decision is properly scrutinised by the courts, to provide reassurance that it was taken lawfully. The Mayor is therefore invited to issue judicial review proceedings challenging the decision.
- 1.6 The Mayor is asked to agree:
 - To issue a judicial review claim against the Parole Board of England and Wales's decision to recommend the release of John Worboys from custody; and
 - If necessary, apply for interim relief against the Secretary of State for Justice to prevent John Worboys being released from custody before judgment has been given in the judicial review claim.

2. Equality comments

- 2.1 Under section 149 Equality Act 2010 the Mayor must, when exercising his functions have due regard to the need to:
 - eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.

- 2.2 The proposed judicial review challenge will provide some reassurance to the female victims of John Worboys and to women and girls in London generally, by ensuring that the Parole Board's decision is properly scrutinised by the court. The Mayor considers that the victims should have had their views and concerns about their safety taken into account when the Parole Board of England and Wales considered whether to recommend the release of John Worboys. Until the decision has been reviewed by the Courts, the victims and other vulnerable female members of the public cannot be confident that Mr Worboys no longer poses a threat to their safety.

3. Financial comments

- 3.1 It is not known at this stage what the total legal costs arising for the GLA from this claim will be. The level of costs will depend on a number of factors which are not known at this stage, most particularly whether it will be necessary to apply for injunctive relief against the Secretary of State for Justice. In addition to the Mayor's own legal costs, if the challenge is unsuccessful there are likely to be adverse costs payable. The best estimate at this stage is that total legal costs will be between £75,000 to £125,000. Costs will be carefully monitored and officers will be kept informed as matters proceed, if this estimate changes significantly. The costs which do arise will be met from the contingencies available within the GLA budget.

4. Legal comments

- 4.1 Part II Greater London Authority Act 1999 (as amended) (GLAA) sets out the general functions and procedure of the GLA, starting with the general power in section 30, which provides as follows:-

(1) The Authority shall have power to do anything which it considers will further any one or more of its principal purposes.

(2) Any reference in this Act to the principal purposes of the Authority is a reference to the purposes of –

(a) promoting economic development and wealth creation in Greater London;

(b) promoting social development in Greater London; and

(c) promoting the improvement of the environment in Greater London.

The section 30 functions are exercisable by the Mayor acting on behalf of the GLA (s.30(10)).

- 4.2 Section 31 GLAA sets out the limits on the general power, and provides that the s.30 powers shall not be used where it would involve incurring expenditure in doing "anything which may be done by" Transport for London, MOPAC, LFEPA (the London Fire and Emergency Planning Authority) or a Mayoral Development Corporation. Neither must the power be used to incur expenditure in providing education services; social services or health services which may be made by a London borough, the Common Council or any other public body.
- 4.3 The social development powers in section 30 (2) (b) are interpreted broadly. It is considered that they are sufficiently broad to permit the Mayor to bring a judicial review challenge to the Parole Board's decision. The following factors would support reliance on the social development power:

- Generally, the tackling of crime and protection of vulnerable members of the public are measures which contribute to social development; violence against women and girls is one of the priorities identified in the Policing and Crime Plan;
- Any release of Mr Worboys which does not prevent him from entering the Greater London area is likely to cause extreme distress to those of his victims who live in the area and general concern and fear amongst women and girls in the Greater London area;
- If there is no legal challenge to the Parole Board's decision then there will be no scrutiny of that decision as there is no information in the public domain to allow for such scrutiny; this undermines the confidence of members of the public in the criminal justice system which may have implications for the tackling of crime in London.

4.4 On the basis that the section 30(2) (b) power is sufficiently broad, it is then necessary to consider the limitations in section 31(1).

4.5 The question then is whether any of the other functional bodies, and MOPAC in particular, would have the power to bring the proposed judicial review challenge. Having had regard to the scope of MOPAC's statutory powers, it is considered that they are not sufficiently broad to cover the bringing of a JR claim by MOPAC against the Parole Board's decision. There is no express power to do so and the subject matter of the proposed claim is too remote from MOPAC's functions to permit this. This means that the limitation on the use of the Mayor's social development powers does not apply.

4.6 That being the case, the social development powers in section 30 (2)(b) can be relied on by the Mayor to bring a judicial review claim against the Parole Board's decision, for the reasons set out above.

4.7 In determining whether or how to exercise the power conferred by section 30(2)(b) the Mayor must:

(i) have regard to the effect that the exercise of his powers will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom and climate change and its consequences (sections 30(3-5) GLAA;

(ii) pay due regard to the principle that there should be equality of opportunity for all people (section 33 GLAA); and

(iii) have due regard to the Public Sector Equality Duty (as to which see section 2 above).

These matters have duly been taken into account.

4.8 In addition to the matters set out above, where the Mayor is proposing to use the power conferred by section 30(2)(b) GLAA, the Mayor must consider consulting in accordance with section 32 GLAA. In the context of this decision, it is not considered that any consultation is necessary.

4.8 The decision is in accordance with the Authority's decision-making framework.

Appendices

None.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form? NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Tom Middleton has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Nick Bowes has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 29 January 2018.

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

M. D. Bell

Date

25.1.18

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

D. Bellamy

Date

25/1/2018.

