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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?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>	Yes.	UN Treaty Collection: <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en">https://treaties.un.org/pages/ViewDetails.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?		On 16 April 1959	UN Treaty Collection: <a href="https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec">https://treaties.un.org/pages/ViewDetails.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.	Best practice is no reservations. If there are, they should have little or no impact on the rights of stateless people.	Yes, the UK currently has 5 reservations: Article 38 (reservations), Articles 8 and 9 (exceptions for national security); Article 24 (Labour legislation and social security), and Article 25 (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/ViewDetails.aspx?src=TREATY&amp;mtdsg_no=V-3&amp;chapter=5&amp;Temp=mtdsg2&amp;clang=en#EndDec">https://treaties.un.org/pages/ViewDetails.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?	Best practice is that the Convention has direct effect, though this may depend on the legal regime.	No. Under the UK's legal regime, treaties do not have direct effect. For the provisions included in the treaty to have effect, they must be incorporated into domestic legislation (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	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>

						British nationality applications and no exemptions or reductions.	
IOB	2	a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a>	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?		29/03/1966	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	Yes, in accordance with Article 8(3)(a) relating to deprivation of nationality resulting in statelessness: “[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 deprive a naturalised person of his nationality 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 seriously prejudicial to the vital interests of Her Britannic Majesty.” See PRS 8 for more details on deprivation of nationality.	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	No. 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.	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	3	a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	<a href="#">European Convention on Nationality, 1997</a>	No.	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? Please list any relevant reservations.	<a href="#">European Convention on Human Rights, 1950</a>	Yes. There are no reservations but there are declarations relating to the UK and to the Overseas Territories and to the Crown Dependencies, although some of these have been withdrawn. Articles 2-12 & 14, Arts 1-3 Prot 1 & Art 1 Prot 13, read with Arts 16-18 of the Convention are incorporated in UK law by way of section 1(2) of the Human Rights Act, 1998.	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? Please list any reservations.	<a href="#">Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006</a>	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>

## International and Regional Instruments – 2019

IOB	3	d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive). Please list any relevant reservations.	<a href="#">Directive 2008/115/EC of the European Parliament and of the Council (EU Returns Directive)</a>	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? Please list any relevant reservations.	<a href="#">Convention on the Rights of the Child 1989</a>	Yes, the UK signed on 19 April 1990 and ratified on 16 December 1991. It made reservations regarding the definition of a child and parent; it allows the detention of adults and children together where 'mutually beneficial'.	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? Please list any relevant reservations.	<a href="#">International Covenant on Civil and Political Rights 1966</a>	Yes, the UK is a state party and has reservations 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? Please list	<a href="#">International Covenant on Economic, Social and Cultural Rights 1966</a>	Yes, the UK is a state party and has reservations to the Covenant.	UN OHCHR Status of Ratification Dashboard: <a href="http://indicators.ohchr.org/">http://indicators.ohchr.org/</a>

				any relevant reservations.			
IOB	3	h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	<a href="#">Convention on the Elimination of all Forms of Discrimination Against Women 1979</a> Gen. Rec. 32 <a href="#">on the gender-related dimensions of refugee status, asylum, nationality and statelessness.</a>	Yes, the UK is a state party and has reservations 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? Please list any relevant reservations.	<a href="#">Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984</a>	Yes, the UK is a state party and has reservations 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 1966? Please list any relevant reservations.	<a href="#">International Convention on the Elimination of All Forms of Racial Discrimination 1965</a>	Yes, the UK is a state party and has reservations 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 – 2019

IOB	3	k		<p>State Party to the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990? Please list any relevant reservations.</p>	<a href="https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&amp;lang=en&amp;mtdsg_no=IV-13&amp;src=IND">International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families 1990</a>	No.	<p>UN Treaty Collection:  <a href="https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&amp;lang=en&amp;mtdsg_no=IV-13&amp;src=IND">https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&amp;lang=en&amp;mtdsg_no=IV-13&amp;src=IND</a> </p>
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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 Government have a 'stateless' category in its data collection systems (e.g. census)? Please list available figures for the total stateless population on the territory and describe how data is disaggregated (e.g. by sex, age, residence).	<p><a href="#">Gen. Rec. 32, CEDAW</a>: States parties should gather, analyse and make available sex-disaggregated statistical data and trends.</p> <p><a href="#">Council of the European Union (2015)</a>: Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on stateless persons as well as the procedures for determining statelessness.</p> <p><a href="#">UNHCR (2014)</a>: Improve quantitative and qualitative data on stateless populations.</p> <p><a href="#">Institute on Statelessness and Inclusion (2014)</a>: States should strengthen measures to count stateless persons on their territory.</p>	<p>No. UK population data does not include a statelessness category. 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). The next census is due in 2021. The UK Government Home Office (UK Visas and Immigration) has a category in its databases for recording people as stateless, but the data is unreliable: there are different categories under which individuals who are stateless or likely to be stateless could fall. One of these categories 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/populationand">https://www.ons.gov.uk/peoplepopulationandcommunity/populationand</a></p>

# Statelessness Population Data – 2019

							<a href="https://www.gov.uk/government/publications/user-guide-to-home-office-immigration-statistics--9">migration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality</a>  Home Office User Guide to Immigration Statistics: <a href="https://www.gov.uk/government/publications/user-guide-to-home-office-immigration-statistics--9">https://www.gov.uk/government/publications/user-guide-to-home-office-immigration-statistics--9</a>  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	b		Do government authorities define data categories that may overlap (e.g. unknown nationality) or where stateless people might be more highly represented (e.g. Palestinian)? Please explain and provide any available figures.	As above	UK Visas and Immigration has a category of 'unknown nationality' on its databases, and uses other categories where stateless people may be more highly represented including 'Palestinian Occupied Territories' and 'Western Sahara'. See also POP1i&g.	Home Office, National Statistics, How many people do we grant asylum or protection to? (23 Aug 2018), 8. Data Tables, Asylum Tables Volume 1: <a href="https://www.gov.uk/government/publications/immigration-statistics-year-ending-september-2019/how-many-people-do-we-grant-asylum-or-protection-to">https://www.gov.uk/government/publications/immigration-statistics-year-ending-september-2019/how-many-people-do-we-grant-asylum-or-protection-to</a>  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	c		What is UNHCR's estimate for the stateless/at risk of statelessness population and	As above	UNHCR population statistics for 2018 provide the figure of 125 stateless people who have had their status formally determined in the UK. Figures are also available for those listed as stateless who	UNHCR, Population Statistics: <a href="http://popstats.unhcr.org/en/overview">http://popstats.unhcr.org/en/overview</a>  There is both an excel document under 'Midyear statistics' and a

## Statelessness Population Data – 2019

				what is the source for this estimate?		are asylum seekers; those in a refugee-like situation who are listed as stateless; total population of concern. The number 'under UNHCR's mandate' relates only to those granted statelessness leave (see Statelessness Determination and Status). The asylum and refugee statistics include people who are very unlikely to have had their statelessness formally determined.	searchable database under 'Persons of Concern'. They do not contain the same figures.
POP	1	d		Have there been any surveys or mapping studies to estimate the stateless population in the country?	As above	Yes, but accurate estimates of the stateless population were difficult, and the mapping report is now eight 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>
POP	1	e		Are there any other sources of estimates for the stateless population not covered by the above? Please list sources and figures.	As above	Yes. More detailed figures relating to the statelessness determination procedure (grants, refusals, pending decisions) and applications for British nationality were acquired from the UK Home Office in 2018-20 through Freedom of Information Requests by Citizens UK, European Network on Statelessness, Liverpool Law Clinic and Scottish Refugee Council. The figures provided include that 863 stateless children registered for British nationality between 1 January to 30 September 2018; and 5,138 applications were made under the statelessness immigration rules between 1 April 2013 and 30 June 2019 with a total of 174 grants of statelessness leave being made in this same period.	Responses by UK Government Home Office to Freedom of Information request submitted by Citizens UK on 13 February 2019, by European Network on Statelessness on 11 September 2019, by Scottish Refugee Council on 2 December 2019, and a follow up request submitted by Liverpool Law Clinic on 17 May 2018.
POP	1	f		Are there issues with the reliability of data or	As above	Yes. It is difficult to accurately quantify the number of stateless persons because some are not recognised as stateless or	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011:

# Statelessness Population Data – 2019

				indications that the stateless population may be over/under reported? If yes, please describe.		counted. The stateless population is under-reported (as per POP1g). The evidence is the number of people recognised as stateless who have been present in the UK for many years (often 10 or more).	<a href="http://www.refworld.org/docid/4ecb6a192.html">http://www.refworld.org/docid/4ecb6a192.html</a> As above.
POP	1	g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the Govt also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above	UK Government data shows the numbers of stateless people who applied for asylum, were granted refugee status, or humanitarian protection. 'Humanitarian protection' in the UK 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. The data shows that 357 stateless people applied for asylum and 116 stateless people were granted asylum in 2018. Those whose nationality is listed as other/unknown may or may not be stateless, but it is likely that at least some are. Those whose nationality is listed as 'Occupied Palestinian Territories' or 'Western Sahara' are likely to be stateless. Numbers of main applicants claiming asylum whose nationality is recorded as 'Occupied Palestinian Territories' show 202 in 2018 and 48 grants of protection (which do not necessarily relate to recent arrivals); 17 applications were made by people recorded as 'other/unknown' in 2018; and 3 applicants were recorded as 'Western Sahara'. In the year to December 2018, 352 stateless people applied for asylum (of which 104 were granted	UK Government statistics are available here: <a href="https://www.gov.uk/government/statistics">https://www.gov.uk/government/statistics</a> Enter 'immigration' as the search term to find the latest and historical data.

# Statelessness Population Data – 2019

						<p>refugee status; 64 refused, 28 withdrawn; 3 Western Sahara; 3 enforced returns, and outcome still unknown – 172). 11 people whose nationality is listed as ‘other/unknown’ applied for asylum (of which 1 was granted, 1 refused, 2 withdrawn and 7 had an unknown outcome). There had been 186 asylum applications from persons whose nationality is recorded as ‘Occupied Palestinian Territories’ (of which 25 were granted, 105 unknown and 10 were withdrawn). The 2019 annual figures for the number of stateless etc. applicants is not available. The number of grants to stateless asylum seekers in the year to December 2019 is 329 of 560 ‘cases’: 117 were refused, 92 withdrawn and 22 received other grants including resettlement. Kuwait: 104 granted, 40 refused, 2 withdrawn. W Sahara: 1 grant, 2 refusals, 1 withdrawn. Other/unknown: 3 grant, 1 refusal, 8 withdrawn.</p>	
POP	2	a	Stateless in detention data	<p>Does the Government record and publish figures on stateless people held in immigration detention? If yes, please provide.</p>	<p>As above and see also norms in Detention section.</p>	<p>UK Government statistics for the year to December 2019 show that 65 stateless people entered detention. In addition, 34 people recorded as ‘Kuwait’; 28 as ‘Occupied Palestinian Territories’; and 19 ‘other/unknown’. Figures do not include persons to whom the UK Government has attributed a nationality (other than those listed) who may be stateless. Persons from Kuwait who are detained may or may not be stateless; but as Kuwaiti bidoon are among the main groups of</p>	<p>UK Government statistics are available here: <a href="https://www.gov.uk/government/statistics">https://www.gov.uk/government/statistics</a> Enter ‘immigration’ as the search term to find the latest and historical data. For these figures, see ‘Detention Data Tables...’ and ‘People entering detention by nationality...’</p> <p>ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in</p>

# Statelessness Population Data – 2019

						<p>stateless persons in the UK, it is worth considering whether detainees from Kuwait are stateless. Figures for those in detention in those categories are available on a per quarter basis, but they should not be cumulative. They are much lower than the figures for entering/leaving detention, which implies that there is not a large population being held continuously.</p>	<p>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		Does the Government record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	<p>Yes. UK Government statistics are available for people leaving detention by being given bail (conditional release into the UK) in the year to December 2019 (totals leaving detention in brackets): Stateless: 58 (of 66); W Sahara: 1 (of 1); Kuwait: 27 (of 33); Occupied Palestinian Territories: 24 (of 27); Other/unknown: 10 (of 14). Looking at the figures for how long those who left detention spent in detention, the majority is a matter of days, and all are less than 4 months except 4 'other/unknown' detained for 6-12 months before obtaining bail from detention. Those 'returned' on leaving detention were: stateless, 8; W Sahara, 0; Kuwait, 6; Occupied Palestinian Territories, 3; Other/unknown, 4. It can be concluded that the great majority of those stateless or possibly stateless are pointlessly detained, simply to be released again in a few days or weeks.</p>	<p>UK Government statistics are available here:  <a href="https://www.gov.uk/government/statistics">https://www.gov.uk/government/statistics</a> Enter 'immigration' as the search term to find the latest and historical data. For these figures, see 'Detention Data Tables': 'People leaving detention by reason, sex and length of detention' and 'People leaving detention by country of nationality, reason, sex and age'.</p> <p>Detention Action, 2014, The State of Detention: immigration detention in the UK in 2014, p.6:  <a href="https://detentionaction.org.uk/publications/">https://detentionaction.org.uk/publications/</a></p>

