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## International and Regional Instruments

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IOB	1	a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a></li> </ul>	Yes.	UN Treaty Collection: <a href="https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en">https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en</a>
IOB	1	b		If yes, when was ratification/accession?		16 April 1959.	UN Treaty Collection: <a href="https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec">https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec</a>
IOB	1	c		Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• Best practice is no reservations. If there are, they should have little or no effect on the rights of stateless persons.</li> </ul>	Yes, the UK currently has <b>5 reservations: Article 38</b> (reservations), <b>Articles 8 and 9</b> (exceptions for national security); <b>Article 24</b> (Labour legislation and social security), and <b>Article 25</b> (Administrative assistance). There is a further commentary regarding Articles 24 and 25, and there are further reservations relating to British Overseas Territories and Crown Dependencies.	UN Treaty Collection: <a href="https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec">https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec</a>
IOB	1	d		Does the Convention have direct effect?	<ul style="list-style-type: none"> <li>• Best practice is that the Convention has direct effect, though this may depend on legal regime.</li> </ul>	<b>No.</b> Under the UK's legal regime, treaties do not have direct effect. For the provisions included in the treaty to have effect, they <b>must be incorporated into domestic legislation</b> (through statute). Some provisions are being implemented through the UK's statelessness determination procedure, but there are legal and/or practical barriers to the realisation of some of the rights protected in the 1954 Convention, for example, there are exceptionally high fees for British citizenship applications and no exemptions or reductions.	Arabella Long, House of Commons Briefing Paper No. 5855, 17 February 2017, Parliament's role in ratifying treaties: <a href="http://researchbriefings.files.parliament.uk/documents/SN05855/SN05855.pdf">http://researchbriefings.files.parliament.uk/documents/SN05855/SN05855.pdf</a>
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a></li> </ul>	Yes.	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en</a>

IOB	2	b		If yes, when was ratification/accession?		29 March 1966.	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en</a>
IOB	2	c		Are there reservations in place? Please list them.	As above	<b>Yes</b> , in accordance with Article 8(3)(a) relating to <b>deprivation of nationality resulting in statelessness</b> : "[The Government of the United Kingdom declares that], in accordance with para. 3(a) of Article 8 of the Convention, notwithstanding the provisions of para. 1 of Article 8, the United Kingdom retains the right to <b>deprive a naturalised person of his nationality</b> on the following grounds, being grounds existing in United Kingdom law at the present time: that, inconsistently with his duty of loyalty to Her Britannic Majesty, the person (i) Has, in disregard of an express prohibition of Her Britannic Majesty, rendered or continued to render services to, or received or continued to receive emoluments from, another State, or (ii) Has conducted himself in a manner <b>seriously prejudicial to the vital interests of Her Britannic Majesty</b> ."	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en#EndDec">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=V-4&amp;chapter=5&amp;clang=en#EndDec</a>
IOB	2	d		Does the Convention have direct effect?	As above	<b>No</b> . The British Nationality Act 1981 enacts many of the provisions of the 1961 Convention, however, as with the 1954 Convention, there are legal and/or practical barriers to the realisation of some of the rights protected under the 1961 Convention.	See above.
IOB	3	a	Other conventions	State party to European Convention on Nationality 1997? Are there reservations in place? Please list them.	• <a href="#">European Convention on Nationality, 1997</a>	<b>No</b> .	Council of Europe, Chart of signatures and ratifications of Treaty 166: <a href="https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=4jSJfctp">https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=4jSJfctp</a>
IOB	3	b		State Party to European Convention on Human Rights 1950? Are there reservations in place? Please list them.	• <a href="#">European Convention on Human Rights, 1950</a>	Yes. There are <b>no reservations</b> but <b>there are declarations</b> relating to the UK and to the Overseas Territories and to the Crown Dependencies, although some of these have been withdrawn.	Council of Europe, Chart of signatures and ratifications of Treaty 005: <a href="https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=XgehAFvw">https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=XgehAFvw</a>

							Council of Europe, Reservations and Declarations for Treaty No.005: <a href="https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=XgehAFvw">https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=XgehAFvw</a>
IOB	3	c		State Party to Council of Europe Convention on the avoidance of statelessness in relation to State succession 2006? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a></li> </ul>	No.	Council of Europe, Chart of signatures and ratifications of Treaty 200: <a href="https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=4jSJfct">https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=4jSJfct</a>
IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a></li> </ul>	No.	European Commission press release, An effective and humane return policy: 8 Member States have yet to comply with the Return Directive, Brussels, 29 September 2011: <a href="http://europa.eu/rapid/press-release_IP-11-1097_en.htm?locale=en">http://europa.eu/rapid/press-release_IP-11-1097_en.htm?locale=en</a>  EU Analysis Blog, Steve Peers, The EU's Returns Directive: Does it improve or worsen the lives of irregular migrants? 28 March 2014: <a href="http://eulawanalysis.blogspot.co.uk/2014/03/the-eus-returns-directive-does-it.html">http://eulawanalysis.blogspot.co.uk/2014/03/the-eus-returns-directive-does-it.html</a>
IOB	3	e		State Party to Convention on the Rights of the Child 1989? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a></li> </ul>	Yes, the UK is a state party and <b>has reservations</b> to the Convention.	UN OHCHR Status of Ratification Dashboard: <a href="http://indicators.ohchr.org/">http://indicators.ohchr.org/</a>

IOB	3	f		State Party to International Covenant on Civil and Political Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">International Covenant on Civil and Political Rights 1966</a></li> </ul>	<b>Yes</b> , the UK is a state party and <b>has reservations</b> to the Covenant.	UN OHCHR Status of Ratification Dashboard: <a href="http://indicators.ohchr.org/">http://indicators.ohchr.org/</a>
IOB	3	g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">International Covenant on Economic, Social and Cultural Rights 1966</a></li> </ul>	<b>Yes</b> , the UK is a state party and <b>has reservations</b> to the Covenant.	UN OHCHR Status of Ratification Dashboard: <a href="http://indicators.ohchr.org/">http://indicators.ohchr.org/</a>
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Elimination of all Forms of Discrimination Against Women 1979</a></li> <li>• Gen. Rec. 32 <a href="#">on the gender-related dimensions of refugee status, asylum, nationality and statelessness</a>.</li> </ul>	<b>Yes</b> , the UK is a state party and <b>has reservations</b> to the Convention.	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-8&amp;chapter=4&amp;clang=en#EndDec">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-8&amp;chapter=4&amp;clang=en#EndDec</a>
IOB	3	i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Are there reservations in place? Please list them.	<ul style="list-style-type: none"> <li>• <a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a></li> </ul>	<b>Yes</b> , the UK is a state party and <b>has reservations</b> to the Convention.	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;clang=en#EndDec">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-9&amp;chapter=4&amp;clang=en#EndDec</a>
IOB	3	j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1965?	<ul style="list-style-type: none"> <li>• <a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a></li> </ul>	<b>Yes</b> , the UK is a state party and <b>has reservations</b> to the Convention.	UN Treaty Collection: <a href="https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;clang=en#EndDec">https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&amp;mtdsg_no=IV-2&amp;chapter=4&amp;clang=en#EndDec</a>

## International and Regional Instruments – December 2017

				Are there reservations in place? Please list them.			
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## Stateless Population Data

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
POP	1	a	Availability and sources	Does the Govt have a discrete category for statelessness in its data collection system (e.g. in the census)? If so, what are the Govt figures for the total stateless population on the territory? Is the data disaggregated? If so, how?	<ul style="list-style-type: none"> <li>• <a href="#">Gen. Rec. 32 of CEDAW</a> (para. 39): States parties should... gather, analyse and make available sex-disaggregated statistical data and trends...</li> <li>• <a href="#">European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness</a>: Recognise the importance of exchanging good practices...concerning the collection of reliable data on stateless persons...</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-2024 (Action 10)</a>: Improve quantitative and qualitative data on stateless populations...</li> <li>• <a href="#">Institute on Statelessness and Inclusion (The World's Stateless) pg.11</a>: States should adopt and/or strengthen measures to count stateless persons on their territory...</li> </ul>	<p><b>No.</b> UK population data <b>does not include a statelessness category</b>. The most recent censuses were carried out across the countries of the UK in 2011. There is a question in the censuses of England, Wales and Northern Ireland on what passport/s a person holds (but not in Scotland).</p> <p>The UK Government Home Office (UK Visas and Immigration) has a category in its databases for recording people as stateless, <b>but the data is unreliable</b>: there are different categories under which individuals who are stateless or likely to be stateless could fall. One of these category is for people who have already been recognised as stateless; another includes people with “unclear nationalities”; and there are also categories for Palestinians and Kuwaitis. Some of these individuals, who are stateless but not recognised as such, are treated as nationals of their country of previous residence.</p>	<p>UK Census Questionnaires from 2011:</p> <ul style="list-style-type: none"> <li>• England : <a href="http://webarchive.nationalarchives.gov.uk/20160105225826/http://www.ons.gov.uk/ons/guide-method/census/2011/the-2011-census/2011-census-questionnaire-content/2011-census-questionnaire-for-england.pdf">http://webarchive.nationalarchives.gov.uk/20160105225826/http://www.ons.gov.uk/ons/guide-method/census/2011/the-2011-census/2011-census-questionnaire-content/2011-census-questionnaire-for-england.pdf</a></li> <li>• Wales: <a href="http://webarchive.nationalarchives.gov.uk/20160105225826/http://www.ons.gov.uk/ons/guide-method/census/2011/the-2011-census/2011-census-questionnaire-content/2011-census-questionnaire-for-wales--english-.pdf">http://webarchive.nationalarchives.gov.uk/20160105225826/http://www.ons.gov.uk/ons/guide-method/census/2011/the-2011-census/2011-census-questionnaire-content/2011-census-questionnaire-for-wales--english-.pdf</a></li> <li>• Northern Ireland: <a href="https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/2011-census-individual-questionnaire.pdf">https://www.nisra.gov.uk/sites/nisra.gov.uk/files/publications/2011-census-individual-questionnaire.pdf</a></li> <li>• Scotland: <a href="http://www.scotlandscensus.gov.uk/documents/Householdpre-addressed27_05_10specimen.pdf">http://www.scotlandscensus.gov.uk/documents/Householdpre-addressed27_05_10specimen.pdf</a></li> </ul> <p>Office for National Statistics, Population of the UK by country of birth and nationality: <a href="https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality">https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality</a></p> <p>Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: <a href="http://www.refworld.org/docid/4ecb6a192.html">http://www.refworld.org/docid/4ecb6a192.html</a></p>
POP	1	b		Do Govt authorities define categories of persons who may overlap	As above	UK Visas and Immigration has a category of <b>unknown nationality on its databases</b> . In 2017, statistics record that	Personal communications to the authors.



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				with stateless (e.g. unknown nationality, unspecified nationality, other)? Are statistics on these available? If, yes, please indicate categories and statistics.		<b>30,603 persons claimed asylum</b> in the UK in 2016; <b>17</b> persons were in the 'other and unknown' nationality category and <b>488</b> were recorded as 'stateless'.  See also <b>POP1i</b> .	Home Office, National Statistics, How many people do we grant asylum or protection to? (25 May 2017), 8. Data Tables, Asylum Tables Volume 1: <a href="https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2017/how-many-people-do-we-grant-asylum-or-protection-to">https://www.gov.uk/government/publications/immigration-statistics-january-to-march-2017/how-many-people-do-we-grant-asylum-or-protection-to</a> ,
POP	1	c		What is the UNHCR estimate for the population of stateless persons and/or those at risk of statelessness on the territory? What is UNHCR's source for this information?	As above	In the UNHCR mid-year statistics for 2016, Table 1 lists <b>60 stateless persons in UK</b> . However, this figure likely relates only <b>to the number of persons granted leave as stateless persons</b> under Part 14 of the Immigration Rules and <b>not those who may have been wrongly refused, stateless persons who were granted refugee or some other status</b> or whose applications remain pending or who have not yet applied.	UNHCR, Population Statistics: <a href="http://popstats.unhcr.org/en/overview">http://popstats.unhcr.org/en/overview</a> (Mid-Year Trends 2016, Table 1.1 Refugees, asylum-seekers, internally displaced persons (IDPs), returnees (refugees and IDPs), stateless persons, and others of concern to UNHCR by country/territory of asylum, mid-2016)
POP	1	d		Are there indirect (proxy) sources of statistics on stateless persons? E.g. categories of persons for which statistics are available where stateless persons may be more highly represented (e.g. relevant country of origin or profiles (e.g. Palestinians or Syrian Kurds)? Please provide explanation and figures.	As above	See Mapping Statelessness in the UK; described above and below.	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: <a href="http://www.refworld.org/docid/4ecb6a192.html">http://www.refworld.org/docid/4ecb6a192.html</a>
POP	1	e		Have there been surveys or mapping studies done to estimate the population of	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-2024: Action 10</a></li> </ul>	<b>Yes</b> , but accurate estimates of the stateless population were difficult, and the report is now six years old.	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: <a href="http://www.refworld.org/docid/4ecb6a192.html">http://www.refworld.org/docid/4ecb6a192.html</a>

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				stateless persons in the country?			
POP	1	f		Are there other sources of estimates for the population of stateless persons (not covered by the above)? If so, list sources and figures.	As above	<b>No.</b>	
POP	1	g		Are there issues with reliability of stateless data? If yes, please describe why.	As above	<b>Yes.</b> It is difficult to accurately quantify the number of stateless persons because some are not recognised as stateless or counted.	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: <a href="http://www.refworld.org/docid/4ecb6a192.html">http://www.refworld.org/docid/4ecb6a192.html</a>
POP	1	h		Are there indications that the stateless population is either over or under reported? Please describe.	As above	The stateless population is under-reported (as per POP1g).	As above.
POP	1	i		Please provide any available figures on stateless refugees or asylum seekers (if there is data, please clarify whether Govt also counts stateless refugees and asylum seekers in the stateless population to avoid under/over reporting).	As above	<p>The data for 2016 show that <b>488</b> stateless persons applied for asylum; <b>317</b> were granted asylum; and <b>2</b> were granted 'humanitarian protection'. The UK refers to 'humanitarian protection'; this is equivalent to 'subsidiary protection' or 'complementary protection'. Those whose nationality is listed as other/unknown may or may not be stateless, but it is likely that at least some are.</p> <p>Persons from <b>Kuwait</b> who are detained may or may not be stateless; but as Kuwaiti Bidoons are among the main groups of stateless persons in the UK, it is worth considering whether detainees from Kuwait are stateless (Kuwait: <b>128</b> applied; <b>42</b> granted asylum; <b>1</b> granted discretionary leave to remain).</p>	UK Government Home Office, Immigration Statistics, October to December 2016, 7. Asylum, 7.1 Asylum Data Tables Vol. 1, Table as_01: Asylum applications and initial decisions for main applicants, by country of nationality: <a href="https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#asylum">https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#asylum</a>

						<p>The persons whose nationality is listed as <b>Occupied Palestinian Territories</b> or <b>Western Sahara</b> are likely to be stateless, as those territories are not recognised as states by the UK. ('Occupied Palestinian Territories': <b>121</b> applied; <b>19</b> granted asylum, <b>1</b> granted discretionary leave; 'Other/unknown nationality': <b>17</b> applied, <b>1</b> granted asylum, <b>1</b> granted discretionary leave; 'Western Sahara': <b>2</b> applied, <b>0</b> granted.</p>	
POP	2	a	Stateless in Detention data	Number of stateless persons in immigration detention	As above and see also norms in Detention section.	<p>UK Government statistics for 2016 show that: <b>91 stateless persons entered immigration detention</b> (87 male; 4 female; 0 children); (Kuwait: 35 detained (33 male; 2 female; 1 child); (Occupied Palestinian Territories: 29 detained (26 male, 3 female; 0 child); Other/unknown nationality: 42 detained (40 male; 2 female, 0 child); Western Sahara: 2 detained, both male, 0 child. Figures differ for <b>the number of persons in immigration detention</b> at the end of 2016: stateless 0; Kuwait 2; Occupied Palestinian Territories 2; Other/unknown nationality 8; Western Sahara 2. If these figures are accurate, they indicate that most people who entered detention in the listed categories <b>did not remain in detention at year end</b>, but it is possible some of them could <b>be re-detained in the future</b>. Figures do not include persons detained in <b>prisons</b>; nor do they include <b>persons to whom the Government has attributed a nationality</b> (other than those listed) who may be stateless.</p>	<p>UK Government Home Office, Immigration Statistics, October to December 2016, 9. Detention, Detention Data Tables, Table dt_04: People entering detention by country of nationality, sex, place of initial detention and age: <a href="https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention">https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention</a></p> <p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, Section 2.3, p.14: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a></p>

