

Mr Samuel Hawley: Professional conduct panel outcome

Panel decision and reasons on behalf of the Secretary of State for Education

February 2024

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Professional conduct panel decision and recommendations, and decision on behalf of the Secretary of State

Teacher:	Mr Samuel Hawley
Teacher ref number:	3853374
Teacher date of birth:	16 January 1995
TRA reference:	20821
Date of determination:	13 February 2024
Former employer:	Saffron Waldon County High, Essex

Introduction

A professional conduct panel ("the panel") of the Teaching Regulation Agency ("the TRA") convened on 12 - 13 February 2024 by way of a virtual hearing, to consider the case of Mr Samuel Hawley.

The panel members were Mrs Bev Williams (teacher panellist – in the chair), Mr Carl Lygo (lay panellist) and Mrs Nicola Anderson (teacher panellist).

The legal adviser to the panel was Mr Jermel Anderson of Blake Morgan LLP solicitors.

The presenting officer for the TRA was Mr Mark Millin of Kingsley Napley LLP solicitors.

Mr Samuel Hawley was present.

The hearing took place in public and was recorded.

Allegations

The panel considered the allegation(s) set out in the notice of proceedings dated 29 November 2023

It was alleged that Mr Samuel Hawley was guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that:

1.In relation to Pupil A;

- a) Made inappropriate physical contact with Pupil A in that you hugged her;
- b) Frequently asked to meet with Pupil A on her own and/or after school;
- c) Asked Pupil A about the breakup with her boyfriend;
- d) Asked Pupil A if her boyfriend had been "her first" and/or if they had "done other stuff" or words to that effect;
- e) Stated "You're making yourself a stranger to me but I want you to know that you're still one of my favourites and I still care about you, give us a hug" or words to that effect;
- f) Offered to drive Pupil A home in your car.
- 2. On one or more occasions;
 - a) Met and/or had one to one contact with Pupil A despite management advice given to you that you should not do so;
 - b) Did not notify the school of your contact with Pupil A despite being advised that you must do so.

Mr Hawley confirmed that he did not accept any of the allegations. He also denied unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

Preliminary applications

Application to hear matters partially in private

The panel heard a submission from the TRA regarding whether the hearing should be held partially in private. The discussion was restricted to mentions of health as they may arise within the evidence of Mr Hawley. Mr Hawley did not raise any objections to the discussion. The panel took and accepted the appropriate legal advice. Though the TRA did not formally consider this to be an application, the panel felt it appropriate to engage with it on that basis. The panel formed the view that Mr Hawley's right to a private life was engaged, due to the potential for mention of his private medical information. It felt that this private information did not have a public interest in being disclosed. It therefore concluded that given the sensitivity of the private health issues raised, it would be necessary and proportionate to deal with the relevant matters in private. It felt it was capable of doing this, solely in relation to these issues, and that it could deal with the other matters in public. It also confirmed that it would give reasons in public.

Summary of evidence

Documents

In advance of the hearing, the panel received a bundle of documents which included:

Section 1: Chronology and anonymised pupil list - pages 4 to 7

Section 2: Notice of proceedings and response - pages 9 to 34

Section 3: Teaching Regulation Agency witness statements - pages 36 to 57

Section 4: Teaching Regulation Agency documents - pages 59 to 183

Section 5: Teacher documents – pages 185 to 186

The panel members confirmed that they had read all of the documents within the bundle, in advance of the hearing and a skeleton argument that was provided to all parties by the TRA presenting officer.

In the consideration of this case, the panel had regard to the document Teacher Misconduct: Disciplinary Procedures for the Teaching Profession 2020, (the "Procedures").

Witnesses

The panel heard oral evidence from the TRA's witnesses, Witness A [REDACTED], and Witness B [REDACTED].

Mr Hawley gave live evidence in relation to the matter.

Decision and reasons

The panel announced its decision and reasons as follows:

The panel carefully considered the case before it and reached a decision.

