Neutral Citation: [2022] UKFTT 186 (TC)

Case Number: TC08511

FIRST-TIER TRIBUNAL
TAX CHAMBER

By remote video hearing

Appeal reference: TC/2021/01409

PENSION –whether Mr Medhurst had more qualifying years – burden on Mr Medhurst – Mr Medhurst in Vietnam – Agbabiaka requirements – appeal refused

Heard on: 10 March 2022
Judgment date: 5 April 2022

Before

TRIBUNAL JUDGE ANNE REDSTON

Between

NICHOLAS MEDHURST

Appellant

and

THE COMMISSIONERS FOR HER MAJESTY'S REVENUE AND CUSTOMS

Respondents

Representation:

The Appellant provided written submissions

For the Respondents: Mr Kevin Brooke, litigator of HM Revenue and Customs' Solicitor's Office

DECISION

INTRODUCTION

1. Mr Medhurst appealed against a decision made by HM Revenue and Customs ("HMRC") that he had 20 qualifying years for state pension purposes. The decision was set out in two letters issued on 6 and 7 February 2020.

2. The basis of Mr Medhurst's appeal was that National Insurance Contributions ("NICs") paid in some employments between 1967-68 and 2002-03 ("the missing years") had not been taken into account for the purposes of calculating his qualifying years. After the appeal, but before the hearing, HMRC accepted that the number of qualifying years was 21.

3. Mr Medhurst lives in Vietnam, his health is poor and his computer has no camera facility. I initially issued directions for him to give evidence from Vietnam by telephone. However, I then became aware of *Secretary of State for the Home Department v Agbabiaka* [2021] UKUT 286 (IAC) ("*Agbabiaka*"), and the subsequent guidance which requires those giving evidence from abroad to establish, in advance of a hearing, whether the foreign government had any objection to the person doing so.

4. Mr Medhurst provided extensive written submissions before the hearing, but did not attend. On 5 April 2022, I issued a summary decision refusing his appeal. This was on the basis that HMRC have no recorded contributions for Mr Medhurst other than those which have already been taken into account; that there is no evidence that failures or errors in HMRC's computer caused contributions to be misplaced or misallocated, and that there were no unrecorded or unallocated NIC credits. Mr Medhurst subsequently made an in-time application for a full decision.

5. In drafting this full decision, I have not only set out the basis for refusing Mr Medhurst's appeal about his qualifying years, but have also explained what happened when the *Agbabiaka* judgment was identified. The decision is set out under the following headings:

(1) The period before the Tribunal appeal.

(2) The strike out application and the new HMRC decision.

(3) The Tribunal's directions before the hearing, including *Agbabiaka*.

(4) The substantive issue: the qualifying years.

(5) The other issues raised by Mr Medhurst.

THE PERIOD BEFORE THE TRIBUNAL APPEAL

6. On claiming his state pension, Mr Medhurst was paid a lower amount than he expected. He wrote to the DWP, HMRC, members of Parliament, the Parliamentary Ombudsman and others, asking that the issue be investigated and resolved.

7. After some four years of correspondence, on 21 August 2019, Mr Medhurst's former MP Ms Maskell wrote to HMRC, asking for an explanation as to Mr Medhurst's pension contribution record, and how he could challenge HMRC's view as to the amount of those contributions.

8. On 18 September 2019, a Mr Irvine from HMRC's PT Operations department wrote to Mr Medhurst enclosing a list of his employers.

9. On 20 January 2020, Mr Medhurst wrote to Mr Harra, HMRC's Chief Executive at that time, and on 28 January 2020 a Mr Steven Carrick replied to Mr Medhurst's letter. Mr Carrick sent Mr Medhurst a schedule setting out his NICs as recorded on HMRC's system..

10. On 6 February 2020, Mr Carrick emailed Mr Medhurst again. He considered the various periods of Mr Medhurst's employment history, and the contributions made, and then said: "To summarise: You have accrued a total of 20 qualifying years not 24 as you thought."

11. The following day, Mr Carrick sent Mr Medhurst "details of your pay, tax and National Insurance for each period of employment". Mr Medhurst replied by return, challenging those conclusions. On 3 March 2020, Mr Carrick wrote again, saying:

> "We have searched our systems for all missing periods of employment you told us about and we have not found any records for you from any of the employers…the missing periods of employment are not a result of any mistake we have made."

12. Mr Medhurst again challenged HMRC's view, and Mr Carrick sent another email on 10 March 2020 in which he sad:

> "we do not doubt that you worked for the employers you told us about, but in the absence of any proof, we are unable to allocate these periods of employment to your National Insurance Record."

13. Mr Medhurst complained to the Adjudicator, and on 1 May 2020, he was awarded compensation of £50 because HMRC had failed to explain his appeal rights. Mr Medhurst emailed HMRC's complaints team on 22, 25 and 27 May 2020, and on 29 May 2020, a Mr Woodward responded, saying the case was with HMRC's disputes and decisions team. Mr Medhurst wrote again to Mr Harra and also to the complaints team,

14. On 25 June 2020, Ms Graham of HMRC's complaints team wrote to Mr Medhurst, stating that there were "five stages of the disputes process":

> "Stage 1 – the Opinion Stage – this stage is where we give an initial opinion on an issue relating to NI contributions. We consider the information provided or held and the legislation to form our opinion. If the customer disagrees with us, we will carefully consider what they have told us to see if we can change our view.
>
> Stage 2 – Notice of Decision, or formal decision stage - if a customer continues to disagree with us and provides no further evidence or information, we will ask our Disputes and Decisions Team to look into the case. They will consider sending a Notice of Decision, which gives the right to appeal.
>
> Stage 3 – Appeal to HMRC - if a customer does not agree with our decision, they can appeal. They should send this to us and include details of their grounds for appeal.
>
> Stage 4 – Offer of review - HMRC will offer a final review of their decision. A different manager will carry this out. Where the customer accepts this offer, or has already requested a review, we will carry it out within 45 days of receiving their request.
>
> Stage 5 – Appeal to HM Courts and Tribunals Service - if a customer does not want a review, but still disagrees with our decision, they can appeal direct to HM Courts and Tribunals Service. We will include details of how to do this in our view or offer of a review letter."

15. She continued:

> "You are at Stage 2 of the process, our Disputes and Decisions Team will send you a Notice of Decision, and you can then make your appeal. There may be a delay before they contact you, but they will do so as soon as possible."

16. Mr Medhurst then contacted the Parliamentary Ombudsman, who emailed Mr Medhurst in April 2021; at the end of the email he mentioned that Mr Medhurst's case was "on the HMRC path that ultimately leads to the tribunal".

