

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2024

Public Authority: Financial Conduct Authority
Address: 12 Endeavour Square
London
E20 1JN

Decision (including any steps ordered)

1. The complainant has requested emails and their attachments sent to or from two named individuals where Collateral UK Ltd is mentioned.
2. The Financial Conduct Authority (FCA) identified information in scope of the request, disclosing this with some information redacted under section 40 (personal data), section 30 (investigations and proceedings) and section 36 (prejudice to the effective conduct of public affairs).
3. The Commissioner's decision is that the FCA has correctly applied section 30(1)(c) to withhold some of the information from the disclosed correspondence. Section 40 has also been correctly applied to withhold personal data. The information within the scope of this notice to which the FCA applied section 36(2)(b)(ii) and (c) does engage the exemption but the Commissioner finds the public interest favours disclosure.
4. The Commissioner requires the FCA to take the following steps to ensure compliance with the legislation:
 - Disclose the information in the emails, correspondence and attachments that engages section 36(2)(b)(ii) and 36(2)(c) but in respect of which the public interest favours disclosure.
5. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

pursuant to section 54 of the Act and may be dealt with as an contempt of court.

Request and response

6. An initial information request was made to the FCA on 11 August 2023 in the following terms:

“...emails (including their attachments) sent to or received from the email accounts of FCA officers listed below between the first of October 2017 and the date of this request, in which the phrase “Collateral (UK)” or Collateral UK appears and also emails in the same chains of correspondence related to Collateral (UK) Limited

 - A) Jonathan Davidson
 - B) Andrew Bailey”
7. The complainant, following discussions, agreed to a refined request on 1 May 2024 focusing on any information relating to Collateral (UK) Ltd contained in the documents identified.
8. On 14 June 2024 the FCA responded to this refined request confirming 3584 pages of information were found in scope of the request, any pages that did not relate to Collateral (UK) Ltd in their entirety were removed. For the remainder, information was disclosed with any information not in scope removed and some redactions were made under sections 40, 30 and 36 FOIA.
9. The complainant asked the Commissioner for a decision on the redactions made by the FCA and, given this is a refined request and the original request was made in August 2023, the Commissioner has used his discretion to accept the complaint without an internal review.

Scope of the case

10. The complainant contacted the Commissioner on 1 July 2024 to complain about the way their request for information had been handled.
11. The Commissioner considers the scope of his investigation is to determine if the FCA has correctly relied on any of the cited exemptions to redact information from the disclosed documents. It should also be noted, for the benefit of the complainant, that some of the information redacted from the disclosed documents was actually information that was not in scope of the request.

Reasons for decision

Section 30 – investigations and proceedings

12. Section 30(1)(c) of FOIA states:

“Information held by a public authority is exempt information if it has at any time been held by the authority for the purposes of –

(c) any criminal proceedings which the authority has the power to conduct.”

13. The phrase “at any time” means that information may be exempt under section 30(1)(c) if it relates to ongoing, closed or abandoned proceedings.

14. Section 30(1) is a class-based exemption, which means that there is no need to demonstrate harm or prejudice in order for the exemption to be engaged. However, information must be held for specific or particular criminal proceedings and not for criminal proceedings in general.

15. The Collateral Companies operated a peer-to-peer lending platform via a website and Collateral UK Ltd stated it held an interim permission from the FCA to carry on regulated activities. The Collateral Companies did not hold any valid authorisation or permission to carry on regulated activities and when challenged by the FCA the Collateral Companies ceased their lending activities and the lending platform became inoperative in February 2018.

16. The FCA withheld some information under section 30(1)(c) FOIA as it stated it was held for the purposes of a criminal investigation and prosecution centred around unauthorised regulated activity including the changes made to the FCA register and subsequent withdrawal of funds from the company by the defendants. Following the investigation the FCA states two individuals were charged and prosecuted for fraud and money laundering offences and were convicted after a four week trial.

