



TOOLKIT TO IDENTIFY STATELESSNESS IN SCOTLAND

March 2026



European
Network on
Statelessness

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1. PURPOSE OF THE TOOLKIT

This toolkit is to help frontline practitioners in Scotland identify if an adult, child, or young person they are working with might be stateless or have an undetermined nationality. It provides practical guidance on how to identify statelessness and signpost those affected to the right information, advice, and support. It is for frontline practitioners in Scotland who are not experts in statelessness or immigration or nationality law. This might include social workers, healthcare workers, registrars, teachers, migrant and refugee support workers, community organisations, guardians, and others.

THIS TOOLKIT WILL HELP YOU TO:

- (a) **recognise** the indicators of statelessness;
- (b) **gather information** by asking respectful questions and helping obtain or review documentation; and
- (c) **refer** to specialist legal advice.

2. WHAT IS STATELESSNESS?

People are (or become) stateless when no State considers them to be a national (citizen). The 1954 UN Convention Relating to the Status of Stateless Persons sets out the legal definition and rights owed to stateless people (which are similar to the rights of refugees). Whether someone is stateless depends on a) what nationality laws say *and* b) how nationality laws and policies are applied in practice. In Europe, more than half a million people are stateless and the true number is likely much higher as data is limited. Statelessness affects migrants, refugees, as well as people who have lived in the same place for generations.

There are many different causes of statelessness globally, including discrimination in nationality laws, changes in national borders when States break up or new States are formed, forced displacement, barriers to birth registration, gaps or conflicts in different countries' nationality laws, or deliberate State action to deny or deprive someone of their nationality. Refugees may be at risk of statelessness because if you are away from your country of nationality for a long time, it is more likely that you will miss an official deadline (for example, for registering as a national or registering the birth of a child). So, some people may not be considered nationals either by their country of origin or former residence, or the country where they currently live, leaving them stateless.

3. WHY IS IT IMPORTANT TO IDENTIFY STATELESSNESS?

DID YOU KNOW?

Being born in Britain does not necessarily make you British. Birth-right citizenship was abolished in the UK in 1981.

Everyone has the right to a nationality. Identifying where someone might be stateless or have an undetermined nationality will help them to resolve their nationality status and ensure access to rights and services.

Stateless people have specific rights under international law in the UK and Scotland. Stateless children, in particular, often have a time-limited window as a young person within which to register for or acquire a nationality. If statelessness is not identified, then it can lead to many other violations of a person's rights. A stateless person often can't do things most people take for granted like going to school or work, getting married, or going on a holiday or school trip abroad. Many stateless people live in constant uncertainty, facing discrimination, exclusion, poverty, and poor physical and mental health.

4. HOW TO IDENTIFY STATELESSNESS

Sometimes statelessness is relatively obvious. For example, a person who has been deprived of nationality for political reasons will often be aware that they are stateless (and may have documentary evidence to prove it). Other times, it is harder to identify and could even remain unidentified for many years. This can be the case if a child is born outside their parents' country of nationality, or if someone believes they hold a nationality that they do not. The longer that potential statelessness goes unrecognised (especially for children) the greater the challenges faced to access basic rights and secure a nationality.

WHEN MIGHT STATELESSNESS BE IDENTIFIED?

Statelessness and nationality problems could emerge in many different scenarios. It is important that frontline professionals have adequate training and awareness about the issue, how to identify it, and where to signpost and refer people affected for advice and support.

PROCEDURES IN WHICH STATELESSNESS COULD BE IDENTIFIED IN SCOTLAND INCLUDE:



INDICATORS OF STATELESSNESS

Start with a basic question: do you have a nationality and, importantly, do you have documentary evidence to confirm this (i.e. a valid passport or identity document)? If not, you will need to consider nationality questions further, and you should signpost the individual for specialist advice and support.

If, after gathering information, you are still unsure whether there is a risk or actual statelessness, then you should still refer to specialist legal advice. Even if the risk does not materialise, or it transpires that a person can access a nationality, then there is no harm done.

