



Home Office

# Marriage investigations

Version 7.0

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# About this guidance

This guidance tells you about marriage investigations.

This guidance is primarily aimed at:

- Immigration Compliance and Enforcement (ICE) team officers
- Immigration Enforcement Investigation Officers
- members of staff investigating allegations of sham marriage, civil partnerships, and marriages of convenience

Within this guidance, all references to sham marriage also apply to sham civil partnerships.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email Enforcement Policy.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **7.0**
- published for Home Office staff on **20 December 2022**

## Changes from last version of this guidance

- hyperlinks updated
- updated procedures or references relating to PRONTO and other databases
- updated EUSS references for post grace period
- clarification on conduct spanning pre and post transition period
- updated removal pathways summary table

### Related content

[Contents](#)

# EU Exit and sham marriage

This section provides you with an overview of amendments to the UK sham marriage provisions following the UK's exit from the European Union and the end of free movement rights.

## Overview

Since 11:00pm GMT on 31 December 2020 when the [Immigration \(European Economic Area\) Regulations 2016](#) ('the EEA Regulations') were revoked, free movement rights under Directive 2004/38/EC ceased to have effect in the UK, EEA citizens and their family members require permission to enter or stay in the UK, unless they have [protected rights](#) under the EU Withdrawal Agreement, the EEA EFTA Separation Agreement or the Swiss Citizens' Rights Agreement ('the Agreements').

EEA citizens and their family members resident in the UK in accordance with the EEA Regulations immediately prior to the end of the transition period (11:00pm GMT on 31 December 2020), or who had acquired a right of permanent residence by that date (unless they have been absent from the UK for a continuous period of more than 5 years), should have regularised their immigration status by making an application to the EU Settlement Scheme (EUSS) before the end of the grace period (30 June 2021). The residence rights of those who applied in time to the EUSS and who were lawfully resident in the UK in accordance with the EEA Regulations immediately prior to the end of the transition period, are protected by the [Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#), while they have a decision or an appeal pending on their application. See: the EUSS and EEA guidance for full details on the EUSS and EEA applications.

[The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#) changes the UK's primary and secondary legislation as a consequence of, or in connection with the ending of free movement by Part 1 of the Act, including bringing EEA citizens (except Irish citizens and those with status under the EUSS or a decision or appeal pending on an EUSS application submitted by 30 June 2021) within scope of the UK's sham marriage referral and investigation scheme ('the scheme').

## From the end of the transition period

Since 11:00pm GMT 31 December 2020, when the transition period ended, the removal options following a sham marriage determination depend on:

- the person's immigration status
- any protection the person has under the Agreements
- whether the 'relevant conduct' commenced before or after the end of the transition period at 11:00pm GMT on 31 December 2020

The [removal pathways](#) section has been updated to reflect this.

## After the grace period

Since 1 July 2021:

- EEA citizens who do not have status under the EUSS or a decision pending on an EUSS application submitted before 1 July 2021 are within scope of the scheme
- British and Irish citizens remain exempt from the scheme
- non-EEA nationals and EEA citizens with status under the EUSS or a decision (including an appeal) pending on an EUSS application submitted before 1 July 2021 are exempt from the scheme
- EEA citizens, except Irish citizens and those with status under the EUSS or a decision (including an appeal) pending on an EUSS application submitted before 1 July 2021, require a mandatory marriage visitor visa if they are travelling to the UK to marry or form a civil partnership whilst visiting
- grace period savings under paragraph 4 of [the Grace Period Regulations 2020](#) apply only to those who are still awaiting a final determination (including any appeal outcome) on a valid EUSS application submitted on or before 30 June 2021

See: [Visitor Rules: Appendix V of the Immigration Rules](#) for further detail on marriage visitor visas.

## Pending EUSS applications

If you are considering the removal of any person following a sham marriage determination, but that person has a pending application for leave under the EUSS, you must contact the UVKI EUSS senior caseworker (SCW) immediately asking for the application to be put on hold and reviewed for potential refusal alongside the removal action.

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**Related content**

[Contents](#)

# Definitions

This section tells you about definitions used in this guidance.

## Sham marriage, civil partnership and durable partnership.

Within this guidance, 'sham marriages' include sham civil partnerships and, unless otherwise stated, sham durable partnerships.

Under [section 24 and 24A of the Immigration and Asylum Act 1999](#) a sham marriage is one in which all of the following apply:

- one or both of the parties is not a '[relevant national](#)'
- there is no genuine relationship between the parties to the marriage
- either, or both, of the parties enter into the marriage for the purpose of circumventing UK immigration controls

The [European Economic Area \(EEA\) Regulations](#), as saved, define a marriage, civil partnership or durable partnership as one of convenience when it is entered into for the purpose of using those Regulations, or any other right conferred by the European Union (EU) Treaties, as a means to circumvent either:

- Immigration Rules that apply to non-EEA nationals (such as any applicable requirement under the Immigration Act 1971 to have permission to enter or stay in the UK)
- any other criteria that the party to a marriage of convenience would otherwise have to meet in order to enjoy a right to reside under these regulations or the EU treaties

Appendix EU to the Immigration Rules defines a marriage, civil partnership or durable partnership of convenience as one entered into as a means to circumvent:

- any criterion the party would have to meet in order to enjoy a right to enter or reside in the UK under the EEA Regulations
- any other provision of UK immigration law or any requirement of the Immigration Rules
- any criterion the party would otherwise have to meet in order to enjoy a right to enter or reside in the UK under EU law
- any criterion the party would have to meet in order to enjoy a right to enter or reside in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man

A right to be admitted or reside under the EEA Regulations 2016, as saved, or under the EU Settlement Scheme (EUSS), is not obtained through a marriage or civil partnership of convenience.

Marriages and civil partnerships of convenience are, for immigration purposes, synonymous with sham marriages. The term sham marriage is therefore used throughout this guidance.



However, where you are considering enforcement action under the EEA Regulations, as saved, as detailed in [removal pathways](#), the term 'marriage of convenience' must be used in associated decisions and notifications.

The important factor in a sham marriage, sham civil partnership or a sham durable partnership is that there is **no genuine relationship** between the parties.

## Relevant national

A relevant national is defined in [section 62 of the Immigration Act 2014](#). Before 1 July 2021 a relevant national was a British citizen, EEA national or Swiss national.

Since 1 July 2021 the definition of a relevant national, as amended by [The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#), is:

- a British citizen
- an Irish citizen
- a person with settled status or pre-settled status granted under the EU Settlement Scheme (EUSS)
- a person with a decision or appeal pending on an application to the EUSS submitted before 1 July 2021 (this does not include late applications)

## Forced marriages

A forced marriage or forced civil partnership is one in which one or both partners do not consent to the marriage but are coerced into it under duress, which can include physical, psychological, financial, sexual and emotional pressure. Guidance on the actions to follow if you suspect a forced marriage is available in the forced marriage section of Partners, divorce and dissolution and in the [Multi-agency practice guidelines: Handling cases of Forced Marriage](#).

You must inform the Forced Marriage Unit (FMU) of any allegation of forced marriage you encounter when undertaking a marriage investigation. Contact details for FMU can be found on GOV.UK at: [Forced Marriage Unit](#).

See also: identifying people at risk guidance.

## Arranged marriages

Arranged marriages that have the full and informed consent of the parties involved should not be confused with forced marriages. You must be aware of cultural differences, and where possible, should tailor interview questions accordingly when interviewing couples who have had an arranged marriage.

Arranged marriages are not covered in this guidance. Partners, divorce and dissolution sets out the factors to look for in a genuine and non-genuine and subsisting marriage and includes reference to arranged marriages.

## Marriage by proxy

A proxy marriage or civil partnership is where one of the contracting parties has appointed someone (a 'proxy'), to represent them at the ceremony. Marriages by proxy can be open to abuse and where encountered must be thoroughly investigated in line with guidance.

Marriages by proxy are not covered in detail in this guidance. See Partners, divorce and dissolution for guidance on marriage by proxy, and recognition of marriage and divorce.

## Permission to enter or stay in the UK

Permission to enter or stay has the same meaning as leave to enter or remain under the Immigration Act 1971.

Limited leave to enter or remain (pre-settled status) and indefinite leave to enter or remain (settled status) continue to be granted under [Appendix EU of the Immigration Rules](#).

## Cancellation and curtailment

Temporary permission to enter or stay can be cancelled in country, at the border or outside the UK.

Limited leave granted under Appendix EU may be curtailed in-country. Outside of the UK, or at the border, leave granted under Appendix EU is cancelled.

For further information on the definitions introduced by the Immigration Rules on 1 December 2020 in relation to cancellation and curtailment, see: Cancellation and curtailment of permission.

In certain circumstances indefinite permission or leave may be revoked in country under section 76 of the Nationality, Immigration and Asylum Act 2002.

### Related content

[Contents](#)

# Sham marriage determinations

This section tells you about sham marriage determinations.

Sham marriages are viewed as a significant abuse of the Immigration Rules. The Home Office investigates and takes action against individuals suspected of assisting others to engage in sham marriage activity, and against those whose relationships are suspected to have been established to enable either, or both, of the parties to circumvent UK immigration controls.

A sham marriage determination should be made where, on a balance of probabilities, it is considered that the individual has knowingly:

- entered into a sham marriage, sham civil partnership or sham durable partnership
- attempted to enter into a sham marriage, sham civil partnership or sham durable partnership
- assisted another person to enter or attempt to enter into a sham marriage, sham civil partnership or sham durable partnership (whether or not they were successful)

Involvement in a sham marriage can be grounds to refuse, cancel, curtail or revoke permission to enter or stay in the UK, where it is deemed appropriate and proportionate. See: [Post investigation actions](#).

## Burden and standard of proof

In the case of [Sadovska](#) the Supreme Court confirmed that the burden of proof lies with the Home Office to prove there is a marriage of convenience, upholding previous case law. Marriages of convenience are, for immigration purposes, synonymous with sham marriages.