## Statelessness Determination and Status

Cat	Q	Sub	Subtheme	Question	International Norms & Good Practice	Answer	Source
SDS	1	a	Definition of a stateless person	Is there a definition of a stateless person in national law? Do the definition and exclusion provisions align with the 1954 Convention? Please provide details.	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Articles 1(1) & 1(2).	The definition of a stateless person in the UK Immigration Rules is the same as Art 1(1) of the 1954 Convention. 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). Art 1(2) of the Convention states that the Convention will not apply to those who fall within the exclusions. Para 402 contains the UK's version of the exclusion clauses. Unlike in the Convention (Art 1(2)(iii)), para 402 applies the 'serious reasons' standard of proof to all the exclusions, not just the fault-based ones. 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'. Even if someone 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 a person is stateless by	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>  'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: <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 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>  UN Convention and Protocol on the Status of Refugees, Art 1E.  Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27 <sup>th</sup> Session of the Universal Periodic Review, Sept 2016,



						<p>definition is inconsistent with international law. Para 403 of the UK Rules imposes 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. The update to paragraph 403 of the Rules on 5 April 2019 incorporates further barriers before a residence permit will be granted. Most problematically, the applicant is required to have 'sought and failed to obtain or re-establish their nationality with the appropriate authorities of the relevant country'. This change was made following a decision of the England and Wales Court of Appeal in the case of AS Guinea (referenced at LIT 1 a). Although the requirement is placed in the Rule setting out requirements for a grant of leave, inevitably the applicant will not be recognised as stateless either, until they have complied with the requirement. The requirement is also poorly worded.</p>	<p>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> <p>For an example of exactly how the new Rule has affected judicial determination of statelessness, see KK &amp; KSB v SSHD (unreported), <a href="https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019">https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019</a> (listed in case law in section LIT 1a).</p>
SDS	1	b	Existence of a dedicated SDP	<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><b>1. There is a dedicated</b></p>	<p><a href="#">UNHCR (2014)</a> : It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments.</p> <p><a href="#">UNHCR (2016)</a>: Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.</p>	<p>Group 1: There is a dedicated statelessness determination procedure established in Immigration Rules, which operate as law.</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, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:  <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>



				<p>statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure <b>(proceed to Question 2a).</b></p> <p><b>2.</b> There is no dedicated SDP but there are other administrative procedures through which statelessness can be identified (e.g. residence permit or naturalisation applications, refugee status determination, ad hoc procedures) <b>(proceed to Question 10a).</b></p> <p><b>3.</b> There is a dedicated Stateless Status but no formal procedure for determining this <b>(proceed to Question 16a).</b></p>			
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				4. None of the above. Are there other possibilities for stateless people to regularise their stay without their statelessness being determined (proceed to Question 17a)?			
SDS	2	a	Access to procedure	Is the examination of statelessness claims conducted by a dedicated, centralised body with relevant expertise? Please note the competent authority and evaluate appropriateness to national context.	<p><a href="#">UNHCR (2014)</a> : States may choose between a centralised procedure or one that is conducted by local authorities. Centralised procedures are preferable as they are more likely to develop the necessary expertise.</p> <p><a href="#">UNHCR (2016)</a>: It is important that examiners develop expertise while ensuring that the procedures are accessible.</p>	<p>The authority responsible for determining statelessness is the Home Office (UK Visas and Immigration). Statelessness applications are assessed by a centralised team (Statelessness Team) within the 'Status Review Unit' of the UK Visas and Immigration (UKVI) Agency, which is part of the Home Office. The Minister ultimately responsible for immigration decisions is the Secretary of State for the Home Department, hence litigants challenge refusal decisions of the 'SSHD'. 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. Caseworkers deciding other types of application or claim do not refer the statelessness aspect of it to the specialist team, but instead decide it themselves. In two cases the Liverpool Law Clinic is aware of, the Statelessness Team has agreed to reconsider a poor decision on statelessness made by the criminal cases</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, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:  <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27<sup>th</sup> 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>team. The decision is then passed back to the criminal cases team to determine whether or not deportation action will be continued. If not, the case may be returned to the Statelessness Team to consider a grant of leave. In these cases the Statelessness Team demanded that the person requesting revocation of the deportation order make a separate application for 'leave to remain' as a stateless person, even though no grant of leave to remain as a stateless person can be made while the deportation order is in place (para 322(1B) of the Immigration Rules). It is not clear whether the criminal cases team is able to operate such a system consistently in the future, particularly because most applicants are not represented as there is very limited legal aid available. The procedure to adopt in requests for revocation of deportation orders, on the grounds of statelessness, is not available publicly.</p>	
SDS	2	b		<p>Are there clear, accessible instructions on how to make a claim of statelessness?</p>	<p><a href="#">UNHCR (2014)</a>: For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.).</p> <p><a href="#">UNHCR (2016)</a>: Information on the procedure and counselling services must be available to potential applicants in a language they understand.</p>	<p>The online application form website page includes basic but incomplete information about how to apply, which is a mandatory English online form. Documents can be sent in support of the application after the online application has been submitted by the applicant. There is Guidance to the Rules. The Home Office 'guidance' is addressed to its decision makers, not to applicants. It is the only guidance which the Home Office directs applicants to read before applying. This is particularly</p>	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf</a></p> <p>There is some very simplistic advice at point of application: <a href="https://www.gov.uk/stay-in-uk-stateless">https://www.gov.uk/stay-in-uk-stateless</a></p>

						problematic because of the limited access to legal aid. Parts of the guidance assume that the applicant has a legal representative. The guidance is accessible to applicants at the point of application only. The reference wording is to 'FLR(S) guidance' which is an obsolete paper-based procedure. The Rules themselves are not linked or highlighted in the application procedure. The place on the UKVI website where the Rules are does not have a link to the Guidance interpreting them. Judith Carter has made numerous complaints about this issue with no response. The new Guidance was published on 30 Oct 2019, over 6 months after the substantive changes to the Immigration Rules were made (6 April 2019).	
SDS	2	c		Can submissions be made orally and/or in writing in any language?	<a href="#">ENS (2013)</a> : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.	No. The Immigration Rules require applicants to have made a 'valid application' i.e. through the online form and in English.	Application for leave to remain as a stateless person and a Biometric Immigration permit <a href="https://visas-immigration.service.gov.uk/product/flr-s">https://visas-immigration.service.gov.uk/product/flr-s</a>  Immigration Rules, Part 1, para 34 with Part 14: stateless persons, para. 403(a): <a href="https://visas-immigration.service.gov.uk/product/flr-s">https://visas-immigration.service.gov.uk/product/flr-s</a>
SDS	2	d		Must a specific application form be used? Please note any difficulties with forms or other	<a href="#">ENS (2013)</a> : Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.	Yes, there is a specific online application form (Form FLR(S)). The Home Office has regarded using an application form as mandatory since 18 February 2016 when it issued new guidance to this effect (inter	Application for leave to remain as a stateless person and a Biometric Immigration Document (FLR(S): <a href="https://visas-immigration.service.gov.uk/product/flr-s">https://visas-immigration.service.gov.uk/product/flr-s</a>

				inflexible documentation requirements.		<p>alia). It is provided only in English and must be completed in English. The form gives minimal guidance as to the relevant law. It does not gather information about UNRWA. The online application form is somewhat confusing, stating that a letter from an embassy confirming lack of nationality and ability to enter the relevant country is 'required' but allowing the application to be submitted without supplying those documents. Where an applicant completes the online form but does not submit the 'letter' the Statelessness Team will write out to request it, giving 10 days to reply. We do not know at present how applications from applicants who do not comply are treated. The requirement for this specific evidence is not in the Rules and therefore the application should not be refused or rejected on that point alone. The process does invite the applicant to refer to the guidance, but not to the Rules.</p>	<p><a href="https://immigration.service.gov.uk/product/fir-s">immigration.service.gov.uk/product/fir-s</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>
SDS	2	e		Are competent authorities authorised to initiate SDPs <i>ex officio</i> ?	<p><a href="#">UNHCR (2016)</a>: It is recommended that governmental authorities be authorised to initiate procedures <i>ex officio</i>.</p> <p><a href="#">UNHCR (2014)</a>: Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.</p>	<p>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). See the difficulty with criminal</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>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>cases and stateless applicants noted at SDS2a above.</p> <p>In January 2020, a legal representative told Liverpool Law Clinic about a case of Palestinian asylum seekers who the Home Office assessed as unable to enter any other country. They were refused any form of leave and were not referred to the statelessness leave procedure. Their appeal was refused. They then found a lawyer who could assist them with an application for statelessness leave - who consulted Liverpool Law Clinic about the case. This is an example of why ex officio referral to the statelessness procedure is an essential safeguard.</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>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p><a href="#">Liverpool Law Clinic casework practice</a></p>
SDS	2	f		Are there obligations in law on authorities to consider the application?	<a href="#">UNHCR (2016)</a> : Access to the SDP must be guaranteed.	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>
SDS	2	g		Is there an application fee?	<a href="#">UNHCR (2016)</a> : Access to the SDP must be guaranteed.	No.	Application for leave to remain as a stateless person and a Biometric Immigration Document: <a href="https://visas-immigration.service.gov.uk/product/fir-s">https://visas-immigration.service.gov.uk/product/fir-s</a>

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SDS	2	h		Is there a lawful stay requirement to access the SDP?	<a href="#">UNHCR (2016)</a> : Access to the procedure needs to be open to anyone regardless of lawful stay or residence. <a href="#">ENS (2013)</a> : There is no basis in the 1954 Convention for requiring lawful stay.	No. Presence in the UK is required.	Immigration Rules, Part 14: stateless persons, para 401(b): <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>
SDS	2	i		Is there a time limit on access to the SDP?	<a href="#">UNHCR (2016)</a> : Access to the SDP must be guaranteed and not subject to time limits. <a href="#">ENS (2013)</a> : There is no basis in the 1954 Convention to set time limits for individuals to claim stateless status.	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>
SDS	2	j		Is there training to inform different government bodies about statelessness and SDPs? If yes, please provide details (e.g. who provides training to whom/how often?)	<a href="#">UNHCR Executive Committee (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.	Statelessness decision-makers have received general immigration and asylum-related training. Statelessness training is generally provided 'on the job'. Some staff received training from UNHCR and Asylum Aid (now Consonant). Staff are currently seeking external training.	Discussed in meetings with Home Office attended by Asylum Aid and other civil society organisations, February and March 2017, June 2018, Feb 2019; October 2019 and personal communications to the author from Asylum Aid and UNHCR.
SDS	2	k		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	<a href="#">UNHCR (2016)</a> : Cooperation between actors working on statelessness and the various government agencies involved in determining statelessness is good practice.	There is no formal cooperation between agencies to our knowledge. Some NGOs refer cases. Unfortunately, even within UKVI there is very limited cooperation: for an example see at SDS2a, a three year battle to persuade the Statelessness Team to determine the status of two applicants subject to deportation proceedings.	



SDS	3	a	Assessment	Who has the burden of proof in the SDP in law and practice?	<p><a href="#">UNHCR (2014)</a>: The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts).</p> <p><a href="#">UNHCR (2016)</a>: SDPs must take into consideration the difficulties inherent in proving statelessness.</p> <p><a href="#">UNHCR Expert Meeting (2010)</a>: Individuals must cooperate to establish relevant facts. The burden should shift to the State if an individual can demonstrate they are not a national, on the basis of reasonably available evidence.</p> <p><a href="#">Hoti v. Croatia ECtHR (2018)</a>: State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.</p>	<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 “must assist the applicants by interviewing them to elicit further evidence, undertaking relevant research and, if necessary, making enquiries directly with the relevant authorities and organisations”. For child applicants, the guidance states that decision-makers are required to “assist in the determination of statelessness by making enquiries which the child is not in a position to undertake”. In practice, the Home Office does not always comply with this guidance and in some cases fails to make any or adequate enquiries even were the applicant has provided as much information as reasonably possible.</p>	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:  <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>
SDS	3	b		What is the standard of proof? Is it the same as in refugee status determination procedures?	<p><a href="#">UNHCR (2014)</a>: States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree').</p> <p><a href="#">Inter-Parliamentary Union (2018)</a> The standard of proof should be in keeping with the humanitarian objectives of statelessness status determination and the inherent difficulties of proving statelessness in the likely absence of documentary evidence.</p> <p><a href="#">Hoti v. Croatia ECtHR (2018)</a>: If statelessness is a relevant factor in the context of access to human rights,</p>	<p>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: “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</p>	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:  <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.5:  <a href="http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-">http://www.ilpa.org.uk/resource/32620/statelessness-and-applications-</a></p>



