

[2024] PBPH 6**Application for a Public Hearing in the case of
Mr Nigel Leat****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



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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 Leat is serving an indeterminate sentence of imprisonment for public protection (IPP) for the offences of attempted rape of a child under 13 years, eight assaults by penetration of a child under 13 years, 23 sexual assaults of a child under 13 years, inciting/causing a child under 13 years to engage in sexual activity, voyeurism and indecent images offences. Mr Leat was sentenced on 14 June 2011 and was given the IPP with a tariff of 8 years and 184 days. Mr Leat's tariff expired in December 2019.
8. The circumstances of the offences were that over a four year period, Mr Leat offended against five children, aged five to eight years, who were pupils at the school where Mr Leat was employed as a teacher. In addition, over 30,000 images of child pornography and 740 films were discovered on his computer. Following a serious case review in 2012, further victims were identified, however, since Mr Leat was already serving an indeterminate sentence for a large number of similar offences, no charges were brought in respect of the additional victims.

9. Mr Leat was released in December 2020 and was recalled to custody in March 2021 after information that Mr Leat was accessing concerning material on the internet linked to his continuing sexual interest in children. Following his return to custody, various items of concern were found in his cell. On 7 February 2022 a Panel of the Parole Board found that Mr Leat's recall to custody was appropriate. That Panel did not direct his release or recommend Mr Leat for open conditions.
10. Mr Leat's case was again referred by the Secretary of State to the Parole Board on 4 January 2023. This referral was considered by a member of the Parole Board on 1 June 2023. The matter was directed to an oral hearing, to consider evidence before making a final decision.
11. The oral hearing has been listed for 18 March 2024. This will be Mr Leat's second review by the Parole Board since his recall to custody in March 2021.
12. Mr Leat was 51 at the time he was sentenced. He is now 63 years old.

Details of the Application and Representations

13. On 22 December 2023, the Parole Board received an application for Mr Leat's oral hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
 - a. To enable the public to understand parole decisions.
 - b. There is currently scrutiny regarding women/girl safety which is relevant to this case.
 - c. The pressure of a public hearing could encourage Mr Leat to show remorse.
 - d. A public hearing would allow learning about this type of case.
 - e. To show the parole process and to increase transparency.
 - f. It could be beneficial to the applicant.
14. On 2 January 2024 the Parole Board asked for representations from the parties to the case, namely the Secretary of State for Justice and Mr Leat. An extension request was made on behalf of the Secretary of State and granted to 30 January 2024.
15. In summary, the representations made on behalf of the Secretary of State (dated 30 January 2024) were:
 - a. Increased transparency is vital to building public confidence in the parole system, particularly where the Parole Board is reviewing the case of an offender convicted of very serious offences.
 - b. The Secretary of State has studied the reasons given in the application.

- c. Should a public hearing be granted, the two victims engaged in the Victim Contact Scheme have not raised any concerns, but the Victim Liaison Officer will put in place measures for support as necessary. One of the discretionary victims [the victims identified as a result of the serious case review as set out in paragraph 8] has raised concerns that a public hearing could be re-traumatising.
 - d. Should a public hearing be granted, the Secretary of State asks for consideration about whether to impose certain measures to protect Mr Leat's mental health as concerns have been raised in relation to his ability to answer questions openly and the impacts on his levels of anxiety.
 - e. The Secretary of State asks that if a public hearing is granted, witnesses are known by their job title rather than by their full name, so that they are able to set out their professional opinions and answer questions openly and fully.
16. Representations made on behalf of Mr Leat (dated 29 January 2024) have been received. In summary the representations were:
- a. Mr Leat opposes the application for his hearing to be heard in public.
 - b. A public hearing could be detrimental to his rehabilitation.
 - c. A public hearing may result in increased risk to him.
 - d. The case already attracts publicity. Mr Leat has kept a low profile and a public hearing would not allow for this.
 - e. A public hearing may expose Mr Leat's current identity and place him at risk.
 - f. The stress of a public hearing may impact on Mr Leat's health. Mr Leat would be questioned on private matters and could not be as open in a public forum. It is in the interests of justice that his evidence be taken in private.
 - g. A summary of the decision should provide sufficient information.
 - h. Mr Leat is remorseful and a public hearing could impact on his victims.
 - i. Should victims wish to attend the hearing, Mr Leat would have no objection.
17. 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 resettle in the community; or (iii) if it could compromise the panel's ability to assess risk.
18. The Panel Chair is neutral on the application.

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. 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 met in this case. My reasons are as follows:
- a. There are special features in this case that set it aside from other cases due to the circumstances of the offending. Mr Leat was in a position of trust as a teacher and his offending was extensive. It is in the interests of justice that the public see how the Board assesses risks in a case such as this.
 - b. Mr Leat's offences are sexual in nature and were committed against children. All of the victims are now adults. The Parole Board has not yet held a public hearing for a prisoner convicted of child sexual offences. It is in the interests of justice for the public to understand how the Parole Board deals with these types of cases.
 - c. There is increased scrutiny regarding the safety of women and girls, which is relevant to the issues in this case.
 - d. Mr Leat is subject to a sentence of imprisonment for public protection. These sentences have been subject to much recent public interest.
 - e. Mr Leat was recalled back to custody for concerning behaviour four months after being released. It is in the interests of justice for the public to understand how the Parole Board deals with such issues.
 - f. Where the views of the victims are known, they are supportive of a public hearing. One of the discretionary victims has concerns that a public hearing could be re-traumatising. The views of all victims weigh very heavily with me. However, the Secretary of State has said that the necessary support will be provided to victims.
 - g. Although some of the hearing will need to be heard in private, a sufficient part of the hearing can be held in public to allow for a deeper understanding of the parole process.

- h. Arrangements can be made to protect the identity of witnesses.
 - i. It is said that a public hearing may impact on Mr Leat's health and his levels of anxiety. However, no medical evidence has been provided to suggest that Mr Leat could not give evidence or that his evidence would be severely impacted, should the hearing be held in public.
 - j. No compelling evidence has been provided to suggest that the risk to Mr Leat would be increased. In any event, measures can be taken to protect Mr Leat including Mr Leat not being visible to the public.
24. I have carefully considered Mr Leat's representations and I have concluded that the interests of justice outweigh the points raised on Mr Leat's behalf.
25. I therefore grant the application for the hearing to be held in public.
26. 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.
27. The next step is that the Panel Chair will hold a preliminary hearing to deal with any practical matters associated with this hearing.
28. 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

23 February 2024