Any decision to cancel or refuse immigration permission on the basis of a sham marriage determination must be made on the balance of probabilities, which means it is more likely than not that the marriage was a sham marriage. Unlike in criminal cases you do not need to prove beyond all reasonable doubt before you refuse or cancel on sham marriage grounds

See: [post investigation actions](#).

### Related content

[Contents](#)

# Sham marriage intelligence and data sharing

This section provides you with details about intelligence gathering and data sharing in sham marriage cases.

## Section 24 duty to report sham marriages

[Section 24 and 24A of the Immigration and Asylum Act 1999](#) places a duty on a registration officer to report to the Home Office any reasonable suspicions that a marriage or civil partnership will be, or is, a sham.

A section 24 or 24A report will usually accompany the referral made to the Home Office under the sham marriage referral and investigation scheme. A report can however be made at any point from when initial contact is made at the register office to any time immediately after the marriage or civil partnership has taken place.

Under [Schedule 6 of the Immigration Act 2014](#), Schedule 5 of [the Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015](#) and [Schedule 5 of the Referral and Investigation of Proposed Marriages and Civil Partnerships \(Scotland\) Order 2015](#), a registration officer may also disclose any information or supply any document to the Home Office for immigration purposes, including, for example, where a suspected immigration offender is identified while registering a birth or death.

## Handling sham marriage intelligence

Across all types of investigations, data handling and intelligence sharing remains paramount. It is vital that, where a sham marriage is suspected, investigating officers and registration officials identify and collect information as part of the sham marriage investigation.

This information will inform understanding of the wider threat from sham marriages and can support investigations against organised criminal groups arranging sham marriages.

Your local intelligence officers may be able to provide supporting intelligence in cases of sham marriage and your information may be extremely valuable to them.

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## **Suspected victims of trafficking**

Immigration Enforcement staff should be alert to any indication that the individual is a victim of trafficking. Early contact with Criminal and Financial Investigation (CFI) should be made to seek advice and allow consideration of whether CFI wish to investigate the case with a view to prosecution.

For further information and full guidance on handling cases of suspected victims of trafficking, see:

- Victims of modern slavery
- Identifying people at risk
- Dealing with potential criminality - ICE teams

For further information see the data sharing in enforcement cases guidance.

**Related content**  
[Contents](#)

# Types of marriage investigation

This section provides you with a summary of the different types of marriage investigation.

It does not cover investigations into suspected sham relationships concerning applications for entry clearance or permission to enter the UK.

Investigations into suspected sham relationships fall into 4 broad categories:

- investigations undertaken as part of the sham marriage scheme
- investigations following applications for permission to enter or stay
- investigations following intelligence, tasking or other encounters
- criminal investigations into sham marriages

Investigations into sham marriages must be conducted in accordance with this guidance.

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## The sham marriage referral and investigation scheme

[Part 4 of the Immigration Act 2014](#) introduced a referral and investigation scheme for proposed marriages and civil partnerships across the UK.

Under the sham marriage referral and investigation scheme ('the scheme'), all proposed marriages and civil partnerships in the UK will be referred to the Home Office by the registration official if they involve:

- a person who is not a [relevant national](#) and who has limited or no immigration status in the UK
- a person who is not a relevant national and who does not provide specified evidence that they are exempt from the scheme

See: [EU Exit and sham marriage](#) for more details

A person who is not a relevant national will be exempt from referral if they provide evidence that they have either:

- a 'relevant visa' including a marriage or civil partnership visitor visa granted under the Immigration Rules or a fiancé or fiancée or proposed civil partner visa or leave granted under or outside the Immigration Rules
- an 'appropriate immigration status' because they have settlement in the UK within the meaning of [section 33\(2A\) of the Immigration Act 1971](#), or are exempt from immigration control

During the grace period, any non-European Economic Area (EEA) citizen who provided the required evidence of having EU Settlement Scheme (EUSS) settled status was treated as having an 'appropriate immigration status' under the scheme. This did not include pre-settled status. From 1 July 2021 any non-UK citizen providing the required evidence of having either EUSS settled or pre-settled status is treated as a relevant national.

Full details of the requirements can be seen in the marriage and civil partnership referral and investigation scheme statutory guidance for Home Office staff.

Where there are reasonable grounds to suspect a sham marriage and at least one of the parties is not exempt from the scheme, the Home Office may decide to investigate.

If the marriage or civil partnership is to be investigated, both parties and the relevant registration officer are notified that the notice period is to be extended from 28 to 70 days.

## Conduct of investigation under the scheme

Investigations conducted under the scheme, are governed by the [Proposed Marriages and Civil Partnerships \(Conduct of Investigations, etc\) Regulations 2015](#).

As such, scheme investigations are subject to a number of different constraints and procedures than 'non-scheme' investigations, and must be conducted in accordance with the marriage and civil partnership referral and investigation scheme statutory guidance for Home Office staff.



IE officers conducting marriage investigations under the scheme must familiarise themselves with the statutory guidance which sets out requirements under the scheme in relation to:

- the purpose and means of investigation
- the time periods relevant to the conduct of the investigation
- requesting information, evidence or photographs
- the purpose of requested information, evidence or photographs
- arranging and rearranging interviews, including location of interview
- interviews by telephone, by video-telecommunications link or over the internet
- interviews while detained

## Genuineness of relationship

The purpose of a scheme investigation is to determine whether, on the balance of probabilities, the proposed marriage or civil partnership is considered to be a sham.

The investigation officer must aim to inform the registration officer of the outcome of the investigation, including the [compliance decision](#), by the sixty fifth day wherever possible, but no later than the seventieth day in all cases.

Where a proposed marriage or civil partnership is determined to be a sham the Home Office may, where appropriate, take enforcement action or seek the prosecution of those involved in a criminal offence. See [post investigation actions](#).

## The compliance decision

Both parties are required to comply with requirements under the scheme (the compliance decision).

Within the 70-day notification period, both parties and the relevant registration officer must be informed whether either party failed to comply with a requirement that was set out in their section 48 notice (or in any subsequent notification), without reasonable excuse.

Any decision that the couple have failed to comply with a requirement under the scheme must be reasonable and proportionate, taking account of any reasonable excuses provided.

## Failure to respond

A failure to respond to any question asked during an interview, or a refusal to answer any further questions thereby bringing the interview to an end, may be regarded as a failure to comply with the requirement to be interviewed, unless a reasonable excuse is given.

## Weighting of compliance decision

The purpose of the investigation is to establish the genuineness of the relationship.

Therefore, if it is possible to establish that the relationship is genuine, even where the couple failed to present all required documents or comply with requests, officers should consider:

- why the parties cannot comply with a requirement and whether there is a 'reasonable excuse'
- whether, in the case of non-provision of documents, those documents would make a fundamental difference to the outcome of the genuineness assessment

An inflexible approach to the provision of documents where they would not make a fundamental difference to the outcome of the genuineness decision, is likely to be unreasonable. If you are aware that documents or evidence have already been submitted and are with another department in the Home Office, you must ask that department for a copy to be forwarded to you.

If either party fails to comply with a requirement of the investigation without reasonable excuse, for example they have failed to provide requested documents, details, or have failed to attend an interview, they must be notified of how they failed to comply and given an opportunity to contact the Home Office with a view to complying. The person must be given at least 3 working days from receipt of the notification in which to reply. Notification given in person or by email is considered to have been received on that date. If sent by post notification is considered to have been received 2 working days after the date of dispatch.

### Change of circumstances: couple no longer wish to marry

Where a relevant party subsequently informs the Home Office they no longer wish to marry and the investigation cannot be completed, they will be deemed to have failed to comply with the investigation without reasonable excuse given that the intent is clear that the parties no longer wish to marry. The couple should be served with form ICD.4971(W), informing them that they will not be able to marry or enter into a civil partnership on the basis of the notice they had given but can give notice again should they wish to pursue marriage or civil partnership at a later date.

If there is enough information on file to make a determination of genuineness, it should be noted on the HO database to be considered in the event of any future interactions or proposed marriage.

### Change of circumstances: both parties become exempt

If, after a decision to investigate has been made, both relevant parties subsequently provide evidence to demonstrate exemption from the scheme, the decision maker may decide that the relevant parties have complied with the investigation.

### Consequences of the compliance decision

The compliance decision directly impacts on whether the couple receive permission to marry:

- if both parties have complied with the requirements of the scheme, they will be notified by letter (ICD.4972) – this allows the registration officer to grant permission to marry where they are satisfied that there is no legal reason preventing the marriage
- if either party fails to comply, a non-compliance decision is taken: the parties must be notified in writing by letter (ICD.4971) – they will not be able to marry or enter a civil partnership based on the notice given, but they may give notice again if they still wish to do so

A non-compliance determination does not prevent a separate determination being made about the genuineness of the relationship during or after the investigation, and enforcement action on the basis that the proposed marriage or civil partnership is a sham may still be pursued.

Where, following investigation, a proposed marriage is determined to be sham and the couple has complied with an investigation, the couple must be informed of the sham determination at the same time they are notified of the compliance decision (ICD.4972).

See: marriage and civil partnership referral and investigation scheme - statutory guidance (specifically, section 4, compliance with an investigation) guidance, for full details.

## Roles and responsibilities under the scheme

### Marriage Referral and Assessment Unit (MRAU)

MRAU are responsible for initial enquiries in relation to the scheme.

Referrals from England and Wales are referred electronically from the registration officers through data feeds and include information provided by the couple when they gave notice and, if appropriate, a section 24 or 24A report setting out the registration officer's suspicions about the marriage. This information then enters a triage process, where it is assessed against risk factors to determine the potential risk of the couple engaging in a sham marriage.

Referrals from Northern Ireland and Scotland are triaged manually by MRAU against the same risk factors.