THE TRIBUNAL APPEAL, THE STRIKE OUT AND THE NEW DECISION

17. On 24 April 2021, Mr Medhurst filed a Notice of Appeal with the Tribunal. This included the following:

> "my appeal has been going on for over five years and I have been moved from department to department, issued with multiple reference numbers and dealt with an overwhelming amount of officers"

18. Mr Medhurst attached to his Notice, various correspondence about his exchanges with other government departments and related bodies. The Notice of Appeal and the correspondence was referred to me. On 7 May 2021, I directed that Mr Medhurst forward any letters from HMRC relating to his pension, and he responded on 10 May 2021, providing further information and thanking the Tribunal clerk for "the speedy processing of my claim".

19. On 12 May 2021, I issued directions to HMRC**,** requiring them to provide a submission as to whether they had made an appealable decision as to Mr Medhurst's NIC record, and to attach to that submission:

(1) any HMRC decision issued after Ms Graham's letter of 25 June 2020;

(2) any correspondence relating to Mr Carrick's earlier schedule setting out Mr Medhurst's NIC record and his employer record; and

(3) any other relevant correspondence.

HMRC'S STRIKE OUT APPLICATION

20. On 4 June 2021, Mr Brooke responded, saying HMRC had not yet made an appealable decision and applying for Mr Medhurst's appeal to be struck out. He said that nothing further had happened in the period of almost a year since Ms Graham's letter; that HMRC were "unable to offer an approximate date by when the case will be dealt with" and that there was "no guarantee that an appealable decision is imminent".

The legislation

21. The Social Security Contributions (Transfer of Functions, Etc) Act 1999 ("the Transfer Act"), Part II, section 8, is headed "Decisions by officers of Board". It includes at subsection (1)(e) "whether contributions of a particular class have been paid in respect of any period".

22. Section 11 is headed "appeals against decisions by officers of Board" and subsection (1) states that it applies to "any decision of an officer of the Board under section 8 of this Act". Subsection (2)(b) provides that "the person in respect of whom the decision is made…shall have the right to appeal to the Tribunal".

23. Reg 3 of the Social Security Contributions (Decisions and Appeals) Regs 1999 ("the D&A Regs") reads:

> "(1) A decision which, by virtue of section 8 of the Transfer Act…falls to be made by an officer of the Board…
>
> (a) must be made to the best of his information and belief, and
>
> (b) must state the name of every person in respect of whom it is made and
>
> (i) the date from which it has effect, or
>
> (ii) the period for which it has effect.

(2) Where an officer of the Board has resolved to make a decision of a kind referred to in paragraph (1), he may entrust to some other officer of the Board responsibility for completing the procedure for making the decision, whether by means involving the use of a computer or otherwise, including responsibility for serving notice of the decision on any person named in it.

(3) In the case of a decision to which section 11 of the Transfer Act or Article 10 of the Transfer Order applies, other than one which relates to a person's entitlement to statutory sick pay, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay, each person who is named in the decision has a right to appeal."

24. Reg 4 reads:

"(1) Notice of a decision by an officer of the Board referred to in regulation 3(1) must be given

(a) in the case of a decision relating to a person's entitlement to statutory sick pay, statutory maternity pay, statutory paternity pay, statutory shared parental pay, statutory parental bereavement pay or statutory adoption pay, to the employee and employer concerned, and

(b) in any other case, to every person named in the decision.

(2) A notice under this regulation must state the date on which it is issued and may be served by post addressed to any person to whom it is to be given at his usual or last known place of residence, or his place of business or employment."

25. Reg 7 is headed "Application of the Taxes Management Act 1970 in relation to reviews and appeals with modifications" and provides that "sections 49A to 49I of the Management Act shall apply to appeals" against decisions under the Transfer Act, subject to a small number of exceptions which relate to agreements to settle the dispute.

26. The Commissioners for Revenue & Customs Act 2005 ("CRCA") at s 2 (read with ss 5 and 7) provides that the "officers" of HMRC are those staff that the Commissioners of Revenue & Customs have appointed for the purposes of exercising the Commissioners' functions. CRCA, s 13(1) provides that "an officer of Revenue and Customs may exercise any function of the Commissioners". Subsections (2) and (3) set out limited exceptions to that provision, being the making of statutory instruments and giving instructions for disclosure.

27. Taxes Management Act 1970 ("TMA") s 49D is headed "Notifying appeal to the tribunal" and begins:

"(1) This section applies if notice of appeal has been given to HMRC.

(2) The appellant may notify the appeal to the tribunal.

(3) If the appellant notifies the appeal to the tribunal, the tribunal is to decide the matter in question."

28. Reg 10 of the D&A Regs reads:

"If, on an appeal under Part II of the Transfer Act or Part III of the Transfer Order that is notified to the tribunal, it appears to the tribunal that the decision should be varied in a particular manner, the decision shall be varied in that manner, but otherwise shall stand good."

THE TRIBUNAL'S DECISION AND CONSEQUENTIAL DIRECTIONS

29. I considered the statutory provisions set out above, together with the facts of the case. On 26 July 2021, I issued a decision refusing to strike out the appeal on the basis that:

(1) Mr Carrick was an "officer of the board";

(2) his letters of 6 and 7 February 2020 constituted a decision as to "whether contributions of a particular class have been paid in respect of any period", see s 8(1)(e) of the Transfer Act;

(3) Mr Medhurst had a right of appeal against that decision and had plainly exercised that right when he responded to Mr Carrick, and had then exercised his right to notify his appeal to the Tribunal under TMA s 49D.

30. On the same day, I issued a direction for HMRC to file and serve a Statement of Case within 60 days. That time limit also took into account the 56 day period allowed for HMRC to apply for permission to appeal against my decision refusing the strike out application.

31. On 26 July and 21 August 2021, Mr Medhurst emailed the Tribunal saying that HMRC should be required to provide their Statement of Case more quickly, in the light of their previous delays.

HMRC IDENTIFY FURTHER NICS

32. On 7 September 2021, Mr Richard Allen of HMRC wrote to Mr Medhurst, saying he had identified further NICs and that HMRC now accepted that the number of qualifying years was 21. His letter explained:

> "I have undertaken searches of our archival records and have been able to trace additional National Insurance contributions (NICs) for the 2001/2002 year paid by the employer Hurst Health Farms Ltd based in Wales and is I believe the employment in Wales you refer to in your earlier correspondence. I have arranged for these NICs to be posted to your National Insurance (NI) record."

33. It was clear from that correspondence that HMRC accepted that they had previously made an appealable decision, and Mr Brooke confirmed this by writing to the Tribunal a few days later. Mr Allen also said that as HMRC had varied their earlier decision, Mr Medhurst had a right of appeal against the new decision.

