

[2022] PBPH 1

**Application for a Public Hearing in the case of
Mr Russell Causley**

Outcome: GRANTED

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. The Parole Board will not direct release unless it is satisfied that it can. 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://www.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 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://www.publishing.service.gov.uk/government/consultations/root-and-branch-review-of-the-parole-system)).
4. At the time of publication, the then Minister of State for Justice, Lucy Frazer QC 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/guidance/parole-board-guidance-on-the-criteria-for-public-hearings)).
6. 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.

Background to the case

7. In 1996 Mr Russell Causley was first convicted of the murder of his wife, Carole Packman (also known as Veronica), in 1985. On 5 June 2003 Mr Causley's conviction was quashed by the Court of Appeal and a retrial was ordered. In April 2004 Mr Causley was convicted again of the murder of Carole Packman and was given a mandatory life sentence. His original minimum term of imprisonment of 16 years was reduced to a period of punishment of 8 years in recognition of the term he had by then served in custody on his first conviction for the murder of Carole Packman. Mr Causley's tariff period expired on 27 June 2012. Including the most recent referral following recall, Mr Causley's case has now been referred to the Parole Board seven times. Mr Causley has spent over 23 years in custody. The Parole Board's regular reviews have meant that prior to his initial release, Mr Causley has spent 8 years longer in custody than the minimum period given for punishment by the sentencing judge.
8. Following a decision by the Parole Board dated 7 September 2020, Mr Causley was initially released by the Parole Board under a Risk Management Plan with licence requirements to wear an electronic monitoring device, exclusion zones and non-contact prohibitions to prevent him contacting the victims, and a requirement to reside at an approved premises.
9. In November 2021 Mr Causley was recalled to custody for breaching his licence conditions. On 6 October 2022, a three-member panel will decide whether or not Mr Causley meets the statutory release test.
10. Mr Causley is now 79 years old.
11. Mr Causley has never revealed the whereabouts of Carole Packman's body. The provisions of the Prisoners (Disclosure of Information about Victims) Act of November 2020, commonly known as Helen's Law, apply to this referral.

Details of the Application and Representations

12. Between 22 July 2022 and 29 July 2022 the Parole Board received four applications for Mr Causley's parole hearing to be held in public – one from a victim, two from the

media, and one from an academic. A further letter of support for a public hearing in this case from a victim was also received on 26 July 2022.

13. The new rule requires that applications for a hearing to be held in public should be made at least 12 weeks ahead of the oral hearing. Given that the Parole Board's new rule only came into effect on 21 July 2022, I used a relevant power to waive the 12 weeks requirement in this case.

14. In summary the reasons given in the four applications for a public hearing were:

- Mr Causley is a one of a small number of prisoners with a murder conviction who has not revealed the whereabouts of the body of his victim.
- A public hearing would improve understanding of the parole process, and eligibility of prisoners for parole, particularly for the most serious offenders.
- To keep the hearing in private would undermine public confidence in the criminal justice system, given the high level of public interest in the case.
- The victims were part of the campaign for Helen's Law and the victims wish for the hearing to be in public. There is a legitimate public interest in seeing how Helen's Law works in practice.
- The victims have been distressed by hearing of the varying accounts given by Mr Causley at parole hearings about the death of Carole Packman and wish to be present when he gives an account.
- A public hearing would be beneficial to the victims. It would increase their understanding of the Parole Board process and alleviate the stress placed on their mental health by not knowing what is going on.
- The hearing is following a high-profile recall decision and a public hearing could aid understanding of this aspect of the work of the Parole Board. It would enable the public to understand how public protection is considered and why the parties to this process take the positions that they do.
- Steps could be taken to ensure that any sensitive material was not reported. This would include some sensitive details being discussed in private. The media are experienced in reporting hearings without revealing sensitive details of the evidence and can be trusted to do so.
- The ability to hold parole hearings in public was introduced in anticipation of a public hearing in this type of case.
- Mr Causley's willingness to share details of his account in the past should be borne in mind when considering any reluctance to do so now.

15. On 28 July 2022, the Parole Board asked for representations from the parties to the case – the Secretary of State for Justice and Mr Causley, through his legal

representative. Having seen those representations, I sought further clarification on some issues from the parties and further representations were subsequently received from both parties.

16. I have also consulted with the Panel Chair as the Panel Chair is 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.