Following triage, all referrals are allocated either a:

- 'pass' or 'no extension' outcome indicating no interest in investigating the relationship at this time - the couple's notice period will not be extended
- 'fail' or 'extension' outcome, indicating there are factors raising a reasonable suspicion that the relationship is not genuine, and there is a need to investigate the relationship further - the couple's notice period will be extended for that purpose

MRAU process these outcomes and are required to send letters to the couple confirming whether they will be investigated, within 28 days of the couple giving

notice to marry or form a civil partnership. The letters ask the relevant parties to comply with requirements of the investigation and to confirm their contact details, and explains that failing to comply without a reasonable excuse means the couple are unlikely to be granted permission to marry.

Where the notice period has been extended to 70 days, MRAU disseminate cases for tasking directly to a responsible Reporting Centre.

## Immigration Enforcement (IE) Investigation Officers

Once the case has been allocated to a responsible Reporting Centre, the responsibility for investigation and interviewing belongs to the Investigation Officers.

The IE Investigation Officer must invite the couple to attend an interview. See: [arranging an interview under the scheme](#).

Under the scheme, the IE Investigation Officer is responsible for:

- arranging and conducting interviews and collating evidence to establish whether a relationship is genuine or not in accordance with guidance on [conduct of investigation under the scheme](#)
- conducting home visits to subjects on behalf of casework teams where:
  - involvement in a sham marriage or civil partnership is suspected
  - further evidence is required to support a decision on an application for a residence card or permission to stay
- conducting enforcement visits to home addresses where intelligence indicates a sham marriage or civil partnership is going to take place
- gathering and recording evidence that a marriage, civil partnership, or attempted marriage or civil partnership, is a sham by:
  - interviewing the individual, or individuals, involved
  - obtaining witness statements
  - collating supporting evidence from Home Office systems or the police
- liaising with casework teams to:
  - pursue cancellation of any extant permission
  - refuse or revoke any pending residence card application
  - refuse any pending permission to enter or stay application, including to the EUSS
  - make a removal or deportation decision
  - serve appropriate paperwork
- reporting those with limited leave or permission to stay, suspected to be involved in a sham marriage to UK Visas and Immigration (UKVI) and to Immigration Intelligence through the Intelligence Management System (IMS)
- identifying, collecting and reporting useful intelligence, such as emerging patterns or trends of abuse and information about suspected facilitators or 'fixers' encountered during the course of their activities to IMS, where the information is processed by the Receive Evaluate Develop Intelligence Team (RED team) and referred to Operational Intelligence Units (OIUs) or the Crime Development Team (CDT) if additional criminal or financial investigation is required

- considering the arrest and detention of those individuals who are liable to be detained, or removed, from the UK
- referring suitable cases to CFI where there is evidence of organised criminality regarding those planning and attending any marriage or civil partnership ceremony. See: [Criminal investigations](#)
- securing evidence and investigating level 1 criminality where there are professionalising investigations programme (PIP) trained crime officers embedded within an IE team

When concluding the investigation, the IE Investigation Officer must make:

- the compliance decision: whether the couple complied with the investigation as required
- an assessment on the genuineness of the relationship

The IE Investigation Officer must complete their investigation and inform the relevant parties and the relevant registration officer of the outcome of the investigation decision, by the end of the 70-day notice period.

Where a sham marriage determination is made, the IE Investigation Officer must then make a decision on whether to take discretionary action to refuse or cancel permission, and whether or not to pursue removal from the UK.

See: [Enforcement action following marriage investigations](#).

## Investigations following applications for permission

### Appendix FM

UKVI case workers handling applications for permission under Appendix FM of the Immigration Rules, which are based on a relationship with a partner, must follow the Family Policy: partners, divorce and dissolution guidance which sets out the process to be followed, and evidential requirements and factors they must consider when making a decision under Appendix FM.

### All UKVI investigations

Where UKVI are considering any application based on a marriage or a civil partnership, they may invite the couple for an interview or alternatively commission a home visit if there are reasonable suspicions that the relationship is not genuine.

This includes EUSS applications where there are reasonable suspicions that the relationship is not genuine and subsisting, or where either party of the couple are under an open marriage investigation already. These cases will be tasked to IE Investigation Officers.

UKVI case workers may encounter applications for permission to stay from couples where the Home Office previously investigated a proposed marriage or civil partnership where there were reasonable grounds to suspect the relationship was a

sham, but ultimately no sham marriage determination was made. In such circumstances, where new, significant, or compelling information comes to light again raising reasonable suspicion about the genuineness of the relationship, decision makers may arrange a marriage interview or make further enquiries.

In all cases where a sham marriage determination is made, the decision maker must decide if discretionary action to refuse or cancel permission is appropriate, followed by the person's subsequent removal from the UK.

See: [Enforcement action following marriage investigations](#).

## IE investigations following tasking or other encounters

Where intelligence or evidence raises suspicions that a sham marriage is planned or has already been contracted, officers must investigate the relationship; this may be as part of normal enforcement action to determine the immigration status of those involved, or it may be a tasked marriage investigation.

Enforcement officers must conduct the interview according to procedures outlined in the [marriage interviews](#) section of this guidance.

Where information suggests that a marriage has been contracted for a criminal purpose, such as facilitation or obtaining leave by deception, or if you have reasonable grounds for suspecting that an immigration criminal offence may have been committed, you must seek advice from a Criminal Investigation team (CFI).

An appropriately trained IE officer may, where it is deemed appropriate, conduct a criminal arrest and detain the person in accordance with the Police and Criminal Evidence Act 1984, or equivalent processes in Scotland and Northern Ireland, pending further investigation. This can include a visit to their home address, if appropriate.

See: [Criminal investigations](#).

## Reasonable grounds to suspect a sham marriage raised during an enforcement operation

You may encounter a person in the course of an enforcement operation, for example on a visit to domestic premises or on an illegal working visit, who claims to be eligible for settled status or other permission to enter or stay in the UK, due to their spouse or partner relationship.

If you have reasonable grounds to suspect that:

- a relationship upon which entry clearance, permission to enter, or stay has been, or will be granted, is not genuine
- someone has assisted others in entering or attempting to enter a sham relationship (whether or not they were successful)

you must investigate further.

Reasonable grounds could include the context in which you encountered the person, their behaviour or their responses when interviewed.

The person's living arrangements or response to questions may support or cast doubt on their claim, for example, there may be no evidence that their partner or family member is living with them as claimed and they are unable explain where they are.

Where there are reasonable grounds to suspect a claimed relationship is not genuine you may investigate further by, for example, requesting proof of the relationship (for example, a genuine passport or marriage certificate, evidence of EUSS status).

If you have reasonable grounds for suspecting that an immigration offence or breach has been committed, you may administratively arrest them and interview them further.

## Visits to residential premises

A marriage investigation compliance visit is conducted to check on the residential arrangements of those suspected of involvement in a sham marriage who are subject to immigration bail and to confirm whether the person still lives at the address. Where the subject is encountered, they are advised or reminded of the requirement to comply with any restrictions or bail and the consequences if they refuse to comply.

## Unannounced marriage investigation visits

Unannounced visits to test the genuineness of a relationship must not be made as part of an investigation under the [marriage and civil partnership referral and investigation scheme](#).

However, this does not preclude necessary visits to investigate suspected immigration offences. Where information suggests that a sham or forced marriage has been planned or has already been contracted, it may be appropriate to make enquiries at the residential address in order to assess whether an offence or immigration breach has been committed. It should clearly be noted in your digital notebook (PRONTO), and in other operational briefing, that such an investigation is taking place as part of an investigation outside of the scheme.

If no one is at the premises when the visit takes place, you may consider speaking to neighbours about who lives at the residential address. At least 2 attempts must be made to visit the couple at the premises subject to operational resources.



## Actions during a marriage visit

You must record interviews, and outline your conclusions, on PRONTO as this provides good evidence for an appeal bundle or curtailment decision and immigration judges prefer verbatim interview records.

If no interview takes place, you must record the outcome and any observations from your visit on PRONTO. The record of events must be detailed, and care must be taken to comply with note taking standards where the notes may provide the basis for a witness statement at a later date. CFI will advise when and if a witness statement is required.

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You must also update your digital notebook via the police reporting and notebook organiser (PRONTO) with the outcome of any visits, using the intelligence debrief and recording processes. You must refer this information directly to the relevant local intelligence unit for consideration and further development in cases where:

- potential facilitation is identified (for example ‘fixers’ or repeat witnesses)
- intelligence is gathered that points to criminal activity

See also: Enforcement visits.

## Criminal investigations

Separate sham marriage guidance is provided for Criminal and Financial Investigation (CFI) teams in - CFI guidance investigation procedures: sham marriages.



There is no criminal offence of entering a sham marriage but there are other offences for which a person could be prosecuted for involvement in a sham marriage.

The main types of offences relating to sham marriages are:

- [facilitation \(assisting people to enter the UK illegally\)](#)
- [conspiracy to facilitate](#)
- [deception](#)
- [bigamy](#)
- [perjury](#)
- [securing or seeking to secure the avoidance, postponement or revocation of enforcement action](#)

Intelligence on sham marriage will be gathered from various sources, including IE teams and registrars (in the form of S24 reports), and reviewed by the thematic intelligence hub, or the regional intelligence units, who will review and consider further actions.

You must notify CFI through your local CFI team manager at any stage where either of the following apply:

- HO databases indicate there is already CFI involvement in a case
- information you have received in relation to the case suggests that a marriage has been contracted for a criminal purpose, such as facilitation or obtaining leave by deception

This allows a joint response to be agreed with CFI.

For more information see: Dealing with potential criminality - ICE teams.

## **Related content**

[Contents](#)

# Marriage interviews

This section provides guidance to officers on the purpose and general conduct of a marriage or civil partnership interview.

