

## [2022] PBPH 3

### Application for a Public Hearing in the case of Mr Andrew Cole

Mr Andrew Cole has been given a new name under a lifelong anonymity order. In order to respect this order, I will use the prisoner's original name, Mr Cole, throughout this decision.

**Outcome:** The application for a public hearing in the case of Mr Cole has not been 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 \(publishing.service.gov.uk\)](#)).
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 \(publishing.service.gov.uk\)](#)).
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, changing the rules to allow anyone to be able to apply for a public hearing. The new rules took effect from 21 July 2022. Under the new rules, 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-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. On 5 November 1998, Mr Cole, received a life sentence with a minimum tariff of 15 years (reduced to 11 years on appeal) for the murders of Fiona Ovis and William Crompton in May 1996. Mr Cole's tariff expired in 2007.
8. The Parole Board directed Mr Cole's release on 13 October 2015 with a residency requirement and other licence conditions. Mr Cole was recalled to custody on 6 July 2018 for breaching his licence conditions.
9. Mr Cole's case has not yet been given an oral hearing listing date. Once the hearing is listed, this will be Mr Cole's second parole hearing since his recall.
10. Mr Cole is now 53 years old.

## **Details of the Application and Representations**

11. On 22 September 2022, the Parole Board received an application from a member of one of the victims' families for Mr Cole's parole hearing to be held in public.
12. In summary, the reasons given for the application for a public hearing were:
  - It would be personally beneficial for the victims.
  - It would allow the victims in this case to feel as though they have had some involvement in the process as they have felt side-lined in the past.

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

 [www.gov.uk/government/organisations/parole-board](https://www.gov.uk/government/organisations/parole-board)

 [info@paroleboard.gov.uk](mailto:info@paroleboard.gov.uk)

 @Parole\_Board

 0203 880 0885



- The victims believe that Mr Cole continues to be a danger to the public and that it is therefore in the public interest that his case be heard in public.
13. On 30 September 2022, the Parole Board asked for representations from the parties to the case – the Secretary of State for Justice and Mr Cole, through his legal representative.
14. In summary, the representations made on behalf of the Secretary of State, dated 21 October 2022, were:
- Increased transparency is vital to building public confidence in the parole system, particularly when the Parole Board is reviewing an offender convicted of a very serious offence.
  - The Victim Liaison Officers have contacted all the victims and no objections were raised to a public hearing.
  - There is a lifelong anonymity order in place and this must be taken into consideration.
  - The Probation Service believes that a public hearing has the potential to create difficulties in terms of future risk management plans should Mr Cole's identity become known. This could impact on the Probation Service's ability to protect the public.
15. In summary the representations made on behalf of Mr Cole, dated 12 October 2022, were:
- Mr Cole has not had sight of the application and so is unaware of the grounds.
  - Mr Cole wishes the hearing to be in private as there has been, in his view, a social media campaign to identify and vilify him.
  - Mr Cole has changed his name. Notwithstanding this, when last released his whereabouts became known, causing him anxiety and fear.
  - A public hearing could cause Mr Cole emotional stress.
  - If the hearing were in public, Mr Cole may not feel able to be as open in his evidence.
  - The public will have access to a summary of the hearing which would exclude sensitive personal information.
  - The interests of the public must be proportionate to any perceived risks to the prisoner and interests of justice.
16. I have not consulted with a Panel Chair as the case has not yet been allocated and thus a panel chair has not yet been appointed.

## Reasons for the Decision

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

18. 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.
19. 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.
20. I am aware that there are a number of measures which can be taken to protect the fairness of the hearing. 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.
21. 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.
22. 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.
23. I note the high bar that has been set for a public hearing to be in the interests of justice.
24. I have decided that in this case the high bar for a public hearing is not met. My reasons are as follows:
  - I have the deepest sympathy for the victims. However, although this case is very distressing, there are no special features of this particular case which set it apart from other cases and which may therefore add to the proper public understanding of the parole system.
  - Mr Cole has been given a new name under a lifelong anonymity order. If the hearing were held in public, it could prejudice the lifelong anonymity order.
  - The Probation Service believes that a public hearing could make any risk management plans harder to implement and could therefore impact on their ability to protect the public.
  - A summary should provide sufficient information to both the victims and the public about the reasons for the decision made at Mr Cole's oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.
25. I have therefore decided not to grant the application for Mr Cole's hearing to be held in public.

26. 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**  
**31 October 2022**