

IN THE UPPER TRIBUNAL

Case No. CF/1556/2016

ADMINISTRATIVE APPEALS CHAMBER

Before: Mr. E Mitchell, Judge of the Upper Tribunal

Hearing: 1 August 2017, Field House, Bream's Buildings, Central London

Attendances: The Appellant Mr M appeared in person.

For the Respondent, Mr T Rainsbury, of counsel, instructed by H.M.R.C
Solicitor's Office.

Decision: This appeal succeeds. The decision of the First-tier Tribunal (9 November 2015, Basildon, file reference SC 102/13/03535) involved the making of an error on a point of law. Under section 12(2)(a), the case is remitted to the First-tier Tribunal for re-hearing. Directions for the re-hearing are at the end of this decision.

REASONS FOR DECISION

Background

Mr M's child benefit claim

1. Mr M, whom H.M.R.C. do not dispute is a Romanian national, claimed child benefit on 29 October 2012. His claim form stated that he did not have a National Insurance (N.I.) number. H.M.R.C. asked Mr M to supply details of his arrival and work in the UK. Mr M's response, dated 26 November 2012, stated:

- He arrived in the UK from Romania on 25 May 2012;
- he started looking for work in the UK on 1 June 2012 and began working on 10 October 2012;

- he lived in the UK with his partner, also a Romanian national. In response to the question ‘what is their National Insurance number?’, Mr M wrote “LMS reference number” followed by a number of numerals which did not match the usual format of NI numbers;
- his partner worked for a salary of £300 per month although he also wrote that she began self-employment as a housekeeper on 1 September 2012 was self-employed.

2. On 7 January 2013, H.M.R.C. refused Mr M’s claim for child benefit on the ground that he did not have a right to reside in the UK although, during the course of the First-tier Tribunal proceedings, HMRC also argued Mr M failed to meet the National Insurance number-related child benefit conditions (see below).

3. Mr M appealed to the First-tier Tribunal. Dated 21 January 2013, Mr M’s notice of appeal argued;

(a) as a Romanian national, he had the right to enter and live in the UK;

(b) his children had the right, and did go, to school in the UK. That meant they had a right to child benefit;

(c) he was a student and was now looking for part-time work. Mr M supplied a copy of a ‘registration pack’, dated 10 December 2012, issued by the ‘Home Learning College’, together with a receipt dated 30 November 2012 indicating he had paid the fees for an ‘Certificate in Introduction to Counselling’ course;

(d) he had previously worked as a cleaner for three months but his employer was not a “serious company”. Since Mr M had earlier stated that he started work on 10 October 2012, on his evidence he stopped working on 10 January 2013.

Mr & Mrs M’s pursuit of National Insurance (NI) numbers

4. Much of the relevant evidence only came to light during the course of the Upper Tribunal proceedings. In order to tell the full story in one place, the new evidence is included in this section of these reasons but, of course, the First-tier Tribunal was unaware of it. The new evidence is underlined.

5. By letter dated 21 June 2012, Jobcentre Plus invited Mrs M to an interview “to obtain the information we need to decide whether we can give you a...NINo”.

6. On 23 July 2012, HMRC informed Mrs M by letter that they could not grant her application for registration as a self-employed person because she had not supplied a National

Insurance number. The letter also informed Mrs M that, in order to obtain a N.I. number she would need to attend “an Evidence of Identity Interview at Jobcentre Plus or a Department for Work & Pensions Office”.

7. A DWP / HMRC document entitled “Application for a National Insurance number” stated, in respect of Mr M, “date of interview or application – 21/09/12” but no further details of the application were supplied to the First-tier Tribunal. A similar document relating to Mrs M was dated 15 October 2012.

8. By letter dated 28 September 2012, Jobcentre Plus informed Mr M that they had refused his application for a N.I. number because “you failed to provide sufficient details of your employment/salary”.

9. By letter dated 5 October 2012, Jobcentre Plus invited Mr M to an interview “to obtain the information we need to decide whether we can give you a...NINo”.