All marriage interviews are administrative interviews, with the exception of those taking place as part of a criminal investigation. Each party should, where possible, be interviewed by the same officer and should not be present during the other party's interview.

The different kinds of enforcement interview and when and how they should be conducted are detailed in the enforcement interviews guidance.

If, during the course of an administrative interview, information gives rise to a reasonable suspicion that a criminal offence has been committed that is likely to be pursued to prosecution, you must suspend the interview and take advice from Criminal and Financial Investigations (CFI). If CFI confirm an interest in investigating the suspected offence, the individual must be given the criminal caution and arrested in accordance with Police and Criminal Evidence Act (PACE). Only officers that have undertaken the relevant criminal investigation training can interview in relation to a criminal offence. See: Enforcement interviews.

Interviews conducted under [the scheme](#) must be conducted in accordance with the [marriage and civil partnership referral and investigation scheme statutory guidance for Home Office staff](#). There are a number of differences to other 'non-scheme' investigations, including but not limited to, the date, location, timing, and method of interview, rescheduling of an interview, and evidence that can be required in relation to the investigation. If you are conducting an interview under the scheme, you must refer to [conduct of investigation under the scheme](#).

Regardless of whether the investigation falls under the scheme, all marriage interviews must be conducted in a properly probing but balanced way. The questions should be designed to establish whether the relevant parties are in a genuine relationship or whether their proposed marriage or civil partnership is a sham.

For example, the relevant party or parties might be asked about (this is not an exhaustive list):

- the background to and subsistence of their relationship
- their general background, family and immigration history
- their partner's general background, family and immigration history
- their living arrangements
- the arrangements for the proposed marriage or civil partnership
- the parties' future plans

Where a person refuses to co-operate during an interview, refusing to answer questions so that the interview has to be ended may be regarded as a failure to comply with the requirement to be interviewed.

The types of questions you ask will differ depending on the type of marriage and the cultural backgrounds of the couple. Whilst local lists of pre-prepared marriage interview questions may be helpful, you must ensure that your line of questioning is tailored according to the answers provided and that you pursue any inconsistencies in the answers given. You must avoid asking inappropriately intrusive questions, for example, about their sex life. If individuals offer such information freely without being asked, you may record it as part of the investigation.

The person conducting the interview must make a written record of it and provide the party or parties interviewed with a copy if they request it.

For further guidance on assessing whether a marriage or civil partnership is genuine, see: Free movement rights direct family members of European Economic Area (EEA) nationals: validity of marriages (page 34) and Partners, divorce and dissolution – genuine and subsisting relationships.

Any marriage interview where one of the interviewees is a minor, must be conducted with an appropriate adult present, and in accordance with Enforcement interviews: administrative interviews of children guidance.

## Key elements for each marriage interview

### Genuineness of relationship

You must be aware of and sensitive to the extent to which religious and cultural practices may shape the factors present or absent in a case. For example:

- evidence of pre-marital co-habitation and joint living arrangements can be a factor associated with a genuine relationship, but it is not a prerequisite - for example, a couple in an arranged marriage may have spent little time together prior to the marriage - for many faiths and cultures, marriage marks the start of a commitment to a lifelong partnership and not the affirmation of a pre-existing partnership
- in some cultures, it is traditional for the household accounts and bills to be in the name of the male head of the household only (who could be the male partner; their father or grandfather)

In most cases the evidence that a marriage or civil partnership is not genuine will be based on a number of indicators that on their own are circumstantial and inconclusive but, when considered as a whole, provide a compelling argument that the marriage is a sham.

In other cases, indicators that would normally raise questions about genuineness, may have plausible explanations because of the individual circumstances of the couple or person you are investigating.

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### **Credibility and reasonableness**

Interviewing the couple separately may provide contradictory or inconclusive responses but these must be supported by the context that shows why these discrepancies are important.

If during the interview, gaps in evidence or credibility issues arise either between the 2 parties, or within an individual account, that might later be relied upon within a sham determination, you must give an opportunity for the parties to provide further explanations on any points of credibility that will be relied upon within the determination.

### **Complicity of each party**

The decision to refuse or cancel permission on sham marriage grounds is discretionary, and must be based on the individual's personal circumstances, rather than automatically applied to the couple. Enforcement action following a sham marriage determination is based on the personal conduct and circumstances of each party. Your questions must therefore sufficiently test personal understanding of the relationship and culpability of each party, remaining aware to the possibility that one party may still believe there was a genuine relationship.

You must also be mindful of circumstances in which the person may have been coerced into contracting a marriage.

Where a partner to a suspected sham marriage or civil partnership admits it is not genuine this must not be relied on alone in case it is later withdrawn.

### **Length of UK residency**

Length and lawfulness of UK residency during that time will help establish if there may be credibility or motive behind the relationship, for example, if one party stands to gain an immigration advantage through the relationship.

Length and lawfulness of UK residency is especially important where you are investigating an EEA national who has, or is eligible for, status under the EU

Settlement Scheme (EUSS), who engaged in sham marriage behaviour on or before 11:00pm GMT on 31 December 2020. In these cases length and lawfulness of residency in the UK under the EEA Regulations indicates the applicable threshold required for a public policy decision. For example, you can only take a decision in relation to a person who has been lawfully resident under the EEA Regulations for 5 years or more on 'serious grounds of public policy or public security', whilst in relation to an EEA national lawfully resident for 10 years or more any decision can only be made on 'imperative grounds of public security' as detailed in Public policy, public security or public health decisions.

## Date the sham marriage abuse commenced

This is important for establishing the correct removal pathway if removal action is considered appropriate on conclusion of an investigation. See: [establishing when sham marriage abuse commenced](#).

## Record of the interview

You must make a written record of the interview and provide the party or parties interviewed with a copy of this record if it is requested. This record must:

- be completed during the interview
- constitute a verbatim account of what is said or an account of the interview which adequately summarises it
- be signed and dated by the official of the Secretary of State who made the record

You must record interviews in question and answer format on a marriage interview record sheet. For scheme interviews this is form ICD 5257.

In non-scheme interviews where a marriage interview record sheet is not available, for example for interviews away from Home Office premises as part of an operation, your digital notebook (PRONTO) is the preferred format for recording non-scheme interviews, but you may also use a your pocket note book (PNB) or an ISCP form.

In all circumstances, the interviewee must be invited to sign your notes as being an accurate record of the interview. If they decline, this must also be noted on the interview record.

Supplementary records by other means (digital recording for example) may be taken alongside the written record if deemed appropriate, but they must not replace the written record.

Officers must also be aware that all interview records may be used for evidential purposes in any criminal prosecution.

Marriage investigation and referral scheme investigations are subject to additional regulations and must be conducted in accordance with statutory guidance for Home Office staff; if requested by the individual at the end of the interview, a written copy of

the interview transcript must be provided. Please refer to [conduct of investigation under the scheme](#).

## No comment responses

If 'no comment' answers are given during the marriage or civil partnership interview, you should continue and finish your line of questioning.

If the interview is being conducted as part of a scheme investigation:

- no comment responses can be regarded as non-compliant with the scheme interviews where a reasonable excuse is not provided
- the individual must be warned that failure to comply with the scheme will mean they will be unable to marry at the end of the notice period

## Interviews while detained

A party detained in an Immigration Removal Centre (IRC) or in prison can be required to attend an interview conducted in person or by telephone. However, where a person is detained pending removal, attendance at interview should not be a reason to delay other enforcement action including arrangements for the person's removal from the UK.

The investigating officer should make the interview arrangements with detention services.

The notice of the interview must make clear how the interview is to be conducted, whether in person or by telephone.

An interview with a party who is detained cannot include the other party.

At the start of a telephone interview with a party who is detained:

- the investigating officer must identify themselves and anyone accompanying them, and state their name, position and place of work
- the interviewee or interviewees must confirm their identity by stating their name, date of birth, nationality and Home Office reference number

If the interviewee or interviewees do not confirm all aspects of identity, the investigating officer may decide:

- to continue with the interview if they are otherwise satisfied that it is the relevant party or parties who are participating in the telephone call
- to [re-arrange the interview](#)
- that the relevant party or parties have [failed to comply](#) with the requirement to be interviewed

For further information see the Enforcement interviews, marriage and civil partnership referral and investigation scheme - statutory guidance: section 3.11, interviews while detained and detention guidance.

Marriage investigation and referral scheme investigations are subject to additional regulations; if you are conducting a scheme interview of someone who is detained, please refer to [conduct of investigation under the scheme](#).

## Interviews in residential premises

If further evidence is required to confirm the living arrangements of a couple who are subject to an ongoing marriage investigation, an Immigration Compliance and Enforcement (ICE) team may be asked to conduct a compliance visit to confirm whether the parties still live at the address.

See enforcement visits: compliance and marriage investigation visits to residential premises guidance for full details on conducting these visits.

Marriage investigation and referral scheme investigations are subject to additional regulations; if you are conducting a scheme interview by agreement, in residential property or non-Home Office premises, please refer to [conduct of investigation under the scheme](#).

### Related content

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# Post investigation actions

This section provides information on the action that can be taken after concluding a marriage investigation.

A sham marriage investigation should determine whether, on a balance of probabilities, it is considered that the individual has knowingly:

- entered into, or attempted to enter into, a sham marriage, sham civil partnership or durable partnership of convenience
- assisted another person to enter or attempt to enter into a sham marriage, sham civil partnership or durable partnership of convenience (whether or not they were successful)

Whilst the first point generally relates to the couple themselves, the second potentially relates to witnesses and other facilitators who may also face cancellation of permission and subsequent enforcement action.

