

Public Hearings Member Guidance

October 2023 (v1.0)

Document History

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1.0	October 2023	New guidance following publication of the Parole Board Rules 2019 (as amended)

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1 Introduction

- 1.1 The amendments to the Parole Board Rules 2019 ("the Rules") which introduced public hearings came into effect on 21 July 2022. This was the first time that the Rules made provision for Parole Board hearings to take place in public.
- 1.2 Under the Rules, an application for a public hearing can be made by anyone (including a prisoner, a victim, and a member of the public) and it is for the Board Chair to decide whether to hold a hearing in public or not, applying an 'interests of justice' test.
- 1.3 All applications for a public hearing must be served, no later than 12 weeks before the oral hearing is to take place, upon the designated inbox at publichearings@paroleboard.gov.uk.
- 1.4 Once all of the relevant information has been received and relevant views have been sought, the application will either be granted or refused by the Board Chair.
- 1.5 All decisions on public hearing applications will be published on the Board's website.

2 Application for a Public Hearing

- 2.1 Once received, the application will be sifted by the public hearings team to ensure that it meets the relevant criteria and will either be:
 - Accepted as it is and progressed;
 - Refused, with reasons provided;
 - Rejected (for reasons such as being too late and outside the 12 week window);
 - Have further information requested before a decision is made.
- 2.2 These are the possible outcomes following a sift of a public hearing application.
- 2.3 If the application is within 12 weeks of the oral hearing date, and therefore out of time, an application can be made by the Applicant to the Board Chair (via the public hearings team) to extend the time limit for submitting an application for a public hearing (under Rule 9). The nearer the oral hearing date the application is made, the less likely it is to be agreed.

- 2.4 A request for representations from both parties in response to the application will be sought. The application will be redacted and a copy will be shared with the parties and a period of up to 14 days will be provided for representations to be received depending on the date of the oral hearing. A shorter timeframe may be provided depending on when the oral hearing is listed.
- 2.5 The parties who will be contacted to provide representations are:
- Secretary of State (which includes victims).
 - The legal representative for the prisoner/Prisoner.
- 2.6 The panel chair of the oral hearing (if one has been allocated) will also be contacted to provide their view.

3 Panel Chair View

- 3.1 There is no set template for what needs to be included in the panel chair's view about the application, however some, or all of the following information will assist the Board Chair when making their decision:
- The background of the case;
 - If it would compromise the panel's ability to assess risk;
 - The practicalities of holding the hearing in public including the facilities at the prison: for example if it is an open prison, security issues and issues of access by the public;
 - If it would cause the prisoner any undue emotional distress or anxiety, or prevent best evidence to be given;
 - If it would adversely affect the prisoner's ability to safely resettle in the community (should release be directed);
If it would cause the victim any undue emotional distress or anxiety;
 - If there are any special features of the case that would warrant a grant or refusal of the application, including the public interest in the case and consequential (social) media interest which may prejudice a fair hearing.

4 Consideration by the Board Chair

- 4.1 Once representations have been received from the parties and the panel chair (if appointed) has given their view, the Head of Legal will refer the application to the Board Chair to make their decision.

4.2 The Board Chair may ask for further information if needed. Should the Board Chair require further details/information, directions may be set allowing for a period up to seven days for this information to be provided.

5 Decision

5.1 Once the Board Chair has made their decision on whether the application for a public hearing is granted or refused, the decision will be issued to the parties and the panel chair. In line with its transparency agenda, the decision of the Board Chair will be published on the Parole Board website on the same day.