34. Mr Medhurst did not withdraw his appeal against the original decision, but the Tribunal has the power under Reg 10 of the D&A Regs to vary HMRC's decision to take into account the extra year. It was therefore common ground that 21 qualifying years was the start point for Mr Medhurst's appeal.

THE TRIBUNAL'S DIRECTIONS AND AGBABIAKA

35. On 13 September 2021, I issued further directions bringing forward the date for the provision of HMRC's Statement of Case to 29 October 2021, as it was now clear that HMRC were not going to appeal the strike out decision, and because HMRC were already very familiar with the case because of Mr Medhurst's extensive correspondence. On 15 September 2021, Mr Brooke responded, confirming that HMRC would comply with the new date.

MR BROOKE'S EMAIL AND MR MEDHURST'S RESPONSES

36. Two days later, on 17 September 2021, Mr Brooke wrote to Mr Medhurst, setting out the normal timetable for an appeal hearing, namely:

(1) The Statement of Case would be provided by 29 October 2021.

(2) The parties would exchange documents by 10 December 2021.

(3) The Tribunal would then send the parties directions about the hearing, which might be by video.

37. By taking this initiative, Mr Brooke was trying to prepare Mr Medhurst for the next stages of the Tribunal process. However, Mr Medhurst then sent the Tribunal ten emails dated 15, 16, 17, 19, 21, 22 and 24 September 2021 and 2, 5, and 7 October 2021; these were all forwarded to me by the Tribunal clerk on 8 October 2021. The emails contained two main points:

(1) *Delay:* Mr Medhurst was concerned about the further delay which would be caused by the dates in Mr Brooke's timetable. Mr Medhurst said "why has it taken five and half+ years to even start a procedure that [has already] found a mistake"; he emphasised the "delay and the mental toll this has inflicted on me and my wife" and stated he was "exhausted, depressed and stressed".

(2) *Procedure for the hearing:* Mr Medhurst said he did not "have the technology to contribute to a video call" and "cannot do a video interview but I do have a phone…my electronic devices are very poor".

38. On the day I received those emails, I issued further directions, which included:

(1) requiring HMRC to provide by 19 November 2021 all relevant documents including those which were arguably relevant to Mr Medhurst's position, and dates to avoid for a video hearing in January and February 2022;

(2) requiring Mr Medhurst to provide Mr Brookes with any further documents he considered relevant by 26 November 2021, and at the same time, his dates to avoid;

(3) noting that Mr Medhurst would only be able to join the video hearing by telephone;

(4) requiring HMRC to prepare and serve the Bundles by 10 December 2021; and

(5) requiring Mr Medhurst to send the Tribunal and HMRC a "a written document setting out why he considers that he should have more qualifying years for State Pension purposes, and any comments he wishes to make about HMRC's Statement of Case which are relevant to that issue" so that it was received two weeks before the hearing.

39. HMRC filed and served their Statement of Case in accordance with those directions, and their list of documents; they also filed and served a witness statement from Mr Allen.

40. On 25 November 2021, Mr Medhurst said he had no dates to avoid and could attend at any time of the day or night, despite the time difference, as he was "virtually bedbound and sleep[s] very little at night".

41. On 17 January 2022, he emailed the Tribunal saying:

> "I must express my concern and confusion. As we have arrived at the 17th of January. I am therefore confused as I would have thought a date would have been already set for the hearing. I ask this as it has been indicated that I have to send my contentions/rebuttals 2 weeks before the hearing to the gentleman responsible in the HMRC I am concerned over the time frame as there are only six weeks left and as yet no date set and I have to do an enormous amount of work in answering Mr Brooke's overwhelming Statement of Case."

HMRC RAISE THE "EVIDENCE FROM ABROAD" ISSUE

42. Meanwhile, on 2 December 2021, Mr Brookes emailed the Tribunal, copying Mr Medhurst and marking his email for my attention. He said:

> "I have become aware of recent Tribunal Directions in other cases where the Appellant is attending a video hearing from abroad. In said cases the Tribunal has advised the Appellant and/or HMRC to contact the Foreign and Commonwealth Office (FCO) to make enquiries whether there are no legal obstacles to prevent the Appellant attending and providing evidence if the country is a party to the Hague Convention of 18 March 1970.
>
> I am aware that in one such case the litigator e-mailed the FCO over one month ago and has not yet received a reply.
>
> As Mr Medhurst intends to attend the hearing from his home in Vietnam (which I believe is party to the Hague Convention) does this present us with an issue as we have provided dates to avoid for January/February next year?"

43. That email, and Mr Medhurst's emails of November and December, were forwarded to me on 17 January 2022. I issued further directions the following day. I noted that Mr Medhurst had asked for more time to respond to the Statement of Case, and I asked the parties for dates to avoid from March to June.

44. In relation to Mr Brooke's email of 2 December 2021, I researched the issue of giving evidence from abroad. Having done so, I said that my understanding of the legal position was as follows:

> "The Civil Procedure Rules say at Practice Direction 32, Schedule 3, that if there is doubt about whether "the country from which the evidence is to be taken raises no objection to it at diplomatic level" clarification should be sought from the Foreign and Commonwealth Office. Vietnam is a signatory to the Hague Convention, and the 2009 Special Commission of the Hague Conference on International Law concluded that the use of video-links and similar technologies to assist the taking of evidence abroad is consistent with the framework on the Hague Evidence Convention.
>
> This is an appeal by Mr Medhurst, a UK national, in relation to a pension payable by the UK government. The appeal is to a tribunal, not a court, so the procedures are more informal. The jurisdiction to decide the appeal plainly rests only with the tribunal. In my judgment there is no realistic possibility that the Vietnamese government would object to Mr Medhurst voluntarily giving evidence by telephone in his own appeal as to the amount of his UK state pension entitlement. The Tribunal will therefore proceed on that basis."

MR MEDHURST'S CORRESPONDENCE AFTER THE 18 JANUARY DIRECTIONS

45. After Mr Medhurst received the directions issued on 18 January 2022, he sent an email marked "very very important for Judge Redston to read". It began:

> "I feel that I must thank you as I think you are trying to make things easier for me. However, I must say I am aghast that my appeal may be extended until June. That would mean you would have had my appeal for over a year. I cannot think that you had made this latest suggestion as you are so aware of my predicament…I must also tell you how entirely depressing it is to be told that my appeal may be left until June. This would make six and a half years I have suffered from HMRC's avoidance. I have not slept since getting your email as I am so scared and worried.
>
> I recently wrote to find when the case would be during the months of January or February as promised. Instead, I get a letter telling me that my case is further delayed. PLEASE, PLEASE, PLEASE reinstall the case to the original date. The pressure is so great to have this case heard. I can understand why so many people have committed suicide in their dealings with the DWP and HMRC. I really need to bring this case to an end and I am totally ready for the hearing…

> FINALLY I BEG YOU TO DEAL WITH THIS DURING THE TIME YOU FIRST SUGGESTED. PLEASE, PLEASE DON'T MAKE ME WAIT ANY LONGER. 6 YEARS HAS WORN ME DOWN AND MADE ME ILL JUST TRYING TO SURVIVE."