17. The FCA states it has the power to conduct investigations under sections 167 and 168 of the Financial Services and Markets Act 2000¹ (FSMA). This states the FCA may open:

- general investigations where it considers there is good reason to conduct an investigation into the nature, conduct or state of the

¹ [Financial Services and Markets Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

person's business or a particular aspect of that business, or into the ownership or control of an authorised person; and

- specific investigations if there are circumstances suggesting that a firm or individual may have breached one or more of our rules or principles or may be guilty of certain offences.
18. The Commissioner notes that section 30(1)(c) does not have an investigatory element – it can be applied by public authorities that lack the investigative function but do have the power to conduct criminal investigations. The FSMA does convey this power on the FCA.
 19. The FCA has confirmed the criminal investigation and prosecution had been concluded at the time of the request but live confiscation proceedings remained open relating to the convicted individuals and the Commissioner accepts that section 30(1)(c) protects information generated following the conclusion of an investigation and the start of criminal proceedings.
 20. As such, the Commissioner accepts the FCA can rely on section 30(1)(c) to withhold information in specific circumstances such as those described by the FCA. He has now gone on look at the specific information that has been withheld under this exemption to ascertain if it is information of the description given by the FCA.
 21. The information withheld under this exemption largely consists of reports providing updates on the progress and development of the investigation in question. Any remaining information withheld under this exemption relates to the investigation directly as it is emails detailing progress and updates, separate from the weekly reports.
 22. The Commissioner is satisfied that the exemption at section 30(1)(c) is engaged in respect of the information described in the request. It is held by the FCA for the purposes of criminal proceedings which it has the power to conduct.
 23. Section 30(1)(c) of FOIA is a qualified exemption and is subject to the public interest test. The Commissioner must consider whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
 24. The FCA recognises there is a public interest in favour of transparency and in the public being made aware of any information that may or may not have been received about the firms and/or individuals operating in the financial services industry, particularly where those matters may directly impact on the public.

25. It recognises that disclosure of this information would reassure the public about the effectiveness of the FCA's approach and demonstrate how it responds to matters arising in the sector it regulates.
26. The complainant argues full disclosure of information relating to the FCA's role in "allowing the company to trade illegally for nearly two years". The complainant has submitted a number of FOIA requests to attempt to piece together the circumstances of the collapse of Collateral and to understand the narrative and how much the FCA knew in advance of information being made public.
27. The FCA argues that disclosure could impede other ongoing or future proceedings by revealing its regulatory strategies which, without any background information, could be taken out of context and lead to the wrong conclusions being reached about its decision-making process.
28. Expanding on this somewhat, the FCA strongly argued that disclosing operational details of an investigation would impede ongoing or future proceedings or investigations. It believes disclosure would reveal investigative strategies and how and from whom it obtains information.
29. The ongoing live nature of the confiscation proceedings relating to this matter and the criminal proceedings are a significant factor and the FCA considers disclosure could prejudice these proceedings and/or any potential appeal by the defendants.
30. The Commissioner recognises the public interest in promoting transparency and public understanding with regard to decisions made by public authorities. The FCA had stated that approximately 1,000 investors had put more than £15 million through Collateral before its collapse so there is a public interest in information that would shed light on the collapse of Collateral, the FCA's role in the proceedings and how decisions were made.
31. However, the Commissioner also understand there is a strong public interest in protecting the FCA's investigation processes.
32. The Commissioner also has concerns that disclosing information used as part of criminal proceedings, which identifies individuals who assisted with the investigation, could create a perception among the wider public that sensitive information about criminal investigations may be disclosed to the world at large after proceedings have concluded.
33. The withheld information does contain references to individuals who have provided information to the FCA or assisted with their investigations and the Commissioner considers there is a real chance disclosure may deter people (including victims and suspects) from coming forward voluntarily and cooperating with authorities.

34. This may adversely affect the quality of the evidence obtained during investigations, which would, in turn, prejudice the successful conduct of proceedings by the FCA. There is a very significant public interest in avoiding that outcome and for this reason the Commissioner finds the public interest arguments in favour of maintaining the exemption to be more compelling with regards to the information identified that is directly linked to the investigation and continuing proceedings.

