

[2024] PBPH 5

**Application for a Public Hearing in the case of
Mr Abdalraouf Abdallah****Outcome:** The application for a public hearing has not 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 \(www.gov.uk\)](#)).
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 200 prisoners with a conviction for terrorism offences. Each prisoner referred to the Parole Board has caused immense pain to the victims or their family and loved ones or has had the potential to cause immense harm. 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. The Parole Board has a cohort of members who are specially trained to deal with cases of extremism. These members also have the necessary clearances to deal with the most sensitive information.

Background to the case

7. Following a jury trial, on 15 July 2016, Mr Abdallah was convicted of engaging in conduct in preparation for terrorist acts. Mr Abdallah was sentenced to an Extended Determinate Sentence of nine and a half years. The Extended Determinate Sentence is comprised of a five years and six months period in custody and a four years extended licence period. Mr Abdallah also received a two year concurrent sentence for being concerned in an arrangement whereby money was made available to others for the purpose of terrorism.
8. The circumstances of the offences were that Mr Abdallah amongst other things: arranged for the provisions of firearms for four men; arranged for a contact to meet the same men in Syria and arranged for their travel and accommodation;

communicated with the men for the purposes of them meeting; encouraged two of the men to join in terrorist acts; and became concerned in a financial arrangement which Mr Abdallah knew, or had reasonable cause to suspect, that it would or may be used for the purposes of terrorism.

9. The Manchester Arena attack took place on 22 May 2017. The bomb killed 22 people. In addition, hundreds of others were injured. Many suffered life-changing physical harm, many others psychological trauma. The Manchester Arena Inquiry (Volume 3) (the Inquiry) found that Mr Abdallah '*had a significant relationship with SA [the Manchester Arena attacker, Salman Abedi] between 2014 and 2017 and had an important role in radicalising him.*'
10. Mr Abdallah became eligible to be considered for parole in January 2019. His conditional release date was in November 2020 and his sentence expiry date is in November 2024.
11. Mr Abdallah was automatically released on his conditional release date on a non-risk assessed basis and was required to reside in approved premises.
12. Mr Abdallah's licence was revoked in January 2021 for breaching his licence conditions. He was returned to custody.
13. Mr Abdallah's case was considered by two members of the Parole Board on 23 March 2021 and the matter was directed to an oral hearing, to consider evidence before making a final decision.
14. The oral hearing has taken some time to arrange due to issues relating to the disclosure of sensitive information. Following successful applications under Rule 17, material has been withheld from Mr Abdallah and his representative. A Special Advocate has been appointed to represent Mr Abdallah's interest in respect of the closed material. There will therefore be two hearings in his case - a closed hearing to discuss the sensitive information and an open hearing to hear the rest of the evidence – both of which are currently scheduled in April 2024. I am also aware that due to a legal challenge by way of a judicial review relating to how the Board is handling the sensitive information, there is a risk that these hearings may need to be adjourned.
15. Mr Abdallah was 21 at the time of the offences. He is now 30 years old.

Details of the Application and Representations

16. On 22 December 2023, the Parole Board received an application for Mr Abdallah's oral hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
- a. There is a public interest in this parole hearing being held in public. Mr Abdallah is well-known and there is public concern about him, given his offences and his close relationship with the Manchester Arena suicide bomber, Salman Abedi.
 - b. In March 2023, the Chairman of the Inquiry concluded that Mr Abdallah had played an '*important role in radicalising*' Salman Abedi, including when Mr Abdallah was imprisoned. The Inquiry heard that Mr Abdallah used illicit phones in prison to communicate with Mr Abedi.
 - c. Mr Abdallah was automatically released in November 2020 and recalled in January 2021, having quickly breached his licence conditions.
 - d. Given this history, in the interests of public confidence, justice must be seen to be done. This requires the media to be afforded the opportunity to report as fully as possible.
 - e. Given that Mr Abdallah was able to access illicit phones in prison, this has harmed public confidence. The public will want to know if there has been better oversight since.
 - f. The many victims of the Manchester Arena attack should be afforded the opportunity to understand the evidence and the parole process. The victims have experienced secrecy in relation to parts of the national security evidence in the Inquiry. This increases the need for transparency and openness in hearings.
 - g. If Mr Abdallah has become de-radicalised, he might welcome the chance to demonstrate this.
 - h. Any sensitive matters, such as relating to Mr Abdallah's health, could be dealt with in private. Arrangements could be made to protect the identities of witnesses.
 - i. The public is concerned about radicalisation and the state's management of Terrorism Act (TACT) offenders both in prison and in the community. There has never been a public parole hearing of a TACT prisoner. If this hearing were in public, it would increase understanding of the system and help inform commentary.
17. On 3 January 2024 the Parole Board asked for representations from the parties to the case, namely the Secretary of State for Justice and Mr Abdallah. An extension request was made on behalf of the Secretary of State and granted to 22 January 2024.
18. In summary, the representations made on behalf of the Secretary of State (dated 19 January 2024) were:

- a. Although increased transparency is vital to building public confidence in the parole system, there must be good reasons to depart from the general rule that parole hearings will remain in private. The Secretary of State does not consider that sufficient reasons have been given by the applicant.
 - b. The Secretary of State has concern as to the distress a public hearing would cause the victims of the Manchester Arena attack. The Secretary of State also has concern for the risk any witnesses may be exposed to by association with Mr Abdallah should their connection to his case be made as a result of a public hearing. The ability of witnesses to speak openly at the hearing may be restricted thereby not providing the Panel with the level of evidence required to make an informed decision.
 - c. The Secretary of State is concerned for Mr Abdallah's wellbeing. He is a vulnerable person and it is the view of those involved in Mr Abdallah's management that a public hearing would place additional stress on him, undermining his ability to engage in the hearing.
 - d. Should a public hearing be granted, the Secretary of State seeks assurances that the Parole Board will implement measures to protect sensitive operational information; specifically the proposed risk management plan and to ensure all parties can speak openly.
19. Representations made on behalf of Mr Abdallah (made on 22 January 2024) have been received including reports by a psychiatrist dated 8 November 2020, a medical doctor dated 8 July 2016, consultant psychologist reports dated 5 January 2015 and 7 July 2016, and a copy of the ruling on application to revoke s.21 notice by Mr Abdallah by the Chair of the Inquiry dated 15 October 2021. In summary the representations were:
- a. Mr Abdallah opposes the application for his hearing to be heard in public.
 - b. Background information is provided on the nature of the offence, the findings of the sentencing judge, the nature of the sentence and the delays since Mr Abdallah's case was directed to an oral hearing in March 2021.
 - c. As set out in the medial report, Mr Abdallah is paraplegic and has complex health needs. A consultant psychologist has previously concluded that Mr Abdallah suffers from post-traumatic stress disorder. Overall, Mr Abdallah is severely disabled. The sentencing judge reduced the sentence to reflect the exceptional degree of suffering that Mr Abdallah would face in custody.
 - d. The application is not supported by the Secretary of State. There has been no support expressed by members of the public, or victims of the Manchester Arena attack, for Mr Abdallah's hearing to be in public.
 - e. A public hearing would create risk for Mr Abdallah as his medical condition means that he is more readily identifiable. This increases the risk of vigilante violence which could compromise his risk management plan. Given the complexity of Mr Abdallah's medical needs, moving him from one location to another would not be straightforward should his whereabouts become known.

- f. The stress of a public hearing will impact on Mr Abdallah's mental health. When last requested to attend a public hearing (as part of the Inquiry), his health deteriorated. Since June 2020, he was subject to the Assessment, Care in Custody and Teamwork (ACCT) process for prisoners identified as being at risk of self-harm. The representations acknowledge that Mr Abdallah was required to give evidence to the Inquiry despite submitting that this might engage his Article 2, 3 and 8 ECHR rights. They go on to say that the Chair of the Inquiry had to consider different issues in carrying out a comprehensive investigation and any interference with Mr Abdallah's rights was therefore found to be proportionate. In the case of a public parole hearing, they submit that the interests of open justice do not override the risks to Mr Abdallah.
- g. Given the impact of the Inquiry on Mr Abdallah's health, should Mr Abdallah's parole hearing be held in public, it could violate his Article 2, 3 and 8 ECHR rights. Mr Abdallah's health is currently precarious.
- h. The representative presumes that the closed part of the hearing will relate to Mr Abdallah's association with Mr Abedi. A public hearing will therefore not achieve the aims of the applicant and could compound the frustrations of victims.
- i. The matter of Mr Abdallah's use of a mobile phone whilst in custody has been dealt with at the Inquiry.
- j. It would not be proportionate to make this hearing public, given the impact on Mr Abdallah's health.
- k. Mr Abdallah's hearing will consider sensitive matters, including matters relating to his health and his childhood, and it is difficult to see how these could be discussed separately as they are intrinsic to the evidence.
- l. Mr Abdallah's case has already been much delayed. If a public hearing were granted, it would cause further delays due to the necessary case management. It may be that Mr Abdallah would not have a hearing before his automatic release date at the end of his sentence in November 2024. This would not be fair.