46. On the following day, Mr Medhurst emailed again, saying "I am extremely sorry to be writing again but I wish to demonstrate that I am entirely ready for the hearing and to demonstrate I am by sending my Statement of Case".

47. On 20 January 2022, Mr Medhurst sent a further email, saying "You have been very considerate in your dealings with me as you understand many things and I don't wish to burden you further, I just want to get it all done with and then forget the 6 years I just found it so painful to think that the case could go on until June".

48. On 30 January 2022 he sent a fourth email saying:

> "I hope I have done nothing wrong by writing to you and honestly expressing my hopes and fears… I am also extremely concerned and scared that you have not replied to my previous letters, I just want the hearing to go ahead in the first time period you chose. In six years you are the ONLY person to have listened. I am so sorry to write to you again but what alternative do I have? I am just so scared. Please inform me as to what is happening now."

49. This was followed by a fifth email on 30 January 2022, which began "I am deeply saddened that you have not replied to me about the delay on my hearing", and a sixth email the following day saying "it is a little unfair to cancel the longstanding date".

THE *AGBABIAKA* JUDGMENT

50. After issuing the directions on 17 January 2022, I became aware of the *Agbabiaka* judgment and the related guidance published on 16 December 2021 by the Upper Tribunal (Immigration and Asylum Chamber) ("the Guidance"). The key points of *Agbabiaka* are set out at the beginning of that judgment, and read:

> "(1) There is an understanding among Nation States that one State should not seek to exercise the powers of its courts within the territory of another, without having the permission of that other State to do so. Any breach of that understanding by a court or tribunal in the United Kingdom risks damaging this country's relationship with other States with which it has diplomatic relations and is, thus, contrary to the public interest. The potential damage includes harm to the interests of justice.
>
> (2) The position of the Secretary of State for Foreign, Commonwealth and Development Affairs is that it is accordingly necessary for there to be permission from such a foreign State (whether on an individual or general basis) before oral evidence can be taken from that State by a court or tribunal in the United Kingdom. Such permission is not considered necessary in the case of written evidence or oral submissions.
>
> (3) Henceforth, it will be for the party to proceedings before the First-tier Tribunal who is seeking to have oral evidence given from abroad to make the necessary enquiries with the Taking of Evidence Unit of the Foreign, Commonwealth and Development Office (FCDO), in order to ascertain whether the government of the foreign State has any objection to the giving of evidence to the Tribunal from its territory.
>
> (4) The First-tier Tribunal will need to be informed at an early stage of the wish to give evidence from abroad. The party concerned will need to give the Tribunal an indication of the nature of the proposed evidence (which need not, at this stage, be in the form of a witness statement).

> (5) The Tribunal's duty to seek to give effect to the overriding objective may require it, in particular, to consider alternatives to the giving of oral evidence where (for example) there are delays in the FCDO obtaining an answer from the foreign State. Each case will need to be considered on its merits."

51. It was therefore clear that my previous view was incorrect and it would not be possible for Mr Medhurst to give evidence by telephone from Vietnam unless the FCDO had first been contacted and had ascertained whether the Vietnamese government had any objection to him doing so. The Guidance said that:

> "An appellant who is unrepresented, and situated within the territory of another state, and, who wishes to speak in support of their appeal by video or telephone, rather than to simply observe the hearing of their appeal, will need to establish to the satisfaction of the First-tier Tribunal (IAC) that there is no legal or diplomatic barrier to their doing so. Any submissions they wish to advance may be made in writing."

52. The Guidance also said that a new "Taking of Evidence" ("ToE") unit had been set up by the FCDO; this would establish the position in each case, and "the response of the ToE to an enquiry made in the course of an appeal about the stance of a particular overseas government shall be determinative of the matter for the purposes of the First-tier Tribunal (IAC)". It continued:

> "Given the potential for delay whilst the stance of a particular overseas government is determined it will always be a matter for judicial discretion by reference to the overriding objective as to whether determination of proceedings should be delayed. The Tribunal will balance the prospect for delay against the ability of the party to rely upon detailed written evidence"

53. The *Agbabiaka* judgment had been issued by the Upper Tribunal, and was binding in relation to the taking of evidence from abroad. Although the Guidance was not directed at this Tribunal, it provided helpful information as to how to approach a case such as that of Mr Medhurst[1].

54. I also established that (a) if the ToE did not already know whether Vietnam objected to the taking of evidence, there would be a fee of £150, and (b) the process was likely to take at least eight weeks, and longer if the foreign state did not reply promptly to the request for clarification.

THE TRIBUNAL'S LETTER OF 1 FEBRUARY 2022

55. Having taken into account the *Agbabiaka* judgment and related information, and Mr Medhurst's emails about the hearing date and further delay, I instructed the Tribunal clerk to write to Mr Medhurst explaining that emails are not normally forwarded to judges on a daily basis, and that I had received all his emails on 31 January 2022. The letter then said:

> **"Delays to the hearing**
>
> You are concerned that a hearing has been cancelled. Judge Redston confirms that no hearing had so far been arranged, because you had asked for more time to consider HMRC's Statement of Case.
>
> It is clear from your emails that you want the issue of your national insurance contributions ("NICs") decided without any further delay.
>
> However, Judge Redston has now been informed that HMRC were correct that before you can give evidence in your appeal, you will need to obtain

[1] The President of the FTT subsequently published guidance on taking evidence from abroad, see https://www.judiciary.uk/publications/first-tier-tribunal-tax-chamber-guidance-oral-evidence-from-abroad/

formal clearance that the Vietnamese government do not object. This is a change from the position as she understood it to be, when she issued the directions on 18 January 2022.

Judge Redston said to tell you that this is not an HMRC requirement but is the result of a new understanding of international law.

If you wish to attend the hearing to give evidence by phone, you will need to go through a new and separate process which will take at least 8 weeks and probably considerably longer. Judge Redston emphasises that there is nothing either she or HMRC can do to change or remove this new requirement.

