

## Stateless children

This fact sheet provides information on statelessness, including when a child is stateless and the process to be followed to regularise their status in the UK.

### What is statelessness?

A [stateless person is defined](#) as someone who *'is not considered as a national by any State under the operation of its law'*. Someone who is stateless lacks legal residence and the right of return to their country, and cannot access consular protection from anywhere.

Statelessness can arise in various scenarios, including:

- discrimination in a country's system of nationality law
- when there are changes such as a state gaining independence
- stripping someone of their citizenship

States have obligations to stateless people under international human rights law and specifically the Convention relating to the [Status of Stateless Persons 1954](#) and the [Convention on the Reduction of Statelessness 1961](#).

Statelessness and citizenship have featured prominently in the news in recent years, mainly due

to the increase in deprivation of citizenship by the UK authorities.

### When is a child not stateless?

A child is not stateless simply because they do not have a passport or other documentation.

Some children who are born in the UK to foreign national parents are automatically born British citizens. This is the case, for example, if at least one of the child's parents is a British citizen or has indefinite leave to remain (is settled) when the child is born.

Other children born in the UK can register as British citizens. For more information, see our [fact sheet on citizenship](#).

If a child is born in the UK but is not automatically a British citizen and cannot be registered as a British citizen, that still does not mean that they are necessarily stateless.

A child born in UK to foreign national parents may have the nationality of one or both of their parents. This will depend on the nationality/citizenship law of the parents' country of nationality.

Some countries require their nationals who become parents in UK to notify the embassy within a certain time after the birth, for the automatic acquisition of

nationality to happen, and if the parents do not take the required action in time, the child is not a national until further steps are taken by the parent(s).

Other countries do not require separate birth notification, but while not denying the child's claim to nationality, they will not issue the child a passport, without the active involvement of both parents.

In order for a child born in the UK to be entitled to [register as British](#) on the ground of statelessness,, they must show the following:

- is and has always been stateless
- is under the age of 22 on the date of the application
- lived in the UK 5 years prior to the making of the application.

In the 2017 case [MK v SSHD \[2017\] EWHC 1265 \(Admin\)](#), it was found that under Indian law, the child was not automatically an Indian national (she was born in the UK to Indian nationals) – she would need to go through a registration process in order to do so. It was found that the child was stateless, as the ability to acquire nationality in this context is irrelevant.

The judge also gave some guidance to the type of evidence that would need to be provided – including sworn statements from the parents, evidence from the relevant country's Consulate.

Nationality law is different for each country and there will be different rules for when someone is automatically a citizen of a country.

For further information please see our [case note](#).

### **Who might be stateless?**

Any child might be stateless. However, some common examples of stateless children can include: Palestinians, Roma, Kuwait Bidoons, Rohingya from Myanmar, Kurds from Syria, Jews from Iraq, and Nepalis from Bhutan.

Some countries where statelessness issues can also arise include Eritrea/Ethiopia, Algeria, Belarus, Burundi, Chad, China, Kenya/Somalia, Liberia, Lithuania, Malaysia, Mozambique, Sierra Leone and Zimbabwe.

### **How can someone make a statelessness application to the Home Office?**

From April 2013 the UK government introduced a new statelessness determination procedure to identify those who are stateless and provide them with a route to legal status. Prior to this there was no dedicated route for stateless people to make an application to the Home Office to be recognised as stateless.

The rules on statelessness applications are contained in the [Immigration Rules](#).

[Guidance](#) can be found on the gov.uk website on how it will consider applications. The Home Office

states that applications for leave as a stateless person should be [made online](#). There is no fee for the application.

The Liverpool Law Clinic (University of Liverpool) and ILPA have published [best practice guidance](#) on statelessness applications. The guide provides detailed practical information on obtaining and submitting evidence.

Evidencing statelessness can be very difficult and as much evidence should be provided with the application form as possible to show that the applicant is stateless. Like asylum claims, the main source of evidence will often come from the applicant's statement, although submitting a statement is not always necessary.

The Home Office application provides a non-exhaustive list of documents that the applicant could provide as evidence of statelessness, including:

- identity documents
- passports and/or travel documents
- marriage certificates
- school certificates and medical certificates/records

A parent making a statelessness application should include their child or children as dependants if the child or children do not have leave in the UK, and

parents should also try to provide the evidence above for their dependants.

## **What happens if a statelessness application is granted or refused?**

If an application is granted, the child will be granted leave to remain as a stateless person for 5 years with the right to work and access to public funds.

An individual with leave to remain as a stateless person will be able to apply for indefinite leave to remain before their leave expires. They must have accumulated 5 years of leave as a stateless person.

If an application is refused, there is no automatic statutory right of appeal against the refusal. In some cases there might be an appeal right, but often judicial review will be the only way to challenge a negative decision.

## **Is legal aid available for this application?**

Statelessness applications are not generally in scope of legal aid but you can apply for [exceptional case funding](#).

Legal aid is available for judicial review, if needed to challenge an unlawful refusal of a statelessness application where there is no right of appeal.

Where a child is looked after by a local authority, they should be able to get advice on statelessness due to the [recent change](#) bringing legal aid back into scope for looked after children for 'immigration matters'.

There is a statelessness project at Liverpool Law Clinic, part of the University of Liverpool, (<https://www.liverpool.ac.uk/law/liverpool-law-clinic/statelessness/>) which offers legal advice and representation to those in the UK who may be stateless. For referrals to the project, contact [clinic@liverpool.ac.uk](mailto:clinic@liverpool.ac.uk) or call 0151 794 5782.

**This fact sheet should not be used to give legal advice and is for information and guidance only.**

**For advice on individual cases, assistance should be sought from an independent regulated legal adviser.**

**For further assistance please contact us by email at [mcpadvice@coramclc.org.uk](mailto:mcpadvice@coramclc.org.uk).**