10. A further “Application for a National Insurance number” document, in respect of Mr M, is dated 11 October 2012.

11. By letter dated 18 October 2012, Jobcentre Plus informed Mr M that they had refused his application for a N.I. number because “you failed to provide sufficient evidence of your right to work”.

12. By letter dated 22 October 2012, Jobcentre Plus informed Mrs M that they had refused her application for a N.I. number because “you have failed to provide sufficient evidence of your right to work”.

13. A further “Application for a National Insurance number” document, in respect of Mrs M, is dated 18 January 2013.

14. The pursuit of NI numbers continued after HMRC had refused Mr N’s claim for child benefit.

15. A further “Application for a National Insurance number” document, in respect of Mr M, is dated 23 May 2013.

16. A Jobcentre Plus letter, dated 29 May 2013, informed Mr M that his application for a NI number, made on 22 May 2013, had been refused “because you have failed to provide sufficient evidence of your right to work”.

17. A further “Application for a National Insurance number” document, in respect of Mrs M, is dated 19 September 2013.

18. On 30 September 2013, Jobcentre Plus wrote to Mrs M:

“We have not been able to allocate you a NINo because the evidence you gave us does not support your application. We have carefully considered the evidence you provided and, where necessary, have made further checks and decided that it was insufficient to satisfy us that you are genuinely working as a self-employed person.”

19. On 26 November 2013, Jobcentre Plus wrote to Mrs M:

““We have not been able to allocate you a NINo because the evidence you gave us does not support your application.

We have carefully considered the evidence you provided and, where necessary, have made further checks and decided that the work you do and the way in which you are engaged to do that work is not considered to be self-employment. Self-employment is not determined by either your wish to be self-employed or the person using your service. This can only be established by analysis of the facts.”

20. All the refusal letters informed Mr & Mrs M that they could re-apply for N.I. numbers if they provided further evidence to support an application.

21. At the hearing before the Upper Tribunal, Mr M said:

- by September 2012, he must have had a N.I. number, as was shown by the authorities accepting that he was a ‘jobseeker’ and the fact that he made N.I. contributions for the 2012/13 tax year (Mr M said this before he supplied the new documentary evidence referred to above);
- on the numerous refused applications for a N.I. number, the DWP were supplied with employment contracts and bank statements which Mr M thought would be sufficient.

22. Subsequently, Mr M was allocated a NI number and awarded child benefit from 16 May 2014.

The First-tier Tribunal proceedings and decision

23. On 5 September 2013, the First-tier Tribunal issued case management directions that required HMRC to provide within 28 days an explanation as to why Mr M’s, and Mrs M’s, applications for N.I. numbers were not granted. That direction was not complied with. On 27 January 2015, the Tribunal directed that the explanation was to be given within 28 days. In purported compliance with the direction, H.M.R.C. supplied copies of the applications of 21 September 2012 and 15 October 2012.

24. On 2 April 2015 the First-tier Tribunal allowed Mr M's appeal (the delay is explained by a stay on the proceedings while a case that might have affected the outcome was pending before the Court of Appeal).

25. The First-tier Tribunal then reviewed and set aside its decision after HMRC applied to that tribunal for permission to appeal to the Upper Tribunal.

26. The First-tier Tribunal re-heard Mr M's appeal on 26 February 2016. The Tribunal dismissed his appeal, finding:

(a) "possession of a National Insurance number is a condition precedent for entitlement to Child Benefit" and, at the date of claim and HMRC's decision, Mr M had not been allocated a National Insurance number; and

(b) "if the statutory authorities responsible for issuing National Insurance numbers have acted incorrectly in refusing to issue a National Insurance number the appropriate course is to challenge that decision by whatever means the law allows. It is not a basis to say that the provisions that require a National Insurance number should be waived".