					the standard of proof when determining the status of statelessness cannot be too high.	the issue may be the threat to life, liberty and person.”	<a href="#">for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judi</a>  Home Office guidance upheld in the Court of Appeal: AS (Guinea) v SSHD [2018] EWCA Civ 2234: <a href="http://www.bailii.org/ew/cases/EWCA/Civ/2018/2234.html">http://www.bailii.org/ew/cases/EWCA/Civ/2018/2234.html</a>
SDS	3	c		What measures are in place to guarantee substantive equality for women, children and other groups (e.g. disabled people, older people, LGBTQI people, etc.) at risk of discrimination in the SDP?	<a href="#">UNHCR (2014)</a> : Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of the best interests of the child. <a href="#">Gen. Rec. 32, 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.	Yes, special considerations apply for children (see above IDP2f, IDP3a). Additionally, guidance states that: “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.” Regarding modern slavery, the 2019 guidance acknowledges UNHCR research linking statelessness and the likelihood of being trafficked. Caseworkers are instructed in the guidance: ‘You should be aware of the nexus between modern slavery and statelessness, to ensure that you take the necessary action in cases where you identify an applicant who you believe may have experienced modern slavery.’ However, practitioners have questioned whether this guidance is followed in practice.	‘UK Visas and Immigration, ‘Stateless Leave’ v 3.0 published 30 Oct 2019, pages 6 (children); 7 (trafficking victims) and 16 (women and ethnic minorities), at: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a>
SDS	3	d		Is there clear guidance for decision makers on how to determine	<a href="#">ENS (2013)</a> : Determining authorities can benefit from concrete guidance that sets clear benchmarks and	The Home Office guidance to the procedure is directed at the decision-makers, not the applicants. It is not clear nor comprehensive. There are some	‘UK Visas and Immigration, ‘Stateless Leave’ v 3.0 published 30 Oct 2019, at:

				statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	pathways for the establishment of material facts and circumstances.	improvements and some regression in the 2019 guidance as compared to the 2016 guidance. It allows great leeway in the timing of the decision see p21 'Response to enquiries from overseas governments'; UKVI may consider some asylum and statelessness applications in parallel. See article referenced in sources for a full analysis.	<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: <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>  Briefing: the new Home Office policy on statelessness, 2.12.2019, by Cynthia Orchard of Consonant: <a href="https://www.freemovement.org.uk/statelessness-guidance-2019/">https://www.freemovement.org.uk/statelessness-guidance-2019/</a>
SDS	4	a	Procedural safeguards	Is free legal aid available during the procedure?	<a href="#">UNHCR (2014)</a> : Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. <a href="#">ENS (2013)</a> : If state funded legal aid is available, it should be provided to stateless claimants. If there is no state funded legal aid but asylum claimants can access free legal aid free of charge, the same level of access should be provided to stateless people.	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 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. All initiatives to request a change of policy to guarantee access to legal aid in all jurisdictions of the UK have	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 & Wales)  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>  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>

						been firmly refused by the UK Government.	<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>
SDS	4	b		Is an interview always offered (unless granting without interview)?	<a href="#">UNHCR (2014)</a> : The right to an individual interview [is] essential.	The guidance states that, “an interview may be required if you believe that the stateless leave application is lacking information needed to make an informed decision, which cannot be obtained through other means, for example, writing to or arranging a telephone call with the applicant’s legal representatives”. The requirement to interview has been watered down in successive guidance, to this, the weakest position yet. In the experience of legal representatives, face to face interviews have a strong chance of persuading the decision-maker to recognise a person as stateless, particularly in cases where the Home Office or judges have made credibility findings against the applicant.	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 12, at:  <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>Liverpool Law Clinic has noted several refusals of statelessness leave in 2018 where an interview with the applicant could have satisfactorily addressed any evidential difficulties.</p>

## Statelessness Determination and Status – 2019

SDS	4	c		Is free interpreting offered for statelessness determination interviews?	<a href="#">UNHCR (2014)</a> : The right to assistance with interpretation/translation [is] essential. <a href="#">ENS (2013)</a> : Assistance should be available for translation and interpretation.	Yes, interpreters are provided free of charge.	
SDS	4	d		Are there quality assurance audits of the SDP?	<a href="#">UNHCR (2016)</a> : Quality assurance audits of SDPs are considered good practice.	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. Managers do not routinely examine decisions. At the time of writing, UNHCR was yet to publish the audit carried out in early 2018.	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>  Communication with UNHCR Representation in London.
SDS	4	e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	<a href="#">UNHCR (2014)</a> : States are encouraged to guarantee access to UNHCR as a safeguard in the procedure.	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. At the time of writing, UNHCR was yet to publish the audit carried out in early 2018.	Communication with UNHCR Representation in London.

SDS	4	f		Are decisions (refusals and grants) given in writing with reasons?	<a href="#">UNHCR (2014)</a> : States are encouraged to incorporate the safeguard that decisions are made in writing with reasons.	Written reasons are provided for refusals but not for grants.	Experience from legal casework, including of University of Liverpool Law Clinic and Migrants Resource Centre.  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>
SDS	4	g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	<a href="#">UNHCR (2014)</a> : It is undesirable for a first instance decision to be issued more than six months from submission of an application. In exceptional circumstances it may be appropriate to allow the proceedings to last up to 12 months.	No. If the first decision is a refusal, and a request for Administrative Review of the decision is upheld, Liverpool Law Clinic clients have suffered further delays of well over 3 months to re-make the decision.	Liverpool Law Clinic clients have waited for decisions for between three months and three years. A request for a speedy decision for a client in 2017 (evidencing serious mental health problems), resulted in a (refusal) decision being made after 18 months.

SDS	4	h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	<p><a href="#">UNHCR (2016)</a>: Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants.</p> <p><a href="#">ENS (2013)</a>: Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.</p>	<p>No. The Liverpool Law Clinic has seen Home Office letters refusing asylum and suggesting that the person apply under the statelessness leave procedure. Guidance states that the application for a grant of residence under the statelessness procedure should be a last resort for those who have 'no other right to remain in the UK'. The Liverpool Law Clinic is aware of a case where the Home Office refused an asylum claim and made a grant of Discretionary Leave to remain for 30 months, apparently based on a finding that the applicant was stateless and not admissible elsewhere. He was never referred to the SDP. He will only able to make an application to 'upgrade' his leave to statelessness leave, once the Discretionary Leave has 28 days left to run. The result is that this will extend the time it takes for him to qualify for permanent residence by 30 months.</p>	<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, C.12:</p> <p><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>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:</p> <p><a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>
SDS	5	a	Protection during SDP	Does the applicant have automatic legal admission while their claim for stateless status is assessed or is there a risk of expulsion?	<p><a href="#">UNHCR (2014)</a>: An individual awaiting a decision is entitled, at a minimum, to all rights based on presence in the territory as well as 'lawfully in' rights (including identity papers, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that individuals receive the same treatment as asylum-seekers.</p> <p><a href="#">ENS (2013)</a>: States should refrain from expelling or removing an individual</p>	<p>No. Applicants who have no other leave to remain will not automatically be granted 'legal admission' (called 'immigration bail') and there is no guarantee against expulsion whilst a statelessness application is pending. Home Office guidance states: "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, a stateless leave application is not a barrier to removal where someone</p>	<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>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at</p> <p><a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>

					<p>pending the outcome of the determination process.</p>	<p>does not have extant leave in any other capacity and an Emergency Travel Document (ETD) is available. 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 to the country of return". This is a change since the 2016 guidance asserted that an Emergency Travel Document was conclusive evidence that the person was 'admissible for the purposes of permanent residence'. The 2019 version acknowledges that the ETD is only one piece of relevant evidence, but the application should be refused if one is obtained while the application is pending. Applicants are usually already allowed, or will be allowed after application, 'Immigration Bail' which is evidenced by a BAIL201 form, providing basic details (and probably complying with art 27 of the 1954 Convention). Applicants with some form of permission to remain in the UK at the time of making the statelessness application keep that permission by operation of law, until the new application is finally determined. Asylum Aid was advised in 2016 of a removal whilst a statelessness application was pending, but this has not been verified. The meaning of 'legal admission' is complex in UK immigration law: some periods spent on 'immigration bail' may count towards certain residence requirements if a grant of leave to remain is subsequently made.</p>	<p>Personal communication to Cynthia Orchard (Asylum Aid/Consonant).</p> <p>For example, UKVI guidance on 'long residence' immigration applications: <a href="https://www.gov.uk/government/publications/long-residence">https://www.gov.uk/government/publications/long-residence</a></p>
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SDS	5	b		<p>Do applicants for stateless status have permission to work and access to assistance to meet their basic needs?</p>	<p><a href="#">UNHCR (2014)</a>: Allowing individuals to engage in wage-earning employment can reduce pressure on State resources and contributes to dignity and self-sufficiency. The status of those awaiting statelessness determination must reflect applicable human rights such as, assistance to meet basic needs.</p>	<p>Applicants for stateless status do not normally have permission to work if they have no other permission to stay in the country. People allowed 'immigration bail' (formerly 'temporary admission') are normally subject to conditions prohibiting employment. 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 s4(2) of the Immigration and Asylum Act 1999. However, to access this, they must repeatedly prove that 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. On 15 January 2018, a right to obtain accommodation when leaving immigration detention was replaced by a power to provide accommodation in 'exceptional circumstances.' The procedure to access that support was introduced in early 2019. Some people have been released from detention to street homelessness. Social Services Departments may provide support where there may be a clear breach of Art 8 ECHR rights, e.g. where children are involved.</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="https://www.legislation.gov.uk/ukpga/2016/19/schedule/10">https://www.legislation.gov.uk/ukpga/2016/19/schedule/10</a></p> <p>Immigration bail guidance, 4 April 2019:  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></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 10, 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>
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							Bail for Immigration Detainees (BID), Briefing on post detention accommodation, June 2018, available at: <a href="https://www.biduk.org/resources/category/Briefings">https://www.biduk.org/resources/category/Briefings</a>
SDS	5	c		Do applicants for stateless status face a risk of detention?	<a href="#">UNHCR (2014)</a> : Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. Detention is 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.	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>  Schedule 10, Immigration Act 2016: <a href="https://www.legislation.gov.uk/ukpga/2016/19/schedule/10">https://www.legislation.gov.uk/ukpga/2016/19/schedule/10</a>
SDS	6	a	Appeals	Is there an automatic right of appeal?	<a href="#">UNHCR (2014)</a> : An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	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). Following criticism of the Statelessness Team issuing near-identical decisions following an upheld Administrative Review, the team has committed to sending the second decision to a new caseworker and it being reviewed by a senior caseworker. The Administrative Review team give no substantive written reasons and it has not been clear whether any reasons have been made available to the casework team re-making the decision.	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>  'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 26, at: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a>  Nationality, Immigration and Asylum Act 2002, Section 82 (1)(b):

						Representatives have argued that a refusal of statelessness leave is a human rights matter, (a decision of the Upper Tribunal of 17 February 2020 suggests that argument may fail).	<a href="https://www.legislation.gov.uk/ukpga/2002/41/contents">https://www.legislation.gov.uk/ukpga/2002/41/contents</a>  Upper Tribunal case of MY v SSHD: MY (refusal of human rights claim : Pakistan) [2020] UKUT 89 (IAC) (27 February 2020) URL: <a href="http://www.bailii.org/uk/cases/UKUT/IAC/2020/89.html">http://www.bailii.org/uk/cases/UKUT/IAC/2020/89.html</a>
SDS	6	b		Is legal aid available for appeals?	<a href="#">UNHCR (2014)</a> : The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. <a href="#">ENS (2013)</a> : Applicants should have access to legal counsel both at first instance and on appeal.	Legal aid is available for most judicial review proceedings, subject to means and merits' tests but not for administrative review (unless granted through exceptional case funding). 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: (i) a decision to remove the individual from the UK; (ii) the refusal of leave to appeal against that decision; or (iii) the determination or withdrawal of an appeal against that decision.	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)
SDS	6	c		Is there a fee for the appeal application?	<a href="#">UNHCR (2014)</a> : An effective right to appeal against a negative first instance decision is an essential safeguard.	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 25 <sup>th</sup> July 2016) EX50A HMCTS:

						<p>is funded through legal aid. Applications can be made for a fee waiver. In England and Wales, the fees are: Initial permission application - £154 (175 EUR); Request for oral reconsideration - £385 (438 EUR); Permission to proceed - £385 (438 EUR) (if £385 (438 EUR) has already been paid) or £770 (875 EUR). In the Scottish Court of Session, the fee to issue a writ (including for judicial review) is £300 (341 EUR) and applicants must pay £200 (227 EUR) for every half hour of court hearing within operating hours before a single judge. The administrative review is exempt from a fee because the application for a grant of residence, under Part 14 of the Rules, does not require a fee.</p>	<p><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 3.0, 4 January 2019: <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>
SDS	6	d		Is there any evidence of significant errors in decision-making?		<p>Yes. Legal advisers representing stateless persons have recorded significant errors in decision making. Judicial review cases listed point out basic errors. There is no published academic research on decision making on applications. UNHCR has conducted two audits of decision-making which were not made public. An audit conducted in 2018 is to be made public but as at December 2019 has still not been published. The experience of legal</p>	<p>Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27<sup>th</sup> 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>representatives is that it is very common for requests for Administrative Review to be upheld due to the decision maker making basic errors in understanding the case.</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:  <a href="https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658">https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658</a></p> <p>R (JM) v SSHD (Statelessness: Part 14 of HC 395) IJR [2018 EWCA Civ 188:  <a href="http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html">http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html</a></p>
SDS	7	a	Stateless status	<p>Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements.</p>	<p><a href="#">UNHCR (2014)</a>: The status granted to a stateless person in a State Party must reflect 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.</p>	<p>Not automatically. A person who claims that they are stateless may apply for leave to remain under Part 14 of the Immigration Rules. The applicant must comply with certain conditions in addition to the recognition of the fact of statelessness. Persons who will not be granted permission to stay in the UK include, but are not limited to: persons who are admissible to any other country for the purpose of permanent residence, and persons against whom there is a</p>	<p>Immigration Rules, Part 14: stateless persons, paras. 402, 403 &amp; 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></p> <p>Immigration Rules, Part 9 : General grounds for refusal para 322 :  <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></p>