In cases where a sham marriage determination has been made, it may be appropriate to:

- refuse entry clearance or entry to the UK
- refuse, cancel, curtail or revoke permission to stay in the UK
- remove the individual from the UK
- seek the prosecution of those involved in a [criminal offence](#) related to the sham marriage, for example perjury or facilitation of illegal immigration, liaising with the relevant prosecuting authority

However, it may not always be appropriate or proportionate to take action following a sham marriage determination, or to take the same action against both parties of a sham relationship. For example, it is unlikely to be appropriate to take action on sham marriage grounds against a party of a sham relationship where, on a balance of probabilities, evidence suggests that they were duped or deceived as to the true nature and purpose of the relationship, or where the union was forced.

The powers to cancel or refuse immigration permission following a sham marriage determination on sham marriage grounds under [paragraph 9.6 of the Immigration Rules](#) are discretionary and must be applied proportionately on a case-by-case basis, depending on the nature of the conduct and circumstances of the individual. See GGFR Suitability Guidance: sham marriage. As such, you must not automatically refuse or cancel permission if there are reasons which suggest it may not be appropriate or proportionate to do so.

In all cases, you must reflect in your case notes and decision letter that you have considered:

- all the available evidence
- the exercise of discretion, where applicable
- proportionality considerations, where applicable

You must also carefully consider:

- the duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of a child in the UK, together with Article 3 of the UN Convention on the Rights of the Child, which mean that consideration of the child's best interests must be a primary consideration in immigration and nationality decisions affecting them

For further information in relation to the section 55 duty, see [every child matters](#) and introduction to children and family cases.

You must consider the following:

- Article 8 of the European Convention on Human Rights (ECHR) (right to a family and private life) is likely to be engaged for those already resident in the UK
- any exceptional, compelling circumstances which would justify you giving permission to enter outside the rules

You must fully evaluate all relevant evidence or information about the individual and their circumstances, before you reach a decision on whether to refuse or cancel their permission to enter or stay in the UK on sham marriage grounds. The decision must be made on the balance of probabilities and must identify the relevant grounds under which you are cancelling or refusing any permission.

## EU Settlement Scheme (EUSS) checks

Before taking any enforcement action you must check:

- PEGA to see if there is a pending EUSS application or
- Proviso to see if there is a pending EUSS family permit or travel permit application
- whether the person should be sent a 28-day notice to make an application to the EUSS - see EEA Operational guidance post grace period for further details

If you are considering the removal of an individual who has a pending application to the EUSS or for an EUSS family permit, you must contact UVKI to ask that the application is put on hold and consideration given to refusal alongside removal action. See [Pending EUSS applications](#) for contact details.

## Sham marriage related convictions

If you become aware that the individual has a conviction for a sham marriage related offence, you must consider whether refusal and removal is appropriate on the grounds of criminality. See: Criminal and Financial Investigations (CFI) Criminal Investigations: Sham marriages for full details of sham marriage related offences.

Where an individual is convicted of a criminal offence relating to the sham marriage, consideration must initially be given to deportation on the basis of the conviction. Foreign National Offender (FNO) Returns Command (formerly known as Criminal Casework) will normally consider the deportation of foreign criminals.

You must check whether the case is already being dealt with by FNO Returns Command. If there is no indication that FNO Returns Command has had any involvement you must refer the case to them for their consideration.

## Overstayer and illegal entrants

Whether or not an investigation determines that a proposed marriage or civil partnership is a sham, the Home Office may take appropriate removal action against immigration overstayers or illegal entrants who are identified during a marriage investigation.

## Culpability and proportionality

You may encounter a case where one party to the relationship has been deceived by their partner and believes they are entering into a genuine relationship or marriage.

If, following interview, it is clear that one party believed they were entering into a genuine relationship and that they have not engaged in fraud or abuse, it would generally not be proportionate to take enforcement action against that person, depending on the individual merits of the case. Enforcement action must only be considered against the culpable party.

## Students

You must inform UKVI of any students suspected of being involved in a sham marriage or civil partnership, so that intelligence and potential abuse of the student visa routes is recorded.

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### Related content

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# Removal pathways

This section tells you about the removal options for people who are the subject of a sham marriage determination and options for exclusion where a person is subject to deportation action on account of the sham marriage but leaves the UK before a deportation order is made.

Involvement and attempted involvement in a sham marriage, whether facilitating or participating, is alternatively referred to as 'relevant conduct' in this section.

## Removal options

### Deportation: public policy grounds

Deportation on grounds of public policy applies to specific cohorts, described in [Individuals with Agreements protection: pre-transition period conduct](#), where the sham marriage conduct began before 11:00pm GMT on 31 December 2020. Deportation is under the saved EEA Regulations, or, in the case of Frontier Workers, under [The Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#) ('Frontier Workers Regulations').

[Paragraph 6 of Schedule 1](#) to the [European Economic Area \(EEA\) Regulations](#), as saved and modified by [The Citizens' Rights \(Restrictions of Rights of Entry and Residence\) \(EU Exit\) Regulations 2020](#), recognises involvement in a sham marriage as an abuse of rights or as fraud. This includes:

- entering, attempting to enter or assisting another person to enter or to attempt to enter, a marriage, civil partnership or durable partnership of convenience (sham)
- fraudulently obtaining or attempting to obtain, or assisting another to obtain or to attempt to obtain, a right to reside under the EEA Regulations

Where a person has been involved in a sham marriage it is consistent with public policy and public security requirements that a decision may be taken to refuse, terminate or withdraw any right conferred by the Agreements. This is mirrored by paragraph 6(a) of the Schedule to the [Frontier Workers Regulations](#).

Involvement in a sham marriage is considered to be contrary to the fundamental interests of society set out in [paragraph 7\(a\) of Schedule 1](#) to the EEA Regulations and [paragraph 7\(a\) of the Schedule to the Frontier Workers Regulations](#):

“preventing unlawful immigration and abuse of the immigration laws, and maintaining the integrity and effectiveness of the immigration control system (including under these Regulations) and of the Common Travel Area.”

The EEA stage one and stage two deportation notices must state that the consideration of deportation (stage 1) and decision to deport (stage 2) is being taken on grounds of public policy and provide reasons for the sham marriage

determination. You must show in the stage 2 notice that your decision to deport has been taken in accordance with [regulation 27](#) of the EEA Regulations, or in the case of a Frontier Worker, in accordance with [regulation 18](#) of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020.

Where an EEA national or their family member who is liable to deportation under the EEA Regulations but who has a right of permanent residence under the saved EEA Regulations or was granted EU Settlement Scheme (EUSS) settled status, any decision to deport them for relevant conduct that started before 11:00pm GMT on 31 December 2020 must meet the 'serious grounds of public policy' threshold. This may be appropriate if the person has been involved in multiple sham marriages or has been convicted of an offence related to the sham marriage, such as facilitation (see [Criminal investigations](#)).

If an EEA national has at least 10 years' continuous residence in the UK, any decision to deport under the EEA Regulations can only be taken on imperative grounds of public security. Involvement in a sham marriage does not generally justify a decision being taken on imperative grounds of public security. See Public policy, public security or public health decisions for details on continuity of residence and application of regulation 27.

There is a right of appeal against the decision to deport.

A deportation order invalidates any permission the person already holds. In the case of frontier workers, a deportation order ends their frontier worker rights of admission (frontier workers do not hold permission), but it does not cancel a frontier worker permit. If you are pursuing deportation against the holder of a frontier worker permit, you must also revoke the permit. There is a right of appeal against a decision to revoke a frontier worker permit.

A person who applied to the EUSS after 30 June 2021 and had reasonable grounds for doing so has protection under the Withdrawal Agreement while a decision or appeal is pending on their application. However, the deportation provisions in the EEA Regulations are not saved for this cohort, regardless of when their involvement in a sham marriage commenced. See the [removal pathways](#) table for information on what to do if the person becomes removable.

A person who gained their EUSS leave solely on the basis of a relationship that is subsequently determined to have been a sham, should be considered for curtailment or revocation of their leave and [section 10 administrative removal](#).

## Deportation: conducive to the public good

Involvement in a sham marriage is among the types of behaviour or immigration offending that may mean the person's removal from the UK is conducive to the public good.

Where deportation action is to be pursued, the stage one and stage two deportation notices must state that the consideration of deportation (stage 1) and decision to

deport (stage 2) is being taken on conducive grounds and must provide reasons for the sham marriage determination.

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## Section 10 administrative removal: failure to hold required permission

An application to the EUSS may be refused on suitability grounds under paragraph EU16(a) of [Appendix EU](#) if the applicant, or a third party, has relied on the sham marriage to try obtain EUSS leave and the sham marriage is material to the decision to grant or refuse leave. For the purpose of paragraph EU16(a) reliance on the sham marriage is considered to amount to the submission of false or misleading information or representations. Unless the person has other permission that is still in force, including permission that is extended by [section 3C](#) of the Immigration Act 1971, they are liable to section 10 administrative removal as someone who requires but does not have permission to enter or stay in the UK.

Involvement in a sham marriage is also among the types of behaviour for which temporary permission to enter or stay may be cancelled, or limited EUSS leave curtailed. The grounds for cancellation or curtailment in the Immigration Rules may be specifically because of post end of transition period involvement in (including assisting or facilitating) a sham marriage, or because of the use of deception before or after the end of the transition period. Indefinite leave obtained by deception, which can include deception by way of a sham marriage, may be revoked. Once a decision has been taken to cancel, curtail or revoke permission, the person is liable to section 10 administrative removal as someone who requires but does not have permission.

Provided the person no longer has permission or leave and does not have a decision or appeal pending on an application (including a late application) to the EUSS, they should be notified of their liability to section 10 administrative removal. Notification is by way of the service of a RED.0001 notice or, [where the person has a right of appeal](#) as described below, by way of service of a RED.0004 once the appeal is no longer pending.