Legal framework

27. Section 13(1A) of the Social Security Administration Act 1992 provides that no person is entitled to child benefit unless section 13(1B) is satisfied. Section 13(1B) may be satisfied in three ways;

(a) a claim is accompanied by a statement of a claimant's N.I. number (and information or evidence establishing that that number has been allocated to the claimant) (section 13(1B)(a)(i));

(b) a claim is accompanied by information or evidence enabling the allocated N.I. number to be ascertained (section 13(1B)(a)(ii));

so those means of satisfying section 13(1B) apply where a claimant has in fact been allocated a N.I. number. If a claimant has not been allocated a N.I. number, he needs to rely on the third route:

(c) "he makes an application for a national insurance number to be allocated to him which is accompanied by information or evidence enabling such a number to be so allocated" (section 13(1B)(b)).

28. It can be seen that this third route has two elements:

(a) an application for allocation of a N.I. number in fact; and

(b) a qualitative element namely that the application is accompanied by information or evidence enabling a N.I. number to be allocated.

29. H.M.R.C. do not argue that section 13(1B)(b) only applies while an application for a N.I. number remains undetermined.

30. I now turn to the legislation, such as it is, about applying for N.I. numbers. Regulation 9(1) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (“the 2001 Regulations”) imposes a general requirement on anyone over 16 to apply for a N.I. number if:

(a) the person does not already have a N.I. number; and

(b) the person satisfies the conditions in regulation 87 (conditions of domicile or residence) or 119 of (conditions of residence or presence) the Social Security (Contributions) Regulations 2001.

31. This requirement does not apply to a person who is neither an employed nor self-employed earner, unless the person wishes to pay a Class 3 contribution (regulation 9(2)). Mr M’s evidence suggests that he was working when he claimed child benefit and, on that basis, it seems likely he was required by regulation 9 to apply for a N.I. number.

32. Regulation 9(1) requires an application to be made “at such time and in such manner as the Secretary of State shall direct”. Regulation 9(1A) of the 2001 Regulations also requires the application to be accompanied by “a document of a description specified in Schedule 1”. As amended by S.I. 2008/223, Schedule 1 refers to a range of different documents:

(1) any document specified for the time being in paragraphs 1 to 6 in list A of the Schedule to the Immigration (Restrictions on Employment) Order 2007. These documents are all various types of passport, identity cards or registration certificate. At the relevant time, list A included “a passport which has the effect of identifying the holder...as a national of the European Economic Area”. As an EU member state, Romania is part of the European Economic area;

(2) any document in paragraphs 1 to 6 in list B of the Schedule to the 2007 Order. At the relevant time, the list B documents differed from the list A documents in that they evidenced work-related rights, rather than simply citizenship or residency rights. Be that as it may, regulation 9 does not appear to require an applicant for a N.I. number to supply one document from list A and one from list B. It simply requires “a document of a description specified in Schedule 1” to the 2001 Regulations;

(3) any of the documents specified on the face of Schedule 1 itself. This list includes UK and Ireland birth and adoption certificates and certificates of naturalisation as a British citizen. For those who are not British or Irish citizens, the remaining documents are all types of document issued by the Home Office or Border and

Immigration Agency which indicate that, at some point, an official decision has been made about the individual's right to stay in the UK.

33. The entire Schedule 1 to the 2001 Regulations, at the relevant date, is set out at the end of these reasons, as are those parts of lists A and B in the Schedule to the Immigration (Restrictions on Employment) Order 2007, at the relevant date, to which Schedule 1 refers.

34. Regulation 9 does not in terms impose a duty on the Secretary of State to allocate a N.I. number if an application is made in accordance with regulation 9. And, if the Secretary of State has power to refuse to allocate a N.I. number despite a regulation 9-compliant application, I am not aware of any legislative provision that sets out criteria for refusal.

