Contents

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Country context (optional)

Please use this field to provide any relevant contextual or background information about the country's law, policy, and practice, or the stateless population, to help contextualise the information in the survey (optional question).
The UK has a stateless population made up mostly of migrants to the UK, and their children. The UK is a party to the 1954 and 1961 UN statelessness Conventions. Successive UK governments have generally sought to comply with their international obligations in domestic law. There is no centralised Statelessness Determination Procedure. Assessment of nationality and statelessness is carried out in the context of child registration, a residence permit application procedure, deprivation of British nationality and sometimes in deportation proceedings and during immigration detention.

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International and Regional Instruments

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
IOB.1.a	1954 Convention	Is your country party to the 1954 Statelessness Convention?	UN Convention Relating to the Status of Stateless Persons, 1954	Yes.	UN Treaty Collection: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en
IOB.1.b		If yes, when was ratification/accession?		On 16 April 1959	UN Treaty Collection: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en#EndDec
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: https://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V-3&chapter=5&Temp=mtdsg2&clang=_en#EndDec
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 British nationality applications. Since 16.06.2022 there is the possibility to apply for a fee waiver on grounds of affordability. See section PRS 2.h below LINK	Arabella Long, House of Commons Briefing Paper No. 5855, 17 February 2017, Parliament's role in ratifying treaties: http://researchbriefings.files.parliament.uk/documents/SN05855/SN05855.pdf
IOB.2.a	1961 Convention	Is your country party to the 1961 Statelessness Convention?	UN Convention on the Reduction of Statelessness, 1961	Yes.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=_en
IOB.2.b		If yes, when was ratification/accession?		29/03/1966	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=_en
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: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=V-4&chapter=5&clang=_en#EndDec
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: http://researchbriefings.files.parliament.uk/documents/SN05855/SN05855.pdf
IOB.3.a	Other conventions	State party to European Convention on Nationality 1997? Please list any reservations.	European Convention on Nationality, 1997	No.	Council of Europe, Chart of signatures and ratifications of Treaty 166: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/166/signatures?p_auth=4jSJfctp

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IOB.3.b		State Party to European Convention on Human Rights 1950? Please list any relevant reservations.	European Convention on Human Rights, 1950	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: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/signatures?p_auth=XgehAFvw Council of Europe, Reservations and Declarations for Treaty No.005: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/005/declarations?p_auth=XgehAFvw
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.	Council of Europe Convention on the Avoidance of Statelessness in Relation to State Succession, 2006	No.	Council of Europe, Chart of signatures and ratifications of Treaty 200: https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/200/signatures?p_auth=4jSJfct
IOB.3.d		Bound by Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)? Please list any relevant reservations.	Directive 2008/115/EC of the European Parliament and of the Council (EU Return Directive)	No. The UK is not a member of the EU.	
IOB.3.e		State Party to Convention on the Rights of the Child 1989? Please list any relevant reservations.	Convention on the Rights of the Child, 1989	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'. Declarations define meaning of child and parent.	UN OHCHR Status of Ratification Dashboard: http://indicators.ohchr.org/
IOB.3.f		State Party to International Covenant on Civil and Political Rights 1966? Please list any relevant reservations.	International Covenant on Civil and Political Rights, 1966	Yes, the UK is a state party and has reservations to the Covenant.	UN OHCHR Status of Ratification Dashboard: http://indicators.ohchr.org/
IOB.3.g		State Party to International Covenant on Economic, Social and Cultural Rights 1966? Please list any relevant reservations.	International Covenant on Economic, Social and Cultural Rights, 1966	Yes, the UK is a state party and has reservations to the Covenant.	UN OHCHR Status of Ratification Dashboard: http://indicators.ohchr.org/
IOB.3.h		State Party to Convention on the Elimination of all Forms of Discrimination Against Women 1979? Please list any relevant reservations.	Convention on the Elimination of all Forms of Discrimination Against Women, 1979 CEDAW, Gen. Rec. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness	Yes, the UK is a state party and has reservations to the Convention.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-8&chapter=4&clang=_en#EndDec
IOB.3.i		State Party to Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984? Please list any relevant reservations.	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984	Yes, the UK is a state party and has reservations to the Convention.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-9&chapter=4&clang=_en#EndDec
IOB.3.j		State Party to International Convention on the Elimination of All Forms of Racial Discrimination 1966? Please list any relevant reservations.	International Convention on the Elimination of All Forms of Racial Discrimination, 1965	Yes, the UK is a state party and has reservations to the Convention.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-2&chapter=4&clang=_en#EndDec
IOB.3.k		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.	International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, 1990	No.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&lang=en&mtdsg_no=IV-13&src=IND

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IOB.3.I		State Party to the Convention on the Rights of Persons with Disabilities 2006? Please list any relevant reservations.	Convention on the Rights of Persons with Disabilities, 2006	Yes, the UK is a state party (ratified on 8 June 2009) and has reservations to the Convention. Reservations relate to employment by the Crown; immigration laws; and education outside mainstream schools.	UN Treaty Collection: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-15&chapter=4&clang=_en#EndDec

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Stateless Population Data

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
POP.1.a	Availability and sources	Does the State 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).	CEDAW, Gen. Rec. 32 (2014): States parties should gather, analyse and make available sex-disaggregated statistical data and trends. Council of the European Union, Conclusions on Statelessness (2015): 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. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations. ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory.	No. UK population data does not include a statelessness category. It includes a question about which passport a person holds, including an option to reply 'None'. The most recent censuses were carried out across the countries of the UK in 2021 and 2022, and data will be released in early 2023. 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 2031. 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.	UK Census time frame: https://www.ons.gov.uk/census/censustransformationprogramme/census2021milestones People to be counted 2021: https://www.ons.gov.uk/census/censustransformationprogramme/questiondevelopment/outputandenumerationbasesresidentialaddressandpopulationdefinitionsforcensus2021 Question for collecting information about nationality: https://www.ons.gov.uk/census/censustransformationprogramme/secondaddressmigrationandcitizenshipquestiondevelopmentforcensus2021 UK Census Questionnaires from 2021: Paper version: https://census.gov.uk/help/how-to-answer-questions/paper-questions-help#individual-questions-1---10 Office for National Statistics, Population of the UK by country of birth and nationality: https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/datasets/populationoftheunitedkingdombycountryofbirthandnationality Home Office User Guide to Immigration Statistics: https://www.gov.uk/government/publications/user-guide-to-home-office-immigration-statistics--9 Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: http://www.refworld.org/docid/4ecb6a192.html
POP.1.b		Do public 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 POP.1.g, POP.2.a and POP.2.b. Statistics are presented in categories relating to immigration routes rather than by nationality, so each immigration route must be searched separately to build a full picture.	Home Office, National Statistics, How many people do we grant asylum or protection to? (25 November 2021), 8. Data Tables, Asylum Tables Volume 1: https://www.gov.uk/government/statistics/immigration-statistics-year-ending-september-2021/how-many-people-do-we-grant-asylum-or-protection-to Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: http://www.refworld.org/docid/4ecb6a192.html
POP.1.c		What is UNHCR's estimate for the stateless/at risk of statelessness population and what is the source for this estimate?	As above	UNHCR statistics listed 5,483 stateless people in the United Kingdom as of mid-2022, which includes asylum-seekers and refugees whose nationality has been recorded as 'stateless' as part of the asylum process. For this group there has been no formal determination that they are stateless. According to UNHCR's Data Finder, "as of the end of 2021, the total number of individuals recognised under UK's statelessness determination procedure is 258" (2021 footnote); the 2022 footnote states that the total number was 293 at the end of 2021. [This might be a typographical error and actually refer to the end of 2022.]	UNHCR, Refugee Data Finder: https://www.unhcr.org/refugee-statistics/download/?url=7vSJu6 (NB select to see data for 'Country of Asylum' and select UK. Review footnotes for numbers of those recognised via the UK's SDP rather granted refugee status). UNHCR, Refugee Statistics, Table 5. Persons under UNHCR's statelessness mandate, 2021: https://www.unhcr.org/2021-global-trends-annex-table-statelessness.xlsx

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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 ten years old.	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: http://www.refworld.org/docid/4ecb6a192.html
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 2018-19 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 (which includes renewals).	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. Other requests submitted in October 2021 are pending (7.12.2021)
POP.1.f		Are there issues with the reliability of data or indications that the stateless population may be over/under reported? If yes, please describe.	As above	Yes. It is difficult to accurately quantify the number of stateless persons because some are not recognised as stateless or counted. The stateless population is under-reported (as per POP.1.g). The evidence is the number of people recognised as stateless who have been present in the UK for many years (often 10 or more) and who are subsequently recognised to be stateless within the statelessness determination procedure.	Asylum Aid and UNHCR, Mapping Statelessness in the United Kingdom, 2011: http://www.refworld.org/docid/4ecb6a192.html As above.
POP.1.g		Please provide any available figures for stateless refugees and/or asylum-seekers and clarify if the State also counts these groups in figures for the stateless population (i.e. to avoid under/over-reporting).	As above. EASO/EUAA, Practical guide on registration (2021): States should collect information from applicants for international protection about their nationality(ies) and potential lack of nationality. When registering families, it is important to collect this data for each family member.	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. Those whose nationality is listed as 'Occupied Palestinian Territories' or 'Western Sahara' are likely to be stateless. Decisions take months or years so application and decision rates in any one year do not tally. The data published by the UK Government shows that in 2021, 576 stateless people claimed asylum. In 2021, 87 stateless people were granted asylum and 3 humanitarian protection. In the same period 19 cases were refused and 68 claims withdrawn. Separate figures are provided for decisions on asylum claims by people recorded as 'Occupied Palestinian Territories', 'Western Sahara', 'Kuwait', and 'Other/unknown', at least some of whom are likely to be stateless.	UK Government statistics are available here: https://www.gov.uk/government/statistics Enter 'immigration' as the search term to find the latest and historical data.
POP.2.a	Stateless in detention data	Does the State record and publish figures on stateless people held in immigration detention? If yes, please provide.	UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Improve quantitative and qualitative data on stateless populations. CEDAW, Gen. Rec. 32 (2014): State parties should gather, analyse and make available sex-disaggregated statistical data and trends. ISI, The World's Stateless (2014): States should strengthen measures to count stateless persons on their territory. Equal Rights Trust, Guidelines (2012): 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. Council of the European Union, Conclusions on Statelessness (2015): Recognise the importance of exchanging good practices among Member States concerning the collection of reliable data on	UK Government statistics for the year to December 2021 show that 151 stateless people entered detention. In addition, 232 people recorded as 'Kuwait' (there were 28 in 2019); 70 as 'Occupied Palestinian Territories' (28 in 2019); 1 from Western Sahara, and 13 'other/unknown' (19 in 2019). 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 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.	UK Government statistics are available here: https://www.gov.uk/government/statistics 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…' ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, Section 2.3, p.14: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf

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			stateless persons as well as the procedures for determining statelessness.		
POP.2.b		Does the State record and publish figures on people released from immigration detention due to un-removability? If yes, please provide.	As above	Yes. UK Government statistics are available for people leaving detention by being given bail (conditional release into the UK) in the year to September 2021 (Q1-3) (totals leaving detention in brackets): Stateless: 151 - all bailed; W Sahara: 1 bailed; Kuwait: 231 - all bailed; Occupied Palestinian Territories: 70 (1 returned); Other/unknown: 13 (1 'other' 1 returned). The great majority of those stateless or possibly stateless are pointlessly detained, simply to be released again in a few days or weeks. The data allows a search to be carried out on length of detention. NB reasons for leaving detention: The 'Other' reason for leaving includes people who have returned to criminal detention, those released unconditionally, those sectioned under the Mental Health Act, as well as deaths and absconds.	UK Government statistics are available here: https://www.gov.uk/government/statistics 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'. Detention Action, 2014, The State of Detention: immigration detention in the UK in 2014, p.6: https://detentionaction.org.uk/publications/

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Statelessness Determination and Status

Item	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.	1954 Convention: 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 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 RES.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. On 1 December 2020 Rule 403 (c) was amended, and para 404 makes reference to new grounds of refusal (see SDS.9.a).	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance 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: https://ilpa.org.uk/statelessness-and-applications-for-leave-to-remain-a-best-practice-guide-dr-sarah-woodhouse-and-judith-carter-ilpa-and-university-of-liverpool-law-clinic-3-november-2016/ 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 27th Session of the Universal Periodic Review, Sept 2016, paras. 14-18: https://www.statelessness.eu/updates/publication/joint-submission-human-rights-council-27th-session-universal-periodic-review-0 For an example of exactly how the new Rule has affected judicial determination of statelessness, see KK & KSB v SSHD (unreported), https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019 (listed in case law in section RES.1.a).
SDS.2.a	Training	Is there training to inform different public authorities about statelessness? If yes, please provide details (e.g. who provides training to whom/how often?)	UNHCR Executive Committee, Conclusion No. 106 (LVII) (2006): 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. The team has sought external assistance with training staff but generally trains internally. UNHCR provided training to the Statelessness Determination Team on 15 November 2022. A UNHCR audit on the statelessness determination procedure published in December 2020 recommends that decision-makers receive refresher training on: interviewing; the weight to be accorded to a lack of response from a foreign authority; assessing credibility; using information from previous claims/applications; and (for internal Administrative Review staff) identifying all casework errors, so that they can be communicated to the next decision maker following an upheld Review. This training took place in November 2022. Home Office 'detention gatekeepers' attended 2 hours of specialist statelessness workshops in 2018.	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. 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination

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SDS.2.b		Is there training for judges and lawyers on statelessness? If yes, please provide details (e.g. provider, frequency).	UNHCR, Good Practices Papers – Action 6 (2020): Officials who may be in contact with stateless persons need to be trained to identify potential applicants for statelessness status and refer them to appropriate channels. UNHCR, Geneva Conclusions (2010): It is recommended that States provide specialised training on nationality laws and practices, international standards and statelessness to officials responsible for making statelessness determinations.	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 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. Subsequent training was provided by ILPA/Adrian Berry of Garden Court North, Counsel in the Court of Appeal case of AS (Guinea) v SSHD (noted in Resources section (RES)).	
SDS.3.a	Existence of a dedicated SDP	Which of the following best describes the situation in your country? **Choose only one and then proceed to question indicated**. **1.** There is a dedicated statelessness determination procedure (SDP) established in law, administrative guidance, or judicial procedure, leading to a dedicated statelessness status **(answer Question SDS.3.b. and proceed to Question 4a).** **2.** There is no dedicated SDP leading to a dedicated statelessness status, but there are other procedures in which statelessness can be identified (e.g. partial SDPs with no status/rights attached, residence permit or naturalisation applications, refugee status determination, ad hoc procedures, etc.), or other routes through which stateless people could regularise their stay and/or access their rights **(answer Question SDS.3.b. and proceed to Question 10a).** **3.** There is a dedicated statelessness status but no formal procedure for determining this **(answer Question SDS.3.b. and proceed to Question 15a).**	UNHCR, Handbook on Protection (2014): It is implicit in the 1954 Convention that States must identify stateless persons to provide them appropriate treatment to comply with their Convention commitments. UNHCR, Good Practices Papers – Action 6 (2020): Establishing a statelessness determination procedure is the most efficient means for States Parties to identify beneficiaries of the Convention.	Group 1: There is a dedicated statelessness determination procedure established in UK Immigration Rules, which operate as law. The procedure leads to a residence permit and most 1954 Convention rights if the applicant is determined to be eligible for residence (exclusion clauses in the Rules go beyond those permitted under the Convention. See SDS.1.a). Statelessness may also be determined in the context of other procedures, for example, the procedure to issue a travel document or to register a child as a British national. Such procedures are less clear and information here applies primarily to the statelessness determination procedure in the immigration context. See SDS.4.a.	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance

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SDS.3.b	Temporary protection for people fleeing war	Does the State offer a temporary form of protection to stateless people and people at risk of statelessness from Ukraine? Please describe any barriers for stateless people or people at risk of statelessness in accessing the territory or receiving protection (e.g. for people who cannot fulfil eligibility requirements in line with the EU Temporary Protection Directive, if applicable).	EU Temporary Protection Directive (2001) EU Council Implementing Decision (2022) establishing the existence of a mass influx of displaced persons from Ukraine & European Commission, Operational guidelines ENS, Briefings on access to protection for stateless people fleeing Ukraine: Everyone fleeing the war in Ukraine should be guaranteed access to the territory. European countries must extend temporary forms of protection to all stateless people and those with undetermined nationality who cannot meet current eligibility requirements, due to their statelessness or documentation status. Lack of documentation should not prevent access to international protection or other forms of protection.	The UK has set up the Ukraine Family Scheme and the Homes for Ukraine Scheme, which allow people fleeing the war in Ukraine to join their family members in the UK or a person who has offered to sponsor them. The schemes are mostly applicable to Ukrainian nationals and eligible family members. Although some stateless people and people at risk of statelessness may be eligible if they meet the family member criteria for the Ukraine Family Scheme, or if they have evidence of a Ukrainian immediate family member for the Homes for Ukraine Scheme, people who lack documentation and unaccompanied minors may face practical difficulties in accessing the scheme. Stateless persons ineligible for these schemes might be able to enter the UK via other routes and could claim asylum once in the UK. Government guidance to local authorities requires that unaccompanied children from Ukraine seeking to come to the UK provide written, notarised parental consent and a suitable UK sponsor who was personally known to the child's parents prior to the war (this requirement can be waived if there are exceptional circumstances) (as well as other requirements). The Country of Origin asylum information does not include any mention of stateless persons. Statistics show that one stateless person has entered the UK from abroad with entry clearance (entry permit) under this scheme. The Home Office has confirmed that Ukrainian surrogate mothers of British intended parents will be entitled to travel to the UK outside of the usual immigration rules, which may help prevent cases of statelessness among children born through surrogacy.	Link to the page about the Ukrainian Visa Scheme with documentary requirements: Apply for a visa under the Ukraine Sponsorship Scheme (Homes for Ukraine) - GOV.UK (www.gov.uk) Homes for Ukraine: Guidance for councils (children and minors applying without parents or legal guardians) https://www.gov.uk/guidance/homes-for-ukraine-guidance-for-councils-children-and-minors-applying-without-parents-or-legal-guardians#eligibility-criteria (last updated 16/1/2023). Country of Origin information for Ukraine: https://www.gov.uk/government/publications/ukraine-country-policy-and-information-notes/country-policy-and-information-note-security-situation-ukraine-june-2022-accessible European Network on Statelessness, Country Briefing, United Kingdom: Information for stateless people and those at risk of statelessness fleeing Ukraine, June 2022: https://www.statelessness.eu/statelessness-ukraine-crisis Statistics are here: https://www.gov.uk/government/publications/ukraine-family-scheme-application-data/ukraine-family-scheme-and-ukraine-sponsorship-scheme-homes-for-ukraine-visa-data--2 ECRE, Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine, 31 May 2022: https://ecre.org/wp-content/uploads/2022/03/Information-Sheet-%E2%80%93-Access-to-territory-asylum-procedures-and-reception-conditions-for-Ukrainian-nationals-in-European-countries.pdf
SDS.4.a	Access to the procedure (Group 1)	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.	UNHCR, Handbook on Protection (2014): 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. UNHCR, Good Practices Papers – Action 6 (2020): It is important that examiners develop expertise while ensuring that the procedures are accessible.	The authority responsible for determining statelessness is the Home Office (UK Visas and Immigration). The Minister ultimately responsible for immigration decisions is the Secretary of State for the Home Department, hence litigants challenge refusal decisions of the 'SSHD'. Applications under the SDP for leave to remain (residence permit) on grounds of statelessness 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 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 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 (Part 9 para 9.2.1 of the Immigration Rules). It is not clear whether the criminal cases team is able to operate such a system consistently. The procedure to adopt in requests for revocation of deportation orders, on the grounds of	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, footnote 55: https://www.statelessness.eu/updates/publication/joint-submission-human-rights-council-27th-session-universal-periodic-review-0 Part 9 Immigration Rules general grounds for refusal: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal Conducive deportation, guidance to caseworkers, v1.0 of 25 November 2021, p64 (last page) https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1036336/Conducive_Deportation.pdf

