

Social Worker: Julie A Elliott
Registration Number: SW76583
Fitness to Practise: FTP-55327
Final Order Review Meeting

Meeting Venue: Remote meeting

Date of meeting: Tuesday 19 April 2022

Final Order being reviewed:

Final suspension order, expiring 27 May 2022

Meeting Outcome:

Removal Order - to take effect on expiry of current final suspension order on 27 May 2022

Introduction and attendees

1. This review took place pursuant to paragraph 15 of Schedule 2 to the Social Workers Regulations 2018. It was the first review of a 12-month final suspension order made on 30 April 2021 in respect of Ms Julie A Elliott by a panel of adjudicators appointed by Social Work England.
2. This review was held remotely.
3. Ms Elliott did not attend, was not represented and did not make any written submissions.
4. As this review took place as a meeting, Social Work England did not attend. However, the notice of this review included written submissions made on behalf of Social Work England by its solicitors, Capsticks LLP.
5. The panel of adjudicators conducting this review (the “**panel**”) and the other people involved in it were as follows:

Adjudicators	Role
Rohan Sivanandan	Chair
Gemma Bellwood	Social Work Adjudicator

Hearings Team/Legal Adviser	Role
Elle Langdown	Hearings Officer
Khadija Rafiq	Hearings Support Officer
Charles Redfearn	Legal Adviser

Service of Notice:

6. The panel had careful regard to the contents of the service bundle, which included the following documents:
 - An extract from Social Work England’s register (the “**Register**”) showing the email and postal addresses for Ms Elliott which were held by Social Work England.
 - A copy of the notice of this final order review dated 6 April 2022 which stated that it was to be sent by special delivery post and email and which was addressed to Ms Elliott at her email and postal addresses, as they appear on the Register. The notice specified the date of this review; informed Ms Elliott of the action which Social Work England proposed to take in relation to this review and that she could attend and be represented at this review, or make written submissions; and specified the date by which she should confirm her attendance or make written submissions, such date being 14 April 2022.
 - A copy of a covering email dated 6 April 2022, which was sent by an employee of Capsticks LLP and addressed to Ms Elliott at her email address as it appears on the

Register and which referred to her “upcoming substantive order review” and stated that it had attached to it a copy of a “Notice of Hearing” and related documents.

- A copy of a signed statement of service which was made on 14 April 2022 by the employee of Capsticks LLP who had sent the covering email of 6 April 2022 and which confirmed that, on the latter date, that employee had “instructed Docucentre” to send the notice of this review and related documents by email and Royal Mail special delivery post to Ms Elliott at her email and postal addresses as they appear on the Register.
 - A copy of an automatically generated email dated 6 April 2022, which was (i) headed “delivery failure”, (ii) addressed to the employee of Capsticks LLP who had sent the covering email of 6 April 2022, (iii) referred to an email sent to Ms Elliott’s email address as it appears on the Register and (iv) stated that that email “*could not be delivered. The problem appears to be: Recipient email address is possibly incorrect*”.
 - A copy of a Royal Mail delivery slip, which stated that an item was delivered by special delivery service on 11 April 2022 and signed for by “Marshall”.
 - A photograph of an envelope with the words “Return to sender” written on it and bearing a “special Delivery” sticker, a sticker indicating that delivery had been refused and a date stamp showing that it was received by Capsticks LLP on 11 April.
7. The panel accepted the advice of the Legal Adviser in relation to service of notice. This included reference to rules 16, 44 and 45 of Social Work England’s Fitness to Practise Rules (the “FTP Rules”), paragraph 15(5) of Schedule 2 to the Social Workers Regulations 2018 and the case of Jatta v Nursing and Midwifery Council [2009] EWCA Civ 824 (Court of Appeal).
8. Having had regard to rules 44 and 45 of the FTP Rules and all of the information before it in relation to the service of notice, the panel was satisfied (i) that notice of this review had been served on Ms Elliott by email on 6 April 2022 in accordance with rules 16 and 44 of the FTP Rules and (ii) that the requirements of paragraph 15(5) of Schedule 2 to the Social Workers Regulations 2018 and rule 16(a) of the FTP Rules had been fulfilled.

