

[2024] PBPH 7

Application for a Public Hearing in the case of Mr Carl Lamb

Outcome: 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 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 Lamb is serving an indeterminate sentence of imprisonment for public protection with a tariff of 1 year, 7 months and 25 days. He was sentenced in May 2007 for Section 18 Grievous Bodily Harm. The circumstances of the index offence were a road rage incident where Mr Lamb followed the victim in his car. When the victim pulled into a layby, Mr Lamb, along with his co-defendant, physically assaulted the victim.
8. Mr Lamb's tariff expired in December 2008. Mr Lamb is therefore 15 years over tariff. However, during his sentence Mr Lamb has received further convictions for violence committed whilst in custody. Mr Lamb's most recent oral hearing by the Parole Board was in December 2016 and this was his fifth review.
9. At the time of his sixth review by the Parole Board in February 2018, Mr Lamb was serving a 30 month determinate sentence for Grievous Bodily Harm which was

imposed in January 2018. That review was concluded on the papers with a no release decision.

10. The current seventh review began in October 2018 and there have since been further convictions for Assault Occasioning Actual Bodily Harm dated 12 March 2019 and a further conviction of Assault Occasioning Actual Bodily Harm dated 18 March 2021 and other investigations. This has resulted in delays to Mr Lamb's review, partly due to further court proceedings.
11. The current referral was most recently considered by a member of the Parole Board on 16 November 2023 and the matter was directed to an oral hearing, to consider evidence before making a final decision. This oral hearing is listed for 30 May 2024.
12. Mr Lamb was 25 at the time of the index offence. Mr Lamb is now 43 years old.
13. Mr Lamb has at times had issues with his mental health.

Details of the Application and Representations

14. On 29 January 2024, the Parole Board received an application from Mr Lamb's representative requesting that Mr Lamb's oral hearing to be held in public. In summary, the reasons given for the application for a public hearing were:
 - a. Mr Lamb's case was directed to an oral hearing in July 2019. For a number of reasons, Mr Lamb is yet to have his parole review. It is quite possible that Mr Lamb's review is the longest outstanding review before the Board.
 - b. Mr Lamb received a tariff of 1 year, 7 months and 25 days. He is now 15 years over tariff.
 - c. There is no victim engagement in this case and thus the wishes of the victims need not be weighed.
 - d. Mr Lamb realises that another IPP case will be heard in public in March 2024, however, Mr Lamb should also be granted a public hearing given: the length of time he has served past tariff; the psychological harm being caused to him by his sentence; the Human Rights implications specific to his case; the special features taken as a whole; and the public discourse around IPPs.
 - e. Mr Lamb suffers from hopelessness, reinforced by being in a prison which offers him no relevant offending behaviour programmes as it mainly houses sex offenders. Mr Lamb has not been given an explanation for why he is in this prison.
 - f. Mr Lamb struggles with his mental health. The British Psychological Society recognises the harm caused by the IPP sentence.
 - g. In line with the ECHR, any life or indeterminate sentenced prisoner who has passed their tariff must be able to access relevant risk reduction work. Many

MPs are advocating for leaving the ECHR. This is adding to Mr Lamb's sense of hopelessness.