While some stateless people may not be aware that they are stateless, others will but may never have been formally recognised as stateless. Affected individuals may find it difficult to talk about their circumstances, especially if they have had experiences of being disbelieved by authorities. Many stateless people have suffered traumatic experiences in their home countries, during

journeys, or in host countries. You should take a trauma-informed approach when asking individuals about their nationality, as this touches on sensitive topics.

See [Annex I](#) for a list of questions that you can ask in a trauma-informed way to help identify indicators of statelessness and gather evidence to inform a referral to specialist advice and support.

POSSIBLE INDICATORS OF STATELESSNESS INCLUDE, THE PERSON:

- Has never had a valid passport or an identity card
- Has never had a birth certificate or official documents from their country of birth
- Has been unable to be registered as a citizen in their home country
- Is from a stateless population or a country with a large stateless population (e.g., Rohingya, Bidoon, Palestinian, Kurd, Roma, Syria, Myanmar, Thailand, etc)
- Was born in a country that no longer exists, is not universally recognised by other States, and/or is occupied by another State
- Cannot obtain identity documents for themselves or their children
- Country of birth or former habitual residence refuses to renew travel or identity documents, or allow return
- Has difficulties reuniting with family members because they cannot obtain identity or travel documents
- Could not go to school, work, access healthcare, get married or register their child's birth or nationality
- Is detained for removal but not accepted for return to a country of birth or former residence
- Has their nationality disputed by the immigration authorities of the UK or another country

5. WHAT TO DO IF INDICATORS OF STATELESSNESS ARE IDENTIFIED

ACTION – SEEK LEGAL ADVICE

Immigration, nationality and statelessness are complex areas of law that change frequently. You are not expected to be an expert. You do not need to have a detailed understanding of the law. You do not need to be up to date with frequent changes. Unless you are a specialist solicitor, you are not expected to resolve statelessness or nationality problems.

WHAT YOU CAN DO IS:

- (a) **recognise** the indicators of statelessness;
- (b) **gather information** by asking respectful questions and helping obtain or review documentation; and
- (c) **refer** to specialist legal advice.

Early resolution of issues associated with statelessness can save a person from significant rights violations, destitution and exploitation. Early resolution can also save public services significant resources. Even where it may be against your instincts to make enquiries when faced with indicators – perhaps because of fears of racial profiling or a reluctance to engage with migration issues – it is important to understand that it is very often in the best interests of the person to seek to address statelessness.



6. HELP AND INFORMATION FOR STATELESS PEOPLE IN SCOTLAND

LEGAL ADVICE

Law Society of Scotland find a solicitor tool: <https://www.lawscot.org.uk/find-a-solicitor/>

Scottish Legal Aid Board find a solicitor tool: <https://www.slabb.org.uk/new-to-legal-aid/find-a-solicitor/>

Scottish Refugee Council list of legal representatives:
<https://scottishrefugeecouncil.org.uk/legal-representatives/>

INFORMATION ABOUT STATELESSNESS



ENS is a civil society alliance of over 180 organisations and individual experts in 40 European countries, including the UK. ENS is committed to breaking the cycle of statelessness and ensuring that the rights of everyone living in Europe without a nationality are fully respected. ENS coordinates awareness-raising and advocacy projects and campaigns aiming to protect the rights of stateless people, promote realisation of the right to a nationality, end childhood statelessness, and raise awareness about the rights of minorities in terms of statelessness, migratory statelessness, and the arbitrary detention of stateless people. You can [contact the network](#) if you are looking for more detailed information about statelessness. You can also [subscribe to ENS's newsletter](#) and browse its comprehensive [resource library](#) to find out more about statelessness.



The [Statelessness Index](#) assesses how countries in Europe protect stateless people and what they are doing to prevent and reduce statelessness. This resource provides extensive detail on law, policy and practice in 35 countries including the UK. [The UK country profile](#) is a comprehensive tool that covers many areas including details on the procedure to apply for leave to remain as a stateless person, detention, prevention and reduction of statelessness, and population data.