Proceeding with the review as a meeting:

9. The panel noted that the notice of this review stated that, in line with the current government guidance concerning the COVID-19 virus (Coronavirus) pandemic, this review would take place electronically and that the notice also stated:
- “If you wish to attend the electronic hearing, please confirm your intention by no later than 4:00pm on 14 April 2022. Unless we hear from you to the contrary, we shall assume that you will not be attending the electronic hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will*

be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide."

10. The panel had regard to rule 16(c) of the FTP Rules which provides:
"Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting."
11. In that regard, the panel noted (i) that it had received no information to suggest that Ms Elliott had responded to the notice of this final order review and (ii) that, in an email dated 14 April 2022, Social Work England had stated that this review would take place by way of a meeting. The panel understood this to be a determination by Social Work England under rule 16(c).
12. The panel heard and accepted the advice of the Legal Adviser with regard to rule 16(c) of the FTP Rules. The panel also understood that Social Work England was satisfied that, as a result of the notice of this review having been served on Ms Elliott by email on 6 April 2022 in accordance with the FTP Rules, Ms Elliott had been informed of this review on that date for the purposes of rule 16(b). The panel therefore proceeded to conduct this review by way of a meeting in accordance with Social Work England's determination under rule 16(c).

Allegations found proved at the substantive hearing:

13. The allegations found proved which resulted in the imposition of the final order were as follows:
 1. *In the case of Child A:*
 - a) *following a disclosure of concerns from Child A's school on 15 March 2017, did not follow child protection procedures and/or adequately safeguard Child A, in that you:*
 - (i) *did not visit Child A in a timely manner;*
 - (ii) *allowed Child A to go home without being seen by a social worker and / or health professional and / or police;*
 - (iii) *did not initiate a strategy discussion in a timely manner;*
 - (iv) *did not discuss and / or raise the concerns in relation to Child A with your manager until the next day.*
14. The panel conducting the substantive hearing also decided that the matters set out above constituted misconduct.

Determination of substantive hearing panel regarding impairment:

15. The panel conducting the substantive hearing made the following determination with regard to impairment:

80. *The panel noted that the proved misconduct arose from a single incident upon the backdrop of a lengthy and unblemished social work career. The failings were remediable as they could be remediated by appropriate reflection and training.*
81. *However, the panel was deeply concerned by Ms Elliott's lack of acknowledgement of wrongdoing during her interview with Ms D [who conducted Ms Elliott's employer's internal investigation], the [employer's] disciplinary interview or during these regulatory proceedings. In interview she had demonstrated no insight into her failings and none had been forthcoming thereafter. She had not demonstrated any reflection upon her actions and inactions on 15 March 2017, acknowledgement of the risk of harm resulting to Child A, remorse or regret for her failings or an indication of how she would act differently if similar circumstances were to occur in the future.*
82. *The lack of demonstrated insight and remediation was such that the panel could not be satisfied that Ms Elliott would not repeat the wrongdoing in similar circumstances in the future. There remained a risk that she would fail to adequately safeguard vulnerable service users. As such, permitting her to undertake unrestricted practice would expose service users to a significant risk of harm.*
83. *Further, the panel noted that members of the public would be appalled by Ms Elliott's failings to adequately safeguard Child A in the circumstances that pertained. Members of the public would foreseeably lose confidence in the professional if, as a consequence of Ms Elliott's failings and despite not acknowledging wrongdoing or engaging with her regulator, she was permitted to return to unrestricted practice. Similarly, allowing Ms Elliott to return to unrestricted practice would not maintain proper professional standards.*
84. *The panel therefore concluded that a finding of impaired fitness to practice arising from Ms Elliott's serious misconduct was necessary and appropriate to protect the public and to maintain public confidence in the social work profession and proper professional standards.*

Determination of substantive hearing panel regarding sanction:

16. The panel conducting the substantive hearing made the following determination with regard to sanction:

89. *The panel found that Ms Elliott's wrongdoing was aggravated by the fact that it was in relation to failings to adequately undertake core social work responsibilities. She had demonstrated no remediation, insight or remorse. She had failed to engage with her regulator. Her actions placed a known vulnerable child at risk and undermined public confidence in the social work profession, as outlined within the determination on impairment.*

90. *In relation to mitigating factors, the panel noted that Ms Elliott had dedicated her professional life to the social work profession and that there had been no previous findings against her by her regulator. The failings related to an isolated incident concerning one service user. The pressure of time was to some extent a mitigating factor, but did not excuse or explain her failure to contact her manager immediately upon being notified of Child A's disclosure.*

91. *The panel was unable to identify further mitigating features in light of Ms Elliott's lack of admissions, lack of engagement with the regulatory proceedings and lack of demonstrated insight and remediation.*

92. *Whilst no harm to Child A had been evidenced as a result of Ms Elliott's failings, the panel considered paragraph 27 of the Sanctions Guidance to be particularly pertinent:*

"Risk of harm can be as important as actual harm caused. This is because continuing to act in a way that risks public safety could cause actual harm in the future, whether or not it has in the past...."

93. *The panel found that taking no action, issuing advice or issuing a warning would not adequately reflect the serious nature of Ms Elliott's serious misconduct. Such an outcome would undermine public confidence in social workers in England and would not maintain proper professional standards, particularly in light of Ms Elliott's lack of demonstrated insight, remediation and remorse. Ms Elliott had failed to take personal responsibility for her failings and the panel therefore assessed the risk of repetition as high.*

94. *The panel considered paragraph 76 of the Sanctions Guidance, which provided, in relation to advice and warnings:*

"These outcomes do not directly restrict practise and they cannot be reviewed before they expire, except in the case of a warning if new concerns are raised. They are therefore not appropriate where there is a current risk to the public."

95. When considering whether to impose an order of conditions of practice, the panel had particular regard to paragraph 85 of the Sanctions Guidance, which provided:

“Conditions may be appropriate where public protection can be delivered by some restriction of practice, but it is not necessary for either public protection or wider public confidence grounds to suspend the social worker’s registration. When considering public protection, decision makers must fully assess insight and any attitudinal behaviours to determine whether or not the social worker is capable of complying with conditions.”

96. The panel found that workable conditions of practice could not be formulated as they would require engagement and commitment from Ms Elliott. Her lack of demonstrated insight and engagement in the proceedings indicated that she would not comply with conditions if they were imposed. As such, the panel concluded that conditions of practice would not adequately protect the public.

97. Further, the panel concluded that the imposition of conditions, which would allow Ms Elliott to return to social work, would not maintain public confidence in the profession or maintain proper professional standards in light of the significant failings in her practice, the potential consequences of those failings and the lack of engagement by Ms Elliott in the regulatory proceedings.

98. The panel then considered whether a suspension order would be proportionate and appropriate in the circumstances.

99. The panel had particular regard to paragraph 92 of the Sanctions Guidance, which states:

“Suspension orders can be imposed for a period of up to three years. Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option.”

100. During the operation of a suspension order Ms Elliott would not be permitted to engage as a social worker. As such, the panel was satisfied that such an order would protect the public.

101. The panel also determined that a suspension order would not undermine public confidence or professional standards. The public would be appalled at Ms Elliott’s failings and lack of engagement in the regulatory proceedings. However, the panel considered that reasonable and well-informed members of the public would not demand removal of a social worker with approximately 16 years’ post qualification experience, without giving her an opportunity to adequately address her failings. The panel found that suspension would give Ms Elliott a further,

potentially final, opportunity to develop and demonstrate insight and remediation. The suspension order would be subject to a review and as such the public could be confident that Ms Elliott would not be returned to practice until and unless she was to demonstrate adequate insight and remediation and a reduced risk of repetition of her wrongdoing.