						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).	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, pages 9-11 and 23-24, at: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a>
SDS	7	b		How long is initial status granted for and is it renewable?	<a href="#">UNHCR (2014)</a> : It is recommended that States grant recognised stateless people a residence permit valid for at least two years, although longer permits, such as five years, are preferable in the interests of stability. Permits should be renewable.	All grants of statelessness residence permits under the Immigration Rules on renewal or first application, made since 6 April 2019, have been for 60 months. An application may be made for permanent residence ('indefinite leave to remain') by a person who has had leave to remain as a stateless person for a period of 5 years.	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>  UK Government, Changes to the Immigration Rules, 7 March 2019: <a href="https://www.gov.uk/government/news/changes-to-the-immigration-rules--3">https://www.gov.uk/government/news/changes-to-the-immigration-rules--3</a>

SDS	7	c	Is a travel document issued to people recognised as stateless?	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>, Article 28.</p>	<p>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. The cost is the same as for a British passport. 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. In practice, this may sometimes be difficult because Home Office online guidance incorrectly states that an applicant for a travel document must have been granted leave to remain as a stateless person. The guidance to the application form itself is correct and does not state that there is any limitation on the type of lawful residence.</p>	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 29, at:  <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p> <p>UK Government, Guidance, 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>  Application form TD112 (with correct information):  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693183/TD112_BRP_Guidance_Notes_04_2018.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693183/TD112_BRP_Guidance_Notes_04_2018.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.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 27<sup>th</sup> Session of the Universal Periodic Review, Sept 2016,</p>
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							para. 16 & 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>
SDS	7	d		Do people recognised as stateless have a right to family reunification?	<a href="#">UNHCR (2014)</a> : Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunion of those with recognised stateless status in their territory with their spouses and dependents.	Eligible family members may be granted leave to enter or remain in the UK for the same period as the main applicant. Eligible family members include: (a) spouse; (b) civil partner; (c) unmarried partner with whom they have lived 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. The family members may renew their leave to remain and obtain permanent residence after five years' lawful residence. A child who reaches 18 during the five-year	Immigration Rules, Part 14: stateless persons, paras 410-416: <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>  Briefing: the new Home Office policy on statelessness, 2.12.2019, by Cynthia Orchard of Consonant: <a href="https://www.freemovement.org.uk/statelessness-guidance-2019/">https://www.freemovement.org.uk/statelessness-guidance-2019/</a>

						<p>period may cease to be eligible for further leave as a dependent family member. Family members present in the UK with the main applicant should be included in the application form, but there is no provision for them to explain if they would like to be granted the same form of permit as the main applicant. If they wish to have an independent determination of status, they should make a separate application.</p>	
SDS	7	e		<p>On what grounds (if any) may residence status granted to stateless people be revoked?</p>	<p><a href="#">UNHCR (2014)</a>: If an individual recognised as stateless subsequently acquires or reacquires the nationality of another State, they will cease to be stateless under the 1954 Convention. This may justify the cancellation of a residence permit on the basis of statelessness, although proportionality considerations under international human rights law, such as the right to a private and family life should be taken into account.</p>	<p>A period of limited leave can be curtailed “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.” 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 offences. There is an equivalent provision for family members. The 2019 guidance includes a section on consideration of applications for permanent residence ('indefinite leave to remain'), stating that it should be granted “under clear evidence comes to light” that the person is no longer stateless, or is admissible elsewhere, the application will be refused. The other grounds of refusal of course continue to apply.</p>	<p>Immigration Rules, Part 14: stateless persons, para. 414:  <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>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></p> <p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 27, at:  <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a></p>



# Statelessness Determination and Status – 2019

SDS	7	f		Do people granted stateless status have permission to work?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Article 17 <a href="#">UNHCR (2014)</a> : The right to work must accompany a residence permit.	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>
SDS	7	g		Do people granted stateless status have access to primary, secondary, and higher education?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Article 22	Yes, though in England and Wales people with statelessness leave must comply with residence conditions. Stateless students in England have been included as eligible for student loans since August 2018. In Wales, people with stateless leave must meet a three-year residency requirement before starting a higher education course. In Scotland, amendments to the regulations introduced in 2018 extend entitlement to stateless people and their families to access student funding and restrict the level of fees they may be charged for access to higher education.	<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> <p>The Education (Student Fees, Awards and Support) Regulations SI 2018 No 137, Part 4, Reg 17: <a href="http://www.legislation.gov.uk/uksi/2018/137/regulation/17/made#regulation-17-b">http://www.legislation.gov.uk/uksi/2018/137/regulation/17/made#regulation-17-b</a> (England &amp; Wales)</p> <p>UK Government, Student Finance: <a href="https://www.gov.uk/student-finance/who-qualifies?step-by-step-nav=18045f76-ac04-41b7-b147-5687d8fbb64a">https://www.gov.uk/student-finance/who-qualifies?step-by-step-nav=18045f76-ac04-41b7-b147-5687d8fbb64a</a></p> <p>Student Finance Wales: <a href="https://www.studentfinancewales.co.uk/undergraduate-students/new-students.aspx">https://www.studentfinancewales.co.uk/undergraduate-students/new-students.aspx</a></p> <p>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></p>

							<p>The Education (Fees and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2018:  <a href="http://www.legislation.gov.uk/ssi/2018/171/pdfs/ssi_20180171_en.pdf">http://www.legislation.gov.uk/ssi/2018/171/pdfs/ssi_20180171_en.pdf</a></p> <p>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></p> <p>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></p>
SDS	7	h		Do people granted stateless status have access to social security and healthcare?	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Articles 23 &amp; 24</p> <p><a href="#">UNHCR (2014)</a>: The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.</p>	<p>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 statelessness 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</p>	<p>Email from Stephen Knafler, QC, to Cynthia Orchard, 20 June 2017.</p> <p>Housing Act 1996 Parts 6 &amp; 7, SS 160ZA &amp; 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 &amp; Wales)</p> <p>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></p> <p>Immigration and Asylum Act 1999, Section 118:</p>

						<p>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 'ordinarily resident'.</p> <p>Scottish Government guidance explicitly exempts stateless people from charging for healthcare. People with leave to remain under Part 14 are not exempt from charging in England and Wales, but practice is patchy. In practice, we do not know of cases where persons with leave to remain under Part 14 are charged or refused treatment. However, some remain liable for charges incurred before they applied for leave under Part 14.</p> <p>A person with leave to remain under Part 14 is not included in the Criminal Injuries Compensation Scheme. This is a UK wide scheme.</p> <p>Stateless people are not eligible for integration loans (in contrast to those granted refugee status or subsidiary protection).</p>	<p><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>The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006, Parts 3 &amp; 4: <a href="https://www.legislation.gov.uk/ukpga/1996/52/introduction">https://www.legislation.gov.uk/ukpga/1996/52/introduction</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>
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							<a href="#">27th-session-universal-periodic-review/</a>  UK Government, Refugee Integration Loan: <a href="https://www.gov.uk/refugee-integration-loan">https://www.gov.uk/refugee-integration-loan</a>
SDS	8	a	Access to nationality	In what timeframe do stateless people acquire the right to apply for naturalisation and how does this compare to others with a foreign nationality?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Article 32 <a href="#">UNHCR (2016)</a> : It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. <a href="#">Council of Europe Committee of Ministers (1999)</a> : Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. <a href="#">ENS (2013)</a> : The main benchmark is if there is any preferential treatment for stateless people compared to the general rules applied to those with a foreign nationality.	There are no accelerated procedures for stateless persons within the UK's naturalisation procedure; but there are circumstances in which residence requirements do not apply or are reduced in the case of stateless children. Adult 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 nationals, 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 no 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 acquire 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 national after five years' residence. Children are registered as British, rather than naturalised, and there are provisions for children to register when their parents	<a href="#">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> <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a>  <a href="#">Migrants Resource Centre, Liverpool Law Clinic, ENS &amp; ISI, Joint Submission to the Human Rights Council at the 27<sup>th</sup> Session of the Universal Periodic Review, Sept 2016, Paras. 10-11 &amp; Part V:</a> <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>  <a href="#">UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, Version 2.0, 6 December 2017:</a> <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/n">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/n</a>

						<p>naturalise. There is a power to register any child on application and this does not carry a residence requirement although there is guidance on when the power will be exercised. Provision is made for children, including stateless children, whose British national parents cannot pass on their British nationality to them, to be registered as British, and, in the case of stateless children, there is no residence requirement for the period prior to the birth.</p>	<p><a href="#">aturalisation-as-a-British-citizen-by-discretion-v2.0EXT.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 immigration and nationality fees, 29 March 2019: <a href="https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-29-march-2019#applications-made-in-the-uk">https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-29-march-2019#applications-made-in-the-uk</a></p> <p>British Nationality Act 1981, Schedule 2 &amp; 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>
SDS	8	b		<p>Are there requirements relating to ‘good character’ or previous criminal convictions that could prevent some stateless people from accessing nationality? If yes, please describe.</p>	<p><a href="#">Council of Europe Committee of Ministers (1999)</a>: States should ensure that offences, when relevant for the decision concerning the acquisition of nationality, do not unreasonably prevent stateless persons seeking the nationality of a state.</p>	<p>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: “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. The guidance states: “If they</p>	<p>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></p> <p>UK Home Office, UK Visas and Immigration, Good character: nationality policy guidance, v1, 14 January 2019: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770960/good-character-guidance.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770960/good-character-guidance.pdf</a></p>

						<p>have breached immigration laws, for example by overstaying, working in breach of conditions or assisting in the evasion of immigration control". The guidance includes an exemption for refugees charged with offences relating to illegal entry to the UK (relating to Art 31 of the 1951 Convention), but there are no exemptions in the guidance for people recognised to be stateless. Applications will normally be refused in cases of dishonesty/deception, for example: "providing false or deliberately misleading information at earlier stages of the immigration application process (for example, providing false bio-data, claiming to be a nationality they were not or concealing conviction data)" (p.9).</p>	<p>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-v2.0EXT.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>
SDS	8	c		<p>Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements? Please describe the requirements and cost of the procedure for stateless people.</p>	<p><a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a>: Article 32 <a href="#">UNHCR (2016)</a>: It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. <a href="#">Council of Europe Committee of Ministers (1999)</a>: Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory.</p>	<p>There is a 'Knowledge of Life in the UK' test for adults. 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. There are language requirements for adults 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</p>	<p>British Nationality Act 1981, Schedule 1(1)(a-c) &amp; Section 6 &amp; Schedule 1: <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p> <p>Relevant information, guidance and application forms can be found here: <a href="https://www.gov.uk/government/publications/application-to-naturalise-as-a-british-citizen-form-an">https://www.gov.uk/government/publications/application-to-naturalise-as-a-british-citizen-form-an</a></p> <p>Project for the Registration of Children as British Citizens (PRCBC), Briefing on Fees for the Registration of Children as British Citizens, 2018: <a href="https://prcbc.files.wordpress.com/20">https://prcbc.files.wordpress.com/20</a></p>

						<p>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 exemptions for those who are 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. No level of income is required for naturalisation, however there are significant fees for naturalisation and registration. The standard fee for adults to naturalise is £1330 (1512 EUR), and there are no exemptions for stateless persons. The fee for a child to register is £1012 (1150 EUR). There is an advocacy campaign and strategic litigation ongoing to obtain a reduction in this fee. The Secretary of State has repeatedly defended the charging system in litigation.</p>	<a href="#">19/03/fees briefing revised march 2019</a>
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## 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? Please provide the legal source(s).	<a href="#">ICCPR</a> Article 9(1) <a href="#">ECHR</a> Article 5 (1)	Yes. Part 3 of the Immigration Act 2016 amends the 1971 Act in respect to powers of Immigration Officers to examine, detain and enforce removal, and introduces limitations on the detention of vulnerable people and pregnant women.	Immigration Act 1971, Schedule 2, 16(1), (1A) or (2) (detention of persons liable to examination or removal); 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>  Immigration Act 2016, Part 3: <a href="http://www.legislation.gov.uk/ukpga/2016/19/part/3?view=extent">http://www.legislation.gov.uk/ukpga/2016/19/part/3?view=extent</a>  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>  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>
DET	1	b		Does domestic law allow immigration detention for purposes other than those listed under ECHR 5(1)(f)?	<a href="#">ECHR</a> Article 5(1)(f)	Detention is permitted in law 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	As above.  R v. Governor of Durham Prison, Ex parte Hardial ardiSingh, [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>  Detention Action, 2014, The State of Detention: immigration detention in

