

[2023] PBPH 16

**Application for a Public Hearing in the case of
Mr Jon Venables**

Outcome: The application for a public hearing has not been granted.

Preliminary Matter: The prisoner committed an offence of murder when he was a ten year old child. At that time the prisoner was known as Jon Venables. An injunction was made by the High Court in 2001 to protect the identity of Jon Venables until adulthood and this was subsequently extended to his lifetime. This injunction means that it is an offence to publish or cause to be published, or to solicit any information or any matter, which is likely to lead to the identification of the prisoner formerly known as Jon Venables. Throughout this decision I will therefore refer to the prisoner by his original name, Jon Venables.

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 for another consideration of their risk 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-board-guidance-on-the-criteria-for-public-hearings)).
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 focussed on risk.

Background to the case

7. On 24 November 1993, Jon Venables, along with another, was convicted of murder. The circumstances of the offence are that Jon Venables with another child of a similar age to him, abducted a two year old child and eventually led the victim



to a railway line where he was brutally murdered. At the time of the offence, Jon Venables was aged ten. Jon Venables was sentenced to be detained during Her Majesty's Pleasure. No specific minimum term applied to this sentence.

8. Jon Venables was released on licence on 25 July 2001 and was recalled back to custody on 24 February 2010 after indecent images of children were found on his computer. For these offences Jon Venables received a two year period of imprisonment which was imposed on 23 July 2010.
9. Jon Venables was released from custody on 28 August 2013 and was recalled back to custody on 17 November 2017 following the discovery of indecent images of children on his computer. For these offences he received a 40 month period of imprisonment.
10. This is Jon Venables' third review by the Parole Board since his recall back to custody in November 2017. The last review was concluded on 9 September 2020 with a negative decision.
11. The current review was considered by a member of the Parole Board on 18 January 2023 and the matter was directed to an oral hearing, to consider evidence before making a final decision. This oral hearing is listed for 14 and 15 November 2023.
12. Jon Venables is now 40 years old.

Details of the Application and Representations

13. The Parole Board has received four applications for Jon Venables' oral hearing to be held in public.
14. The Rules require that an application for a hearing to be held in public should be made at least 12 weeks ahead of the hearing. All of the applications in this case have been made out of time. However, I have used the relevant power to waive the 12 weeks requirement in this case given that the Applicants did not learn about the date of the hearing in time to make an application 12 weeks ahead of the oral hearing date.
15. An application for a public hearing dated 7 September 2023 has been received as part of a memorandum which also covered some other matters. The same Applicants provided further details to support their application in a letter dated 13 October 2023. In summary, the reasons given in these applications for a public hearing were:



- a. There are unique features to this case including the sexual element of the original offence and the damage that has occurred as a result of mishandling of matters by the Government. The sexual elements can be dealt with in public.
 - b. The Applicants wish for the hearing to be in public.
 - c. There is no risk of re-traumatisation of the Applicants.
 - d. The wishes of Jon Venables should not be determinative.
 - e. Parts of the hearing could be held in private and could cover matters that were confidential or sensitive, and some witnesses could give evidence in private.
 - f. The Parole Board can explain the process at a public hearing.
 - g. Victim statements can be heard in public and an explanation can be made of the purpose of these statements.
 - h. A summary would not be sufficient in respect of matters relating to the sexual elements of the original offence.
 - i. A public hearing would avoid inaccurate reporting.
 - j. A public hearing would not be disproportionate.
 - k. Justice and the rights of the victims have not been fulfilled.
16. An application for a public hearing dated 10 February 2023 was received by the Parole Board on 7 September 2023. In summary, the reasons given in this application for a public hearing were:
- a. For too long this case has been dealt with behind closed doors. A public hearing would allow the Applicants to hear the evidence and understand more fully what is being taken into consideration. This would hopefully increase confidence in the system.
 - b. The treatment of victims is wrong. Victims and the wider public have the right to openness and transparency.
 - c. The public do not understand how parole works. A public hearing would provide opportunities for informed commentary and debate.
17. Two applications from the media have been received dated 22 September 2023 and 13 October 2023. In summary the reasons given for a public hearing in these two applications were as follows:
- a. Jon Venables is one of the most well-known offenders. Given the serious public interest in Jon Venables, and in line with the principles of open justice and the need for justice to be seen to be done, his parole hearing should be held in public.
 - b. The seriousness of Jon Venables' subsequent convictions raises the potential for the interests of justice to require a public hearing.
 - c. Increased transparency is key to rebuilding confidence in the Parole Board's decision-making with respect to this offender.
 - d. The Parole Board's work regarding recall cases is not well understood.