The liability to removal (RED) notice must:

- clearly state the reasons why it was determined that the person was involved in a sham marriage, or if the reasons for the sham marriage determination have been properly explained in the decision to cancel permission or curtail or revoke leave letter, you can refer back to that decision
- confirm that the person's temporary permission to enter or stay was cancelled; limited leave to enter or remain curtailed or indefinite leave revoked, following the determination of involvement in a sham marriage
- advise that they are liable for removal under section 10 of the Immigration and Asylum Act 1999 as someone who requires but does not have permission to enter or stay in the UK

## Liability to administrative removal where there is a right of appeal

There is a right of appeal against a decision to cancel, curtail or revoke the following:

- leave granted under [Appendix EU](#) to the Immigration Rules (EUSS)
- leave to enter, where the person arrived in the UK with a valid EUSS Family Permit, which converted to leave to enter on their arrival in the UK
- permission granted under [Appendix S2 Healthcare Visitor](#)

Although the person is liable to removal, a decision to remove cannot be taken while an appeal could be brought or is pending. You can notify the person of their liability to removal in the curtailment, cancellation or revocation decision letter and grant immigration bail but you must not serve a RED.0004 liability to removal notice while an appeal could be brought or is pending.

Once any appeal is finally dismissed, abandoned or withdrawn, you should serve a RED.0004 notice. You must select the appropriate option on the form according to whether an appeal was, or was not, lodged against the decision to curtail, cancel or revoke their permission or leave.

## Exclusion

If deportation action was started against an individual due to their involvement in a sham marriage, but they are found to have left the UK before a deportation decision could be served, exclusion may be an option.

Exclusion on the basis of sham marriage behaviour will generally only be considered where there is sufficient, reliable evidence of the person's involvement in a sham marriage and, had they been in the UK, their deportation would have been pursued.

The deportation process may have reached various stages before it comes to light that the person has left the UK, including where:

- a stage 1 notice has not yet been served but there is sufficient information to demonstrate the person has engaged in sham marriage behaviour, and deportation would have been pursued
- the person responded to a stage 1 notice of liability to deportation but left the UK before a deportation decision could be taken



- a deportation decision had already been taken on public policy grounds or conducive grounds but the person left the UK before that deportation decision could be served
- a deportation decision was served but the person left the UK before the deportation order was made
- a deportation order was made but it subsequently comes to light that the person was already outside the UK when the order was made

Any consideration of exclusion must include the impact that exclusion may have on the individual, based on what is known about their personal circumstances, including any representations that may have been provided during the deportation process. You must weigh this against the nature and seriousness of the person's conduct to determine whether the relevant threshold is met. Exclusion is for an indefinite period although the person can apply to have the decision to exclude revoked.

Cases considered for exclusion on the basis of sham marriage behaviour, must be referred to the Home Secretary (or Minister of State) for a decision, following review by Migrant Criminality Policy, Returns Preparation, and Home Office Legal Advisers.

### Exclusion if grace period savings apply

The power to make an exclusion order under the EEA Regulations is only relevant for those benefitting from the grace period savings. From 1 July 2021 this means people who were lawfully resident in the UK in accordance with the EEA Regulations immediately before 11:00pm GMT on 31 December 2020, or who still had a permanent right of residence, and made an in-time application to the EUSS on which a decision or appeal remains pending.

In such cases exclusion must be considered under [regulation 23\(5\)](#) of the EEA Regulations. If the relevant conduct started before the end of the transition period, any decision to make an exclusion order must be taken on the grounds of public policy in accordance with [regulation 27](#). For relevant conduct that started after the end of the transition period, the decision to exclude must be taken on conducive grounds in accordance with regulation 27A.

### Exclusion if Agreements protection applies

For the other cohorts who left the UK before a deportation decision could be served, any consideration of exclusion must be on conducive grounds both for conduct that started before or after the end of the transition period. However, where a decision to exclude is being taken based on pre-end of transition period conduct, in addition to conducive grounds, you must also be satisfied that the public policy test is met.

For those whose conduct started after the end of the transition period, a decision to exclude is taken on conducive grounds only.

As a decision to exclude does not cancel a person's permission you must also consider cancelling any extant permission to enter or stay.



If you are considering exclusion and cancellation of permission you must refer to the guidance: Exclusion from the UK.

## Identifying the relevant removal pathway

The pathway for removing an individual from the UK due to their involvement in a sham marriage depends on:

- their immigration status
- any protection the person has under the Agreements
- whether the 'relevant conduct' commenced before or after the end of the transition period at 11:00pm GMT on 31 December 2020

## Agreements protection

For the purpose of the sham marriage removal pathways guidance, the following are considered to have residence rights protected by the Agreements (or the UK's domestic implementation of the Agreements) if they:

- have been granted leave under Appendix EU or entry clearance under Appendix EU (Family Permit)
- are a joining family member until the relevant deadline for an application to the EUSS, which is 3 months after their entry to the UK
- have applied to the EUSS (and if the application was submitted after the relevant deadline, have reasonable grounds for doing so) and a decision on the application or an appeal against the decision is pending
- are a frontier worker as defined in regulation 3 of the [Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#) (Frontier Workers Regulations 2020)
- are in the UK having arrived with entry clearance granted by virtue of their right to enter the UK as a service provider from Switzerland under [Appendix Service Providers from Switzerland](#) to the Immigration Rules
- have or are seeking permission to enter or remain in the UK as a patient for the purpose of completing a course of planned healthcare treatment in the UK which was authorised under the 'S2 arrangements', as provided for at [Appendix S2 Healthcare Visitor](#) to the Immigration Rules - this also includes persons or family members accompanying or joining the patient

As there is still the possibility of someone being eligible to apply to the EUSS after 30 June 2021, you must familiarise yourself with the guidance on issuing a [28-day notice](#) where you have identified a person as potentially being eligible to apply.

## Start of the relevant conduct

In all cases concerning an individual with Agreements protection, it is necessary to determine when the relevant conduct began to determine the appropriate grounds for removal and removal pathway.

Where a person or couple have taken part, or attempted to take part, in a sham marriage you can consider the relevant conduct to have started when they are

confirmed to have first acted to gain an immigration advantage through the relationship.

For example, this may be when they confirmed their intention to marry or form a civil partnership. It does not have to be when a relationship began, or when a marriage or civil ceremony took place.

In the case of a person who has facilitated the sham marriage, the start of the relevant conduct might be the earliest date for which there is evidence to show that they planned or took steps to assist the sham marriage, whether it was successful or not.

## Single or multiple determinations

Whilst most cases will involve a single sham marriage determination (involvement in one sham marriage or one single facilitation event), it is possible for an individual to have multiple determinations, for example, multiple sham marriages or multiple counts of facilitation of a sham marriage, whether or not they were successful.

Where a person who may have protected rights under the Agreements is the subject of one or more sham marriage determinations, you must establish whether the relevant conduct began before the end of the transition period (before 11:00pm GMT on 31 December 2020) or after the end of the transition period for each sham determination.

### **Conduct solely before or after the end of the transition period**

Where the behaviour is solely:

- before the end of the transition period you must follow [Agreements protection: pre transition period conduct](#)
- after the end of the transition period you must follow [Agreements protection: post transition period conduct](#)

### **Conduct spanning the end of the transition period**

Where a person who may have protected rights under the agreements is the subject of multiple sham marriage determinations with a mix of pre and post-transition period conduct, you must consider first whether there is sufficient post-transition period conduct to deport.

Where there is sufficient post-transition period conduct for a deport decision to be taken on conducive grounds, you must refer to the process for decisions on [Agreements protection: post transition period conduct](#) noting that you:

- must consider the post-transition period conduct on conducive grounds
- may refer to pre-transition period conduct if appropriate, to indicate the extent or seriousness of the abuse or propensity to re-offend, but must not consider any pre-transition conduct on conducive grounds

Where there is not sufficient post-transition period conduct for a deportation decision on conducive grounds, you must refer to the process for decisions on [Agreements protection: pre transition period conduct](#) noting that you:

- must consider the pre-transition period conduct on public policy grounds
- may apply to public policy test to the whole course of conduct

If there is already ongoing deportation action against any pre-transition period conduct, and you have subsequently become aware of unconsidered sham marriage conduct, you must wait until that person becomes appeals rights exhausted to determine whether further action is necessary.

You must refer to the relevant section below to determine the appropriate removal action:

- [Individuals with Agreements protection: pre-transition period conduct](#)
- [Individuals with Agreements protection: post transition period conduct](#)
- [Individuals without protection under the Agreements](#)

## Individuals with Agreements protection: pre-transition period conduct

In the case of the following cohorts, where involvement in sham marriage behaviour (this includes both participation and facilitation, whether or not it was successful) began before the end of the transition period, the person is liable to deportation on the grounds of public policy under [regulation 23\(6\)\(b\)](#) of the saved EEA Regulations, in accordance with regulation 27 of the EEA Regulations:

- the person is subject to the grace period savings (had rights of residence under the EEA regulations immediately prior to 11:00pm GMT on 31 December 2020 and has a decision or appeal pending on an in time EUSS application)
- a person who has been granted leave (pre-settled or settled status) under Appendix EU or entry clearance under Appendix EU (Family Permit) of the [Immigration Rules](#)
- a person with permission as a service provider from Switzerland
- a person with permission as a S2 healthcare visitor, which can include an accompanying person who is providing care or support during the planned healthcare treatment

Where a person obtained their EUSS leave solely on the basis of a relationship that is subsequently determined to have been a sham that started prior to the end of the transition period, you must consider:

- curtailing EUSS pre-settled status under paragraph A3.4(a) of Appendix EU, which grants a right of appeal, after which the person is liable for administrative removal
- revoking EUSS settled status under paragraph A3.5(b) of Appendix EU, which grants a right of appeal, after which the person is liable for administrative removal

- curtailing EUSS leave to enter granted by virtue of having arrived in the UK with an entry clearance that was granted under Appendix EU (Family Permit) under paragraph A3.5(a) of Appendix EU (Family Permit) after which the person is liable for administrative removal

If a person applied to the EUSS after 30 June 2021 but had reasonable grounds for applying after the deadline, they will be liable to administrative removal if their application is refused and any appeal against that refusal is finally dismissed. This is regardless of when the sham marriage conduct began.