35. I note that certain of Mr M's applications for N.I. numbers were refused because it was considered that he had not demonstrated a right to work. I confess this has caused me some unease. Regulation 9(1A) does not mandate supply of a document that evidences a 'right to work'. Simply an EEA passport, for example, will do. There is no right of appeal against the Secretary of State's refusal to allocate a N.I. number. If N.I. number applications are dealt with according to some undisclosed criteria that require an applicant to establish a 'right to work', the applicant has no obvious right of appeal against a decision that might purport to determine the applicant's right to reside in the UK. If, however, a claim for child benefit is refused on the ground that the claimant does not have the necessary right to reside for the purposes of regulation 23 of the Child Benefit (General) Regulations 2006, the claimant can appeal to the First-tier Tribunal.

36. I heard no argument on the relevance of Social Security Commissioner (now Upper Tribunal Judge) Rowland's decision in *CH 4085 2007*. It is true that the Commissioner held that regulation 9 of the 2001 Regulations did not identify the information or evidence that would enable a N.I. number to be allocated. This was hardly surprising since, at the relevant date in that case, the 2001 Regulations imposed no requirement for a N.I. number application to be accompanied by a specified document. In terms of procedure and evidence, all regulation 9 required was for an application to be made "at such time and in such manner" as the Secretary of State shall direct.

37. In *CH 4085 2007* the local authority decision under challenge was taken on 24 November 2006. Regulation 9(1A), with its requirement to provide a specified document on an application for a N.I. number, was inserted by regulation 2 of the Social Security (National Insurance Numbers) Amendment Regulations 2006 but did not come into force until 11 December 2006.

38. I should also point out that, in *CH 4085 2007*, the Commissioner found that "there is nothing in regulation 9 that imposes on a person in the position of the claimant's husband any

obligation to obtain a national insurance number”. This must have been because the claimant in that case was neither an employed nor self-employed earner (nor did he fall within any of the other categories of individual whom regulation 9 requires to apply for a N.I. number). Mr M’s evidence that he was working, by contrast, indicates that he was probably required to apply for a N.I. number and to do so in accordance with the evidentiary requirements of regulation 9(1A).

Proceedings before the Upper Tribunal

39. I granted Mr M permission to appeal to the Upper Tribunal against the First-tier Tribunal’s decision on the ground that the tribunal may have misdirected itself in law by overlooking section 13 (1B)(b) of the Social Security Administration Act 1992.

40. H.M.R.C. support Mr M’s appeal. They submit that the First-tier Tribunal misdirected itself in law. However, H.M.R.C also invite the Upper Tribunal to re-make the First-tier Tribunal’s decision and, in so doing, decide that Mr M was not entitled to child benefit because he did not satisfy section 13(1B) of the Social Security Administration Act 1992.

41. As requested by Mr M, I directed an oral hearing of his appeal. At the hearing, Mr M, who communicated through a Romanian language interpreter, supplied a quantity of new documentary evidence, which was not supplied to the First-tier Tribunal. This has been described above in these reasons. During a short adjournment, the documents were copied and supplied to Mr Rainsbury, counsel for H.M.R.C.

42. Mr Rainsbury, for H.M.R.C, argues:

- the First-tier Tribunal’s decision could not be defended because the tribunal clearly gave no consideration to whether Mr M might satisfy the N.I. number-related condition as a result of having made an application for a N.I. number “accompanied by information or evidence enabling such a number to be allocated”. The Tribunal wrongly decided that possession of a N.I. number was the only way in which the N.I. number-related condition could be met;
- rather than remitting the case to the First-tier Tribunal for re-hearing, the Upper Tribunal should re-make its decision. In so doing, the Upper Tribunal should hold that the condition in section 13(1B)(b) requires a claimant to have made a formal application for a N.I. number *and* for that application to demonstrate entitlement to a N.I. number;
- Mr M could not demonstrate actual entitlement to a N.I. number on the applications made before his child benefit claim was refused;

- Before Mr M supplied additional documentary evidence during the course of the hearing, Mr Rainsbury argued the fact that Mr M's N.I. number applications had been refused meant it was "highly likely" he had failed to demonstrate entitlement to a N.I. number because he must have failed to supply information or evidence to enable allocation of a N.I. number. After the new documents were supplied during the hearing, and following a short adjournment, Mr Rainsbury argued that they gave even greater force to his argument that Mr M did not supply information or evidence to enable allocation of a N.I. number.