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				statelessness, is referred to obliquely in the current guidance for caseworkers but is not explicitly set out anywhere. The deportation guidance mentions statelessness as a reason that deportation 'may' be halted, but gives no further information at all and does not cross refer to a definition of statelessness. The lack of access for those detained is covered in the Detention section (DET). There are instructions to staff who determine statelessness in relation to applications for registration as a British national. See Prevention/Reduction section.	
SDS.4.b		Are there clear, accessible instructions on how to make a claim of statelessness?	UNHCR, Handbook on Protection (2014): For procedures to be fair and efficient, access must be ensured (dissemination of info, targeted info campaigns, counselling on the procedures, etc.). UNHCR, Good Practices Papers – Action 6 (2020): Information on the procedure and counselling services must be available to potential applicants in a language they understand.	The online application form website page for requesting a residence permit includes basic but incomplete and arguably incorrect information about how to apply, which is by way of 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 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 and is not named in the online application form (which uses funnelling questions). The Rules themselves are not linked or highlighted in the application procedure although they are linked in the guidance document - a standalone PDF. The place on the UKVI website where the Rules are located 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). The Home Office response to the UNHCR audit published in December 2020 has agreed to amend some of the guidance but has not done so as at September 2022. The Home Office says it is now waiting for the Rules to be amended again.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf There is some very simplistic advice at point of application: https://www.gov.uk/stay-in-uk-stateless If you think you have the right to live in a country that is not the UK, you'll also need to show you've tried to get nationality of that country. 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Responses 3, 14, 16, 17, 22, 36: https://www.unhcr.org/5fd8957c4 Information about timing of new guidance available to the author through minutes of meetings with Home Office officials on 19 Oct 2021
SDS.4.c		Can submissions be made orally and/or in writing in any language?	ENS, Statelessness Determination and the Protection Status of Stateless Persons (2013): 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 https://visas-immigration.service.gov.uk/product/flr-s Immigration Rules, Part 1, para 34 with Part 14: stateless persons, para. 403(a): https://visas-immigration.service.gov.uk/product/flr-s
SDS.4.d		Must a specific application form be used? Please note any difficulties with forms or other inflexible documentation requirements.	ENS (2013): Bureaucratic difficulties (e.g. complicated forms, inflexible procedures, language restrictions etc.) can impede access to SDPs.	Yes, there is a specific online application form (internally known as 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 alia). The form is provided only in English and must be completed in English. It gives minimal guidance as to the relevant law. It does not gather information about UNRWA where relevant for applications by Palestinians. 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	Application for leave to remain as a stateless person and a Biometric Immigration Document (FLR(S): https://visas-immigration.service.gov.uk/product/flr-s 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf

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				point alone. The process does invite the applicant to refer to the guidance, and only through the guidance, to the Rules. It is not possible to view the questions on the form in advance. They can only be viewed sequentially once the previous questions have been fully completed.	
SDS.4.e		Are competent authorities authorised to initiate SDPs *ex officio*?	UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that governmental authorities be authorised to initiate procedures ex officio. UNHCR, Handbook on Protection (2014): Given that individuals are sometimes unaware of SDPs or hesitant to apply, procedures can usefully contain safeguards permitting State authorities to initiate a procedure.	There is no general authorisation or obligation to initiate statelessness determination ex officio, 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 where the child is in the care of a local authority). See the difficulty with criminal cases and stateless applicants noted at SDS.4.a above. 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 residence status 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. The Law Clinic also knows of a case of a person whose refugee status was revoked and who is in a category of persons known to be stateless. He was not referred to any statelessness determination or residence status procedure by any Home Office official in spite of having young children. His case was resolved through his own efforts 7 years later after he waited 3 years for his Part 14 SDP application to be dealt with. There is some evidence that the removals team has on occasion asked the statelessness team for an opinion on whether a passenger can be removed from the UK. There is no evidence that any detainees are referred to the statelessness procedure. See DET section.	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons Borders Citizenship and Immigration Act 2009, Section 55 (UK Visas and Immigration): https://www.legislation.gov.uk/ukpga/2009/11/section/55 Children's Act 2004, Section 11 (Part 2: Local Authorities in England): https://www.legislation.gov.uk/ukpga/2004/31/section/11 Children's Act 2004, Section 28 (Part 3: Local Authorities in Wales): https://www.legislation.gov.uk/ukpga/2004/31/section/28 Children (Scotland) Act 1995, Section 11 (Local Authorities in Scotland): https://www.legislation.gov.uk/ukpga/1995/36/section/17 The Children (Northern Ireland) Order 1994 (Local Authorities in Northern Ireland): http://www.legislation.gov.uk/nisi/1995/755/contents/made 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance
SDS.4.f		Are there obligations in law on authorities to consider the application?	UNHCR, Good Practices Papers – Action 6 (2020): Access to the SDP must be guaranteed.	Yes, if a valid application is submitted for leave to remain. Access to meaningful appeal mechanisms is problematic. See SDS.8.a.	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons
SDS.4.g		Is there an application fee?	UNHCR, Good Practices Papers – Action 6 (2020): Access to the SDP must be guaranteed.	No. A registration application, which involves determination of statelessness, attracts a fee and there is a fee waiver mechanism. See PRS.1.c	Application for leave to remain as a stateless person and a Biometric Immigration Document: https://visas-immigration.service.gov.uk/product/flr-s
SDS.4.h		Is there a lawful stay requirement to access the SDP?	UNHCR, Good Practices Papers – Action 6 (2020): Access to the procedure needs to be open to anyone regardless of lawful stay or residence. ENS (2013): There is no basis in the 1954 Convention for requiring lawful stay.	No. Presence in the UK is required for statelessness determinations for all migration routes. For registration as British on the grounds of statelessness, there is a minimum residence requirement of 3 or 5 years (less a maximum of 270 or 450 days respectively); and a requirement to have been present on the territory either 3 or 5 years before the date of the application, but it is possible to apply while outside the UK. The shorter period is, broadly, for those with a connection to the UK or its overseas territories by way of the nationality of a parent.	Immigration Rules, Part 14: stateless persons, para 401(b): https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons British Nationality Act 1981 Sch 2 https://www.legislation.gov.uk/ukpga/1981/61/schedule/2 and guidance to caseworkers Form S: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1085074/Guide_S_-_June_2022.pdf
SDS.4.i		Is there a time limit on access to the SDP?	UNHCR, Good Practices Papers – Action 6 (2020): Access to the SDP must be guaranteed and not subject to time limits.	No.	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons

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			ENS (2013): There is no basis in the 1954 Convention to set time limits for individuals to claim statelessness status.		
SDS.4.j		Is there cooperation between agencies that may have contact with stateless people to refer cases for status determination?	UNHCR, Good Practices Papers – Action 6 (2020): 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 SDS.4.a, a three-year battle to persuade the Statelessness Team to determine the status of two applicants subject to deportation proceedings.	
SDS.5.a	Assessment (Group 1)	Who has the burden of proof in the SDP in law and practice?	UNHCR, Handbook on Protection (2014): The burden of proof is in principle shared (both applicant and examiner must cooperate to obtain evidence and establish the facts). UNHCR, Good Practices Papers – Action 6 (2020): SDPs must take into consideration the difficulties inherent in proving statelessness. UNHCR, Geneva Conclusions (2010): In statelessness determination procedures, the burden of proof should therefore be shared between the applicant and the authorities responsible for making the determination. 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. ECtHR, Hoti v. Croatia (2018): State has responsibility to at least share the burden of proof with the applicant when establishing the fact of statelessness.	The applicant bears the burden of proof to 'substantiate' their claim. 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 where the applicant has provided as much information as reasonably possible. This problem was raised in the 2020 UNHCR audit. The Home Office explicitly rejected a recommendation to share the burden of proof, relying instead on the position in the guidance, claiming that there is already a 'high degree of cooperation' (which is not the observation of UNHCR nor legal practitioners). In its response the Home Office refers to the applicant needing to provide a 'sufficient level' of evidence without referring to a meaningful standard of proof.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf https://www.gov.uk/government/publications/stateless-guidance 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Jo Bezzano and Judith Carter: Statelessness in Practice report 2018: https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 5: https://www.unhcr.org/5fd8957c4
SDS.5.b		What is the standard of proof? Is it the same as in refugee status determination procedures?	UNHCR, Handbook on Protection (2014): States are advised to adopt the same standard of proof as in refugee status determination ('reasonable degree'). UNHCR, Good practices in nationality laws (2018): 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. ECtHR, Hoti v. Croatia (2018): If statelessness is a relevant factor in the context of access to human rights, the standard of proof when determining the status of statelessness cannot be too high.	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 the issue may be the threat to life, liberty and person." The UNHCR audit re-stated the UNHCR position and the Home Office response simply re-stated the guidance, referring to the leading case.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Home Office guidance upheld in the Court of Appeal: AS (Guinea) v SSHD [2018] EWCA Civ 2234: http://www.bailii.org/ew/cases/EWCA/Civ/2018/2234.html 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 5: https://www.unhcr.org/5fd8957c4

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SDS.5.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? In particular, what measures are in place to ensure respect for the best interests of the child in the procedure (burden of proof, guardianship, child-friendly procedures, etc.)?	UNHCR, Handbook on Protection (2014): Due to discrimination, women might face additional barriers in acquiring documentation (e.g. birth certificates or other identification documents). Children and persons with disabilities may face acute challenges in communicating basic facts with respect to their nationality. States must follow the principle of pursuing the best interests of the child. Additional safeguards for child claimants include priority processing of their claims, appropriately trained professionals and a greater share of the burden of proof by the State. CEDAW, Gen. Rec. 32 (2014): 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. CRC: Articles 2, 3, 7 and 8 CRPD: Article 18 UNHCR, Best Interests Procedure Guidelines (2021) UNHCR, Roundtable on Protection and Solutions for LGBTIQ+ People in Forced Displacement (2021) Global Compact for Safe, Orderly and Regular Migration: Objective 7 UN Women, Gender-responsive implementation of the Global Compact (2021): States should put in place measures to regularise the status of migrants leading to permanent residence, with specific attention to migrant women and girls who are stateless. European Parliament, Resolution on LGBTIQ rights in the EU (2021): Calls on Commission and Member States to overcome discrimination against rainbow persons and families.	Special considerations apply for children (see above SDS.4.e and SDS.5.a). 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. Some applications the Liverpool Law Clinic has made for their clients with dependent children for Part 14 residence status have been dealt with reasonably quickly ie in about 6 months. In 2021 the Home Office granted residence status to an applicant three years after they made their own application - without legal representation but clearly stating they had dependent young children. In this case the Home Office initially refused to determine the children's statelessness, but eventually did so in 2022. It then refused to grant statelessness leave under Part 14 of the Rules to the children, even though they complied with the Rules and had been included on their parent's application and described as stateless. The Home Office demanded a new, separate application for the children. There were no known instances of a child being the principal applicant in the Part 14 immigration procedure until this year (see last example). (Note the different situation for the nationality registration procedure)	Immigration Rules, Part 14: stateless persons: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons '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: https://www.gov.uk/government/publications/stateless-guidance Jo Bezzano and Judith Carter 'Statelessness in Practice' report 2018, Part 9: https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf Liverpool Law Clinic
SDS.5.d		Is there clear guidance for decision makers on how to determine statelessness (including e.g. sources of evidence and procedures for evidence gathering, etc.)?	ENS (2013): Determining authorities can benefit from concrete guidance that sets clear benchmarks and pathways for the establishment of material facts and circumstances.	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 improvements and some regression in the 2019 guidance as compared to the 2016 guidance. It allows greater leeway in the timing of the decision; UKVI may consider some asylum and statelessness applications in parallel. See Briefing referenced in sources for a full analysis.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Briefing: the new Home Office policy on statelessness, 2.12.2019, by Cynthia Orchard of Consonant: https://www.freemovement.org.uk/statelessness-guidance-2019/
SDS.5.e		Is there any evidence of significant errors in decision-making?		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. In December 2020, UNHCR published an audit of the procedure and found a number of errors including: -failing of Home Office to use its own file to examine relevant evidence about the application;	Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, footnote 55: https://www.statelessness.eu/updates/publication/joint-submission-human-rights-council-27th-session-universal-periodic-review-0 Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide,

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				- failing to make a determination of statelessness at all prior to refusing on grounds of criminality; - failing to consider a letter from a relevant competent authority denying that the applicant was a national (despite this being the only evidence which is required of applicants in the online application form). Overall, UNHCR recommended 'a comprehensive revision and improvement of training for decision-makers working in the SDP' (conclusion). The experience of legal 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. In December 2020 one person was determined to be stateless and inadmissible elsewhere, following an application in March 2016 and having received a refusal in June 2018; a further refusal in February 2019; and an upheld administrative review in June 2019. See the legal errors in the case example at SDS 5c above. In another case a refusal of residence permit was issued in spring 2021. The refusal letter referred to the country of origin by its adjective, explicitly refused to consider relevant supporting evidence, referred to acquisition of nationality by birth in a country which did not exist at the time of the birth; etc. A lawyer needed to submit a request for Administrative Review and the decision was withdrawn but a new and correct decision was only made after 7 months. The applicant was a vulnerable person due to illness and homelessness because he had lived without documents for 8 years.	Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part A.5: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Jo Bezzano and Judith Carter, 2018, Statelessness in Practice, part 8: https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf R (Semeda) v Secretary of State for the Home Department (statelessness; Pham [2015] UKSC 19 applied) (IJR) [2015] UKUT 00658: https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658 R (JM) v SSHD (Statelessness: Part 14 of HC 395) IJR [2018 EWCA Civ 188: http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020, https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination
SDS.6.a	Procedural safeguards (Group 1)	Is free legal aid available during the procedure?	UNHCR, Handbook on Protection (2014): Applicants should have access to legal counsel; where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013): 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 for residence permits 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 been firmly rejected by the UK Government. The UNHCR audit report at 7.3 states that the Exceptional Case Funding scheme is not viable for most lawyers (note the report does not distinguish between England and Wales, and Scottish/N Ireland jurisdictions). It also notes that of the 7 grants of residence permit made in the sample of cases it examined, 6 had representatives assisting them. The Home Office has refused to respond to requests for the Home Office to publish statistics relating to the statelessness determination procedure and legal representatives on the grounds that the information is not available (that is, it is not collected). Legal aid is available (subject to financial means and legal merits) for all matters listed in Sch 1 of the Legal Aid Sentencing and Punishment of Offenders Act 2012, including appeals against refusal of asylum or humanitarian protection, deportation on human rights grounds, refusal of requests for leave to remain on human rights grounds, habeas corpus and unlawful detention matters. From October 2019, separated migrant children's cases were brought within scope of legal aid. Victims of trafficking may be eligible for legal aid with a statelessness application once an	Legal Aid Sentencing and Punishment of Offenders Act 2012, Sec. 10(1): http://www.legislation.gov.uk/ukpga/2012/10/contents (England & Wales) (Exceptional Cases Funding) And part 1, Schedule 1, paras 19-32 which lists matters in scope of legal aid: https://www.legislation.gov.uk/ukpga/2012/10/schedule/1 Legal Aid (Scotland) Act 1986: http://www.legislation.gov.uk/ukpga/1986/47/section/1 Legal Aid and Coroners' Courts Act (Northern Ireland) 2014: http://www.legislation.gov.uk/nia/2014/11/contents Department of Justice (Northern Ireland) Guidance: https://www.justice-ni.gov.uk/articles/legal-aid-legislation-and-guidance Cynthia Orchard, Sarah Woodhouse and Judith Carter, How to Secure Legal Aid for Statelessness Applications, November 2016: https://www.freemovement.org.uk/how-to-secure-legal-aid-for-statelessness-applications/ The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Legal Aid for Separated Children) (Miscellaneous Amendments) Order 2019 SI No 1396 https://www.legislation.gov.uk/uksi/2019/1396/made Public Law Project, 'How to get Exceptional Case Funding for immigration cases':

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				initial decision has been made on their claim to have been trafficked. These sometimes require a determination of statelessness. Applications for British nationality based on statelessness are generally out of scope for legal aid. Due to the lack of legal aid for the main procedure where statelessness is determined (residence permits), combined with a failure to address and cross reference statelessness determination in government guidance, there is a lack of expertise amongst both decision makers and legal representatives, which sometimes leads to poor outcomes (see RES.1.a case law).	https://publiclawproject.org.uk/content/uploads/2018/07/PLP-ECF-Immigration-Guide.pdf 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination
SDS.6.b		Is an interview always offered (unless granting without interview)?	UNHCR, Handbook on Protection (2014): 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. In response to the UNHCR audit 2020 the Home Office merely reiterated its position. Legal representatives have recently noted (2020) that the Home Office has refused to pay for travel for applicants to attend interviews under part 14 leave procedure. The Home Office has in the past provided tickets for those who were getting support under s4 NIAA (see elsewhere), but that was also when an interview was mandatory. This presents a barrier to some applicants accessing an interview.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 12, at: https://www.gov.uk/government/publications/stateless-guidance 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. 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report: https://www.unhcr.org/5fd8957c4 Liverpool Law Clinic casework/practice
SDS.6.c		Is free interpreting offered for statelessness determination interviews?	UNHCR, Handbook on Protection (2014): The right to assistance with interpretation/translation [is] essential. ENS (2013): Assistance should be available for translation and interpretation.	Yes, interpreters are provided free of charge in official interviews. Costs of interpreting for communication with legal/other representatives must be covered by legal aid (if available), charitable funds, or provided free of charge by the interpreter. The UNHCR audit of December 2020 noted at Section 7.1 that, amongst the 530 cases it could choose from to audit, only 2% of the applicants had been interviewed. The Home Office rejected a recommendation to make interviewing mandatory, as it had been 2013-2016 (point 27).	'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 27: https://www.unhcr.org/5fd8957c4
SDS.6.d		Are there quality assurance audits of the SDP?	UNHCR, Good Practices Papers – Action 6 (2020): Quality assurance audits of SDPs are considered good practice.	UNHCR's Quality Protection Partnership 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. An audit of the procedure was published in December 2020. It made 40 recommendations, of which 25 the Home Office partially or fully accepted, and 15 it rejected outright. Managers do not routinely examine decisions. It is not evident that senior caseworkers are consistently able to spot case working errors on review. Where a refusal is the subject of an Administrative Review, and requires a new decision, the Guidance was amended to require a different decision maker and a review by a senior caseworker, within 3 months (see SDS.8.a). There is a 'Quality Assurance Framework' which the Home Office uses internally, apparently for general case management review. It is referred to in the UNHCR audit but no documentation about it is publicly available.	'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 27: https://www.unhcr.org/5fd8957c4 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 26, at: https://www.gov.uk/government/publications/stateless-guidance

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SDS.6.e		What role does UNHCR play in the proceedings (e.g. access to files, monitoring, training)?	UNHCR, Handbook on Protection (2014): 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. An Audit was published in December 2020. UNHCR has intervened in litigation (AS (Guinea) v SSHD); UNHCR has brought some individual cases to the attention of the decision makers; it has provided training (see training section SDS 2.a.); it published a report documenting applicants' experience of the immigration procedure. It does not have a role in decision making. The audit recommended 'a comprehensive revision and improvement of training for decision makers' (conclusion).	'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination 'I am Human' UNHCR, April 2021 https://www.unhcr.org/6082ba4e4.pdf
SDS.6.f		Are decisions (refusals and grants) given in writing with reasons?	UNHCR, Handbook on Protection (2014): 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. It is possible to make a Subject Access Request to obtain the full copy of a particular persons' file. That routinely takes 3-6 months. It is a roundabout way of obtaining any internal notes regarding a decision since the Home Office has refused to provide these reasons with the decision.	Experience from legal casework, including of University of Liverpool Law Clinic and Asylum Aid. 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Jo Bezzano and Judith Carter, 2018, Statelessness in Practice, part 8: https://www.liverpool.ac.uk/media/livacuk/law/4-liverpool-law-clinic/Statelessness,in,Practice.pdf
SDS.6.g		Is there a timeframe for the SDP set in law or policy and is it complied with in practice?	UNHCR, Handbook on Protection (2014): 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, the guidance requires a new decision to be made within 3 months. See also UNHCR audit report 2020 recommendation, which was rejected by the Home Office, which claimed: 'On occasion, including in cases where enquiries are being made to national authorities, an application will take more than 12 months to resolve'. It is the experience of all representatives that applications routinely take 18-24 months to decide. Some are decided more quickly but they appear to be the exception. The Home Office's failure to publish any statistics about the procedure makes this matter difficult to judge. A UNHCR recommendation to introduce a triaging system was 'accepted' but according to the Home Office response it only aims to identify 'vulnerable' cases for prioritisation 'where possible' rather than to streamline decision making generally. The report (Section 7.2) noted that 63% of 36 cases audited took over a year to conclude, and two took over two years, even though they were straightforward. A Freedom of Information Request reply to questions about the residence permit procedure, issued 10/02/2022 for a snapshot at 30/9/2021: Case Age – Number Of Cases less than 12 Months – 316 12 to 18 Months – 22 Over 24 Months – 98 Total – 436	Liverpool Law Clinic clients have waited for initial 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. In one recent case decided in December 2020, the new decision was made 18 months after the Administrative Review was upheld. Regular policy meetings are held on a closed basis with senior staff from the Status Review Team and interested representatives and organisations working on policy. 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 31: https://www.unhcr.org/5fd8957c4

