

**[2023] PBPH 18****Application for a Public Hearing in the case of  
Mr William Dunlop****Outcome:** The application for a public hearing has been granted.**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-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 focussed on risk.

## Background to the case

7. Mr Dunlop is serving a mandatory life sentence for murder. The sentence was imposed on 6 October 2006 and the sentencing judge set a tariff of 17 years less time spent on remand. Mr Dunlop's tariff expired on 15 September 2021.
8. The circumstances of Mr Dunlop's crimes were that he strangled the victim, who was known to him, in 1989. He then hid the victim's body within her home. The victim was found some months later by a family member. Mr Dunlop stood trial twice for murder with both juries unable to agree and, as a result, he was acquitted.
9. In 1999, whilst serving a sentence for a different offence, Mr Dunlop confessed to the murder. Due to the law of double jeopardy, Mr Dunlop was unable to be tried again for this crime and instead in 2000 he was tried and convicted of committing perjury in the two earlier trials following his admission in court of guilt for the murder. He received a sentence of six years for perjury.

10. The victim's family campaigned for the double jeopardy law to be changed and subsequently the Criminal Justice Act 2003 came into force, allowing Mr Dunlop to be tried for the murder of the victim. In 2006, this was the first case to be re-tried under the new law and, as set out in paragraph 7, Mr Dunlop received a life sentence.
11. The current referral is Mr Dunlop's third referral to the Parole Board. Mr Dunlop's case was last considered by the Parole Board in May 2022 at an oral hearing. No direction for release was made, although the panel did recommend that Mr Dunlop be moved to open conditions. That recommendation was rejected by the Secretary of State.
12. This referral was considered by a member of the Parole Board on 14 September 2023 and the matter was directed to an oral hearing, to consider evidence before making a final decision. This oral hearing has not yet been listed.
13. Mr Dunlop is now 60 years old.

### **Details of the Application and Representations**

14. The Parole Board received three applications for Mr Dunlop's oral hearing to be held in public. These applications are all dated 9 October 2023. In summary, the reasons given for the applications for a public hearing were:
  - a. The case is in the public domain because of the campaign to change the double jeopardy law and because Mr Dunlop was the first offender in legal history to be tried under the new law.
  - b. Local and national media have reported on Mr Dunlop's possible connection to other unsolved local murder cases. This is in the public domain.
  - c. Mr Dunlop has had access to the victims' personal statements and has knowledge of the victims' circumstances.
  - d. The applicants want the system to be transparent and fair. A public hearing would ensure that the scales are balanced for victims and that the decision-making rationale is clear for all.
  - e. Following the last review, the Minister rejected the recommendation for open conditions on the basis that it would undermine faith in the criminal justice system.
  - f. A public hearing would be of benefit and provide reassurance.
  - g. A public hearing should be a right, given how Mr Dunlop manipulated the system, believing that he could not be convicted due to the double jeopardy law, and that it took 17 years to bring him to justice.

- h. The applicants' confidence in the system has been damaged. A public hearing might help rebuild some trust.
  - i. How could Mr Dunlop be rehabilitated given the brutal nature of the killing and the concealing of the victim's body.
  - j. The public should be made aware of Mr Dunlop's violent past.
15. On 12 October 2023 the Parole Board asked for representations from the parties to the case, namely the Secretary of State for Justice and Mr Dunlop. An extension request made on behalf of the Secretary of State was granted until 3 November 2023.
16. In summary, the representations made on behalf of the Secretary of State (dated 3 November 2023) were:
  - a. The Secretary of State supports 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. Should a public hearing be granted, all of the victims engaged in the Victim Contact Scheme will be provided with appropriate support.
  - d. The Secretary of State asks that proper weight be given to the reasons for the application.
  - e. Should a public hearing be granted, the Secretary of State requests that witnesses be identified by their job title rather than their name.
17. In summary, the representations received on behalf of Mr Dunlop (dated 30 October 2023) were:
  - a. Mr Dunlop does not support the application.
  - b. The Parole Board's Guidance for Public Hearings (dated October 2022) is quoted extensively in the representations including that the normal position is that hearings are held in private and that there must be good reasons to depart from this.
  - c. Since hearing of the application for a public hearing, Mr Dunlop has felt more stressed and anxious.
  - d. Mr Dunlop has had health issues before a previous parole hearing.
  - e. Mr Dunlop's stress could impact on his ability to give best evidence and may impact on his health.
  - f. Mr Dunlop is concerned that if the hearing were in public, his current appearance would become known and this could increase the risk to him.
  - g. In 2000, Mr Dunlop received a threatening letter and other members of his family, at an unspecified date, have been threatened.
  - h. Should the victims choose to read a victim statement at the oral hearing, Mr Dunlop would not want to be present due to his fear of repercussions.
  - i. The professional witnesses could be negatively impacted by a public hearing and this could affect their evidence. It would not be appropriate for their names or places of work to be made public.



18. I have not consulted with the Panel Chair as the case has not yet been listed and therefore a Panel Chair has not yet been assigned to the case.

### 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 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.
23. 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 met in this case. My reasons are as follows:
- a. There are special features of this case, which set it apart from other cases. Namely, Mr Dunlop was the first person to be tried under the changed double jeopardy law following the Criminal Justice Act 2003.
  - b. There is a public interest in increasing understanding of how the Parole Board deals with double jeopardy cases, which can properly be taken into account when considering the interests of justice
  - c. Mr Dunlop was convicted of murder. The seriousness of the crime raises the potential for the interests of justice to require a public hearing.
  - d. Mr Dunlop has previously been recommended by the Parole Board for open conditions and this recommendation was not accepted by the Secretary of State. The Parole Board's role in recommendations for open conditions is not well understood. There is therefore a public interest in increasing

understanding which can properly be taken into account when considering the interests of justice.

- e. The victims feel that they have been let down in the past by the criminal justice system and they believe that a public hearing would be beneficial to them. The victims wish to attend a public hearing rather than a private hearing. Although the victims might have been given permission to attend a private hearing, their support for a public hearing is relevant and can also be taken into account.
  - f. The Secretary of State has provided assurances that appropriate support will be provided for the victims, if the hearing were to be held in public.
  - g. Although some parts of the hearing will need to be in private, a sufficient part of the hearing can be heard in public to allow for a deeper understanding of the parole process.
  - h. Arrangements can be made to protect the identity of witnesses.
  - i. Mr Dunlop has a medical condition and is said to be anxious at the thought of a public hearing. However, no medical evidence has been provided to suggest that Mr Dunlop could not give evidence or that his evidence would be severely impacted, should the hearing be held in public. In any event, the Panel Chair has extensive case management powers to enable the relevant parts of the evidence to be taken in private.
  - j. No compelling evidence has been provided to suggest that the risk to Mr Dunlop would be increased by holding a hearing in public.
24. I have carefully considered Mr Dunlop's representations and I have concluded that the interests of justice outweigh the points raised on Mr Dunlop's behalf.
25. I therefore grant the application for the hearing to be held in public.
26. I note that Mr Dunlop does not wish to be present if a victim statement is read by the victims. This can be managed within a public hearing.
27. It should be noted that in certain circumstances a future panel may decide that this referral can be appropriately concluded on the papers. My decision to grant this application for the oral hearing to be held in public does not rule out this possibility.
28. The next step is that the Panel Chair, once assigned to the case, will hold a preliminary hearing to deal with any practical matters associated with this hearing.
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**  
**30 November 2023**