102. *In considering the length of suspension, the panel was cognisant of the considerations outlined within the Sanctions Guidance, particularly at paragraphs 93:*

“In deciding on the period of suspension, decision makers should consider the need to protect the public and the wider public interest. They should balance this against the risk that prolonged suspension may result in deskilling. Where possible, it is in the public interest to support the return to practice of a trained and skilled social worker if this can be achieved safely. This means the risk of deskilling is a public interest consideration.”

103. *The panel balanced, on the one hand, the need to ensure that Ms Elliott does not become deskilled and, on the other hand, that she had already had sufficient time to develop and demonstrate insight and remediation, but had failed to do so despite Ms D’s investigation, the Council’s disciplinary proceedings and the regulatory proceedings.*

104. *Having balanced the factors outlined above, and upon considering all of the circumstances of the case, the panel determined that 12 months would be a sufficient period for Ms Elliott to develop and demonstrate adequate insight and remediation and that a period of 12 months would be proportionate and appropriate. The panel was satisfied, for all of the reasons outlined above, that this was a sufficient period of time to protect the public and to maintain public confidence and proper professional standards. The panel found that any period less than 12 months would not sufficiently serve these purposes in light of the fact that Ms Elliott had failed to demonstrate any insight or remediation in the four years following her misconduct.*

105. *The panel had regard to paragraph 97 of the Sanctions Guidance, which provides:*

“A removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England. A decision to impose a removal order should explain why lesser sanctions are insufficient to meet these objectives.”

106. *Given the panel’s conclusion that a suspension order would be sufficient to protect the public and wider public interest, the panel found that a removal order was neither necessary nor proportionate.*

107. *The suspension order will be subject to review before expiry, during which a separate panel of adjudicators will consider whether Ms Elliott's fitness to practice remains impaired and, if so, what, if any, sanction should be imposed. If Ms Elliott fails to demonstrate adequate insight and remediation into her failings there is every possibility that she will be removed from the social work register. She will only be permitted to practice, under restrictions or otherwise, if she demonstrates adequate insight and remediation and if the review panel is satisfied that there no longer remains a real risk of repetition of her wrongdoing and failings.*
108. *Any future review panel is likely to be assisted by Ms Elliott providing the following documentation in advance of the review:*
- a. A full and detailed reflective statement addressing the failings that have given rise to the finding of impairment and details of how she has sought to remedy her shortcomings;*
 - b. If Ms Elliott undertakes un-registered employment or other relevant activity during the period of suspension, references and testimonials from people with whom she has contact; and*
 - c. Evidence that she has kept her skills and knowledge up to date.*

Submissions on behalf of Social Work England:

17. In the notice of this review, Capsticks LLP made the following written submissions on behalf of Social Work England:

Subject to the continued lack of engagement from the Social Worker the Panel will be invited to consider imposing a Removal Order given the lack of any demonstrable acceptance of any wrongdoing, insight, remediation, and remorse since the concerns were raised in 2017 and given the lack of the Social Worker's engagement in the regulatory proceedings overall and more specifically since her email in July 2020.

Absent any evidence of insight or remediation Social Work England submit that the Social Worker's fitness to practice remains impaired on both public protection and public interest grounds. Social Work England submit that given the lack of response from the Social Worker and her previous indication that [she] did not wish to renew her registration as a social worker then a further period of suspension serves no useful purpose and is unlikely to result in her return to safe and effective practice.

Should the Social Worker engage with the review, then Social Work England will revisit their submission and address the Panel on the order depending on the level of insight remorse and remediation shown.

Submissions on behalf of Ms Elliott:

18. Ms Elliott did not attend this review or make any written submissions.

Legal Advice

19. The panel heard and accepted the advice of the Legal Adviser on its powers under paragraph 15(1) of Schedule 2 to the Social Workers Regulations 2018 to review the final order in respect of Ms Elliott. This included advice on the effect of paragraph 13(2) of the Children and Social Work Act 2017 (Transitional and Savings Provisions) (Social Workers) Regulations 2019 (2019/1140) and paragraph 29(5) of the Health Professions Order 2001 (2002/254).
20. The panel heard and accepted the advice of the Legal Adviser on impairment. This included reference to relevant parts of Social Work England's Sanctions Guidance and the cases of Council for Healthcare Regulatory Excellence v Grant and Nursing and Midwifery Council [2011] EWHC 927 (Admin), Meadow v GMC [2006] EWCA Civ 1390, [2007] QB 462 and Cohen v GMC [2008] EWHC 581 (Admin).
21. The panel also heard and accepted the advice of the Legal Adviser on sanction. This included reference paragraph 15(1) of Schedule 2 to the Social Workers Regulations 2018, paragraph 29(5) of the Health Professions Order 2001 (2002/254) and Social Work England's Sanctions Guidance.

Panel's decision and reasons on current impairment:

22. In considering the question of current impairment:
 - The panel had regard to all of the documentation before it, including the written submissions made on behalf of Social Work England, and to the advice given by the Legal Adviser.
 - The panel undertook a comprehensive review of the final suspension order in light of the current circumstances.
 - The panel took into account the decision and reasons of the panel which conducted the final hearing, whilst exercising its own judgement in relation to the matters to be determined.
 - The panel was mindful of Social Work England's overarching objective of the protection of the public, which, in s.37(2) of the Children and Social Work Act 2017, is defined as comprising (i) protecting, promoting and maintaining the health, safety and well-being of the public, (ii) promoting and maintaining public confidence in social

workers and (iii) promoting and maintaining proper professional standards for social workers.

23. The panel noted that:

- As stated by the panel which conducted the final hearing, Ms Elliott's misconduct arose from a single incident, which occurred after what, up to then, had been a lengthy and unblemished social work career.
- Ms Elliott's failings could have been remedied by appropriate reflection and training but, prior to the final hearing, Ms Elliott had failed to acknowledge any wrongdoing on her part or the risk of harm to Child A posed by her failings; nor had she demonstrated any reflection on, or insight into, or remorse or regret for her failings or given any indication of how she would act differently in similar circumstances in the future.
- As a result of those factors, the panel which conducted the final hearing was not satisfied that Ms Elliott's misconduct would not be repeated and considered that there remained a risk that she would fail to adequately safeguard vulnerable service users in the future. In consequence, the panel which conducted the final hearing found that Ms Elliott's fitness to practice was impaired in terms of the significant risk of harm which she posed to service users.
- In addition, the panel which conducted the final hearing also determined that a finding of impairment in respect of Ms Elliott was necessary in order to maintain public confidence and proper professional standards.

24. The panel also noted that, since the conclusion of the final hearing at which the current final suspension order was made in respect of Ms Elliott, there had been no change with regard to the matters mentioned above. In particular, Ms Elliott had failed to demonstrate any evidence of remorse, reflection, insight or remediation on her part or to provide any of the items suggested by the panel which conducted the final hearing in paragraph 108 of its determination. On the contrary, she had continued to fail to engage with Social Work England and the fitness to practise process. In the circumstances, the panel concluded that Ms Elliott's fitness to practise remained impaired in terms of the risk which she posed to the health, safety and well-being of service users.

25. The panel also considered that informed and reasonable members of the public who were aware of the circumstances of the present case, would be concerned if some form of restriction were not maintained on Ms Elliott's practice, given the continuing risk which she posed to vulnerable service users and her continued failure to develop insight into, or make any attempt to remedy, the failings on her part from which that risk arose. Accordingly, the panel concluded that a finding of impairment remained necessary in order to maintain public confidence in social workers.

26. For similar reasons, the panel considered that proper professional standards for social workers would be compromised if some form of restriction on Ms Elliott's practice were not maintained. The panel therefore concluded that a finding of impairment in respect of Ms Elliott was necessary in order to maintain proper professional standards for social workers.

