

[2023] PBPH 15

Application for a Public Hearing in the case of Mr Neil Williams

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.

Background Information

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 of a prisoner unless it is satisfied that their risk can be managed. Public protection is always the Parole Board's primary concern.
2. If the Parole Board decides that a prisoner's risk cannot be safely managed in the community, the Secretary of State will automatically refer the prisoner back to the Parole Board in due course.
3. Parole Board hearings are usually held in private, however, where it is in the interests of justice, the Chair of the Parole Board can direct that a hearing be held in public. The Parole Board has 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/guidance/parole-review-to-be-public)).

4. 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.
5. 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 2024. Victims attending a private hearing have to agree to maintain the privacy of that hearing. Different rules apply to public hearings.
6. 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 which is focused on risk.

Background to the case

7. On 23 April 2020, Mr Williams was sentenced to an Extended Determinate Sentence for two counts of sexual assault of a child under the age of 13. Mr Williams received a sentence of four years and six months of imprisonment with a four years extended licence period. Mr Williams' Conditional Release Date is in October 2024 and his Sentence End Date is in October 2028.



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8. Mr Williams has previous convictions for offending against five children. For those offences he was sentenced in 2009 to 12 years in custody for 13 counts of child sexual abuse. That sentence ended in 2020.
9. This is Mr Williams' first review by the Parole Board. This referral was considered by a member of the Parole Board on 17 May 2023 and has been directed to an oral hearing, to consider evidence before making a final decision. This oral hearing is listed for 25 January 2024.
10. Mr Williams is now 56 years old.

Details of the Application and Representations

11. The Parole Board received an application for Mr Williams' oral hearing to be held in public on 3 August 2023. In summary, the reasons given for the application for a public hearing were:
 - a. It is in the public interest for the public to understand how the decision in this case will be made.
 - b. It is an opportunity for the public to understand any rehabilitative work completed in custody and if this reduces Mr Williams' risk to children.
12. 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 Williams. An extension request made on behalf of the Secretary of State was granted until 26 September 2023.
13. In summary, the representations made on behalf of the Secretary of State (dated 22 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 has studied the reasons given for the application.
 - c. A public hearing may result in the identification of the victim who remains a child. Whilst sympathetic to the arguments put forward by the Applicant, it is essential that the victim's interests and wishes are given proper weight in this difficult case.
 - d. The Secretary of State suggests that the Parole Board seeks advice from an appropriate body on whether a public hearing is in the best interests of the child.
 - e. In the absence of evidence that the victim's best interests have been given sufficient weight, it would be premature for the Secretary of State to provide representations.
14. The representations made on behalf of Mr Williams were received on 26 September 2023. In summary, the representations made on behalf of Mr Williams were:



- a. Mr Williams does not support the application for a public hearing.
 - b. It is submitted that neither points made in support of the application (set out at para 11) are necessary for a public hearing and that the necessary information could be provided in a summary of the decision.
 - c. Mr Williams is concerned that if the victims have requested the public hearing, he is concerned for his own safety. He does not think that the victims would recognise him and a public hearing will result in putting him at risk when he is eventually released.
 - d. Mr Williams' rights under the European Convention on Human Rights are engaged – namely Article 2 (right to life) by vigilante action and Article 5 (freedom from unreasonable detention) if a fair process cannot be followed and Article 8 (right to a private and family life).
 - e. A public hearing may prejudice any resettlement plan.
 - f. Mr Williams would not be able to give his best evidence and might refuse to attend for fear of his safety.
 - g. There is no wider public interest in the hearing being held in public. Such understanding can be achieved by the disclosure of a summary.
 - h. There are no special features of this case that set it aside from others.
 - i. The interests of the public must be proportionate to any risk to the prisoner and the interests of justice.
 - j. Mr Williams is concerned that the public's attendance might disrupt the hearing.
 - k. The normal position is that parole hearings are in private so that witnesses can give their best evidence.
 - l. Given the risks to Mr Williams, the application should be refused.
 - m. A summary of the reasons for the decision can be given to the Applicant.
15. I have 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 resettle in the community; or (iii) if it could compromise the panel's ability to assess risk.
16. The Panel Chair made some observations including:
- a. This is a case of sexual offending against children. The history of sexual offending will require examination by the panel. Mr Williams may be less forthcoming in a public hearing.
 - b. This is Mr Williams' first parole review. It is important that he has the opportunity to fully engage with the review and provide his best evidence.
 - c. Mr Williams may find it more daunting to challenge the views of professional witnesses in a public setting. Professional witnesses may also feel inhibited.
 - d. There does not appear to be an obvious benefit to this being a public hearing while a public hearing logistically and practically, given the likely impact on



evidence and therefore perceived fairness, would impact unhelpfully on the review.

Reasons for the Decision

17. 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*.
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. However, where there are good reasons to depart from the general rule, adjustments can be made to ensure that a public hearing is fair.
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 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.
21. 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 sexual offending against a young child 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 victim is a child. The Secretary of State did not offer a view on whether or not a public hearing would be in the best interests of the victim and instead suggested that an expert be contacted to assess this. Given that public hearings have only recently been introduced, it is not clear who the relevant expert might be or how they might assess this. I am also concerned that even if an expert could be identified, the process of evaluating the impact on the victim might itself be potentially retraumatising for the victim.
 - c. The panel will be exploring Mr Williams' history of offending. A public hearing could lead to identification of other victims. There is also the risk of retraumatisation.

- d. The views of all of the victims of Mr Williams' offences are unknown to me. The views of all victims weigh very heavily with me.
 - e. 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, these benefits can be achieved in alternate ways by allowing these victims to observe the private hearing, as covered below in more detail.
 - f. A detailed summary would, as in all other cases heard by the Parole Board, provide sufficient information to the public for the reasons for the decision made at Mr Williams' oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.
22. It follows that whereas I have deep sympathy for Mr Williams' victims, I do not grant the application for the hearing to be held in public.
23. The Parole Board is willing to explore the feasibility of supporting the victims to observe the private parole hearing subject to conditions and proper support being in place. The victims are invited to contact the Parole Board to discuss the potential arrangements and support that may be needed by emailing CEO@paroleboard.gov.uk
24. 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.
25. 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 Weddle's case should the Panel Chair grant permission.
26. 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.
27. In Mr Williams' representations, it is said that his rights under a number of Articles of the European Convention of Human Rights are engaged, namely Article 2 (the right to life), Article 5 (the right not be deprived of your liberty unless in accordance with the law) and Article 8 (the right to privacy). The Human Rights Act 1998 accordingly applies to this decision.
28. With respect to Mr Williams' Article 2 rights, I have been given no evidence to support the proposition of any potential threat to Mr Williams' life. In any event, if



the hearing were to be in public, suitable measures could have been put in place. It is therefore not accepted that Mr Williams' Article 2 rights are engaged.

29. With respect to Article 5, it is accepted that this Article is engaged. Article 5(4) entitles Mr Williams to a review of his liberty by a competent court, namely the Parole Board, periodically once his minimum term of punishment has been served. Article 5 does not indicate one way or another whether that review should be in public. It does not suggest that the principle of open justice is disapplied.
30. With respect to Article 8, it is accepted that this Article is engaged in that the prisoner has a private life. However, Article 8 does not guarantee an absolute right to privacy and a person's privacy can be interfered with if this is lawful and proportionate. Although I have not done so in this case, to direct a public hearing is lawful, as there is now an explicit power to do so in statute.
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

17 October 2023