Mr Hawley was employed by Saffron Waldon County High school on 1 September 2019, as a PE Teacher. On 14 February 2020, Mr Hawley was given verbal guidance in relation to his one-to-one interactions with pupils. There was subsequently a formal meeting on 8 December 2020, due to a failure to pass on relevant safeguarding information and continued one-to-one interactions with pupils in contravention of the guidance given. Mr Hawley was given a written letter of expectation following the meeting on 8 December 2020.

On 7 June 2021, Mr Hawley received an additional letter of expectation following a meeting. The concerns continued into 2022 when on 24 February 2022, Pupil A's parent contacted the school regarding a safeguarding issue. The following day, a meeting was held with regards to Mr Hawley's conduct with Pupil A.

An investigation commenced on 14 March 2022, with Mr Hawley resigning from his post on 15 March 2022. The investigative conclusion on 10 May 2022 then led to a TRA referral on 18 May 2022.

Findings of fact

The findings of fact are as follows:

The panel found the following particulars of the allegation(s) against you proved, for these reasons:

Allegation 1 and Allegation 2.

You are guilty of unacceptable professional conduct and/or conduct that may bring the profession into disrepute in that whilst working as Teacher at Saffron Walden County High School between September 2019 and April 2022 you

1. In relation to Pupil A;

a) Made inappropriate physical contact with Pupil A in that you hugged her;

b) Frequently asked to meet with Pupil A on her own and/or after school;

c) Asked Pupil A about the breakup with her boyfriend;

d) Asked Pupil A if her boyfriend had been "her first" and/or if they had "done other stuff" or words to that effect;

e) Stated "You're making yourself a stranger to me but I want you to know that you're still one of my favourites and I still care about you, give us a hug" or words to that effect;

f) Offered to drive Pupil A home in your car.

Whilst the Panel acknowledged that the limbs of this particular allegation were drafted as separate matters to be dealt with individually, the evidential nexus behind them meant that it felt it was appropriate to deal with them in totality. Additionally, the panel considered at the commencement of its considerations that particular 1 (b) was admitted by Mr Hawley through his live evidence.

The panel considered that the primary evidence for this allegation was found within the witness statement of Pupil A who did not attend. In closing, the TRA's presenting officer made specific submissions as to the appropriate approach regarding how to deal with this statement as hearsay evidence. It also received and accepted legal advice in relation to this issue. The panel felt that having considered the statement, it could be considered both relevant and fair to the issues in this case. It also was of the view that the evidence was corroborated by other evidential material such as the CCTV and text message exhibits, as well as the report provided by Pupil A's parents which was exhibited by Witness B [REDACTED]. It also heard from both Witness B [REDACTED] and Witness A [REDACTED] regarding Pupil A's conduct as a student, and whilst it recognised that this was opinion evidence, it considered that in this context as professionals these witnesses were competent to comment on a student and their overall behaviour. The panel also felt that there was a good reason for the non-attendance of Pupil A due to her age and vulnerability as advanced by the TRA. The panel accordingly afforded significant weight to her statement, it felt that it could appropriately test the evidence as contained within it due to the aforementioned evidence.

The panel also considered Mr Hawley's categorical denial of this allegation, save for 1 (b). It noted that he gave live evidence in relation to these matters, however, it felt that his evidence in relation to this was somewhat confused. Whilst it recalled that some time had passed, it felt that his recollection of certain interactions was limited. It felt that the language used by Mr Hawley in relation to this allegation when discussing these matters was at times concerning and it noted that he adopted phrases such as "I was getting nothing back from her", when setting out his account of what conversations took place. It felt that this was inappropriate as it implied that there was expectation of a substantive conversation when Mr Hawley had already been warned not to discuss matters with Pupil A, and also as he was advancing the argument that she had sought him out for a discussion. It was felt that the suggestion made by Mr Hawley therefore undermined his own evidence. The panel also noted that Mr Hawley had no pastoral or tutor role in

relation to Pupil A, and therefore there was a degree of implausibility in relation to his justification for the continued discussion with Pupil A.