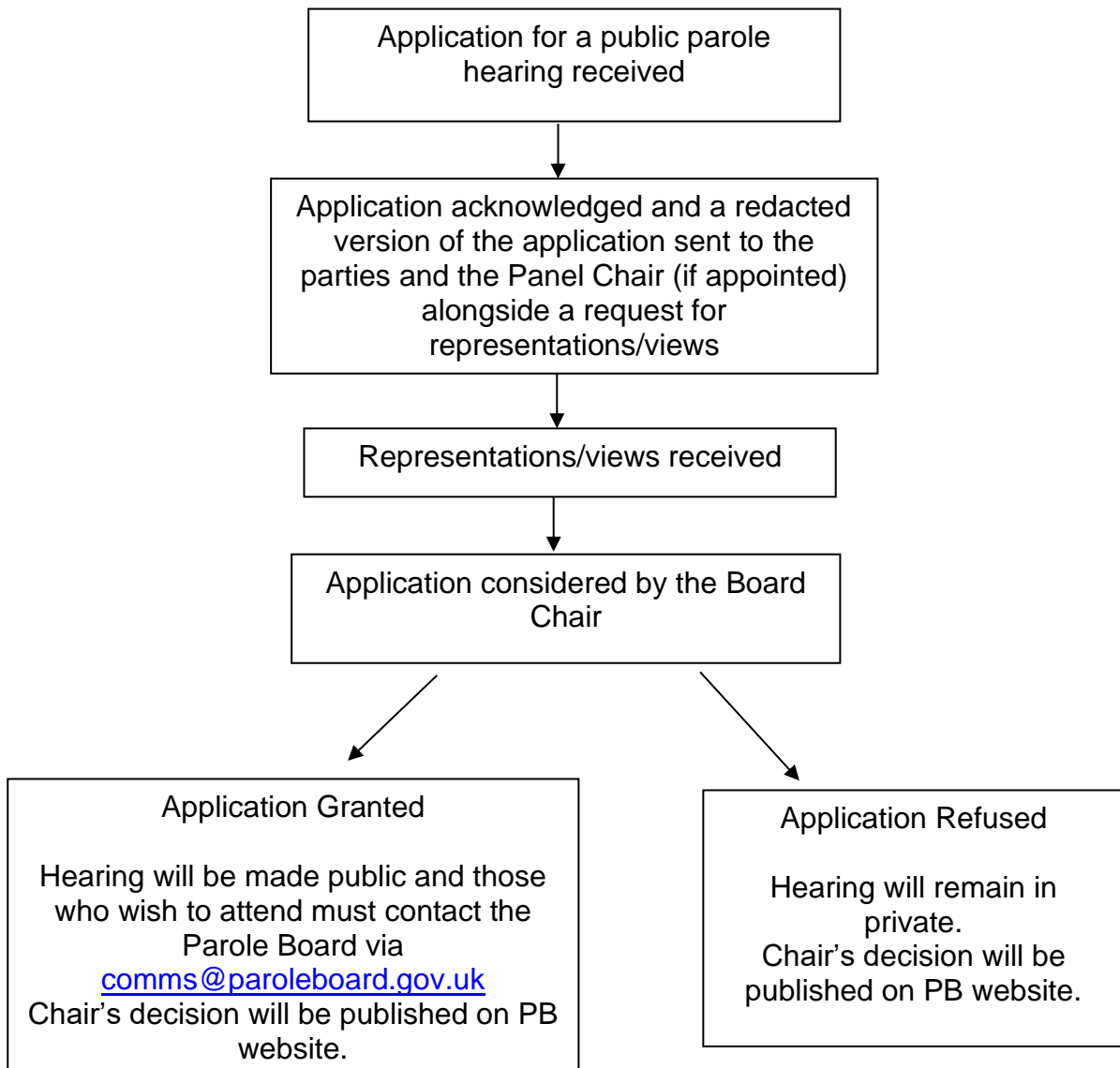
5.2 Once a hearing is made public, all those wishing to attend to observe the livestream must complete the relevant registration form. This will be made available by contacting the public hearings team once the Chair's decision has been published.

5.3 Please note, all those wishing to attend to observe the public hearing must register, regardless of whether they made an application to request the hearing to be made public or not. Places will be allocated on a first come first served basis and will be limited by the capacity of the location.

