



Home Office

Criminal investigation: sham marriage

Criminal investigation: sham marriage

About this guidance

<p>Sham marriage: definition</p> <p>Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999</p> <p>Offences relating to sham marriages</p> <p>Sham marriages: prosecuting authorities for criminal offences</p> <p>Sham marriages: CPS suggested good practice and potential scenarios</p> <p>EEA administrative removal options</p>	<p>This guidance tells criminal investigators in Immigration Enforcement criminal and financial investigation (CFI) teams about sham marriages and the offences involved.</p> <p>Throughout this guidance, the generic term 'sham marriage' has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>It tells you about:</p> <ul style="list-style-type: none">• the definition of a sham marriage• part 4 of the Immigration Act 2014• offences relating to sham marriages• prosecuting authorities for criminal offences in relation to sham marriages• Crown Prosecution Service (CPS) suggested good practice and scenarios for potential suspects and charges• planned visits to a designated register office• European Economic Area (EEA) administrative removal options <p>For more information see related links:</p> <ul style="list-style-type: none">• recognition of marriage and divorce• chapter 30 sham marriages and civil partnerships and marriages of convenience <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p>	<p>Related links</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Safeguard and promote child welfare</p> <p>Recognition of Marriage and Divorce</p> <p>Links to staff intranet removed</p>
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	Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.	
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Criminal investigation: sham marriage

Changes to this guidance

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[Sham marriage: definition](#)
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This page lists changes to the 'Criminal investigation: sham marriage' guidance, with the most recent at the top.

Date of the change	Details of the change
Date Month Year	Completely revised by the Guidance, rules and forms team.

See also
[Contact Information owner](#)

Criminal investigation: sham marriage

Sham marriage: definition

<p>About this guidance Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams the definition of a sham marriage.</p> <p>Throughout this guidance, the generic term of ‘sham marriage’ has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>A sham marriage or civil partnership is one where the relationship is not genuine but one party hopes to gain an immigration advantage from it. There is no subsisting relationship, dependency, or intent to live as husband and wife or civil partners.</p> <p>Under sections 24 and 24A of the Immigration and Asylum Act 1999, as amended by section 55 of the Immigration Act 2014, a sham marriage or civil partnership is one in which:</p> <ul style="list-style-type: none">• one or both of the parties is not a British citizen or an EEA or Swiss national• there is no genuine relationship between the parties• either or both of the parties enter into the marriage or civil partnership for the purpose of circumventing (avoiding) UK immigration controls, including under the Immigration Rules or the Immigration (EEA) Regulations 2006 <p>Under European Union (EU) law marriages of convenience are defined as marriages contracted for the sole purpose of obtaining a right of free movement and residence under Directive 2004/38/EC (‘the Free Movement Directive’) to which someone would not otherwise be entitled. The key factor in a marriage of convenience is the absence of intention of the married couple to be involved in a genuine and subsisting marriage or relationship akin to marriage and the creation of a family unit.</p> <p>Entering into a sham marriage does not entitle migrants any right to remain or reside in the UK.</p> <p>Sham marriages typically occur when a non-European Economic Area (non-EEA) national marries someone as a means of attempting to gain long term residency and the right to work</p>	<p>Related links</p> <p>Links to staff intranet removed</p>
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	<p>and claim benefits.</p> <p>An individual sham marriage is often part of a wider organised crime group (OCG) which may consist of multiple sham marriages and other criminal activity including money laundering and identity fraud.</p> <p>For more information about OCG disruption see related links:</p> <ul style="list-style-type: none">• Criminal investigation organised crime group disruption manual• Financial investigation	
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Criminal investigation: sham marriage