17. In summary, the representations made of behalf of the Secretary of State (dated 11 August 2022 and 31 August 2022) were:

- The Secretary of State supports the application for a public hearing in this case.
- A public hearing will increase transparency, which is vital to building confidence in the parole system.
- Public hearings are particularly beneficial for cases of offenders convicted of very serious offences; Mr Causley is serving a sentence for murder, the gravest of offences.
- The reason for changing the Parole Board Rules was to allow for public hearings in this type of case.
- Attendees at a public hearing would be observing a hearing remotely and therefore there should be limited impact on the proceedings. The Secretary of State did not provide details of any past disruptive events.

18. In summary, the representations made of behalf of Mr Causley (dated 12 August 2022 and 26 August 2022) were:

- Mr Causley does not wish the hearing to be in public.
- The victims have been given permission to attend a private hearing under the South West victim attendance test and so a public hearing is not necessary.
- Mr Causley's rights under the European Convention on Human Rights were engaged. He says that his rights under:
 - Article 2 (right to life) may become breached by vigilante action if details of his release became known to the public;
 - Article 5 right (liberty and security and freedom from unreasonable detention) may become breached if a fair process cannot be followed in his case; and
 - Article 8 right (respect for private and family life) may become breached by giving evidence about himself in public.

- A public hearing may prejudice any resettlement plan by making it more difficult for the probation service to manage Mr Causley on release.
- Mr Causley would not be able to give his best evidence in a public hearing and might decline to give evidence entirely.
- A summary of the decision should be sufficient in terms of transparency and public understanding.
- The Parole Board lacks the ability to put in place the same reporting restrictions as a court.
- A departure from open justice can be justified if open justice would lead to unjust outcomes.
- Concerns about the potential impact of a public hearing on the victims.
- The issues arising from Helen's Law can be adequately addressed through a summary.
- That notoriety should not result in prisoners being treated differently.
- That the public's attendance at a hearing might result in disruption to the hearing.

Reasons for the Decision

19. I have considered all of the information in the applications and the representations and have also taken account of the Parole Board's Guidance on the Criteria for Public Hearings.

20. 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.

21. 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.

22. I am aware that there are a number of measures which can be taken to protect the fairness of the hearing. These will 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.

23. 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.

24.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.

25.In the application for a public hearing in the case of Mr Causley, I have decided that there are special features, which set it apart from other cases, which may add to the proper public understanding of the parole system. These are:

- Mr Causley’s case is the first case where the prisoner has not disclosed the location of the body of the victim since the passing of the Prisoners (Disclosure of Information about Victims) Act of November 2020 and the changes to the Parole Board rules on 21 July 2022 allowing for public hearings. Although the primary focus of the hearing will be the reasons for recall and the assessment of risk, it will be the first opportunity for the public to see how the Parole Board approaches this issue at a hearing, which is a relevant factor.
- Mr Causley has been convicted of a serious offence, namely murder. The seriousness of the crime raises the potential for the interests of justice to require a public hearing.
- The Parole Board’s work is often misunderstood by the public. Mr Causley’s case is a high profile one. There is a wide range of support for a public hearing from a number of people, including the victims and the media. It also relates to a recall. The Parole Board’s work on recall cases is less well understood. There is therefore a public interest in increasing understanding which can properly be taken into account when considering the interests of justice.
- The victims clearly wish to attend a public hearing rather than a private hearing. The victims feel that a public hearing would be personally beneficial to them. Although the victims have been given permission to attend a private hearing, and so will be able to observe the hearing in any case, their support for a public hearing is relevant and can also be taken into account.

26.I note that some parts of the hearing will need to be in private, however, a sufficient part of the hearing can be heard in public to allow for 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 in private, and is best placed to make the decision on how these powers should be used in Mr Causley’s case.

27.I also note that Mr Causley has indicated that he may not give evidence if the hearing is in public. Mr Causley was asked for any supporting evidence. I have read a recent medical report. No medical evidence has been produced to support the contention that Mr Causley could not give evidence if the hearing were in public. As noted above, protective measures can be put in place to safeguard the most sensitive evidence. I am satisfied that this will enable the proceedings to be fair. Mr Causley’s evidence is a matter for Mr Causley.

28. There was no suggestion from either Mr Causley or the Secretary of State that any other witness would be inhibited from giving their evidence if the hearing was to be in public.
29. I have carefully considered Mr Causley's representations and have concluded that the interests of justice outweigh the points raised on Mr Causley's behalf.
30. I therefore grant the application for the hearing to be held in public.
31. The next step is that the Panel Chair will hold a preliminary hearing to deal with practical issues associated with the hearing.
32. 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
7 September 2022