43. Mr M argues:

- by September 2012, he must have had a N.I. number, as was shown by the authorities accepting that he was a 'jobseeker' and the fact that he made N.I. contributions for the 2012/13 tax year (Mr M put this argument before he supplied the documentary evidence referred to above);
- on his failed N.I. number applications, he supplied copies of an employment contract and bank statements which, in his view, should have been sufficient to allow him to be allocated a N.I. number.

Conclusions

44. The First-tier Tribunal's decision involved an error on a point of law in the form of a legal misdirection. The Tribunal wrongly held that actual allocation (or 'possession') of a N.I. number is the only way to satisfy the N.I. number-related child benefit entitlement condition. The Tribunal overlooked section 13(1B)(b) of the Social Security Administration Act 1992. I set aside the First-tier Tribunal's decision.

45. I am not able to hold, as invited to do so by H.M.R.C, that the refusal of Mr M's application for a N.I. number shows he did not supply evidence or information to enable allocation of a number. I am told that the Department for Work & Pensions have no record of the information or evidence supplied by Mr M. And I have not been informed (a) whether the DWP will grant an application for a N.I. number if an applicant complies with regulation 9, or (b) whether some additional criteria are applied.

46. Where regulation 9 of the 2001 Regulations imposes a duty to apply for a N.I. number, there must be some relationship between the reference in section 13(1B)(b) to information or evidence that would 'enable' allocation of a N.I. number and regulation 9's evidential requirements. Regulation 9 does not, in terms, impose a duty to allocate a N.I. number if an

application meets its requirements. However, an applicant who is required to apply for a N.I. number cannot expect that application to be successful if he fails to comply with regulation 9's evidential requirements. It is not as if regulation 9 requires supply of documents that are ordinarily difficult to obtain (e.g. a UK birth certificate or EEA passport). For a person who is required by regulation 9 to apply for a N.I. number, I am satisfied that, if the regulation 9 evidential requirements are not met, the applicant has not provided information or evidence to enable allocation of a N.I. number.

47. If, however, the DWP apply some additional criteria on applications for allocation of a N.I. number then these need to be disclosed if benefit is denied on the ground that an applicant failed to supply information or evidence to enable allocation of a N.I. number. If they are not disclosed, then in my view an individual who makes a regulation 9-compliant application for allocation of a N.I. number must be taken to have provided information or evidence to enable allocation of a N.I. number.

46. I know this will be a disappointment for Mr M but I have decided not to decide for myself whether he made an application for a N.I. number accompanied by information or evidence to enable allocation of a N.I. number. Given the way in which these proceedings have developed, I am not satisfied that the unrepresented Mr M has had a fair opportunity to argue his case on section 13(1B)(b). At no point has he been informed that he would have made a regulation 9-compliant application simply by supplying a Romanian passport for example. I could direct submission of further evidence but, if that resulted in Mr M persuading me that he did make a regulation 9-compliant application and satisfied section 13(1B)(b), the question whether he had the necessary right to reside would remain to be determined. It is likely to be quicker all round if the First-tier Tribunal addresses both matters (if both need to be addressed).

47. I apologise for the delay in giving this decision. Earlier drafts attempted to make findings of fact about Mr M's N.I. number applications but I then decided to change tack as described above. Re-writing my decision has caused the delay.

48. I therefore remit Mr M's appeal to the First-tier Tribunal for re-hearing in accordance with the directions given below. I strongly suggest that he tries to obtain a representative for the re-hearing. He may wish to consider contacting the Free Representation Unit, the Child Poverty Action Group or a Law Centre.