POP	2	b		Are there statistics on individuals released from immigration detention who were unremovable, their country of origin and length of detention? If yes, please provide.	As above	<p><b>Yes.</b> UK Government statistics for 2016 show that <b>879 people left immigration detention after detention of 6 months or longer</b>; of these, <b>347 were removed from the UK</b>; most others were granted temporary admission or bail (Table dt_06).</p> <p>For <b>persons acknowledged to be stateless leaving immigration detention in 2016</b> (Table dt_08_q):</p> <ul style="list-style-type: none"> <li>• Quarter 1 (Q1): of <b>35 stateless detainees</b>, 1 was removed, 33 granted temporary admission, 0 bail, and 1 granted leave to remain.</li> <li>• Q2: 19 stateless detainees: 3 removed; 16 granted temporary admission; 0 bail; 0 leave to remain.</li> <li>• Q3: 20 stateless detainees: 0 removed; 19 granted temporary admission; 1 bail; 0 leave to remain.</li> <li>• Q4: 20 stateless detainees: 4 removed; 15 granted temporary admission; 1 bail; 0 leave to remain.</li> </ul>	<p>UK Government Home Office, Immigration Statistics, October to December 2016, 9. Detention, Detention Data Tables, Table dt_06: People leaving detention by reason, sex and length of detention <b>and</b> Table dt_08_q: People leaving detention by country of nationality, reason, sex and age: <a href="https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention">https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention</a></p> <p>Detention Action, 2014, The State of Detention: immigration detention in the UK in 2014, p.6: <a href="http://detentionaction.org.uk/word-press/wp-content/uploads/2014/10/The.State.of_.Detention.pdf">http://detentionaction.org.uk/word-press/wp-content/uploads/2014/10/The.State.of_.Detention.pdf</a></p>
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## Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
IDP	1	a	Existing SDP procedure	<p>Which of the following best describes the situation in your country (<b>choose only one and then proceed to question indicated</b>)?</p> <p>1. There is a <b>dedicated Statelessness determination procedure (SDP)</b> established in law, administrative guidance, or judicial procedure (<b>proceed to Question 2a</b>).</p> <p>2. There is <b>no dedicated SDP procedure</b> but there are other administrative procedures by which statelessness can be identified (e.g. through citizenship, residence permit and international protection procedures or ex-officio) (<b>proceed to Question 10a</b>).</p> <p>3. There is a <b>dedicated statelessness status</b> even if no formal procedure exists for determining this (<b>proceed to Question 16a</b>).</p> <p>4. If <b>none of the above</b> describe the</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: ... it is implicit in the 1954 Convention that States must identify stateless persons within their jurisdictions so as to provide them appropriate treatment in order to comply with their Convention commitments.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Establishing a statelessness determination procedure is the most efficient means for States Parties to the 1954 Convention to identify the beneficiaries of that Convention.</li> <li>• <a href="#">European Council, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness</a>: Recognise the importance of exchanging good practices among Member States concerning... procedures for determining statelessness.</li> </ul>	<p>Group 1: There is a dedicated statelessness determination procedure.</p>	<p>Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a></p> <p>UK Visas and Immigration, Asylum Policy Instruction, Statelessness and Applications for Leave to Remain, Version 2.0, Feb 2016: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>

				situation in your country, are there other possibilities by which stateless persons can regularize their stay without their statelessness being determined <b>(proceed to Question 17a)?</b>			
IDP	2	a		You have identified that your country has a dedicated SDP established in law, administrative guidance or judicial procedure. Which authority is responsible for determining statelessness?	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: There is no general rule for appointing the most appropriate authority for statelessness determination... the structure must be evaluated in light of the specific national circumstances.</li> </ul>	The authority responsible for determining statelessness is the Home Office (UK Visas and Immigration).	<p>Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a></p> <p>UK Visas and Immigration, Asylum Policy Instruction, Statelessness and Applications for Leave to Remain, Version 2.0, Feb 2016: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>
IDP	2	b	Access to procedures	Must an application for statelessness status be made on a specific form? Are there clear instructions on how to make a claim for statelessness or how to fill in the relevant forms?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: For procedures to be fair and efficient, access to them must be ensured. Dissemination of information, including through targeted information campaigns where appropriate and counselling on the procedures, facilitates access... Given that individuals are sometimes unaware of SDPs or hesitant to apply...procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Accepted that good practice existed in countries where applications were accepted orally or in writing and in any language.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless</a></li> </ul>	Yes, there is a specific form (Form FLR(S)). The Home Office has regarded this form as mandatory since 18 February 2016 when it issued new guidance to this effect ( <i>inter alia</i> ). There are instructions, but the form is 38 pages long. It is provided only in English and must be completed in English. In addition, it is repetitive and unclear in parts.	<p>Application for leave to remain as a stateless person and a Biometric Immigration Document (FLR(S), Version 11/2016): <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part C.18.b: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p>

					<p><a href="#">Persons: a summary guide of good practices</a>: Bureaucratic difficulties (such as complicated application forms, inflexible procedures, strict language requirements, limited places where claims can be submitted, high costs, etc.) can encumber, or even impede access to SDPs. The protection-oriented framework therefore requires a flexible interpretation of such rules, especially since the majority of the population of concern may be in a vulnerable position and may not have the necessary language skill, financial means or possibility to travel that may be justifiably expected in other types of standard administrative procedures.</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2016), Protecting Stateless Persons from Arbitrary Detention in the United Kingdom</a>: Any application form to apply for stateless status should be simplified and offered in a variety of languages... [and] made freely available, including in immigration detention centres.</li> </ul>		
IDP	2	c		Do submissions and/or other written evidence have to be submitted in the native language?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: As above.</li> </ul>	Yes (in English).	Application for leave to remain as a stateless person and a Biometric Immigration Document (FLR(S), Version 11/2016), p.29: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf</a>
IDP	2	d		Can an application for statelessness status be made orally to a public official?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: As above.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Given that individuals are sometimes unaware of SDPs or hesitant to apply for statelessness status, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</li> </ul>	No. The Immigration Rules require applicants to have made a 'valid application' i.e. through the form FLR(S).	Immigration Rules, Part 14: stateless persons, para. 403(a): <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>

IDP	2	e		Are there obligations in law on authorities to consider the application?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: access to the SDP must be guaranteed.</li> </ul>	Yes.	Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	2	f		Are government authorities authorised to initiate SDPs <i>ex officio</i> ?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: ...it is recommended that governmental authorities be authorized to initiate these procedures <i>ex officio</i>...</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: as above.</li> </ul>	There is no general authorisation or obligation to initiate statelessness determination <i>ex officio</i> , but the authorities are not prohibited from referring people to Part 14 of the Immigration Rules (the SDP). For children, an obligation might be inferred deriving from the obligation to consider children's best interests in any immigration decision (see relevant legislation depending on the authority).	<p>Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a></p> <p>Borders Citizenship and Immigration Act 2009, Section 55 (UK Visas and Immigration): <a href="https://www.legislation.gov.uk/ukpga/2009/11/section/55">https://www.legislation.gov.uk/ukpga/2009/11/section/55</a></p> <p>Children's Act 2004, Section 11 (Local Authorities in England and Wales): <a href="https://www.legislation.gov.uk/ukpga/2004/31/section/11">https://www.legislation.gov.uk/ukpga/2004/31/section/11</a></p> <p>Children (Scotland) Act 1995, Section 11 (Local Authorities in Scotland): <a href="https://www.legislation.gov.uk/ukpga/1995/36/section/17">https://www.legislation.gov.uk/ukpga/1995/36/section/17</a></p> <p>The Children (Northern Ireland) Order 1994 (Local Authorities in Northern Ireland): <a href="http://www.legislation.gov.uk/nisi/1995/755/contents/made">http://www.legislation.gov.uk/nisi/1995/755/contents/made</a></p> <p>Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Part 1.4: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf</a></p>
IDP	2	g		Is there an application fee?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: access to the SDP must be guaranteed.</li> </ul>	No.	Application for leave to remain as a stateless person and a Biometric Immigration Document (FLR(S), Version 11/2016), p.29: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/570774/FLR_S_11-16.pdf</a>



IDP	2	h		Is there a requirement for lawful stay in order to access SDP?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Access to the procedure needs to be open to anyone who claims to be stateless, regardless of whether or not that person already has lawful stay or residence in the country.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: Everyone in a state's territory must have access to SDPs. There is no basis in the 1954 Convention for requiring that applicants for statelessness determination be lawfully within a state.</li> </ul>	No.	Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	2	i		Is there a time limit beyond which a person cannot access the SDP procedure? If so, what is this and can the requirement be waived?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: For procedures to be fair and efficient, and to ensure that all stateless persons benefit from the implementation of the 1954 Convention, access to the SDP must be guaranteed and not subject to time limits.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: There is... no basis in the 1954 Convention to set time limits for individuals to claim stateless status...</li> </ul>	No.	Immigration Rules, Part 14: stateless persons: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	2	j		Is the examination of statelessness claims conducted by a dedicated centralised body with relevant expertise? If yes, please specify.	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States may choose between a centralized procedure or one that is conducted by local authorities. Centralized procedures are preferable as they are more likely to develop the necessary expertise among the officials undertaking status determination.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Where to situate SDPs institutionally is</li> </ul>	Statelessness applications are assessed by a centralised team within the Home Office. The team members have some relevant knowledge, but there is evidence from practice that statelessness is not properly assessed in all cases. High turnover of staff may have contributed to this.	Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, footnote 55: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a>

					<p>a matter of State discretion and can vary from one country to the next. Regardless...it is important that examiners develop expertise... while ensuring that the procedures are accessible...</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: For SDPs to be effective, the determination must be a specific objective of the mechanism in question, though not necessarily the only one.</li> </ul>		<p>Additional examples of poor decision-making reported to the authors by legal advisers. Several judicial proceedings are pending (as of May 2017).</p>
IDP	2	k		<p>Is there training to inform different governmental bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom and how often?)</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Executive Committee, Conclusion on Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons No. 106 (LVII) – 2006</a>: Requests UNHCR to actively disseminate information and, where appropriate, train government counterparts on appropriate mechanisms for identifying, recording, and granting a status to stateless persons.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Training sessions for officials and meetings between the various decentralized bodies, UNHCR and civil society take place on a regular basis, allowing for an exchange of information and discussion of trends and common challenges.</li> </ul>	<p>Statelessness decision-makers have received general immigration and asylum-related training; statelessness training is generally provided 'on the job'; a senior caseworker in the statelessness team attended UNHCR statelessness training in early 2017. Asylum Aid and UNHCR provided some training when the statelessness determination procedure was introduced in 2013, but changes in staff at the Home Office mean that some current staff are unlikely to have attended.</p>	<p>Discussed in meetings with Home Office attended by Asylum Aid and other civil society organisations, February and March 2017; and personal communications to the author from Asylum Aid and UNHCR.</p>
IDP	2	l		<p>Is there cooperation between agencies that may come into contact with stateless persons? If so, how are cases referred to the appropriate authority for determination?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: good practice identified as cooperation between actors working on statelessness and the various government agencies involved in determining statelessness.</li> </ul>	<p>There is no formal cooperation between agencies to our knowledge. Some NGOs refer cases.</p>	

IDP	3	a	Definition of a stateless person	Does the definition of a stateless person and the exclusion provisions align with the 1954 Convention? Please provide details.	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>, Article 1(1) and 1(2).</li> </ul>	<p>The definition in the Immigration Rules is the same as the 1954 Convention but also states that a person is stateless only if the exclusion clauses set out in the Immigration Rules - which differ in some respects from the 1954 Convention - do not apply. The Immigration Rules define people who fall within an exclusion provision as falling beyond the scope of the definition of a stateless person (para. 401). Para 402 contains the UK's version of the exclusion clauses: the phrase 'serious reasons for considering' comes into the 1954 Convention only at Art 1(2)(iii), and therefore should not apply to Immigration Rules 402(a) and (b). The wording of 402(b) differs from the 1954 Convention Art 1(2)(ii), in particular in referring to a 'country of ... former habitual residence'. Although the UK Government's 2016 guidance states that 402(b) 'mirrors' Art 1(2)(ii) of the 1954 Convention and 'reflects' Article 1E of the 1951 Convention relating to the Status of Refugees, the wording is significantly different from those Conventions, both of which refer to 'the country in which' a stateless person has 'taken residence'. Para 403 also adds additional requirements that apply before the UK Government will grant leave to remain to a person who has been recognised as stateless under the Immigration Rules. However, this does not necessarily affect the assessment of whether such a person is, by definition, stateless. Even if a person is refused permission to stay in the UK as a stateless person because an exclusion ground applies (in accordance with the 1954 Convention), to deny that such</p>	<p>Immigration Rules, Part 14: stateless persons, paras. 401-403:  <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a></p> <p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, paras. 14-18: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a></p>
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						a person is stateless by definition is inconsistent with international law.	
IDP	4	a	Assessment	Who has the burden of proof in the SDP? Is this shared in practice, even if not in law?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: ...the burden of proof is in principle shared, in that both the applicant and examiner must cooperate to obtain evidence and to establish the facts.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: SDPs present unique evidentiary considerations. Given the nature of statelessness, individuals are often unable to substantiate a claim with documentary evidence... SDPs must therefore take into consideration the difficulties inherent in proving statelessness. UNHCR recommends that SDPs provide for a shared burden of proof between the applicant.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: The applicant has a duty to provide as full and truthful account...as possible and to submit all evidence reasonably available. Similarly, the determination authority is required to obtain and present all relevant evidence reasonably available to it...Given the nature of statelessness, applicants ...are often unable to substantiate the claim with much, if any, documentary evidence... authorities need to take this into account, where appropriate giving sympathetic consideration to testimonial explanations regarding the absence of certain kinds of evidence.</li> <li>• <a href="#">UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010</a>: It</li> </ul>	<p>The applicant has the burden of proof. Home Office guidance states that where an applicant has endeavoured to provide evidence of statelessness, decision-makers "<i>must assist the applicant by interviewing them, undertaking relevant research and, if necessary, making enquiries with the relevant authorities and organisations.</i>" For child applicants, the guidance states that decision-makers are required to "<i>assist in the determination of statelessness by making enquiries which the child is not in a position to undertake</i>". In practice, the Home Office does not always comply with this guidance and in some cases fail to make any or adequate enquiries even where the applicant has provided as much information as reasonably possible.</p>	<p>Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Parts 4.2 &amp; 1.4: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part B.4: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p>

					is incumbent on individuals to cooperate to establish relevant facts. If an individual can demonstrate, on the basis of all reasonably available evidence, that he or she is evidently not a national, then the burden should shift to the State to prove that the individual is a national of a State.		
IDP	4	b		What is the standard of proof? Is it the same as in asylum applications?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are...advised to adopt the same standard of proof as that required in refugee status determination, namely, a finding of statelessness would be warranted where it is established to a "reasonable degree" that an individual is not considered as a national by any State under the operation of its law.</li> <li>• <a href="#">UNHCR, Nationality and Statelessness, Handbook for Parliamentarians No. 22, 2014</a>: Because of the difficulties inherent in proving statelessness, the threshold of evidence required before statelessness is determined should not be too high. States are therefore advised to adopt the same standard of proof as that required in refugee status determination...</li> </ul>	The standard of proof is the 'balance of probabilities', which is not the same as in asylum applications, where the standard is 'real risk' or 'reasonable degree of likelihood'. The Home Office guidance states: " <i>The applicant is required to establish that he or she is not considered a national of any State to the standard of the balance of probabilities (that is more likely than not) since the factual issues to be decided justify a higher standard of proof than the reasonable likelihood required to establish a well-founded fear of persecution in asylum claims, where the issue may be the threat to life, liberty and person.</i> "	Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Part 4.2: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a>  Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part B.5: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a>
IDP	4	c		Is there respect for specific protection needs and evidentiary challenges presented by women, children and people with disabilities in the SDP?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: As a result of discrimination, women might face additional barriers in acquiring relevant documentation, such as birth certificates or other identification documents that would be pertinent to establishing their nationality status... Children, especially unaccompanied children, may face acute challenges in communicating basic facts with respect to their nationality. States...must</li> </ul>	Yes, special considerations apply for children (see above IDP2f, IDP4a). Additionally, guidance states that: " <i>In some countries, women or members of ethnic minorities may have difficulty obtaining documents due to discrimination. Where feasible, it may therefore be necessary for caseworkers to undertake their own further research to assist the applicant.</i> " However, practitioners have questioned whether this guidance is followed in practice.	Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Parts 1.4 (children) and 4.3.1 (women): <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501509/Statelessness_AI_v2.0_EXT_.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/501509/Statelessness_AI_v2.0_EXT_.pdf</a>