						<p>liable to arrest. Detention is also permitted pending transfer under the Dublin Regulation where there is a risk of absconding. In accordance with Hardial Singh principles, detention must be for a reasonable period, and the government 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 SSHD detained people unlawfully under a policy intended to implement considerations for detaining those facing 'Dublin III' removal because there were no 'objective criteria underlying the reasons for believing that an applicant might abscond' (para 98 of the Hemmati judgment). The legislation in the UK is potentially compatible with Article 5 ECHR given there is only ever a power to detain, not a duty.</p>	<p>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>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></p> <p>Hemmati &amp; Ors, R (on the application of) (Respondents) v Secretary of State for the Home Department [2019] UKSC 56 (27 November 2019):  <a href="http://www.bailii.org/uk/cases/UKSC/2019/56.html">http://www.bailii.org/uk/cases/UKSC/2019/56.html</a></p>
DET	1	c		<p>Does a proposed country of removal need to be identified before a person is detained for removal?  Please describe the situation in law and in practice.</p>	<p><a href="#">ICCPR</a> Article 7: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment. <a href="#">Auad v Bulgaria ECtHR (2011)</a>: The only issue is whether the authorities were sufficiently diligent in their efforts to deport the applicant. <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.</p>	<p>There is nothing in law that states a country must be identified before a person is detained for the purpose of removal. 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 (Ch. 55 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</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://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p> <p>UK Government Home Office, Returns Directorate, Detention Services Order 03/2014, Service of Removal Directions:</p>

						<p>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 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. Bail Guidance for judges states, “a person must not be granted immigration bail by the Tribunal without the consent of the Secretary of State if directions for the person’s removal within 14 days are in force.” However, “the judge must be satisfied that removal directions are in place for removal within the next 14 days and can expect to see evidence of those directions.” The question of nationality</p>	<p><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> <p>Bail Guidance for Immigration Judges, listing criteria relevant to a decision on bail, para. 36: <a href="https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf">https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf</a></p> <p>UK Government Home Office, Judicial Reviews &amp; Injunctions (on the use of notification of a ‘removal window’ – persons awaiting a statelessness determination are not included in list of people not suitable for ‘removal window’ procedure): <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753933/chapter-60-judicial-reviews-v17.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753933/chapter-60-judicial-reviews-v17.0.pdf</a></p> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p> <p>Guidance on Immigration Bail for Judges of the First-tier Tribunal (Immigration and Asylum Chamber)</p>
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						itself, or statelessness is not explicitly mentioned in the criteria.	Implemented on 15 January 2018 <a href="https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf">https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf</a>
DET	1	d		Is statelessness juridically relevant in decisions to detain? Please describe how (risk of) statelessness is identified and whether referral to an SDP is possible from detention.	<p><a href="#">Auad v Bulgaria ECtHR (2011)</a>  <a href="#">Mikolenko v. Estonia ECtHR (2009)</a>: Detention may only be justified as long as deportation proceedings are being conducted with due diligence.  <a href="#">UNHCR (2014)</a>: Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary.  <a href="#">Equal Rights Trust (2012)</a>: 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.  <a href="#">International Commission of Jurists (2014)</a>: The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.</p>	<p>Statelessness is not sufficiently recognised as a juridically relevant fact in the UK. The UKVI Immigration bail guidance of April 2019; the 'Chapter 55' Enforcement Instructions and Guidance do not mention statelessness. 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 above). The Home Office does not refer people to the SDP. A person could make an application for leave as a stateless person from detention. There is nothing in legislation which refers to statelessness in relation to lawfulness of detention. However, in accordance with the Hardial Singh 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 do not adequately consider (risk of) statelessness in decisions to detain or to maintain detention. This area has been the subject of litigation e.g. in ML (Morocco) concerning a stateless man of Western Saharan origin, which was finally settled in June 2018 when the Home Office accepted it was unreasonable to</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> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p> <p>UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55, 55.3.2.4:  <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p>

						approach the Western Sahara ‘authorities’ for a travel document.	
DET	1	e		Are stateless people detained in practice?		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>  UK Government statistics are available here: <a href="https://www.gov.uk/government/statistics">https://www.gov.uk/government/statistics</a> (enter ‘immigration’ as the search term to find the latest and historical data. For detention figures, see ‘Detention Data Tables...’)
DET	1	f		Does law (and/or policy) provide that immigration detention should be used only as a last resort, after all alternatives have been exhausted in each individual case?	<a href="#">UNHCR (2014)</a> : Detention is a measure of last resort and can only be justified where other less invasive or coercive measures have been considered and found insufficient. <a href="#">EU Returns Directive</a> : Article 15(1)	Yes. For example, see Bail Guidance for Judges at para 4 “Liberty is a fundamental right of all people and can only be restricted if there is no reasonable alternative. [...]”. Para. 52 states “Immigration bail is an alternative to immigration detention [...]”. But this is not what happens in practice as illustrated by statistics (see data in POP2a/b and link above). The Bail Guidance does not mention statelessness, but considers various other categories of exceptional cases for bail conditions.	UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55: <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a>  Bail Guidance for Immigration Judges: <a href="https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf">https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf</a>  Immigration Bail UKVI guidance, v4.0, 5th April 2019, at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a>

DET	1	g	Are individual vulnerability assessments carried out before a decision to detain (or soon after)? Please note whether statelessness is considered to be a factor increasing vulnerability.	<p><a href="#">ENS (2015)</a>: Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed.</p> <p><a href="#">EU Returns Directive</a>: Article 16(3)</p> <p><a href="#">EU Returns Handbook (2017)</a>: Attention should be paid to the specific situation of stateless persons.</p> <p><a href="#">Council of the European Union (2013)</a>: European entities should assess the situation of LGBTI persons in detention.</p>	<p>Vulnerability assessments are required under the Detention Centre Rules 2001 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 inter alia to health status and there are criteria on severity of health problems, types of evidence being relied 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 “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.” These panels focus on ensuring that there is progression toward return for</p>	<p>Detention Centre Rules 2001, Rule 35:  <a href="http://www.legislation.gov.uk/en/uk/si/2001/238/contents/made">http://www.legislation.gov.uk/en/uk/si/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, available at Immigration Offender Management: <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p> <p>Email from Pierre Makhoulf, 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-statements/written-question/Commons/2017-04-21/71612">http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-04-21/71612</a></p>
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						all individuals detained, and that detention remains lawful.	
DET	2	a	Alternatives to immigration detention	Are alternatives to detention established in law and considered prior to any decision to detain?	<p><a href="#">ICCPR Article 9</a>  <a href="#">FKAG v Australia HRC (2013)</a>: Any decision relating to detention must consider less invasive means of achieving the same ends.  <a href="#">UN General Assembly (2009)</a>: Calls upon all States to adopt alternative measures to detention.  <a href="#">UNHCR (2014)</a>: Detention can only be justified where other less invasive or coercive measures have been considered and found insufficient.  <a href="#">Human Rights Council (2012)</a> : The obligation to always consider alternatives before resorting to detention should be established by law.  <a href="#">EU Returns Directive</a>: Article 15(1)  <a href="#">Equal Rights Trust (2012)</a>: States have an obligation to consider and apply appropriate and viable alternatives to immigration detention that are less coercive and intrusive.  <a href="#">International Detention Coalition (2015)</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.</p>	<p>There are various alternatives to detention, and these are required to be considered prior to detention; however, in practice, they often are not considered adequately. There is no time limit on either detention or alternatives to detention. As of the time of writing, there is no automatic judicial oversight of detention; the Immigration Act 2016 Schedule 10 makes provision for reviews by an immigration judge every four months, but the implementation of the process has been found wanting due to the high rate of withdrawals and refusals of these applications. See DET1i regarding regular reviews by the Home Office of the lawfulness of detention. The fact that people 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</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:  <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</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>JN v UK ECHR 37289/12 of 19 May 2016 and case of Draga v UK ECHR 3341/13 of 18 May 2017</p> <p>Bail for Immigration Detainees (BID), Briefing on post-detention accommodation, June 2018:</p>

						<p>monitoring, and “Any other condition a judge granting immigration bail thinks fit” (Schedule 10)). This has included in one BID case a requirement that the person cooperates with efforts to document him for the purpose of removal and could include measures such as ensuring that the person engages with support or rehabilitation services.</p>	<p><a href="https://www.biduk.org/resources/76-bid-briefing-on-post-detention-accommodation">https://www.biduk.org/resources/76-bid-briefing-on-post-detention-accommodation</a></p> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p>
DET	2	b		Is there evidence that immigration detention is used in practice prior to all alternatives being considered?	As above.	<p>Yes, see DET2a. People who complete criminal sentences are nearly always, if not always, held in detention under Immigration Act powers before any alternatives to detention such as release on bail are considered. Statistics on those held under immigration detention powers only, in prison, are available. Statistics on the reasons for detaining do not appear to be available – only those showing the reason for release.</p>	<p>UK Government Home Office, Detention and Temporary Release, Chapter 55, 55.3: <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</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>



							<p>UK Government statistics are available here:  <a href="https://www.gov.uk/government/statistics">https://www.gov.uk/government/statistics</a> (enter 'immigration' as the search term to find the latest and historical data. For detention figures, see 'Detention Data Tables...')</p> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p>
DET	3	a	Procedural safeguards	Is there a maximum time period for immigration detention set in law? What is it?	<p><a href="#">UN Human Rights Council (2010)</a> : A maximum period of detention must be established by law and upon expiry the detainee must be automatically released.</p> <p><a href="#">UNHCR (2012)</a> : To guard against arbitrariness, maximum periods of detention should be set in national law.</p> <p><a href="#">EU Returns Directive</a>: Article 15(5)</p> <p><a href="#">Equal Rights Trust (2012)</a> : Detention should always be for the shortest time possible.</p>	No. There have been numerous and sustained attempts to advocate for the introduction of a maximum period of detention (a 6-week time limit for those transferred under EU 'Dublin' procedures is the exception).	<p>UK Government Home Office, Detention and Temporary Release:  <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p> <p>Liberty, Oppose Indefinite Detention:  <a href="https://www.libertyhumanrights.org.uk/campaigning/end-indefinite-detention">https://www.libertyhumanrights.org.uk/campaigning/end-indefinite-detention</a></p>
DET	3	b		Does law/policy provide that individuals must be informed in writing of the reasons for their immigration detention?	<p><a href="#">UN General Assembly (1988)</a> : Anyone who is arrested shall be informed at the time of the reason for his arrest.</p> <p><a href="#">EU Returns Directive</a>: Detention shall be ordered in writing with reasons being given in fact and in law.</p>	At the time of detention, the Home Office must serve detainees with Form IS91R, which identifies reasons for detention, albeit in 'checkbox' form. In criminal cases, reasons for detention are provided by letter (ICD 1913 or ICD 1913AD).	UK Government Home Office, Detention and Temporary Release: <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a>

					<p><a href="#">Equal Rights Trust (2012)</a> : Stateless detainees shall receive their order of detention in writing and in a language they understand.</p> <p><a href="#">International Commission of Jurists (2014)</a>: The authorities shall ensure that sufficient information is available to detained persons in a language they understand on the nature of their detention and reasons for it.</p>		
DET	3	c		Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	<p><a href="#">Equal Rights Trust (2012)</a> : Detaining authorities are urged to provide stateless detainees with a handbook in a language and terms they understand, containing information on all their rights and entitlements, contact details of organisations which are mandated to protect them, NGOs and visiting groups and advice on how to challenge the legality of their detention and their treatment as detainees.</p>	<p>People are normally informed of how to access legal advice and their bail rights when they are detained and certainly when they are issued with a Monthly Progress Report of their detention. They are not normally informed about statelessness procedures. 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 (though it has not yet been included as of the time of writing).</p>	<p>Email from Pierre Makhoulf to Cynthia Orchard, 18 May 2017.</p> <p>UK Government Home Office, UK Visas and Immigration, Information leaflet for asylum applicants: <a href="https://www.gov.uk/government/publications/information-leaflet-for-asylum-applications">https://www.gov.uk/government/publications/information-leaflet-for-asylum-applications</a></p> <p>Home Office meeting with civil society organisations, 9 March 2017.</p>
DET	3	d		Are there regular periodic reviews of detention before a court or independent body, which can order release?	<p><a href="#">Kim v Russia ECtHR (2014)</a> : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p><a href="#">Equal Rights Trust (ERT) (2012)</a> : To avoid arbitrariness, detention should</p>	<p>The Home Office reviews (internally) the need for immigration detention every 28 days; however, this is often a cursory review. The Immigration Act 2016 introduces automatic periodic bail hearings for people who have not had a bail hearing for four months. The Government is presently trialling an</p>	<p>See DET 1a on powers to detain.</p> <p>UK Government Home Office, Enforcement Instructions and Guidance, Detention and Temporary Release: <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p>