Bigamy and polygamy: considering if a marriage is valid

<p>About this guidance Sham marriage: definition Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about considering whether a marriage involving bigamy or polygamy is valid.</p> <p>Bigamy If there is evidence either the EEA national or the non-EEA national was already married at the time their marriage in the UK took place, and the earlier marriage had not ended in divorce or been annulled, then the marriage is bigamous. In such cases it may be appropriate to consider the offence of bigamy either as a standalone offence or alongside other offences such as conspiracy to facilitate.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• Offences Against the Person Act 1861 Bigamy• Section 24A (1) of the Marriage (Scotland) 1977 <p>Polygamy When you are considering whether a polygamous marriage is valid you must establish where the marriage took place. If the law of the country where it took place does not allow polygamy (as in English law), all marriages celebrated under that law must be monogamous (being married to only one person at a time). This is regardless of whether a party to such a marriage is permitted to practice polygamy in their country of domicile (residence).</p> <p>Such a person can nevertheless contract a valid marriage here, as long as they are not already married, either here or abroad. Any further marriage contracted in this country would not be valid as it would be bigamous.</p> <p>If the country where the marriage is celebrated permits polygamy, any marriage contracted there by a person whose country of domicile permits them to enter into a polygamous union is classed as polygamous.</p>	<p>External links Offences against the person Act 1861 Bigamy</p> <p>Section 24 A (1) Marriage Scotland Act 1977</p> <p>Recognition of Marriage and Divorce</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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	<p>For more information on polygamy marriages, see related link.</p> <p>For more information on recognition and validity of marriage and divorce see related link: recognition of marriage and divorce.</p>	
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Criminal investigation: sham marriage

Sham marriages: referral and investigation scheme

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about part 4 of the Immigration Act 2014.</p> <p>Throughout this guidance, the generic term of ‘sham marriage’ has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>With effect from 2 March 2015 a new referral and investigation scheme to tackle sham marriages and civil partnerships was introduced across the UK.</p> <p>The new scheme, as provided for by part 4 of the Immigration Act 2014, requires all proposed marriages and civil partnerships in the UK involving a non-EEA national who could benefit in immigration terms to be referred to the Home Office and to be investigated under an extended notice period of 70 days.</p> <p>Referrals from register offices</p> <p>The Immigration Act 2014 makes a major reform of the preliminaries (preparations) for marriage and civil partnership.</p> <p>This provides the ability to identify and investigate suspected sham marriages and to prevent the participants of a sham marriage or civil partnership obtaining an immigration advantage.</p> <p>With effect from 2 March 2015 the Immigration Act 2014 extended the notice period from 15 days to 28 days for all couples wishing to marry following civil preliminaries or form a civil partnership in England and Wales.</p> <p>With effect from 2 March 2015, the marriage and civil partnership notice period in Scotland and in Northern Ireland was extended to 28 days for all couples, under changes to marriage and civil partnership laws in Scotland and Northern Ireland.</p> <p>With effect from 2 March 2015, all proposed marriages and civil partnerships in the UK</p>	<p>External links</p> <p>Marriage and civil partnership referral and investigation scheme</p> <p>Section 24 of the Immigration and Asylum Act 1999</p> <p>Links to staff intranet removed</p>
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involving a non-EEA national with limited or no immigration status in the UK, or who does not provide specified evidence that they are exempt from the scheme, are to be referred to the Home Office by the registration official.

The Home Office will assess all referrals against:

- intelligence
- evidence based risk profiles
- other information

to identify suspect proposed marriages and civil partnerships, and then consider in these cases whether there are reasonable grounds to suspect a sham marriage or civil partnership.

Where the Home Office has reasonable grounds to suspect a sham and at least one of the parties is not exempt from the scheme, a decision to investigate whether the marriage or civil partnership is a sham will be taken. Notification of that decision to the relevant registration official will have the effect of extending the notice period from 28 days to 70 days.

This will allow the Home Office to investigate and take appropriate enforcement or casework action where a sham is established. A couple will be unable to get married or enter into a civil partnership on the basis of that notice if they do not comply with an investigation under the scheme.

For more information see related link: [Marriage and civil partnership referral and investigation scheme](#).

Criminal investigation: sham marriage

Sham marriages: sections 24 and 24A of the Immigration and Asylum Act 1999

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about referrals made by registration officers under sections 24 and 24A of the Immigration and Asylum Act.</p> <p>Registration officers are required to submit a section 24 or 24A report if, at any stage in the process, they have reasonable suspicions that the marriage or a civil partnership will be or is a sham. A report can 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.</p> <p>A section 24 or 24A report must be sent electronically, together with scanned copies of any documentation that may be relevant, to the Liverpool Thematic Intelligence Hub.</p> <p>The section 24 or 24A report and accompanying documentation is then assessed and referred to Regional Intelligence Units (RIU's) where it is researched before being taken to tasking for consideration against local and national priorities.</p> <p>In cases where a section 24 or 24A report contains time critical information (for example a wedding is due to take place imminently), Intelligence will 'hot task' it directly to the relevant team for immediate action.</p> <div style="border: 2px solid red; padding: 5px; text-align: center;"><p>Official-Sensitive – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Official-Sensitive – do not disclose – end of section</p></div>	<p>External links Section 24A of the Immigration Act 1971 Schedule 6 Immigration Act 2014 Links to staff intranet removed</p>
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Reports on immigration offenders

Schedule 6 to the Immigration Act 2014 provides registration officers in England and Wales with powers to share information or documents with the Home Office where they suspect that an immigration offence has been committed.