					<p>follow the principle of pursuing the best interests of the child when considering the nationality status and need for statelessness protection of children.</p> <ul style="list-style-type: none"><li>• <a href="#">Gen. Rec. 32 of CEDAW</a>: Nationality laws may discriminate directly or indirectly against women. Legislative provisions that appear gender neutral may in practice have a disproportionate and negative impact on the enjoyment of the right to nationality by women... Discriminatory laws or practices may lead to women and their children being unable to gain access to documentation that proves their identity and nationality...</li></ul>		
IDP	4	d		<p>Are decision makers presented with clear guidance how to determine statelessness, including sources of evidence and procedures for evidence gathering to establish statelessness? Please provide details.</p>	<ul style="list-style-type: none"><li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: determining authorities can benefit significantly from any concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances...</li></ul>	<p>The Home Office publishes guidance on how to determine statelessness. However, it is not clear or comprehensive in all respects; for example, it currently does not state how many times a case-worker should make enquiries to authorities of another country or territory, nor is there a specific time limit for decision making. Further, there is very little information about statelessness and related issues in ‘country of origin information’. The February 2016 v 2 guidance is arguably less clear than the first version which followed more closely UNHCR guidance in some respects.</p>	<p>Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners’ Association and University of Liverpool Law Clinic: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p>
IDP	5	a	Procedural Protections	<p>Is there free legal aid available during the application?</p>	<ul style="list-style-type: none"><li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: applicants are to have access to legal counsel; where free legal assistance is available, it is to be offered to applicants without financial means.</li><li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless</a></li></ul>	<p>Statelessness applications are out of scope for legal aid in England and Wales. In Scotland and Northern Ireland statelessness (and other immigration matters) remain in scope. Applicants or people assisting them in England and Wales may apply for exceptional case funding, however, this funding is not necessarily</p>	<p>Legal Aid Sentencing and Punishment of Offenders Act 2012, Sec. 10(1): <a href="http://www.legislation.gov.uk/ukpga/2012/10/contents">http://www.legislation.gov.uk/ukpga/2012/10/contents</a> (England &amp; Wales)</p>



					<p><a href="#">Persons: a summary guide of good practices</a>: If state funded legal aid is available in the country it should be provided to stateless claimants. If there is no state funded legal aid... but asylum claimants can access legal aid free of charge, then the same level of access should be provided to stateless claimants.</p>	<p>adequate; may not be approved; and there are other barriers to accessing legal aid. Legal aid is available for judicial review of refusals of statelessness applications in all UK jurisdictions.</p>	<p>Legal Aid (Scotland) Act 1986: <a href="http://www.legislation.gov.uk/ukpga/1986/47/section/1">http://www.legislation.gov.uk/ukpga/1986/47/section/1</a></p> <p>Legal Aid and Coroners' Courts Act (Northern Ireland) 2014: <a href="http://www.legislation.gov.uk/nia/2014/11/contents">http://www.legislation.gov.uk/nia/2014/11/contents</a></p> <p>Department of Justice (Northern Ireland) Guidance: <a href="https://www.justice-ni.gov.uk/articles/legal-aid-legislation-and-guidance">https://www.justice-ni.gov.uk/articles/legal-aid-legislation-and-guidance</a></p> <p>Cynthia Orchard, Sarah Woodhouse and Judith Carter, How to Secure Legal Aid for Statelessness Applications, November 2016: <a href="https://www.freemovement.org.uk/how-to-secure-legal-aid-for-statelessness-applications/">https://www.freemovement.org.uk/how-to-secure-legal-aid-for-statelessness-applications/</a></p>
IDP	5	b		Is an interview always offered (unless granting without interview)?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The right to an individual interview, and necessary assistance with translation/interpretation throughout the process, are essential to ensure that applicants have the opportunity to present their cases fully...</li> </ul>	<p>No. The Home Office guidance states that: <i>"A personal interview will not be required if there is already sufficient evidence of statelessness, it is clear that the individual is not admissible to another country and is eligible for leave to remain on this basis. An interview will not be arranged, and the application may be refused, where recent and reliable information including the applicant's previous evidence or findings of fact made by an immigration judge, have already established that the applicant is not stateless or is clearly admissible to another country for purposes of permanent residence and where no evidence to the contrary has been provided."</i></p> <p>At a meeting with civil society organisations on 9 March 2017, Home Office offi-</p>	<p>Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Part 3.4: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>

						cials stated that interviews are conducted in approximately one-third of statelessness cases.	
IDP	5	c		Are interpreters provided for statelessness determination interviews? Are they free of charge?	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: assistance should be available for translation and interpretation in respect of written applications and interviews (good practice is free of charge).</li> </ul>	Yes, interpreters are provided free of charge.	
IDP	5	d		Are there quality assurance audits of the SDP? Does UNHCR participate in the proceedings? Can they access files? Do they play a quality monitoring or training role?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are encouraged... to incorporate the following safeguards: [...] access to UNHCR is guaranteed.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Quality assurance audits of SDPs are considered good practice.</li> </ul>	The Immigration Minister informed Asylum Aid/Migrants Resource Centre by letter of 17 Nov 2016 that the Home Office has a quality assurance system in place whereby at least one statelessness decision per decision-maker is monitored each month. However, no information is publicly available about the effectiveness of this quality assurance system. UNHCR's Quality Integration Project has access to Home Office files with the authorities' consent and works with the UK Government to strengthen decision-making quality, including with respect to the statelessness procedure.	<p>Letter from Immigration Minister Robert Goodwill to Asylum Aid/Migrants Resource Centre, 17 Nov 2016: <a href="https://www.asylumaid.org.uk/wp-content/uploads/2017/06/Letter-from-MinforImm-to-Wayne-Myslik.pdf">https://www.asylumaid.org.uk/wp-content/uploads/2017/06/Letter-from-MinforImm-to-Wayne-Myslik.pdf</a></p> <p>Communication with UNHCR Country Office, London.</p>
IDP	5	e		Are decisions (refusals and grants) given with reasons? And in writing?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are encouraged, therefore, to incorporate the following safeguards: [...] decisions are made in writing with reasons.</li> </ul>	Written reasons are provided for refusals but not for grants.	<p>Experience from legal casework, including of University of Liverpool Law Clinic and Migrants Resource Centre.</p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic: <a href="http://www.ilpa.org.uk/re-">http://www.ilpa.org.uk/re-</a></p>



							<a href="http://www.ilpa.org.uk/re-source/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">source/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a>
IDP	5	f		Is there a referral mechanism if an individual has been refused asylum but may be stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Efficient referral mechanisms should be established... officials who may be in contact with stateless persons need to be trained to identify potential applicants ...and refer them to appropriate channels.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: The regulation should... guarantee that proper cross-referral systems exist for cases where the two determination procedures are not conducted in a joint framework... potentially stateless persons whose asylum claim has been rejected are properly informed about the possibility to claim stateless status.</li> </ul>	No.	<p>Legal practice and personal communication to the author.</p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic:  <a href="http://www.ilpa.org.uk/re-source/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/re-source/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p>
IDP	6	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for statelessness is assessed? Is expulsion possible during the process? If yes, are there verified reports of such incidents?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: An individual awaiting a decision is entitled, at a minimum, to all rights based on jurisdiction or presence in the territory as well as "lawfully in" rights... his or her status must guarantee, inter alia, identity papers, the right to self-employment, freedom of movement and protection against expulsion... it is recommended that individuals... receive the same standards of treatment as asylum-seekers...</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: States should refrain from expelling or removing an individual</li> </ul>	No. Applicants who have no other leave to remain will not automatically be granted 'legal admission' (called 'temporary admission in the UK but to be re-styled 'immigration bail' when this provision of the Immigration Act 2016 comes into effect) and there is no guarantee against expulsion whilst a statelessness application is pending. Home Office guidance states: " <i>Applications for leave to remain as a stateless person will normally be decided and the decision communicated to the applicant before removal arrangements are made. However, an application on the basis of statelessness is not a barrier to removal where someone does not have extant</i>	<p>Immigration Act 2016, Schedule 10 :  <a href="http://www.legislation.gov.uk/ukpga/2016/19/section/61?view=extent">http://www.legislation.gov.uk/ukpga/2016/19/section/61?view=extent</a></p> <p>Home Office, UK Visas and Immigration, Asylum Policy Instruction, Statelessness and applications for leave to remain, Part 3.4: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>

					from their territory pending the outcome of the determination process.	<p><i>leave in any other capacity and an Emergency Travel Document (ETD) has been arranged. If an ETD has been secured or a passport used to arrange to remove the individual, then this can be accepted as evidence that they are re-admissible for the purpose of permanent residence."</i></p> <p>Asylum Aid was advised in 2016 of a removal whilst a statelessness application was pending, but this has not been verified.</p>	Personal communication to Cynthia Orchard.
IDP	6	b		Do applicants for statelessness status who are awaiting a decision have permission to work, if they have no other permission to stay in the country?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Allowing individuals...to engage in wage-earning employment...may reduce the pressure on State resources and contributes to the dignity and self-sufficiency of the individuals concerned.</li> </ul>	<p>Applicants for stateless status do not normally have permission to work if they have no other permission to stay in the country. Persons with no leave have no permission to work and temporary admission (or, immigration bail, see above) and bail are normally subject to conditions prohibiting employment.</p>	<p>Immigration Act 1971, Schedule 2, Part 1, paras. 21 &amp; 22: <a href="http://www.legislation.gov.uk/ukpga/1971/77/schedule/2/part/1/crossheading/temporary-admission-or-release-of-persons-liable-to-detention">http://www.legislation.gov.uk/ukpga/1971/77/schedule/2/part/1/crossheading/temporary-admission-or-release-of-persons-liable-to-detention</a></p> <p>Immigration Act 2016, Schedule 10: <a href="http://www.legislation.gov.uk/ukpga/2016/19/schedule/61?view=extent">http://www.legislation.gov.uk/ukpga/2016/19/schedule/61?view=extent</a></p>
IDP	6	c		Do applicants for statelessness status with limited means have access to assistance to meet their basic needs (shelter and welfare support)? Please describe.	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The status of those awaiting statelessness determination must also reflect applicable human rights such as... assistance to meet basic needs.</li> </ul>	<p>Applicants who have been refused asylum and who are or are likely to imminently become destitute are eligible for very basic financial support and accommodation pursuant to Sec. 4 of the Immigration and Asylum Act 1999; however, to access this, they must repeatedly prove they are making efforts to leave the UK or that failure to provide support would result in breach of rights under the European Convention on Human Rights (and/or meet other requirements). Other applicants (who have not previously claimed asylum) are generally not eligible for support. Support provisions will be changed by the Immigration</p>	<p>Immigration and Asylum Act 1999, Section 4(2): <a href="http://www.legislation.gov.uk/ukpga/1999/33/section/84">http://www.legislation.gov.uk/ukpga/1999/33/section/84</a></p> <p>Immigration Act 2016, Part 5, Schedules 11 &amp; 12: <a href="http://www.legislation.gov.uk/ukpga/2016/19/contents">http://www.legislation.gov.uk/ukpga/2016/19/contents</a></p> <p>Asylum Support Appeals Project, Section 4 Support, Factsheet 2 April 2016: <a href="http://www.asaproject.org/uploads/Factsheet-2-section-4-support.pdf">http://www.asaproject.org/uploads/Factsheet-2-section-4-support.pdf</a></p> <p>Asylum Support Appeals Project, Asylum Support Bulletin No. 4, April 2017:</p>

						Act 2016 from a future date unknown and will repeal Sec. 4 of the 1999 Act and further restrict the support available to stateless persons without other leave but the detail of those provisions is unknown (as of 19 June 2017).	<a href="http://www.asaproject.org/uploads/Bulletin_no._4_-_April_2017_.pdf">http://www.asaproject.org/uploads/Bulletin no. 4 - April 2017 .pdf</a> (confirming that provisions of the Immigration Act 2016 changing support regulations have not yet come into force as of April 2017)
IDP	6	d		Is it possible to detain an applicant while he/she is in the SDP procedure?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: State practice... reflects rights to liberty and freedom of movement by avoiding detention of those seeking recognition of their stateless status.</li> </ul>	Yes.	Immigration Act 1971, Schedule 2: <a href="http://www.legislation.gov.uk/ukpga/1971/77/schedule/2">http://www.legislation.gov.uk/ukpga/1971/77/schedule/2</a>
IDP	6	e		Does law or policy set out a timeframe for the SDP? If so, is it complied with? Can the decision maker extend the timeframe?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: Some of the most fundamental guarantees reflected in current State practice include: a time limit for a decision following submission of a statelessness status application.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: In general, it is undesirable for a first instance decision to be issued more than six months from the submission of an application... in exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months to provide time for enquiries regarding the individual's nationality status to be pursued with another State...</li> </ul>	No. This contrasts with the refugee status determination process, for which the Home Office has a target to make an initial decision on 'straightforward' cases within six months.	

IDP	7	a	Appeals	Is there an automatic right of appeal on the case of refusal (on grounds of both law and fact)?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: States are encouraged... to incorporate the following safeguards: there is a right of appeal... An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.</li> </ul>	No. But there are the possibilities of administrative review (internal Home Office review to address 'caseworking errors') or a judicial review (judicial proceeding to review lawfulness of a decision taken by a public body against which there is no right of appeal).	UK Government, Immigration Rules Appendix AR: administrative review: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-ar-administrative-review">https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-ar-administrative-review</a>  Courts and Tribunals Judiciary, Judicial Review: <a href="https://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/">https://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/</a>
IDP	7	b		Is legal aid available for appealing/applying to review a negative determination?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The applicant is to have access to legal counsel and, where free legal assistance is available, it is to be offered to applicants without financial means.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: Applicants are to have access to legal counsel both at first instance and upon appeal.</li> </ul>	<p>Legal aid is available for most judicial review proceedings, subject to means and to merits' tests but not for administrative review (unless granted through exceptional case funding).</p> <p>In England and Wales, legal aid for judicial review is restricted in immigration cases where a court or tribunal has considered the same, or substantially the same, matter; the most recent court or tribunal to consider the issue determined the case against the individual; and that determination took place one year or less prior to the date of the application for legal aid; or if the individual seeks judicial review of removal directions which were made within one year or less of the most recent of the following:</p> <ul style="list-style-type: none"> <li>• a decision to remove the individual from the UK;</li> <li>• the refusal of leave to appeal against that decision;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>• the determination or withdrawal of an appeal against that decision.</li> </ul>	Legal Aid Sentencing and Punishment of Offenders Act 2012, Section 10 & Schedule 1: <a href="http://www.legislation.gov.uk/ukpga/2012/10/contents">http://www.legislation.gov.uk/ukpga/2012/10/contents</a> (England & Wales)
IDP	7	c		Is there a fee for the appeal application?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: An effective right to appeal against a negative first</li> </ul>	Immigration Tribunal fees are common throughout the UK, but court fees are a matter for each UK jurisdiction. Judicial review fees are covered if judicial review	HM Courts and Tribunals Service, Full list of fees applicable in the Civil and Family Courts (from 25th July 2016) EX50A

					<p>instance decision is an essential safeguard in an SDP.</p>	<p>is funded through legal aid. Applications can be made for a fee waiver.</p> <p>In England and Wales, the fees are: Initial permission application: £154; Request for oral reconsideration: £385 Permission to proceed: £385 (if £385 has already been paid) or £770.</p> <p>In the Scottish Court of Session, the fee to issue a writ (including for judicial review) is £300 and applicants must pay £200 for every half hour of court hearing within operating hours before a single judge.</p>	<p>HMCTS: <a href="http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2823">http://hmctsformfinder.justice.gov.uk/HMCTS/GetLeaflet.do?court_leaflets_id=2823</a></p> <p>Home Office, Fee waiver: Human Rights-Based and other specified applications, Version 2.0, 30 August 2017: <a href="https://www.gov.uk/government/publications/chapter-1a-applications-for-fee-waiver-and-refunds">https://www.gov.uk/government/publications/chapter-1a-applications-for-fee-waiver-and-refunds</a></p> <p>Scottish Courts and Tribunals, Court of Session Fees, <a href="https://www.scotcourts.gov.uk/rules-and-practice/fees/court-of-session-fees">https://www.scotcourts.gov.uk/rules-and-practice/fees/court-of-session-fees</a></p> <p>Colin Yeo, Fees for Upper Tribunal judicial review applications rise again, Freemovement, 25 July 2016: <a href="https://www.freemovement.org.uk/fees-upper-tribunal-judicial-review-applications/">https://www.freemovement.org.uk/fees-upper-tribunal-judicial-review-applications/</a></p>
IDP	7	d		<p>Is there evidence of significant errors in decision making? If so, is there a publicly available source (e.g. audits, independent reports, academic research etc.)? If yes, please provide this. If anecdotal, please describe.</p>		<p>Yes. Legal advisers representing stateless persons have recorded significant errors in decision making. There have been two cases decided at judicial review, finding errors of law, and more judicial challenges are pending.</p>	<p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, footnote 55: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part A.5: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p>