Proposed way forward

Judge Redston suggests that the best way to proceed is by the following steps:

1. HMRC send you a copy of the Bundle by email.
2. You confirm to HMRC that you have received it.
3. You send HMRC and the Tribunal your written comments on the Statement of Case and the Bundle. You must in particular send
   - a list of the years when you believe HMRC have not recorded sufficient National Insurance Contributions for your work;
   - the reasons why you believe that is the case, and
   - any evidence you have that HMRC's records are wrong.
4. Judge Redston has asked me to attach to this letter, a further copy of the schedule sent to you by Mr Allen on 7 September 2021, setting out HMRC's position.
5. The Tribunal will hold a hearing as soon as possible at which the Judge will consider what you have said in the comments (see (3) above). The Judge will also consider what Mr Brookes says and Mr Allen's explanations as to why he considers his schedule is correct.
6. The Judge will make a decision and send it to you and to HMRC.

Judge Redston has suggested this as the best way forward as it will avoid the further delay which will occur if you need to get permission to give evidence by phone. There is no similar requirement if you give evidence in writing.

Next steps

Mr Medhurst, if you agree with that proposed way forward, you are to email the Tribunal and copy HMRC within five days of the date of this letter.

Judge Redston will then liaise with Mr Brooke to identify a date for the hearing and also set dates for you and HMRC to complete each of the numbered steps set out above.

If you do not agree with that proposed way forward, Judge Redston will arrange for you to be sent further information as to how to comply with the formal requirements involving the UK Foreign Office in relation to the giving of evidence by telephone from Vietnam."

56. Mr Medhurst responded to that letter the following day, 2 February 2022, saying:

"I would like to thank the judge for resolving a difficult situation. She has once again shown her compassion in my case. I agree to all her directives on how to proceed with my case.

> I have a problem with some of the items because it is so long ago that I worked for certain employers and I do not know the dates of my employment, some are 50 years ago. I tried contacting one employer from 40 years ago only to be told that they only retain their records for 7 years.
>
> A lot is my fault because I never kept records and to be honest one was never really directed to do so back then. As I have said before I never realised there was a problem until I claimed my pension.
>
> Thank you yet again for resolving this unbelievable problem…
>
> Just to state again. I agree to adhere to Judge Redston's directives to proceed by email."

57. On 18 February 2022, the Tribunal clerk at my direction wrote to Mr Medhurst including the following text:

> "Judge Redston notes that:
>
> - you have agreed that the case will proceed on the basis set out in the last letter from the Tribunal;
> - you have received the electronic bundle from HMRC and have reviewed what is in it; and
> - you have sent the Tribunal your rebuttal of HMRC's Statement of Case together with your replies to the questions she asked in her letter.
>
> She is now organising a hearing of your appeal to take place on 10 March 2022."

58. Subsequently the Tribunal clerk sent me two further emails from Mr Medhurst which had been overlooked. One was dated 12 February 2022, and it ended by saying:

> "will they [HMRC] be able to talk directly to you if you set a 'hearing date'? or will you deal with them only via mail as you have to do with me"?

59. On 25 February 2022, the Tribunal clerk at my direction replied to Mr Medhurst, saying:

> "[Judge Redston] explained in the letter sent in January that in her view, the best way to proceed was to hold a hearing in which all your written evidence will be considered, as well as that put forward by HMRC. The letter also said that, during the hearing 'The Judge will also consider what Mr Brooke says and Mr Allen's explanations as to why he considers his schedule is correct'.
>
> In your email of 2 February 2022 you agreed with the way forward set out in that letter and the appeal has now been listed to be heard on 10 March.
>
> In your second email of 12 February you then asked whether HMRC 'will be able to talk directly' to the Judge or whether the Judge will 'deal with them only by email'. As explained in the January letter, Judge Redston decided it was in the interests of justice for her to be able to ask questions of HMRC at the hearing. Those questions will take into account everything you have said and in particular that you are not able to attend the hearing. In cases where one party cannot attend, it is part of the Judge's role to ensure that the case is nevertheless decided fairly and justly, by ensuring that the evidence and the arguments of the other party are properly considered."

60. On 28 February 2022, Mr Medhurst replied, saying:

> "Many thanks for confirming the procedure that Judge Redston will be taking. I am sure she will deliver real justice. Justice that is sorely needed after HMRC have been so elusive for six years, thereby making my life extremely difficult."

THE REASONS FOR MY DIRECTIONS

61. In the light of *Agbabiaka*, I considered the following options:

(1) to postpone the hearing until Mr Medhurst had applied to the ToE and received a response either allowing him to participate in the hearing, or informing him that the Vietnamese government objected to his participation. It would be at least eight weeks before the position was known, and probably longer. Once that information had been received, HMRC would need to provide new dates to avoid, and a new hearing set up: that would take at least a further month and probably longer. As a result, it was likely that the hearing would be delayed until the summer at the earliest; or

(2) to continue with the hearing:

(a) without Mr Medhurst attending, but giving him the opportunity to set out his position in writing beforehand; or

(b) with Mr Medhurst attending, but only to make submissions and not to give evidence; or

(c) with Mr Medhurst attending as an observer only; or

(3) to have a paper only hearing.

62. I was clear that Option (2)(b) was wholly unrealistic. Mr Medhurst is a litigant in person and would be unable to distinguish between evidence and submissions. From the correspondence so far received, I also considered that Option (2)(c) was impracticable, because Mr Medhurst could not reasonably be expected to attend the hearing without saying anything at all.

63. I next considered Option (1). This clearly involved a delay, and Rule 2 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009 provides that dealing with a case fairly and justly includes "avoiding delay, so far as compatible with proper consideration of the issues". Having taken into account Mr Medhurst's correspondence explaining the extent of his distress at the possibility that the hearing might be delayed until June, it was clear that an open-ended delay of uncertain length would be far worse, especially given that the hearing was unlikely to be listed before June. My preliminary view was therefore that Option (1) was also not in the interests of justice.

64. That left a choice between Option (3), being an entirely "paper" hearing, and Option 2(a), a hearing with Mr Medhurst providing his submissions in writing. Mr Medhurst had already raised questions about the terminology used by Mr Brooke when describing HMRC's investigations. I considered that it was in the interests of justice for HMRC to attend the hearing, as this would allow me to ask questions about those investigations, and this was preferable to simply relying on their written skeleton and witness evidence.

65. I therefore asked Mr Medhurst whether he agreed that the hearing should go ahead on the basis of Option 2(a), and he gave explicit consent.

THE SUBSTANTIVE ISSUE: THE QUALIFYING YEARS

66. The hearing of Mr Medhurst's appeal took place on 10 March 2022 by video. I took into account the following submissions (the arguments put forward by both parties) and the evidence.