## Frontier workers

In the case of a frontier worker, where involvement in the sham marriage began before the end of the transition period they may be considered for deportation under:

- regulation 15(1)(b) of the Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020 on public policy grounds (regulation 18)

A deportation order ends a frontier worker's rights of admission, but it does not cancel a frontier worker permit. If you are pursuing deportation against the holder of a frontier worker permit, you must also revoke the permit.

There is a right of appeal against the decision to revoke the frontier worker permit and against the decision to deport.

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### Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

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### Official – sensitive: end of section

See also: frontier worker permit guidance.

## Individuals with Agreements protection: post transition period conduct

### EUSS cases

This part applies to people:

- with leave to enter or remain granted under [Appendix EU](#) of the Immigration Rules (the EUSS)
- with leave to enter granted by virtue of having arrived in the UK with an entry clearance that was granted under [Appendix EU \(Family Permit\)](#) of the Immigration Rules
- who applied to the EUSS by the relevant application deadline and the [grace period savings apply](#), or applied after the relevant deadline and had reasonable

grounds for doing so and in either case a decision or appeal is pending on their application:

- for those resident in the UK immediately prior to 11:00pm GMT on 31 December 2020, the application deadline was 30 June 2021
- for joining family members, it is 3 months after their arrival in the UK

and, in all of the above, whose relevant conduct is believed to have started after the end of the transition period at 11:00pm GMT on 31 December 2020, but see also section on [Third Country Nationals with EEA residency documents](#).

Where a person who has made an EUSS application has been involved in a sham marriage (this includes both facilitation and participation, whether or not the behaviour was successful), and the sham marriage conduct is believed to have started after the end of the transition period, the application should be considered for refusal. Reasons for refusal may be on eligibility or suitability grounds. For example, where a person has applied for EUSS status on the basis of a relationship which is subsequently found to have been a sham that started prior to the end of the transition period, the applicant may not meet the eligibility requirement of being the family member of an EEA national. See EUSS suitability guidance.

If the person already holds EUSS pre-settled status obtained on the basis of a relationship that has since been determined as a sham, you must consider:

- curtailing EUSS pre-settled status under paragraph A3.4(a) of [Appendix EU](#), which grants a right of appeal, after which the person is liable for administrative removal
- revoking EUSS settled status under paragraph A3.5(b) of [Appendix EU](#)
- curtailing EUSS leave to enter granted by virtue of having arrived in the UK with an entry clearance that was granted under paragraph A3.5(a) of [Appendix EU \(Family Permit\)](#) after which the person is liable for administrative removal

If the person already holds EUSS pre-settled status which was not obtained by deception but they have engaged in sham marriage behaviour, where it is proportionate to do so, you may:

- curtail EUSS limited leave to enter or remain under paragraph A3.4(b) of Annex 3 of [Appendix EU](#)
- curtail EUSS leave to enter, granted by virtue of having arrived in the UK with an entry clearance that was granted under Appendix EU (Family Permit), may be curtailed under paragraph A3.5(b) of [Appendix EU \(Family Permit\)](#)

Where a sham marriage was material to a grant of indefinite leave obtained through the EUSS, the leave may be revoked if proportionate to do so under [section 76\(2\)](#) of the 2002 Act and on the grounds in paragraph A3.5(b) of [Appendix EU](#), on the basis it was obtained by deception. This may be appropriate if, for example, a person obtained settled status only by virtue of the sham marriage and has no other entitlement to that leave.

The curtailment and revocation letters notify the person of their liability to removal and allow immigration bail to be granted pending the outcome of any appeal the person brings against the curtailment or revocation decision.

Only after appeal rights are exhausted against the curtailment or revocation decision, can consideration of removal action proceed.

Potential [removal action](#) will depend on the decision taken on the EUSS application and, if the application is refused, the outcome of any appeal against that refusal.

## Grace period savings apply

Where a person's involvement in a sham marriage occurred after the end of the transition period but they are subject to the grace period savings (had rights of residence under the EEA regulations immediately prior to 11:00pm GMT on 31 December 2020 and have a decision or appeal pending on an EUSS application that was made on or before 30 June 2021), they are liable to deportation on the grounds that the decision is [conducive to the public good](#) under regulation 23(6)(b) and in accordance with regulation 27A of the EEA Regulations.

## Service provider from Switzerland or S2 Healthcare visitor

It is possible that a service provider from Switzerland or S2 Healthcare visitor will be found to have assisted or attempted to assist a sham marriage.

Where a sham marriage determination shows that an individual from either cohort has been involved in a sham marriage after the end of the transition period, you may cancel their permission provided that you are satisfied that it is proportionate to do so on the grounds that:

- cancellation is justified on the grounds that it is conducive to the public good, on the basis of the person's conduct after 11:00pm GMT on 31 December 2020

The relevant cancellation provisions in the Immigration Rules are:

- SPS 9.1.(b) of [Appendix Service Providers from Switzerland](#)
- HV 11.1.(b) [Appendix S2 Healthcare Visitor](#)

As S2 Healthcare visitors have a right of appeal against the cancellation of their permission you must follow the process set out above for notifying them of their [liability to administrative removal](#) and consider granting immigration bail. All appeal rights against the cancellation of permission must be exhausted before removal can be enforced.

As Service Providers from Switzerland do not have a right of appeal against the cancellation of their permission, once the permission is cancelled, unless they have any other lawful basis to remain in the UK, you must serve notice of liability to [section 10 administrative removal](#).



Where administrative removal is being pursued your decision notice must make clear that it has been determined that the person was involved in a sham marriage. If the reasons for the sham marriage determination have been properly explained in any notice of decision to cancel permission, you can refer back to that decision. The removal decision notice must also make clear that the person is liable for removal under section 10 of the Immigration and Asylum Act 1999 as someone who requires but does not have permission to enter or stay in the UK.

## Third Country Nationals with EEA residency documents

EEA residence documents issued to a Third Country National (TCN) on the basis of a relationship that has since been deemed a sham, are not automatically invalidated by section 10 administrative removal. However, such residence documents will no longer be valid once any grace period savings the person benefitted from have ended. A person will no longer be protected by the grace period savings once any in-time EUSS application has been finally decided and any appeal finally determined.

## Individuals without protection under the Agreements

Those potentially eligible for EUSS leave who have not applied to the EUSS may be issued with a 28-day notice advising them to apply to the EUSS within 28 days of the notice being served, and that we will not remove them within this period. For further information on the 28-day notice see: [Guidance for Immigration Enforcement in respect of EU, other EEA and Swiss citizens and their family members](#)

If, having been given a 28-day notice, the person has not applied to the EUSS in that time, provided they do not have a criminal conviction relating to the sham marriage that would warrant deportation, you must consider administrative removal under [section 10](#) of the Immigration and Asylum Act 1999.

Your decision notice must clearly state the reasons why it was determined that the person was involved in a sham marriage, and that they are liable for removal under section 10 of the Immigration and Asylum Act 1999 as someone who requires but does not have permission to enter or stay in the UK.

## Holders of other forms of permission

Where the person holds certain other forms of permission to enter or stay, you may be able to consider cancelling it under paragraph 9.6.2. in [part 9 of the Immigration Rules](#) if you are satisfied that it is more likely than not that the person is, or has been, involved in a sham marriage or civil partnership.

As Part 9 does not apply to all people with permission under the Immigration Rules you must check whether paragraph 9.6.2 can be used to cancel the particular temporary permission that the person holds.

Your decision notice must state the reasons their permission was cancelled on sham marriage grounds, using the standardised wording as detailed in grounds for refusal: sham marriage and civil partnership guidance.

Where indefinite leave was obtained as a spouse or civil partner, but the relationship is found to have been a sham, you must consider revoking the leave under [section 76\(2\)](#) of the Nationality, Immigration and Asylum Act 2002.

As there is no right of appeal against the cancellation or revocation decisions, you must at the same time notify the person of their liability to section 10 administrative removal as someone who requires but does not have permission to enter or stay in the UK.

## Summary: sham marriage removal pathways

This table provides a summary of the various sham marriage removal pathway scenarios for pre-end and post-end of transition period conduct. Where relevant it also includes the option of considering exclusion if a person subject to deportation action leaves the UK before a deportation order has been made.

Where you are considering removal you must ensure that anyone who has not already applied to the EUSS, but may be eligible to do so, is given the 28-day notice. Unless otherwise stated the removal pathway decisions do not attract a right of appeal.