							<p>R (Sameda) v Secretary of State for the Home Department (statelessness; Pham [2015] UKSC 19 applied) (IJR) [2015] UKUT 00658</p> <p>R (JM) v Secretary of State for the Home Department (Statelessness: Part 14 of HC 395) IJR [2015] UKUT 00676 (IAC)</p>
IDP	8	a	Stateless Status (SDP)	Does recognition of statelessness result in permission to stay/legal status? Is status granted immediately or automatically upon recognition or identification as stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: The 1954 Convention ...[grants] stateless persons a core set of rights. Its provisions, along with applicable standards of international human rights law, establish the minimum rights and the obligations of stateless persons in States party to the 1954 Convention. The status granted to a stateless person in a State Party... must reflect these international standards... Although the 1954 Convention does not explicitly require States to grant a person determined to be stateless a right of residence, granting such permission would fulfil the object and purpose of the treaty... It is therefore recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.</li> </ul>	Not automatically. A person can apply for leave as a stateless person if the decision to grant recognition as stateless and the grant of leave comes at the same time. A person previously recognised as stateless could also apply for leave under the procedure.	Immigration Rules, Part 14: stateless persons, paras. 402, 403(c) & 404: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	8	b		Are there additional requirements - beyond meeting the definition of a state-	As above.	Yes. If the applicant is recognised as stateless and also meets other criteria to be granted leave to remain, the Home Office will issue permission to stay. Persons who will not be granted permission	Immigration Rules, Part 14: stateless persons, paras. 402, 403(c) & 404: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>



				less person and satisfying the exclusion provisions - that a stateless person must meet to be granted permission to stay/legal status?		to stay in the UK include, but are limited to: persons who are admissible to any other country, with a right of permanent residence, and persons against whom there is a deportation order (often, but not always relating to criminal history; in some cases, minor crimes such as working without permission). Also, exclusion clauses in Immigration Rules do not fully mirror the 1954 Convention, in particular at 402(b).	
IDP	8	c		How long is initial status? Is residence status renewable?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: It is recommended that States grant persons recognised as stateless a residence permit valid for at least two years, although permits for a longer duration, such as five years, are preferable in the interests of stability. Such permits are to be renewable, providing the possibility of facilitated naturalization as prescribed by Article 32 of the 1954 Convention.</li> </ul>	Leave to remain can be granted for up to 30 months and this can be renewed, with the possibility of settlement after two 30-month grants.	Immigration Rules, Part 14: stateless persons, para. 405: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	8	d		Is a travel document issued to those recognised as stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>, Art. 28: The Contracting States shall issue to stateless persons lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents.</li> </ul>	Stateless persons may apply for a stateless person's travel document. This is not issued automatically upon being granted leave to remain in the UK as a stateless person. In theory, a stateless person can be issued a stateless person's travel document even if they have not been granted leave to remain as a stateless person, however in practice this may be difficult as Home Office guidance incorrectly states that an applicant for a travel document must have been granted leave to remain as a stateless person.	<p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part C.26: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p> <p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, para. 16 &amp; footnote 55: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a></p>

							UK Government, Apply for a Home Office travel document: <a href="https://www.gov.uk/apply-home-office-travel-document">https://www.gov.uk/apply-home-office-travel-document</a>
IDP	8	e		What are the family reunion provisions for individuals recognised as stateless?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised statelessness status in their territory with their spouses and dependents. Indeed, some States have obligations arising under relevant international or regional human rights treaties to do so.</li> </ul>	Eligible family members may be granted leave to enter or remain in the UK for the same period of time as the main applicant. Eligible family members include: (a) spouse; (b) civil partner; (c) unmarried or same sex partner with whom they have lived together in a subsisting relationship akin to marriage or a civil partnership for two years or more; (d) child under 18 years of age who: (i) is not leading an independent life; (ii) is not married or a civil partner; and (iii) has not formed an independent family unit.	Immigration Rules, Part 14: stateless persons, para. 410: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>
IDP	8	f		Is residence status granted to stateless persons revocable? If yes, on what grounds?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State... he or she will cease to be stateless in terms of the 1954 Convention. This may justify the cancellation of a residence permit obtained on the basis of statelessness status, although proportionality considerations in relation to acquired rights and factors arising under international human rights law, such as the degree to which the individual has established a private and family life in the State, need to be taken into account.</li> </ul>	Yes. Leave can be curtailed “ <i>where the stateless person is a danger to the security or public order of the United Kingdom or where leave would be curtailed pursuant to para. 323 of these Rules.</i> ” Para. 323 contains broad grounds on which leave could be curtailed, including but not limited to: false representations, failure to disclose a material fact; undesirability; no longer stateless; commission of criminal offenses.	Immigration Rules, Part 14: stateless persons, para. 406: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons</a>  Immigration Rules, Part 9: grounds for refusal, para.323: <a href="https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal">https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal</a>
IDP	8	g		Do persons granted stateless status have permission to work?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: The Contracting States shall accord to</li> </ul>	Yes.	Conditions on leave are imposed under the Immigration Act 1971, Section 3(1)(c): <a href="http://www.legislation.gov.uk/ukpga/1971/77/section/3">http://www.legislation.gov.uk/ukpga/1971/77/section/3</a>



				<p>stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, as regards the right to engage in wage-earning employment.</p> <ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work [...] must accompany a residence permit.</li> </ul>		
IDP	8	h		<p>Do persons granted stateless status have access to primary education?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: (Art. 22) The Contracting States shall accord to stateless persons the same treatment as is accorded to nationals with respect to elementary education.</li> </ul>	<p>Yes.</p> <p>Education Act 1996, Sec. 6, Sec. 13(1) &amp; 14(1): <a href="http://www.legislation.gov.uk/ukpga/1996/56/contents">http://www.legislation.gov.uk/ukpga/1996/56/contents</a> (see subsequent amendments to sections in notes) (England &amp; Wales)</p>
IDP	8	i		<p>Do persons granted stateless status have access to secondary and higher education?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: (Art. 22) The Contracting States shall accord to stateless persons treatment as favourable as possible and, in any event, not less favourable than that accorded to foreigners generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.</li> </ul>	<p>Yes, but in England and Wales people with stateless status are not eligible for student finance until they can meet residency requirements, so access to higher education in practice is limited. This is in contrast to recognised refugees, for whom there is an exception from the residency requirements for student finance. Stateless people, including children, have no automatic entitlement to pay home student fees or to student finance in the form of a loan in England and Wales and become so entitled once they have indefinite leave to remain and may become so entitled earlier on the grounds of long residence.</p> <p>In Scotland a person may also qualify where they claim asylum and the claim</p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners’ Association and University of Liverpool Law Clinic, Part C.23.d: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p> <p>Education (Fees and Awards) (England) Regulations 2007: <a href="http://www.legislation.gov.uk/uksi/2007/779/contents/made">http://www.legislation.gov.uk/uksi/2007/779/contents/made</a> (England &amp; Wales),</p> <p>The Education (Student Fees, Awards and Support) (Amendment) (Regulations) 2016:</p>

						is rejected but they are granted leave to remain.	<a href="http://www.legislation.gov.uk/uksi/2016/584/pdfs/uksi_20160584_en.pdf">http://www.legislation.gov.uk/uksi/2016/584/pdfs/uksi_20160584_en.pdf</a> (England)  The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006: <a href="http://www.legislation.gov.uk/ssi/2006/333/contents/made">http://www.legislation.gov.uk/ssi/2006/333/contents/made</a>  The Education (Student Support) (Wales) Regulations 2015: <a href="http://www.legislation.gov.uk/wsi/2015/54/contents/made">http://www.legislation.gov.uk/wsi/2015/54/contents/made</a>  Northern Ireland (Education (Student Support) (No.2) Regulations (Northern Ireland) 2009: <a href="http://www.legislation.gov.uk/nisr/2009/373/contents/made">http://www.legislation.gov.uk/nisr/2009/373/contents/made</a>
IDP	8	j		Do persons granted stateless status have access to social welfare and healthcare?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: (Art. 23, 24)</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Recognition of an individual as a stateless person under the 1954 Convention also triggers the “lawfully staying” rights, in addition to a right to residence. Thus, the right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.</li> </ul>	Persons with stateless status are eligible for most social security entitlements and healthcare but are not eligible for public housing assistance under the Housing Act 1996 in England and Wales. The Allocation of Housing and Homeless (Eligibility) (England) Regulations 2006 specify other classes of persons, including those with refugee status, but not those with stateless status, for eligibility for housing assistance. Under the Immigration and Asylum Act 1999, people with stateless status are excluded from other residual forms of housing assistance. In Northern Ireland, the housing legislation does not exclude stateless persons. Stateless people are not specifically referenced in Northern Ireland’s healthcare legislation and so could be liable for charges or not be able to access care, but this may depend on whether they are considered	Email from Stephen Knafler, QC, to Cynthia Orchard, 20 June 2017.  Housing Act 1996 Parts 6 & 7, SS 160ZA & 185: <a href="https://www.legislation.gov.uk/ukpga/1996/52/part/VII">https://www.legislation.gov.uk/ukpga/1996/52/part/VII</a> (England & Wales)  Allocation of Housing and Homeless (Eligibility) (England) Regulations 2006: <a href="http://www.legislation.gov.uk/uksi/2006/1294/contents/made">http://www.legislation.gov.uk/uksi/2006/1294/contents/made</a>  Immigration and Asylum Act 1999, Section 118: <a href="http://www.legislation.gov.uk/ukpga/1999/33/section/84">http://www.legislation.gov.uk/ukpga/1999/33/section/84</a>  The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006, Parts 3 & 4: <a href="https://www.legislation.gov.uk/ukpga/1996/52/introduction">https://www.legislation.gov.uk/ukpga/1996/52/introduction</a>

					<p>'ordinarily resident'. Scottish Government guidance explicitly exempts stateless people from charging for healthcare. See:</p>	<p>The National Health Service (Charges to Overseas Visitors) Regulations 2015: <a href="http://www.legislation.gov.uk/ukSI/2015/238/made">http://www.legislation.gov.uk/ukSI/2015/238/made</a> (England and Wales)</p> <p>Public Health England, NHS Entitlements: migrant health guide: <a href="https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide">https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide</a></p> <p>The Scottish Government, Healthcare Policy and Strategy Directorate, Overseas Visitors' Liability To Pay Charges For NHS Care And Services, p.16: <a href="http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf">http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf</a></p> <p>Statutory Rules of Northern Ireland, No. 27, Health and Personal Social Services, Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015: <a href="http://www.legislation.gov.uk/nisr/2015/27/made">http://www.legislation.gov.uk/nisr/2015/27/made</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part C.23.d: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p> <p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept</p>
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							2016, Part IV & Rec. IV.B: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a>
IDP	9	a	Access to citizenship	Are stateless persons able to naturalise as citizens? In what timeframe?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> (Art. 32): The Contracting States shall as far as possible facilitate the assimilation and naturalisation of stateless persons. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. This may be achieved, for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.</li> </ul>	<p>Yes. Applicants for naturalisation must have been lawfully resident in the UK for five years and have had indefinite leave to remain for one year; and there are other requirements to naturalise. For persons married to British citizens, the residency period is reduced to three years and, while there is a requirement to be free of restrictions on length of stay at the date of application, there is not a requirement to have been free of such restrictions for 12 months. In addition, children born stateless to parents who hold a form of British nationality take that nationality at birth if born in the UK. If born outside the UK, then three years' residence in the UK is required. A child born stateless in the UK to parents who are not British nationals may register as a British citizen after five years. Children are registered as British, rather than naturalised, and there are provisions for children to register when their parents naturalise. There is a power to register any child on application and this does not carry a residence requirement. Provision is made for children, including stateless children, whose British citizen parents cannot pass on their British citizenship to them, to be registered as British and, in the case of stateless children, there is no residence requirement. The standard fee for adults to naturalise is £1330, and there are no exemptions for stateless persons. See also PRS 1b.</p>	<p>British Nationality Act 1981, Chapter 61, Section 6 &amp; Schedule 1 (naturalisation), Section 1 &amp; 3 (registration of children), Schedule 2 (rights of those born stateless to parents holding a form of British nationality or born stateless in the UK): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, Paras. 10-11 &amp; Part V: <a href="http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/">http://www.asylumaid.org.uk/joint-submission-human-rights-council-27th-session-universal-periodic-review/</a></p> <p>UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, Version 2.0, 6 December 2017: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.OEXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.OEXT.pdf</a></p> <p>The Immigration and Nationality (Fees) Regulations 2017: <a href="http://www.legislation.gov.uk/uksi/2017/515/contents/made">http://www.legislation.gov.uk/uksi/2017/515/contents/made</a></p> <p>UK Government Home Office, Fees with effect from 6 April 2018 for citizenship applications and the right of abode: <a href="https://as-">https://as-</a></p>

							<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691774/Nationality-MasterFeesLeaflet_2018_Final_06-04-18.pdf">sets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691774/Nationality-MasterFeesLeaflet_2018_Final_06-04-18.pdf</a>
IDP	9	b		If stateless persons can naturalise are there accelerated naturalisation procedures (e.g. reduced qualification periods) which apply to stateless persons? If yes, please provide comparative timeframes for naturalisation in other situations.	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> (Art. 32): as above.</li> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: as above.</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality...</li> </ul>	There are no accelerated procedures for stateless persons within the UK's naturalisation procedure; but see IDP 9a above for circumstances in which residence requirements do not apply or are reduced in the case of stateless children.	British Nationality Act 1981, Schedule 2 & Section 3(2): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>
IDP	9	c		Are previous criminal convictions a bar to naturalisation? If yes, please describe the requirement. Is there a good character clause (separate from criminal record requirement)? If yes, please describe.	<ul style="list-style-type: none"> <li>• <a href="#">Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015</a>: Each state should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory, and in particular each State should:...</li> <li>d) ensure that offences, when they are relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</li> <li>• <a href="#">Human Rights Watch, Roma in the Czech Republic: Foreigners in their Own Land (1996)</a>: ... denying citizenship to previously convicted criminals effectively adds an additional, ex post facto punishment to the individual who committed a crime. Imposing</li> </ul>	Yes, there is a requirement to be of 'good character', and in general naturalisation is at the discretion of the Home Office (UK Government). The question of criminal convictions is encompassed in the 'good character' requirement. Government guidance on the 'good character' requirement states: <i>"Having a criminal record does not necessarily mean that an application will be refused. However, a person who has not respected and/or is not prepared to abide by the law is unlikely to be considered of good character. ... [I]t does not matter whether a conviction is "spent" when assessing good character provided the application was made in England, Wales or Scotland."</i> The Home Offices nationality guidance further states, for example, that violations of immigration laws will be considered in assessing good character: <i>"There is some discretion to disregard breaches of the immigration laws</i>	British Nationality Act 1981, Schedule 1(1)(b): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>  UK Government Home Office, UK Visas and Immigration, Good character: nationality policy guidance (Annex D to chapter 18: The good character requirement), 8 Nov 2017, Section 2: <a href="https://www.gov.uk/government/publications/good-character-nationality-policy-guidance">https://www.gov.uk/government/publications/good-character-nationality-policy-guidance</a>  UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, Version 2.0, 6 December 2017, p.25: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.OEXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.OEXT.pdf</a>

					penalties heavier than those that applied at the time a crime was committed violates Article 15 of the ICCPR.	<i>(unlawful residence) during the qualifying period. Such breaches only involve being here without leave to enter or remain. Other immigration offences, such as breaching a restriction on taking employment and harbouring other immigration offenders, should not be considered under the residence requirement, but under the good character requirement."</i>	
IDP	9	d		Is there a citizenship/integration test?	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: ...the main benchmark is whether there is any preferential treatment for stateless persons as compared to the general rules applied to those with a foreign nationality...</li> </ul>	Yes. There is a 'Knowledge of Life in the UK' test. This can be waived in certain, very limited, circumstances (age or physical or mental infirmity such that the person cannot take the test). There is also a language requirement. Statelessness is not one of the criteria on which an exemption may be made (see IDP 9e).	<p>British Nationality Act 1981, Schedule 1(1)(a-c): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, Booklet AN, Naturalisation Booklet – The Requirements, February 2018, pp.10-13: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680279/an-booklet-feb-18.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680279/an-booklet-feb-18.pdf</a></p>
IDP	9	e		Are there language requirement exemptions for stateless persons?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: It is...recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons...for example, by reducing or waiving residence, income and language requirements for applicants and by exempting them from fees or the obligation to provide documentary evidence.</li> <li>• <a href="#">Council of the European Union, Conclusions of the Council and the Representatives of the Governments of the Member States on Statelessness, December 2015</a>: as above</li> <li>• <a href="#">ENS (2013), Statelessness Determination and the Protection of Stateless Persons: a summary guide of good practices</a>: as above.</li> </ul>	There are language requirements and there is discretion to waive them, but not specific to stateless persons. Guidance states that an applicant must have 'sufficient knowledge of English, Welsh or Scottish Gaelic language and ... [be able to] provide the required evidence to support this.... In some cases, it may be appropriate to exempt a person from the language and knowledge of life requirements.' The Government's Nationality Instructions, prior to July 2017, stated that exemptions may be based on age (over 60 with conditions or over 65) or physical or mental condition such that a person cannot take the test. Now the standard guidance for both settlement and naturalisation makes provision for	<p>British Nationality Act 1981, Schedule 1(1)(c): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, Version 2.0, 6 December 2017, pp.6-7: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.0EXT.pdf</a></p> <p>UK Government, Prove your knowledge of English for Citizenship and Settling: <a href="https://www.gov.uk/english-language/exemptions">https://www.gov.uk/english-language/exemptions</a></p>