Where a registration officer comes into contact with a suspected immigration offender during the course of the marriage or civil partnership process or while registering a birth or death, they can report this to the Home Office.

A report made under the provisions of this act will be sent electronically, together with scanned copies of any documentation that may be relevant, to the Liverpool Thematic Intelligence Hub. The Intel Hub will assess the information and refer, via local intelligence to the relevant teams for action through the tasking process.

It is anticipated that similar provision will be made for Scotland and Northern Ireland in 2016.

For more information see related links:

- Section 24 of the Immigration and Asylum Act 1999
- Schedule 6 Immigration Act 2014

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

Official-Sensitive – do not disclose – end of section

Criminal investigation: sham marriage

Sham marriages: offences relating to sham marriages

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the main offences relating to sham marriages and who is likely to have committed them.</p> <p>Throughout this guidance, the ‘generic term’ of sham marriage has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>The main types of offences relating to sham marriages are:</p> <ul style="list-style-type: none">• facilitation (assisting people to enter the UK illegally)• conspiracy to facilitate• deception• bigamy• perjury <p>Part 4 of the Immigration Act 2014 contains new powers to investigate suspected sham marriages and civil partnerships. This includes the:</p> <ul style="list-style-type: none">• referral and investigation of proposed marriages and civil partnerships specifically about the:<ul style="list-style-type: none">○ decision and conduct of investigations into sham marriages○ referral of proposed marriages and civil partnerships in England and Wales• meaning of ‘sham marriage’ and ‘sham civil partnership’• duty to report suspicious marriages and civil partnerships• solemnization (formal ceremony) of marriage according to rites of the Church of England• requirement as to giving of notice of marriage or civil partnership <p>There are also offences available under the Civil Partnership Act 2004:</p>	<p>In this section Sham marriages: facilitation offences Sham marriages: conspiracy to facilitate Sham marriages: the use of deception in EU marriages Foreign national spouse marriage to British nationals</p> <p>Related link Links to staff intranet removed</p> <p>External links Offences against the person Act 1861 Bigamy Part 4 Immigration Act 2014 Civil partnership Act 2004 Perjury (Northern Ireland) Order 1979 Article 8</p> <p>Downloads Links to staff intranet removed</p>
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In England and Wales:

- section 32: offences relating to Registrar General's Licence
- section 33: offences relating to the recording of civil partnerships
- section 80: false statements with reference to civil partnerships

In Scotland, section 100: offences.

In Northern Ireland:

- section 158: offences
- article 8: perjury (Northern Ireland) Order 1979 false statements with reference to marriage (amended by Section 204)

For more information on the offences relating to sham marriages under the various legislation, see related links:

- offences relating to sham marriages under immigration legislation
- offences relating to sham marriages under the Police and Criminal Evidence Act (PACE)
- Offences against the Person Act 1861 Bigamy
- part 4 of the Immigration Act 2014
- Civil Partnership Act 2004
- Perjury (Northern Ireland) Order 1979 article 8

Sham marriage intelligence

Your local intelligence officers may be able to provide supporting evidence in cases of sham marriage, and your information may be valuable to them. You must make sure that the intelligence national thematic hub in Liverpool receives details of your case to assist them in building the national intelligence picture.

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

Official-Sensitive – do not disclose – end of section

Suspected trafficking victims

In criminal investigation cases you must be alert to any indication that the individual is a victim of trafficking.

For more information see related link: [Guidance for frontline staff on human trafficking](#).