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SDS.6.h		Is there a referral mechanism from refugee status determination procedures to the statelessness procedure (e.g. if refused asylum)?	UNHCR, Good Practices Papers – Action 6 (2020): Efficient referral mechanisms should be established and officials who may be in contact with stateless persons trained to identify and refer potential applicants. EASO/EUAA, Practical guide on registration (2021): The country or countries of former habitual residence should be recorded in applications for international protection to facilitate follow-up and referral to a dedicated statelessness determination procedure. Statelessness determination should be carried out only by a competent decision-making authority at an appropriate point in time following the final assessment of an asylum claim. ENS (2013): Cross-referral systems should exist in cases where the two determination procedures (refugee and stateless) are not conducted in a joint framework.	No. The Liverpool Law Clinic has seen Home Office letters refusing asylum and suggesting that the person apply under the statelessness leave procedure. On the other hand, it is aware of a case where refugee status was revoked and the decision upheld on appeal, and no-one advised the stateless former refugee to enter the SDP to request residence status. 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. The guidance states that caseworkers must consult those who make an application for leave to remain as a stateless person while an asylum claim is pending. There is no guidance on what procedure should be followed if an asylum claim arises on the same facts while an application for leave to remain as a stateless person is pending.	Legal practice and personal communication to the author. 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance
SDS.7.a	Protection during SDP (Group 1)	Does the applicant have automatic legal admission while their claim for statelessness status is assessed or is there a risk of expulsion?	UNHCR, Handbook on Protection (2014): An individual awaiting a decision is entitled, at a minimum, to all rights based on presence and being 'lawfully in' the territory (including identity documents, the right to self-employment, freedom of movement, protection against expulsion). It is recommended that applicants for statelessness status receive the same treatment as asylum-seekers. ENS (2013): States should refrain from expelling or removing an individual pending the outcome of the determination process.	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 statelessness leave application is not a barrier to removal where someone 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, which 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 lawful residence status 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.	Immigration Act 2016, Schedule 10 : http://www.legislation.gov.uk/ukpga/2016/19/section/61?view=extent 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at https://www.gov.uk/government/publications/stateless-guidance Personal communication to Cynthia Orchard (Asylum Aid/Consonant). For example, UKVI guidance on 'long residence' immigration applications: https://www.gov.uk/government/publications/long-residence
SDS.7.b		Do applicants for statelessness status have permission to work and access to assistance to meet their basic needs?	UNHCR, Handbook on Protection (2014): 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.	Applicants for statelessness 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	Immigration Act 1971, Schedule 2, Part 1, paras. 21 & 22: http://www.legislation.gov.uk/ukpga/1971/77/schedule/2/part/I/crossheading/temporary-admission-or-release-of-persons-liable-to-detention Immigration Act 2016, Schedule 10: https://www.legislation.gov.uk/ukpga/2016/19/schedule/10

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				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, except children (and their parents) who are 'in need' and eligible for support from their local government. 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. The legality of the policy was successfully challenged, on ground that it is was 'systematically unfair' in a judicial review: Humnyntskyi v SSHD. Social Services Departments may provide support where there may be a clear breach of Art 8 ECHR rights, e.g. where children are involved. The UNHCR audit of December 2020 recommended that applicants in the statelessness procedure should have the same access to social assistance as asylum seekers, instead of the s4 hardship support which is only available to former asylum seekers. In its response the Home Office merely re-iterated the existing law without engaging in any reasoning.	Immigration Bail UKVI guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084425/Immigration_bail.pdf Immigration and Asylum Act 1999, Section 4(2): http://www.legislation.gov.uk/ukpga/1999/33/section/84 Immigration Act 2016, Part 5, Schedules 10, 11 & 12: http://www.legislation.gov.uk/ukpga/2016/19/contents Asylum Support Appeals Project, Section 4 Support, Factsheet 2 April 2016: http://www.asaproject.org/uploads/Factsheet-2-section-4-support.pdf Bail for Immigration Detainees (BID), Briefing on post detention accommodation, June 2018, available at: https://www.biduk.org/resources/category/Briefings R (Humnyntskyi & Ors) v Secretary of State for the Home Department [2020] EWHC 1912 https://www.bailii.org/ew/cases/EWHC/Admin/2020/1912.html 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 32: https://www.unhcr.org/5fd8957c4
SDS.7.c		Do applicants for statelessness status face a risk of detention?	UNHCR, Handbook on Protection (2014): 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. See Detention section (DET). There is no mention of stateless people in the guidance on consideration of Immigration Bail as at 30.8.2022.	Immigration Act 1971, Schedule 2: http://www.legislation.gov.uk/ukpga/1971/77/schedule/2 Schedule 10, Immigration Act 2016: https://www.legislation.gov.uk/ukpga/2016/19/schedule/10 Immigration Bail UKVI guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084425/Immigration_bail.pdf
SDS.8.a	Appeals (Group 1)	Is there an automatic right of appeal?	UNHCR, Handbook on Protection (2014): An effective right to appeal against a negative first instance decision is an essential safeguard in an SDP.	Not against a refusal of a residence permit. There are two options: 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. Just under half of all applicants for a residence permit have a legal representative. Of the approximately 15% of Admin Reviews that were successful to 30th September 2021 (154), only 21 – that is, about 1 in 7, were subsequently granted leave to remain. 7 applicants were granted leave to remain even though their administrative review resulted in the original decision being upheld.	UK Government, Immigration Rules Appendix AR: administrative review: https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-ar-administrative-review Courts and Tribunals Judiciary, Judicial Review: https://www.judiciary.gov.uk/you-and-the-judiciary/judicial-review/ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1097656/Judicial_reviews_and_injunctions.pdf 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 26, at: https://www.gov.uk/government/publications/stateless-guidance Nationality, Immigration and Asylum Act 2002, Section 82 (1)(b): https://www.legislation.gov.uk/ukpga/2002/41/contents Upper Tribunal case of MY v SSHD: MY (refusal of human rights claim : Pakistan) [2020] UKUT 89 (IAC) (27 February 2020)

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				Representatives have argued that a refusal of statelessness leave is a human rights matter and would attract an appeal under s82 Nationality, Immigration and Asylum Act 2002 but that argument has failed, so far, in a similar case MY Pakistan (2021] EWCA Civ 1500, [2021] WLR(D) 526). The UNHCR audit of December 2020 recommended a full statutory appeal against a refusal of a residence permit. The Home Office response was merely to re-iterate the existing legal position. The UNHCR audit also noted: 'In 14 cases of the 31 stateless leave applications refused, the applicant was not notified of the option for an AR in their refusal letter.' The Home Office has amended its standard refusal template to include information about the ability to challenge the refusal using the Administrative Review procedure (Section 7.6, p. 64). Where a person requests revocation of a deportation order on the grounds that they are stateless and cannot be removed from the UK to any other country, a refusal may be treated as a refusal of an asylum or human rights claim, which does attract a right of appeal under s82 Nationality, Immigration and Asylum Act 2002.	URL: http://www.bailii.org/uk/cases/UKUT/IAC/2020/89.html 2021] EWCA Civ 1500, [2021] WLR(D) 526 URL; https://www.bailii.org/ew/cases/EWCA/Civ/2021/1500.html The Court of Appeal refused permission hear a judicial review on the legality of the 'one form' policy. As at 10/10/2022, an appeal to the Supreme Court is pending against that decision (correspondence to Judith Carter from counsel for the Appellant, 10/10/2022). 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 35: https://www.unhcr.org/5fd8957c4 Upper Tribunal case of MY v SSHD: MY (refusal of human rights claim : Pakistan) [2020] UKUT 89 (IAC) (27 February 2020) URL: http://www.bailii.org/uk/cases/UKUT/IAC/2020/89.html EWCA Civ 1500, [2021] WLR(D) 526 URL; https://www.bailii.org/ew/cases/EWCA/Civ/2021/1500.html The Court of Appeal refused permission hear a judicial review on the legality of the 'one form' policy. As at 10/10/2022, an appeal to the Supreme Court is pending against that decision (correspondence to Judith Carter from counsel for the Appellant, 10/10/2022).
SDS.8.b		Is legal aid available for appeals?	UNHCR, Handbook on Protection (2014): The applicant should have access to legal counsel and, where free legal assistance is available, it should be offered to applicants without financial means. ENS (2013): Applicants should have access to legal counsel both at first instance and on appeal.	There is no right of appeal against a refusal of residence permit. Legal aid for a request for administrative review of a decision is available in Scotland and Northern Ireland, and in England and Wales through the Exceptional Case Funding system See SDS.6.a. Legal aid is available for most judicial review proceedings. 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. All legal aid is subject to a means and merits and cost/benefit test. Legal aid is available to appeal a refusal to revoke a deportation order (see SDS 8.a). A refusal of registration of a child as a British citizen on grounds of statelessness is amenable to judicial review which can attract legal aid. The internal review must normally be requested first which is not even in scope of Exceptional Case Funding legal aid, and a fee of £372 is payable even if the application itself was granted a fee waiver.	Legal Aid Sentencing and Punishment of Offenders Act 2012, Section 10 & Schedule 1: http://www.legislation.gov.uk/ukpga/2012/10/contents (England & Wales) Public Law Project, 'How to get Exceptional Case Funding for immigration cases': https://publiclawproject.org.uk/wp-content/uploads/2018/07/PLP-ECF-Immigration-Guide.pdf Fees for immigration and nationality applications: (link to government website not primary legislation since that is now hard to follow with several amendments and the legislation website is no longer up to date) https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-6-april-2022 and the Regulation itself: https://www.legislation.gov.uk/uksi/2018/330/schedule/8/made
SDS.8.c		Is there a fee for the appeal application?	UNHCR, Handbook on Protection (2014): An effective right to appeal against a negative first instance decision is an essential safeguard.	The administrative review of a refusal of residence permit is exempt from a fee because the application under Part 14 of the Rules does not require a fee.	HM Courts and Tribunals Service, Full list of fees applicable in the Civil and Family Courts (from September 2021) EX50A HMCTS:

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				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 is funded through legal aid. Applications can be made for a fee waiver. In England and Wales, the fees for judicial review are: Initial permission application - £154; Request for oral reconsideration - £385 ; Permission to proceed - £385) (if £385 has already been paid) or £770. In the Scottish Court of Session, the fee to issue a writ (including for judicial review) is £325 and applicants must pay £217 for every half hour of court hearing within operating hours before a single judge.	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/806195/t613-eng.pdf Home Office, Fee waiver: Human Rights-Based and other specified applications, Version 5.0, 5 March 2021: https://www.gov.uk/government/publications/chapter-1a-applications-for-fee-waiver-and-refunds Scottish Courts and Tribunals, Court of Session Fees, https://www.scotcourts.gov.uk/rules-and-practice/fees/court-of-session-fees Colin Yeo, Fees for Upper Tribunal judicial review applications rise again, Freemovement, 25 July 2016: https://www.freemovement.org.uk/fees-upper-tribunal-judicial-review-applications/
SDS.9.a	Statelessness status (Group 1)	Does recognition of statelessness result immediately in automatic permission to stay/legal status? If not, please describe any additional requirements, admissibility criteria, grounds for refusal or other steps required to access protection.	UNHCR, Handbook on Protection (2014): 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.	Not automatically. A person who claims that they are stateless may apply for leave to remain (residence status) under Part 14 of the Immigration Rules. The UK may refuse to recognise a person as stateless where they fall under the Exclusion clauses, which as re-worded in the Immigration Rules do not fully mirror the 1954 Convention, in particular at para. 402(b). See SDS.1.a. 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 have not evidenced to the standard of balance of probabilities that they have taken reasonable steps to facilitate admission to their country of former habitual residence or any other country and have been unable to secure the right of admission, and persons against whom there is a deportation order (often, but not always relating to criminal history; in some cases, minor crimes such as working without permission). The revised rules of April 2019 require evidence that a person has 'has sought and failed to obtain or re-establish their nationality with the appropriate authorities of the relevant country.' Parents of children who are stateless must evidence an attempt and failure to register them with the competent authority of the relevant state(s) before a residence permit will be granted to the child (para 403(f)). Those who are found to be stateless and inadmissible elsewhere, but who are refused a residence status for e.g. reasons of criminality, may be granted Discretionary Leave, following the November 2019 Stateless Leave guidance. A recommendation by UNHCR to draft 'admissibility' criteria according to para 154 of the UNHCR Handbook was rejected, and a re-drafted para 403(c) was introduced on 1 December 2020. The same general grounds of refusal apply to statelessness applications as for most other general immigration (not 'protection') categories. An additional discretionary ground for refusal or cancellation of permission to stay was introduced on 1 Dec 2020: 9.21.1. Permission to stay may be refused where the decision maker is satisfied that a person has been rough sleeping in the UK and has repeatedly refused offers of suitable support and has engaged in persistent anti-social behaviour.' The first version of this Rule was challenged so the Home Office amended the Rule and issued revised guidance.	Immigration Rules, Part 14: stateless persons, paras. 402, 403 & 404: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons Immigration Rules, Part 9 : General grounds for refusal: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal Public Interest Law Centre: https://www.pilc.org.uk/news/story/new-info-sheet-on-changes-to-immigration-rules/ 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, pages 9-11 and 23-24, at: https://www.gov.uk/government/publications/stateless-guidance 'Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure,' 2020: https://www.unhcr.org/uk/publications/legal/5fd893304/stateless-determination-in-the-uk.html?query=statelessness%20determination Home Office response to UNHCR's Statelessness Determination report, Response 25: https://www.unhcr.org/5fd8957c4 Grounds for refusal – rough sleeping in the UK Version 2.0 of10 November 2021 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1033950/Rough_sleeping.pdf Public Interest Law Centre report used to challenge the rule change on rough sleeping introduced on 1 December 2020: https://www.pilc.org.uk/wp-content/uploads/2021/06/SLF-report-v2-with-appendices.pdf. This includes an appendix on the likely effect of applying the rule to residence permit applications by stateless persons.

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SDS.9.b		How long is initial status granted for and is it renewable?	UNHCR, Handbook on Protection (2014): 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. From May 2013 to April 2016 there were two separate grants of 30 months to make up the 5-year period. Where the stateless person is not eligible for leave to remain under Part 14 of the immigration Rules, for example because of their criminal record, they may get a 30-month permit allowing access to the labour market and social assistance, and a travel document. See SDS.9.c	Immigration Rules, Part 14: stateless persons, para. 405: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons UK Government, Changes to the Immigration Rules, 7 March 2019: https://www.gov.uk/government/news/changes-to-the-immigration-rules--3
SDS.9.c		Is a travel document issued to people recognised as stateless?	1954 Convention: Article 28.	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. (Home Office online guidance about this is now correctly worded but was not until 2022). The guidance to the application form itself is correct and does not state that there is any limitation on the type of lawful residence.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 29, at: https://www.gov.uk/government/publications/stateless-guidance UK Government, Guidance, Apply for a Home Office travel document: https://www.gov.uk/apply-home-office-travel-document Application form TD112 (with correct information): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/693183/TD112_BRP_Guidance_Notes_04_2018.pdf 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, para. 16 & footnote 55: ISI-MRC-LLC-ENS-UK-UPR-Submission-Session-27-2016.pdf (statelessness.eu)
SDS.9.d		Do people recognised as stateless have a right to family reunification?	UNHCR, Handbook on Protection (2014): Although the 1954 Convention does not address family unity, States parties are nevertheless encouraged to facilitate the reunification of those with recognised statelessness 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 for a residence permit. 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 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 and it is now possible for them to state whether they are also requesting a grant of residence permit. If they wish to have an independent determination of status, they should make a separate application. The Home Office has indicated that it may amend the family reunion rules to align them with the (more onerous) refugee family reunion requirements, in autumn 2022. Stateless persons granted Discretionary Leave are not eligible to sponsor relatives under the Immigration Rules. The source for this information is by omission of sponsors with Discretionary Leave	Immigration Rules, Part 14: stateless persons, paras 410-416: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons Briefing: the new Home Office policy on statelessness, 2.12.2019, by Cynthia Orchard of Consonant: https://www.freemovement.org.uk/statelessness-guidance-2019/

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				from any form of family visa in the immigration rules. Only 'outside the rules' applications based on human rights could be argued.	
SDS.9.e		On what grounds (if any) may residence status granted to stateless people be revoked?	UNHCR, Handbook on Protection (2014): 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.	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 Part 9 of these Rules." Part 9f 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 unless "clear evidence comes to light" that the person is no longer stateless, or is admissible elsewhere. The other grounds of refusal of course continue to apply. See SDS.9.a for general grounds on grant and cancellation for all residence permits.	Immigration Rules, Part 14: stateless persons, para. 414: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons Immigration Rules, Part 9: grounds for refusal, para.9.21 read with 9.23: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, page 27, at: https://www.gov.uk/government/publications/stateless-guidance
SDS.9.f		Do people granted statelessness status have permission to work?	1954 Convention: Article 17 UNHCR, Handbook on Protection (2014): The right to work must accompany a residence permit.	Yes if they have a residence permit. A stateless person who may be excluded from international protection, has a very serious criminal record or who is a high security risk may be granted Restricted Leave - a lesser category than Discretionary Leave. That is the only category of residence permit which can have a prohibition or restriction on work attached.	Conditions on leave are imposed under the Immigration Act 1971, Section 3(1)(c): http://www.legislation.gov.uk/ukpga/1971/77/section/3 UKVI Guidance on Restricted Leave (includes references to case law and legislation): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1092616/Restricted_leave.pdf
SDS.9.g		Do people granted statelessness status have access to primary, secondary, and higher education?	1954 Convention: Article 22	Yes, children in school by the age of 16 are not in practice asked to evidence their immigration status and an attempt to require schools to collect and share nationality data with central government was given up after two years, though some schools have probably still not amended their data collection forms to reflect the reverse in policy. Students with statelessness leave to remain under Part 14 of the Immigration Rules were made eligible for loans subject to the normal residence requirements in 2018; in 2020 the residence requirements were removed for those students ordinarily living in England. In Wales, people with statelessness 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.	Education Act 1996, Sec. 6, Sec. 13(1) & 14(1): http://www.legislation.gov.uk/ukpga/1996/56/contents (see subsequent amendments to sections in notes) (England & Wales) Against Borders for Children: https://www.schoolsabc.net/2018/04/we-won/ Author experience as parent asking local school to change data collection forms in 2020 The Education (Student Fees, Awards and Support) Regulations SI 2018 No 137, Part 4, Reg 17: http://www.legislation.gov.uk/uksi/2018/137/regulation/17/made#regulation-17-b (England & Wales) UK Government, Student Finance: https://www.gov.uk/student-finance/who-qualifies?step-by-step-nav=18045f76-ac04-41b7-b147-5687d8fbb64a Student Finance Wales: https://www.studentfinancewales.co.uk/undergraduate-students/new-students.aspx The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006: http://www.legislation.gov.uk/ssi/2006/333/contents/made