						<p>exemptions for those over 65 or unable to meet the requirement because of a long term physical or mental condition. Further guidance is provided in the Government's Naturalisation Booklet for applicants and Naturalisation Guide.</p>	<p>UK Government Home Office, Booklet AN, Naturalisation Booklet – The Requirements, February 2018, pp.10-13: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680279/an-booklet-feb-18.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/680279/an-booklet-feb-18.pdf</a></p> <p>UK Government Home Office, Guide AN Naturalisation as a British citizen – A guide for applicants, January 2017, p.20: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/583815/AN_Guide_-_January_2017.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/583815/AN_Guide_-_January_2017.pdf</a></p>
IDP	9	f		Are there income exemptions for stateless persons if a level of income is required for naturalization?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: as above.</li> </ul>	No level of income is required for naturalisation, however there are significant fees for naturalisation and registration (see IDP 9a and PRS 1b).	British Nationality Act 1981, Section 6 & Schedule 1: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>



## Detention

Cat	Q	Sub	Subtheme	Question	International Norms / Good Practice	Answer	Source
DET	1	a	Detention screening	Are immigration detention powers provided for in law?	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 9 (1): Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.</li> <li>• <a href="#">ECHR</a> Art 5 (1): Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: ... (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.</li> </ul>	Yes.	<p>Immigration Act 1971, Schedule 2, 16(1), (1A) or (2) (detention of persons liable to examination or removal);</p> <p>Schedule 3, para. 2(1), (2) or (3) (detention pending deportation): <a href="https://www.legislation.gov.uk/ukpga/1971/77/contents">https://www.legislation.gov.uk/ukpga/1971/77/contents</a></p> <p>Nationality, Immigration and Asylum Act 2002, Section 62 (detention of persons liable to examination or removal): <a href="https://www.legislation.gov.uk/ukpga/2002/41/contents">https://www.legislation.gov.uk/ukpga/2002/41/contents</a></p> <p>UK Borders Act 2007, Section 36(1) (detention pending deportation): <a href="https://www.legislation.gov.uk/ukpga/2007/30/contents">https://www.legislation.gov.uk/ukpga/2007/30/contents</a></p>
DET	1	b		<p>In what circumstances does the law provide for immigration detention?</p> <p>Does domestic law allow immigration detention for purposes other than those allowed under ECHR 5(1)(f)?</p>	<ul style="list-style-type: none"> <li>• <a href="#">ECHR</a> Art 5 (1)(f)</li> </ul>	<p><b>Detention is permitted in law</b> in order to ascertain whether a person has a right to enter or remain in the UK and pending a decision whether to grant leave to enter; if leave to remain has been suspended - pending a decision whether to cancel leave; where there are 'reasonable grounds' for suspecting a person may be issued removal directions or when such directions have been made; or pending a decision to make a deportation order or when a deportation order has been made. Detention is also permitted if the person is liable to arrest. Detention is also permitted pending transfer under the Dublin Regulation where there is a risk of absconding. In accordance with <i>Hardial Singh</i> principles, detention must be for a reasonable period, and the government</p>	<p>As above.</p> <p>R v. Governor of Durham Prison, Ex parte Hardial Singh, [1984] 1 All ER 983, [1984] 1 WLR 704, [1983] Imm AR 198, United Kingdom: High Court (England and Wales), 13 December 1983: <a href="http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html">http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html</a></p> <p>Detention Action, 2014, The State of Detention: immigration detention in the UK in 2014: <a href="http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State.of.Detention.pdf">http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State.of.Detention.pdf</a></p>

						must exercise diligence and expedition in seeking to remove the detainee, and detention must end if removal will not occur within a reasonable time. The legislation in the UK is potentially compatible with Article 5 ECHR given there is only ever a power to detain, not a duty.	The Transfer for Determination of an Application for International Protection (Detention) (Significant Risk of Absconding Criteria) Regulations 2017: <a href="http://www.legislation.gov.uk/uksi/2017/405/pdfs/uksi_20170405_en.pdf">http://www.legislation.gov.uk/uksi/2017/405/pdfs/uksi_20170405_en.pdf</a>
DET	1	c		Does a proposed country of removal need to be identified before a person is detained for the purpose of removal? Please describe the situation in law and in practice.	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 7: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Repeated attempts to expel a person to a country where his/her well-being is not guaranteed and where he/she could be subject to cruel, inhuman or degrading treatment or punishment or to a country that is refusing to admit the individual in question could amount to inhuman or degrading treatment.</li> <li>• <a href="#">ECHR</a> Art 5 (1)(f)</li> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</li> <li>• <a href="#">EU Returns Directive</a>: Any detention shall be for as short a period as possible and only maintained as long as removal arrangements are in progress and executed with due diligence.</li> <li>• <a href="#">ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014</a>: Once un-returnability is established, migrants should not be detained.</li> </ul>	<p><b>There is nothing in law that states a country must be identified before a person is detained for the purpose of removal.</b> But not naming a country raises the obvious point that removal may not be imminent. The fact that removal cannot be said to be imminent (normally defined as within four weeks where the person does not have a criminal record (see Chapter 55 of the Home Office Enforcement Instructions and Guidance) may render detention unlawful. Since nationality and whether or not another state will accept a person if they are removed or deported can be matters of dispute, the Home Office may try to justify detention for the purpose of removal or deportation on the basis that it needs to undertake enquiries into these issues. It may claim that suspected lack of cooperation or obfuscation is evidence that the deportee or person facing removal may abscond if released. The question of removability is therefore paramount in a detention case and may be more easily established than the possibly more complex question of whether or not the detained person is stateless. If no country is identified within removal directions, it is essential that the detained person or their representative asks the Home Office to confirm: to which</p>	<p>Email from Pierre Makhoulf, Assistant Director, Bail for Immigration Detainees, to Cynthia Orchard, 18 May 2017.</p> <p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55, 55.3.2.4: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a></p> <p>UK Government Home Office, Returns Directorate, Detention Services Order 03/2014, Service of Removal Directions: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510261/DSO_03-2014_Service_of_Removal_Directions.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510261/DSO_03-2014_Service_of_Removal_Directions.pdf</a></p>

						country it intends to remove; the basis upon which it is felt that the person can be removed to that country; and the steps that it is taking to enable the person to be removed. If no country is identified or if enquiries that are to be made by the Home Office can be shown to be evidence that removal is not imminent, then detention may be unlawful.	
DET	1	d		Is statelessness a juridically relevant fact in any decision to detain (in practice and in law)? If so, at what point(s) is a risk of statelessness identified? Is referral to an SDP possible within the detention regime?	<ul style="list-style-type: none"> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: as above.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary... For stateless persons, the absence of status determination procedures to verify identity or nationality can lead to prolonged or indefinite detention. SDPs are therefore an important mechanism to reduce the risk of prolonged and/or arbitrary detention.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 13 – states must identify stateless persons within their territory or subject to their jurisdiction as a first step towards ensuring the protection of their human rights.</li> <li>• <a href="#">International Commission of Jurists, Migration and International Human Rights Law: a Practitioner's Guide 2014</a>: the detention of stateless persons can never be justified when there is 'no active or realistic progress towards transfer to another State'.</li> </ul>	<p>Statelessness is <b>not sufficiently recognised as a juridically relevant fact in the UK</b>. Statelessness could be raised at any point; it is normally raised by the person at risk of detention/detained. It should be a consideration when the decision to detain is taken and/or when reviewed (see DET1c).</p> <p>The Home Office <b>does not refer</b> people to the SDP. A person could make an application for leave as a stateless person from detention. <b>There is nothing in legislation which refers to statelessness in relation to lawfulness of detention.</b> However, in accordance with the <i>Hardial Singh</i> principles the Government and courts are obliged to consider whether detention is reasonable and whether removal is possible; if not, detention is unlawful. In practice, the Government and courts <b>do not adequately consider (risk of) statelessness in decisions to detain or to maintain detention</b>. This area is the subject of ongoing litigation e.g. in <i>ML (Morocco)</i> concerning a stateless man of Western Saharan origin.</p>	<p>ML (Morocco) v Secretary of State for the Home Department [2016] EWHC 2177 (Admin): <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2016/2177.html">http://www.bailii.org/ew/cases/EWHC/Admin/2016/2177.html</a></p> <p>R v. Governor of Durham Prison, Ex parte Hardial Singh, [1984] 1 All ER 983, [1984] 1 WLR 704, [1983] Imm AR 198, United Kingdom: High Court (England and Wales), 13 December 1983: <a href="http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html">http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html</a></p>

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	1	e		Are stateless persons detained in practice? Please provide figures and source of information if available.	<ul style="list-style-type: none"> <li>• <a href="#">Auad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: as above.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: as above.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: as above.</li> <li>• <a href="#">International Commission of Jurists, Migration and International Human Rights Law: a Practitioner's Guide 2014</a>: as above.</li> </ul>	Yes, see POP2a and note in particular that some detainees are not acknowledged to be stateless and therefore official figures are flawed.	ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a>
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives to detention have been exhausted?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Detention is therefore a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient to safeguard the lawful governmental objective pursued by detention.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.</li> </ul>	Yes. This is, however, not what occurs in practice. In 2016, <b>28,908 people entered immigration detention</b> centres in the UK; 28,661 left immigration detention; of whom 13,466 were removed from the UK and 11,931 were granted temporary admission after detention; a further 2,833 were granted bail and 61 persons left detention upon being granted leave to remain.	<p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a></p> <p>UK Government Home Office, Immigration Statistics October to December 2016, 9. Detention, Detention Data Tables dt_01 &amp; dt_06: <a href="https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention">https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2016/list-of-tables#detention</a></p>
DET	1	h		Are individual vulnerability assessments carried out before a decision to detain (or shortly thereafter), and are stateless persons defined as a	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless persons are not understood and addressed...</li> <li>• <a href="#">EU Returns Directive</a>: Art 16(3) Particular attention shall be paid to the situation of vulnerable persons...</li> <li>• <a href="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a> :</li> </ul>	<b>Vulnerability assessments are required under the Detention Centre Rules 2001</b> and the Adults at Risk in Immigration Detention guidance but in some cases are not thorough and many 'vulnerable' persons are detained. Stateless persons are not defined as a vulnerable group. The Adults at Risk in Immigration Detention guidance refers <i>inter alia</i> to health status and there are criteria on severity of health problems, types of evidence being relied	<p>Detention Centre Rules 2001, Rule 35: <a href="http://www.legislation.gov.uk/en/uksi/2001/238/contents/made">http://www.legislation.gov.uk/en/uksi/2001/238/contents/made</a></p> <p>UK Government Home Office, UK Visas and Immigration and Immigration Enforcement, Adults at Risk in Immigration Detention Statutory Guidance, August 2016:</p>

				<p>vulnerable group?</p> <p>The special circumstances and needs of particular asylum-seekers must be taken into account...</p> <ul style="list-style-type: none"> <li>• <a href="#">Council of the European Union Guidelines to Promote and Protect the Enjoyment of All Human Rights by Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Persons 2013</a>: European entities should assess the situation of LGBTI persons in detention...</li> </ul>	<p>upon by the detainee, and the Home Office also focuses on detainees' immigration history and credibility when justifying continued detention despite vulnerability. The Home Office introduced in 2017 'case progression panels' and 'detention gatekeepers', both to protect against unlawful detention; in some cases, these gatekeepers have advised that detention is likely to be unlawful and a decision has taken this into account preventing detention. The Immigration Minister has stated that the gatekeepers "<i>will ensure that there is no evidence of vulnerability which would be exacerbated by detention, that return will occur within a reasonable timeframe and check that any proposed detention is lawful. Separately, Case Progression Panels have been introduced to review all cases within immigration detention by a peer-led panel.</i>" These panels focus on ensuring that there is progression toward return for all individuals detained, and that detention remains lawful.</p>	<p><a href="https://www.gov.uk/government/publications/adults-at-risk-in-immigration-detention">https://www.gov.uk/government/publications/adults-at-risk-in-immigration-detention</a></p> <p>Email from Pierre Makhoulouf, Assistant Director, Bail for Immigration Detainees, to Cynthia Orchard, 18 May 2017.</p> <p>Personal communication from Jo Bezzano of Liverpool Law Clinic to Cynthia Orchard, July 2017.</p> <p>UK Parliament, Immigrants: Detainees: Written question – 71612, asked by Dr Sarah Wollaston on 21 April 2017; Answered by the Immigration Minister Robert Goodwill on 26 April 2017: <a href="http://www.parliament.uk/business/publications/written-questions-answers-state-ments/written-question/Commons/2017-04-21/71612">http://www.parliament.uk/business/publications/written-questions-answers-state-ments/written-question/Commons/2017-04-21/71612</a></p>
DET	1	i		<p>Are there measures to protect stateless persons scheduled for deportation because of criminal records from arbitrary detention?</p> <ul style="list-style-type: none"> <li>• <a href="#">OHCHR, Administrative Detention of Migrants</a>: [detention] should last only for the time necessary for the deportation/expulsion to become effective.</li> <li>• <a href="#">Mikolenko v. Estonia, Application no. 10664/05, 8 October 2009 (ECtHR)</a>: Detention is justified as long as "deportation proceedings are being conducted" and these proceedings must be carried out with due diligence... when expulsion becomes impossible, the continuation of detention "cannot be said to have been effected with a view to his deportation as this was no longer feasible."</li> </ul>	<p><b>Monthly reviews of all detainees' cases are required</b>; in practice these are often cursory (see also DET1h). The question of whether or not detention is lawful and breaches <i>Hardial Singh</i> principles is meant to be analysed by way of regular, normally monthly internal Home Office reviews of detention (see Enforcement Instructions and Guidance). These should take into account a number of factors including removability, risk of harm or of reoffending etc. Establishing that a person is stateless or is arguably stateless may mean that detention is unlawful. Therefore, the fact</p>	<p>R v. Governor of Durham Prison, Ex parte Hardial Singh, [1984] 1 All ER 983, [1984] 1 WLR 704, [1983] Imm AR 198, United Kingdom: High Court (England and Wales), 13 December 1983: <a href="http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html">http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html</a></p> <p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55: <a href="https://assets.publishing.service.gov.uk/government/uploads">https://assets.publishing.service.gov.uk/government/up-</a></p>



						that a person has a criminal record and is excluded from a grant of leave under the statelessness procedure is secondary to the question as to whether or not the purpose of detention, to enable removal is lawful.	<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">loads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a>  Email from Pierre Makhlouf, Assistant Director, Bail for Immigration Detainees to Cynthia Orchard, 18 May 2017.
DET	2	a	Alternatives to immigration detention	<p>Does the country have alternatives to detention which individuals are considered for prior to any decision to detain? Are alternatives to detention established in law? Are they subject to a statutory time limit and periodic reviews of their necessity and proportionality?</p>	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 9</li> <li>• <a href="#">FKAG v Australia (HRC)</a>: Any decision relating to detention must take into account less invasive means of achieving the same ends...</li> <li>• <a href="#">UN General Assembly Resolution on the protection of migrants 63/184 2009</a>: Calls upon all States ... to adopt, where applicable, alternative measures to detention.</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Detention...can only be justified where other less invasive or coercive measures have been considered and found insufficient... Alternatives to detention...are part of any assessment of the necessity and proportionality of detention.</li> <li>• <a href="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a> : alternatives to detention refers to any legislation, policy or practice that allows asylum-seekers to reside in the community subject to a number of conditions or restrictions on their freedom of movement and since they can involve restrictions on movement of liberty they are bound by human right standards.</li> <li>• <a href="#">Human Rights Council (HRC), Report of the Special Rapporteur on the human rights of migrants, François Crépeau (2012) A/HRC/20/24</a>: Alternatives to detention should not become alternatives to unconditional release [...] the obligation to always consider alternatives to detention</li> </ul>	<p>There are various <b>alternatives to detention</b> and these are <b>required to be considered prior to detention</b>; however, in practice, they <b>often are not considered adequately</b>. There is <b>no time limit</b> on either detention or alternatives to detention. As of June 2017, there is <b>no automatic judicial oversight of detention</b>; the Immigration Act 2016 Schedule 10 makes provision for reviews by an immigration judge every four months, but it is not yet in force. See DET1i regarding regular reviews by the Home Office of the lawfulness of detention. The fact that persons can also access judicial review procedures to challenge the continuing lawfulness of their detention is seen by the European Court of Human Rights as evidence that the absence of any time limits on detention do not amount to a breach of human rights. Both the High Court and the bail process therefore allow for alternatives to detention by way of persons being granted release from detention, albeit with restrictions or conditions placed upon their release (e.g. as to residence, reporting, electronic monitoring, etc.).</p>	<p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a></p> <p>Immigration Act 2016, Schedule 10: <a href="http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted">http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted</a></p> <p>Detention Action, 2014, The State of Detention: immigration detention in the UK in 2014: <a href="http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State.of.Detention.pdf">http://detentionaction.org.uk/wordpress/wp-content/uploads/2014/10/The.State.of.Detention.pdf</a></p> <p>Immigration Act 2016, Schedule 10: <a href="http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted">http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted</a></p>

					<p>(non-custodial measures) before resorting to detention should be established by law.</p> <ul style="list-style-type: none"> <li>• <a href="#">Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return</a>: After a careful examination of the necessity of deprivation of liberty in each individual case, the authorities of the host state have concluded that compliance with the removal order cannot be ensured as effectively by resorting to non-custodial measures such as supervision systems, the requirement to report regularly to the authorities, bail or other guarantee systems.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(1) Unless other sufficient but less coercive measures can be applied effectively in a specific case, Member States may only keep in detention a third-country national who is the subject of return procedures in order to prepare the return and/or carry out the removal process.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: (31) ...states have an obligation in the first instance to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive than detention, ensure the greatest possible freedom of movement and that respect the human rights of the individual.</li> <li>• <a href="#">International Detention Coalition (2015), There Are Alternatives: A handbook for preventing unnecessary immigration detention (revised edition)</a>: immigration detention should be used only as a last resort in exceptional cases after all other options have been shown to be inadequate in the individual case.</li> </ul>		
DET	2	b		Is there evidence that im-	As above	Yes, see DET2a.	UK Government Home Office, Enforcement Instructions and Guidance,



				<p>migration detention is used in practice prior to all alternatives being considered? Please cite relevant reports.</p>			<p>Chapter 55, 55.3: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a> (requirement to consider alternatives)</p> <p>Detention Action, 2016, Without Detention: Opportunities for Alternatives: <a href="http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf">http://detentionaction.org.uk/wordpress/wp-content/uploads/2016/09/Without-Detention.pdf</a> (evidence from practice)</p> <p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a></p>
DET	3	a	Procedural safeguards	<p>Is there a maximum time period for immigration detention set out in the law? What is it?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council (HRC) (2010), Report of the UN Working Group on Arbitrary Detention to the Human Rights Council, 13th Session, A/HRC/13/30</a>: a maximum period of detention must be established by law and upon expiry of this period the detainee must be automatically released.</li> <li>• <a href="#">UNHCR (2012), Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention</a> : to guard against arbitrariness, maximum periods of detention should be set in national legislation.</li> <li>• <a href="#">EU Returns Directive</a>: Art 15(5) Each Member State shall set a limited period of detention, which may not exceed six months (extendable by 12 months in specific circumstances of the de-</li> </ul>	No.	

