

[2023] PBPH 7

Application for a Public Hearing in the case of Mr Christopher John Farrow

Outcome: The application for a public hearing 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. 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 \(publishing.service.gov.uk\)](#)).
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 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/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 14 November 2000, following guilty pleas, Mr Farrow received a life sentence of imprisonment for murder together with an indeterminate sentence of 14 years for counts of rape and buggery and 4 years for attempted burglary with intent to rape (the index offences) all of which were committed on 15 March 1994. The life sentence had a tariff for punishment of 18 years less time served. This tariff expired on 16 March 2018.
10. The most recent referral was considered by a member of the Parole Board on 21 March 2022 and the matter was referred to an oral hearing. The oral hearing took place on 25 November 2022 but was adjourned on the due day as a result of new information being provided. The adjourned oral hearing is scheduled for 31 May 2023.
11. Mr Farrow was 51 years old at the time of the offences.

Details of the Application and Representations

12. On 8 March 2023, the Parole Board received an application for Mr Farrow's oral hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
 - a. That the victim was unknown to Mr Farrow and the murder was therefore a random murder. This is rare and therefore there is a public interest.
 - b. There has been interest from the media in the case
 - c. The public are concerned about a recent spate of murders of vulnerable, lone women.
 - d. The public are concerned about how the Parole Board deals with prisoners who could impact on their safety.
 - e. Action needs to be taken to keep dangerous prisoners in prison.
 - f. A public hearing would demonstrate that the Parole Board listens to the public and victims. It would also demonstrate respect and dignity for interested parties.

13. On 24 March 2023 the Parole Board asked for representations from the parties to the case, namely Mr Farrow and the Secretary of State for Justice. An extension request made on behalf of the Secretary of State was granted until 28 April 2023.

14. In summary, the representations made on behalf of the Secretary of State (dated 25 April 2023) were:

- a. The Secretary of State remains neutral on the application for a public hearing.
- b. Increased transparency is vital to building public confidence in the parole system, particularly for the most serious offenders.
- c. The victims have been contacted. Some victims would like the hearing to be public as there is a public interest in understanding Parole Board decisions and in highlighting violence against women. Other victims do not support a public hearing and the attention that this might bring.
- d. Professionals working with Mr Farrow are concerned that Mr Farrow may experience unnecessary stress if the hearing is in public. The Secretary of State contends that this is not a reason to reject the application.
- e. Mr Farrow could use a public hearing hearing to inflict further emotional harm on the victims.

15. In summary, the representations made on behalf of Mr Farrow (dated 28 April 2023 but received on 3 May 2023 due to Mr Farrow not being able to approve the submissions any earlier):

- a. Mr Farrow does not support the application for a public hearing.
- b. Mr Farrow's case was referred to the Parole Board in October 2021 which predates the Rule change in July 2022 so a public hearing is not permitted. Mr Farrow asks that the application be refused on this point.
- c. Mr Farrow may not receive a fair hearing if it is in public.
- d. Mr Farrow regrets his offending. He would support efforts to explore whether victims attending the private hearing is possible.
- e. Mr Farrow's case has received media attention. A public hearing could impact on his resettlement plans and expose others to distress. Mr Farrow has spent time in an open prison and is likely to make a release application.
- f. If the hearing is in public Mr Farrow will not give evidence; he would in a private hearing.
- g. Mr Farrow is likely to be questioned on private matters and he could not be as open in a public forum. It is therefore in the interest of justice that his evidence be taken in private.
- h. Mr Farrow believes a public hearing could negatively impact on the victims.
- i. The Secretary of State has submitted additional evidence, involving other witnesses, who could be negatively affected by a public hearing.
- j. Significant matters will need to be heard in private, meaning the public would not understand the basis of any decision.
- k. A summary of the decision would provide sufficient information.
- l. There is no public policy interest in this case.



- m. There are no reasons to depart from the normal position of a private hearing.
16. 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 resettlement in the community; or (iii) if it could compromise the panel's ability to assess risk.
17. The Panel Chair has made some observations including:
- a. The panel will be considering further evidence of a confidential nature.
 - b. There has been media interest in the case.
 - c. If victims do not wish the hearing to be in public, this could cause them emotional stress.
 - d. Mr Farrow might not choose to give evidence in public. In any event much of the evidence will need to be heard in private.
 - e. Arrangements could be made for part of the hearing to be in private and part in public, however, this is likely to lead to delays for a case which has already been delayed by the introduction of further evidence.

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, adjustment 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. I note the high bar that has been set for a public hearing to be in the interests of justice and I have decided that this high bar is not met in this case. My reasons are as follows:
- a. Although this case of murder, sexual and other offences is 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.
 - b. The victims have been contacted. Although some victims support a public hearing, some victims oppose a public hearing believing that it would cause them further distress. The views of all victims weigh very heavily with me.
 - c. There is a significant amount of evidence in this case which will need to be heard in private. It is difficult to see how public understanding of the decision can be achieved in these circumstances.
 - d. A summary should provide sufficient information to both the victims and the public about the reasons for the decision made at Mr Farrow's oral hearing. This would satisfy the requirements of transparency.
26. I therefore do not grant the application for the hearing to be held in public.
27. I note that if I had granted a public hearing, Mr Farrow might have chosen not to give evidence. This has not influenced my decision. Mr Farrow's evidence is a matter for Mr Farrow.
28. Representations made on behalf of Mr Farrow argued that the an application for a public hearing should not be permitted as Mr Farrow's referral to the Board predates the rule change in July 2022. It should be noted that under Rule 3(2) of the Parole Board Rules 2019 (as amended) states that 'cases referred to the Board before the date on which these Rules come into force continue under these Rules, and are treated as if the case was referred under these Rules'. In light of this, Mr Farrow's referral is to be treated as being referred under the amended Rules (which came into effect in July 2022) and therefore the ability to apply for a public hearing under these Rules is valid.

29. 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
15 May 2023