Section 36 – prejudice to the effective conduct of public affairs

35. Section 36 of FOIA states that information is exempt where, in the reasonable opinion of a qualified person, disclosure would, or would be likely to, prejudice the effective conduct of public affairs.
36. The FCA has applied sections 36(2)(b)(ii) and 36(2)(c) to withhold the relevant requested information. Arguments under these sections are usually based on the concept of safe space and a 'chilling effect'. The chilling effect argument is that disclosure of discussions would inhibit free and frank discussions in the future, and that the loss of frankness and candour would damage the quality of advice and deliberation and lead to poorer decision making.
37. The Commissioner's guidance on section 36 states that information may be exempt under sections 36(2)(b)(ii) if its disclosure would, or would be likely to, inhibit the ability of public authority staff, and others, to express themselves openly, honestly and completely, or to explore extreme options, when providing advice or giving their views as part of the process of deliberation. In this case, the FCA believes that disclosure would be likely to inhibit this ability.
38. The exemptions at section 36 can only be engaged on the basis of the reasonable opinion of a qualified person ("QP"). The Commissioner is satisfied that the FCA's Board members are designated as QP's by HM Treasury and therefore a QP under section 36(5) of FOIA gave the opinion that the exemption was engaged.
39. The Commissioner has considered whether the opinion about section 36(2)(b)(ii) is reasonable. It's important to note that 'reasonableness' is not determined by whether the Commissioner agrees with the opinion provided but whether the opinion is in accordance with reason. In other words, is it an opinion that a reasonable person could hold? The only requirement is that it is a reasonable opinion, and not necessarily the most reasonable opinion.
40. The test of reasonableness is not meant to be a high hurdle and if the Commissioner accepts that the opinion is one that a reasonable person could hold, he must find that the exemption is engaged.

41. For the QP's opinion to be reasonable, it must be clear as to precisely how the inhibition may arise. In his published guidance on section 36 the Commissioner notes that it is in the interests of public authorities to provide him with all the evidence and arguments that led to the opinion, to show that it was reasonable. If this is not done, then there is a greater risk that the Commissioner may find that the opinion is not reasonable.
42. The FCA has provided the Commissioner with a copy of the submission it provided to the QP. This shows that the QP was provided with a summary of the information being sought, detailed arguments for why the prejudice envisioned under section 36(2)(b)(ii) would or would be likely to occur, and counter arguments.
43. The QP made their decision on the basis that the envisioned inhibition would be likely to happen. This means that the QP considers that there is a real and significant possibility that the inhibition would occur.
44. The Commissioner accepts that it was reasonable for the qualified person to consider that there was a need to protect the confidentiality of discussions and deliberations.
45. He is also satisfied that the qualified person's opinion - that inhibition relevant to those subsections would be likely to occur through disclosure of the withheld information - is reasonable. He is therefore satisfied that the exemption was correctly applied
46. Section 36 is subject to the public interest test. This means that although section 36(2)(b)(ii) is engaged, the withheld information must be disclosed unless the public interest in maintaining the exemption is stronger than the public interest in disclosure.
47. The information that has been withheld under this exemption relates to public affairs matters (complaints, parliamentary questions, press releases), or comprises of internal views relating to the FCA's handling of complaints on the matter, or is draft communication pieces intended to be published and discussions around these drafts.
48. In its submissions to the QP the FCA stressed that the exemption is concerned with the disclosure of information that might inhibit the process of exchanging views but that the views themselves don't necessarily need to be notably free and frank. The FCA argues that disclosing this information could inhibit those who engage in such discussions in the future.
49. The information includes internal discussions about what details relating to Collateral should be disclosed or withheld as part of communication releases, the FCA's handling of complaints and risks to public

confidence. The FCA considers it needs a “safe space” to discuss and make decisions and that disclosing deliberations about what information to release to the public would compromise the safety of that space.