				<p>tainee refusing to cooperate with removal proceedings or delays in obtaining documentation from third countries).</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: It is desirable that states clearly specify a reasonable maximum time limit. Under no circumstances should indefinite detention be tolerated.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 39 Detention should always be for the shortest time possible. There should be a reasonable maximum time-limit for detention. It is highly desirable that states do not detain stateless persons for more than six months. States which at present have a lower than six-month maximum time-limit for detention are urged not to increase it, and all states are urged to review and reduce their maximum time limit for detention.</li> </ul>		
DET	3	h	Does law/policy provide that individuals must be informed in writing of the reasons for immigration detention?	<ul style="list-style-type: none"> <li>• <a href="#">UN General Assembly (UNGA) (1988), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Resolution A/RES/43/173</a>: Anyone who is arrested shall be informed at the time of his arrest of the reason for his arrest and shall be promptly informed of any charges against him.</li> <li>• <a href="#">EU Returns Directive</a>: Detention shall be ordered in writing with reasons being given in fact and in law.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 37 Stateless detainees shall receive their order of detention in writing and in a language they understand and this must outline the reasons for their detention.</li> </ul>	At the time of detention, the Home Office must serve detainees with Form IS91R, <b>which identifies reasons for detention, albeit in 'checkbox' form</b> . In criminal cases, reasons for detention are provided by letter (ICD 1913 or ICD 1913AD).	ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, p.22: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a>

DET	3	b		<p>Are all detainees provided with information on their rights, contact details of organisations to assist them, including in challenging the legality of their detention and conditions of detention? Does this include guidance on how to access a dedicated SDP?</p>	<ul style="list-style-type: none"> <li>• <a href="#">International Commission of Jurists (ICJ) (2014), Migration and International Human Rights Law: a Practitioner's Guide (updated edition)</a>: The authorities are required to take steps to ensure that sufficient information is available to detained persons in a language they understand, regarding the nature of their detention, the reasons for it, the process for reviewing or challenging the decision to detain.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 37 Detainees must be informed of their rights related to the detention order, including the right to legal advice, the right to apply for bail, seek judicial review and/or appeal the legality of the detention. Where appropriate, they should receive free legal assistance; they must be informed of the maximum time limit which they can be held in detention; and they must be provided with a handbook in a language which they understand and that contains information on all their rights and entitlements during detention.</li> </ul>	<p>People are normally informed of <b>how to access legal advice</b> and their <b>bail rights</b> when they are detained and certainly when they are issued with a Monthly Progress Report of their detention. They are <b>not normally informed about statelessness procedures</b>. People who apply for asylum are normally provided with a leaflet, which does not include information about the Statelessness Determination Procedure currently, but the Home Office committed in March 2017 to add a paragraph about the possibility of applying to remain in the UK as a stateless person.</p>	<p>Email from Pierre Makhoul to Cynthia Orchard, 18 May 2017.</p> <p>UK Government Home Office, UK Visas and Immigration, Information about your asylum claim: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513585/Point_of_Claim_English_20160401.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/513585/Point_of_Claim_English_20160401.pdf</a></p> <p>Home Office meeting with civil society organisations, 9 March 2017.</p>
DET	3	c		<p>Are there regular periodic reviews of the necessity for the continuation of detention before a court or an independent body? If yes, are detainees released when it becomes evident that their</p>	<ul style="list-style-type: none"> <li>• <a href="#">ICCPR Art 9(3)</a>: Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release.</li> <li>• <a href="#">EU Returns Directive</a>: Any detention shall ... only be maintained as long as removal arrangements are in progress and executed with due diligence.</li> <li>• <a href="#">Auer v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: ...the only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant... the length of the detention should not exceed that reasonably required for the purpose pursued.</li> </ul>	<p>The <b>Home Office reviews (internally) the need for immigration detention every 28 days</b>; however, this is often a <b> cursory</b> review. The Immigration Act 2016 introduces automatic periodic bail hearings every four months (but this provision is not yet in force as of June 2017). Further, this provision does not apply to persons against whom a deportation order has been made. Bail hearings result in release of detainees in some cases however, delays in the Home Office provision of addresses for those who have nowhere else to go may make it difficult to secure release in practice. Immigration judges may</p>	<p>See DET 1a on powers to detain.</p> <p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55, 55.8: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682687/Chapter-55-detention-v24.0EXT.pdf</a> (detention reviews)</p> <p>Immigration Act 2016, Schedule 10, Section 61 &amp; para. 11:</p>

				<p>removal will not be possible within a reasonable time?</p> <ul style="list-style-type: none"> <li>• <a href="#">Kim v Russia [2014] Application no 44260/13 (ECtHR)</a>: The purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected.</li> <li>• <a href="#">A. v. Australia, CCPR/C/59/D/560/1993, (HRC)</a>: Decisions to detain should be open to review periodically so that the grounds justifying the detention can be assessed.</li> <li>• <a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vnatreshniteraboti [2009] Case C-357/09 (ECJ)</a>: There must, at the time of the national Court's review of the lawfulness of detention, be a real prospect that the removal can be carried out successfully.</li> <li>• <a href="#">Council of Europe (2005), Twenty Guidelines of the Committee of Ministers of Europe on Forced Return</a>: Detention pending removal shall be justified only for as long as removal arrangements are in progress. If such arrangements are not executed with due diligence the detention will cease to be permissible.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 41 To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.</li> </ul>	<p>be reluctant to release a person in some cases without a surety but not all detainees will have someone prepared to stand surety for them. The power to detain at the end of the process exists only where the person will be removed or deported within a reasonable time. Where it is determined that a person will not be able to be removed within a reasonable time they should be released although in practice in some cases in which there is difficulty in effecting removal, persons remain in detention for months and even years.</p>	<p><a href="http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted">http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted</a></p> <p>UK Parliament, Immigration Bail: Written Question – HL6237, asked 21 March 2017, answered 3 April 2017: <a href="http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2017-03-21/HL6237">http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2017-03-21/HL6237</a></p> <p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, p.22: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a></p>
DET	3	d		<p>What remedies are available to an individual to challenge detention? How often can</p> <ul style="list-style-type: none"> <li>• <a href="#">ICCPR</a> Art 9(4): Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.</li> <li>• <a href="#">ECHR</a>: Everyone who is deprived of his liberty by arrest or detention shall be entitled to take</li> </ul>	<p>Detainees can <b>apply for bail</b> or sue for unlawful detention or bring a habeas corpus action.</p>	<p>Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 11: <a href="http://www.legislation.gov.uk/ukpga/2012/10/schedule/11">http://www.legislation.gov.uk/ukpga/2012/10/schedule/11</a></p> <p>Immigration Act 2016, Schedule 10:</p>

				these be invoked? Are there any obstacles in practice?	<p>proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.</p> <ul style="list-style-type: none"> <li>• <a href="#">Kim v Russia [2014] Application no 44260/13 (ECtHR)</a>: the purpose of Art 5(4) ECHR is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected.</li> </ul>		<a href="http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted">http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted</a>
DET	3	e		<p>Are there rules/guidance in place that govern the process of re-documentation and/or ascertain entitlement to nationality, for the purpose of removal?</p> <p>Do these rules articulate the respective roles that state and individual are expected to play?</p> <p>Are there time limits clearly set out?</p> <p>Are the outcomes of such processes used/considered relevant</p>	<ul style="list-style-type: none"> <li>• <a href="#">Aaad v Bulgaria [2011] Application no 46390/10 (ECtHR)</a>: The only issue is whether or not the authorities were sufficiently diligent in their efforts to deport the applicant.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation (see also above).</li> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality...the respective roles that the state and the individual should be expected to play and related time limits should be clearly articulated. The longer it takes to do so, detention is more likely to become unreasonable and disproportionate.</li> <li>• <a href="#">ECRE, Point of No Return: The Futile Detention of Unreturnable Migrants, 2014</a>: Once un-returnability is established, migrants should not be detained. Detention should not be used for nationals of countries to which forced returns are not generally possible.</li> </ul>	<p>Home Office statelessness <b>Guidance addresses this in very limited way</b>. Home Office officials are required to make enquiries if an applicant has made reasonable efforts to provide evidence of statelessness; but in practice this does not always occur; and the guidance is not specific as to how Home Office officials should do this or time frames. In some cases, outcomes of such processes are used in statelessness determination; in others, not.</p>	<p>UK Visas and Immigration, Asylum Policy Instruction, Statelessness and Applications for Leave to Remain, Version 2.0, Feb 2016: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>UK Government Home Office, UK Visas and Immigration Country Returns Guide, April 2016: <a href="https://www.gov.uk/government/publications/country-returns-guide">https://www.gov.uk/government/publications/country-returns-guide</a></p>

				for subsequent determination of whether an individual is stateless?			
DET	3	f		Is free legal aid available to challenge detention? Are there any barriers to accessing this in practice?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means.</li> <li>• <a href="#">EU Returns Directive</a>: Art 13(3) The third-country national concerned shall have the possibility to obtain legal advice, representation and, where necessary, linguistic assistance.</li> </ul>	<p><b>There is free legal aid to challenge detention</b> in all UK jurisdictions, but evidence suggests there are barriers to accessing adequate free legal assistance. Only a few law firms have contracts to provide free legal assistance in detention centres, including to challenge detention. They cannot provide free legal advice on immigration (including statelessness) as opposed to asylum cases.</p>	<p>Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 1, para. 25: <a href="http://www.legislation.gov.uk/ukpga/2012/10/schedule/11">http://www.legislation.gov.uk/ukpga/2012/10/schedule/11</a></p> <p>Bail for Immigration Detainees, Six-monthly survey reveals less than half of those questioned have a legal representative, 6 Dec 2017: <a href="http://www.biduk.org/posts/328-six-monthly-survey-reveals-less-than-half-of-those-questioned-have-a-legal-representative">http://www.biduk.org/posts/328-six-monthly-survey-reveals-less-than-half-of-those-questioned-have-a-legal-representative</a></p> <p>Association of Visitors to Immigration Detainees, Legal Advice: <a href="http://www.aviddetention.org.uk/immigration-detention/information-detainees/legal-advice">http://www.aviddetention.org.uk/immigration-detention/information-detainees/legal-advice</a></p>
DET	4	a	Protections on release	Are those released from detention issued with any identification, including confirmation of their statelessness status, and thus protected	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Art 27</li> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless Persons</a>: Statelessness, by its very nature, severely restricts access to basic identity and travel documents that nationals normally possess. Moreover, stateless persons are often without a legal residence in any country. Thus, being undocumented or lacking the necessary immigration permits cannot be used as a general justification for detention of such persons.</li> </ul>	<p>A person released from detention <b>would not likely have evidence of their statelessness</b> unless they have applied for and been granted statelessness leave or a stateless person's travel document; some persons who likely are stateless have been detained more than once.</p>	<p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, p.32: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a></p>



				<p>from arbitrary re-detention?</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2015) Protecting Stateless Persons from Arbitrary Detention: a regional toolkit for practitioners</a>: Article 27 of the 1954 Statelessness Convention... applies to all stateless persons, which includes those not staying legally in the state's territory... state parties to the 1954 Convention have an obligation to provide stay rights to stateless persons who have been released from detention.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guidelines 55 &amp; 56 Special care should be taken to address the vulnerabilities of stateless persons who are released from detention and to ensure that they enjoy all human rights which they are entitled to under international law... Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.</li> </ul>		
DET	4	b		<p>If the purpose of detention cannot be fulfilled (e.g. removal) and the person is released, what legal status is provided to them by law? Can they access social services, accommodation, welfare, education and healthcare?</p> <ul style="list-style-type: none"> <li>• <a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatrešnite raboti [2009] Case C-357/09 (ECJ)</a>: Article 15(4) and (6) of the Directive should be interpreted as requiring that after the maximum period of detention has expired, the person must be released immediately... the individual's lack of valid documentation, his/her inability to support him/herself or his/her "aggressive conduct" should not be a deterrent to his/her release.</li> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 55 as above.</li> </ul>	<p>They would normally be given temporary admission or release, to be renamed Immigration Bail when Schedule 10 of the Immigration Act 2016 comes into effect (not in effect as of June 2017). This is not leave under the Immigration Rules. Such persons, if they have been refused asylum, may be eligible for basic support, accommodation and healthcare. This provision will change when relevant provisions of the Immigration Act 2016 come into force. Such persons will not have permission to work. In some cases, such persons may be eligible to make a statelessness application or another application, for example based on long residence or private/family life and could make representations relating to para. 353(b) of the Immigration Rules. However, persons who</p>	<p>See also IDP6c.</p> <p>Immigration Act 1971, Schedule 2 Part 1, Para. 21: <a href="http://www.legislation.gov.uk/ukpga/1971/77/schedule/2">http://www.legislation.gov.uk/ukpga/1971/77/schedule/2</a></p> <p>Immigration and Asylum Act 1999, Section 4: <a href="http://www.legislation.gov.uk/ukpga/1999/33/contents">http://www.legislation.gov.uk/ukpga/1999/33/contents</a> (basic support to refused asylum seekers unable to leave)</p> <p>Immigration Act 2016, Schedule 10 (Immigration Bail), Schedule 11 (Support for Certain Categories of Migrant), Schedule 12 (availability of local authority support):</p>



				Do they have the right to work?		<p>have a criminal history or against whom a deportation order has been made may be barred by general grounds for refusal from being granted leave to remain in the UK under the Immigration Rules. Their only option would be an application on human rights grounds (see also to IDP6c).</p>	<p><a href="http://www.legislation.gov.uk/ukpga/2016/19/contents/enacted">http://www.legislation.gov.uk/ukpga/2016/19/contents/enacted</a></p> <p>Immigration Rules, paras. 322, 353(b) &amp; 404(c): <a href="https://www.gov.uk/guidance/immigration-rules">https://www.gov.uk/guidance/immigration-rules</a>,</p> <p>The National Health Service (Charges to Overseas Visitors) Regulations 2015: <a href="http://www.legislation.gov.uk/uksi/2015/238/made">http://www.legislation.gov.uk/uksi/2015/238/made</a> (England and Wales)</p> <p>Public Health England, NHS Entitlements: migrant health guide: <a href="https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide">https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide</a></p> <p>The Scottish Government, Healthcare Policy and Strategy Directorate, Overseas Visitors' Liability To Pay Charges For NHS Care And Services, p.16: <a href="http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf">http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf</a></p> <p>Statutory Rules of Northern Ireland, No. 27, Health and Personal Social Services, Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015: <a href="http://www.legislation.gov.uk/nisr/2015/27/made">http://www.legislation.gov.uk/nisr/2015/27/made</a></p> <p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners'</p>
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# Detention – December 2017

