

[2022] PBPH 5

**Application for a Public Hearing in the case of
Mr Gareth Wyn Jones**

Outcome: The application for a public hearing in the case of Mr Jones 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 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90121/root-and-branch-review-of-the-parole-system-public-consultation-on-making-some-parole-hearings-open-to-victims-of-crime-and-the-wider-public.pdf)).
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/uploads/system/uploads/attachment_data/file/90121/root-and-branch-review-of-the-parole-system-public-consultation-on-making-some-parole-hearings-open-to-victims-of-crime-and-the-wider-public.pdf)).

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-review-public)).
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 20 February 2020, Mr Jones was sentenced to an extended determinate sentence comprising 4 years and 6 months custody with an extended licence period of 5 years. Mr Jones received this sentence for offences of stalking, false imprisonment, making threats to kill and possession of a firearm. His parole eligibility date was 18 August 2022, his conditional release date is 16 February 2024 and the sentence end date is 15 February 2029. This is Mr Jones' first review by the Parole Board.
8. At sentence, Mr Jones was also made subject to a hospital and limitation direction made under section 45a of the Mental Health Act and was placed in a mental health hospital shortly after remand and remained there until 2021. Mr Jones has now returned to prison custody.
9. An oral hearing has been scheduled for 8 December 2022. This is Mr Jones' first review by the Parole Board.
10. Mr Jones is now 58 years old.

Details of the Application and Representations

11. The Parole Board received an application dated 21 October 2022 from a victim for Mr Jones' parole hearing to be held in public.
12. The new rule requires 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 rules only came into effect on 21 July 2022, I used a relevant power to waive the 12 weeks requirement in this case.
13. In summary, the reasons given for the application for a public hearing were:
 - That Mr Jones has a record of violence against women and that if he were to be released this could be a security issue for the public.
 - Transparency is valuable.
 - That Mr Jones has an established pattern of behaviour and, if released, he will reoffend.
 - Mr Jones' behaviour has parallels with specific academic research.
 - Mr Jones has been mentally unwell.
 - This is a high-profile case with lots of media interest.
 - That there were errors made by the police during the investigation, leading to complaints.
 - This would allow others to learn from the victim's experience so that others will not suffer.
14. On 31 October 2022, the Parole Board asked for representations from the parties to the case – the Secretary of State for Justice and Mr Jones, through his legal representative.
15. 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.
16. In summary, the representations made on behalf of the Secretary of State, dated 15 November 2022, were:
 - Increased transparency is vital to building public confidence in the parole system, particularly where the Parole Board is reviewing the case of an offender convicted of very serious offence.
 - No objections are raised to a public hearing.
 - Mr Jones has ongoing mental and physical health concerns.
 - Professionals working with Mr Jones have some concern that a public hearing could have implications for his health and wellbeing.

17. In summary the representations made on behalf of Mr Jones, dated 15 November 2022, were:

- The application is made out of time and the Chair does not have the power to waive the timeliness requirement. The application should therefore be refused.
- The application has not been provided to Mr Jones in full. This is a breach of his Article 6 rights.
- Mr Jones does not wish the hearing to be in public. This is Mr Jones' first hearing and he is anxious. If the hearing were in public, this would increase his anxiety. He has concerns about media interest, safety for his family and the potential impact on any resettlement plan.
- Mr Jones has had issues with his mental health. A public hearing could be detrimental to his health.
- The hearing will be concerned with sensitive medical material. If the hearing were held in public, this could impact on the quality of Mr Jones' evidence.
- Given Mr Jones' mental health issues, which are intrinsically linked to the offence, very little of the hearing could be in public and therefore the hearing would not aid public understanding of the parole process.
- Although there has been media coverage of this case, the offences themselves are not of any particular public interest.
- There are some inaccuracies in the application for a public hearing including the risk classification of Mr Jones and the nature of this convictions.
- There are complex matters to deal with which are unlikely to aid public understanding.
- The issue of the police investigation is outside the Parole Board's remit.
- Academic research is not sufficient for a public hearing and, in any event, the research does not seem relevant.
- A summary of the decision should provide sufficient information.
- With respect to the resettlement plan, it will be difficult protect the identity of locations and people if the hearing were in public.

Reasons for the Decision

18. I have considered all of the information in the applications and the representations and 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.

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. I note the high bar that has been set for a public hearing to be in the interests of justice. I have decided that this high bar is not met in this case. My reasons are as follows:
 - I have the deepest sympathy for the victim in this case. However, although this case is distressing, there are not 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 Jones has mental health issues which could be exacerbated by a public hearing.
 - The quality of Mr Jones' evidence could be impacted by a public hearing.
 - A summary would provide sufficient information to the public for the reasons for the decision made at Mr Jones' oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.
25. Mr Jones's representative has raised the issue of whether I had the power to waive the requirement for an application to be made 12 weeks prior to the date of a hearing, per rule 15(3A) of the Parole Board Rules 2019 (as amended). As Chair of the Parole Board, I am also a parole board member. I can appoint myself a duty member under rule 4(2) to carry out any function as required by the Rules. In making the decision to waive the 12 weeks requirement, I was

acting in my capacity as a duty member and using the power in Rule 9, which enables me to alter any time limits set out in the rules.

26. There is no requirement in the Parole Board Rules 2019 for the parties to be provided with a copy of the application for a public hearing. To ensure fairness, we send them a summary of the application with sufficient detail to enable them to respond to it and set out their position on the proposed public hearing. I am content that in this case the prisoner had all of the necessary details to enable him to respond, and indeed he did so respond.
27. 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
22 November 2022