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
<p><b>No EUSS leave but Grace Period savings apply, meaning both:</b></p> <ul style="list-style-type: none"> <li>the person had EEA residence rights immediately before 11:00pm GMT on 31 December 2020</li> <li>has a decision pending or appeal outstanding on their in-time EUSS application</li> </ul>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27</li> </ul> <p>The person has a right of appeal against the decision to deport them from the UK.</p> <p>If the deportation decision was taken but the person left the UK before that decision could be served, an option may be Exclusion under the EEA Regulations:</p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(5)</li> </ul>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on conducive grounds</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27A</li> </ul> <p>The person has a right of appeal against the decision to deport them from the UK.</p> <p>If the deportation decision was taken but the person left the UK before that decision could be served, an option may be Exclusion under the EEA Regulations</p> <ul style="list-style-type: none"> <li>on conducive grounds</li> <li>under regulation 23(5)</li> <li>in accordance with regulation 27A</li> </ul>



Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	<ul style="list-style-type: none"> <li>in accordance with regulation 27</li> </ul> <p>The person has a right of appeal from outside the UK against the decision to exclude.</p>	<p>The person has a right of appeal against from outside the UK against the decision to exclude.</p>
<p><b>No EUSS leave and Grace Period savings do not apply, but the person either:</b></p> <ul style="list-style-type: none"> <li>submitted a late EUSS application with reasonable grounds for doing so, and that decision is still pending</li> <li>is a joining family member who may apply, or has applied to the EUSS within 3 months of their arrival in the UK</li> <li>is still eligible to apply to the EUSS within 28 days of receiving a <a href="#">28-day notice</a></li> </ul>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999</b></p> <ul style="list-style-type: none"> <li>cancel, curtail or revoke any other temporary permission to enter or stay, on the grounds in <a href="#">paragraph 9.6</a> of the Immigration Rules (sham marriage), or equivalent where Part 9 doesn't apply - see Cancellation and Curtailment of permission)</li> <li>person is liable to administrative removal on the basis that they require but do not have permission to enter or stay in the UK</li> </ul>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999</b></p> <ul style="list-style-type: none"> <li>cancel, curtail or revoke any other temporary permission to enter or stay, on the grounds in <a href="#">paragraph 9.6</a> of the Immigration Rules (sham marriage), or equivalent where Part 9 doesn't apply - see Cancellation and Curtailment of permission)</li> <li>person is liable to administrative removal on the basis that they require but do not have permission to enter or stay in the UK</li> </ul>
<p><b>Has EUSS leave (and deception was not material to the grant) - but they have since engaged in sham marriage conduct (participation or facilitation)</b></p>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27</li> </ul> <p>The person has a right of appeal against the decision to deport them from the UK.</p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999 either:</b></p> <ul style="list-style-type: none"> <li>cancel EUSS leave to enter on the grounds in paragraph A3.5(b) of <a href="#">Appendix EU(FP)</a> (sham marriage grounds)</li> <li>curtail EUSS limited leave on the grounds in</li> </ul>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	<p>If a deportation order is made, it will invalidate the person's EUSS leave.</p> <p>If the deportation decision was taken but the person left the UK before that decision could be served, an option may be exclusion under the EEA Regulations and cancellation of limited leave:</p> <ul style="list-style-type: none"> <li>• decision to exclude is made on conducive grounds making sure the grounds of public policy test is also met</li> </ul> <p>and simultaneously, either:</p> <ul style="list-style-type: none"> <li>• revoke EUSS leave to enter on the grounds in paragraph A3.1A(b) of <a href="#">Appendix EU(FP)</a> (public policy grounds)</li> <li>• cancel EUSS indefinite or limited leave on the grounds in paragraph A3.2.(a) of <a href="#">Appendix EU</a> to the Immigration Rules, (public policy grounds)</li> </ul> <p>The person has a right of appeal against the decision to cancel EUSS limited leave.</p>	<p>paragraph A3.4(b) of Annex 3 to <a href="#">Appendix EU</a> (sham marriage grounds);</p> <p>then:</p> <ul style="list-style-type: none"> <li>• consider granting immigration bail</li> <li>• once the person is appeal rights exhausted, progress to administrative removal on the basis that they require but do not have permission to enter or stay in the UK</li> </ul> <p>If they are found to be out of the country prior to service of administrative removal papers, either:</p> <ul style="list-style-type: none"> <li>• cancel EUSS indefinite or limited leave on the grounds in paragraph A3.1 of <a href="#">Appendix EU (conductive grounds)</a></li> <li>• revoke EUSS LTE on the grounds in paragraph A3.1 of <a href="#">Appendix EU(FP)</a> (conductive grounds)</li> </ul>
<p><b>EUSS leave - obtained by deception through a sham marriage</b></p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999 either:</b></p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999 either:</b></p>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	<ul style="list-style-type: none"> <li>• curtail EUSS LTE on the grounds in paragraph A3.5(a) of <a href="#">Appendix EU(FP)</a> (deception material to the grant)</li> <li>• curtail EUSS limited leave on the grounds in paragraph A3.4(a) of <a href="#">Appendix EU</a> (deception material to the grant)</li> <li>• revoke EUSS indefinite leave under section 76(2) of the 2002 Act, and on the grounds in paragraph A3.5(b) of <a href="#">Appendix EU</a> (leave obtained by deception)</li> </ul> <p>then:</p> <ul style="list-style-type: none"> <li>• consider granting immigration bail</li> <li>• wait until any appeal brought against the curtailment or revocation decision is finally dismissed, withdrawn or abandoned (appeal rights exhausted) before progressing administrative removal action</li> </ul> <p>If they are found to be out of the country prior to removal papers being served, the same cancellation, curtailment and revocation paragraphs as above apply.</p>	<ul style="list-style-type: none"> <li>• curtail EUSS LTE on the grounds in paragraph A3.5(a) of <a href="#">Appendix EU(FP)</a> (deception material to the grant)</li> <li>• curtail EUSS limited leave on the grounds in paragraph A3.4(a) of <a href="#">Appendix EU</a> (deception material to the grant)</li> <li>• revoke EUSS indefinite leave under section 76(2) of the 2002 Act and on the grounds in paragraph A3.5(b) of <a href="#">Appendix EU</a> (leave obtained by deception)</li> </ul> <p>then:</p> <ul style="list-style-type: none"> <li>• consider granting immigration bail</li> <li>• once the person is appeal rights exhausted, progress to administrative removal on the basis that they require but do not have permission to enter or stay in the UK</li> </ul> <p>If they are found to be out of the country prior to removal papers being served, the same cancellation, curtailment and revocation paragraphs as above apply.</p>
<p><b>Service provider from Switzerland or S2 Healthcare visitor</b></p>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p>	<p><b>Administrative removal under section 10 of the</b></p>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	<ul style="list-style-type: none"> <li>• on grounds of public policy</li> <li>• under regulation 23(6)(b)</li> <li>• in accordance with regulation 27</li> </ul> <p>If the deportation decision was taken but the person left the UK before that decision could be served, an option may be exclusion and cancellation of limited leave:</p> <ul style="list-style-type: none"> <li>• decision to exclude is made on conducive grounds making sure the public policy test is also met</li> <li>• cancel permission on the grounds of public policy (in accordance with regulation 27 of the EEA Regulations) under the Immigration Rules using, as appropriate: <ul style="list-style-type: none"> <li>○ paragraph SPS 9.1.(a) of <a href="#">Appendix Service Providers from Switzerland</a>; or</li> <li>○ paragraph HV 11.1.(a) of <a href="#">Appendix S2 Healthcare Visitor</a></li> </ul> </li> </ul> <p>An S2 Healthcare Visitor has a right of appeal against a decision to cancel their permission to enter or stay.</p>	<p><b>Immigration and Asylum Act 1999:</b></p> <p><b>Service providers from Switzerland:</b></p> <ul style="list-style-type: none"> <li>• cancel permission under paragraph SPS 9.1.(b) of <a href="#">Appendix Service Providers from Switzerland</a> (on conducive grounds)</li> <li>• serve a 'enforcement notice of cancellation and liability to enforced return - RED.0001', on the basis the person requires but does not have permission to enter or stay in the UK</li> <li>• if necessary grant immigration bail while removal action progresses</li> </ul> <p><b>S2 Healthcare Visitor:</b></p> <ul style="list-style-type: none"> <li>• cancel permission under paragraph HV 11.1.(b) <a href="#">Appendix S2 Healthcare Visitor</a>, (conductive grounds) notifying the person in the cancellation letter that they are liable to administrative removal. (do not serve a 'enforcement notice of cancellation and liability to enforced return - RED.0001' at this stage as the person has a right of appeal)</li> <li>• consider granting immigration bail</li> </ul>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
		<ul style="list-style-type: none"> <li>• wait until the person is appeal rights exhausted before progressing administrative removal</li> </ul>
<b>Frontier worker</b>	<p><b>Deportation under the <a href="#">Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020</a>:</b></p> <ul style="list-style-type: none"> <li>• on grounds of public policy</li> <li>• under regulation 15(1)(b)</li> <li>• in accordance with regulation 18</li> </ul> <p>The person has a right of appeal against the deportation decision.</p> <p>If the deportation decision was taken but the person left the UK before that decision could be served, an option may be exclusion and revocation of their frontier worker permit:</p> <ul style="list-style-type: none"> <li>• decision to exclude is made on conducive grounds making sure the public policy test is also met</li> <li>• revoke frontier worker permit under the <a href="#">Citizens' Rights (Frontier Workers) (EU Exit) Regulations 2020</a> under regulation 11.2(e), on the basis the person is subject to a 'relevant restriction</li> </ul>	<p><b>Refer the case to migrant criminality policy</b> before taking any action</p>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	<p>decision', namely a decision to exclude</p> <p>The person has a right of appeal against the revocation of their frontier worker permit.</p>	
<p><b>Other types of permission</b></p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999</b></p> <p>Follow the instructions in the column on the right. For this group it does not matter when the conduct was committed.</p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999</b></p> <ul style="list-style-type: none"> <li>• serve removal papers after cancellation or revocation of permission to enter or stay: use 'enforcement notice of cancellation and liability to enforced return - RED.0001', on the that basis the person requires but does not have permission to enter or stay in the UK</li> <li>• curtail or cancel any other temporary permission to enter or stay, under paragraph 9.6 of the Immigration Rules, or equivalent where Part 9 doesn't apply</li> <li>• revoke indefinite leave if it was obtained by deception as a result of a sham marriage under <a href="#">section 76(2)</a> of the 2002 Act</li> </ul>
<p><b>Person does not have permission, or any other right to remain in the UK.</b></p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999</b></p>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999:</b></p>

Immigration status	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
	Follow the instructions in the column on the right. For this group it does not matter when the conduct was committed.	<p>on the basis that the person requires but does not have permission to enter or stay in the UK:</p> <ul style="list-style-type: none"> <li>• serve a 'enforcement notice of cancellation and liability to enforced return - RED.0001'</li> </ul>

**Related content**

[Contents](#)

Liability to administrative removal (non-EEA) - consideration and notification