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					The Education (Fees and Student Support) (Miscellaneous Amendments) (Scotland) Regulations 2018: http://www.legislation.gov.uk/ssi/2018/171/pdfs/ssi_20180171_en.pdf The Education (Student Support) (Wales) Regulations 2015: http://www.legislation.gov.uk/wsi/2015/54/contents/made Northern Ireland (Education (Student Support) (No.2) Regulations (Northern Ireland) 2009: http://www.legislation.gov.uk/nisr/2009/373/contents/made
SDS.9.h		Do people granted statelessness status have access to social security and healthcare?	1954 Convention: Articles 23 & 24 UNHCR, Handbook on Protection (2014): The right to work, access to healthcare and social assistance, as well as a travel document must accompany a residence permit.	Persons with a residence permit as a stateless person are eligible for most social security entitlements. The procedure for creating a biometric residence permit for stateless persons now includes a National Insurance Number, which has facilitated speedier access to social assistance following the grant of residence status. In England, from August 2020, a person with statelessness leave as the primary applicant (so not family members with statelessness leave as dependents) is eligible for public housing under the homelessness regulations - subject to the common eligibility criteria. The explanatory note to the amending regulation notes: 'This change will align our eligibility rules with those for access to welfare benefit, as well as assist to meet the requirements of the 1954 Convention'. In Wales, stateless people have been able to access homelessness assistance and housing since 2014. In Northern Ireland, the housing legislation does not exclude stateless persons. Stateless people are not specifically referenced in Northern Ireland's healthcare legislation and so could be liable for charges or not be able to access care, but this may depend on whether they are considered 'ordinarily resident'. Scottish Government guidance explicitly exempts stateless people from healthcare charges. People with leave to remain under Part 14 are not explicitly exempt from public healthcare fees 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. They may be being treated under the guidance which states that there is an 'exemption' for people who do not need to pay for NHS services as part of their visa application, as is the case for Part 14 applicants. However, some remain liable for charges incurred before they applied for leave under Part 14. Guidance on implementing the overseas visitor healthcare charging regulations says: "People who have immigration permission to be in the UK and have paid the surcharge (or who are exempt from paying it (except where the exemption is because they are visiting the UK for a short period) or in respect of whom it has been waived or who have been refunded the payment because they are working in health or social care, or are the dependent of someone working in health or social care), are generally entitled to relevant services on the same basis as a person ordinarily resident in the UK." A person with leave to remain under Part 14 is not included in the Criminal Injuries Compensation Scheme. This is a UK wide scheme.	Email from Stephen Knafler, QC, to Cynthia Orchard, 20 June 2017. Housing Act 1996 Parts 6 & 7, SS 160ZA & 185: https://www.legislation.gov.uk/ukpga/1996/52/part/VII (England & Wales) Allocation of Housing and Homeless (Eligibility) (England) Regulations 2006: http://www.legislation.gov.uk/uksi/2006/1294/contents/made, amended by Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2020: http://www.legislation.gov.uk/uksi/2020/667/contents/made See also: The Persons Subject to Immigration Control (Housing Authority Accommodation and Homelessness) (Amendment) Order 2020 https://www.legislation.gov.uk/uksi/2020/825/made Immigration and Asylum Act 1999, Section 118: http://www.legislation.gov.uk/ukpga/1999/33/section/84 The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014, No 2603, Reg 3(b): https://www.legislation.gov.uk/wsi/2014/2603/regulation/3/made The Allocation of Housing and Homelessness (Eligibility) Regulations (Northern Ireland) 2006, Parts 3 & 4: https://www.legislation.gov.uk/ukpga/1996/52/introduction The National Health Service (Charges to Overseas Visitors) Regulations 2015, Reg 10(2): http://www.legislation.gov.uk/uksi/2015/238/made (England and Wales) (this version does not include later 2017 and 2020 amendments) Guidance on implementing the overseas visitor charging regulations November 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1029984/guidance-on-implementing-the-overseas-visitor-charging-regulations.pdf See Para 8. Note that the Regulations on this subject have been amended but the government legislation website does not contain all the amendments and the best source of information appears to be this guidance The Scottish Government, Healthcare Policy and Strategy Directorate, Overseas Visitors' Liability To Pay Charges For NHS

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				Stateless people are not eligible for integration loans (in contrast to those granted refugee status or subsidiary protection).	Care And Services, p.16: http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf 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: http://www.legislation.gov.uk/nisr/2015/27/made NHS visitor and migrant cost recovery programme: https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme The Criminal Injuries Compensation Scheme 2012: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/808343/criminal-injuries-compensation-scheme-2012.pdf Sarah Woodhouse and Judith Carter, 2016, Statelessness and Applications for Leave to Remain: A Best Practice Guide, Immigration Law Practitioners' Association and University of Liverpool Law Clinic, Part C.23.d: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, Part IV & Rec. IV.B: https://www.statelessness.eu/updates/publication/joint-submission-human-rights-council-27th-session-universal-periodic-review-0 UK Government, Refugee Integration Loan: https://www.gov.uk/refugee-integration-loan
SDS.9.i		Are stateless people allowed to vote in local and/or national elections? If yes, are there any additional requirements for stateless people to vote (e.g. permanent residence, identification documents, etc.)? **[Section complete, proceed to DET]**	1954 Convention: Article 7, States shall accord to stateless persons at least the same treatment as is accorded to foreign nationals.	Whether the UK complies with Article 7 of the 1954 Convention is now unclear, since 'foreign nationals' with a right to reside may vote in some elections in some parts of the UK. None may vote in General Elections for the UK Parliament. The minimum age to vote is 18, unless it is a local election in Scotland or Wales, when it is 16. In England and Northern Ireland stateless persons may not register to vote, regardless of their immigration status. In Scotland, 'foreign' nationals (that is, not EEA nationals nor Commonwealth citizens) who have a residence permit, or who do not need one, may vote in local and Scottish parliamentary elections. In Wales, the same 'qualifying' foreign citizens may register to vote in Welsh parliamentary elections. Guidance in the online registration process for residents of England says: 'We may need additional evidence about your nationality or we may check your nationality or immigration status against government records. If you have more than one nationality, please include them all.' No documents have to be presented at the point of applying for registration. There is a free text box to provide an explanation if you do not know your date of birth, nationality or National Insurance number (social security identification number). In that case, the guidance says that the applicant will have to 'send your identity documents through the post'. The ID will be a Biometric Residence Permit (BRP) or other evidence that the applicant does not need permission to reside in the country (of the United Kingdom) concerned. The online form has a dropdown option for nationality. That does not include either 'stateless' or 'officially stateless'.	Eligibility: Representation of the People Act 1983 as amended, Part 1: https://www.legislation.gov.uk/ukpga/1983/2/2020-09-22 Online registration, nationality guidance: https://www.gov.uk/register-to-vote Penalties: Representation of the People Act, s13 (as amended) https://www.legislation.gov.uk/ukpga/1983/2/section/13D/2020-09-22 The government website containing this legislation has a large number of amendments not yet incorporated into the published text.

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				('Officially stateless' is in the list of nationalities on UKVI immigration application online forms). If the applicant can provide full details then a declaration is sufficient, without proof. It is a criminal offence to make a false declaration. The penalty is a [level 5] fine or 6-month imprisonment in Scotland and Northern Ireland, or 51 weeks in England and Wales. We are not aware of cases in which stateless persons have sought to register to vote, nor of the outcomes of these efforts.	

Detention

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
DET.1.a	Immigration detention	Please provide a brief overview of whether immigration detention powers are provided for in law and applied in practice, and whether alternatives to detention are considered. Please provide the legal source(s) and, if available, refer to other publications and sources of information about the law, policy, and practice on immigration detention.	ICCPR: Article 9 ECHR: Article 5 EU Return Directive: Article 15 UNHCR, Handbook on Protection (2014): 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. UN General Assembly (2009): Calls upon all States to adopt alternative measures to detention. HRC, Report of the Special Rapporteur (2012): The obligation to always consider alternatives before resorting to detention should be established by law. International Detention Coalition (2015): 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.	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. There is no published policy regarding the detention or removal of stateless persons as a particular category of detained persons. 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 liable to arrest. 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. 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.	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): https://www.legislation.gov.uk/ukpga/1971/77/contents Immigration Act 2016, Part 3: http://www.legislation.gov.uk/ukpga/2016/19/part/3?view=extent Nationality, Immigration and Asylum Act 2002, Section 62 (detention of persons liable to examination or removal): https://www.legislation.gov.uk/ukpga/2002/41/contents UK Borders Act 2007, Section 36(1) (detention pending deportation): https://www.legislation.gov.uk/ukpga/2007/30/contents 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: http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html Detention Action Briefings, various: https://detentionaction.org.uk/types/briefings/ Email from Pierre Makhlouf, Assistant Director, Bail for Immigration Detainees to Cynthia Orchard, 18 May 2017.
DET.1.b		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.	ICCPR: Repeated attempts to expel a person to a country that refuses to admit them could amount to inhuman or degrading treatment (Article 7). ECtHR, Auad v. Bulgaria (2011): In cases of detention with a view to deportation, lack of clarity as to the destination country could hamper effective control of the authorities' diligence in handling the deportation. EU Return Directive: Any detention shall only be maintained as long as removal arrangements are in progress and executed with due diligence.	The detention guidance does not mention statelessness. 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 (though the period of time is undefined in the Home Office policy, Detention: General Instructions, page 16) may render detention unlawful. Since nationality and whether or not another state will accept a person if they are removed or deported can be matters of dispute, the Home Office may try to justify detention for the purpose of removal or deportation on the basis that it needs to undertake enquiries into these issues. It may claim that suspected lack of cooperation or obfuscation is evidence that the deportee or person facing removal may abscond if released. The Detention: General Instructions explicitly states at p17: 'where the FNO [Foreign National Offender] is frustrating removal by not co-	UK Government Home Office, Detention: General Instructions: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1046288/Detention_General_instructions.pdf UK Government Home Office, Returns Directorate, Detention Services Order 03/2014, Service of Removal Directions: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/510261/DSO_03-2014_Service_of_Removal_Directions.pdf Also see various policies under the heading 'Returns Preparation': https://www.gov.uk/government/publications/returns-preparation

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				operating with the documentation process, and where that is a significant barrier to removal, these are factors weighing strongly against release.' 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 considered 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 the results of Home Office enquiries suggest 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 itself, or statelessness is not explicitly mentioned in the criteria.	Bail Guidance for Immigration Judges, listing criteria relevant to a decision on bail, para. 36: https://www.judiciary.uk/wp-content/uploads/2018/05/bail-guidance-2018-final.pdf UK Government Home Office, Judicial Reviews & Injunctions (on the use of notification of a 'removal window' – people awaiting a statelessness determination are omitted from the list of people who are not considered suitable for 'removal window' procedure): August 2022: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1097656/Judicial_reviews_and_injunctions.pdf Immigration Bail UKVI guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1102889/Immigration_bail_September_2022.pdf
DET.1.c		Is there a clear obligation on authorities to release a person when there is no reasonable prospect of removal?	EU Return Directive: When it appears that a reasonable prospect of removal no longer exists, detention ceases to be justified and the person concerned shall be released immediately. UN Working Group on Arbitrary Detention (2018): When the obstacle for identifying or removal of persons in an irregular situation from the territory is not attributable to them, the detainee must be released to avoid potentially indefinite detention from occurring, which would be arbitrary. ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009)	Yes. There is a clear obligation in law to release a person who is detained for the purposed of removal when there is no reasonable prospect of imminent removal; however, in practice, in some cases the Home Office maintain lengthy periods of detention even where the prospect of removal is remote (and courts have permitted this in some cases) particularly if the detainee has committed serious criminal offenses (with continuing unlawful detention after completion of a criminal sentence). See also DET.2.a. A person who is liable to be detained under any of the above provisions can be granted, and remain on, immigration bail even if that person can no longer be lawfully detained (for example, because there is no realistic prospect of the person's removal taking place within a reasonable time). The provisions referred to are those for examination, removal, and deportation.	UKVI Immigration Bail guidance, p9: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1102889/Immigration_bail_September_2022.pdf
DET.2.a	Identification of statelessness	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.	ECtHR, Auad v. Bulgaria (2011) ECtHR, Mikolenko v. Estonia (2009): Detention may only be justified as long as deportation proceedings are being conducted with due diligence. UNHCR, Handbook on Protection (2014): Routine detention of individuals seeking protection on the grounds of statelessness is arbitrary. CMW, General comment No. 5 (2021): States should avoid detaining migrants who have specific needs, which includes stateless persons. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Equal Rights Trust, Guidelines (2012): States must identify stateless persons within their territory or	Statelessness is not sufficiently recognised as a juridically relevant fact in the UK. The UKVI Immigration bail guidance of September 2022 ; the 'Detention: General Instructions' of January 2022 still 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	ML (Morocco) v Secretary of State for the Home Department [2016] EWHC 2177 (Admin): http://www.bailii.org/ew/cases/EWHC/Admin/2016/2177.html 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: http://www.bailii.org/ew/cases/EWHC/QB/1983/1.html Immigration Bail UKVI guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084425/Immigration_bail.pdf UK Government Home Office, Enforcement Instructions and Guidance, Chapter 55, 55.3.2.4: https://www.gov.uk/government/publications/offender-management

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			subject to their jurisdiction as a first step towards ensuring the protection of their human rights. ICJ, Migration and International Human Rights Law (2014): The detention of stateless persons can never be justified when there is no active or realistic progress towards transfer to another State.	accepted it was unreasonable to approach the Western Sahara 'authorities' for a travel document.	
DET.2.b		Is there a definition of vulnerability in law? If yes, does it explicitly include statelessness? If not, please note whether statelessness is considered to be a factor increasing vulnerability.	PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): Statelessness should be explicitly included in the definition of vulnerability. Vulnerability should always be determined and assessed on an individual basis.	There is a definition of 'adults at risk' for the purposes of detention in guidance, which specifies matters to be taken into account when determining whether a person would be particularly vulnerable to harm if they were detained, or if they remained in detention, and, if they were particularly vulnerable in those circumstances, whether they should be detained or should remain in detention. Statelessness is not referred to in the guidance.	Immigration Act 2016: Guidance on adults at risk in immigration detention, November 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031900/Adults_at_risk_in_immigration_detention.pdf
DET.2.c		Are individual vulnerability assessments carried out before a decision to detain (or soon after)?	ENS, Protecting Stateless Persons From Arbitrary Detention (2015): Arbitrary and disproportionately lengthy detention can ensue when the particular vulnerabilities of stateless people are not addressed. EU Return Directive: Article 16(3) EU Return Handbook (2017): Attention should be paid to the specific situation of stateless persons. Council of the European Union, Guidelines to promote and protect the enjoyment of all human rights by LGBTI persons (2013): European entities should assess the situation of LGBTI persons in detention. PICUM, Preventing and Addressing Vulnerabilities in Immigration Enforcement Policies (2021): There should be a clear legal obligation to screen and assess individuals' vulnerability before a decision to detain is taken and before individuals are placed into situations of deprivation or restriction of liberty.	Vulnerability assessments are required under the Detention Centre Rules 2001 and the Adults at Risk in Immigration Detention guidance but in some cases the assessments 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 all individuals detained, and that detention remains lawful. The guidance to caseworkers on the procedure for requesting a residence permit on the grounds of statelessness (see SDS) places an obligation on the Home Office to make its own enquiries to assist people in establishing their statelessness. Failure to provide such assistance to detained stateless persons may support arguments that the Home Office is not acting with due diligence and that continued detention has become unlawful.	Detention Centre Rules 2001, Rule 35: http://www.legislation.gov.uk/en/uksi/2001/238/contents/made UK Government Home Office, UK Visas and Immigration and Immigration Enforcement, Adults at Risk in Immigration Detention Statutory Guidance, v.7.0, 8 November 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1031900/Adults_at_risk_in_immigration_detention.pdf Email from Pierre Makhlouf, Assistant Director, Bail for Immigration Detainees, to Cynthia Orchard, 18 May 2017. Personal communication from Jo Bezzano of Liverpool Law Clinic to Cynthia Orchard, July 2017. 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: http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2017-04-21/71612 'Stateless leave' guidance v 3.0 p14: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf
DET.2.d		Are stateless people detained in practice?	As above.	Yes, see POP.2.a and POP.2.b 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: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf UK Government statistics are available here: https://www.gov.uk/government/statistics (enter 'immigration' as the search term to find the latest and historical data. For detention figures, see 'Detention Data Tables…')
DET.3.a	Procedural safeguards	Are there adequate procedural safeguards in place for individuals in immigration detention (e.g. maximum period of detention, automatic release at the end, decisions in writing, regular	ICCPR: Article 9(4) ECHR: Article 5(4) EU Return Directive: Articles 12, 13 and 15(5) HRC, Report of the Working Group on Arbitrary Detention (2010): A maximum period of detention	There is no maximum time period for immigration detention. There have been numerous and sustained attempts to advocate for the introduction of a maximum period of detention.	Liberty, Oppose Indefinite Detention: https://www.libertyhumanrights.org.uk/campaigning/end-indefinite-detention

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		periodic reviews, judicial oversight, legal aid, etc.)?	must be established by law and upon expiry the detainee must be automatically released. CMW, General comment No. 5 (2021): States parties are obligated to adopt legislative and other measures, allocate adequate resources, and provide relevant training to comply with the CMW. There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. States should also be aware that stateless persons find themselves in a vulnerable situation, given that consular assistance and protection are unavailable due to their status. UNHCR, Detention Guidelines (2012): To guard against arbitrariness, maximum periods of detention should be set in national law. UNHCR, Handbook on Protection (2014): Judicial oversight of detention is always necessary and detained individuals need to have access to legal representation, including free counselling for those without means. UNGA, Body of Principles (1988): Anyone who is arrested shall be informed at the time of the reason for his arrest. Equal Rights Trust, Guidelines (2012): Stateless detainees shall receive their order of detention in writing and in a language they understand. To avoid arbitrariness, detention should be subject to automatic, regular and periodic review throughout the period of detention, before a judicial body independent of the detaining authorities. Detention should always be for the shortest time possible. International Commission of Jurists, Migration and International Human Rights Law: A Practitioners' Guide (2014): 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. ECtHR, Kim v. Russia (2014): 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.	At the time of detention, the Home Office must serve detainees with Form IS91R, which identifies reasons for detention, albeit in 'tickbox' form. In criminal cases, reasons for detention are provided by letter (ICD 1913 or ICD 1913AD). 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 trialled an automatic bail hearing pilot for people who have not had a bail hearing for two months, 'but the results of this are not presently known and may have been delayed because of the pandemic'. 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. First-Tier Tribunal judges may be reluctant to release a person in some cases without a financial supporter but not all detainees will have someone prepared to act as such and it is not a requirement to obtain bail. 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 (for example where it is argued that a person presents a high risk of absconding or of offending). Detainees can apply for bail or sue for unlawful detention or bring a habeas corpus action. There is free legal aid to challenge detention in all UK jurisdictions, but evidence suggests there are barriers to accessing adequate free legal assistance. Numerous legal advisers provide legal advice surgeries in detention centres. 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. Legal advice on asylum, trafficking and domestic violence cases is in scope for legal aid, but statelessness leave applications (and many immigration matters) are 'out of scope'. There are different regimes for persons detained in prisons. BID intervened in the case of R (SM) v The Lord Chancellor in which the discriminatory impact for people seeking access to legal advice on asylum and immigration matters in prisons was challenged when compared to access to advice in Immigration Removal Centres. In a judgment of 25 February 2021, the High Court found that lack of free advice for immigration detainees in prison is unlawful. As a result, on 1 November 2021 the Ministry of Justice introduced new provisions allowing people held under immigration powers in prisons to receive advice from a legal aid lawyer without a means or merits test being applied; lawyers are to be paid to travel to prisons; prisoners are to be given funds to be able to pay for phone calls to find lawyers; prisoners are to be provided with written advice after they consult a lawyer.	UK Government Home Office, Detention and Temporary Release: https://www.gov.uk/government/publications/offender-management UK Government Home Office, Enforcement Instructions and Guidance, Detention and Temporary Release: https://www.gov.uk/government/publications/offender-management Immigration Act 2016, Schedule 10, Section 61 & para. 11: http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted UK Parliament, Immigration Bail: Written Question – HL6237, asked 21 March 2017, answered 3 April 2017: http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Lords/2017-03-21/HL6237 ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, p.22: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf Immigration Bail UKVI guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1084425/Immigration_bail.pdf Legal Aid, Sentencing and Punishment of Offenders Act 2012, Schedule 11: http://www.legislation.gov.uk/ukpga/2012/10/schedule/11 Immigration Act 2016, Schedule 10: http://www.legislation.gov.uk/ukpga/2016/19/schedule/10/enacted Bail for Immigration Detainees (BID), Legal Advice Surveys: https://www.biduk.org/pages/106-bid-legal-advice-surveys Report of unannounced inspection of an immigration removal centre, raising concerns about access to legal advice (especially as regards attempt to remove asylum seekers to Rwanda), length of detention, treatment of vulnerable persons: https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2022/09/Brook-House-web-2022.pdf and the Bail for Immigration Detainees comment on that inspection: https://www.biduk.org/articles/brook-house-report-finds-systemic-flaws-in-home-office-decision-making-rwanda-policy Association of Visitors to Immigration Detainees, Legal Advice: http://www.aviddetention.org.uk/immigration-detention/are-you-detention/legal-advice R (SM) v Lord Chancellor [2021] EWHC 418 (Admin): https://www.bailii.org/ew/cases/EWHC/Admin/2021/418.html