- e. There has yet to be a public parole hearing involving a prisoner convicted of a life sentence as a youth.
 - f. The importance of open justice to confidence in the system and to accurate information. The public interest would be best served in allowing reporting so that the public can better understand how serious offenders are managed.
 - g. The public do not understand how parole works. A public hearing would provide opportunities for informed commentary and debate.
 - h. News organisations understand the lifelong anonymity order and the consequences of any Contempt of Court. The Parole Board could introduce further safeguards including limiting live reporting.
 - i. There is no evidence that a public hearing would worsen the risk to Jon Venables.
 - j. There should not be a restriction on the media's Article 10 rights to report matters in the public interest.
 - k. A public hearing would allow Jon Venables a fair opportunity to be heard.
 - l. The anonymity considerations can be managed with a degree of planning including parts of the hearing being held in private.
 - m. Following Jon Venables' recall to custody, the July 2010 court proceedings took place in open court with a large number of media represented.
 - n. Interest in the case will not evaporate by holding a hearing behind closed doors.
 - o. The views of the victims are not known, but a public hearing could be empowering for them.
18. On 5 October 2023 the Parole Board asked for representations from the parties to the case, namely the Secretary of State for Justice and Jon Venables. An extension request made on behalf of the Secretary of State was granted until 16 October 2023.
19. In summary, the representations made on behalf of the Secretary of State (dated 13 October 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 made in the applications for a public hearing and trusts that proper weight will be given to the Applicants' reasons.
 - c. If a public hearing is granted, the Chair will wish to consider what measures are needed to ensure that the identities of HMPPS staff are not disclosed. The Parole Board will need to ensure that the hearing complies with the terms of the High Court Injunction which prohibits (in summary):
 - Any depiction, image, photograph, film or voice recording of (either defendant) or any description of their physical appearance, voice or accent.



- Any information likely to lead to the identification of the individuals.
- Any information likely to lead to the identification of the past, present or future whereabouts of either defendant.

20. The representations made on behalf of Jon Venables were received on 16 October 2023. In summary, the representations made on behalf of Jon Venables were:

- The application for a public hearing is not supported.
- The application has been made out of time and a public hearing would cause unfair and unlawful delay. There is no justification for the applications to have been made out of time.
- A public hearing would create risk for Jon Venables.
- The emotional stress caused to Jon Venables would be disproportionate. If the hearing were in public, his voice would need to be disguised. This would interfere with his ability to give evidence and would be prejudicial to proceedings.
- The stress of a public hearing might impact on his ability to participate and could impact on his long term health. If the Chair does grant a public hearing, she should seek a professional assessment on the impact to ensure that Jon Venables' Article 3 rights are not infringed.
- There is a life-long, world-wide injunction protecting Jon Venables' identity. This injunction was made to protect Jon Venables' life. The injunction prevents the publication of the identity of Jon Venables including his name, identifying particulars, any depiction of him, voice recording and his whereabouts. The hearing will consider sensitive matters and it would be impossible to keep this sensitive information private.
- A public hearing is likely to create risk for professionals and would impair the quality of their evidence. The risk that exists towards Jon Venables would be likely to be transferred to any professionals supporting release. Some witnesses might withdraw.
- The interests of open justice do not override the risks. The paramount objective of a court is to do justice. The right to privacy applies to Jon Venables.
- There have already been considerable delays in this case which has led to more than three years elapsing since the last review. If a public hearing were granted, it would cause further delays. This would not be consistent with Jon Venables' Article 5 rights. Articles 2 and 3 must not be imperilled by the media's Article 10 rights. In the particular circumstances of this case, the procedures that allow for a summary of the decision are sufficient.
- A public hearing would place a disproportionate burden on the Parole Board.
- The Attorney General and the police would need to be consulted to ensure that a public hearing were in compliance with the terms of the injunction.

21. 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.