ENS MEMBERS IN SCOTLAND INCLUDE:

- [JustRight Scotland](#)
- [Scottish Refugee Council](#)
- [British Red Cross](#)
- [Scottish Detainee Visitors](#)

FURTHER RESOURCES

Asylum Aid website on statelessness in the UK and how to get help: [What is Statelessness? | Asylum Aid](#)

ENS resource hub on stateless refugees in Europe including real life stories: [Stateless Journeys](#)

UK Government guidance for caseworkers on applications for leave to remain as a stateless person: [Permission to stay as a stateless person: caseworker guidance - GOV.UK](#)

ILPA & University of Liverpool guidance for legal advisors on applications for leave to remain as a stateless person (2016): [Statelessness and applications for leave to remain: a best practice guide](#) [NB some information is out of date]

ENS: [Invisible Kids: Childhood statelessness in the UK | European Network on Statelessness](#)

ENS: [Briefing: Stateless people in the UK | European Network on Statelessness](#)

ENS: [Legal Briefing on the rights of stateless Palestinians in the UK | European Network on Statelessness](#)

COSLA Guidance on Migrant Rights & Entitlements in Scotland: [Migrants rights and entitlements | Migration Scotland](#)

ANNEX I: QUESTIONS TO HELP IDENTIFY INDICATIONS OF STATELESSNESS

Question	Potential indicator
Where and when was the person born?	Does country still exist? Is it a country with a high risk of statelessness, e.g. Ukraine; Russia; Palestine; Western Sahara; Bangladesh; Ivory Coast; Burma; Thailand; Syria; Kuwait; Uzbekistan; Saudi Arabia; Cambodia; Iraq.
Does the person belong to a specific group that is known to be affected by statelessness?	e.g. Rohingya, Roma, Kurdish, Sahrawi, Kuwaiti Bidoon, Palestinian
Was their birth registered and do they have a birth certificate or any other national identity card? If so, is this proof of nationality?	Remember, countries like the UK and Ireland do not have birthright citizenship. If they do not have a certificate or identity document, or do not know, then risk of statelessness.
Has the person faced any challenges in obtaining or renewing their passport or national identity card?	If they have applied and not heard back, or been refused, that is a risk of statelessness.
Of what country does the person consider themselves to be a citizen (if any)?	Follow up questions about family ties (e.g. what nationality(ies) did parents/grandparents have? Were there any barriers to inheriting these nationalities?)
Has the person ever applied for nationality in any country? What was the outcome?	If refused, then risk of statelessness
Does the person come from a country where women do not have the right to pass their nationality on to their children in the same way as men? If yes, have they inherited their father's nationality?	See a list of countries whose nationality laws discriminate against women. If the person did not acquire nationality from the father (e.g. because he is stateless or unknown), this is an indicator the person may be stateless.
Was the person able to go to school, work or register their marriage or the birth of their children in their country of origin or usual place of residence?	If not, this may indicate a risk of statelessness.
Have any family members been deprived of their nationality, for example for political reasons? If yes, was the person's nationality affected?	Indicator of statelessness
What nationality was registered by the authorities when the person arrived in Scotland/the UK?	Officials often record a presumed nationality, an adequate assessment of whether the person has the nationality recorded should always be conducted.

(If applicable) Has the person registered their child's birth in Scotland/the UK or abroad? Are they aware of any reason their nationality might not pass to their child?	If not, then risk of statelessness for the child. If they attempted but experienced problems, what were they? Note that some nationalities cannot be passed down by the mother in some cases. In some cases same-sex parents also face difficulties passing on their nationality to children.
Has the person been detained in a host country, but no embassy acknowledges the person as a national?	If yes, risk of statelessness.
Is the person an asylum seeker whose nationality has been disputed by the Home Office?	The person may be unable to access proof of either the nationality attributed to them or their stated nationality.

ANNEX II: STATELESSNESS IN SCOTLAND

WHO IS AFFECTED?