					<p>be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities.</p>	<p>automatic bail hearing pilot for people who have not had a bail hearing for two months. 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 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>Immigration Act 2016, Schedule 10, Section 61 &amp; para. 11:  <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> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p>
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DET	3	e		What remedies are available to challenge detention? Please any obstacles to accessing effective remedies in practice.	<p><a href="#">ICCPR</a> Article 9(4)</p> <p><a href="#">ECHR</a>: Article 5(4)</p> <p><a href="#">Kim v Russia ECtHR (2014)</a> : The purpose of Article 5(4) ECHR is to guarantee to persons who are detained the right to judicial supervision of the lawfulness of the measure.</p> <p><a href="#">Alimuradov v. Russia ECtHR (2019)</a>: The individual must have at their disposal a procedure for judicial review of the lawfulness of detention capable of leading to release.</p>	<p>Detainees can apply for bail 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:  <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>See UK Home Office guidance on immigration bail:  <a href="https://www.gov.uk/government/publications/offender-management">https://www.gov.uk/government/publications/offender-management</a></p> <p>Immigration Bail UKVI guidance, v4.0, 5th April 2019, at  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/793103/immigration-bail-v4.0.pdf</a></p>
DET	3	f		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	<p><a href="#">Equal Rights Trust (2012)</a> : The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation.</p> <p><a href="#">ENS (2015)</a> : The detaining state should have rules in place that govern the process of re-documentation and/or ascertaining entitlement to nationality.</p>	<p>Home Office statelessness Guidance addresses this in very limited way. 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. The Home Office Country Returns Guide provides information on how to apply for travel documents from</p>	<p>'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at:  <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:  <a href="https://www.gov.uk/government/publications/country-returns-guide">https://www.gov.uk/government/publications/country-returns-guide</a></p>

						state authorities and the timescales where this is known.	
DET	3	g		Is free legal aid available to challenge detention? Please describe any barriers to accessing legal aid in practice.	<p><a href="#">UNHCR (2014)</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.</p> <p><a href="#">EU Returns Directive</a>: Article 13(3)</p>	<p>There is free legal aid to challenge detention 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 can provide free legal advice on asylum, trafficking and domestic violence cases but not on other immigration matters, so statelessness leave applications are 'out of scope'. Over 70 law firms have legal aid contracts to staff detention advice surgeries. The quality of the advice has been criticised with Bail for Immigration Detainees reporting that only 25% of respondents stated they received advice specifically about their case.</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> (England &amp; Wales)</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>Bail for Immigration Detainees (BIC), Legal Advice Surveys:  <a href="https://www.biduk.org/pages/106-bid-legal-advice-surveys">https://www.biduk.org/pages/106-bid-legal-advice-surveys</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> <p>Bail for Immigration Detainees, Six-monthly survey reveals less than two thirds of those questioned have a legal representative, Spring 2019:  <a href="https://hubble-live-assets.s3.amazonaws.com/biduk/red">https://hubble-live-assets.s3.amazonaws.com/biduk/red</a></p>

							<a href="#">actor2_assets/files/895/190509_LAS_graphic_Presentation_of_Results_SPRING_2019_2_.pdf</a>  Bail for Immigration Detainees (BIC), Legal Advice Surveys: <a href="https://www.biduk.org/pages/106-bid-legal-advice-surveys">https://www.biduk.org/pages/106-bid-legal-advice-surveys</a>
DET	4	a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their stateless status) and protected from re-detention?	<a href="#">UN Convention Relating to the Status of Stateless Persons, 1954</a> : Article 27 <a href="#">UNHCR (2014)</a> : Being undocumented cannot be used as a general justification for detention. <a href="#">ENS (2015)</a> : State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention. <a href="#">Equal Rights Trust (2012)</a> : Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	A person released from detention would not likely have evidence of their statelessness 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. In some cases, the description of nationality may be changed when release papers are issued.	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>
DET	4	b		If the purpose of detention cannot be fulfilled and the person is released, what legal status and rights are provided to them in law?	<a href="#">Saïd Shamilovich Kadzoev v Direktsia Migratsia' pri Ministerstvo na vatreshnite raboti ECJ (2009)</a> : After the maximum period of detention has expired, the person must be released immediately. A lack of valid documentation or inability to support themselves should not be a deterrent to release. <a href="#">Equal Rights Trust (2012)</a> : Released stateless detainees should be provided with appropriate	They will be released to 'immigration bail' under Schedule 10(1) of the Immigration Act 2016, which is either Tribunal or Secretary of State bail. 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. However, the situation surrounding accommodation and support entitlements since the introduction of Schedule 10 on 15 January 2018 remains confused. Such persons will	See also IDP6c.  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>  Immigration and Asylum Act 1999, s4(2): <a href="http://www.legislation.gov.uk/ukpga/1999/33/contents">http://www.legislation.gov.uk/ukpga/1999/33/contents</a>

					<p>documentation and stay rights suitable to their situation.</p>	<p>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 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 IDP6c).</p> <p>Liverpool Law Clinic is aware of one case where the deportation order was revoked and a full grant of statelessness leave made to a person with a distant history of numerous minor offences. Persons with more serious offences will need to rely on revocation of a deportation order, and a grant of leave being made to avoid the UK being in breach of its obligations under the European Convention on Human Rights (incorporated by way of Section 6, Human Rights Act 1998).</p>	<p>Bail for Immigration Detainees (BID), Briefing on post detention accommodation, June 2018, available at:  <a href="https://www.biduk.org/resources/category/Briefings">https://www.biduk.org/resources/category/Briefings</a></p> <p>Immigration Act 2016, Schedule 10 (Immigration Bail), Schedule 11 (Support for Certain Categories of Migrant), Schedule 12 (availability of local authority support):  <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>
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DET	4	c		If re-detention occurs, is the cumulative time spent in detention counted towards any maximum time limits?	<a href="#">Equal Rights Trust (2012)</a> : 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.	Not applicable as there are no time limits on immigration detention.	
DET	5	a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral	<a href="#">UNHCR (2014)</a> : Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness.	Very little information is available publicly about bilateral return or readmission agreements entered into by the UK Government. UK is currently party to EU readmission agreements but will cease to	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>



				readmission and/or return agreements?		be so when/if it exits the EU. When considering whether a person could be refused leave to remain under para 403 Immigration Rules, the relevant criterion is 'admissibility' under Part 14. The UKVI guidance states: '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.' It asserts that where a person holds a current passport or is issued an Emergency Travel Document then that will be evidence that they are re-admissible for the purposes of permanent residence (referring to criteria at para 403c Immigration Rules).	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: <a href="https://www.gov.uk/government/publications/stateless-guidance">https://www.gov.uk/government/publications/stateless-guidance</a>
DET	5	b		Are you aware of cases of cases of stateless people being returned under such agreements?		No information is publicly available.	

Cat	Q	Sub	Subtheme	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 to PRS1b. If no, proceed to PRS1h]</b>	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 2</p> <p><a href="#">Convention on the Rights of the Child 1989</a>: Article 7</p> <p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless.</p> <p><a href="#">European Parliament (2018)</a>: The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.</p>	<p>Yes. 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: <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 otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	<p><a href="#">UNHCR (2012)</a>: The 1961 Convention provides Contracting States with two alternatives for granting nationality to otherwise stateless children born in their territory: either automatic acquisition upon birth or upon application.</p> <p><a href="#">ENS (2015)</a>: The 1961 Convention and the ECN oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.</p>	The provision is automatic for those born stateless in the UK to parents with a form of British nationality (see above). The status of British Overseas Citizen has been held not to meet the international definition of a 'nationality' by the UK Upper Tribunal because there is no right to enter and reside in the UK (see LIT 1a). The provision for acquisition of British nationality following birth on the territory and five years' residence is not automatic, but by registration on application. The fee for registration of a child as a British national includes approximately 60% profit element and is currently set at 1012 GBP (1150 EUR).	<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 2018, Schedule 8, 19.3.1.  <a href="http://www.legislation.gov.uk/uksi/2018/330/contents">http://www.legislation.gov.uk/uksi/2018/330/contents</a></p> <p>UK Parliament, House of Commons Library, Fees for registering children as British citizens:  <a href="https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP-2018-0196">https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CDP-2018-0196</a></p>
PRS	1	c		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	<p><a href="#">UNHCR (2012)</a>: The test is not an inquiry into whether a child's parents are stateless.</p> <p><a href="#">ENS (2015)</a>: Only allowing access to nationality for stateless children whose parents are stateless fails to account for the circumstance where the parents hold a nationality but are unable to pass this on.</p>	No.	<p>British Nationality Act 1981, Section 36 &amp; Schedule 2:  <a href="http://www.legislation.gov.uk/ukpga/1981/61/contents">http://www.legislation.gov.uk/ukpga/1981/61/contents</a></p>
PRS	1	d		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the	<a href="#">UNHCR (2012)</a> : A Contracting State 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. The burden of proof must be shared between the claimant	No, 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	<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</p>

				country of birth? If yes, please describe how this is determined in practice.	and the authorities. Decision-makers must consider Articles 3 & 7 CRC and adopt an appropriate standard of proof. Special procedural considerations to address the acute challenges faced by children in communicating basic facts about their nationality should be respected.	requirements). The standard of proof is the civil standard ('balance of probabilities') and the burden of proof is on the applicant. 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 '[a]bility to acquire a nationality is irrelevant for these purposes'. 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 'not entitled to impose requirements that cannot, or practically cannot, be met'. 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. The Home Office's nationality guidance for stateless persons sets out evidential requirements and states at p7: 'Where the parents have complied with the relevant requirements, but the authorities of the other country will not provide that information, you must consider the application on the basis of all the information available.'	Secretary of State for the Home Department [2017] EWHC 1365 (Admin), paras. 36 & 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>  UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, Sep 2017, 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>
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PRS	1	e	Is a stateless child born on the territory required to fulfil a period of residence to be granted nationality? If yes, please specify length and if this must be legal residence.	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 1(2)</p> <p><a href="#">UNHCR (2012)</a>: States may stipulate that an otherwise stateless individual born in its territory fulfils a period of 'habitual residence' (understood as stable, factual residence, not legal or formal residence) not exceeding five years preceding an application nor ten years in all.</p> <p><a href="#">Convention on the Rights of the Child, 1989</a>: Articles 3 &amp; 7</p> <p><a href="#">Committee on the Rights of the Child (2015)</a>: Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions.</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 6(2)(b)</p>	<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 national, 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 residency need not have been lawful or permanent residency and there is discretion regarding the periods of absence from the UK.</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, Sep 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 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? If yes, please specify length and if	<p><a href="#">Committee on the Rights of the Child (2011)</a>: The outcome of an application 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.</p> <p><a href="#">ENS (2015)</a>: Demanding that the child or their parents reside lawfully on the</p>	<p>No. 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 national at birth. Some children born in 'qualifying territories' after 13 January 2010 will also be British by birth.</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>

				this must be legal residence.	territory is prohibited by the 1961 Convention.		UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, Aug 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>
PRS	1	g		What are the age limits (if any) for making an application for nationality for a stateless person born on the territory?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 1(2) <a href="#">UNHCR (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. <a href="#">ENS (2015)</a> : Closing the window of opportunity to apply for a nationality has the effect of leaving it in the hands of parents to take the necessary steps to secure a nationality for their child.	The application must be made before the age of 22.	British Nationality Act 1981, Section 36 & 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>
PRS	1	h		Are there specific provisions to protect the right to a nationality of children born to refugees?	<a href="#">UNHCR (2012)</a> : Where the nationality of the 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.	No.	

