

[2023] PBPH 2

Application for a Public Hearing in the case of Mr George Stephenson

Preliminary Matters

Mr Stephenson's case was referred to the Parole Board in December 2020 and was directed to an oral hearing on 1 April 2021. Mr Stephenson's oral hearing opened on 27 May 2022, which was before the new rule allowing for public hearings came into effect. On 27 May 2022, the Panel heard over three hours of oral evidence from Mr Stephenson before adjourning to seek further information. The adjourned hearing was due to continue on 21 March 2023, however, further information has since been received and the Panel Chair believes that the resumed hearing will take three days rather than one. The case has therefore been further adjourned to dates yet to be fixed.

Outcome: The application for a public hearing has not been granted. However, the Parole Board will explore whether it may be possible to support the victims to observe the resumed private hearing, subject to any necessary case management directions.

Background on the Parole Board and Public Hearings

1. The Parole Board is an independent body which acts as a court when deciding whether prisoners in England and Wales are safe to be released, or not, and makes recommendations to the Secretary of State on a prisoner's suitability for open conditions if the release test has not been met. Prisoners are referred to the Parole Board only after they have served the minimum period for punishment set by the sentencing judge ('the tariff'). When considering a case, the Parole Board's role is to consider whether a prisoner's risk can be safely managed in the community. This is the test set out in the relevant legislation. The Parole Board will not direct release unless it is satisfied that it can be managed. Public protection is always the Parole Board's primary concern.
2. The Parole Board was established in 1967. Under its rules, hearings were required to be held in private. From 20 October 2020 to 1 December 2020 the Government held a public consultation on whether parole hearings should be heard in public in some limited circumstances (public consultation: [Root and branch review of the parole system - Public consultation on making some parole hearings open to victims of crime and the wider public \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/root-and-branch-review-of-the-parole-system-public-consultation-on-making-some-parole-hearings-open-to-victims-of-crime-and-the-wider-public)).
3. In February 2021 the Government decided that the blanket ban on public hearings was unnecessary, and that public hearings in appropriate circumstances would



3rd Floor, 10 South Colonnade, London E14 4PU



www.gov.uk/government/organisations/parole-board



info@paroleboard.gov.uk



@Parole_Board



0203 880 0885



INVESTORS
IN PEOPLE | Bronze

improve transparency and could help build confidence in the parole system (outcome of the consultation: [Root and branch review of the parole system \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)).

4. At the time of publication, the then Minister of State for Justice, Lucy Frazer KC MP, said: *'We are mindful of the fact that parole hearings involve discussion of sensitive personal matters about prisoners and victims. It is important that the privacy, safety and wellbeing of hearing participants is protected, as well as ensuring that the Board can continue to properly assess prisoners' risk without the evidence on that being compromised. For these reasons we expect truly public hearings to be rare but it is right that we are removing the barrier that requires them to always be held in private. Where it can be done safely and securely, a public hearing will provide a valuable opportunity to show how the Parole Board goes about its valuable work and how decisions are made.'*
5. On 30 June 2022 a statutory instrument was laid before Parliament, containing a new rule allowing for anyone to be able to apply for a public hearing. The new rule took effect from 21 July 2022. Under the new rule, it is for the Chair of the Parole Board (the Chair) to decide whether to hold a hearing in public or not, applying an 'interests of justice' test. The Parole Board has developed Guidance on the Criteria for Public Hearings for the Chair to consider when making a decision ([Applying for a Parole review to be public - GOV.UK \(www.gov.uk\)](https://www.gov.uk)).
6. The definition in the Victims' Code of a victim is *'a person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by a criminal offence; a close relative (or a nominated family spokesperson) of a person whose death was directly caused by a criminal offence'*. A victim may also be someone who has opted into the Victim Contact Service which is run by the Probation Service. A victim, as well as the parties and members of the public, may ask for a public hearing. Before deciding whether the application meets the interest of justice test, the Chair asks for representations from the parties to the case – namely the Secretary of State and the prisoner, usually through their legal representative. The Chair will also ask the Secretary of State to find out the views of any victims involved with the case. The Secretary of State will usually seek the views of victims who are signed up to the Victim Contact Service. In some circumstances the Secretary of State may choose to seek the views of victims who have not opted into Victim Contact Service or are not eligible for the service for technical reasons. This is a matter for the Secretary of State. The Parole Board does not generally have direct contact with victims.
7. A test in the South-West of England is currently being conducted by the Ministry of Justice on victims automatically having the right to attend private hearings. The expectation is that this will be rolled out across England and Wales during 2023. Victims attending a private hearing will have to agree to maintain the privacy of that hearing. Different rules apply to public hearings.
8. Each year the Parole Board is asked by the Ministry of Justice to review the risk of approximately 900 prisoners with a conviction for murder and approximately 900 prisoners with a conviction for rape. Each prisoner referred to the Parole Board has

caused immense pain to the victims or their family and loved ones. The Parole Board tries as best it can to take this into account, but it must decide any referral according to the test set out in law.