THE SUBMISSIONS

67. HMRC's written submissions were a Statement of Case and a skeleton argument; Mr Brooke also made oral submissions at the hearing.

68. As noted above, Mr Medhurst corresponded extensively with the Tribunal and with HMRC before the hearing, and in particular he provided the following written submissions:

(1) a rebuttal of HMRC's Statement of Case consisting of 27 closely typed pages ("the Rebuttal");

(2) a list of responses to the Tribunal's direction that he specify the issues he disputed, and in particular the missing years, the related employers and the reasons why he believed that his qualifying years were under-recorded ("the Replies"); and

(3) his response to HMRC's skeleton argument ("the Response").

THE EVIDENCE

69. HMRC provided a Bundle of documents for the hearing, which included:

(1) some of the correspondence between the parties and between the parties and the Tribunal;

(2) certain other correspondence between Mr Medhurst and third parties including the Department of Work and Pensions ("DWP");

(3) HMRC's original list of NICs paid in relation to 20 qualifying years and a revised schedule relating to 21 qualifying years; and

(4) Mr Medhurst's lists of the employers for which he worked, including in particular during the missing years.

70. Mr Allen provided a witness statement for the hearing, gave evidence-in-chief led by Mr Brooke and answered questions from the Tribunal. I found him to be a credible and honest witness.

71. Mr Medhurst provided his evidence in writing, setting out his recollection of the work he had carried out. He had no supporting documents. HMRC did not suggest that Mr Medhurst was not a credible and honest witness and I found that he was. However, I also note that he said in his Replies that although he knew where he had worked, "the dates are hazy after so long 50+ years in some cases".

The new evidence

72. At the hearing, HMRC asked the Tribunal to admit the following evidence extracted from their computer system, together with Mr Allen's related oral evidence by way of explanation:

(1) a schedule showing the dates on which letters were sent to Mr Medhurst advising him that insufficient NICs had been paid for that particular year. These are known as "Deficiency Notices"; and

(2) information about the years 1980 to 1984 relating to self-employment, including "No Card Notices".

73. In the rest of this decision, the Deficiency Notices and the No Card Notices are called "the Notices". I considered whether:

(1) to allow the evidence about the Notices to be admitted (ie, whether it should be taken into account when making the decision);

(2) to adjourn the hearing to allow Mr Medhurst the opportunity to comment on this new evidence, or

(3) to refuse to admit the evidence.

74. The factors I took into account included the following:

(1) The issue the Tribunal had to decide was whether Mr Medhurst had further qualifying years, not whether he had been informed that he had missing years.

(2) HMRC had focused on identifying whether there were any further qualifying years, and for that reason had not provided this information previously.

(3) The evidence was nevertheless relevant, and it was contemporaneous with the periods in which Mr Medhurst had worked.

(4) Mr Medhurst had not been made aware, before the hearing, that this evidence would be put before the Tribunal.

(5) In his Response, Mr Medhurst said that "At no time during my employment was I aware of any problems with my contributions. I have NEVER received any communications informing me of so during my working life". Had he been made aware of this new evidence, it was therefore likely that he would have said he had no recollection of receiving the Notices or that (if he had received them) he had not understood what they meant.

(6) As set out below, Mr Medhurst strongly objected when he thought the hearing might be delayed and was very anxious to have his appeal resolved. An adjournment would delay the appeal for several months.

75. I decided it was in the interests of justice to admit the evidence and not to adjourn the appeal, but to proceed on the basis that Mr Medhurst would have said either (a) he had no recollection of receiving the Notices, or (b) he had received them but had not understood what they meant. A schedule of the Notices is attached to this decision as an Appendix.

FINDINGS OF FACT

76. On the basis of the evidence provided, I make the following findings of fact

Background and health conditions

77. Mr Medhurst was born on 8 December 1950. He worked both in the UK and overseas, largely in catering as a chef. His final period of work in the UK ended in 2002-03. He has lived in Vietnam for some time, and continues to live there.

78. He suffers from a number of medical conditions. These include spinal injuries as a result of which he is "not able to work and spend[s] the whole day horizonal". He also suffers from "extreme stress".

79. Mr Medhurst was in hospital in the UK in 2016 and the treatment had a detrimental effect on his memory, which he accepted had made it difficult to recall the details of his past employments. When he was in hospital he also lost a briefcase containing some paperwork related to his employments.

The employments during the missing years

80. Mr Medhurst provided lists of the employers for whom he had worked during the missing years. For each of those named employers, Mr Allen had interrogated the following HMRC systems to seek to establish whether there were any further NI contributions for Mr Medhurst relating to those employments:

(1) The HMRC National Insurance Recording System ("NIRS") database which records contributions paid since April 1997. Mr Allen checked the NIRS system both by entering the names of each employer, and also using Mr Medhurst's personal details. For example, in relation to one employer named by Mr Medhurst as "Bookers", Mr Allen looked at 52 entries which included that name; where any of those 52 cases showed that

the employer had paid NICs to HMRC, Mr Allen checked to see if any related to Mr Medhurst.

(2) Microfilms of HMRC records for the periods from April 1976 to March 1997, including a file of "unmatched" employee details. Mr Allen searched these records both by employer and by using the first part of Mr Medhurst's own name – a system called "checkbrick".

(3) HMRC's Tax Business System, which files details by employer. Mr Allen searched using Mr Medhurst's National Insurance Number ("NINO") and identified a record for Mr Medhurst in relation to an employer in Wales called Hurst Health Farms for the tax year 2001-02. It was these NICs which caused the increase to Mr Medhurst's contributions set out in Mr Allen's letter of 7 December 2021, see §2 of this decision.

81. Mr Allen also researched the internet using the employer names provided by Mr Medhurst, together with alternative names of parent companies. For example, for an employer named by Mr Medhurst as "the Snooty Fox", Mr Allen found two possible alternative names, being Hatton Hotels and The Hatton Collection. For another employer, named by Mr Medhurst as Cheswold Park Hospital, he found the alternative name of Riverside Healthcare Ltd.

82. Despite Mr Allen's extensive, detailed and careful searches both of HMRC's own records, and of the wider information on the internet, no further NICs were identified for Mr Medhurst, other than those he had already located relating to Hurst Health Farms.

83. I find as a fact on the basis of Mr Allen's evidence that HMRC have no recorded contributions for Mr Medhurst other than those which have been taken into account in computing his 21 qualifying years.

Whether HMRC failed to record contributions notified to them

84. Mr Medhurst submitted that if HMRC did not have a record of his contributions for the missing years, these omissions had been caused by changes to their IT systems, or because of other mistakes: he said that "many HMRC and DWP departmental mistakes have been discovered and written about by the media". He added that the contributions identified by Mr Allen from Hurst Health Farm showed that HMRC's recorded contributions contained errors and were incomplete.