PRS	2	a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 2 <a href="#">European Convention on Nationality, 1997</a> : Article 6(1)(b)	Yes, and it is automatic. Previously, the UK Government's Nationality Instructions gave some guidance about this provision; however, this has been left out of the current guidance.	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>  UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, Aug 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>
PRS	2	b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	<a href="#">UNHCR (2012)</a> : At a minimum, the safeguard should apply to all young children who are not yet able to communicate information about the identity of their parents or their place of birth.	The relevant provision refers only to 'new born infants'. 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.	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>  UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, Aug 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>  British Nationality Bill, Standing Committee, 26 February 1981 cc 212 per Timothy Raison MP, Minister.
PRS	2	c		Can nationality be withdrawn from foundlings if this	<a href="#">UNHCR (2012)</a> : Nationality acquired by foundlings may only be lost if it is proven that the child possesses another nationality.	The law is not entirely clear on this point. Under the British Nationality Act, the Government may not (with some exceptions) withdraw a person's	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>



				leads to statelessness?		nationality if the Secretary of State 'is satisfied that the order would make a person stateless'. However, evidence contradicting the presumption that a foundling was entitled to British nationality might have some consequences for the child's nationality, depending on the circumstances.	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>
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 acquired?	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 5 <a href="#">ENS (2015)</a> : Children may be exposed to a (temporary) risk of statelessness during the adoption process due to the nationality law of the child's country of origin.	No.	
PRS	3	b		Does a foreign child adopted by national parents acquire nationality? Please specify any age limits and/or risk of statelessness during the adoption process.	<a href="#">European Convention on Nationality, 1997</a> : Article 6(4)(d) <a href="#">Committee on the Rights of the Child (2015)</a> : Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	A child adopted in the UK, an overseas territory or in a Hague Convention country by a parent who is a British national and resident in the UK becomes a British national from the moment of adoption.	British Nationality Act 1981, Section 1(5) and (5A): <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, 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>



PRS	4	a	<i>ius sanguinis</i>	Can children born to nationals abroad acquire nationality by descent ( <i>ius sanguinis</i> ) in general and/or if they would otherwise be stateless?	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 4</p> <p><a href="#">UNHCR (2012)</a>: Where a child who would otherwise be stateless is born to parents of another Contracting State but does not acquire the nationality of the State of birth responsibility falls to the Contracting State of the parents to grant its nationality to the child.</p>	Yes, for children in the first generation born overseas and further generations if parents are in Crown Service. There are also provisions that allow the children of British nationals 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 British Nationality Act because those whose grandparents were British nationals otherwise than by descent do not enjoy the entitlement to register: it is restricted to those whose parents are nationals by descent but whose grandparents are nationals otherwise than by descent.	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>
PRS	4	b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of	<p><a href="#">Genovese v. Malta ECtHR (2011)</a>: The state must ensure that the right to nationality is secured without discrimination.</p> <p><a href="#">CEDAW Gen. rec. No. 32, 2014</a>: Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to</p>	There are conditions but they are not discriminatory. The conditions are that the applicant has been resident in the UK for three years prior to the date of application and has not been absent for more than 270 days in that period.	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>

				children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	practical implementation of such laws are removed. <a href="#">UNHCR (2014)</a> : Action 4		
PRS	5	a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the legal status and/or documentation of parents?	<a href="#">Convention on the Rights of the Child, 1989</a> : Article 7 <a href="#">International Covenant on Civil and Political Rights, 1966</a> : Article 24(2) <a href="#">Council of Europe (2009)</a> : Member states should 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 the parents are unknown. <a href="#">UNHCR (2012)</a> : Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. <a href="#">UNHCR (2014)</a> : Action 7 <a href="#">UN Sustainable Development Goal 16.9</a>	Yes. Births must be reported to the birth registrar within 42 days in England (there is a penalty if the parents or registrar fail to take certain actions under s36 of the 1953 Act), Wales and Northern Ireland, and within 21 days in Scotland. Births can (and must) be registered if parents are not legally resident or are undocumented. People other than the parents can register the birth in all three UK jurisdictions.	Births and Deaths Registration Act 1953, Sections 1 & 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 & Wales)  Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II: <a href="http://www.legislation.gov.uk/ukpga/1965/49/section/14">http://www.legislation.gov.uk/ukpga/1965/49/section/14</a>  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>  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)

PRS	5	b	Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	<p><a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a>: Underscores the importance of effective birth registration and provision of documentary proof of birth irrespective of immigration status and that of parents or family members.</p> <p><a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a>: Take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents.</p>	<p>Yes. In England and Wales, a short form birth certificate is provided for free which states name, date and place of birth. A long form certificate including all entries from the register is available for a low fee, currently £5 (6 EUR). In Scotland, a provision for free short form birth certificates was repealed in 2006. In Northern Ireland, there is provision for payment of a fee for the short form certificate (s40 of the N Ireland Order).</p>	<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:  <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>
PRS	5	c	Is the child's nationality determined or recorded upon birth registration? If yes, please describe how and by whom (e.g. if the mother/father's nationality is recorded and/or automatically attributed to the	<p><a href="#">Convention on the Rights of the Child, 1989</a>: Articles 3 &amp; 7</p>	<p>Nationality of neither parents nor child appears on birth registration document. Nationality is not considered to be relevant at the point of registration of the birth.</p>	<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:  <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.</p>

				child, if there's a formal procedure, if information on both parents is recorded etc.)			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>  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)
PRS	5	d		If a child's nationality is not determined or recorded upon birth registration, is there a legal framework to determine the child's nationality later? If yes, please describe the procedure, including the legal grounds, deadlines and competent authority.	<a href="#">Convention on the Rights of the Child, 1989</a> : Articles 3 & 7	There is no formal, standalone procedure for determining nationality. Most children will only have their nationality determined at the point of requesting a British passport. Children who are subject to immigration procedures may have their nationality determined by the section of the UK Government Home Office, UK Visas and Immigration, which deals with their application. Statelessness may be determined, or another nationality attributed correctly or incorrectly, according to the evidence submitted by the applicant/s. In the case of children in state care this point has frequently been overlooked or deliberately avoided due to the very high cost of the naturalisation application. The significance of the omission is only felt by the young adult at the point of starting work, or education, or seeking to travel	See SDS 8 a

PRS	5	e		Are there credible reports to suggest that children are prevented from registering in practice because of parents' legal status or other reasons (please specify)?	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : Urge States parties to take all necessary measures to ensure that all children are immediately registered at birth and issued birth certificates, irrespective of their migration status or that of their parents. Legal and practical obstacles to birth registration should be removed.	None of which we are aware.	
PRS	5	f		Are there mandatory reporting requirements that would deter undocumented parents from coming forward to register their children (e.g. health or civil registry authorities required to report undocumented migrants)?	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : Legal and practical obstacles to birth registration should be removed, including by prohibiting data sharing between health providers or civil servants responsible for registration with immigration enforcement authorities; and not requiring parents to produce documentation regarding their migration status.	NHS health services may be required to report unpaid healthcare charges to the immigration authorities and some undocumented migrants are subject to charging for healthcare, which differs in the different jurisdictions of the UK, and which may deter them from accessing services and thus prevent birth registration. Maternity services of all kinds will always be provided regardless of payment, although charges can be levied for them in some cases. The NHS is required to charge patients who are not exempt under the regulations applicable in each of the devolved jurisdictions. If the debt is over £500 and is outstanding for 2 months or more, the NHS must refer the person to the Home Office.	<p>The National Health Service (Charges to Overseas Visitors) (England) Regulations 2015, SI 2015/138: <a href="http://www.legislation.gov.uk/uk/si/2015/238/contents/made">http://www.legislation.gov.uk/uk/si/2015/238/contents/made</a></p> <p>Home Office guidance on the operation of the Regulations: <a href="https://www.gov.uk/government/publications/how-the-nhs-charges-overseas-visitors-for-nhs-hospital-care">https://www.gov.uk/government/publications/how-the-nhs-charges-overseas-visitors-for-nhs-hospital-care</a> (England only)</p> <p><a href="https://www.gov.uk/government/publications/overseas-nhs-visitors-framework-to-support-identification-and-upfront-charging/upfront-charging-operational-framework-to-support-identification-and-charging-of-overseas-visitors">https://www.gov.uk/government/publications/overseas-nhs-visitors-framework-to-support-identification-and-upfront-charging/upfront-charging-operational-framework-to-support-identification-and-charging-of-overseas-visitors</a></p> <p>Public Health England, NHS Entitlements: migrant health guide:</p>

							<a href="https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide">https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide</a>  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>  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>  NHS visitor and migrant cost recovery programme: <a href="https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme">https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme</a>
PRS	5	g		Is there a statutory deadline for birth registration? If yes, please state the deadline and whether late birth registration is possible in law and practice.	<a href="#">Committee on the Rights of Migrant Workers and Members of their Families &amp; Committee on the Rights of the Child (2017)</a> : Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. <a href="#">UN Human Rights Council, Resolution A/HRC/RES/20/4</a> : Calls upon States to ensure free birth registration,	The statutory deadline is within 42 days in England, Wales and Northern Ireland, and within 21 days in Scotland. 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	Births and Deaths Registration Act 1953, Sections 2 & 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 & Wales)  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>

					including free or low-fee late birth registration, for every child.	enhanced powers to require attendance in person. Registration after 3 months for the birth in Scotland is at the Registrar's discretion. The same is true for registration more than 12 months after the birth in Northern Ireland. Late registration is possible in law and practice.	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>  UK Government information, Birth Certificates: <a href="https://www.gov.uk/government/publications/birth-certificates-and-the-full-birth-certificate-policy">https://www.gov.uk/government/publications/birth-certificates-and-the-full-birth-certificate-policy</a>
PRS	5	h		Are there additional requirements for late birth registration (e.g. fees, documents, court procedure)? Please describe the procedure including the competent authority and procedural deadlines.	As above	Although late registration is possible in law and practice in all jurisdictions, 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) (see PRS6a).	
PRS	6	a	Reduction	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	<a href="#">UNHCR (2014)</a> : Action 7	Not that we are aware of, though midwives and health visitors promote birth registration in all jurisdictions and public information is available online.	UK Government website, Register a birth: <a href="https://www.gov.uk/register-birth/overview">https://www.gov.uk/register-birth/overview</a>  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>  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>



PRS	6	b		Are there particular sections of the population - such as minority groups - believed to be stateless/at risk of statelessness? Please provide details and source of information.	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 9 <a href="#">UNHCR (2014)</a> : Action 4 <a href="#">UN Human Rights Council (2019)</a> : States should take legislative, administrative and policy measures aimed at eliminating statelessness affecting minorities.	The Law Clinic is aware of a historic case of apparent non-registration, but it is not known to be common. It is possible that more cases will appear due to the 'hostile environment' and high NHS charges for hospital births to those who do not have health insurance or the correct immigration status to qualify for free health care.	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>
PRS	6	c		Has the Government implemented any other measures specifically aimed at reducing (risk of) statelessness? (e.g. identification, registration or naturalisation campaigns, removal of treaty reservations, reform of discriminatory laws, etc.)	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> <a href="#">UNHCR (2014)</a> : Actions 1 & 8 <a href="#">UNHCR (2015)</a> : States parties to the 1954 Convention are required to help stateless persons become naturalised nationals.	No.	
PRS	7	a	Withdrawal of nationality	Are there provisions on loss and/or deprivation of nationality established in law? Please describe and state whether there is a safeguard against	<a href="#">UN Convention on the Reduction of Statelessness, 1961</a> : Article 8 <a href="#">European Convention on Nationality, 1997</a> : Article 7(3) <a href="#">Universal Declaration of Human Rights</a> : Article 15(2)	Yes. S40(1-3) of the British Nationality Act provides powers for the Secretary of State to deprive British nationals of their nationality if certain tests are met. Where the Secretary of State is satisfied that the deprivation is conducive to the public good, no deprivation order may be made which would render a person stateless. An order may be made which results in a	British Nationality Act 1981, ss. 40–41 (Fraud – s40(3)&(6)): <a href="https://www.legislation.gov.uk/ukpga/1981/61/section/40">https://www.legislation.gov.uk/ukpga/1981/61/section/40</a>  Home Office Guidance on deprivation and nullity: <a href="https://www.gov.uk/government/publications/deprivation-and-nullity-of-">https://www.gov.uk/government/publications/deprivation-and-nullity-of-</a>