DEMOGRAPHICS AND IDENTIFICATION

In Scotland, the majority of people affected by statelessness are migrants or refugees. Additionally, children and young people who were born in the UK to non-British parents and have spent their entire lives here may also be stateless. Determining the exact number of stateless individuals in Scotland is challenging. Stateless people often remain unidentified for extended periods, and the available data on statelessness is limited. While the UK Government does collect some data in this area, it does not provide an accurate picture of the stateless population, making it impossible to know precisely how many stateless people live in Scotland.

COMMUNITIES AND ORIGINS

Some stateless people in Scotland belong to groups that are widely recognised as being affected by statelessness, such as the Kuwaiti Bidoon or Palestinians. Others may originate from countries with significant stateless populations, often caused by shifting borders, conflict, or discrimination. Examples of such countries include Eritrea, Ethiopia, Syria, Sudan, Afghanistan, Iraq, Iran, and Myanmar. In certain situations, statelessness has persisted within families for generations, predating their arrival in Scotland, while in other cases, it has emerged during their journeys.

CAUSES OF STATELESSNESS

Statelessness can arise from a variety of causes, including discrimination, deficiencies in nationality laws, obstacles to birth registration or obtaining identity documents, and changes in borders resulting from the creation of new States. In some countries, laws that discriminate based on gender prevent women from passing their nationality on to their children, which can result in childhood statelessness. Furthermore, laws that seem neutral may, in practice, exclude certain groups. For instance, following the dissolution of the former Soviet Union, individuals were often required to register with authorities within a specific timeframe to acquire nationality in the new States. Marginalised communities were frequently excluded because they missed registration deadlines or could not prove residency at the required time.

INDIVIDUAL CIRCUMSTANCES

Statelessness sometimes arises due to unique individual circumstances. For example, some children in the care of local authorities have been found to have nationality issues, especially but not exclusively those with migrant backgrounds. These cases may initially appear to concern administrative matters such as passport applications or immigration issues, but can overlap with statelessness or nationality problems. Often, parental cooperation is required for a child in care to acquire nationality, but parents may be unavailable or unwilling to assist. Documentation proving family relationships or nationality is sometimes lacking for children or their parents. Adults and children who have survived domestic abuse, trafficking, or other forms of exploitation may also be stateless or have undetermined nationality if they are unable to access evidence of their identity and citizenship. In essence, there is a distinction between a person believing themselves to be a national of a country, or laws suggesting they should be entitled to nationality, and the State agreeing and recognising that the individual is in fact a national.

Nationality and discrimination based on sex, gender, and/or sexual or gender identity

In numerous countries, nationality laws discriminate based on sex, gender, and/or sexual or gender identity, sometimes preventing women or LGBTQI+ parents from passing on their nationality to their children or discriminating in other ways that may lead to statelessness. For example, in 24 countries (including Iran, Iraq, Lebanon, Malaysia, Somalia, and Sudan) women cannot pass their nationality to their children on an equal basis with men. For more information, see a [list of countries](#) whose nationality laws discriminate against women and a [blog article](#) relating to discrimination based on sexual or gender identity and childhood statelessness.

LEGAL FRAMEWORK AND RIGHTS OF STATELESS PEOPLE IN SCOTLAND

INTERNATIONAL COMMITMENTS

The United Kingdom is a signatory to several international treaties and conventions concerning statelessness, such as the 1954 Convention, the 1961 Convention, and the United Nations Convention on the Rights of the Child (UNCRC). As a result, all UK nations—England, Wales,

Scotland, and Northern Ireland—are obligated to implement the UK's international responsibilities towards stateless individuals and to take steps to prevent and reduce statelessness.

RESERVED POWERS: IMMIGRATION AND NATIONALITY

The Scotland Act 1998 outlines areas of law that are "reserved" for the UK Parliament in Westminster. Reserved powers mean that only the UK Parliament can enact legislation relating to these matters, restricting the Scottish Parliament in Holyrood from doing so. Immigration, asylum, and nationality law are among these reserved areas and apply uniformly across all four nations of the UK.