50. The FCA considers disclosure of this type of information would inhibit staff confidence and willingness to express themselves openly and frankly when giving their views in future deliberations on sensitive topics. This in turn would damage the quality of deliberation in such exercises and lead to poorer advice and decision-making. Disclosure of this information and confirmation that it exists will lead to unwarranted speculation - the FCA needs space away from live public scrutiny so that the decisions it makes are sound and well considered. Without a protected space for open and honest discussion of the important and complex issues involved, decision-makers could be discouraged from frank exchanges and this would not be in the public interest.
51. The FCA acknowledges safe space and chilling effect arguments are stronger when issues are still live and the enforcement investigation and criminal proceedings have concluded but as the confiscation proceedings are still live the arguments do still carry weight.
52. Balanced against this, the FCA accepts there is a public interest in information about how the FCA makes decisions and allowing the public to better understand this is important to consumers and for the wider regulatory regime. Disclosure of the information would also show the FCA to be open and transparency and public scrutiny could ensure more robust deliberations and better decision-making.
53. When he considers the balance of the public interest, the Commissioner takes account of the weight of the QP’s opinion, the timing of the request, and the severity, extent and frequency of the envisioned prejudice or inhibition.
54. The QP in this case had the requisite knowledge of how their organisation works and the consequences of any disclosure. The Commissioner recognises that the QP’s opinion was that the envisioned inhibition would be likely to occur.
55. The Commissioner has next considered the timing of the request. The public interest in being able to exchange views about an issue freely and frankly, for example, will be greater if the issue is ongoing and live at the time of a request.
56. The request was initially submitted in August 2023 before being refined in May 2024. The FCA, by on its own admissions, accepts that at the time of the request the investigation and criminal proceedings had concluded. The discussions that have been withheld under this

exemption relate to what information should be made public in press releases and how the FCA is handling complaints and the risks to public confidence. These matters relate to the initial investigation and criminal proceedings and whilst the confiscation proceedings are still live it is not clear how disclosing the early deliberations relating to the initial investigation and criminal proceedings would affect this.

57. The Commissioner has considered the severity, extent and frequency of the envisioned prejudice or inhibition. He found that the QP's opinion about the relevant information was reasonable.
58. However, regarding section 36(2)(b)(ii) and staff being reluctant to fully engage in future discussions and deliberations and share their views, the Commissioner stresses that the communications are all involving i.e. sent to/received by very senior individuals who he would expect would still engage in free and frank deliberations in the future to ensure the effective operation of the FCA. Where junior colleagues are involved in the discussions the Commissioner accepts a proportion of staff may feel somewhat inhibited if the information were to be disclosed but he is not convinced the prejudice envisaged by the FCA would be severe and the extent of it would be limited. Staff will still need to share draft press releases for comment and offer views about what information can or should be included in communications, this will generally always have to be done in a free and frank way regardless of the fear of future disclosure.
59. Disclosure at the time discussions are ongoing or issues are still live will be much more likely to have the effect described by the FCA and would impact on the 'safe space' needed to continue to discuss and deliberate. In this case disclosing information that shows internal deliberations and gives insight into the FCA's decision-making process after an investigation has concluded is in the public interest. There is a public interest in this matter with investors in particular wanting to know what happened and how the FCA handled the issues that came to light. There is a wider public interest in the information as Collateral made false statements about its status with the FCA. Disclosing information showing the internal discussions about this will shed some light on how the FCA handled the matter.
60. For the above reasons, the Commissioner is not persuaded that the public interest arguments in favour of maintaining the exemption carry significant weight in respect of the information being considered here. In his view, the public interest associated with section 36(2)(b)(ii) favours disclosing that information.
61. The Commissioner has carefully considered the public interest arguments for and against disclosing the information to which the FCA

has applied the section 36(2)(b)(ii) exemption. He has noted the QP's opinion and the FCA's concerns but he nonetheless considers that the general public interest in transparency, the concerns that exist about Collateral now and at the time of the request tip the balance in favour of disclosing the information he has considered in this notice.

62. Because he has found that section 36(2)(b)(ii) is engaged but that the public interest favours disclosure, the Commissioner has gone on to consider the FCA's application of section 36(2)(c) to the same information.