20. I have also consulted with the Panel Chair as the Panel Chair is most familiar with the details of the case and therefore is 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 resettlement in the community; or (iii) if it could compromise the panel's ability to assess risk.

21. The Panel Chair made some observations including:

- a. Closed and open hearings are scheduled in April 2024. There is an ongoing disclosure application, and a current judicial review, which may mean that the hearings cannot be effective on their current dates.
- b. The application for a public hearing can only apply to the open hearing. It will be impossible for the closed hearing to take place in public.

- c. There will need to be a directions hearing to identify those parts of the hearing that could be heard in public. This could extend the time required for the open hearing which could cause delays.
- d. There is a danger that, taking all of this into account, making the necessary arrangements for a public hearing will prove impractical.

Reasons for the Decision

- 22. 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*.
- 23. 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.
- 24. 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.
- 25. I should also be clear that I will not grant any application for closed proceedings to be open to the public. I have considered this application on the basis that it is an application for the open hearing to be a public hearing.
- 26. I note that, should the open 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 it if they feel that the proceedings are becoming unfair.
- 27. I also note that issues relating to Mr Abdallah's health were raised and examined at length during the course of his giving evidence to the Manchester Arena Inquiry.
- 28. In this case some strong arguments have been made for a public hearing including:
 - a. The grave nature of Mr Abdallah's offences.
 - b. The public interest in understanding radicalisation within the prison system.
 - c. That Mr Abdallah has been named by the Manchester Arena Inquiry as having had an important role in radicalising the Manchester Arena attacker, who committed one of the worst terrorist atrocities in the UK.

- d. That Mr Abdallah was able to use illicit phones whilst in custody and the public interest in understanding how this is dealt with during the parole process.
 - e. That the Parole Board has not yet held a public hearing for a prisoner convicted of a terrorism offence and that a public hearing could aid public understanding of the decision-making process in these cases.
29. However, taking all of this into account, I note that a high bar 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 Abdallah's oral hearing was first directed in March 2021. This oral hearing has been much delayed due to issues relating to non-disclosure of sensitive material. A public hearing would be likely to lead to further delays. It is in the interests of justice that this oral hearing proceeds before the sentence end date.
 - b. Matters relating to the sensitive material may be significant to the Panel's decision. Given the sensitive nature of this material, this material cannot be seen or discussed in public.
 - c. The application can only apply to the open hearing, however, significant parts of that hearing will relate to personal and sensitive matters which would not be appropriate for a public hearing. It will be difficult to separate out these matters and, in their absence, it would become more difficult for the public to follow the proceedings.
 - d. 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. There are concerns that a public hearing could cause distress to the victims of the Manchester Arena attack.
 - f. Mr Abdallah has unusually complex medical needs. A public hearing could undermine his ability to engage in the hearing.
 - g. A sufficiently detailed summary would provide sufficient information to the public to explain the reasons for the decision made at Mr Abdallah's oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.
30. In the representations made on behalf of Mr Abdallah, it is said that the decision impacts on Mr Abdallah's rights under a number of Articles of the European Convention of Human Rights – namely Article 2 (the right to life), Article 3 (the right not to be tortured or treated in an inhuman or degrading way) and Article 8 (the right to privacy). The Human Rights Act 1998 accordingly applies to this decision.
31. With respect to Mr Abdallah's Article 2 rights, I have been given no evidence to support the proposition of any potential threat to Mr Abdallah's life. Measures could

be taken at a hearing to protect Mr Abdallah's identity and in any event Mr Abdallah has previously appeared in public before the Inquiry. It is therefore not accepted that Mr Abdallah's Article 2 rights are engaged.

32. With respect to Article 3 (the right not to be tortured or treated in an inhuman or degrading way), although I have not directed a public hearing in this case, it is not accepted that to do so would engage Mr Abdallah's Article 3 rights, given the adjustments which can be made.
33. 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.
34. 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
20 February 2024