STATELESSNESS DETERMINATION PROCEDURE

The statelessness determination procedure, established in the UK Immigration Rules, allows some stateless people to access Leave to Remain (permission to stay in the UK) and other rights and entitlements. However, this procedure presents significant challenges. Proving statelessness requires demonstrating a negative—that the applicant is not recognised as a national by any State—which is inherently difficult. Applicants are often required to show they have approached an embassy to seek recognition of nationality, yet embassies frequently refuse entry to those they do not recognise as nationals. There is no right to protection during the procedure, and applicants may be detained while awaiting a decision. Furthermore, there is no automatic right to appeal a refusal of Leave to Remain as a stateless person, and the burden of proof is higher than for asylum claims. Legal Aid is available for statelessness applications in Scotland.

BRITISH NATIONALITY ACT 1981

The British Nationality Act 1981 sets out several ways for a child (under 18 years old) in the UK to be registered as a British citizen. Section 1(4) provides that a child born in the UK who has lived there for the first 10 years of their life can register as a British citizen, even without Leave to Remain. Section 3(1) gives the Home Secretary discretion to register a child as British, regardless of birthplace, if exceptional circumstances apply—this is often used for young people who have resided in the UK for a long time. The Act also includes specific safeguards to prevent statelessness in most cases involving stateless children born in the UK or to British nationals abroad (Schedule 2). Children born stateless in the UK, without a British or permanently resident parent, are entitled to register for British nationality after five years' continuous residence prior to the age of 22, subject to conditions outlined in the Act.

DEVOLVED POWERS: RIGHTS AND INTEGRATION IN SCOTLAND

Besides reserved matters, the Scotland Act 1998 also defines "devolved" areas of law, for which the Scottish Parliament in Holyrood is responsible for legislating. There is an understanding between the UK and Scottish parliaments that the UK Parliament will not usually legislate on devolved matters in Scotland without seeking permission first, although exceptions occur. These devolved areas cover most aspects of daily life in Scotland, such as social care, housing, criminal justice, education, and health. Consequently, the Scottish Parliament holds considerable authority to improve and influence the lives of stateless people in Scotland. For example, stateless individuals are included in the scope of the New Scots Refugee Integration Strategy 2024-2028. They enjoy numerous rights and entitlements in Scotland, which local authorities and the Scottish Government must respect. These include access to social housing, benefits administered by the Department for Work and Pensions and Social Security Scotland, certain voting rights, and healthcare free at the point of use. Additionally, recognised stateless people and their families may qualify for student funding and "home fees" tuition status for further and higher education.

ANNEX III: TERMINOLOGY

In this toolkit we use the following terms as defined below.

Stateless person: a person ‘who is not considered as a national by any State under the operation of its law’ (1954 UN Convention relating to the Status of Stateless Persons, Article 1). A person who meets this definition *is* stateless, whether or not their statelessness has been officially recognised.

***In situ* statelessness (vs migratory statelessness):** *in situ* statelessness refers to the situation in which a person is stateless even though they have long-established ties to a country, often because they have long-term residence or were born in that country. Generally, their statelessness is the result of problems with nationality laws, and they should be recognised as nationals of this country (if they wish this). This contrasts with migratory statelessness, which refers to statelessness that occurs as a cause or a consequence of displacement, usually among people who have migrated from one country to another (or their children); the preferred remedy for them may be recognition and protection as stateless people and/or acquisition of the nationality of the host country.

Citizen/national: these terms are used to mean the same thing, i.e. a legal bond between a person and a State which usually allows an unrestricted right of residence on the territory, full civil and political rights, access to national identity and travel documents, and the ability to freely leave and return to the territory.

Undetermined or unknown nationality: refers to a situation where a person’s nationality or lack of nationality is not yet confirmed. These terms should be used with extreme caution for the shortest possible time and should always trigger a formal determination of the person’s nationality or statelessness. People who identify themselves as stateless should generally be recorded as stateless and referred to an appropriate procedure to determine their statelessness (or nationality), in line with international law.

Statelessness determination procedure (SDP): a legal process by which an individual, usually in a migratory context, is officially recognised as a stateless person and granted stateless status in a host country (including residence and socio-economic rights).

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