

**[2024] PBPH 8****Application for a further decision about whether Mr Thomas Park's case should be heard in public****Outcome:** Mr Thomas Park's oral hearing will take place in public.**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-board-guidance-on-the-criteria-for-public-hearings)).
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,



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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 Park is serving two mandatory life sentences which were imposed on 19 November 1999 for two counts of murder following a trial. The sentencing judge set a tariff of 25 years less time spent on remand. Mr Park's tariff expired in December 2023.
8. The circumstances of Mr Park's crimes were that he murdered his partner and her very young daughter. Mr Park also received a concurrent determinate sentence for three years for the indecent assault of the child several days before the murders. In his report to the Home Secretary, the trial judge said that Mr Park hid the body of one of the victims in waste ground and hid the body of the other victim in the house where Mr Park had been living with the victims. In the same report, the trial judge said that before Mr Park was apprehended, he stole domestic goods from the house of the victims as well as collecting the victims' benefits to which he was not entitled.

9. Mr Park's case was referred to the Parole Board in March 2023. This is Mr Park's second review. The first pre-tariff review was considered by the Parole Board at an oral hearing in June 2021. That panel reviewed detailed evidence and declined to recommend a progressive move to open prison conditions.
10. This referral was considered by a member of the Parole Board on 18 July 2023 and the matter was directed to an oral hearing, to consider evidence before making a final decision.
11. On 6 July 2023 an application was made to the Parole Board for Mr Park's oral hearing to be heard in public. On 30 November 2023, and for the reasons set out in the decision of that date, I granted the application.
12. The date of the oral hearing is set for 2 and 3 May 2024.
13. Mr Park was 24 years old at the time of the offences. He is now 49 years old.

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

14. On 19 March 2024, the Parole Board received an application from Mr Park's representative for me to reconsider my earlier decision that Mr Park's oral hearing should be held in public. The representations included an undated and unsigned letter setting out the concerns of persons who can provide Mr Park's support in the community, an article in the Liverpool Echo (including the comments section) with a print out date of 19 March 2024 (the date of the article itself is not clear) and case notes from Mr Park's file. In summary, the reasons given for the application were:
  - a. Mr Park wishes for his hearing to be held in private and further information has come to light since the decision to hold the hearing in public was made.
  - b. The original submissions (summarised in my decision of 30 November 2023) still stand.
  - c. Mr Park has increased anxiety at the prospect of a public hearing. Since the decision of 30 November 2023, Mr Park has been in frequent contact with the Mental Health team and is now receiving medication.
  - d. Mr Park has support in the community, however, this support has stepped back due to fear of identification and would be further negatively impacted by a public hearing. Mr Park is therefore becoming more isolated.
  - e. Previous media attention has resulted in Mr Park receiving verbal abuse and feeling under threat whilst in custody. The Prison Service has already had to take steps to manage the risk to Mr Park.
  - f. A recent article in the Liverpool Echo resulted in direct and indirect threats to Mr Park in the comments section. Mr Park has a genuine concern for his safety



if the hearing is held in public. There are also direct and indirect threats to professionals including the Panel.

- g. A public hearing will impact on the quality of evidence as well as the professionals' own safety and there are concerning comments in one of statements of the victims.
  - h. Recommendations on progression have recently been changed by professionals. This will be explored at the oral hearing but may be due to the hearing being held in public. The Panel's rigour in challenging evidence may also be impacted.
  - i. Mr Park's representative's ability to represent Mr Park could be impacted even if all professionals are anonymised.
  - j. It may be difficult to keep all participants anonymised.
  - k. To ensure that the Panel hear best evidence, the decision to hold the hearing in public should be overturned.
  - l. A summary should provide sufficient information.
  - m. It may be practically difficult to complete a public hearing in two days.
  - n. In the light of the new information, it is imperative for a fair, effective and thorough assessment of Mr Park's risk to be held in private.
15. In summary, the representations made on behalf of the Secretary of State (dated 8 April 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 supports the hearing being held in public.
  - c. Mr Park's representative had previously raised concerns about the impact of a public hearing on Mr Park's wellbeing. The Secretary of State has not seen anything that would change his view; he continues to support a public hearing.
  - d. The Secretary of State has reviewed the updated reports from the Prison Offender Manager and the Community Offender Manager. There is no evidence to suggest that the decision to grant a public hearing has impacted on their recommendations.
  - e. The case is of public interest. The Secretary of State argues that this has not changed since the decision to hold the hearing in public.
  - f. The Panel Chair has the power to direct which parts of the evidence are held in public and which in private and also has powers to protect witnesses.
  - g. In summary, the Secretary of State is of the view that there is no new information or sufficient evidence which represents a significant change in circumstances, which was not already known at the time of the public hearing being granted.
  - h. The Secretary of State remains in support of a public hearing and contends that a public hearing is in the interests of justice.

16. The Secretary of State has provided me with an undated letter from a victim. The victim's observations are as follows:
- a. The victim is disappointed that this matter is being reconsidered four months after the decision to hold a public hearing and supports the hearing being in public.
  - b. The comments made in the media are as a result of the public not understanding the process. A public hearing would allow for a better understanding which could build confidence in the parole process.
  - c. No new evidence has come to light and the views of the victims have been misrepresented.
  - d. Mr Park is seeking to adjourn proceedings and to control the process as he did at the original trial.
  - e. Surely professionals would wish to demonstrate to the public robust risk assessments to protect women and children.
  - f. The point of public hearings is to increase transparency and to build confidence in the parole system. To overturn the previous decision would make a mockery of the Parole Board and the justice system.
  - g. Transparency is particularly important in cases of child sexual abuse and child murder and it should not be stopped, especially given that public hearings are in their infancy.
  - h. No new evidence has been provided.
17. I have 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. The Panel Chair does not have a view on whether this case should proceed in public or not.
  - b. There may be an argument that there is fresh information with respect to the article in the Liverpool Echo and some other matters.
  - c. There is an argument that the profile of the case could impact on witnesses giving best evidence, however, the Panel will put measures in place to try to prevent this.