Criminal investigation: sham marriage

Sham marriages: facilitation offences

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the offence of facilitation (assisting people to enter the UK illegally) relating to sham marriages.</p> <p>Section 25 of the Immigration Act 1971 creates an offence of assisting unlawful immigration (known as facilitation). The offence was substituted by section 143 of the Nationality, Immigration and Asylum Act 2002. This covers any act facilitating a breach of immigration law by a non-EU citizen including a breach of another member state's immigration law.</p> <p>Under section 25(1) an offence is committed when a person:</p> <ul style="list-style-type: none">• does an act which facilitates a breach of immigration law by an individual who is not a citizen of the European Union• knows or has reasonable cause for believing that the act facilitates a breach of immigration law by the individual• knows or has reasonable cause for believing that the individual is not a citizen of the European Union <p>The offence includes assisting someone to remain in the UK by deception. For example by entering into a sham marriage or other forms of assistance which facilitate a breach of the immigration laws.</p> <p>Section 25(2) of the 1971 Act defines an immigration law as 'a law which has effect in a member state and which controls the following entitlements for some or all people who are not nationals of that state. The entitlement to:</p> <ul style="list-style-type: none">• enter• transit• be in the 'state' <p>In the case of Kapoor, Singh, Chawla and Sarna the Court of Appeal held that section 2 of</p>	<p>In this section</p> <p>Sham marriages: conspiracy to facilitate Sham marriages: the use of deception in EU marriages Foreign national spouse marriage to British nationals</p> <p>Related links</p> <p>Links to staff intranet removed</p> <p>External links</p> <p>Section 25 of the Immigration Act 1971 Section 143 nationality Immigration and Asylum Act 2002 Section 2 Asylum and Immigration (Treatment of Claimants) Act 2004 Section 30 (1) UK Borders Act 2007 Schedule 2 Proceeds of Crime Act 2002 R v Kapoor, Singh, Chawla and Sarna judgement</p>
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	<p>the Asylum and Immigration (Treatment of Claimants) Act 2004 is not an immigration law for the purposes of section 25(2).</p> <p>In sham marriage investigations it is advisable to consult with the prosecuting authorities early when you are considering charges for suspects. You must determine whether the law breached falls into any of the above entitlements or is just regulatory or administrative.</p> <p>When you refer cases to the Crown Prosecuting Service (CPS) you must:</p> <ul style="list-style-type: none">• name the specific breach on the MG3 form• include it on the MG5 form <p>For criminal investigations involving offences under section 25(1) of the Immigration Act 1971, you must:</p> <ul style="list-style-type: none">• be aware when selecting the immigration law said to have been breached• consider specifying the immigration law in the wording of the offence <p>Section 30(1) of the UK Borders Act 2007 covers acts committed in the UK, regardless of the nationality of the perpetrator (person committing the crime) as well as acts committed overseas.</p> <p>Facilitation is an either-way offence which means this offence can be tried summarily in the magistrates' court or on indictment in the Crown court and the maximum sentence on indictment is 14 years' imprisonment. It is also a 'lifestyle offence' under schedule 2 of the Proceeds of Crime Act 2002.</p> <p>Organised crime groups are often involved in large scale offending for sham marriages and the leading sentencing guide case is R v Le and Stark judgement. This states the most appropriate penalty for all but the most minor offences of this nature is custody. Aggravating features of the offence include:</p> <ul style="list-style-type: none">• repeat offending• commission for financial gain	<p>R v Le and Stark judgement</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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- involvement of strangers rather than family members
- a high degree of planning and sophistication
- the number of immigrants involved
- the level of involvement of the offender

You must consider these elements when investigating facilitation in relation to sham marriages.

For more information see related links:

- section 25 of the Immigration Act 1971
- section 143 of the Nationality, Immigration and Asylum Act 2002.
- section 2 of the Asylum and Immigration (Treatment of Claimants) Act 2004
- section 30 (1) UK Borders Act 2007
- schedule 2 of the Proceeds of Crime Act 2002
- R v Kapoor, Singh, Chawla and Sarna judgement
- R v Le and Stark judgement
- financial investigation
- organised crime groups disruption manual

Criminal investigation: sham marriage

Sham marriage: conspiracy to facilitate

[About this guidance](#)
[Sham marriage: definition](#)
[Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999](#)
[Offences relating to sham marriages](#)
[Sham marriages: prosecuting authorities for criminal offences](#)
[Sham marriages: CPS suggested good practice and potential scenarios](#)
[EEA administrative removal options](#)

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the offence of conspiracy to facilitate (assisting people to enter the UK illegally) sham marriages.

