

[2023] PBPH 4

Application for a Public Hearing in the case of Mr Stephen Ling

Outcome: The application for a public hearing has 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. 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 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/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 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*



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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-review-to-be-public)).
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. On 2 December 1998, Mr Ling pleaded guilty to murder (the index offence). An offence of rape was ordered to lie on the file. The minimum prison term was set at 18 years less time spent on remand. Mr Ling's Tariff Expiry Date was 26 December 2015.
10. Following reviews in 2020 and 2022, the Parole Board recommended that Mr Ling be moved to open conditions. The Secretary of State did not accept these recommendations and Mr Ling remains in the closed prison estate.
11. The most recent referral was considered by a Parole Board member on 30 January 2023 and the matter has been referred to an oral hearing. The date of the oral hearing has not yet been set. This will be Mr Ling's fifth review by the Parole Board.
12. At the time of the offence Mr Ling was 24 years old. Mr Ling is now 48 years old.

Details of the Application and Representations

13. On 20 February 2023, the Parole Board received an application for Mr Ling's hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
 - a. Mr Ling has committed a brutal attack.
 - b. There was a public outcry following previous Parole Board recommendations that Mr Ling be moved to open conditions.
 - c. Given current campaigns to protect women and girls, it is in the public interest for the parole process to be transparent.
 - d. Victims and the public need to understand the parole process to restore confidence in the justice system.
14. On 21 February 2023 the Parole Board asked for representation from the parties to the case – namely the Secretary of State for Justice and Mr Ling through his legal representative. An extension request made on behalf of the Secretary of State was granted until 14 March 2023.
15. In summary, the representations made on behalf of the Secretary of State (dated 10 March 2023) were:
 - a. The Secretary of State supports the application.

- b. Increased transparency is vital to building public confidence in the parole system, particularly for the most serious offenders.
 - c. Staff who work directly with Mr Ling have expressed concern about his reaction to and engagement with a public hearing, however, the Parole Board can take measures to ensure that sensitive information remains private.
 - d. The Victim Liaison Officer has confirmed that no victims have raised objections to a public hearing.
16. In summary, the representations made on behalf of Mr Ling (dated 14 March 2023) were:
- a. Mr Ling does not want the hearing to be in public.
 - b. Mr Ling has expressed anxiety about a public hearing and may feel inhibited at the hearing, although he is aware that parts of the hearing could still be in private.
 - c. A public hearing might trigger negative thoughts for Mr Ling.
 - d. Given the previous two rejections by the Secretary of State of the recommendation for a move to open prison conditions, Mr Ling must make an application for release with a robust risk management plan. Any risk management plan could be compromised by a public hearing.
 - e. At the last two reviews, all professional witnesses supported progression. A public hearing could inhibit open and honest discussion at the hearing.
 - f. Given the interest in this case, reporting of it is likely to be sensationalised.
 - g. The public can request a summary of the decision.
 - h. It is difficult to see how if the case is heard in public, it can be fair to Mr Ling.
17. A date for the oral hearing has not yet been set and therefore a Panel Chair has not yet been appointed.

Reasons for the Decision

18. I have considered all the information in the application and the representations. I have also taken account of the Parole Board's *Guidance on the Criteria for Public Hearings*.
19. 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. However, where there are good reasons to depart from the general rule, adjustments can be made to ensure that a public hearing is fair.
20. 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.

21. 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.
22. 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.
23. 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.
24. The victims in this case have my deepest sympathies.
25. In the application for a public hearing in the case of Mr Ling, 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. There are:
 - a. Mr Ling has been convicted of a serious offence, namely a brutal murder. The seriousness of the crime raises the potential for the interests of justice to require a public hearing.
 - b. Although there were sexual elements to the index offence, because the rape charge was left to lie on file, if released, Mr Ling would not appear on the Sex Offenders Register. It is in the interests of justice for this situation to be better understood by the public.
 - c. The Parole Board's work is often misunderstood by the public. Mr Ling's case is a high profile one and it is likely to be of interest to the public and the media. Mr Ling has twice been recommended by the Parole Board for open conditions and these recommendations have not been accepted by the Secretary of State. The Parole Board's role in recommendations for open conditions is not well understood. There is therefore a public interest in increasing understanding which can properly be taken into account when considering the interests of justice.
 - d. The applicant wishes to attend a public hearing rather than a private hearing. The Secretary of State has confirmed that the victims do not object to a public hearing. Although the victims may in due course have been granted permission to attend a private hearing, 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 Ling's case.
27. I have carefully considered Mr Ling's representations and have concluded that the interests of justice outweigh the points raised on Mr Ling's behalf.
28. I note that Mr Ling has indicated that if the hearing were to be public, Mr Ling may feel inhibited and stressed. No medical evidence has been produced to demonstrate that Mr Ling could not give evidence in public. As noted above, protective measures can be put in place to safeguard the most sensitive evidence, such as the relevant parts of the risk management plan.
29. I do not accept that professional witnesses would not be honest and frank at a public hearing, whether they were recommending Mr Ling's progression or not.
30. I am satisfied that with suitable measures the proceedings will be fair if the hearing is held in public.
31. I therefore grant the application for the hearing to be held in public.
32. The next step is that the Panel Chair will hold a preliminary hearing to deal with the practical issues associated with the hearing.
33. 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

20 April 2023