- h. The Justice Select Committee has called for IPPs to be resentenced. The Government has introduced an IPP Action Plan over a year ago but Mr Lamb has seen no difference.
 - i. In an election year, it is important for the public to understand whether public money is being spent wisely on IPPs and also whether the Government is meeting its international obligations. Members of the Lords have tabled amendments to the Victims and Prisoners Bill with respect to IPPs and other people have commented on the IPP sentence. This serves to highlight why a public hearing is in the public interest as well as in the interests of Mr Lamb.
 - j. Mr Lamb is particularly concerned that the Government might disapply Human Rights Provisions. Mr Lamb has a lot at stake given that the Ministry of Justice is not making an attempt to move him to an establishment where he would be given the opportunity to progress.
 - k. Until recently, the Government was seeking to veto Parole Board decisions and is pursuing within the Victims and Prisoners Bill the right to remove the Chair of the Parole Board. This could be seen as failing to respect the Parole Board as a court.
 - l. Mr Lamb feels trapped. He is losing hope and he believes that a public hearing would be beneficial to him.
 - m. A public hearing would allow the public to better understand the system for IPP prisoners and to consider the implications of the lack of an IPP Action Plan.
 - n. A public hearing would enable examination of public protection in Mr Lamb's case and allow transparency which the Secretary of State should encourage.
15. On 31 January 2024 the Parole Board asked for representations from the the Secretary of State for Justice. An extension request made on behalf of the Secretary of State was granted until 23 February 2024.
16. In summary, the representations made on behalf of the Secretary of State (dated 21 February 2024) 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 given for a public hearing and has consulted those HMPPS staff who will appear as witnesses and are responsible for assessing Mr Lamb's risk.
 - c. The Secretary of State asks that Mr Lamb's history of poor emotional management and self-harm be taken into account. A public hearing might inhibit open and honest discussion, given that Mr Lamb and his family have previously taken his case to the media and it is possible that a public forum

may be used by Mr Lamb to air his disagreement about the treatment he has received.

- d. Should a public hearing be granted, the Secretary of State requests that witnesses be identified by their job title rather than their name.
- e. The Probation Service has confirmed that there are no victims engaged in the Victim Contact Scheme.

17. I have also consulted with the Panel Chair as the Panel Chair is most familiar with the details of the case and is 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.

18. The Panel Chair made some observations including:

- a. To date there does not appear to be public interest in the case and so a public hearing would do little to aid public confidence or understanding.
- b. There is no victim engagement.
- c. There are no exceptional features of this case, save that the review has been going on since the referral in October 2018.
- d. There are aspects of Mr Lamb's case which are complex and holding a public hearing is likely to add to that complexity and some critical parts will need to be held in private.
- e. The case is already listed for a full day. If the case were held in public, a second day may be required which could further delay the case.
- f. A summary of the decision would provide sufficient information and satisfy the requirements of transparency.

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 not met in this case. My reasons are as follows:
 - a. Although Mr Lamb's conviction is serious, there are no exceptional features of this case which could aid public understanding of the parole process other than the length of time of the review. I understand that the length of time has been mainly due to delays caused by ongoing criminal investigations and court proceedings rather than any exceptional feature of the review itself.
 - b. Mr Lamb believes that a public hearing would assist public understanding of the impact of the IPP sentence on prisoners. However, to the extent that public understanding of IPP cases would be assisted by a public hearing, I have previously granted public hearings in two cases involving IPP prisoners – Mr Bidar and Mr Leat – and both are currently scheduled to be heard in March 2024. A public hearing of Mr Lamb's case would not advance public understanding further.
 - c. In any event, the role of an oral hearing is to assess the risk of a prisoner. There is a concern that if this hearing were to be held in public, Mr Lamb would be tempted to focus on the nature of his sentence rather than provide evidence relevant to the Panel's task of undertaking a risk assessment. This would not assist the panel to focus on those issues that went to risk, and so ultimately would not advance the hearing or be in the best interests of Mr Lamb.
 - d. Mr Lamb has had serious mental health issues. Evidence on his current mental health, which is private in nature, will be considered at the oral hearing. It is unlikely that this, and some other evidence, would be appropriate to be heard in a public hearing. 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. This referral has already been much delayed. A public hearing would likely introduce further delays to put in place those measures necessary to accommodate a public hearing. This would not be in the interests of justice.
 - f. A summary would provide sufficient information to the public for the reasons for the decision made at Mr Lamb's oral hearing. This would satisfy the requirements of transparency without prejudicing the effectiveness of the hearing.

24. I therefore have not granted the application for the hearing to be held in public.
25. 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
6 March 2024