Panel's decision and reasons on sanction:

27. Having found Ms Elliott's fitness to practise remained impaired in terms of the need to protect the health, safety and well-being of the public (and, in particular, of service users) and to maintain public confidence and proper professional standards, the panel then considered which of the measures available to it appropriate and proportionate to achieve those objectives.
28. In that regard, the panel considered that, in the circumstances of the present case, neither taking no further action, nor giving advice nor making a warning order would be appropriate for the following reasons:
- As a general point, and as stated in paragraph 71 of Social Work England's Sanctions Guidance, taking no further action, giving advice and making a warning order may only be appropriate where the concern is sufficiently serious to warrant restriction, but mitigating factors, such as insight and remediation, are strong enough that restriction is not required. As a result, those outcomes are likely to be inappropriate where the social worker has not engaged with the fitness to practise proceedings, which is the case as far as Ms Elliott is concerned.
 - Paragraph 72 of Social Work England's Sanctions Guidance states that taking no further action is likely to be exceptional and would occur in cases where the finding of impairment by itself is enough to protect the public, which was clearly not the case in the present instance. Similarly, paragraph 74 of the Sanctions Guidance states that taking no further action is very unlikely to be appropriate where there is any continuing risk to the public of the social worker behaving in the same way again, which is the situation in the present case.
 - Paragraph 76 of Social Work England's Sanctions Guidance states that, as giving advice or a warning does not directly restrict practice, such a measure is therefore not appropriate where there is a current risk to the public, as is the case with Ms Elliott.
29. Similarly, the panel did not consider that a conditions of practice order would be either workable or adequate to protect the health, safety and well-being of service users or to maintain public confidence or professional standards. The reasons for that conclusion were that:

- Due to Ms Elliott's lack of engagement, the panel had no information on the basis of which it could formulate conditions which would be adequate to safeguard service users from her proven failings.
- As Ms Elliott had failed to engage with the fitness to practise process or to demonstrate any remediation in her practice, the panel had no confidence that she would comply with any conditions of practice which the panel might impose.
- The panel considered that Ms Elliott's persistent failure to show any inclination to develop insight into her failings and remedy her practice could be indicative of underlying attitudinal issues and, as stated in paragraph 84 of Social Work England's Sanctions Guidance, conditions of practice were less likely to be appropriate to address such issues.

30. The panel next considered whether it would be appropriate to extend the current final suspension order in respect of Ms Elliott. In that regard, the panel considered that, although part of the purpose of a suspension order was to protect the public from social workers whose fitness to practice was impaired and to address the wider public interest, such orders were also intended to give social workers the opportunity to reflect on, develop insight into and remedy any failings in their practice which had impaired their fitness to practise. In that latter regard, the panel considered that, given Ms Elliott's persistent failure to engage with the fitness to practise process, to develop any insight into her failings and to take any steps to remedy them, extending the current period of suspension would be highly unlikely to result in Ms Elliott's taking any steps to acknowledge or address her impaired fitness to practise.
31. In terms of the impact on Ms Elliott of any extension of the current final suspension order, the panel noted that, in July 2020, she had expressed a clear wish not to renew her registration with Social Work England. The panel considered that, given that Ms Elliott had shown no inclination to take advantage of the current period of suspension to develop insight into her failings or remedy practice and was unlikely to attempt to do so in the future, prolonging that period of suspension would serve no useful purpose as far as Ms Elliott was concerned but would only make the current fitness to practice proceedings unnecessarily protracted for her.
32. For the reasons given above, the panel concluded (i) that extending the current period of suspension would serve no useful purpose and would be unlikely to result in her return to safe and effective practice and (ii) that, in the circumstances, a removal order would be the appropriate and proportionate order.
33. **ORDER: that Ms Elliott's entry in Social Work England's register of social workers be removed.**

Right of Appeal:

34. Under paragraph 16(1)(b) of Schedule 2 to the Social Workers Regulations 2018, the social worker may appeal to the High Court against:
 - a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order,
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
35. Under paragraph 16(2) of Schedule 2 to the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
36. Under regulation 9(4), Part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the social worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.
37. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practise Rules 2019.

Review of final orders

38. Under paragraphs 15(2) and 15(3) of Schedule 2 to the Social Workers Regulations 2018:
 - 15(2) – The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
 - 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.
39. Under rule 16(aa) of Social Work England's Fitness to Practise Rules, a registered social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.