22. The Panel Chair made some observations including:
- a. There is no objection in principle to a public hearing given its high profile.
 - b. The Panel Chair is concerned that if the hearing were in public, details could be shared which might lead to the identification of Jon Venables.
 - c. Sensitive matters could be discussed in private however there is the risk of inadvertent comments being made in the open segments.
 - d. Discussions of Jon Venables' time in the community would need to be covered in private.
 - e. Jon Venables may feel inhibited in his evidence if the hearing is held in public.
 - f. The professionals would be able to cope with a public hearing.

Reasons for the Decision

23. 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*.
24. 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.
25. 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.
26. 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.
27. In this case some strong arguments have been made for a public hearing including:
- a. The grave nature of Jon Venables' offences.
 - b. The notoriety of this case.
 - c. Public concerns about Jon Venables' subsequent convictions and recalls to custody.
 - d. The principle of open justice.



- e. The wishes of the Applicants.
- f. The existence of the injunction which is protective for Jon Venables.

28. I note the high bar that has been set for a public hearing to be in the interests of justice. Notwithstanding the points set out above, I have decided that this high bar is not met in this case. My reasons are as follows:

- a. In 2019, the President of the Family Division in the injunction proceedings said that *'The purpose of the injunction is to protect JV from being put to death.....As Dame Elizabeth Butler-Sloss held, JV is 'uniquely notorious' and there is a strong possibility, if not probability, that if his identity were known he would be pursued resulting in grave and possibly fatal consequences. This is, therefore, a wholly exceptional case and the evidence in 2019 is more than sufficient to sustain the conclusion that there continues to be a real risk of very substantial harm to JV.'*
- b. The Parole Board must respect the injunction.
- c. As set out in the Secretary of State's representations, in order to respect the injunction, the Parole Board will need to ensure that the hearing complies with its terms which prohibits:
 - Any depiction, image, photograph, film or voice recording of (either defendant) or any description of their physical appearance, voice or accent.
 - Any information likely to lead to the identification of the individuals.
 - Any information likely to lead to the identification of the past, present or future whereabouts of either defendant.
- d. At the oral hearing, the Panel will need to hear about Jon Venables' past, present and future life. The Panel will need to question witnesses in detail, including Jon Venables, if he is willing to give evidence. In order to respect the injunction, substantial parts of the evidence would need to be held in private including evidence which is likely to be fundamental to the decision of the Panel. In circumstances where evidence which is likely to be critical to the Panel's decision cannot be heard in public, it is difficult to see how a public hearing would aid transparency or public understanding of the parole system or the decision in this case.
- e. If even parts of the hearing were held in public, there is a risk that some information could inadvertently be revealed, putting Jon Venables at risk and breaching the injunction.
- f. Steps would need to be taken to protect the identity of witnesses and some witnesses may choose to withdraw.
- g. If the hearing were in public, the Panel may not be able to take best evidence which could impact on the fairness of the hearing.
- h. Although Jon Venables has had previous court hearings held in public when he pleaded guilty to the offences for which he was recalled, these proceedings were very different in nature to a parole hearing which is an inquisitorial



process requiring detailed information about a person's history, attitudes and future plans.

- i. A summary of the reasons for the decision could be provided to satisfy the requirements of transparency. This summary would need to be consistent with the injunction.

29. It follows that whereas I have deep sympathy for Jon Venables' victims, I do not grant the application for the hearing to be held in public.
30. In the media's representations, it is said that their rights under the European Convention of Human Rights (ECHR) are engaged, namely Article 10 (the right to freedom of expression including the right to impart information and ideas without interference by a public authority).
31. In Jon Venables' representations it is said that his rights under Articles 5 of the ECHR are engaged, (the right not to be deprived of your liberty unless in accordance with the law).
32. The Human Rights Act 1998 accordingly applies to this decision.
33. With respect to Article 10, it is accepted that this Article is engaged in that the media wish to impart information and my decision not to grant a public hearing will inevitably limit access to some information. However, Article 10 does not guarantee an absolute right to all information and can be interfered with if this is lawful and proportionate. A summary of the reasons for the decision can be requested.
34. With respect to Article 5, it is accepted that this Article is engaged. Article 5(4) entitles Jon Venables to a review of his liberty by a competent court, namely the Parole Board, periodically once his minimum term of punishment has been served.
35. 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

25 October 2023



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