The panel noted that there was a direct conflict between Mr Hawley's assertion that he had been approached by Pupil A, and the text message and CCTV evidence which appeared to show both Mr Hawley beckoning her, and Pupil A expressing a degree of discomfort with their actions. The panel also considered the fact that through his own live evidence Mr Hawley acknowledged that he "may have" made a movement that was like beckoning. It also commented that it had been shown evidence that following an initial meeting on a balcony in view of CCTV, the pair went to a location with no CCTV or witnesses at a time when Pupil A was sending a text message to her mother saying that she did not want to talk to Mr Hawley. It was felt that these actions further undermined the credibility of the evidence of Mr Hawley. During his live evidence Mr Hawley made remarks in relation to this incident to the effect of "if someone else was around I would not have spoken to her", however the CCTV made clear that there was at least one other member of staff present in the reception area at the relevant time.

The panel therefore felt that Pupil A's evidence in relation to all the sub-limbs was, on balance of probabilities, more likely than not to have taken place. Accordingly, it found Mr Hawley's explanations to be less than likely to have taken place.

The panel accordingly found Allegation 1 proved.

2. On one or more occasions;

a) Met and/or had one to one contact with Pupil A despite management advice given to you that you should not do so

b) Did not notify the school of your contact with Pupil A despite being advised that you must do so.

The panel heard directly from Witness B [REDACTED] in relation to this and felt that he provided a compelling and consistent account which was corroborated by the other evidence. It was particularly concerned by the fact that Witness B [REDACTED] found Mr Hawley in his classroom with the door and the blinds closed in the presence of two female pupils (including Pupil A) outside of school hours, despite the fact that he had been warned on multiple occasions about conduct of this nature. The panel also appreciated the evidence provided by Witness A [REDACTED] in relation to the school processes in relation to reporting. It also heard from Mr Hawley who it felt, made direct admissions to both limbs of this particular allegation, through his live evidence. It accepted that Mr Hawley gave an explanation in relation to 2(b), suggesting that on some occasions he did utilise the school reporting system, however it did not feel that this admission was contrary to the allegation itself, given he implied that he felt that he only had to undertake the notification process in relation to certain specific safeguarding

circumstances.

Ultimately, in his live evidence Mr Hawley admitted that he did have contact with Pupil A that he did not pass on and it was evident from the letter of expectation that he had received, that the obligation to notify the school of such contact was not limited to safeguarding issues.

Having considered the matters as a whole, and the admissions made by Mr Hawley, the panel found allegation 2 proved.

Findings as to unacceptable professional conduct and/or conduct that may bring the profession into disrepute

Having found Allegation 1 and Allegation 2 proved in their totality, the panel went on to consider whether the facts of those proved allegations amounted to unacceptable professional conduct and/or conduct that may bring the profession into disrepute.

In doing so, the panel had regard to the document Teacher Misconduct: The Prohibition of Teachers, which is referred to as "the Advice".

The panel was satisfied that the conduct of Mr Hawley in relation to the facts found proved, involved breaches of the Teachers' Standards. The panel considered that, by reference to Part 2, Mr Hawley was in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel also considered whether Mr Hawley's conduct displayed behaviours associated with any of the offences listed on pages 12 and 13 of the Advice.

The Advice indicates that where behaviours associated with such an offence exist, a panel is likely to conclude that an individual's conduct would amount to unacceptable professional conduct.

The panel found that none of these offences was relevant.

The panel was satisfied that the conduct of Mr Hawley amounted to misconduct of a serious nature which fell significantly short of the standards expected of the profession.

It was particularly concerned that Mr Hawley had been warned by the school leadership in relation to his actions on at least 4 occasions, that there had been two LADO referrals and also notably, that Pupil A's parents felt the need to raise concerns with the school.

In relation to whether Mr Hawley's actions amounted to conduct that may bring the profession into disrepute, the panel took into account the way the teaching profession is viewed by others. It considered the influence that teachers may have on pupils, parents and others in the community. The panel also took account of the uniquely influential role that teachers can hold in pupils' lives and the fact that pupils must be able to view teachers as role models in the way that they behave.

The findings of misconduct are serious, and the conduct displayed would be likely to have a negative impact on the individual's status as a teacher, potentially damaging the public perception.