Background to the case

9. Mr Stephenson is serving a mandatory life sentence imposed on 28 October 1987 at Winchester Crown Court. The trial judge did not set a tariff, but recommended a minimum term of 25 years. The tariff has since been set at 35 years (less time spent on remand) by the Secretary of State. Mr Stephenson became eligible to be considered for parole on 8 September 2021.
10. Mr Stephenson was convicted of the murder of four adults (two males and two females), the rape of another adult female and robbery. At the time of the index offences, he was 36 years old. Mr Stephenson was sentenced for these offences along with two co-defendants.
11. Mr Stephenson has previous convictions for approximately seventy offences committed between 1967 and 1987. These include burglaries, motoring offences, obtaining property by deception, possessing drugs and two offences for violence.
12. Mr Stephenson's case was reviewed by a Panel comprising a single member on 1 April 2021 and the case was directed to an oral hearing. As set out above, Mr Stephenson's oral hearing opened on 27 May 2022 and has since been adjourned to dates to be fixed. This is Mr Stephenson's first parole review.
13. Mr Stephenson is now 71 years old.

Details of the Application and Representations

14. On 9 February 2023 the Parole Board received an application from the Victim Liaison Officer on behalf of the victims for Mr Stephenson's hearing to be held in public. The victims originally made a request for a public oral hearing in December 2022 directly to the Victim Contact Service. However, the correct administrative processes were not then followed by the Victim Contact Service and this application was not received by the Parole Board.
15. The rules governing public hearings require that applications for a hearing to be held in public should be made at least 12 weeks ahead of the oral hearing. As stated above, this application was made on 9 February 2023, fewer than 12 weeks before the original scheduled resumed oral hearing date. Given that the victims were not to blame for the administrative error, I used a relevant power (under Rule 9 of the Parole Board Rules 2019 (as amended)) to waive the 12 weeks requirement in this case.
16. In summary, the reasons given for the application for a public hearing were:

- a. The special features of the case which was a horrific case of multiple murders and a rape.
 - b. The victims have suffered and continue to suffer. They believe that a public hearing would be of benefit to them personally.
 - c. The victims believe that justice should be seen to be done.
 - d. The victims understand that even if the application were to be granted, they would be watching the hearing remotely.
 - e. Mr Stephenson has not made an objection to the application.
 - f. No safety risks have been presented regarding the prisoner.
 - g. It is in the public interest to have a public oral hearing and the case is likely to garner media attention.
 - h. In the event that the request for a public application is not granted, the victims request that they be given permission to attend the private hearing.
17. On 10 February 2023 the Parole Board asked for representations from the parties to the case – namely the Secretary of State for Justice and Mr Stephenson through his legal representative. An extension request made on behalf of the Secretary of State had been granted until 28 February 2023.
18. In summary, the representations made on behalf of the Secretary of State (dated 28 February 2023) were:
- a. The Secretary of State supports the application and supports the reasons given in the application.
 - b. Transparency is vital to confidence in the parole system, particularly in cases where the prisoner has been convicted of very serious offences.
 - c. His Majesty’s Prison and Probation Service staff say that Mr Stephenson is in poor health and that a public hearing may cause him anxiety.
 - d. There is some particularly sensitive material which should not be disclosed publicly, however, measures could be taken to manage this.
19. In summary, the representations made on behalf of Mr Stephenson (dated 14 February 2023) were:
- a. Mr Stephenson does not wish the hearing to be held in public.
 - b. Mr Stephenson’s case has had much media coverage. Mr Stephenson has tried to live his life with minimum impact on the victims.
 - c. The co-defendants in the case have not had public hearings, although the rules did not allow this at that time.
 - d. Mr Stephenson and other witnesses may not be able to give their best evidence if the hearing is in public. Mr Stephenson has already given four hours of evidence at the first hearing. If the second hearing is in public, he may choose not to attend as it will impact on his ability to take part in the process.
 - e. There is no good reason to justify a departure from the general rule that parole hearings are in private.
 - f. This case is part heard and therefore any observers will have missed large amounts of evidence already given by Mr Stephenson.
 - g. Given the nature of the offences, there could be a significant negative impact on the victims despite their request.
 - h. Mr Stephenson has a serious health condition which could be worsened by the strain of a public hearing.