85. Mr Brooke said that:

(1) there was no supporting evidence for Mr Medhurst's statement that there were unrecorded contributions from any employment;

(2) Mr Medhurst's criticism of HMRC's systems were general in nature and did not relate to his own position; and

(3) Mr Medhurst himself had not identified Hurst Health Farm as an employer on any of the lists he provided to HMRC.

86. Mr Brooke is clearly right in his first two submissions. In relation to Hurst Health Farm, I considered all the lists of employers provided to HMRC before Mr Allen issued his letter of 7 September 2021. I agree with HMRC that these do not refer to Hurst Health Farm, but instead to "agency work, Wales". It was only Mr Allen's investigatory work which identified the relevant employer for these further contributions.

87. Despite his submission that HMRC had failed to record his contributions, Mr Medhurst also acknowledged that the shortfall in contributions recorded by HMRC could be because of failings by his employers: he said that in the hospitality industry employers **"**for many, many

years [had] not forwarded employees tax and NI contributions and are infamous for it" and that "the catering industry is infamous for its practice of failing to record employees".

88. There was thus no evidence that there were any unidentified errors in HMRC's records of Mr Medhurst's employment-related NICs, and I find as a fact that there was none.

Deficiency Notices

89. I make the findings set out above without taking into account the list of Deficiency Notices. Mr Allen's evidence was that:

(1) until 1975 Deficiency Notices were issued manually after the December following the tax year;

(2) from 1975 the NIRS computer system issued Deficiency Notices automatically to the employee's last known address in October or November after the end of a tax year when there was a shortfall in contributions; and

(3) the schedule provided to the Tribunal (attached to the back of this decision) setting out 19 Deficiency Notices was an accurate and complete list.

90. Mr Allen was an honest and credible witness, and I accept his evidence together with that provided by the list of Deficiency Notices. These were issued shortly after the year in question and thus provide contemporaneous support for HMRC's case that Mr Allen's schedule accurately records the NICs received by HMRC in relation to Mr Medhurst for each of the years in question.

91. I find as a fact that the Deficiency Notices were sent out to Mr Medhurst in each of the years recorded on Mr Allen's schedule. I make no finding on whether they were received by Mr Medhurst or whether, if received, they were understood.

Years 1978-1979 to 1981-82

92. In the Rebuttal and the Replies, Mr Medhurst said that he had claimed sickness benefit for 1978-1979 to 1981-82, following a fractured skull, and he should therefore have been awarded NIC credits.

93. In his skeleton argument, Mr Brooke said that the Schedule of qualifying years includes 1978-79, and that HMRC's records show that this was the result of credits awarded by the DWP. However, HMRC have no record of any credits for the other three years.

94. Other relevant evidence was as follows:

(1) As far as I was able to establish, the first time that Mr Medhurst stated that he was not working during the four year period 1978-1982 was in the Rebuttal and the Replies submitted for this hearing.

(2) His original schedule of employments provided in 2019 stated that in the period 1978-83 he was working for St Rose's School; T Butt and Sons; Key Markets; the Red Lion and the National Water Council. HMRC's schedule shows that the last two of these employments were held in 1982-83.

(3) According to HMRC's records provided at the hearing, Mr Medhurst registered as self-employed in 1980-1981 but made no self-employment contributions for that year or the following two years: he was thus issued with a "No Card Notice" because he had not returned his NICs card.

95. I thus find as a fact on the basis of this evidence that Mr Medhurst received NIC credits from the DWP in 1978-79, but not in the three subsequent years. This may have been because

he was employed by St Rose's School, T Butt and Sons and Key Markets and/or because he was self-employed, or for some other reason.

Years 2011-12 to 2015-16

96. Mr Medhurst reached 60 years of age on December 2010. At that time there was a system called "autocredits" which automatically awarded four qualifying years to men of that age, but autocredits only applied if the person was in the UK. Mr Medhurst was originally given autocredits for 2011-12 through to 2014-15, but these were removed when HMRC were informed that Mr Medhurst had been overseas during this period. Mr Medhurst accepted that he had no entitlement to those autocredits. However, he was in hospital in the UK in 2015-16 and asked if he should have autocredits for that year.

97. As Mr Brooke explained in his skeleton argument, a man born between 6 October 1950 and 5 October 1951 was only entitled to autocredits for the four years from 2011-12 through to 2014-15, and then only if he was living in the UK. As Mr Medhurst was not in the UK during those years, he had no entitlement. That is clearly correct.

Conclusion on the substantive issue

98. On the basis of the evidence before the Tribunal, I have found that HMRC's system does not include any unrecorded NICs or NIC credits for Mr Medhurst, and I have also found that Mr Medhurst has not shown that there were any errors in the recording of his NICs or NIC credits.

99. Mr Medhurst's case rested on his recollection:

(1) as to the periods of employment with particular employers; and

(2) that at least some of those employers had paid him after deducting NICs from his pay.

100. He had no supporting evidence; he admitted he had problems with his memory; and he also acknowledged that "failing to record employees" was a common practice in the catering trade.

101. Mr Medhurst has been fighting to increase his pension for some six years. It may be of some small consolation that as the result of his appeal to the Tribunal, Mr Allen carried out an extensive and detailed exercise which located one further qualifying year and thus resulted in a small increase in Mr Medhurst's state pension.

MR MEDHURST'S OTHER SUBMISSIONS

102. Mr Medhurst made a number of other submissions, including about further work which he considered HMRC and/or the Tribunal should carry out, and about the process of dealing with the Tribunal, HMRC and other government bodies.

HMRC CONTACTING EMPLOYERS

103. Mr Medhurst submitted that HMRC should contact the employers he had named, for which no contributions were recorded. Mr Brooke noted that:

(1) the most recent of the missing years was 2001-02, so over 20 years ago;

(2) the earliest was 1968, when Mr Medhurst began work for Woolworths, over 50 years ago; and

(3) as employers are only required to keep their wage and salary records for six years, and the NICs records for three years after the end of the relevant tax year, there is no reasonable prospect that these records will have been retained.

104. I agree with Mr Brooke. Mr Medhurst himself said he had "tried contacting one employer from 40 years ago only to be told that they only retain their records for 7 years", see §56.

105. HMRC have the power to require the provision of documents from employers under Finance Act 2008, Sch 36 (see s 110ZA of the Social Security Administration Act 1992). However, that power can only be exercised if the documents:

(1) are "reasonably required" or are "statutory records"; and

(2) are in the person's "possession or power", which means that the person either has the documents or can obtain them from someone else.