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					Doughty Street Chambers, 25 February 2021: https://www.doughtystreet.co.uk/news/high-court-finds-lack-free-advice-immigration-detainees-prison-unlawful
DET.3.b		Are detainees provided with information on their rights, contact details of legal advice and support providers, and guidance on how to access an SDP?	Equal Rights Trust, Guidelines (2012): 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.	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. 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 still not been included as of the time of writing). On 1 November 2021 changes were brought into effect by the Ministry of Justice allowing people held under immigration powers to access 30 minutes of legal advice without a merits or means assessment; lawyers to be paid to travel to prisons; and all legal aid firms were to have their telephone numbers unbarred to allow prisoners to contact them. This policy is to allow people in prisons access to legal advice that is similar to that available to people held in IRCs who have access to 30 minutes free advice under the Duty Detention Advice Scheme. However concerns remain as to the cost of contacting lawyers and the duty of lawyers to actually take on meritorious cases once assessed as such.	Email from Pierre Makhlouf to Cynthia Orchard, 18 May 2017. UK Government Home Office, UK Visas and Immigration, Information leaflet for asylum applicants: https://www.gov.uk/government/publications/information-leaflet-for-asylum-applications Home Office meeting with civil society organisations, 9 March 2017. Legal Aid Agency, ' Civil news: immigration and asylum advice in prisons': https://www.gov.uk/government/news/civil-news-immigration-and-asylum-advice-in-prisons
DET.3.c		Are there guidelines in place governing the process of re-documentation and ascertaining entitlement to nationality for the purpose of removal?	Equal Rights Trust, Guidelines (2012): The inability of a stateless person to cooperate with removal proceedings should not be treated as non-cooperation. ENS, Protecting Stateless Persons From Arbitrary Detention (2015): The detaining state should have rules in place that govern the process of re-documentation and/ or ascertaining entitlement to nationality.	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 state authorities and the timescales where this is known.	'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance UK Government Home Office, UK Visas and Immigration Country Returns Guide: https://www.gov.uk/government/publications/country-returns-guide
DET.4.a	Protections on release	Are people released from detention issued with identification documents (including confirmation of their statelessness status) and protected from re-detention?	1954 Convention: Article 27 UNHCR, Handbook on Protection (2014): Being undocumented cannot be used as a general justification for detention. CMW, General comment No. 5 (2021): There should be a maximum period for immigration detention established in legislation, with automatic release at the end of that period, and which precludes re-detention. Statelessness determination procedures are essential, given that the lack of a country of nationality to be returned to leaves stateless persons at higher risk of arbitrary and indefinite detention. Detaining stateless persons when there is no real prospect of removal would render the detention arbitrary, and the detained stateless person must therefore be immediately released. ENS, Protecting Stateless Persons From Arbitrary Detention (2015): State parties to the 1954 Convention have an obligation to provide stay rights to stateless people who have been released from detention.	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. They will be issued a BAIL 201 form which states name and nationality, address if known and any conditions of release, for example reporting to immigration centres.	ENS, 2016, Protecting Stateless Persons from Arbitrary Detention in the United Kingdom, p.32: https://www.statelessness.eu/sites/www.statelessness.eu/files/ENS_Detention_Reports_UK.pdf Immigration bail guidance: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1102889/Immigration_bail_September_2022.pdf

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			Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.		
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?	CJEU, Kadzoev, C-357/09 PPU (2009): 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. Equal Rights Trust, Guidelines (2012): Released stateless detainees should be provided with appropriate documentation and stay rights suitable to their situation.	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. Persons released on bail will not have permission to work, but can apply for this if their asylum claim is pending for more than one year, and then only for certain specified 'shortage' occupations. 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. Persons with more serious offences will need to seek 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), or by way of inherent discretion (paras 390-399 Immigration Rules). 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. In a similar case the person was granted Discretionary Leave (see SDS.9.a and SDS.4.a)	See also SDS.4.a. Immigration Act 1971, Schedule 2 Part 1, Para. 21: http://www.legislation.gov.uk/ukpga/1971/77/schedule/2 Immigration and Asylum Act 1999, s4(2): http://www.legislation.gov.uk/ukpga/1999/33/contents Bail for Immigration Detainees (BID), Briefing on post detention accommodation https://www.biduk.org/resources/76-bid-briefing-on-post-detention-accommodation Immigration Act 2016, Schedule 10 (Immigration Bail), Schedule 11 (Support for Certain Categories of Migrant), Schedule 12 (availability of local authority support): http://www.legislation.gov.uk/ukpga/2016/19/contents/enacted Immigration Rules, Part 9, and Part 13 paras 353(b) & 390-399, Part 14 404(c): https://www.gov.uk/guidance/immigration-rules 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.14a: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf
DET.5.a	Return and readmission agreements	Is statelessness considered a juridically relevant fact in any bilateral readmission and/or return agreements?	UNHCR, Handbook on Protection (2014): Efforts to secure admission or readmission may be justified but these need to take place subsequent to a determination of statelessness. UNCRC, MKAH v Switzerland, no 95/2019 (2021): The State in which a stateless child applies for international protection has an obligation under Article 7 CRC to consider whether, if the child was returned to another country, their right to a nationality would be fulfilled (as well as other rights under the CRC).	Very little information is available publicly about bilateral return or readmission agreements entered into by the UK Government. The UK is no longer party to EU readmission agreements. When considering whether a person could be refused leave to remain under para 403 Immigration Rules, the relevant criterion is whether the applicant 'has taken reasonable steps to secure their admission' to another country, and failed to do so, under Part 14. Previously, Home Office guidance indicated that admissibility meant entry to a country with a right of permanent residence. However, the meaning of being 'admissible' has been narrowed to mean some form of residence with a right to enter (see AZ v SSHD). According to this case, there is no requirement that the other country resolve the applicant's statelessness, at any point in the future. The UKVI guidance to Part 14 states at p25: '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). A residuary consideration of a child's removability under human rights considerations may take into account the possibility of their statelessness being resolved in the future, but the UK has not incorporated the CRC into domestic law (despite efforts to do so in Scotland). In some circumstances, domestic law and Art 8 ECHR	Immigration Rules, Part 14: stateless persons, para. 410: https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-14-stateless-persons 'UK Visas and Immigration, 'Stateless Leave' v 3.0 published 30 Oct 2019, at: https://www.gov.uk/government/publications/stateless-guidance AZ v SSHD [2021] UKUT 284 (IAC) https://www.bailii.org/uk/cases/UKUT/IAC/2021/284.html The UN Convention on the Rights of the Child is not incorporated in UK law although some aspects are reflected in legislation. See https://www.supremecourt.uk/cases/docs/uksc-2021-0079-judgment.pdf for a discussion of the Scottish parliament's attempt to incorporate it into Scots law. And for a more recent update, see https://www.clanchildlaw.org/news/update-on-the-uncrc-bill.

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				requires the UK authorities to consider an applicant's situation in a potential country of return, in particular, where there are indications that their right to respect for their family and private life would not be fulfilled or where removal would not be in a child's best interests. There are no known cases in which the fact that a child would be unable to access their right to a nationality in a country of return has been a deciding factor in granting them a residence permit in the UK. It is likely that some children are removed from the UK without adequate consideration of their best interests, statelessness and right to a nationality in the country of return.	
DET.5.b		Are you aware of cases of stateless people being returned under such agreements?		No information is publicly available.	

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Prevention and Reduction

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
PRS.1.a	Naturalisation	In what timeframe do stateless people who are residing on the territory acquire the right to apply for naturalisation, and how does this compare to others with a foreign nationality?	1954 Convention: Article 32 UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. ENS (2013): 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 most stateless adults 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. Children who would otherwise be born stateless to parents who hold a form of British nationality (other than full nationality) or who are settled (have permanent residence) in the UK acquire nationality automatically at birth if born in the UK. A child born stateless in the UK to parents who are not British nationals nor settled in the UK may register as a British national after five years' residence, if they remain stateless and meet continuous residency requirements. In 2022 the statutory criteria were made more onerous for children by the introduction of a requirement to evidence not only that the child to be registered 'is' (and always has been) stateless, but also that the Secretary of State is 'satisfied that the person is unable to acquire another nationality. This requirement does not apply to stateless persons aged 18-21 years. The criteria to determine the relevant nationalities are set out in para 3A(2) of Sch 2, BNA 1981. They are worded similarly to the UN Guidelines no 4. See source. There are provisions for registration of stateless children born outside the UK to parents with a form of British nationality providing they have been living in the UK for 3 years (Sch 2 BNA 1981). There are provisions for children to register when their parents become settled in the UK or naturalise, and when a child born in the UK has lived continuously in the UK for 10 years (regardless of whether they are stateless or have another nationality). The Government also has a wide discretionary power to register any child as a British citizen on application, and this does not carry a residence requirement, although there is guidance on when the power will be exercised, and long residence and the parents' immigration status are important factors in many cases, as well as the child's best interests and strong connections to the UK. The very high level of the fees for registration is the subject of litigation and has been partly resolved following litigation, by the introduction in 2022 of the possibility of applying for a fee waiver where the family cannot afford the fee or exemption if the child is in the care of the state: see PRS.1.c.	British Nationality Act 1981, Chapter 61, Section 6 & Schedule 1 (naturalisation), Section 1 & 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) http://www.legislation.gov.uk/ukpga/1981/61/contents Nationality and Borders Act 2022, s 11 amends Sch 2, British Nationality Act 1981: https://www.legislation.gov.uk/ukpga/2022/36/section/11/enacted GUIDELINES ON STATELESSNESS NO. 4: Ensuring Every Child's Right to Acquire a Nationality through Articles 1-4 of the 1961 Convention on the Reduction of Statelessness, paras 24-26: https://www.refworld.org/pdfid/50d460c72.pdf Migrants Resource Centre, Liverpool Law Clinic, ENS & ISI, Joint Submission to the Human Rights Council at the 27th Session of the Universal Periodic Review, Sept 2016, Paras. 10-11 & Part V: https://www.statelessness.eu/updates/publication/joint-submission-human-rights-council-27th-session-universal-periodic-review-0 UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, Version 12.0, 22 November 2022 (link remains good if it is updated): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/665387/naturalisation-as-a-British-citizen-by-discretion-v2.0EXT.pdf Fees for immigration and nationality applications: (link to government website not primary legislation since that is now hard to follow with several amendments and the legislation website is no longer up to date) https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-6-april-2022 British Nationality Act 1981, Schedule 2 & Section 3(2): http://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.1.b		Are there requirements relating to 'good character' or previous criminal convictions that could prevent some stateless people from naturalising? If yes, please describe.	CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): 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.	Yes, there is a requirement to be of 'good character' for those over 10 years old, except for children (and stateless young people 18-21 years of age) registering due to their statelessness or historical discriminatory nationality laws. The guidance includes special considerations for children. In general naturalisation is at the discretion of the Home Office (UK Government). The question of	British Nationality Act 1981, Schedule 1 para 1(b) for naturalisation and good character; s41A applies good character requirement to most registration applications: http://www.legislation.gov.uk/ukpga/1981/61/contents

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				criminal convictions is encompassed in the 'good character' requirement. Government guidance on 'good character' gives as an example of circumstances that may be considered as not meeting the good character test, such as breach of immigration laws. The guidance on naturalisation by discretion sets out considerations regarding breaches of immigration law for people subsequently granted refugee status, 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.41). The main guidance on naturalisation has no click-through hyperlinks to the guidance on good character (increasing the likelihood that some applicants may not be aware of the good character guidance). There was a requirement, broadly, for lawful residence for the 10 years prior to application, but that has been removed by the 2022 Nationality and Borders Act. The change is already relevant to stateless persons who have had 5-year residence permits under Part 14, followed by one year's indefinite leave to remain. The person is eligible for naturalisation after having indefinite leave to remain for 12 months - so six years from the date of first grant of the permit. In many cases, the period of residence prior to receiving the residence permit was unlawful. This provision enables some stateless persons to request naturalisation four years earlier than they would have been eligible under previous legislation.	UK Home Office, UK Visas and Immigration, Good character: nationality policy guidance, v3.0, 8 September 2022. P46 explains the nuances of the change in treatment of unlawful residence or non-compliance with immigration laws in the 10 year period before application for naturalisation: **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1114690/Nationality_policy_-_good_character.pdf** UK Government Home Office, Nationality policy: Naturalisation as a British citizen by discretion, v12.0, 22 November 2022: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1120308/Naturalisation_as_British_citizen_by_discretion.pdf Nationality and Borders Act, s9(2) amends, by way of Sch 1 of that Act, s4 of the British Nationality Act 1981. It adds sub-sections 4A - 4C. https://www.legislation.gov.uk/ukpga/1981/61/section/4 MN1 Registration as a British citizen– A guide about the registration of children under 18 **https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1127223/Guide_MN1__Jan_2023_.pdf**
PRS.1.c		Are there exemptions for stateless people from any nationality or integration test, language, income or fee requirements for naturalisation? Please describe the requirements and cost of the procedure for stateless adults and children, and any direct or indirect barriers to naturalisation caused by discriminatory laws, policies, or practices.	1954 Convention: Article 32 UNHCR, Good Practices Papers – Action 6 (2020): It is recommended that States Parties facilitate, as far as possible, the naturalisation of stateless persons. CoE Committee of Ministers, Recommendation No. R (99) 18 (1999): Each State should facilitate the acquisition of its nationality by stateless persons lawfully and habitually resident on its territory. UNHCR, Background Note on Discrimination in Nationality Laws and Statelessness (2021): States should remove or amend discriminatory legal provisions, rules, policies, or practices that directly or indirectly act as barriers to naturalisation.	There is a 'Knowledge of Life in the UK' test for adults. This can be waived only in certain, very limited, circumstances (age or physical or mental infirmity such that the person cannot take the test). Statelessness is not one of the criteria for 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 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 minimum 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, and there are no exemptions for stateless persons. There are additional fees for the Life in the UK test and language tests. The fee for a child to register is £1012. An advocacy campaign and strategic litigation aimed to obtain a reduction in this fee. The Court of Appeal held on 18 February 2021 that the £1,012 fee was unlawful because the Home Office had failed to consider children's best interests in setting the	British Nationality Act 1981, Schedule 1(1)(a-c) & Section 6 & Schedule 1: http://www.legislation.gov.uk/ukpga/1981/61/contents Relevant information, guidance and application forms can be found here: https://www.gov.uk/government/publications/application-to-naturalise-as-a-british-citizen-form-an Project for the Registration of Children as British Citizens (PRCBC), resources page: https://prcbc.org/reference-materials-and-useful-links/ https://prcbc.org/news-updates/ R (PRCBC & O) v Secretary of State for the Home Department [2021] EWCA Civ 193: http://www.bailii.org/ew/cases/EWCA/Civ/2021/193.html R (on the application of O (a minor, by her litigation friend AO)) v Secretary of State for the Home Department; R (on the application of The Project for the Registration of Children as British Citizens) v Secretary of State for the Home Department [2022] UKSC 3 https://www.supremecourt.uk/cases/uksc-2021-0062.html Affordability fee waiver: Citizenship registration for individuals under the age of 18 https://www.gov.uk/government/publications/citizenship-fee-waiver-for-individuals-under-18-caseworker-guidance

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				fee. (R (PRCBC & O) v SSHD). On 2 February 2022, the Supreme Court held in this case that Parliament has given the Government the authority to set the amount of the citizenship fee. The Government remained obliged to consider children's best interests in setting the fee, and in June 2022 introduced the possibility to apply for a fee waiver for children who cannot afford the fee, as well as a fee exemption for children who are in the care of the State. The Liverpool University Law Clinic has assisted stateless and other children in making successful requests for fee waivers and nationality registrations since July 2022. Legal challenges to the level of fees for registration, based on an argument that they are discriminatory under Art 14 of the European Convention on Human Rights, have not succeeded (e.g. cases submitted or assisted by PRCBC).	British Future, Barriers to Britishness: Report of the Alberto Costa Inquiry into Citizenship Policy, December 2020: https://www.britishfuture.org/wp-content/uploads/2020/12/Barriers-to-Britishness.FINAL_.Embargo10.12.20.pdf
PRS.2.a	Stateless born on territory	Is there a provision in law for stateless children born on the territory to acquire nationality? **[If yes, continue to PRS2b. If no, proceed to PRS2i]**	1961 Convention: Article 1 ECN: Article 2 CRC: Article 7 Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: States should strengthen measures to grant nationality to children born in their territory in situations where they would otherwise be stateless. HRC, CCPR General comment No. 17 (1989): States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. European Parliament resolution (2018): The EU and its MS should ensure that childhood statelessness is adequately addressed in national laws in full compliance with Article 7 CRC.	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 (who is not automatically British at birth) who is age 18-21 years old shall be entitled to register after five years' continuous residence . 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 after1 January 1949). The Nationality and Borders Act 2022 reduces the rights of stateless children born in the UK, by giving the Secretary of State the right to decide, in some circumstances, whether a child aged 5 to 17 should acquire a different nationality before being entitled to register as a British citizen (new paragraphs 3A(1) and (2) of Schedule 2 BNA). The child must have a right to acquire the other nationality (it should not be granted by discretion by the other state); and it must be the nationality of one of the parents; and it must be "in all the circumstances, …reasonable to expect the person (or someone acting on their behalf) to take the steps which would enable the person to acquire the nationality in question." It should become clear in 2023 how this provision in fact affects decisions on this type of registration.	British Nationality Act 1981, Section 36 & Schedule 2, paras. 1 & 3 and 3A as amended by the Nationality and Borders Act s11: http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, 28 June 2022: https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance Other relevant Home Office guidance at: https://www.gov.uk/government/collections/nationality-policy-guidance e.g. Registration as a BOTC - stateless: nationality policy guidance: https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance For advocacy on the possible effects of the Act: Jt Cttee on Human Rights report on Nationality and Borders Bill (no 1) Nationality https://publications.parliament.uk/pa/jt5802/jtselect/jtrights/764/76405.htm
PRS.2.b		Is the provision for otherwise stateless children to acquire nationality automatic or non-automatic (i.e. by application)?	UNHCR, Guidelines on Statelessness No. 4 (2012): 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. ENS, No Child Should Be Stateless (2015): The 1961 Convention and the European Convention on Nationality oblige the conferral of nationality to otherwise stateless children born on the territory. The optimal method is to grant nationality automatically at birth.	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 RES.1.a). 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 citizen is set at £1,012, with a fee waiver application available. See PRS.1.c) A refusal of registration of a child as a British citizen on grounds of statelessness is amenable to judicial review which can attract legal aid. The internal review must normally be requested first which is not even in scope of Exceptional Case Funding legal aid, and a fee of £372 is payable even if the application itself was granted a fee waiver.	British Nationality Act 1981, Section 36 & Schedule 2 http://www.legislation.gov.uk/ukpga/1981/61/contents Fees for immigration and nationality applications: (link to government website not primary legislation since that is now hard to follow with several amendments and the legislation website is no longer up to date) https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-6-april-2022