				statelessness in law and practice.		<p>person becoming stateless where: a) the person naturalised; and b) the Secretary of State considers that they have conducted themselves in a manner seriously prejudicial to the vital interests of the state; and c) the Secretary of State has reasonable grounds for believing that the person may be able to acquire another nationality. A person may be rendered stateless where a deprivation order is made in cases where nationality is found to have been acquired by fraud, false representation or concealment of a material fact. The procedure can apply retrospectively to grants of nationality made before commencement. The method of presenting false information is relevant to the procedure (i.e. whether it is nullification or deprivation). The Secretary of State conceded before the Supreme Court that certain identity fraud cases were subject to the deprivation rather than nullification procedure. Deprivation avoids family members' nationality being nullified also; and there is a right of appeal, whereas nullification may only be challenged by judicial review. The guidance does not reflect the Secretary of State's position in the Hysaj case.</p>	<p><a href="#">british-citizenship-nationality-policy-guidance</a></p> <p>Hysaj &amp; Ors, R (on the application of) v Secretary of State for the Home Department [2017] UKSC 82 (21 December 2017):  <a href="http://www.bailii.org/uk/cases/UKSC/2017/82.html">http://www.bailii.org/uk/cases/UKSC/2017/82.html</a></p>
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PRS	7	b	Who is the competent authority for withdrawal of nationality and what procedural safeguards are in place (legal aid, judicial oversight, appeal, time limit, subject to prior sentencing)?	<p><a href="#">UN Convention on the Reduction of Statelessness, 1961</a>: Article 8(4)</p> <p><a href="#">European Convention on Nationality, 1997</a>: Article 11</p>	<p>The Secretary of State is the competent authority. The Secretary of State may notify the person concerned while that person is abroad, and by electronic means or 'served to file', which means that the person is not in fact served with the notice of deprivation. There is a right of appeal to the ordinary Immigration First Tier Tribunal. If, under BNA 1981, s40A(2) the Secretary of State certifies that the deprivation decision was taken wholly or partly in reliance on information which in his opinion should not be made public (a) in the interests of national security; (b) in the interests of the relationship between the United Kingdom and another country; or (c) otherwise in the public interest, then the appeal is only to the Special Immigration Appeals Commission, where the appellant's right to review the evidence against them is severely curtailed. There is some provision for suspension of removal or deportation pending appeal. The provision allowing for deprivation rendering a person stateless is subject to independent review one year after s40(4A) came into force, and every three years thereafter. The next report is therefore due in April 2019.</p>	<p>British Nationality Act 1981, s40: <a href="https://www.legislation.gov.uk/ukpga/1981/61/section/40">https://www.legislation.gov.uk/ukpga/1981/61/section/40</a></p> <p>British Nationality (General) (Amendment) Regulations SI 2018/851, Reg 3, amends the British Nationality (General) Regulations SI 2003/548, Part III, Reg 10, regarding notifying the person of the intention to make a deprivation order (not shown in amended form on the legislation.gov.uk website): <a href="http://www.legislation.gov.uk/uksi/2018/851/made#f00002">http://www.legislation.gov.uk/uksi/2018/851/made#f00002</a></p> <p>Right of appeal: British Nationality Act 1981, s40A: <a href="https://www.legislation.gov.uk/ukpga/1981/61/section/40A">https://www.legislation.gov.uk/ukpga/1981/61/section/40A</a></p> <p>Appeals jurisdiction: Special Immigration Commission Appeals Act 1997, ss2 &amp; 2B: <a href="http://www.legislation.gov.uk/ukpga/1997/68/section/2">http://www.legislation.gov.uk/ukpga/1997/68/section/2</a></p> <p>Suspensive effect: Special Immigration Commission Appeals Act 1997, Sch 2: <a href="http://www.legislation.gov.uk/ukpga/1997/68/schedule/2">http://www.legislation.gov.uk/ukpga/1997/68/schedule/2</a></p> <p>Independent review: British Nationality Act 1981, s40B(5): <a href="https://www.legislation.gov.uk/ukpga/1981/61/section/40B">https://www.legislation.gov.uk/ukpga/1981/61/section/40B</a></p>
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							April 2016, First report of independent reviewer under British Nationality Act 1981, s40B: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/David_Anderson_QC_-_CITIZENSHIP_REMOVAL_web_.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/David_Anderson_QC_-_CITIZENSHIP_REMOVAL_web_.pdf</a>
PRS	7	c		Are withdrawal provisions applied in practice?		Yes, increasingly. A Freedom of Information enquiry showed that 81 people were deprived of nationality 2010-2015 (but not necessarily resulting in statelessness). It was reported in February 2019 that the power has been used more than 100 times.	How is the government using its increased powers to strip British people of their citizenship? Colin Yeo, 9 Aug 2018, Freemovement Blog: <a href="https://www.freemovement.org.uk/british-nationals-citizenship-deprivation/">https://www.freemovement.org.uk/british-nationals-citizenship-deprivation/</a>  Deprivation of citizenship and “ISIS bride” Shamima Begum, Bilaal Shabbir, 18 Feb 2019, Freemovement Blog: <a href="https://www.freemovement.org.uk/s-hamima-begum-citizenship/">https://www.freemovement.org.uk/s-hamima-begum-citizenship/</a>  House of Commons library briefing, July 2017: <a href="https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06820#fullreport">https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN06820#fullreport</a>  April 2016, First report of independent reviewer under British Nationality Act 1981, s40B: <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/</a>

## Prevention and Reduction – 2019

							<a href="#">David Anderson QC - CITIZENSHIP REMOVAL web .pdf</a>
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## 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.		<p>There are three judicial review (administrative court) judgments relating to the SDP, one relating to deportation proceedings, one to registration of stateless children as British nationals, and many more judgments relating to statelessness in the context of asylum, asylum support, unlawful detention, and deprivation of British nationality. There are also decisions of the Asylum Support Appeals Tribunal that mention statelessness. Cases are accessible on the UK government Tribunal website, but the Upper Tribunal is reluctant to formally 'report' decisions, and therefore the cases may only be cited in legal argument with justification. They are included because they demonstrate the breadth of issues considered, and at the same time a lack of consistency, and possibly a lack of judicial training.</p>	<p>Database of decisions of the Tribunal (Immigration and Asylum Chamber): <a href="https://tribunalsdecisions.service.gov.uk/utiac">https://tribunalsdecisions.service.gov.uk/utiac</a></p> <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>Chin et al (former BOC/Malaysian national – deportation) [2017] UKUT 000105: <a href="https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-15">https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-15</a> (the observation that BOC citizenship 'expired' when the passport expired has been expressly disavowed (see Teh v SSHD))</p> <p>E3 and N3 v SSHD (deprivation of British nationality and statelessness) [SIAC, 2018]: <a href="http://siac.decisions.tribunals.gov.uk">http://siac.decisions.tribunals.gov.uk</a></p>

						<p><a href="#">/Documents/outcomes/documents/E3%20&amp;%20N3.pdf</a></p> <p>R (on the application of Al-Anizy) v Secretary of State for the Home Department (undocumented Bidoons – Home 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)</p> <p>Unreported:  Mamode &amp; Anr v SSHD, (Immigration and Asylum Chamber) Appeal Numbers: PA/07451/2018  PA/07454/2018, 18 Jun 2019  <a href="https://tribunalsdecisions.service.gov.uk/utiac/pa-07451-2018-pa-07454-2018">https://tribunalsdecisions.service.gov.uk/utiac/pa-07451-2018-pa-07454-2018</a> (at para 9, the Judge considers the limitations of the burden and standard of proof in an asylum appeal where nationality is in issue and the appellant is unrepresented)</p> <p>Paramdeep and Gurpreet v SSHD, Upper Tribunal  (Immigration and Asylum Chamber) Appeal Number: HU/24316/2018  HU/24319/2018 20 May, 2019,  <a href="https://tribunalsdecisions.service.gov.uk/utiac/hu-24316-2018-hu-24319-2018">https://tribunalsdecisions.service.gov.uk/utiac/hu-24316-2018-hu-24319-2018</a> (the parents of a stateless Indian child requested leave to</p>
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						<p>remain in the UK; statelessness did not have to be determined by way of the SDP under Part 14 of the Immigration Rules; it is a matter of law before the Tribunal; the statelessness could easily be remedied (on the facts of the case) by registering the child)</p> <p>Mrs PS v SSHD, Upper Tribunal (Immigration and Asylum Chamber) Appeal Number: HU/16262/2017, 28 Mar 2019  <a href="https://tribunalsdecisions.service.gov.uk/utiac/hu-16262-2017">https://tribunalsdecisions.service.gov.uk/utiac/hu-16262-2017</a> (family members requesting leave to enter the UK to reunite with a recognised stateless family member in the UK, under para 410 and 411 of the Immigration Rules, are required to make a formal 'valid' application and may not request leave to enter in that category as part of their request to enter on human rights grounds)</p> <p>SSHD v HMS, Upper Tribunal (Immigration and Asylum Chamber) Appeal Number: pa/00392/2017, 28 Dec 2018,  <a href="https://tribunalsdecisions.service.gov.uk/utiac/pa-00392-2017">https://tribunalsdecisions.service.gov.uk/utiac/pa-00392-2017</a> (a deportation appeal; an analysis of the situation of a Palestinian from</p>
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						<p>Lebanon and Gaza, who made a Part 14 Immigration Rules application and was subject to deportation proceedings; finding of refugee status under Art 1D of the 1951 Convention)</p> <p>The Upper Tribunal of the Immigration and Asylum Chamber, SSHD v GS, HK and AK, HU/00490/2019, HU/00507/2019, HU/00498/2019, 8th August 2019, <a href="http://www.bailii.org/uk/cases/UKAITUR/2019/HU004902019.html">http://www.bailii.org/uk/cases/UKAITUR/2019/HU004902019.html</a> (the Tribunal prefers the Supreme Court interpretation of Art 1(1) of the 1954 Convention, to that of the Court of Appeal in AS (Guinea), see below).</p> <p>The Upper Tribunal of the IAC: KK and KSB v SSHD (unreported), <a href="https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019">https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019</a> : where the Indian national parents of a child born in the UK who could be registered claim that the child is stateless, they must comply with the requirements of the (new) immigration rule, para 403(f). Since they failed to comply by making an attempt to register the child, the Tribunal found that the child could not be recognised as stateless (see</p>
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							section SDS1a – this case exemplifies why the April 2019 addition to the Rules at 403(f) is problematic.)
LIT	1	b		Number of published judgements mentioning statelessness (broken down by level of jurisdiction). Please list.		<p>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.</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, 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:</p>

						<p><a href="https://www.gov.uk/asylum-support-tribunal-decisions">https://www.gov.uk/asylum-support-tribunal-decisions</a></p> <p>MK v SSHD [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> (does failure to register a child mean that they are stateless for the purposes of British nationality law)</p> <p>R (JM) v SSHD (Statelessness: Part 14 of HC 395) IJR [2018 EWCA Civ 188: <a href="http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html">http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html</a> (whether the ability to register in order to acquire the nationality of a country means that a person is 'admissible' to that country)</p> <p>Teh v SSHD [2018] EWHC 1586 (Admin), High Court (Administrative Court)  <a href="http://www.bailii.org/ew/cases/EWHC/Admin/2018/1586.html">http://www.bailii.org/ew/cases/EWHC/Admin/2018/1586.html</a>            (BOC/Malaysian national: judicial review of refusal of grant of leave to remain as a stateless person; British Overseas Citizen – not a 'national' because the status does not attract a right of residence in the UK; person renouncing a nationality in order to</p>
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							<p>gain an advantage must try to reacquire it)</p> <p>AS (Guinea) v SSHD, UNHCR intervening, Court of Appeal (Civil Division) on appeal from the Upper Tribunal (Immigration and Asylum Chamber) [2018] EWCA Civ 2234L: <a href="http://www.bailii.org/ew/cases/EWCACiv/2018/2234.html">http://www.bailii.org/ew/cases/EWCACiv/2018/2234.html</a> (deportation – relevance of statelessness to decision to revoke deportation order – explicitly not decided; evidential standard in determination of statelessness is balance of probabilities, not a lower standard)</p>
LIT	2	a	Legal training	<p>Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).</p>	<p><a href="#">UNHCR (2016)</a>: Officials who may be in contact with stateless persons need to be trained to identify potential applicants for stateless status and refer them to appropriate channels.</p> <p><a href="#">UNHCR (2010)</a>: It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.</p>	<p>Upper Tribunal judges in the Immigration and Asylum Chamber have received some limited training on identifying statelessness. Challenges to a decision to refuse leave to remain under the Rules will be heard in the first case in the Upper Tribunal as a judicial review, if the case is not resolved in the Administrative Review procedure first. We are not certain whether judges at the Administrative Court receive training on statelessness. 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</p>	

						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. Recent ILPA training has been provided by Adrian Berry of Garden Court North, Counsel in AS (Guinea).	
LIT	3	a	Pro Bono	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	<a href="#">UNHCR (2014)</a> : Applicants must have access to legal counsel.	<p>Yes. Consonant and the Jesuit Refugee Service have a dedicated project to provide free legal advice for statelessness applications. Liverpool Law Clinic provides free advice and takes enquiries from other legal advisers. Some private and legal aid practitioners offer advice, privately paid in the first case and after obtaining Exceptional Cases Funding in the second. The Project for the Registration of Children as British Citizens also has a dedicated project to assist children who have a right to British nationality, some of whom may be otherwise stateless. Other organisations provide free legal advice for statelessness applications on an ad hoc basis.</p>	<p>Consonant (formerly Asylum Aid): <a href="https://consonant.org.uk/who-we-are/">https://consonant.org.uk/who-we-are/</a></p> <p>Liverpool Law Clinic: <a href="https://www.liverpool.ac.uk/law/liverpool-law-clinic/">https://www.liverpool.ac.uk/law/liverpool-law-clinic/</a></p> <p>Project for the Registration of Children as British Citizens (PRCBC): <a href="https://prcbc.org/">https://prcbc.org/</a></p> <p>Jesuit Refugee Service: <a href="https://www.jrsuk.net/get-help/">https://www.jrsuk.net/get-help/</a></p> <p>Bail for Immigration Detainees: <a href="http://www.biduk.org/">www.biduk.org/</a></p> <p>Duncan Lewis solicitors (with legal aid) (detention and statelessness): <a href="https://www.duncanlewis.co.uk/">https://www.duncanlewis.co.uk/</a></p>

LIT	4	a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		<p>Yes. Some examples are listed, but these do not include literature on specialist non-UK issues e.g. Kuwaiti Bidoons; Rohingya etc.</p> <ul style="list-style-type: none"> <li>· L Fransman British Nationality Law, 3<sup>rd</sup> 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/resources.php/26116/ilpabriefing-for-the-immigration-bill-house-of-lords-report-7-april-2014-deprivation-of-citizenship">http://www.ilpa.org.uk/resources.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> </ul>
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							<p>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>          · Bezzano, J, Carter, J, Statelessness in Practice, 2018 (report on case studies from the Liverpool Law Clinic):  <a href="https://www.liverpool.ac.uk/law/liverpool-law-clinic/">https://www.liverpool.ac.uk/law/liverpool-law-clinic/</a>          · Carter, J. (2019). AS (Guinea) v Secretary of State for the Home Department [2018] EWCA Civ 2234. The Statelessness and Citizenship Review, 1(2), 336–342:  <a href="https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/113">https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/113</a>          · Briefing: the new Home Office policy on statelessness, Cynthia Orchard of Consonant, 2nd Dec 2019, <a href="https://www.freemovement.org.uk/statelessness-guidance-2019/">https://www.freemovement.org.uk/statelessness-guidance-2019/</a></p>
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