106. None of those requirements is satisfied in this case. The documents which Mr Medhurst wants HMRC to seek are no longer statutory records; it would plainly not be reasonable to require employers to produce them given their historic nature, and there is no realistic possibility that the employers named by Mr Medhurst have retained the records so many decades after the events in question. Even if those requirements were to be satisfied, the Tribunal has no jurisdiction to direct HMRC to issue a Notice for a third party to disclose documents under that Schedule.

HMRC PROVIDING ADDRESSES

107. Mr Medhurst also submitted that HMRC should provide him with the current or last known addresses of the employers so he can make contact with them. HMRC say that they are unable to do so as this would breach the Data Protection Act 2018. This Tribunal has no jurisdiction to order HMRC to provide this information to Mr Medhurst.

108. I add that the disclosure of taxpayers' addresses to Mr Medhurst would be likely to breach the Revenue & Customs Act 2005, which makes it an offence for HMRC to provide information about a taxpayer to another person, other than in certain limited situations.

THE BURDEN OF PROOF

109. In a case such as this, the law says that it is for Mr Medhurst to prove his case: in legal terms, Mr Medhurst has the burden of proof. Having considered all the evidence and the arguments put forward by both parties, I found that Mr Medhurst had not proved he had more qualifying years, so that his pension remains as calculated on the basis of the qualifying years set out by Mr Allen

110. In Mr Medhurst's view, it is unfair and unjust for employees to be expected to retain records for their working life in order to substantiate their entitlement to qualifying years. However, where the burden of proof lies in a particular type of appeal is a matter for Parliament. In this type of appeal Parliament has decided that the burden lies on the party making the appeal – here, Mr Medhurst. The Tribunal has no power to change that.

THE PERIOD OF DELAY

111. Mr Medhurst asked why he has had to wait for five years since he began his challenges to his pension before he was informed that he should appeal to the Tribunal.

112. No case law was cited to me, but I am aware of judgments which consider the impact of delay in the context of Article 6 of the European Convention on Human Rights ("the Convention"), see *King v United Kingdom (No 3)* [2005] STC 438 and *Kishore v HMRC* [2021] EWCA Civ 1565. However, that case law concerns the right of a person charged with a criminal offence, including tax penalties, to have the case heard within a reasonable time and so is not relevant to Mr Medhurst's appeal.

113. It is also true that section 6 of the Human Rights Act 1998 provides that it is "unlawful for a public authority to act in a way which is incompatible with a Convention right" and that the meaning of "act" includes a "failure to act", so would encompass delay. However:

(1) that provision would only be relevant if Mr Medhurst were able to show that a delay by the DWP and/or HMRC had breached one or more of his rights under the Convention.

(2) Even were he able to prove that a right had been breached, that would not provide a reason for allowing his appeal so that he has more qualifying years.

(3) Section 8(2) of the Human Rights Act provides that compensation can be awarded for delay, but only by "a court which has power to award damages, or to order the payment of compensation, in civil proceedings" and the Tribunal is not such a court.

114. Thus, even if Mr Medhurst's human rights had been breached by the delay in dealing with his challenges to his NICs records, that cannot affect the outcome of this appeal. and the payment of compensation is not a matter over which I have any jurisdiction.

THE LACK OF EARLIER INFORMATION

115. Mr Medhurst said that he was unaware of the shortfall in his qualifying years until he retired. However, whether or not Mr Medhurst knew or could have known about the shortfall was not the issue I had to decide. That issue was instead whether he is entitled to more qualifying years than recorded by HMRC. I thus merely note that:

(1) HMRC issued Deficiency Notices for a total of 19 years, which would have informed Mr Medhurst that he had a shortfall of contributions for the year in question.

(2) Mr Allen confirmed that throughout the history of NICs it has always been possible for a person to request a forecast of his pension based on his qualifying years, and thus Mr Medhurst could have obtained that information at any point.

PENSION INCREASES IN VIETNAM

116. Mr Medhurst said that he has been told he cannot get pension increases because he lives in Vietnam, but the basis for this has never been explained to him. This issue too is not part of his appeal. However, he may find it helpful to know that there is some government guidance on this issue at https://www.gov.uk/government/publications/state-pensions-annual-increases-if-you-live-abroad/countries-where-we-pay-an-annual-increase-in-the-state-pension

OTHER ADVICE

117. Mr Medhurst asked the Tribunal to provide advice on other benefits to which he might be entitled. Providing advice on benefits is not part of the role of Tribunal judges, who are not permitted to provide that sort of assistance. Mr Medhurst would need to approach a welfare rights organisation for help of that nature.

118. Mr Medhurst also asked for an explanation as to why his wife had not been given a visa so they could move back to the UK. This too is not a matter on which Tribunal judges can provide assistance. Immigration rights organisations, or lawyers specialising in immigration law, may be able to assist.

OVERALL DECISION AND RIGHT TO APPLY FOR PERMISSION TO APPEAL

119. Although Mr Medhurst appealed against HMRC's original decision that he had 20 qualifying years, it was common ground that the starting point for the appeal was that HMRC accepted that he had 21 qualifying years. I have found that he has no qualifying years in addition to the 21 already identified, and his appeal is thus dismissed.

120. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

ANNE REDSTON
TRIBUNAL JUDGE

Release date: 15 JUNE 2022

APPENDIX

Deficiency Notices ("DN") issued to Mr Medhurst

1967/1968 DN issued 06/03/1969

1968/1969 DN issued 26/01/1970

1969/1970 DN issued 26/01/1971

1972/1973 DN issued 13/02/1974

Post 75 (Tax Years April to April)

1977/1978 DN issued Oct/Nov 1979

1979/1980 DN issued Oct/Nov 1981

1986/1987 DN issued Oct/Nov 1988

1987/1988 DN issued Oct/Nov 1989

1991/1992 DN issued Oct/Nov 1993 (93/94 covered by abroad note on NIRS)

1996/1997 DN issued Oct/Nov 1998

1997/1998 DN issued Oct/Nov 1999

1998/1999 DN issued Oct/Nov 2000

1999/2000 DN issued Oct/Nov 2001

2000/2001 DN issued Oct/Nov 2002

2001/2002 DN issued Oct/Nov 2003 (Now Qualifying Year)

2003/2004 DN issued Oct/Nov 2005

2004/2005 DN issued Oct/Nov 2006

2005/2006 DN issued Oct/Nov 2007

2006/2007 DN issued Oct/Nov 2008

Self Employment No Card Notices ("NCN") issued to Mr Medhurst

1980/1981 NCN issued

1981/1982 NCN issued

1982/1983 NCN issued