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PRS.2.c		Are parents provided with information about their child's nationality rights and relevant procedures, including where the child would otherwise be stateless or has undetermined nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012): Contracting States are obliged to provide detailed information to parents of children who would otherwise be stateless or of undetermined nationality about the possibility of acquiring the nationality, how to apply and about the conditions which must be fulfilled. If the child concerned can acquire the nationality of a parent immediately after birth, States that opt to not grant nationality to children in these circumstances must assist parents in initiating the relevant procedure with the authorities of their State or States of nationality.	No information about nationality or immigration status is taken or given to parents at birth registration. No nationalities are recorded on the birth certificate. Data on nationality should not be requested at school. The UK government may only become aware of the nationality status of a child is if the child applies for some form of immigration status or British nationality, or in other exceptional circumstances. ENS research has found that, besides more well-known stateless populations in the UK, such as Rohingya, Kuwaiti Bidoon, or Palestinian refugees, there are other children who may be stateless or at risk of statelessness, but whose nationality issues are not well known at all. This is compounded by a lack of awareness within affected communities of children's nationality rights, with many still mistakenly believing that the UK has birth-right citizenship. As such, many children born in the UK only discover later in life, when trying to access services or travel, that they must go through a complex legal procedure to determine their nationality and acquire or confirm their British citizenship. Children who are stateless have a longer period in which to request registration, ie. from age 5 until age 22. Children with a nationality must register between the ages of 10 and up to 18, unless their parents naturalise or obtain permanent reis	Nationality and Borders Bill, Explanatory Notes, para 137 and 138 re Clause 9 https://publications.parliament.uk/pa/bills/cbill/58-02/0141/en/210141en.pdf Website on the progress of the Nationality and Borders Bill: https://bills.parliament.uk/bills/3023/publications ENS, Invisible Kids (2021): https://www.statelessness.eu/updates/publications/invisible-kids-childhood-statelessness-uk
PRS.2.d		Is it a requirement that the parents are also stateless for the otherwise stateless child to acquire nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012): The test is not an inquiry into whether a child's parents are stateless. ENS, No Child Should Be Stateless (2015): 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.	No.	British Nationality Act 1981, Section 36 & Schedule 2: http://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.2.e		Are stateless children required to prove they cannot access another nationality to acquire the nationality of the country of birth? If yes, please describe how this is determined in practice.	UNHCR, Guidelines on Statelessness No. 4 (2012): 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 and the authorities, but in the case of children the State assumes a greater share of the burden of proof. 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.	Yes. See PRS.2.a for stateless children born in the UK aged 5-17. The child must prove that he or she 'is and always has been stateless' (and meets other requirements, i.e. is under 22 at time of application and meets residency requirements). The standard of proof is the civil standard ('balance of probabilities') and the burden of proof is on the applicant. This issue was addressed in 2017 where the Court held that statelessness for the purposes of the British Nationality Act has the same definition as under the 1954 Convention. 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. They require some evidence in written form from the competent authorities of relevant states. It appears that these are to be taken at face value. It 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	British Nationality Act 1981, Section 36 & Schedule 2, Paras 1 & 2 (children born to British nationals) Para 2 (those born outside the UK), Para 3, 3A, Para 4 (children of British nationals born outside the UK and subsequently resident in the UK): http://www.legislation.gov.uk/ukpga/1981/61/contents R (on the application of MK (a child by her litigation friend CAE)) v Secretary of State for the Home Department [2017] EWHC 1365 (Admin), paras. 36 & 48: http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html The amendments to paras 3 and 3A, Sch 2 BNA 1981 have tempered the effect of this judgment. UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, 28 June 2022: https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance Immigration Rules, Part 9, and paras 353(b) & 404(f): https://www.gov.uk/guidance/immigration-rules

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				available.' The information about nationality not being acquired due to failure to register with a foreign authority is being collated on a spreadsheet inside the Home Office (p.7 of the guidance). Note that the UK government has amended legislation to narrow the effect of this 2017 judgment. Note that the SDP procedure does impose the requirement, at Immigration Rule paragraph 403 (f). See SDS.9.a.	
PRS.2.f		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.	1961 Convention: Article 1(2) UNHCR, Guidelines on Statelessness No. 4 (2012): 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. CRC: Articles 3 & 7 Committee on the Rights of the Child, Concluding observations on the Netherlands (2015): Recommends the State party ensure that all stateless children born in its territory, irrespective of residency status, have access to nationality without any conditions. ECN: Article 6(2)(b)	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. Yes, for 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.	British Nationality Act 1981, Section 36 & Schedule 2, Paras 1 & 2 (children born to British nationals) Para 2 (those born outside the UK), Para 3, Para 4 (children of British nationals born outside the UK and subsequently resident in the UK): http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, 28 June 2022: https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a BOTC – stateless: nationality policy guidance, 28 June 2022: https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance
PRS.2.g		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 this must be legal residence.	Committee on the Rights of the Child, Concluding observations on Czech Republic (2011): 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. ENS, No Child Should Be Stateless (2015): Demanding that the child or their parents reside lawfully on the territory is prohibited by the 1961 Convention.	No.	British Nationality Act 1981, Section 36 & Schedule 2: http://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.2.h		What are the age limits and fees (if any) for making an application for nationality for a stateless person born on the territory?	1961 Convention: Article 1(2) UNHCR, Guidelines on Statelessness No. 4 (2012): 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. Where Contracting States grant nationality to individuals who would otherwise be stateless upon application, they are encouraged to accept such applications free of charge. ENS, No Child Should Be Stateless (2015): 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 child must be over 5 years old and under 22 at time of application. The standard fee for adults to naturalise is £1330, and there are no exemptions on grounds of statelessness. The fee for a child to register is £1012. An advocacy campaign and strategic litigation aimed to obtain a reduction in this fee. The Court of Appeal held on 18 February 2021 that the £1,012 fee is unlawful because the Home Office had failed to consider children's best interests in setting the fee (R (PRCBC & O) v SSHD). On 2 February 2022, the Supreme Court held in this case that Parliament has given the Government the authority to set the amount of the citizenship fee. The Government remained obliged to consider children's best interests in setting the fee, and in June 2022 introduced the possibility to apply for a fee waiver for children who cannot afford the fee, as well as a fee exemption for children who are in the care of the State. The Liverpool University Law Clinic has assisted stateless and other children in making successful requests for fee waivers and nationality registrations since July 2022. See PRS.1.c.	British Nationality Act 1981, Section 36 & Schedule 2: http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, 28 June 2022: https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance Project for the Registration of Children as British Citizens (PRCBC), resources page: https://prcbc.org/reference-materials-and-useful-links/ https://prcbc.org/news-updates/ R (PRCBC & O) v Secretary of State for the Home Department [2021] EWCA Civ 193: http://www.bailii.org/ew/cases/EWCA/Civ/2021/193.html R (on the application of O (a minor, by her litigation friend AO)) v Secretary of State for the Home Department; R (on the application of The Project for the Registration of Children as British Citizens) v Secretary of State for the Home Department [2022] UKSC 3 https://www.supremecourt.uk/cases/uksc-2021-0062.html Affordability fee waiver: Citizenship registration for individuals under the age of 18

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					https://www.gov.uk/government/publications/citizenship-fee-waiver-for-individuals-under-18-caseworker-guidance British Future, Barriers to Britishness: Report of the Alberto Costa Inquiry into Citizenship Policy, December 2020: https://www.britishfuture.org/wp-content/uploads/2020/12/Barriers-to-Britishness.FINAL_.Embargo10.12.20.pdf
PRS.2.i		Are there specific provisions to protect the right to a nationality of children born to refugees?	UNHCR, Guidelines on Statelessness No. 4 (2012): 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. The lack of provision affects children aged 5 to 10 who wish to register as British. Before age 5 there is no entitlement to request registration; after age 10 all children born in the UK may request registration regardless of immigration status, though subject to residence and good character conditions. There is a statutory discretion to register for all minors, accompanied by detailed guidance on how to exercise that discretion. Guidance on applications for registration of stateless children states: " If the parent has demonstrated that they are unable to approach their authorities, for example because they have been granted asylum or humanitarian protection, then it would not be reasonable to expect them to register their child's birth or make an application." Where the parents are applicants for international protection, the claim is taking a long time or is suspected to be abusive, applications are to be referred to a senior caseworker.	British Nationality Act 1981, Sections 1(4), 3(1), 36 & Schedule 2: http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a British citizen: stateless persons, 28 June 2022, pp5-6: https://www.gov.uk/government/publications/stateless-persons-nationality-policy-guidance UK Government Home Office, UK Visas and Immigration, Guidance, Registration as a BOTC – stateless: nationality policy guidance, 14 July 2017: https://www.gov.uk/government/publications/registration-as-a-botc-stateless-nationality-policy-guidance
PRS.3.a	Foundlings	Are foundlings granted nationality automatically by law? If not automatic, please describe the procedure.	1961 Convention: Article 2 ECN: Article 6(1)(b)	Yes, and it is automatic. The UK Government's Nationality Instructions give some guidance about this provision.	British Nationality Act 1981, Section 1(2): http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, v5.0 July 2021: https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance
PRS.3.b		Is there an age limit (e.g. 'new-born' or 'infant') in law or practice specifying when a foundling would qualify for nationality?	UNHCR, Guidelines on Statelessness No. 4 (2012): 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): http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, v5.0 July 2021: https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance British Nationality Bill, Standing Committee, 26 February 1981 cc 212 per Timothy Raison MP, Minister.
PRS.3.c		Can nationality be withdrawn from foundlings if this leads to statelessness?	UNHCR, Guidelines on Statelessness No. 4 (2012): 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 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.	British Nationality Act 1981, Section 40(4): http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition,v5.0 July 2021: https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance

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PRS.4.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?	1961 Convention: Article 5 ENS, No Child Should Be Stateless (2015): 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.4.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.	ECN: Article 6(4)(d) Committee on the Rights of the Child, Concluding Observations on Switzerland (2015): Ensure that the child is not stateless or discriminated against during the waiting period between arrival and formal adoption.	A child formally adopted in the UK, in an overseas (British) 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 the adoption becomes final. In other cases, registration is required.	British Nationality Act 1981, Section 1(5), (5A) and s3(1) for registration: http://www.legislation.gov.uk/ukpga/1981/61/contents UK Government Home Office, UK Visas and Immigration, Guidance, British Citizenship: automatic acquisition, v5.0 July 2021: https://www.gov.uk/government/publications/automatic-acquisition-nationality-policy-guidance Registration as a British citizen: children Version 10.0, 16 September 2022, pp19 - 21: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1105087/Registration_as_British_citizen_-_children.pdf
PRS.5.a	Ius sanguinis	Can children born to nationals abroad acquire nationality by descent (*ius sanguinis*) in general and/or if they would otherwise be stateless?	1961 Convention: Article 4 UNHCR, Guidelines on Statelessness No. 4 (2012): 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.	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, Section 3(2): http://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.5.b		Are there any discriminatory conditions in law and/or practice for the acquisition of nationality by descent (e.g. differential treatment of children born out of wedlock, rights of father/mother/same-sex parents to confer nationality, etc.)?	ECtHR, Genovese v. Malta (2011): The state must ensure that the right to nationality is secured without discrimination. CEDAW, Gen. Rec. 32 (2014): Requires States parties to ensure that women and men have equal rights to confer their nationality to their children and that any obstacles to practical implementation of such laws are removed. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 4	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. Where the parent themselves acquired nationality by descent rather than birth, there is a requirement that their parent (the applicant's grandparent) should have acquired British citizenship by birth. Discriminatory provisions have been removed over time.	British Nationality Act 1981, Section 36 & Sections 3(2) and 3(5) and Schedule 2 para 4: http://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.6.a	Birth registration	Does the law provide that all children are registered immediately upon birth regardless of the migration or residence status, sexual and/or gender identity of their parents?	CRC: Article 7 ICCPR: Article 24(2) CoE, Recommendation CM/Rec(2009)13 (2009): 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.	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 even if parents are not legally resident or are undocumented. People other than the parents can register the birth in all three UK jurisdictions. See PRS.6.g regarding late registration.	Births and Deaths Registration Act 1953, Sections 1 & 2: http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20 (England & Wales) The Registration of Births and Deaths Regulations 1987 SI 1987/2088 at https://www.legislation.gov.uk/uksi/1987/2088/made

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			UNHCR, Guidelines on Statelessness No. 4 (2012): Article 7 CRC applies irrespective of the nationality, statelessness or residence status of the parents. UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7 UN Sustainable Development Goal 16.9 European Parliament, Resolution on LGBTIQ rights in the EU (2021): Calls on States to overcome discrimination against rainbow persons and families. UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021): All parents regardless of their sex should have equal rights to register the births of their children without discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed.	The legal partner (man or woman) of the woman giving birth is treated as the parent of the child if the two partners are in a civil partnership or marriage, regardless of where the child was born, or where the birth mother received artificial insemination. The person giving birth is assumed to be a woman and is defined as 'mother' regardless of where any artificial insemination took place (except where the child is adopted) (s33 HFEA 2008, more detail in sections 33-48). Surrogacy: Two legal or de facto partners, or one person, may apply for a child to be treated as theirs, within 6 months of the birth where the gametes of one of them have been used to bring about the creation of the embryo (sections 54 and 55). Effectiveness: HFEA 1990 governs the legal situation of children of embryos created before 2010. In the context of the Ukraine war, the Home Office has confirmed that Ukrainian surrogate mothers of British intended parents will be entitled to travel to the UK outside of the usual immigration rules, which may help prevent cases of statelessness among children born through surrogacy.	(note that the current version, including subsequent amendments, is not available). Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II: http://www.legislation.gov.uk/ukpga/1965/49/section/14 Births and Deaths Registration (Northern Ireland) Order 1976, para. 10: http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03 UK Government Home Office, Register a Birth: https://www.gov.uk/register-birth/overview (England, Wales and Northern Ireland) UK birth registration policy: https://www.gov.uk/government/publications/birth-registration/birth-registration#about-birth-registration including same sex parents: https://www.gov.uk/register-birth/who-can-register-a-birth Human Fertilisation and Embryology Act 2008, sections 33, 42 and 43: https://www.legislation.gov.uk/ukpga/2008/22/contents Human Fertilisation and Embryology Act 1990 https://www.legislation.gov.uk/ukpga/1990/37/contents ECRE, Information Sheet – Measures in response to the arrival of displaced people fleeing the war in Ukraine, 31 May 2022: https://ecre.org/wp-content/uploads/2022/03/Information-Sheet-%E2%80%93-Access-to-territory-asylum-procedures-and-reception-conditions-for-Ukrainian-nationals-in-European-countries.pdf
PRS.6.b		Are all children issued with birth certificates upon registration? If no, please describe legal status of documentation issued.	HRC, Resolution A/HRC/RES/20/4 (2012): 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. Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: 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.	Yes. In England and Wales, both short and long form birth certificates incur a fee of £11.00. In Scotland, a provision for free short form birth certificates was repealed in 2006. A Scottish government website nevertheless states that the short form certificate is available for free. In Northern Ireland, there is provision for payment of a fee for the short form certificate (s40 of the N Ireland Order). Although the England and Wales 1987 Regulations do not require any documents to be presented to the Registrar by the informants (usually the parents), public facing information is misleading. The UK government Home Office states that informants 'should' bring one of various identifying documents with them to register. A test of the website of my local registry office (Wirral) shows that it does not include this (incorrect) requirement. It does give the impression that only a long form or 'full' birth certificate is available, at a cost of £11. A birth certificate is not evidence of paternity.	Births and Deaths Registration Act 1953, Sections 1 & 2: http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20 (England & Wales) The Registration of Births and Deaths Regulations 1987 SI 1987/2088 at https://www.legislation.gov.uk/uksi/1987/2088/made (note that the current version, including subsequent amendments, is not available). Registration of Births, Deaths, Marriages and Civil Partnerships (Fees) (Amendment) and Multilingual Standard Forms Regulations 2018 https://www.legislation.gov.uk/uksi/2018/1268/made Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II: http://www.legislation.gov.uk/ukpga/1965/49/section/14 How to Register a Birth June 2021 https://www.mygov.scot/register-a-birth/how-to-register-a-birth Births and Deaths Registration (Northern Ireland) Order 1976, para. 10: http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03

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					Registering and naming your baby https://www.nidirect.gov.uk/articles/registering-and-naming-your-baby#toc-4 UK Government Home Office, Register a Birth: https://www.gov.uk/register-birth/overview (England, Wales and Northern Ireland) Birth certificates and the full birth certificate policy, October 2019: https://www.gov.uk/government/publications/birth-certificates-and-the-full-birth-certificate-policy/birth-certificates-and-the-full-birth-certificate-policy The British Nationality (Proof of Paternity) (Amendment) Regulations 2015, SI 2015/1615: https://www.legislation.gov.uk/uksi/2015/1615/made
PRS.6.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 child, if there's a formal procedure, if information on both parents is recorded etc.)	CRC: Articles 3 & 7	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.	Births and Deaths Registration Act 1953, Sections 1 & 2: http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20 (England & Wales) Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II: http://www.legislation.gov.uk/ukpga/1965/49/section/14 Births and Deaths Registration (Northern Ireland) Order 1976, para. 10: http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03 UK Government Home Office, Register a Birth: https://www.gov.uk/register-birth/overview (England, Wales and Northern Ireland) Birth certificates and the full birth certificate policy, October 2019: https://www.gov.uk/government/publications/birth-certificates-and-the-full-birth-certificate-policy/birth-certificates-and-the-full-birth-certificate-policy
PRS.6.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, competent authority, and whether the child's best interests are taken into consideration.	CRC: Articles 3 & 7 1961 Convention: Articles 1 & 4 UNHCR, Guidelines on Statelessness No. 4 (2012): States need to determine whether a child would otherwise be stateless as soon as possible so as not to prolong a child's status of undetermined nationality. Such a period should not exceed five years. HRC, CCPR General comment No. 17 (1989): States are required to adopt every appropriate measure, both internally and in cooperation with other States, to ensure that every child has a nationality when he is born. UNHCR, Best Interests Procedure Guidelines (2021) HRC, D.Z. v. Netherlands (2021)	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 (in the past) deliberately avoided due to the very high cost of the naturalisation application. This may change to some extent due to the fee exemption for British citizenship applications by children in care, introduced in 2022; but barriers remain as many social workers lack awareness of nationality issues. The significance of the omission is felt mainly by older teens and young adults at the point of starting work or higher education, applying for welfare benefits, or by anyone wishing to travel. British passport fees are: child £49 online application, £58.50 postal; adult £75.50 online, £85 postal. The fee is not refundable if the applicant is not entitled to a passport. A stateless person can apply for a Stateless Person's	See SDS.4.a Borders, Citizenship and Immigration Act 2009, s55: https://www.legislation.gov.uk/ukpga/2009/11/section/55 'Stateless guidance' v3.0 of 30.10.2019, p6: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/843704/stateless-leave-guidance-v3.0ext.pdf Form NS, Confirmation of British Nationality https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/795225/form-ns-04-19.pdf Form NS Guidance (updated 3 Feb 2022) https://www.gov.uk/government/publications/form-ns-guidance/form-ns-guidance-accessible-version