It considered the fact that Pupil A's parents engaged the school in relation to this matter of particular note, given their standing as members of the public. It felt, that taken as a whole the actions within the allegations found proved, were significant enough to warrant public concern. Additionally, it found the fact that Pupil A had been told not to have any contact with Mr Hawley, but he had continued to interact with her, aggravates the finding as it placed Pupil A in a difficult position given the inherent authority that teachers hold in relation to pupils, and their general standing within the community.

The panel felt it difficult to take into account any mitigating circumstances in relation to these allegations. It accepted, that Mr Hawley may have been motivated by a misguided sense of aiding the pupils, however it did not find this a compelling justification for his actions.

Having found the facts of particulars of allegations 1 and 2 proved, the panel further found that Mr Hawley's conduct amounted to both unacceptable professional conduct and conduct that may bring the profession into disrepute.

Panel's recommendation to the Secretary of State

Given the panel's findings in respect of unacceptable professional conduct/conduct that may bring the profession into disrepute, it was necessary for the panel to go on to consider whether it would be appropriate to recommend the imposition of a prohibition order by the Secretary of State.

In considering whether to recommend to the Secretary of State that a prohibition order should be made, the panel had to consider whether it would be an appropriate and proportionate measure, and whether it would be in the public interest to do so. Prohibition orders should not be given in order to be punitive, or to show that blame has been apportioned, although they are likely to have punitive effect.

The public interest – general

The panel had regard to the particular public interest considerations set out in the Advice and having done so, found a number of them to be relevant in this case, namely: the safeguarding and wellbeing of pupils and the protection of other members of the public/the maintenance of public confidence in the profession/declaring and upholding proper standards of conduct.

The public interest - specific

In the light of the panel's findings against Mr Hawley which involved continually making contact with a pupil after repeated warning from school leadership to stop doing so, making inappropriate comments, and inappropriate physical contact, there was a strong public interest consideration in relation to the safeguarding and wellbeing of pupils.

Similarly, the panel considered that public confidence in the profession could be seriously weakened if conduct such as that found against Mr Hawley were not treated with the utmost seriousness when regulating the conduct of the profession.

The panel was of the view that a strong public interest consideration in declaring proper standards of conduct in the profession was also present; as the conduct found against Mr Hawley was outside that which could reasonably be tolerated.

In addition to the public interest considerations set out above, the panel went on to consider whether there was a public interest in retaining Mr Hawley in the profession. However, given his relatively short career as a teacher, it felt it could not make such a finding in these circumstances.

Proportionality

In view of the clear public interest considerations that were present, the panel considered carefully whether or not it would be proportionate to impose a prohibition order, taking into account the effect that this would have on Mr Hawley.

The Advice

In carrying out the balancing exercise, the panel had regard to the public interest considerations both in favour of, and against, prohibition as well as the interests of Mr Hawley. The panel took further account of the Advice, which suggests that a prohibition order may be appropriate if certain behaviours of a teacher have been proved. In the list of such behaviours, those that were relevant in this case were:

- serious departure from the personal and professional conduct elements of the Teachers' Standards;
- misconduct seriously affecting the education and/or safeguarding and well-being of pupils, and particularly where there is a continuing risk;
- abuse of position or trust (particularly involving pupils);
- failure to act on evidence that indicated a child's welfare may have been at risk e.g. failed to notify the designated safeguarding lead and/or make a referral to children's social care, the police or other relevant agencies when abuse, neglect and/or harmful cultural practices were identified;
- failure in their duty of care towards a child, including exposing a child to risk or failing to promote the safety and welfare of the children (as set out in Part 1 of KCSIE);

Mitigation – as per the list in the Teacher Misconduct – The Prohibition of Teachers Advice

Even though some of the behaviour found proved in this case indicated that a prohibition order would be appropriate, the panel went on to consider the mitigating factors. Mitigating factors may indicate that a prohibition order would not be appropriate or proportionate.

In the light of the panel's findings:

It was felt that Mr Hawley's actions were deliberate. It however was advised by the TRA that Mr Hawley had not faced any previous disciplinary or regulatory investigations, and considered this to be a mitigating factor.

The panel felt that there was no evidence to suggest that Mr Hawley was acting under duress. The panel felt that his actions were deliberate but recognised that to some degree, his actions may have been motivated by a degree of naivety. It felt that this naivety could not mitigate against the overall findings that had been made.