5.4 If an application has been refused, the hearing will remain private. There may be the option for victims to attend a private hearing as observers. This will be for the panel chair's to consider any such application from victims.

5.5 The only way to challenge a decision on an application for a public hearing is by way of judicial review.

5.6 On the following page is a flow chart of how the application process works.



6 What happens after a public hearing has been granted?

- 6.1 After a public hearing has been granted, the decision will be sent to the applicant, both parties and the panel chair. It will be at this point that management of the public hearing will move from the Legal Hub (as the application for a public hearing has now been concluded) over to the Operations Hub (into the Specialist team).
- 6.2 A designated case manager will be assigned and will liaise with the panel about next steps. If the assigned panel members do not wish to participate in a public hearing then they may recuse themselves and a new panel will be assigned.
- 6.3 Case management conference
- 6.4 A case conference should be held in all cases where there is a public hearing. Attendees at the conference should include the parties, witnesses¹ (including the prisoner's witnesses if appropriate), key contacts from the secretariat and the panel. This can be held remotely and should be in good time before the hearing takes place.
- 6.5 It is good practice for the panel chair to issue an agenda for the case conference that might include the following:
1. Process on the day
 - a. Points of information:
 - i. The hearing will be streamed to a specific location; where observers can attend to watch but must register in advance;
 - ii. The streaming will have a delay of about 60 seconds and can be terminated by the Panel Chair if needed at any point;
 - iii. The press and public will be in a different location to the panel and the prisoner;
 - iv. The panel chair might give a slightly extended introduction but otherwise the hearing will run as normal;
 - v. The secretariat will conduct visits to the prison to test the technology equipment, locate an appropriate hearing room and break out rooms, create a seating plan, liaise with the prison regarding timings of the day and provide a list of equipment they and the panel will be bringing, and develop a plan to ensure the smooth running of the day. Where needed the secretariat will also consider obtaining a risk assessment for the safety of all participants in certain cases.

¹ HMPPS have issued guidance to their staff on attending public hearings

- b. An opportunity to raise any general discussion points as to how the hearing will run.

2. Structure of the hearing

- a. Open hearing points to discuss and agree:
 - i. Whether witnesses will be referred to by job title rather than their name (the expectation is that witnesses will be referred to by job title);
 - ii. Which witnesses and participants will be on or off camera (the preference is that witnesses and participants will be on camera);
 - iii. Clarify which witnesses and participants are required to attend the prison in person (the expectation is that witnesses and participants will attend in person unless there is a specific reason why they cannot.) (It is also easier to manage witnesses who do not wish to be on camera in person – To note, if it is agreed that a witness is not required to attend in person and that they will not be on camera, the panel will also not be able to see this witness).
- b. Closed hearing points to discuss and agree:
 - i. The type of information to be covered in the closed hearing, for example, details of the release plan, references to key locations, details of approved premises, the prisoner's medical information and information about licence conditions;
 - ii. The handling of any security information;
 - iii. Information about victims and whether they will be mentioned/referenced and whether such discussions should take place in a closed session.

3. Positions of the parties

- a. The panel chair might seek the assistance of the parties with the following matters:
 - i. Whether or not the Secretary of State will be submitting a written view and, if so, set the date by which it must be submitted;
 - ii. An indication as to the prisoner's application and what they are seeking from the hearing;
 - iii. Whether or not the prisoner and/or their legal representative will be making written submissions before the hearing and, if so, set the date by which they must be submitted;
 - iv. Identification of the key issues for the panel to consider at the substantive hearing.

4. Case management

a. To consider the need for further directions:

- i. The panel chair might seek the views of the parties and other participants as to whether any further directions are required for an effective substantive hearing and, if so, set the deadlines for any further reports;
- ii. To remind the parties that no further evidence is to be added to the dossier after a date determined by the panel chair, without the panel chair's permission.

5. Any other business

6.6 The panel chair should briefly check all the agreed arrangements on the day with the attendees to ensure nothing has changed.