- i. Mr Stephenson is unrecognisable given that he has been in prison for 36 years. A public hearing could lead to his identification and targeting in the event of his release now or in the future.
 - j. The evidence given by professional witnesses could be impacted by the hearing being in public which has the potential to be unfair to Mr Stephenson and could lead to a flawed risk assessment.
20. I have also consulted with the Panel Chair as the Panel Chair is most familiar with the details of the case and therefore best placed to assess: (i) if a public hearing would cause a victim or prisoner undue distress or prevent best evidence being given by witnesses; (ii) if it could adversely affect a prisoner's ability to safely resettle in the community; or (iii) if it could compromise the panel's ability to assess risk.
21. The Panel Chair made some observations including:
 - a. The application is unusual in that the case is part heard.
 - b. The Panel has already heard over three hours of evidence from Mr Stephenson.
 - c. The start of this hearing pre-dates the Rules change in July 2022.
 - d. When the hearing resumes, the Panel will be questioning Mr Stephenson regarding his involvement in the offences which could be distressing to the victim.
 - e. At the hearing in May 2022, Mr Stephenson answered all the questions put to him. It would be unfortunate if a public hearing resulted in Mr Stephenson being less forthcoming.
 - f. Medical evidence will need to be heard in private.

Reasons for the Decision

22. I have considered all the information in the application, the representations, and the response from the Panel Chair. I have also taken account of the Parole Board's *Guidance on the Criteria for Public Hearings*.
23. The normal position is that parole hearings will remain in private. This is because it is of paramount importance that witnesses are able to give their best evidence. Furthermore, evidence can relate to highly personal matters including health and evidence that may be distressing to victims. There must therefore be good reasons to depart from the general rule.
24. It should be clear that I would not grant an application to have a hearing in public in circumstances where I thought that a public hearing would impact on the fairness of the hearing.
25. I am aware that there are a number of measures which can be taken to protect the fairness of the hearings. These would include the ability to take evidence in private, the ability to use code phrases to conceal sensitive information such as actual addresses, the ability to put in place conditions of attendance, and the ability

to suspend the hearing or remove any person from the hearing if they are disruptive.

26. I am also aware that recent developments in technology and Parole Board operating models have better enabled the public to attend a hearing by remote viewing. This will make it more convenient for members of the public to attend and will also minimise the potential for disruption to the hearing itself.
27. I note that, should a hearing be held in public, it is always open to the Panel Chair to use their case management powers to manage the hearing and to suspend a hearing if they feel that the proceedings are becoming unfair.
28. The victims in this case have my deepest sympathies.
29. In this case the Applicant, representing the victims, has made strong arguments for a public hearing including:
 - a. The grave nature of Mr Stephenson's offences.
 - b. The terrible impact for the victims to lose four family members and a family friend in shocking circumstances.
 - c. The ongoing suffering of the victims and their desire to see justice done.
 - d. The potential benefits to the victims of being able to attend the hearing.
30. As set out in paragraph 4, a high bar has been set for public hearings to be in the interests of justice. Notwithstanding the points set out above, I have decided that this high bar is not met in this case. My reasons are as follows:
 - a. The Rule change allowing for public hearings did not come into effect until 21 July 2022. The hearing which is the subject of this application is part heard. In the first part of the hearing, Mr Stephenson has given more than three hours of oral evidence. This evidence is likely to be fundamental to the decision of the Panel. In circumstances where evidence which is likely to be critical to the Panel's decision has not been heard in public, it is difficult to see how a public hearing would aid transparency or public understanding of the parole system or the decision in this case.
 - b. A detailed summary would provide sufficient information to the public for the reasons for the decision made at Mr Stephenson's oral hearing. This would satisfy the requirements of transparency.
31. I note that Mr Stephenson has indicated that he may not give evidence if the hearing were to be in public. Mr Stephenson's reluctance to give evidence if the hearing were to be in public has played no part in my decision.

Victim attendance at a private hearing

32. I note that in the application, the victims have requested that if the application for a public hearing is not granted, then they would like to attend the resumed private hearing.
33. As set out in paragraph 7, the Ministry of Justice is currently piloting victims attending hearings, however, this is only in the South-West of England. Regardless

of whether or not they are located in the pilot area, if any of the victims do wish to observe the private hearing, the Parole Board is willing to explore the feasibility of supporting those victims to observe the private parole hearing subject to any necessary case management conditions and also proper support being in place for them victims. The victims are therefore invited to contact the Parole Board to discuss the potential arrangements and support that may be needed at CEO@paroleboard.gov.uk.

34. It is ultimately for the Panel Chair to make the final decision on attendance at a private hearing and being satisfied that appropriate arrangements can be made.
35. If permission is granted by the Panel Chair for the victims to attend the private hearing, I note that some parts of the hearing may need to take place without the presence of the victims. However, I am satisfied that if permission is granted by the Panel Chair, a sufficient part of the hearing could be heard in the presence of the victims to allow them a deeper understanding of the parole process. The Panel Chair has extensive case management powers to enable the relevant parts of the evidence to be taken without the presence of the victims and is best placed to make the decision on how these powers should be used in Mr Stephenson's case should the Panel Chair grant permission.
36. If permission is granted, the Panel Chair may also need to hold a preliminary hearing to deal with any practical matters associated with this hearing.
37. This matter will only revert back to me if there is any fresh information which represents a significant change in the relevant circumstances.

Caroline Corby
The Chair of the Parole Board for England and Wales
23 March 2023