Spouses

In cases involving sham marriages it may be possible to prosecute the European Economic Area (EEA) spouse for either:

- conspiracy to facilitate
- a simple offence of seeking to avoid enforcement action

The conspiracy charge is generally more appropriate as it marks the severity of the offence and also makes sure there is consistent treatment with the EEA spouse.

For more information see related link: R v Saik judgement.

Some Crown Prosecution Service (CPS) lawyers authorise facilitation charges against the non-EEA spouse but others do not as they argue a non-EEA party cannot facilitate themselves.

For England and Wales

You must consider conspiracy to facilitate charges under section 1A of the Criminal Law Act 1977. This is because it is common in sham marriages for the non-EEA spouse to have to conspire with and pay the:

- fixer or organiser for the marriage
- arranged spouse to carry out the unlawful act

This also means both parties involved in the offence are treated equally and fairly as both face potential maximum sentences of up to 14 years.

In this section

[Sham marriages: facilitation offences](#)
[Sham marriages: the use of deception in EU marriages](#)
[Foreign national spouse marriage to British nationals](#)

Related links

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External links

[Section 1 of the Criminal Law Act 1977](#)
[Section 1\(1\) of the Criminal Law Act 1977](#)
[Section 25 of the Immigration Act 1971](#)
[Crown Office and Procurator Fiscal Service](#)
[Article 9 Criminal Attempts and Conspiracy \(Northern Ireland\) Order 1983](#)

	<p>Scotland If you are considering using conspiracy as a charge you must contact a Procurator Fiscal.</p> <p>Northern Ireland You must consider conspiracy to facilitate charges under article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983.</p> <p>Co-conspirators You must consider whether others also involved or playing a part in the sham marriage may have committed the offence of conspiracy to facilitate. These might include:</p> <ul style="list-style-type: none"> • vicar presiding over a sham marriage: <ul style="list-style-type: none"> ○ for example, Reverend Shippes was found guilty in 2013 of conspiracy to facilitate after he conducted fake marriage ceremonies to help illegal African immigrants to gain residency in UK - the spouses, mainly brides, were economic migrants from Eastern Europe paid to go through the marriage ceremony by the organiser, a co-conspirator • parties to the sham marriage: <ul style="list-style-type: none"> ○ these can include witnesses or wedding guests • organised crime groups either in the UK or abroad - for example, if: <ul style="list-style-type: none"> ○ criminals organise sham marriages and arrange and pay for EEA spouses to marry non-EEA nationals in the UK ○ a groom is based in Pakistan and an EU bride travels to Pakistan to marry the groom - the EEA bride then travels to the UK to make a visa application for her husband to join her in the UK <p>When a conspiracy takes place inside England and Wales, they can be charged with 'conspiracy contrary to section 1 of the Criminal Law Act 1977'.</p> <p>When a conspiracy takes place outside England and Wales and a person residing in England and Wales becomes a party to the agreement, they can be charged with 'conspiracy contrary to section 1(1) of the Criminal Law Act 1977'.</p> <p>In cases where conspiracy to commit Section 25(1) is considered you must prove</p>	<p>Regulation 2 of the Immigration (European Economic Area) Regulations 2006</p> <p>R v Saik judgement</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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knowledge and intention by the defendants and not merely 'reasonable cause for believing' that the act would facilitate the commission of a breach of immigration law.

For more information, see related links:

- section 1 of the Criminal Law Act 1977
- section 1(1) of the Criminal Law Act 1977
- section 25 of the Immigration Act 1971
- article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983
- Crown Office and Procurator Fiscal Service
- sham marriage aide memoire
- organised crime group disruption manual
- PPS NI file submission protocols