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				Travel Document if they already have lawful residence (for example if they are a dependant of a parent with some form of immigration status). The determination of statelessness is then made by the nationality team, not the Status Review Team (which considers applications for leave to remain on the grounds of statelessness and inadmissibility elsewhere). The Secretary of State's functions in relation to asylum immigration and nationality, and any actions of an Immigration Officer, must be "discharged having regard to the need to safeguard and promote the welfare of children who are in the United Kingdom." This duty applies to the statelessness determination which takes place during the resident permit application procedure, and also under the new requirements during the registration procedure on the basis of statelessness. It is also possible to apply for confirmation of British nationality, however, the circumstances in which such applications are permissible are limited, and the procedure is not widely known. The relevant form (Form NS) states: 'If you wish to confirm your nationality status for work, immigration or travel purposes, you must apply to Her Majesty's Passport Office for a British passport. You must only use this form if you want to confirm your status for another reason [access to healthcare or higher education might be relevant reasons]. This form cannot be used to confirm status for the purposes of issuing a passport. Persons, such as social workers, acting on behalf of children in the care of local councils or wards of court are recommended to contact the Nationality Chief Caseworker at the address given in the Guide NS, for advice on how to proceed.'	
PRS.6.e		Are there credible reports to suggest that, in practice, children are prevented from registering their birth (or their birth certificate issued abroad is not recognised) because of parents' migration or residence status, sexual and/or gender identity, because they were born as a result of a surrogacy agreement, or other reasons (please specify)?	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: 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. Global Compact for Safe, Orderly and Regular Migration: States will contribute resources and expertise to strengthen the capacity of national civil registries to facilitate timely access by refugees and stateless persons to civil and birth registration. Global Compact on Refugees: States commit to fulfil the right of all individuals to a legal identity and ensure that migrants are issued documentation and civil registry documents. European Parliament Resolution (2018): Calls on Member States to take immediate corrective measures to stop discriminatory birth registration. European Parliament, Resolution on LGBTIQ rights in the EU (2021): Emphasises the importance of the recognition of birth certificates in all EU Member States regardless of the sex of the parents. UNHCR and UNICEF, Background Note on Sex Discrimination in Birth Registration (2021): All parents regardless of their sex should have equal rights to register the births of their children without	None of which we are aware. There is a reported case where a local authority obtained court approval to enable them to register the birth of a child in their care, against the wishes of the father of the child. The court considered that its own jurisdiction was unnecessary but formally approved the registration (first and surname) taking into consideration the father's unusual views. Another reported case concerns a historic lack of registration by a traveller community in the UK, however the person has been recognised as a British national. Guidance addresses the discretion to operate late registration of birth. Reference to the traveller community has been removed, but reference to being a victim of trafficking or other exploitation, and a crisis such as pandemic or war have been added: see 'birth not registered' section of guidance referenced. See PRS.6.a regarding recognition of surrogate parenthood and single and same sex parents.	Liverpool Law Clinic casework and practice. London Borough of Tower Hamlets and Mother and Father and T [2019] EWHC 1572 (Fam) https://www.bailii.org/ew/cases/EWHC/Fam/2019/1572.pdf Guidance: Generally on birth registration with links to applications for issuance of birth certificate. (no longer a document but a website): https://www.gov.uk/government/publications/birth-registration/birth-registration Link to government website for 'who can register a birth' https://www.gov.uk/register-birth/who-can-register-a-birth

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			discrimination. Laws or regulations that provide that only opposite sex parents may register the birth of children should be reformed. Court of Justice of the European Union, V.M.A. v Bulgaria, Case C-490/20 (2021): Domestic authorities of an EU Member State are required to issue a birth certificate and identity documents to a child who is a national of that state and was born in another EU Member State, including when the birth certificate contains two parents of the same sex.		
PRS.6.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)? If not, is there a clear firewall to prohibit the sharing of information by other entities with immigration authorities?	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC and Joint General Comment No. 3 (2017) CMW and No. 22 (2017) CRC: 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. Children's personal data, in particular biometric data, should only be used for child protection purposes. CoE, ECRI General Policy Recommendation No. 16(2016): States should clearly prohibit the sharing of information about migrants suspected of irregular presence with immigration authorities. These firewalls must be binding on state authorities and the private sector.	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 discourage birth registration, though due to the relative ease of birth registration, cases have not yet been identified where parents do not register their children for this reason. Typically, the hospital where the child is born sends a record to the local birth registry office, to evidence the birth. Where a child is not born in hospital, maternity services of all kinds will always be provided regardless of payment, although charges can be levied for them after the event 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. If there is an outstanding debt to the NHS then an application for permanent residence ('indefinite leave to remain') may be refused but this is not a reason not to record a birth. There is now a fee of £11 for both the 'short' and 'long' form birth certificates in England and Wales.	Births and Deaths Registration Act 1953, Sections 1 & 2: http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20 (England & Wales) The Registration of Births and Deaths Regulations 1987 SI 1987/2088 at https://www.legislation.gov.uk/uksi/1987/2088/made (note that the current version, including subsequent amendments, is not available). Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II: http://www.legislation.gov.uk/ukpga/1965/49/section/14 Births and Deaths Registration (Northern Ireland) Order 1976, para. 10: http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03 UK Government Home Office, Register a Birth: https://www.gov.uk/register-birth/overview (England, Wales and Northern Ireland) Example: Wirral borough council: https://www.wirral.gov.uk/births-deaths-and-marriages/births/register-birth The National Health Service (Charges to Overseas Visitors) (England) Regulations 2015, SI 2015/138: http://www.legislation.gov.uk/uksi/2015/238/contents/made (these were amended in 2017 and 2022 to include reciprocal arrangements, whereby stateless persons recognised by Switzerland are included in free health care; to include covid as a free treatment and to allow Ukrainian nationals to access the NHS). The British Medical Association calls for the suspension of the charging provisions: https://www.bma.org.uk/advice-and-support/ethics/refugees-overseas-visitors-and-vulnerable-migrants/bma-view-on-charging-overseas-visitors Home Office guidance on the operation of the Regulations: https://www.gov.uk/government/publications/how-the-nhs-charges-overseas-visitors-for-nhs-hospital-care 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

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					Public Health England, NHS Entitlements: migrant health guide: https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide The Scottish Government, Healthcare Policy and Strategy Directorate, Overseas Visitors' Liability To Pay Charges For NHS Care And Services, p.16: http://www.sehd.scot.nhs.uk/mels/CEL2010_09.pdf 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: http://www.legislation.gov.uk/nisr/2015/27/made NHS visitor and migrant cost recovery programme: https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme
PRS.6.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.	Joint General Comment No. 4 (2017) CMW and No. 23 (2017) CRC: Measures should also be taken to facilitate late registration of birth and to avoid financial penalties for late registration. HRC, Resolution A/HRC/RES/20/4 (2012): Calls upon States to ensure free birth registration, including free or low-fee late birth registration, for every child.	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 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. It was, according to local registrars, extended in 2020 during lockdowns during the COVID pandemic, though it is not possible to find a legislative authority for this policy.	Births and Deaths Registration Act 1953, Sections 2 & 6: http://www.legislation.gov.uk/ukpga/Eliz2/1-2/20 (England & Wales) Registration of Births, Deaths and Marriages (Scotland) Act 1965, Part II, Section 17: http://www.legislation.gov.uk/ukpga/1965/49 Births and Deaths Registration (Northern Ireland) Order 1976, Part III: http://www.legislation.gov.uk/nisi/1976/1041/2011-10-03 UK Government information, Birth Certificates: https://www.gov.uk/government/publications/birth-certificates-and-the-full-birth-certificate-policy
PRS.6.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). In 2020 the fine was not imposed for late registration due to the temporary closure of some registry offices. It remained possible to claim child social security benefit and access health services without a birth certificate.	Liverpool Law Clinic casework practice. See PRS.6.g for references.
PRS.7.a	Reducing *in situ* statelessness	Does the government have any programmes in place to promote civil registration (including birth registration)? If yes, please provide details.	UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 7	Midwives and health visitors promote birth registration in all jurisdictions and public information is available online (though it does not appear to be completely correct. See PRS 6.b).	UK Government website, Register a birth: https://www.gov.uk/register-birth/overview Scottish Government, mygov.scot: https://www.mygov.scot/register-a-birth/how-to-register-a-birth/ nidirect government services, Registering and naming your baby: https://www.nidirect.gov.uk/articles/registering-and-naming-your-baby
PRS.7.b		Are there particular sections of the population - such as minority groups or people affected by conflict - believed to be stateless/at risk of statelessness? Please provide details and source of information.	1961 Convention: Article 9 UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Action 4 HRC, Recommendations of the Forum on Minority Issues (2019): 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. See PRS.6.e.	Maternity Action, Creating a Hostile environment in maternity care, 21 June 2017: https://maternityaction.org.uk/2017/06/creating-a-hostile-environment-in-maternity-care/

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PRS.7.c		Has the State 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.)	1961 Convention UNHCR, Global Action Plan to End Statelessness 2014-24 (2014): Actions 1 & 8 UNHCR, Good Practices Paper - Action 1 (2022): States generally address and resolve situations of statelessness through law and policy reform enabling stateless persons to acquire nationality automatically by operation of law, through a simple registration process, or through naturalisation. Non-automatic procedures are generally a less effective way to resolve statelessness because they require the person concerned to take certain steps to acquire nationality.	No. The opposite. See section on deprivation of nationality (PRS.8). Regarding registration of nationality, it has removed discriminatory provisions and made discretionary a previously mandatory requirement for presence in the UK at a certain date prior to application for naturalisation. This was primarily to remove historic injustice to long term residents of the UK whose residence rights were unjustifiably removed (the 'Windrush generation'). This group is unlikely to be stateless as they were citizens of Commonwealth countries.	Nationality and Borders Act 2022 amended the British Nationality Act 1981 sections 4(4), 6 (referring to para 1(2) of Sch 1) and 18 (for British overseas territories nationals) https://www.legislation.gov.uk/ukpga/1981/61/contents
PRS.8.a	Deprivation of nationality	Are there any provisions on deprivation of nationality that could render a person stateless? Please state whether there is a safeguard against statelessness established in law and on what grounds deprivation of nationality may result in statelessness (e.g. national security, fraud, etc.).	1961 Convention: Article 8 & 9 ECN: Article 7(3) UDHR: Article 15(2) Principles on Deprivation of Nationality and the Draft Commentary: Principle 2.2: Deprivation of nationality refers to any loss, withdrawal or denial of nationality that was not voluntarily requested by the individual; Principles 4, 5 & 6 HRC, Report of the Secretary-General on Human Rights and Arbitrary Deprivation of Nationality (2009): para. 23 UNHCR Guidelines on Statelessness No.5 (2020): the prohibition of arbitrary deprivation of nationality also includes situations where there is no formal act by a State but where the practice of its competent authorities clearly shows that they have ceased to consider a particular individual/group as national(s) (e.g. where authorities persistently refuse to issue or renew documents without providing an explanation or justification). ILEC Guidelines (2015): Deprivation of nationality must have a firm legal basis, should not be interpreted extensively or applied by analogy and deprivation-provisions must be predictable.	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 test is that Secretary of State is [merely] satisfied that the deprivation is conducive to the public good, no deprivation order may be made which would render a person stateless. A deprivation order may be made which results in a 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 of the law. The method of presenting false information is relevant to the procedure (i.e. whether it is considered nullification or deprivation). This is important for several reasons. Nullification means that the person will forthwith be considered to have never been a British citizen at all. 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 and is undated but in a format used in about 2012.	British Nationality Act 1981, ss. 40–41 (Fraud – s40(3)&(6)): https://www.legislation.gov.uk/ukpga/1981/61/section/40 Home Office Guidance on deprivation and nullity: https://www.gov.uk/government/publications/deprivation-and-nullity-of-british-citizenship-nationality-policy-guidance Hysaj & Ors, R (on the application of) v Secretary of State for the Home Department [2017] UKSC 82 (21 December 2017): http://www.bailii.org/uk/cases/UKSC/2017/82.html The case was remitted to the Upper Tribunal where the decision to deprive was upheld: Hysaj v SSHD [2020] UKUT 128 (IAC) https://www.bailii.org/uk/cases/UKUT/IAC/2020/128.html The leading case on the scope of the appeal against a deprivation order is: Begum v SSHD (Appeal No SC/163/2019) [2020] HRLR 7 https://www.judiciary.uk/wp-content/uploads/2020/02/begum-v-home-secretary-siac-judgment.pdf R (oao Begum) v SSHD [2021] UKSC 7: https://www.bailii.org/uk/cases/UKSC/2021/7.html Begum was deprived under s40(2) BNA 1981 and was not protected by s40(4) because the Special Immigration Appeals Commission determined that she was a Bangladeshi citizen and therefore she was not rendered stateless by the deprivation order. In further litigation, the risk of "de facto" statelessness was one aspect of a proportionality assessment in deprivation cases: Begum v SSHD, Special Immigration Appeals Commission, Appeal No: SC/163/2019: https://www.judiciary.uk/wp-content/uploads/2023/02/Shamima-Begum-OPEN-Judgment.pdf
PRS.8.b		Who is the competent authority for deprivation of nationality and what procedural safeguards are in place (e.g. due process, fair trial, participation in the proceedings, legal aid, decision in writing with reasoning, judicial oversight, appeal, time limit, subject to prior sentencing)?	1961 Convention: Article 8(4) ECN: Articles 10 to 13 Principles on Deprivation of Nationality: Principle 7. Deprivation of nationality must be carried out in pursuance of a legitimate purpose, provided for by law, necessary, proportionate and in accordance with procedural safeguards; Principle 8: Everyone has the right to a fair trial or hearing and to an effective remedy and reparation. ILEC Guidelines (2015): The consequences of a decision to deprive somebody of his nationality must	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	British Nationality Act 1981, s40: https://www.legislation.gov.uk/ukpga/1981/61/section/40 Section 40B (1) requires a first year and subsequent 3 yearly periodic review. 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): http://www.legislation.gov.uk/uksi/2018/851/made#f00002

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			be assessed against the principle of proportionality. Adequate procedural safeguards are essential. Decisions should only take effect when the (judicial) decision cannot be challenged anymore.	Special Immigration Appeals Commission, where the appellant's right to review the evidence against them is severely curtailed and employs a 'Special Advocate' who may review the material but not reveal it to the Appellant. A request to enter the UK to take part in an appeal was rejected by the Supreme Court in the Shamima Begum case (see PRS.8.a). 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 was therefore due in April 2019 but has not been produced. In an answer to a parliamentary question on 25 January 2021 a government spokesperson stated that the deprivation power under s40 (4A) had never been used. This is logical since there is a much wider power under s40(2). The power to deprive a person of nationality without actually serving notice on them was introduced in 2018. The Nationality and Borders Act contains a safeguard, not yet in force, that provides for judicial oversight of an order to deprive a person of British nationality on 'conducive to the public good' grounds.	Right of appeal: British Nationality Act 1981, s40A: https://www.legislation.gov.uk/ukpga/1981/61/section/40A Appeals jurisdiction: Special Immigration Commission Appeals Act 1997, ss2 & 2B: http://www.legislation.gov.uk/ukpga/1997/68/section/2 Independent review: British Nationality Act 1981, s40B(5): https://www.legislation.gov.uk/ukpga/1981/61/section/40B April 2016, First report of independent reviewer under British Nationality Act 1981, s40B: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/David_Anderson_QC_-_CITIZENSHIP_REMOVAL__web_.pdf Independent reviewer of terrorism legislation, 2020 report published 2022. Deprivation in fact falls outside the reviewer's remit but it is covered at 2.20 in relation to Syria: Nationality and Borders Act 2022, Sch 2, will add a Sch 4A to the British Nationality Act: https://www.legislation.gov.uk/ukpga/2022/36/schedule/2
PRS.8.c		Are provisions on deprivation of nationality applied in practice? Have they been applied even where it results in (risk of) statelessness? If available, please provide any sources of data or information on cases that resulted in statelessness.		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. The Royal Prerogative can be used to deny passport facilities without going to the extent of depriving a person of British citizenship; or where it is not legally possible to deprive that person of citizenship. The prerogative is a residual discretionary power which exists outside statute since it is exercised directly by the Crown. Since deprivation of nationality was re-introduced in the BNA in 2016, 289 individuals have been deprived of their British citizenship for reasons of fraud. Between 2006 and 2020, 176 people were deprived of their British citizenship for national security reasons. Information on deprivation of nationality in the context of national security is only published sporadically. The Home Office irregularly publishes these statistics in its 'Transparency Report: Disruptive Powers' reports, of which four have been published so far. Deprivation resulting from fraudulent acquisition on nationality are recorded by the Home Office.	How is the government using its increased powers to strip British people of their citizenship?, Colin Yeo, 9 August 2018, Freemovement Blog: https://www.freemovement.org.uk/british-nationals-citizenship-deprivation/ Begum v SSHD (Appeal No SC/163/2019) [2020] HRLR 7 https://www.judiciary.uk/wp-content/uploads/2020/02/begum-v-home-secretary-siac-judgment.pdf R (oao Begum) v SSHD [2021] UKSC 7: https://www.bailii.org/uk/cases/UKSC/2021/7.html In further litigation, the risk of "de facto" statelessness was one aspect of a proportionality assessment in deprivation cases: Begum v SSHD, Special Immigration Appeals Commission, Appeal No: SC/163/2019: https://www.judiciary.uk/wp-content/uploads/2023/02/Shamima-Begum-OPEN-Judgment.pdf Shamima Begum Supreme Court judgment: What are the implications for statelessness cases?, Alison Harvey, 2 March 2021, ENS blog: https://www.statelessness.eu/updates/blog/shamima-begum-supreme-court-judgment-what-are-implications-statelessness-cases House of Commons library briefing, Deprivation of British citizenship and withdrawal of passport facilities, Jan 2023: https://researchbriefings.files.parliament.uk/documents/SN06820/SN06820.pdf April 2016, First report of independent reviewer under British Nationality Act 1981, s40B: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/518120/David_Anderson_QC_-_CITIZENSHIP_REMOVAL__web_.pdf

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					The subsequent 2019/2020 Review under s40B was published in March 2020. Another review is awaiting government approval for publishing, since November 2020. See https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2020/03/Terrorism-Acts-in-2018-Report-1.pdf at the website https://terrorismlegislationreview er.independent.gov.uk/ (the report includes at p9 the number of people deprived of citizenship in 2017, which was 104 and complains about the inability to review the exercise of deprivation powers) Transparency Report 2018: Disruptive and Investigatory Powers, Section 5.9: https://www.gov.uk/government/publications/disruptive-and-investigatory-powers-transparency-report-2018 Transparency Report 2020: Disruptive and Investigatory Powers, Section 4.9: HM Government transparency report: disruptive powers 2020 (accessible) - GOV.UK (www.gov.uk) Immigration and protection data: Q2 2021 - GOV.UK (www.gov.uk) FreeMovement Blog, CJ McKinney How many people have been stripped of their British citizenship? - Free Movement How many people have been stripped of their British citizenship? - Free Movement
PRS.8.d		Are there safeguards in law and practice to prevent renunciation or other forms of voluntary loss of nationality from resulting in statelessness?	1961 Convention: Article 7 ECN: Articles 7 and 8	Yes. Only those who have another nationality, or expect to acquire one, may renounce British nationality. The renunciation takes effect on the date of registration of it. The exception is that, if the person who does not have any other nationality also fails to acquire one within 6 months of the date of registration, it is deemed to be of no effect.	British Nationality Act, 1981, s12, especially s12(3) https://www.legislation.gov.uk/ukpga/1981/61/section/12 The form is RN1, with guidance of March 2019 at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/788693/Guide_RN__1_.PDF
PRS.8.e		Are there any provisions on deprivation of nationality in a national security context (regardless of whether they could render a person stateless)? Please describe these provisions and if/how they are applied in practice.	Principles on Deprivation of Nationality Principle 4: States shall not deprive persons of nationality for the purpose of safeguarding national security. Where provisions exist, these should be interpreted narrowly and in accordance with international law standards. UNHCR Guidelines on Statelessness No.5 (2020): Laws that permit deprivation of nationality on the grounds of terrorism should be publicly available and precise enough to enable individuals to understand the scope of impermissible conduct.	Yes, as described at PRS.8.a.-PRS.8.c.	
PRS.8.f		Are there any provisions on deprivation of nationality that directly or indirectly discriminate a person or group of persons on any ground prohibited under international law or that discriminate between nationals? Please describe these provisions and if/how they are applied in practice.	ICCPR: Article 26 1961 Convention: Article 9 ECN: Article 5 Principles on Deprivation of Nationality: Principle 6. Prohibited grounds for discrimination include race, colour, sex, language, religion, political or other opinion, national or social origin, ethnicity, property, birth or inheritance, disability, sexual orientation or gender identity, or other real or perceived status, characteristic or affiliation. Each State is also bound by the principle of non-discrimination between its nationals.	Only naturalised nationals can be deprived of their nationality on grounds of acquisition by fraud, false representation or concealment of a material fact. The question of statelessness is not relevant in a deprivation case on these grounds. The consequences of nullification for family members who acquired nationality as dependents are complex and were affected by the decision of the Supreme Court in Hysaj (see source and Free Movement explainer). It is claimed that the power under s40 (2) BNA 1981 is discriminatory because it can be exercised against dual nationals only, since the power cannot be exercised in order to render a person stateless (for full legal framework, see the Begum case referenced at PRS.8.a.-PRS.8.c.). Dual nationals are more likely to be naturalised, migrants, or from a migrant background. See	British Nationality Act, 1981: https://www.legislation.gov.uk/ukpga/1981/61/section/40 Arnell, P. The legality of the citizenship deprivation of UK foreign terrorist fighters. ERA Forum 21, 395–412 (2020): https://doi.org/10.1007/s12027-020-00615-9 (contains a review of literature on deprivation of nationality) Hysaj & Ors, R (on the application of) v Secretary of State for the Home Department [2017] UKSC 82 (21 December 2017): http://www.bailii.org/uk/cases/UKSC/2017/82.html The case was remitted to the Upper Tribunal where the decision to deprive was upheld: Hysaj v SSHD [2020] UKUT 128 (IAC)