The 2001 Regulations and 2007 Order at the relevant date

49. When Mr M claimed child benefit, and when his claim was decided, Schedule 1 to the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 provided as follows:

“Schedule 1 – Documents to Accompany an Application for a National Insurance Number

1. Any document specified for the time being in paragraphs 1 to 6 of List A of the Schedule to the Immigration (Restrictions on Employment) Order 2007.
2. Any document specified for the time being in paragraphs 1 to 6 of List B of the Schedule to the Immigration (Restrictions on Employment) Order 2007.
3. Any of the following documents—
 - (a) a full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents;
 - (b) a full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents;
 - (c) a birth certificate issued in the Channel Islands, the Isle of Man or Ireland;
 - (d) an adoption certificate issued in the Channel Islands, the Isle of Man or Ireland;
 - (e) a certificate of registration or naturalisation as a British Citizen;
 - (f) an Immigration Status Document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom;
 - (g) a letter issued by the Home Office or the Border and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom;
 - (h) an Immigration Status Document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question;
 - (i) a letter issued by the Home Office or the Border and Immigration Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.”

50. When Mr M claimed child benefit, and when his claim was refused, the Schedule to the Immigration (Restrictions on Employment) Order 2007 provided as follows:

“List A

1. An ID Card (issued to the holder under the Identity Cards Act 2006) or a passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. An ID Card (issued to the holder under the Identity Cards Act 2006), a national identity card or a passport which has the effect of identifying the holder, or a person named in the passport as the child of the holder, as a national of the European Economic Area or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office or the Border and Immigration Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office or the Border and Immigration Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom...

List B

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.

3. A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office or the Border and Immigration Agency to the holder or the employer or prospective employer confirming the same.

4. A certificate of application issued by the Home Office or the Border and Immigration Agency to or for a person who has applied under regulation 18A(1) of the Immigration (European Economic Area) Regulations 2006, or to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old when produced in combination with evidence of verification by the Border and Immigration Agency Employer Checking Service.

A residence card or document issued by the Home Office or the Border and Immigration Agency to a family member of a national of a European Economic Area country or Switzerland.

5A. A derivative residence card issued by the Home Office or the UK Borders Agency to a person.]

6. An Application Registration Card issued by the Home Office or the Border and Immigration Agency stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the Border and Immigration Agency Employer Checking Service.”

Case Management Directions

Mr M’s case is remitted to the First-tier Tribunal for re-hearing. Subject to any subsequent case management directions of the First-tier Tribunal, I direct as follows:

1. Within **one month** of the date on which these directions are issued, Mr M must supply the First-tier Tribunal with:

(a) a written statement setting out whether he supplied any of the documents specified in Schedule 1 to the 2001 Regulations on the applications for N.I. numbers made before he claimed child benefit (see paragraphs 49 and 50 above); and

(b) if he states that he did supply any such document, a copy of the document supplied. If he says a document has been replaced, a copy of the replacement must be supplied.

2. The First-tier Tribunal is to supply H.M.R.C. with any statement and document supplied by Mr M under direction 1.

3. Within **one month** of the date on which H.M.R.C. are supplied with any statement and document under direction 2, H.M.R.C. must supply the First-tier Tribunal with a written submission which sets out:

(a) whether they dispute any statement made by Mr M as to the document/s he supplied with an application for allocation of a N.I. number; and

(b) if they accept that Mr M supplied a document specified in Schedule 1 to the 2001 Regulations, whether they dispute that he supplied information or evidence to enable allocation of a N.I. number. If they do dispute that matter, the submission must set out the information or evidence they argue should have been supplied together with an explanation why by reference to the criteria used to determine applications for allocation of a N.I. number.

4. Mr M's appeal against H.M.R.C's decision of 7 January 2013 is to be re-heard by the First-tier Tribunal but not before either of the First-tier Tribunal Judges who have previously decided Mr M's appeal.

5. Arrangements are to be made for Mr M to communicate with the First-tier Tribunal through a Romanian language interpreter at the re-hearing of his appeal.

(Signed on the Original)

Mr E Mitchell

Judge of the Upper Tribunal

4 February 2018