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DET	4	c		If re-detention does occur, is the cumulative time spent in detention counted towards any maximum time limits?	<ul style="list-style-type: none"> <li>• <a href="#">Equal Rights Trust (ERT) (2012), Guidelines to Protect Stateless Persons from Arbitrary Detention</a>: Guideline 40 When calculating the total time spent by an individual in detention, it is highly desirable that time spent in detention on previous occasions is taken into consideration.</li> </ul>	<b>No.</b> Not applicable as there are <b>no time limits on immigration detention.</b>	

## Prevention and Reduction

Cat	Q	Sub	Sub-theme	Question	International Norms / Good Practice	Answer	Source
PRS	1	a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to be granted nationality? <b>If yes, continue with PRS1b below. If no, proceed to PRS1j.</b>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State shall grant its nationality to a person born in its territory who would otherwise be stateless...</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall provide in its internal law for its nationality to be acquired by children born on its territory who do not acquire at birth another nationality...</li> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: The child shall have... the right to acquire a nationality... States Parties shall ensure the implementation of these rights...in particular where the child would otherwise be stateless... States Parties undertake to respect the right of the child to preserve his or her identity, including nationality...</li> <li>• <a href="#">Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011</a></li> </ul>	<p><b>Yes.</b> Persons born to a parent holding a form of British nationality (British Overseas Territories Citizenship, British Overseas Citizenship, and British subject) who would otherwise be stateless acquire the parent's British nationality. A person born stateless in the UK with no such connection shall be entitled to register after five years' continuous residence prior to the age of 22. Some of the criteria vary depending on where and when the applicant was born (i.e. before or after 21 May 2002; 1 January 1983; before or after 1 January 1949).</p>	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2, paras. 1 &amp; 3: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, July 2017: <a href="https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance">https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance</a></p> <p>Other relevant Home Office guidance at: <a href="https://www.gov.uk/government/collections/nationality-policy-guidance">https://www.gov.uk/government/collections/nationality-policy-guidance</a> e.g. Registration as a BOTC - stateless: nationality policy guidance: <a href="https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance">https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance</a></p>
PRS	1	b		Is the provision for stateless children to access nationality automatic or non-automatic (i.e. by application)?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Article 1 of the 1961 Convention provides Contracting States with two alternative options for granting nationality to children who would otherwise be stateless born in their territory. States can either provide for automatic acquisition of nationality upon birth pursuant to Article 1(1)(a), or for acquisition of nationality upon application pursuant to Article 1(1)(b) ...</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Article 1 of the 1961 Convention and article 6(2) of the ECN are the most important of these norms for the European context. Both oblige the conferral of nationality to children born on the territory if they would otherwise be stateless but allow some leeway in how states transpose this safeguard into their domestic systems. The first, and optimal, method – as it is</li> </ul>	<p>The provision is <b>not automatic</b>, but by registration on application. The fee of £973 for registration of a child as a British citizen is a barrier for some applicants, and there is currently no possibility of waiving the fee.</p>	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2, Section 3: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>The Immigration and Nationality (Fees) Regulations 2017, Schedule 8, 19.3.1: <a href="http://www.legislation.gov.uk/uksi/2017/515/schedule/8/made">http://www.legislation.gov.uk/uksi/2017/515/schedule/8/made</a></p> <p>Solange Valdez-Symonds and Steve Valdez-Symonds, No state to be in: Children living in this country with no nationality face a barrage of financial and legal obstacles to end their statelessness, Legal Voice, 10 May 2017: <a href="http://www.legalvoice.org.uk/no-state-to-be-in/">http://www.legalvoice.org.uk/no-state-to-be-in/</a></p>

					all-encompassing and does not tolerate even a temporary period of statelessness – is to grant nationality to otherwise stateless children automatically, at birth.		
PRS	1	c		Is it a requirement that the parents are also stateless for the child to acquire the nationality of the host state?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: The test is whether a child is stateless because he or she acquires neither the nationality of his or her parents nor that of the State of his or her birth; it is not an inquiry into whether a child's parents are stateless. Restricting the application of Article 1 of the 1961 Convention to children of stateless parents is insufficient in light of the different ways in which a child may be rendered stateless and contrary to the terms of those provisions.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the child's parent(s) do hold a nationality themselves, but are unable to pass this on...</li> </ul>	No.	British Nationality Act 1981, Section 36 & Schedule 2: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>
PRS	1	d		<p>Are children born stateless required to prove they cannot access another nationality to acquire nationality of the country of birth?</p> <p>If yes, please describe the requirement e.g. what is the standard and burden of proof,</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: A Contracting State to the 1961 Convention cannot avoid the obligations to grant its nationality to a person who would otherwise be stateless...based on its own interpretation of another State's nationality laws where this conflicts with the interpretation applied by the State concerned... the burden of proof must be shared between the claimant and the authorities... decision makers need to take into account Articles 3 and 7 of the CRC and adopt an appropriate standard of proof, for example... 'reasonable degree'... Requiring a higher standard of proof would undermine the object and purpose of the 1961 Convention. Special procedural considerations to address the acute chal-</li> </ul>	<p><b>No</b>, children born stateless in the UK are not required to prove they cannot access another nationality to acquire nationality of the UK. The child must prove that he or she 'is and always has been stateless' (and meets other requirements, i.e. is under 22 at time of application and meets residency requirements. The <b>standard of proof is the civil standard</b> ('balance of probabilities') and the <b>burden of proof is on the applicant</b>. This issue was addressed in a recent case where the Court held that statelessness for the purposes of the British Nationality Act has the same definition as under the 1954 Convention, and that '<i>a</i>)bility to acquire a nationality is irrelevant for</p>	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2, Section 3(1)(a): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>R (on the application of MK (a child by her litigation friend CAE)) v Secretary of State for the Home Department [2017] EWHC 1365 (Admin), paras.36 &amp; 48: <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html">http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, July 2017,</p>

				and how lack of any other nationality (i.e. statelessness) is determined in practice?	<p>allenges faced by children, especially unaccompanied children, in communicating basic facts with respect to their nationality are to be respected.</p>	<p><i>these purposes</i>'. The Court also emphasised that the Act and guidance must be interpreted somewhat flexibly, as it may be difficult to prove lack of nationality. The Government is '<i>not entitled to impose requirements that cannot, or practically cannot, be met</i>'. A sworn affidavit of a child's parent and evidence (if available) from relevant authorities of other countries of potential nationality should be given some weight. However, the Home Office's new Nationality Guidance does not appear to offer the flexibility described by the Court in <i>MK</i>, and thus may be subject to legal challenges. The guidance does not seem to consider that letters from authorities of a potential country of nationality are not necessarily available in all cases.</p>	<p>p.7: <a href="https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance">https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance</a></p>
PRS	1	e		<p>Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, what is it? Must this be legal and/or permanent residence?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: ...b) that the person concerned has habitually resided in the territory of the Contracting State for such period as may be fixed by that State, not exceeding five years immediately preceding the lodging of the application nor ten years in all.</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: States may stipulate that an individual who would otherwise be stateless born in its territory fulfils a period of "habitual residence".... This period is not to exceed five years immediately preceding an application nor ten years in all. In light of the standards established under the CRC, these periods are lengthy. States</li> </ul>	<p>No, if born in the UK or British Overseas Territory to a parent who is British Citizen, a British Overseas Territories Citizen, or a British Overseas Citizen and a British Subject. Children who have no such links but are born in the UK must have been 'in the UK' for a continuous period of five years before the age of 22, and not been absent for more than 450 days during that period. Other provisions and a different residency period apply to a person born stateless outside the UK and British Overseas Territories who had a parent who was a British citizen, a British Overseas Territories Citizen, or a British Overseas citizen and a British Subject (three years 'in the UK', not absent for more than 270 days). The period of resi-</p>	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2, Sections 1 &amp; 2 (children born to British nationals) Section 2 (those born outside the UK), Section 3(1) (other children), Section 4 (children of British nationals born outside the UK and subsequently resident in the UK): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, July 2017: <a href="https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance">https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a</p>

				<p>which ...require a certain period of habitual residence are encouraged to provide for a period as short as possible...The term “habitual residence” is ...to be understood as stable, factual residence. It does not imply a legal or formal residence requirement. The 1961 Convention does not permit Contracting States to make an application for the acquisition of nationality by individuals who would otherwise be stateless conditional upon lawful residence.</p> <ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: Arts 3 &amp; 7</li> <li>• <a href="#">Committee on the Rights of the Child, Concluding observations on the 4th periodic report of the Netherlands CRC/C/NDL/CO/4, 2015</a>: The Committee recommends that the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to citizenship without any conditions.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Article 6 (2)(b) ... Such an application may be made subject to the lawful and habitual residence on its territory for a period not exceeding five years immediately preceding the lodging of the application.</li> <li>• <a href="#">ENS (2016), Ending Childhood Statelessness</a>: The ECN cannot be interpreted as undermining states’ obligations under the CRC...and the requirement of lawful residence should be removed.</li> </ul>	<p>dency need not have been lawful or permanent residency and there is discretion regarding the periods of absence from the UK.</p>	<p>BOTC - stateless: nationality policy guidance: <a href="https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance">https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance</a></p>
PRS	1	f	Are the parents of a stateless child required to fulfil a period of residence for the child to be granted nationality?	<ul style="list-style-type: none"> <li>• <a href="#">Committee on the Rights of the Child, Concluding Observations Czech Republic CRC/C/CZE/CO/3-4, 2011</a>: The outcome of an application for citizenship, legal residence or similar status by the parents of a child born on the territory should not prejudice the right of the child to acquire the nationality of the State</li> </ul>	<p><b>No.</b> If either of the child’s parents was ‘settled’ in the UK (permanent residence) or was a member of the British Armed Forces at the time of the child’s birth, the child is a British citizen at birth. A child adopted in the UK, an overseas territory or in a Hague Convention country by a parent who is a British citizen becomes a</p>	<p>British Nationality Act 1981, Section 1(1): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>Borders, Citizenship and Immigration Act 2009: <a href="https://www.legislation.gov.uk/ukpga/2009/11/contents">https://www.legislation.gov.uk/ukpga/2009/11/contents</a></p>

				<p>If yes, what is it? Must this be legal and/or permanent residence?</p>	<p>party where the child would otherwise be stateless.</p> <ul style="list-style-type: none"> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: Demanding that the child or his/her parents reside lawfully on the territory is... prohibited by the 1961 Convention which permits only the condition of a certain period of habitual residence.</li> </ul>	<p>British citizen from the moment of adoption. Some children born in 'qualifying territories' after 13 January 2010 will also be British by birth.</p>	<p>UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, July 2017: <a href="https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance">https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance</a></p>
PRS	1	g		<p>What are the age limits, if any, for making an application for nationality for a stateless person born on the territory?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A Contracting State may make the grant of its nationality...subject to one or more of the following conditions: (a) that the application is lodged during a period... beginning not later than at the age of eighteen years and ending not earlier than at the age of twenty-one years...</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ...Contracting States ...need to accept applications lodged at a time beginning not later than the age of 18 and ending not earlier than the age of 21 in accordance with Article 1(2)(a) of the 1961 Convention.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: ...any application procedure which only becomes available in late childhood or even upon reaching majority is particularly problematic [...] closing the window of opportunity to apply for a nationality through such safeguards too early has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child and may mean children are left stateless due to the lack of action on the part of their parents.</li> </ul>	<p>The application must be made <b>before the age of 22</b>.</p>	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2, para. 3(1)(b): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p>
PRS	1	h		<p>Are there specific provisions for the nationality or statelessness of children</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Some children are born to refugee parents who are themselves stateless or cannot acquire the nationality of their parents owing to restrictions on transmission of nationality to children born abroad. Where the nationality of the</li> </ul>	<p><b>No.</b></p>	



				born to beneficiaries of international protection?	parents can be acquired through a registration or other procedure, this will be impossible owing to the very nature of refugee status which precludes refugee parents from contacting their consular authorities.		
PRS	2	a	Foundlings	Are foundlings granted citizenship <i>by law</i> ? If it's not automatic, is there an application procedure?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: A foundling found in the territory of a Contracting State shall, in the absence of proof to the contrary, be considered to have been born within that territory of parents possessing the nationality of that State.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall provide in its internal law for its nationality to be acquired ex lege by the following persons: [...] b) foundlings found in its territory who would otherwise be stateless.</li> </ul>	<b>Yes, and it is automatic.</b> Previously, the Government's Nationality Instructions gave some guidance about this provision; however, this has been left out of the current guidance.	<p>British Nationality Act 1981, Section 1(2): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, July 2017, p.8: <a href="https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance">https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance</a></p>
PRS	2	b		If yes to either question immediately above, is there an age limit (or status e.g. 'newborn') specified for foundlings to be granted citizenship? If not, when would a child usually qualify in practice?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: At a minimum, the safeguard ... is to apply to all young children who are not yet able to communicate accurately information pertaining to the identity of their parents or their place of birth... If a State provides for an age limit for foundlings to acquire nationality, the age of the child at the date the child was found is decisive and not the date when the child came to the attention of the authorities.</li> </ul>	The relevant provision refers only to ' <b>new born infants</b> '. Home Office guidance previously indicated the term 'new born' should be interpreted 'generously' and that it could apply to babies up to 1 year old, but this has been removed from the guidance currently in force. Ministerial statements made at the time of the passage of the Act in 1981, refer to children up to 12 months old.	<p>British Nationality Act 1981, Section 1(2): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, July 2017: <a href="https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance">https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance</a></p> <p>British Nationality Bill, Standing Committee, 26 February 1981 cc 212 per Timothy Raison MP, Minister.</p>
PRS	2	c		Can citizenship be withdrawn from foundlings if parents are identified even if this leads to statelessness?	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: Nationality acquired by foundlings pursuant to Article 2 of the 1961 Convention may only be lost if it is proven that the child concerned possesses another State's nationality.</li> </ul>	<b>The law is not entirely clear on this point.</b> Under the British Nationality Act, the Government may not (with some exceptions) withdraw a person's citizenship if the Secretary of State ' <i>is satisfied that the order would make a person stateless</i> '. However, evidence contradicting the presumption that a foundling was	<p>British Nationality Act 1981, Section 40(4): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, July 2017:</p>

						entitled to British nationality might have some consequences for the child's nationality, depending on the circumstances.	<a href="https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance">https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance</a>
PRS	3	a	Adoption	Where a child national is adopted by foreign parent(s), does the child lose their original nationality before the new nationality is adopted?	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: If the law of a Contracting State entails loss of nationality as a consequence of any change in the personal status of a person such as marriage, termination of marriage, legitimation, recognition or adoption, such loss shall be conditional upon possession or acquisition of another nationality.</li> <li>• <a href="#">European Convention on Nationality, 1997</a>: Each State Party shall facilitate in its internal law the acquisition of its nationality for the following persons: ...d) children adopted by one of its nationals... Each State Party shall permit the renunciation of its nationality provided the persons concerned do not thereby become stateless.</li> <li>• <a href="#">Committee on the Rights of the Child, Concluding Observations: Switzerland, CRC/C/CHE/CO/2-04, 2015</a>: [recommended that Switzerland] accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: ...the "sending" state in a situation of inter-country adoption may be a non-European one, so even if Europe's nationality laws were all in alignment with international standards, children may be exposed to a (temporary) risk of statelessness during the adoption process.</li> </ul>	No.	