The panel first considered whether it would be proportionate to conclude this case with no recommendation of prohibition, considering whether the publication of the findings made by the panel would be sufficient.

The panel was of the view that, applying the standard of the ordinary intelligent citizen, it would not be a proportionate and appropriate response to recommend no prohibition order. Recommending that the publication of adverse findings would be sufficient would unacceptably compromise the public interest considerations present in this case, despite the severity of the consequences for Mr Hawley of prohibition.

The panel was of the view that prohibition was both proportionate and appropriate. The panel decided that the public interest considerations outweighed the interests of Mr Hawley. The absence of insight shown by Mr Hawley, in addition to his overall lack of appreciation of the appropriate boundaries of a teacher, were significant factors in forming that opinion. Accordingly, the panel made a recommendation to the Secretary of State that a prohibition order should be imposed with immediate effect.

Review – general

The panel went on to consider whether or not it would be appropriate for it to decide to recommend a review period of the order. The panel was mindful that the Advice states that a prohibition order applies for life, but there may be circumstances, in any given case, that may make it appropriate to allow a teacher to apply to have the prohibition order reviewed after a specified period of time that may not be less than 2 years.

Review – specific

The Advice indicates that there are certain types of case where, if relevant, the public interest will have greater relevance and weigh in favour of not offering a review period.

However, it was felt that this case did not meet any of the requisite criteria.

The Advice also indicates that where a case involves certain other characteristics, it is likely that the public interest will have greater relevance and weigh in favour of a longer period before a review is considered appropriate.

None of the listed characteristics were engaged by the panel's findings.

The panel commented that Mr Hawley had shown no insight. It felt that he could take some steps to aid his remediation, including appropriate training, should he wish to apply to rejoin the profession in the future.

The panel decided that the findings indicated a situation in which a review period would be appropriate and, as such, decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period of two years.

Decision and reasons on behalf of the Secretary of State

I have given very careful consideration to this case and to the recommendation of the panel in respect of both sanction and review period.

In considering this case, I have also given very careful attention to the Advice that the Secretary of State has published concerning the prohibition of teachers.

In this case, the panel has found all of the allegations proven and found that those proven facts amount to unacceptable professional conduct and conduct that may bring the profession into disrepute.

The panel has made a recommendation to the Secretary of State that Mr Samuel Hawley should be the subject of a prohibition order, with a review period of two years.

In particular, the panel has found that Mr Hawley is in breach of the following standards:

- Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by
 - treating pupils with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
 - having regard for the need to safeguard pupils' well-being, in accordance with statutory provisions
- Teachers must have proper and professional regard for the ethos, policies and practices of the school in which they teach...
- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities.

The panel was satisfied that the conduct of Mr Hawley involved breaches of the responsibilities and duties set out in statutory guidance Keeping children safe in education (KCSIE).

The panel finds that the conduct of Mr Hawley fell significantly short of the standards expected of the profession.

The findings of misconduct are particularly serious as they include findings of inappropriate physical contact with and comments to a pupil and meeting a pupil despite management advice not to do so.

I have to determine whether the imposition of a prohibition order is proportionate and in the public interest. In considering that for this case, I have considered the overall aim of a prohibition order which is to protect pupils and to maintain public confidence in the profession. I have considered the extent to which a prohibition order in this case would achieve that aim taking into account the impact that it will have on the individual teacher. I have also asked myself whether a less intrusive measure, such as the published finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, would itself be sufficient to achieve the overall aim. I have to consider whether the consequences of such a publication are themselves sufficient. I have considered therefore whether or not prohibiting Mr Hawley, and the impact that will have on the teacher, is proportionate and in the public interest.

In this case, I have considered the extent to which a prohibition order would protect children and safeguard pupils. The panel has observed, "In the light of the panel's findings against Mr Hawley which involved continually making contact with a pupil after repeated warning from school leadership to stop doing so, making inappropriate comments, and inappropriate physical contact, there was a strong public interest consideration in relation to the safeguarding and wellbeing of pupils." A prohibition order would therefore prevent such a risk from being present in the future.