Section 36(2)(c) – otherwise prejudice conduct of public affairs

63. Section 36(2)(c) of FOIA says that information is exempt information if, in the reasonable opinion of a QP, disclosing the requested information would otherwise prejudice, or would be likely to otherwise prejudice, the effective conduct of public affairs. As above, to determine whether the FCA correctly applied this exemption, the Commissioner must consider the QP's opinion as well as the reasoning that informed the opinion.
64. For the reasons given above, the Commissioner is satisfied that the QP was the appropriate QP and that their opinion was given at an appropriate time.
65. As with section 36(2)(b)(ii) and taking the same factors into account, the Commissioner has considered whether the opinion about section 36(2)(c) is reasonable.
66. As noted, the FCA has provided the Commissioner with a copy of the submission it provided to the QP. This shows that the QP was provided with a summary of the information being sought, detailed arguments for why the prejudice envisioned under section 36(2)(c) would or could occur, and counter arguments.
67. The QP made their decision on the basis that the envisioned prejudice would be likely to happen and the submission to them sets out the rationale for this.
68. The Commissioner is satisfied that the QP had sufficient appropriate information about the request and the section 36(2)(c) exemption to form an opinion on the matter of whether relying on that exemption was appropriate regarding the information being withheld.
69. The prejudice identified by the QP in relation to section 36(2)(c) is distinct from that identified for section 36(2)(b)(ii). The QP considered that disclosure of the information could be taken out of context, cause undue speculation and lead to unjustified public criticism. This in turn would be likely to prejudice or undermine the FCA's decision-making

process and have an adverse effect on the FCA's effective delivery of its functions.

70. The Commissioner accepts the QP's opinion is reasonable. He is therefore satisfied that the exemption was correctly applied.
71. In respect of the public interest arguments relevant to section 36(2)(c) the Commissioner has again considered the timing of the request and the severity and extent of the argued prejudice.
72. The Commissioner does not accept that information being out of context is a valid arguments for withholding information, there is nothing to prevent a public authority from adding explanatory text when making disclosures. The other arguments presented by the FCA relate to undue speculation and unjustified public criticism, given the timing of the request it is difficult to understand how disclosure now would lead to undue speculation. The potential for public criticism, justified or unjustified, again should not be a reason for refusing disclosure of information. The Commissioner accepts that there is a risk that disclosure might have these consequences and that responding to any questions that might arise could be a somewhat distracting but it is not clear how this would impact on the functioning of the FCA, its decision-making or, more broadly, the effective conduct of public affairs.
73. Given the Commissioner has already established there are public interest arguments for disclosing the information he concludes that, based on the above, the balance of the public interest lies in favour of disclosure and the information withheld under section 36(2)(b)(ii) and (2)(c) in the alternative should now be disclosed.

Section 40(2) – personal information

74. Section 40(2) of FOIA allows a public authority to withhold information that constitutes the personal data of someone other than the requester, and if disclosing that information would contravene any of the data protection principles² set out under UK data protection law.
75. The two main elements of personal data are that it must relate to a natural person (i.e. a living individual), and that the person must be identifiable from the information (either directly or indirectly).

² The data protection principles are set out in Article 5(1) of the UK General Data Protection Regulation and section 34(1) of the Data Protection Act 2018.

76. In this case the withheld information is names/contact information of more junior members of staff at the FCA, names of members of the public and some information about complainant's personal circumstances. This information would clearly be personal data and requires no further explanation.
77. This information therefore falls within the definition of 'personal data' in section 3(2) of the DPA.
78. The fact that information constitutes personal data does not automatically exclude it from disclosure under FOIA. The second element of the test under section 40(2) is to determine whether disclosure would contravene any of the data protection principles.
79. In the case of an FOIA request, the personal data is processed when it is disclosed in response to the request. This means that the information can only be disclosed if doing so would be lawful, fair and transparent.
80. For disclosure to be "lawful", there must be a "lawful basis" for that processing. Of the six lawful bases listed under Article 6(1) of the UK GDPR, the ones most likely to apply to the disclosure of personal data under FOIA are those under Article 6(1)(a) and Article 6(1)(f):
 - (a) the individual to whom the requested information relates has given consent to the disclosure under FOIA, or
 - (f) the disclosure of the requested information is necessary for the purposes of legitimate interests pursued by the public authority or by a third party [e.g. the requester], except where such interests are overridden by the interests or fundamental rights and freedoms of the individuals to whom the requested information relates.
81. As the individuals to whom the requested information relates have not consented to its disclosure in this case, the Commissioner has gone on to consider whether the "legitimate interests" lawful basis under Article 6(1)(f) would apply to the disclosure.
82. When considering whether Article 6(1)(f) applies to the disclosure of personal data, public authorities must consider:
 - whether there is a legitimate interest being pursued,
 - whether disclosure of the information is necessary to satisfy that interest, and
 - whether the legitimate interest is overridden by the rights and freedoms of the individuals to whom the information relates.

