

[2023] PBPH 13

Application for a Public Hearing in the case of Mr Paul Gadd

Outcome: The application for a public hearing has not been granted. However, if the victims wish, the Parole Board will explore whether it may be possible to support the victims observing the private hearing, subject to conditions, if appropriate arrangements can be made.

Preliminary Matter: The prisoner's name is Paul Gadd. Mr Gadd is known by the public and the media by his stage name, Gary Glitter. Throughout this decision, I shall refer to the prisoner as Mr Gadd.

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://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/92424/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 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/government/uploads/system/uploads/attachment_data/file/104424/Parole_Board_Guidance_on_the_criteria_for_public_hearings.pdf)).
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 shortly. 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 27 February 2015, Mr Gadd received a determinate sentence of 16 years for multiple historic sexual offences committed against children between 1975 and 1980. His sentence expires in February 2031.
10. Mr Gadd has a record of convictions over a substantial period including for the possession of indecent images of children and sexual offending against children in different countries.
11. Mr Gadd was automatically released from prison on 3 February 2023. He was recalled back to custody on 13 March 2023 for breaching his licence conditions including allegedly viewing downloaded images of children.
12. Mr Gadd's referral to the Parole Board was considered by a member on 5 June 2023 and the matter was referred to an oral hearing. The hearing is provisionally listed for 24 January 2024, however, this date is not yet confirmed.
13. Mr Gadd is now 79 years old.

Details of the Application and Representations

14. On 23 August 2023, the Parole Board received an application for Mr Gadd's oral hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
 - a. The applicant feels that it is essential that the hearing is held in public.

- b. Mr Gadd has shown no remorse and the circumstances of his recall suggest that his offending may be continuing.
 - c. Mr Gadd is a serious danger to children.
 - d. It is imperative that the public are able to see how the Parole Board makes decisions in cases where the public are at risk.
 - e. The principle of open justice needs to be honoured.
15. On 29 August 2023 the Parole Board asked for representations from the parties to the case, namely the Secretary of State for Justice and Mr Gadd.
16. In summary, the representations made on behalf of the Secretary of State (dated 11 September 2023) were:
- a. Increased transparency is vital to building public confidence in the parole system, particularly for the most serious offenders.
 - b. The Secretary of State is not required to take up a view either opposing or supporting the case for a public hearing and in this case the Secretary of State offers no view.
 - c. Should a public hearing be granted, the Secretary of State seeks reassurance that the Parole Board will implement measures to preserve victim anonymity, to protect sensitive operational information about Mr Gadd's recall and risk management plan and to ensure that Mr Gadd and witnesses are able to speak openly.
17. Mr Gadd's representative has not responded to the Parole Board's request for representations.
18. I have not consulted with the Panel Chair as the case only has a provisional listing and therefore a Panel Chair has not yet been appointed.

Reasons for the Decision

19. 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*.
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. However, where there are good reasons to depart from the general rule, adjustment can be made to ensure that a public hearing is fair.

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 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.
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. 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. Mr Gadd is a high-profile prisoner given his earlier career in the music industry. Although there may be media and public interest in the case, the test I must apply is not the extent of potential media and public interest, but rather whether a public hearing is in the interests of justice. The two tests overlap but are not the same.
 - b. The panel will need to consider the circumstances of the recall and whether the images that Mr Gadd allegedly downloaded are indicative of a continuing sexual interest in children. The children in these images are potentially victims and any discussion in a public setting could have the potential to identify them.
 - c. It is unknown whether all victims of the index offences wish for the hearing to be held in public and there is a risk that if this hearing were held in public, it could retraumatise them.
 - d. If the hearing were to be in public, as set out in the Secretary of State's representations, there are concerns with respect to victim anonymity, protecting sensitive operational information about Mr Gadd's recall and risk management plan and ensuring that Mr Gadd and witnesses are able to speak openly.

- e. Although this case of sexual offending against children 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.
 - f. If any of the victims believe that their attendance at the hearing would be beneficial to them, by observing the parole process and understanding how it applies to this case, this benefit could be achieved in alternate ways by allowing these victims to observe the private hearing, as covered below in more detail.
 - g. A detailed summary would, as in all other cases heard by the Board, provide sufficient information to the public for the reason for the decision made at Mr Gadd's oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.
26. It follows that whereas I have deep sympathy for Mr Gadd's victims, I do not grant the application for the hearing to be held in public.
27. The Parole Board is willing to explore the feasibility of supporting any victims to observe the private parole hearing subject to conditions and proper support being in place. Any victim or their representative is invited to contact the Parole Board to discuss the potential arrangements and support that may be needed by emailing CEO@paroleboard.gov.uk.
28. It is ultimately for the Panel Chair to make the final decision on attendance at a private hearing and being satisfied that appropriate arrangements can be made.
29. If permission is granted by the Panel Chair for any of the victims to observe the private hearing, I note that some parts of the hearing may need to take place without the presence of the observers. The Panel Chair has extensive case management powers to enable the relevant parts of the evidence to be taken without the presence of the observers and is best placed to make the decisions on how these powers should be used in Mr Gadd's case should the Panel Chair grant permission.
30. If permission is granted, the Panel Chair may also need to hold a preliminary hearing to deal with any practical matters associated with this hearing.
31. 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

5 October 2023

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