I have also taken into account the panel's comments on insight. The panel has commented on the "absence of insight shown by Mr Hawley, in addition to his overall lack of appreciation of the appropriate boundaries of a teacher". In my judgement, the lack of insight means that there is some risk of the repetition of this behaviour and this puts at risk the future wellbeing of pupils. I have therefore given this element considerable weight in reaching my decision.

I have gone on to consider the extent to which a prohibition order would maintain public confidence in the profession. The panel has observed, "It considered the fact that Pupil A's parents engaged the school in relation to this matter of particular note, given their standing as members of the public. It felt, that taken as a whole the actions within the allegations found proved, were significant enough to warrant public concern." I am particularly mindful of the finding of inappropriate comments and physical contact in this case and the impact that such a finding has on the reputation of the profession.

I have had to consider that the public has a high expectation of professional standards of all teachers and that the public might regard a failure to impose a prohibition order as a failure to uphold those high standards. In weighing these considerations, I have had to consider the matter from the point of view of an "ordinary intelligent and well-informed citizen."

I have considered whether the publication of a finding of unacceptable professional conduct and conduct likely to bring the profession into disrepute, in the absence of a prohibition order, can itself be regarded by such a person as being a proportionate response to the misconduct that has been found proven in this case.

I have also considered the impact of a prohibition order on Mr Hawley himself. The panel has commented that given Mr Hawley's relatively short career as a teacher that it did not feel it could make a finding on whether there was a public interest in retaining him in the profession.

A prohibition order would prevent Mr Hawley from teaching. A prohibition order would also clearly deprive the public of his contribution to the profession for the period that it is in force.

In this case, I have placed considerable weight on the panel's finding that Mr Hawley's actions were deliberate and that he continued to interact with a pupil despite instructions from the school leadership that he should not do so. The panel has noted that several behaviours were present that suggest a prohibition order may be appropriate including abuse of position or trust and failure in the duty of care towards a child.

I have also placed considerable weight on the panel's comments concerning the lack of any insight.

I have given less weight in my consideration of sanction therefore, to the contribution that Mr Hawley has made to the profession. In my view, it is necessary to impose a prohibition order in order to maintain public confidence in the profession. A published decision, in light of the circumstances in this case, that is not backed up by remorse or insight, does not in my view satisfy the public interest requirement concerning public confidence in the profession.

For these reasons, I have concluded that a prohibition order is proportionate and in the public interest in order to achieve the intended aims of a prohibition order.

I have gone on to consider the matter of a review period. In this case, the panel has recommended a 2-year review period. I have noted the panel's comments that none of the criteria were present that weigh in favour of either not offering a review period or offering a longer review period. The panel "felt that he could take some steps to aid his remediation, including appropriate training, should he wish to apply to rejoin the profession in the future." The panel has therefore "decided that it would be proportionate, in all the circumstances, for the prohibition order to be recommended with provisions for a review period of two years."

I have considered whether a 2-year review period reflects the seriousness of the findings and is a proportionate period to achieve the aim of maintaining public confidence in the profession. In my judgement, a 2-year review period reflects the seriousness of the inappropriate behaviour in this case and is sufficient to achieve the aim of maintaining public confidence in the profession. It provides time for Mr Hawley to demonstrate that he has developed insight into his behaviour and that there would be no repetition of the misconduct should he wish to return to the teaching profession. This means that Mr Samuel Hawley is prohibited from teaching indefinitely and cannot teach in any school, sixth form college, relevant youth accommodation or children's home in England. He may apply for the prohibition order to be set aside, but not until 20 February 2026, 2 years from the date of this order at the earliest. This is not an automatic right to have the prohibition order removed. If he does apply, a panel will meet to consider whether the prohibition order should be set aside. Without a successful application, Mr Hawley remains prohibited from teaching indefinitely.

This order takes effect from the date on which it is served on the teacher.

Mr Samuel Hawley has a right of appeal to the High Court within 28 days from the date he is given notice of this order.

Decision maker: David Oatley

Date: 15 February 2024

This decision is taken by the decision maker named above on behalf of the Secretary of State.