PRS	3	b	ius sanguinis and discrimination	<p>Can children of a parent who is a national, born outside the country, access nationality by descent (ius sanguinis)? Are there any conditions? Could these conditions be regarded as discriminatory? <b>(see question below for where child would otherwise be stateless)</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Art 4</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ...where a child who would otherwise be stateless is born in a Contracting State to parents of another Contracting State but does not acquire the nationality of the State of birth automatically and either misses the age limit to apply for nationality or cannot meet the habitual residence requirement in the State of birth... responsibility falls to the Contracting State of the parents to grant its nationality to the child (or children) of its national... where children of a national of a Contracting State who would otherwise be stateless are born in a non-Contracting State... the Contracting State of the parents [is required] to grant its nationality to the child (or children) of its nationals born abroad... Article 4 of the 1961 Convention must be read in light of developments in international human rights law, in particular the right of every child to acquire a nationality... and the principle of the best interests of the child ...</li> <li>• <a href="#">Genovese v. Malta (ECtHR) Application No. 53124/09, 11 October 2011</a>: While the right to citizenship is not as such a Convention right and while its denial in the present case was not such as to give rise to a violation of Article 8, the Court considers that its impact on the applicant's social identity was such as to bring it within the general scope and ambit of that article. Maltese legislation expressly granted the right to citizenship by descent and established a procedure to that end. Consequently, the state which has gone beyond its obligations under Article 8 in creating such a right [ . . . ] must ensure that the right is secured without discrimination within the meaning of Article 14.</li> </ul>	<p><b>Yes</b>, for children in the <b>first generation</b> born overseas and further generations if parents are in Crown Service. There are also provisions that allow the children of British citizens by descent (who, having themselves been born overseas cannot pass their nationality to children born overseas) to be registered as British because of residence of the parents in the UK prior to the birth, or residence of the family in the UK after the birth. In cases depending on parental residence pre-birth, there are advantages for stateless children (no period of residence required; in other cases, it is three years). There is differential treatment under the Act because those whose grandparents were British citizens otherwise than by descent do not enjoy the entitlement to register: it is restricted to those whose parents are citizens by descent but whose grandparents are citizens otherwise than by descent.</p>	<p>British Nationality Act 1981, Section 2, Section 3(2): <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p>
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					<ul style="list-style-type: none"> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: States are free to impose additional conditions [to <i>Ius Sanguinis</i> conferral], as long as these are not discriminatory in nature... safeguards should again be in place to ensure that statelessness does not result....</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 4</li> <li>• <a href="#">Fighting statelessness and discriminatory nationality law in Europe</a>, Laura van Waas, 2012</li> <li>• <a href="#">Convention on the Elimination of all Forms of Discrimination Against Women, General recommendation No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women</a>, November 2014</li> </ul>		
PRS	3	c		Can children of a parent who is a national, born outside the country, access nationality by descent ( <i>ius sanguinis</i> ) if they would otherwise be stateless? Are there any conditions? Could these conditions be regarded as discriminatory?	As above	Yes, and there are conditions.	British Nationality Act 1981, Section 36 & Schedule 2, Section 4: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>
PRS	4	a	Access to birth registration	Does the law provide that all children are registered immediately upon birth? Can chil-	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.</li> </ul>	Yes. Births must be reported to the birth registrar within <b>42 days in England, Wales and Northern Ireland</b> , and within <b>21 days in Scotland</b> . Births can (and must) be registered if parents are not legally resident or are undocumented.	<p>Births and Deaths Registration Act 1953, Sections 1 &amp; 2: <a href="http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20">http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20</a> (England &amp; Wales)</p> <p>Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II:</p>

			<p>dren be registered if parents are undocumented and/or not legally residing in the country (by law)?</p>	<ul style="list-style-type: none"> <li>• <a href="#">International Covenant on Civil and Political Rights 1966: Art 24(2)</a></li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a>: register the birth of all children born on their territory, even if they are born to a foreign parent with an irregular immigration status or if the parents are unknown, in order to safeguard their right to a nationality. The registration of birth should be free of charge and be performed without delay, even if the period within which the birth should have been declared has already expired.</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: ... registration of the birth provides proof of descent and of place of birth and therefore underpins implementation of the 1961 Convention and related human rights norms. Article 7 of the CRC specifically requires the registration of the birth of all children and applies irrespective of the nationality, statelessness or residence status of the parents.</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7 Ensure birth registration for the prevention of statelessness.</li> <li>• <a href="#">UN Sustainable Development Goal 16</a>: By 2030, provide legal identity for all, including birth registration.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child, and underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of his or her immigration status and that of his or her parents or family members, which can contribute to reducing</li> </ul>		<p><a href="http://www.legislation.gov.uk/ukpga/1965/49/section/14">http://www.legislation.gov.uk/ukpga/1965/49/section/14</a></p> <p>Births and Deaths Registration (Northern Ireland) Order 1976, para. 10: <a href="http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03">http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03</a></p> <p>UK Government Home Office, Register a Birth: <a href="https://www.gov.uk/register-birth/overview">https://www.gov.uk/register-birth/overview</a> (England, Wales and Northern Ireland)</p>
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					statelessness, as well as reducing vulnerability to trafficking in persons and other abuses and violations of their human rights.		
PRS	4	b		Are there credible reports that suggest that children are prevented from registering <i>in practice</i> because of lack of documentation and/or parents' legal residence?	<ul style="list-style-type: none"> <li>• <a href="#">Convention on the Rights of the Child 1989</a>: Art 7(1)</li> <li>• <a href="#">International Covenant on Civil and Political Rights 1966</a>: Art 24(2)</li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a>: as above.</li> <li>• <a href="#">UNHCR Guidelines on Statelessness #4 2012</a>: as above.</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7</li> <li>• <a href="#">UN Sustainable Development Goal 16</a></li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above</li> </ul>	Not of which we are aware.	
PRS	4	c		Are there mandatory reporting requirements for authorities which would deter undocumented parents coming forward to register their children (e.g. medical authorities required to report undocumented migrants)?	<ul style="list-style-type: none"> <li>• <a href="#">UNICEF, Access to Civil, Economic and Social Rights for Children in the Context of Irregular Migration, 2012</a>: While there is generally a separation between civil registries and immigration enforcement, undocumented parents may also fear detection, particularly in countries where civil servants have a duty to report undocumented migrants...</li> <li>• <a href="#">PICUM, Rights of Accompanied Children in an Irregular Situation, 2011</a>: Certain barriers that prevent access to basic rights for children in an irregular migration situation arise across the registry, health, education and housing sectors. National legislation is often below the standards set out in human rights law, inexplicit or contradicted by other rules and practices, such as the duty to denounce or administrative requirements.</li> </ul>	Health services (NHS) are required to report certain immigration matters to the immigration authorities and some undocumented migrants are subject to charging for healthcare, which may deter them from accessing services and thus prevent birth registration.	Department of Health for England, Information sharing with the Home Office: Guidance for overseas patients, August 2014: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/346907/Appendix_4.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/346907/Appendix_4.pdf</a>

PRS	5	a	Late Birth Registration	<p>Is there a statutory deadline before which birth registration should be completed? If yes, what is it? Is late birth registration possible by law?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Low levels of birth registration can be difficult to correct subsequently because procedures for late birth registration have not been established or are lengthy, costly and complex and therefore inaccessible to undocumented populations... States also need procedures for late and delayed birth registration and may consider undertaking campaigns to register older children and adults. Birth registration needs to be free, accessible and undertaken on a non-discriminatory basis.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a>: as above.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: One of the ways in which states have sought to deal with an intergenerational lack of documentation is by simplifying the procedures for the late registration of births, making it easier for adults who do not have a birth certificate to acquire one, which can subsequently be used to register their own children's births...</li> </ul>	<p>The statutory deadline is within <b>42 days in England, Wales and Northern Ireland</b>, and within <b>21 days in Scotland</b>. Late registration is possible: different rules apply for registration between 3-12 months after birth and after 12 months. The authority of the Registrar General is required to register a birth more than a year from the event. In England and Wales, in cases of registration of the birth after three months, the registrar has enhanced powers to require attendance in person.</p>	<p>Births and Deaths Registration Act 1953, Sections 2 &amp; 6: <a href="http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20">http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20</a> (England &amp; Wales)</p> <p>Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II, Section 17: <a href="http://www.legislation.gov.uk/ukpga/1965/49">http://www.legislation.gov.uk/ukpga/1965/49</a></p> <p>Births and Deaths Registration (Northern Ireland) Order 1976, Part III: <a href="http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03">http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03</a></p> <p>UK Government information, Birth Certificates: <a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118596/birth-certificates-policy.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118596/birth-certificates-policy.pdf</a></p>
PRS	5	b		<p>Is late birth registration possible in practice?</p>	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: as above.</li> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</li> <li>• <a href="#">Council of Europe, Recommendation CM/Rec (2009) 13 of the Committee of Ministers to member states on the nationality of children</a>: as above.</li> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: as above.</li> </ul>	<p>Yes, and in general there is some flexibility.</p>	



PRS	5	c		Are there any additional requirements (e.g. fee) for the late birth registration procedure? Are these problematic or do they cause lengthy delays?	<ul style="list-style-type: none"> <li>• <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: as above.</li> </ul>	Late registration is possible in law and practice in all jurisdictions although it is discretionary after a year. There are no additional requirements, but there is provision in law for failure to register a birth to incur a fine (no more than £200).	<p>Births and Deaths Registration Act 1953, Sections 2 &amp; 6: <a href="http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20">http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20</a> (England &amp; Wales)</p> <p>Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II, Section 17: <a href="http://www.legislation.gov.uk/ukpga/1965/49">http://www.legislation.gov.uk/ukpga/1965/49</a></p> <p>Births and Deaths Registration (Northern Ireland) Order 1976, Part III: <a href="http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03">http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03</a></p>
PRS	6	a	Awareness of birth registration	Does the government have programs in place to promote birth registration? If yes, please provide details.	<ul style="list-style-type: none"> <li>• <a href="#">ENS (2015), No Child Should Be Stateless</a>: as above.</li> <li>• <a href="#">UNHCR Global Action Plan to End Statelessness 2014-24</a>: Action 7</li> <li>• <a href="#">Council of Europe, 3rd European Conference on Nationality, 11-12 October 2004</a>: Taken together Art 7 &amp; 8 ECHR should be understood to encourage States Parties not only to take positive steps to avoid statelessness – including the promotion of birth registration – but also to grant citizenship to children who would otherwise be stateless and to foresee effective remedies for the child to challenge a decision (or lack of decision) by the state in this regard.</li> </ul>	Not that we are aware of, though midwives and health visitors promote birth registration in all jurisdictions and public information is available online.	<p>UK Government website, Register a birth: <a href="https://www.gov.uk/register-birth/overview">https://www.gov.uk/register-birth/overview</a></p> <p>Scottish Government, mygov.scot: <a href="https://www.mygov.scot/register-a-birth/how-to-register-a-birth/">https://www.mygov.scot/register-a-birth/how-to-register-a-birth/</a></p> <p>nidirect government services, Registering and naming your baby: <a href="https://www.nidirect.gov.uk/articles/registering-and-naming-your-baby">https://www.nidirect.gov.uk/articles/registering-and-naming-your-baby</a></p>
PRS	6	b		Are there sections of the population believed to be unregistered? Please provide details and source of information.		Not that we are aware of. But those who are required to pay charges for hospital treatment or who fear detection by approaching the NHS may not have the information from doctors and midwives that would otherwise lead them to register their children's births.	Maternity Action, Information sharing between the Home Office and the NHS, July 2017: <a href="https://www.maternityaction.org.uk/advice-2/maternitycareaccess/a-guide-to-information-that-can-be-shared-between-the-home-office-and-the-nhs-when-a-woman-accesses-nhs-maternity-care/">https://www.maternityaction.org.uk/advice-2/maternitycareaccess/a-guide-to-information-that-can-be-shared-between-the-home-office-and-the-nhs-when-a-woman-accesses-nhs-maternity-care/</a>

## Jurisprudence and Training

Cat	Q	Sub	Subtheme	Question	International Norms/Good Practice	Answer	Source
LIT	1	a	Published Judgements	Number of published judgements adjudicating statelessness (broken down by level of jurisdiction). Please list.		There are two judicial review (administrative court) judgments relating to the SDP and many more judgments relating to statelessness in the context of asylum, asylum support, unlawful detention, and deprivation of British citizenship.	<p>R (on the application of Semeda) v Secretary of State for the Home Department (statelessness; Pham [2015] UKSC 19 applied) (IJR) (21 October 2015)[2015] UKUT 658 Reported: <a href="https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658">https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658</a> (SDP)</p> <p>R (JM) v SSHD (Statelessness: Part 14 of HC 395) IJR [2015] UKUT 00676 (IAC) (22 September 2015) Reported: <a href="https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-676">https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-676</a> (SDP)</p>
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction).		There are many cases mentioning statelessness or relevant to statelessness, mainly in the context of refugee status determination context. A partial list is available in Woodhouse and Carter 2016. A list of caselaw relating to statelessness and detention is provided in ENS 2016, and Fripp 2016 contains a table of cases. There are also decisions of the Asylum Support Appeals Tribunal that mention statelessness.	<p>Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Appendix 2: <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a></p> <p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, pp. 42-43: <a href="https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf">https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf</a></p> <p>Eric Fripp, 2016, Nationality and Statelessness in the International Law of Refugee Status, Hart Publishing (UK cases listed at xxxiv-xxxvii)</p> <p>UK Government, Asylum Support Appeals Tribunal Decisions: <a href="https://www.gov.uk/asylum-support-tribunal-decisions">https://www.gov.uk/asylum-support-tribunal-decisions</a></p> <p><i>MK v SSHD</i> [2017] EWHC 1365 (Admin): <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html">http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html</a> (British citizenship; stateless child)</p> <p>R (on the application of Al-Anizy) v Secretary of State for the Home Department (undocumented Bidoons – Home</p>

							Office policy) [2017] UKUT 00197 (IAC): <a href="https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-197">https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-197</a> (family reunion of stateless refugees)
LIT	2	a	Legal training	Is there judicial training on statelessness? If yes, please provide details (e.g. provider, frequency).	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (Good Practices Paper 6)</a>: officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels.</li> <li>• <a href="#">UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010</a>: It is recommended that States provide specialized training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.</li> </ul>	It is unclear whether there is judicial training on statelessness. Some Upper Tribunal judges may have received training on statelessness – they get training on ‘topical’ issues. We are not certain whether judges at the Administrative Court receive training on statelessness.	
LIT	2	b		Is there training for lawyers on statelessness? If yes, please describe.	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR Expert Meeting, Statelessness Determination Procedures and the Status of Stateless Persons 2010</a>: as above</li> </ul>	Yes. Asylum Aid, Equal Rights Trust, and Garden Court Chambers and the Immigration Law Practitioners’ Association provided training for lawyers on the SDP when it was introduced in 2013. Subsequently, Asylum Aid/Migrants Resource Centre has run a series of training sessions on statelessness for lawyers in 2016-17, in collaboration with the Immigration Law Practitioners’ Association and Liverpool Law Clinic.	
LIT	3	a	Pro Bono	Are there specialised lawyers, law firms or	<ul style="list-style-type: none"> <li>• <a href="#">UNHCR (2014), Handbook on Protection of Stateless</a></li> </ul>	Yes. Asylum Aid/Migrants Resource Centre and Liverpool Law Clinic	Asylum Aid: <a href="https://www.asylumaid.org.uk/statelessness/">https://www.asylumaid.org.uk/statelessness/</a>

				<p>organisations providing free advice to stateless persons or those at risk of statelessness? If yes, please describe.</p>	<p><u>Persons</u>: Applicants are to have access to legal counsel.</p> <ul style="list-style-type: none"> <li>• <u>UNHCR (Good Practices Paper 6)</u>: Provides the example of Liverpool Law Clinic providing legal assistance to stateless clients in the UK.</li> </ul>	<p>have dedicated projects to provide free legal advice for statelessness applications. The Project for the Registration of Children as British Citizens also has a dedicated project to assist children who have a right to British citizenship, some of whom may be otherwise stateless. Other organisations provide free legal advice for statelessness applications on an ad hoc basis.</p>	<p>Liverpool Law Clinic: <a href="https://www.liverpool.ac.uk/law/liverpool-law-clinic/immigration-and-asylum/">https://www.liverpool.ac.uk/law/liverpool-law-clinic/immigration-and-asylum/</a></p>
LIT	4	a	Literature	<p>Is there domestic legal academic literature on statelessness?</p> <p>If possible, please provide number of scholarly articles/references/bodies and hyperlinks etc.</p>		<p>Yes. Some examples are listed.</p>	<ul style="list-style-type: none"> <li>• L Fransman British Nationality Law, 3rd edn, Bloomsbury Professional, West Sussex, 2011</li> <li>• E Fripp Nationality and Statelessness in the International Law of Refugee Status, Hart, Oxford, 2016</li> <li>• G Goodwin-Gill Deprivation of Citizenship resulting in Statelessness and its Implications in International Law, 5 May 2014: <a href="http://www.ilpa.org.uk/re-sources.php/26116/ilpabriefing-for-the-immigration-bill-house-of-lords-report-7-april-2014-deprivation-of-citizenship">http://www.ilpa.org.uk/re-sources.php/26116/ilpabriefing-for-the-immigration-bill-house-of-lords-report-7-april-2014-deprivation-of-citizenship</a></li> <li>• A Harvey 'The de facto statelessness debate', Journal of Immigration, Asylum and Nationality Law (2010) 24(3), 257</li> <li>• A Harvey 'The UK's new statelessness determination procedure in context', Journal of Immigration, Asylum and Nationality Law, (2013) 27(4), 294-314</li> <li>• A. Harvey 'Recent Developments on Deprivation of Nationality on Grounds of National Security and Terrorism resulting in Statelessness', Journal of Immigration, Asylum and Nationality Law (2014) 28(4), 339-341</li> <li>• Foster, M. and Lambert, H. 2016. Statelessness as a Human Rights Issue: A Concept Whose Time Has Come? International Journal of Refugee Law Special Issue 2016, 28 (4), pp. 564-584</li> <li>• Lambert, H. 2016. The Link between Statelessness and Refugee Status. International Affairs Forum, 1(1), pp. 25-27: <a href="http://westminsterresearch.wmin.ac.uk/17404/">http://westminsterresearch.wmin.ac.uk/17404/</a></li> </ul>

							<ul style="list-style-type: none"> <li>• K Bianchini, The implementation of the Convention relating to the status of stateless persons: procedures and practice in selected EU States, PhD thesis, University of York, 2015: <a href="http://etheses.whiterose.ac.uk/11243/">http://etheses.whiterose.ac.uk/11243/</a></li> <li>• Forced Migration Review, University of Oxford Refugee Studies Centre: <a href="http://www.fmreview.org/thematic-listings">www.fmreview.org/thematic-listings</a></li> </ul>
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