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				Arnell, P article which includes a review of case law to June 2020 (prior to the Court of Appeal and Supreme Court decisions in S Begum v SSHD).	https://www.bailii.org/uk/cases/UKUT/IAC/2020/128.html Difference between deprivation and nullification: https://freemovement.org.uk/lessons/difference-between-deprivation-and-nullification/
PRS.8.g		Are there safeguards to prevent derivative loss of nationality (i.e., loss of nationality on the basis that a parent or a spouse has been deprived of that nationality)? Please describe the potential impact of deprivation on children and spouses.	CRC: Articles 2(2), 7 and 8 CEDAW: Article 9(1) Principles on Deprivation of Nationality: States must take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members (Principle 9.7). The derivative loss of nationality is prohibited (Principle 9.8).	Yes. Deprivation does not impact the previously acquired rights of family members. Nullification does, however, which is one of the reasons why Mr Hysaj contested the nullification decision in his case. See PRS8a.	British Nationality Act 1981, ss. 40–41 (Fraud – s40(3)&(6)): https://www.legislation.gov.uk/ukpga/1981/61/section/40 Home Office Guidance on deprivation and nullity: https://www.gov.uk/government/publications/deprivation-and-nullity-of-british-citizenship-nationality-policy-guidance Hysaj & Ors, R (on the application of) v Secretary of State for the Home Department [2017] UKSC 82 (21 December 2017): http://www.bailii.org/uk/cases/UKSC/2017/82.html The case was remitted to the Upper Tribunal where the decision to deprive was upheld: Hysaj v SSHD [2020] UKUT 128 (IAC) https://www.bailii.org/uk/cases/UKUT/IAC/2020/128.html

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Resources

Item	Subtheme	Question	International Norms & Good Practice	Answer	Source
RES.1.a	Published judgments	Please list the most relevant judgments relating to statelessness and include links to the cases (where available).		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. There is anecdotal evidence that not all the cases are reported, particularly if they tend not to favour appellants or if the Government may risk losing an appeal on a decision to deprive a person of nationality. The sources listed therefore include reported cases as well as information about known cases which have been resolved in favour of applicants/ appellants and which may not follow the general run of reported cases (noted as 'practitioner information').	Database of decisions of the Tribunal (Immigration and Asylum Chamber): https://tribunalsdecisions.service.gov.uk/utiac 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: https://tribunalsdecisions.service.gov.uk/utiac/2015-ukut-658 (SDP) Chin et al (former BOC/Malaysian national – deportation) [2017] UKUT 000105: https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-15 (the observation that BOC citizenship 'expired' when the passport expired has been expressly disavowed (see Teh v SSHD)) C3, C4 and C7 v SSHD SC/167/2020, SC/168/2020, SC/171/2020 (18 Mar 2021) http://siac.decisions.tribunals.gov.uk/Documents/outcomes/documents/C3,C4%20&%20C7%20-%20Open%20Judgment%20-%2018.03.2021%20-%20JA.pdf (re-examines the decision in E3 and N3 v SSHD) Paramdeep and Gurpreet v SSHD, Upper Tribunal (Immigration and Asylum Chamber) Appeal Number: HU/24316/2018 HU/24319/2018 20 May, 2019, https://tribunalsdecisions.service.gov.uk/utiac/hu-24316-2018-hu-24319-2018 (the parents of a stateless Indian child requested leave to 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) SSHD v HMS, Upper Tribunal (Immigration and Asylum Chamber) Appeal Number: pa/00392/2017, 28 Dec 2018, https://tribunalsdecisions.service.gov.uk/utiac/pa-00392-2017 (a deportation appeal; an analysis of the situation of a Palestinian from 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) 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, http://www.bailii.org/uk/cases/UKAITUR/2019/HU004902019.html (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).

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					The Upper Tribunal of the IAC: KK and KSB v SSHD (unreported), https://tribunalsdecisions.service.gov.uk/utiac/hu-01546-2019-hu-02773-2019: 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 section SDS.1.a – this case exemplifies why the April 2019 addition to the Rules at 403(f) is problematic.) MK v SSHD [2017] EWHC 1365 (Admin): http://www.bailii.org/ew/cases/EWHC/Admin/2017/1365.html (does failure to register a child mean that they are stateless for the purposes of British nationality law?: YES since ability to ability to acquire another is irrelevant to the determination of statelessness. (The amendments to paras 3 and 3A, Sch 2 BNA 1981 have tempered the effect of this judgment. See PRS.2.e) KV (Sri Lanka) v SSHD [2018] EWCA Civ 2483; [2018] 4 WLR 166: (summarises case law on appeal rights against deprivation under s40A BNA 1981). R (JM) v SSHD (Statelessness: Part 14 of HC 395) IJR [2018 EWCA Civ 188: http://www.bailii.org/ew/cases/EWCA/Civ/2018/188.html (If one has the ability to register in order to acquire the nationality of a country, it means that a person is 'admissible' to that country) Teh v SSHD [2018] EWHC 1586 (Admin), High Court (Administrative Court) http://www.bailii.org/ew/cases/EWHC/Admin/2018/1586.html (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 gain an advantage must try to reacquire it) NOTE: In November 2021 the Home Office granted a residence permit under Part 14 of the immigration rules to a stateless British Overseas Citizen who had renounced Malaysian nationality, taking account of the efforts they had made to obtain a Residence Pass in Malaysia, including by returning there twice) (practitioner information). 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: http://www.bailii.org/ew/cases/EWCA/Civ/2018/2234.html (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) NOTE: in January 2021 the SSHD withdrew a decision to refuse to revoke a deportation order against a man who she had recognised as stateless who was found to be 'not admissible' elsewhere, and granted him a residence permit (Discretionary Leave to remain) (practitioner information).

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					Elgizouli v Secretary of State for the Home Department [2020] UKSC 10 (25 March 2020) (Extradition to the USA of a Sudanese national who had been deprived of British citizenship on fraud grounds). Begum v SSHD (Appeal No SC/163/2019) [2020] HRLR 7 https://www.judiciary.uk/wp-content/uploads/2020/02/begum-v-home-secretary-siac-judgment.pdf R (Begum) v SSHD [2021] UKSC 7: https://www.bailii.org/uk/cases/UKSC/2021/7.html This Supreme Court decision is about the scope of appeal rights in deprivation cases. The SIAC had already determined that Begum was not rendered stateless by the deprivation. CA v SSHD (judicial review) [2020] ScotCS CSOH_105, 2021 GWD 1-1, [2020] CSOH 105https://www.bailii.org/scot/cases/ScotCS/2020/2020_CSOH_105.html (where the applicant for a residence permit claimed that his own country (India) had deprived him of citizenship, but did not consent to SSHD making her own enquiries, it was not irrational for the SSHD to refuse the application; judicial review was not an appropriate remedy where there was a failure to apply a policy correctly since there was the alternative remedy of Administrative Review) AM, R (on the application of) v Secretary of State for the Home Department (legal "limbo") [2021] UKUT 62 (IAC) (1 February 2021) http://www.bailii.org/uk/cases/UKUT/IAC/2021/62.html (Statelessness not evidenced due to non-cooperation but appellant succeeded on Art 8 ECHR 'limbo' point that he required a residence permit). AZ v SSHD [2021] UKUT 284 (IAC) https://www.bailii.org/uk/cases/UKUT/IAC/2021/284.html The case clarifies the meaning of 'admissible' in the Immigration Rules Part 14 (grant of residence permit on grounds of statelessness and inadmissibility elsewhere- a Kuwaiti citizen deprived of her nationality but who held an Art 17 Kuwaiti travel document was 'admissible' to Kuwait). NOTE that in December 2021 the Home Office granted a Discretionary Leave to Remain residence permit to a Kuwaiti Bidoon who had travelled on a (now expired) Art 17 Kuwaiti travel document. The person was recognised as stateless and determined not to be admissible to Kuwait or any other country (practitioner information). UK Government, Asylum Support Appeals Tribunal Decisions: https://www.gov.uk/asylum-support-tribunal-decisions The Queen on the application of D4 [2021] WLR(D) 433, [2021] EWHC 2179 (Admin)

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				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.	http://www.bailii.org/ew/cases/EWHC/Admin/2021/2179.html (Regulations made to allow the SSHD to dispense with notice of deprivation were ultra vires - the SSHD had no legal power to make them. NOTE that the Nationality and Borders Act 2022 remedies this defect and provides for retrospective effect so that orders made but not notified to the affected person have become lawful see PRS.8.b). Laci v SSHD [2021] WLR(D) 297, [2021] EWCA Civ 769, [2021] 4 WLR 86 https://www.bailii.org/ew/cases/EWCA/Civ/2021/769.html(Review of principles in a fraud and deprivation case, where statelessness is irrelevant) (Review of principles in a fraud and deprivation case, where statelessness is irrelevant) The Secretary of State for the Home Department v Tariq [2021] EWCA Civ 378 (16 March 2021) http://www.bailii.org/ew/cases/EWCA/Civ/2021/378.html (In determining whether the Respondent held a foreign nationality, the Court preferred its own reading of the foreign law to the explicit letter from the foreign Consulate - applying at para 42 of the judgment the principles in Pham v Secretary of State for the Home Department [2015] UKSC 19 [2013] 1591, para 92) Mrs PS v SSHD, Upper Tribunal (Immigration and Asylum Chamber) Appeal Number: HU/16262/2017, 28 Mar 2019: https://tribunalsdecisions.service.gov.uk/utiac/hu-16262-2017 (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) Unreported: Mamode & Anr v SSHD, (Immigration and Asylum Chamber) Appeal Numbers: PA/07451/2018 PA/07454/2018, 18 Jun 2019: https://tribunalsdecisions.service.gov.uk/utiac/pa-07451-2018-pa-07454-2018 (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) R (on the application of Al-Anizy) v Secretary of State for the Home Department (undocumented Bidoons – Home Office policy) [2017] UKUT 00197 (IAC): https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-197 (family reunion of stateless refugees - what documentation the Home Office may require) R (on the application of Al-Anizy) v Secretary of State for the Home Department (undocumented Bidoons – Home Office policy) [2017] UKUT 00197 (IAC): https://tribunalsdecisions.service.gov.uk/utiac/2017-ukut-197

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					(family reunion of stateless refugees - what documentation the Home Office may require) HA v SSHD [2020] UKAITUR HU062582019 https://www.bailii.org/uk/cases/UKAITUR/2020/HU062582019.html (Appeal against refusal of residence permit on human rights grounds and a deportation order; rights of claimed stateless child not considered by the parties nor the judge) HGV v SSHD [2021] UKAITUR PA032622019 (9 March 2021) http://www.bailii.org/uk/cases/UKAITUR/2021/PA032622019.html (Cuban national subjected to conditional re-entry due to 'emigrado' status on political grounds is not stateless but comes under the 1951 Refugee Convention) Deshmukh v SSHD [2021] UKAITUR HU047882018 (4 October 2021) (stateless child in the UK is an unsurmountable obstacle to parents (refused renewal of residence permit) leaving the UK and enjoying Art 8 ECHR rights in India). SSHD v Patel and Patel [2021] UKAITUR HU032002019 (4 February 2021) http://www.bailii.org/uk/cases/UKAITUR/2021/HU032002019.html (refusal of residence permit to overstaying parents of stateless child not prevented from returning to India) SSHD v Abdou Cisse HU/19835/2019 (unreported) https://tribunalsdecisions.service.gov.uk/utiac/hu-19835-2019 (Appeal against refusal to revoke deportation order on grounds of statelessness won at first instance. SSHD appeal to Upper Tribunal lost. The person had 'done all he can' to leave the UK.) M Barry v SSHD [2020] UKAITUR PA079442017 http://www.bailii.org/uk/cases/UKAITUR/2020/PA079442017.html (appeal against refusal of human rights claim, on the grounds of statelessness, following a decision to deport. Held: statelessness could in principle be a 'very compelling circumstance' preventing deportation, but the statelessness itself was not sufficiently evidenced in fact or Guinean law). Amadou v SSHD PA079612016 (1 Nov 2021) https://tribunalsdecisions.service.gov.uk/utiac/pa-07691-2016 (black Mauritian who would suffer discrimination in obtaining national ID card is a refugee and would suffer treatment contrary to Art 3 ECHR in Mauritius) YT v SSHD [2020] UKAITUR PA029302019: http://www.bailii.org/uk/cases/UKAITUR/2020/PA029302019.html Very brief determination of statelessness in the context of a human rights appeal against a decision to remove to Algeria.

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					SSHD v CBS [2020] UKAITUR PA038592019 http://www.bailii.org/uk/cases/UKAITUR/2020/PA038592019.html Determination of undocumented Mauritanian as a stateless refugee Secretary of State for the Home Department v The Queen (On the Application Of) AM [2022] EWCA Civ 780 (10 June 2022) https://www.bailii.org/ew/cases/EWCA/Civ/2022/780.html A case where remoteness of the possibility of removal was held to meet the 'very compelling circumstances' test set out in s117B Nationality Immigration and Asylum Act 2002 (designed to reflect principles under Art 8 ECHR). The consequence should be revocation of the deportation order and a grant of some form of residence permit. This is the same test that those who are stateless and subject to a deportation order must meet before the order will be revoked and a form of leave to remain granted.
RES.2.a	Free legal assistance	Are there specialised lawyers or organisations providing free advice to stateless people or those at risk of statelessness? If yes, please describe.	UNHCR, Handbook on Protection (2014): Applicants must have access to legal counsel.	Yes. Asylum Aid 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 Case 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. Some work related to determination of statelessness is within scope of legal aid (see SDS.6.a)	Asylum Aid: https://asylumaid.org.uk/ Liverpool Law Clinic: https://www.liverpool.ac.uk/law/liverpool-law-clinic/ Project for the Registration of Children as British Citizens (PRCBC): https://prcbc.org/ Jesuit Refugee Service: https://www.jrsuk.net/get-help/ Bail for Immigration Detainees: www.biduk.org/ KIND UK: https://www.kidsinneedofdefense.org.uk/
RES.3.a	Literature	Is there domestic academic literature on statelessness? Please list and provide references and hyperlinks (where available).		Yes. Some examples are listed, but these do not include literature on specialist non-UK issues e.g. Kuwaiti Bidoons; Rohingya etc.	· L Fransman British Nationality Law, 3rd edn, Bloomsbury Professional, West Sussex, 2011 · E Fripp Nationality and Statelessness in the International Law of Refugee Status, Hart, Oxford, 2016 · G Goodwin-Gill Deprivation of Citizenship resulting in Statelessness and its Implications in International Law, 5 May 2014: http://www.ilpa.org.uk/resources.php/26116/ilpabriefing-for-the-immigration-bill-house-of-lords-report-7-april-2014-deprivation-of-citizenship · A Harvey 'The de facto statelessness debate', Journal of Immigration, Asylum and Nationality Law (2010) 24(3), 257 · A Harvey 'The UK's new statelessness determination procedure in context', Journal of Immigration, Asylum and Nationality Law, (2013) 27(4), 294-314 See this Journal generally: https://ilpa.org.uk/about-us/journal-of-immigration-asylum-and-nationality-law/ · 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 · Foster, M. and Lambert, H. 2016. Statelessness as a Human Rights Issue: A Concept Whose Time Has Come? International Journal of Refugee Law Special Issue 2016, 28 (4), pp. 564-584

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					· K Bianchini, The implementation of the Convention relating to the status of stateless persons: procedures and practice in selected EU States, PhD thesis, University of York, 2015: http://etheses.whiterose.ac.uk/11243/ · Forced Migration Review, University of Oxford Refugee Studies Centre: www.fmreview.org/thematic-listings · Bloom, T, Tonkiss, K, Cole, P (eds), Understanding statelessness (Routledge) 2017 · Kesby, A, The Right to Have Rights (OUP) 2012. Extensive bibliographies. · 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: https://ilpa.org.uk/wp-content/uploads/resources/32620/16.11.03-1197_ILPA_StatelessnessApps_e-version_2.pdf · Bezzano, J, Carter, J, Statelessness in Practice, 2018 (report on case studies from the Liverpool Law Clinic): https://www.liverpool.ac.uk/law/liverpool-law-clinic/ · 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: https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/113 · Briefing: the new Home Office policy on statelessness, Cynthia Orchard, 2nd Dec 2019, https://www.freemovement.org.uk/statelessness-guidance-2019/ Arnell, P. The legality of the citizenship deprivation of UK foreign terrorist fighters. ERA Forum 21, 395–412 (2020). https://doi.org/10.1007/s12027-020-00615-9 (contains a review of literature on deprivation of citizenship) Fripp, E. (2020). Secretary of State for the Home Department v E3 and N3 [2019] EWCA Civ 2020, [2020] 1 WLR 1098. The Statelessness and Citizenship Review, 2(1), 167–171. Retrieved from https://statelessnessandcitizenshipreview.com/index.php/journal/article/view/167 (Case note on British Bangladeshi national security deprivation case) Kerr, J. "Take heed what thou doest: for this man is Roman" - the arbitrary use of deprivation of citizenship as a public relations management tool J.I.A.N.L. 2019, 33(4), 332-354) Jt Cttee on Human Rights Report on Nationality and Borders Bill 2021 https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/158778/end-to-historical-discrimination-in-nationality-law-welcome-but-nationality-bill-may-fail-to-protect-rights-of-stateless-children/ (link includes access to all written evidence to the Cttee from civil society and the Home Office) 'I am Human' Participatory Assessment by UNHCR, of persons in the UK statelessness residence permit application procedure

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					https://www.unhcr.org/5fd893304.pdf and UNHCR web page relating to the report: https://www.unhcr.org/uk/news/press/2021/4/608681a24/unhcr-report-i-am-human-stateless-in-uk-face-many-obstacles-gaining-recognition.html Luo, S., Statusless and Stateless Chinese Migrants in the UK. Available at: https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2021/04/statusless-and (2021) Statelessness, governance and the problem of citizenship: https://manchesteruniversitypress.co.uk/9781526156419/ Eds Bloom, T and Kingston, L, Sep 2021 Identifying the Stateless in Statelessness Determination Procedures and Immigration Detention in the United Kingdom Katia Bianchini International Journal of Refugee Law, Volume 32, Issue 3, October 2020, Pages 440–471, https://doi.org/10.1093/ijrl/eeaa036 Published: 06 January 2021 Blog updating fee regime and law relating to the fee waiver and Nationality and Borders Act 2022: https://www.statelessness.eu/updates/blog/update-barriers-citizenship-facing-stateless-children-uk

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