Legitimate interests

83. In considering any legitimate interest(s) in the disclosure of the requested information under FOIA, the Commissioner recognises that such interest(s) can include broad general principles of accountability and transparency for their own sakes, as well as case specific interests.
84. Further, a wide range of interests may be legitimate interests. They can be the requester's own interests or the interests of third parties, and commercial interests as well as wider societal benefits. They may be compelling or trivial, but trivial interests may be more easily overridden in the balancing test.
85. The FCA does not dispute there is a legitimate interest in disclosure – namely the public authority being transparent and accountable in how it regulates firms and individuals. Equally, the FCA accepts the complainant is pursuing a legitimate private interest in promoting transparency and seeking to hold the FCA accountable.
86. The Commissioner has gone on to consider whether the legitimate interest being pursued by the complainant is overridden by the interests or fundamental rights and freedoms of the individuals to whom the information relates.

Is disclosure necessary?

87. 'Necessary' means more than desirable but less than indispensable or absolute necessity. Accordingly, the test is one of reasonable necessity and involves consideration of alternative measures which may make disclosure of the requested information unnecessary. Disclosure under FOIA must therefore be the least intrusive means of achieving the legitimate aim in question.
88. The FCA considers the legitimate interests in disclosure are satisfied without the disclosure of the personal data. The FCA does not consider that disclosing this information will achieve the aim of holding the FCA to account or increasing transparency. It acknowledges that names of staff members could be necessary to meet the legitimate interest if the staff members were manager grade or above but that is not the case, the staff whose names have been redacted are junior FCA staff whose roles do not require a significant level of personal judgment and responsibility.
89. However, the Commissioner considers disclosure is necessary to achieve full transparency about the decision-making process and the information used in deliberations.

Balance between legitimate interests and the data subject's interest or fundamental rights and freedoms

90. To appropriately balance the legitimate interests in disclosure against the data subjects' interests or fundamental rights and freedoms, it is necessary to consider the impact of disclosure. For example, if the data subject would not reasonably expect the information to be disclosed to the public under FOIA, or if such disclosure would cause unjustified harm, their interests or rights are likely to override the legitimate interests in disclosure.
91. In considering this balancing test, the Commissioner has taken into account the following factors:
- the potential harm or distress that disclosure may cause;
 - whether the information is already in the public domain;
 - whether the information is already known to some individuals;
 - whether the individuals to whom the information relates expressed concern about its disclosure; and
 - the reasonable expectations of the individuals to whom the information relates.
92. In the Commissioner's view, a key issue is whether the individuals concerned have a reasonable expectation that their information will not be disclosed. These expectations can be shaped by factors such as an individual's general expectation of privacy and the purpose for which they provided their personal data. It is also important to consider whether disclosure would be likely to result in unwarranted damage or distress to that individual.
93. Turning specifically to this case, whilst the Commissioner acknowledges the broad legitimate interest in transparency about this matter, he is not satisfied that there would be a demonstrable public interest in the requested information.
94. Disclosing the names of the junior members of staff who were involved in discussions but are not in roles that require them to make judgement calls or substantive decision would likely to lead to distress. Those members of staff have no reasonable expectation their information will be disclosed. Similarly any members of the public referred to have contacted the FCA with no expectation their information will be made public and the argument for distress from disclosure is more pronounced than for the staff.

95. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subjects' fundamental rights and freedoms. The Commissioner therefore considers that there is no Article 6 basis for processing and so the disclosure of the information would not be lawful.
96. Given the above conclusion that disclosure would be unlawful, the Commissioner considers that he does not need to go on to separately consider whether disclosure would be fair or transparent.

Right of appeal

97. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

98. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
99. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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