## 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 which may be distressing to victims. There must therefore be good reasons to depart from the general rule.
21. In this case, I have already decided (for the reasons set out in my decision of 30 November 2023 and further detailed below), that there are good reasons to depart from the general rule. I did so bearing in mind that adjustments can be made to ensure that a public hearing is fair, and that I would not grant an application to have a hearing in public in circumstance where I thought that a public hearing would impact on the fairness of the hearing. I now turn to consider whether the new information put before me would change that decision.
22. In doing so, I remind myself that there are a number of measures which can be taken to protect the fairness of the hearing. These would include the ability to take evidence in private, the ability to use code phrases to conceal sensitive information such as actual addresses, the ability to put in place conditions on attendance, and the ability to suspend the hearing or remove any person for the hearing if they are disruptive.
23. I also remind myself that recent developments in technology and the Parole Board's operating models have better enabled the public to attend a hearing which is facilitated by remote viewing. This will make it more convenient for members of the public to attend the location where a hearing can be viewed remotely and will minimise the potential for disruption to the hearing itself.
24. 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.
25. The victims in this case continue to have my deepest sympathies.
26. When the application for a public hearing was made, I decided that there were special features, which set it apart from other cases, and which may add to the proper public understanding of the parole system. I have reminded myself of the reasons for my initial decision dated 30 November 2023, which were:
  - a. Mr Park has been convicted for serious offences, namely the murder of an adult and a young child. Mr Park has also been convicted of indecent assault against the young child. The seriousness of the crime raises the potential for the interests of justice to require a public hearing.
  - b. The case has complex features including a sexual element to the crime and denial at the point of trial. There is a public interest in increasing



understanding of how the Parole Board deals with such issues, which can properly be taken into account when considering the interests of justice.

- c. 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.
- d. 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.
- e. 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.
- f. Arrangements can be made to protect the identity of witnesses.
- g. Arrangements can also be made to ensure that no unauthorised recordings or photographs of the prisoner can be made during the hearing.
- h. No medical evidence has been provided to suggest that Mr Park 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.
- i. No compelling evidence has been provided to suggest that the risk to Mr Park would be increased by holding his hearing in public.

27. I have carefully considered the application from Mr Park's representative for me to reconsider whether Mr Park's oral hearing should be held in public. I have decided that a public hearing remains in the interests of justice. My reasons are as follows:
- a. As set out in paragraphs 8 and 26a, Mr Park has been convicted of very serious offences.
  - b. Parliament has determined that in the interests of transparency and public confidence, parole proceedings should be held in public when it is in the interests of justice. As I have previously decided, and as set out at paragraph 26a, the seriousness of the crime raises the potential for the interests of justice to require a public hearing.
  - c. It follows that in order for me to revisit my decision, there must be strong, compelling evidence of something that has not already been considered which would mean that the high bar of the public interest test is no longer met. This could potentially include new evidence of the impact of a public hearing on a prisoner. To do otherwise once a public hearing has been directed, meaning that it has been found to be in the interests of justice, would undermine the will of Parliament.
  - d. As set out in paragraph 26, there are particular features of this case which set it apart from others and which could aid public understanding of the parole process, and so a public hearing is in the interests of justice. I turn to see if the new information and evidence before me changes that position.

- e. Mr Park's representative says that Mr Park has increased anxiety. No medical evidence has been provided to suggest that the quality of Mr Park's evidence will be impacted by his heightened anxiety. In any event, it is not unusual for prisoners to feel stressed ahead of or during parole proceedings. Sufficient adjustments can be made to ensure that proceedings are fair.
  - f. Mr Park's representative says that Mr Park's level of community support may be impacted by a public hearing. However, mitigations can be put in place to ensure that anybody providing community support is not identified during a public hearing. In the alternative, these parts of the hearing could be held in private. This will be a matter for the Panel Chair to determine.
  - g. Mr Park's representative has drawn my attention to a recent article in the Liverpool Echo and the comment section beneath the article. Although many of the comments are intemperate and in some cases unpleasant, this is not unusual in these circumstances and I have not been provided with evidence of a direct or imminent threat to Mr Park.
  - h. It is suggested that witnesses' evidence may be impacted by a public hearing. Appropriate measures can be taken including that witnesses cannot be seen and using titles rather than names. It should be clear that any observers will not be in the same room as Mr Park. Observers will be in a separate room, some distance from the prison and will be observing proceedings via a one-way link.
  - i. The victims continue to wish for the hearing to be held in public. Their support is relevant and can be taken into account.
28. I note that some parts of the hearing will need to be in private, however, I consider that a sufficient part of the hearing can be heard in public to allow for a deeper understanding of the parole process. The Panel Chair has extensive case management powers to enable the relevant parts of the evidence to be taken in private and is best placed to make the decision about how these powers should be used in Mr Park's case.
29. I have carefully considered Mr Park's representations and, for the reasons set out above, I have concluded that the interests of justice outweigh the points made on Mr Park's behalf.
30. It should be noted that in certain circumstances the Panel may decide that this case can be appropriately concluded on the papers. My decision to confirm that Mr Park's oral hearing will be held in public does not rule out this possibility.
31. The Panel Chair has held a preliminary hearing to deal with practical matters associated with this hearing. Any further practical matters can be dealt with by the Panel Chair as they arise.



32. The hearing itself will take place face to face at a secure location. However, arrangements will be made for members of the public to view it remotely at a place where they will be able to more easily attend.
33. 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**

**19 April 2024**