Criminal investigation: sham marriage

Sham marriages: use of deception in EU marriage cases

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the offence of deception used in sham marriages.</p> <p>In sham marriage cases the non-European Economic Area (EEA) party is fraudulently seeking confirmation of a right, conferred under EU law, which can ultimately lead to them being issued an EEA residence card for an initial period of 5 years.</p> <p>This gives them all the rights and entitlements given under EU law and could eventually lead to permanent residence and British citizenship. So they are not seeking any form of leave to remain.</p> <p>When a person marries an EEA national they do not get leave to remain in the UK. They are automatically entitled to apply for a residence card. For this reason the offence must be 'secures or seeks to secure the avoidance, postponement or revocation of enforcement action by deception, contrary to section 24A (1) (b) of the Immigration Act 1971'.</p> <p>You must decide whether a person is, will or should be entitled to remain in the UK before you can charge them with committing an offence.</p> <p>If someone arranges a sham marriage between an EEA national and a non-EEA national with extant (existing) leave you must establish the marriage was set up to get EEA rights of residence before you can say a section 24A (1) (b) offence has taken place.</p> <p>You must show the non-EEA national has entered the marriage to dishonestly get an EEA residence permit that they were not entitled to.</p> <p>When a person enters into a sham marriage, although they might be able to get an EEA residence permit, they are not entitled to EEA rights. This is because under regulation 2 (1) of the Immigration (European Economic Area) Regulations 2006 a 'spouse does not include a party to a marriage of convenience'.</p>	<p>In this section Sham marriages: facilitation offences Sham marriages: conspiracy to facilitate Foreign national spouse marriage to British nationals</p> <p>External links Section 24A of the Immigration Act 1971 Regulation 2 of the Immigration (European Economic Area) Regulations 2006</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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For more information, see related links:

- section 24A of the Immigration Act 1971
- regulation 2 of the Immigration (European Economic Area) Regulations 2006

For more information on the R v Johnson, Ngwa and Omole judgement, see related link.

Criminal investigation: sham marriage

Sham marriages: foreign national spouse marriage to British nationals

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams the offence committed when a person enters into a sham marriage with a British national.</p> <p>When a foreign national marries a British national in a sham marriage and subsequently applies for leave to remain in the UK, the offence under consideration must be ‘obtains or seeks to obtain leave to enter or remain in the UK by deception, contrary to section 24A (1) (a) of the Immigration Act 1971’.</p> <p>For more information on deception offences, see related link: section 24A of the Immigration Act 1971.</p>	<p>In this section Sham marriages: facilitation offences Sham marriages: conspiracy to facilitate Sham marriages: the use of deception in EU marriages</p> <p>External links Section 24A of the Immigration Act 1971</p>
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Criminal investigation: sham marriage

Sham marriage: prosecuting authorities for criminal offences

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: CPS suggested good practice and potential scenarios EEA administrative removal options</p>	<p>This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the prosecution authorities in the UK who are responsible for bringing criminal prosecutions for offences relating to sham marriages in the UK.</p> <p>Throughout this guidance, the generic term of 'sham marriage' has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>Throughout the UK there are 3 main prosecuting authorities for criminal matters relating to all immigration crime:</p> <ul style="list-style-type: none">• the Crown Prosecution Service (CPS) - responsible for all cases in England and Wales• the Crown Office and Procurator Fiscal Service (COPFS) - Scotland's prosecution service• the Public Prosecution Service for Northern Ireland (PPS) <p>For more information about these prosecuting authorities, see related links.</p> <p>The Crown Prosecution Service (CPS) in England and Wales The CPS is responsible for prosecuting criminal cases involving sham marriages investigated by law enforcement agencies in England and Wales. The CPS has recently updated their guidance on sham marriages. For more information, see related link: CPS sham marriage guidance.</p> <p>For more information about CPS suggested good practice and scenarios potential suspects and charges, see link on left.</p> <p>Procedures in Scotland In Scotland, where there is sufficient evidence in relation to offences revealed during sham marriage investigations, you charge individuals and submit a standard prosecution report to the Crown Office and Procurator Fiscal Service (COPFS).</p>	<p>External links The Crown Prosecution Service Crown Office and Procurator Fiscal Service Public Prosecution Service for Northern Ireland CPS sham marriage guidance</p> <p>Links to staff intranet removed</p>
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You do this electronically through the specialist reporting agencies secure system. There are only specific criminal investigators in Scotland who have been granted access to use this system.

For more information about this system you can contact see related link: CIT Scotland

In complex cases the officer in charge and/or the senior investigating officer must contact COPFS as early as possible to discuss potential charges and any evidential issues on which you need guidance.

Procedures for Northern Ireland

In Northern Ireland (NI), when you decide to charge individuals with offences, you must complete a charge file and submit it to the PPS.

However, if you use a charge of conspiracy a PPS senior prosecutor will consider if it is appropriate. That decision will then be ratified (authorised) at PPS regional director level.

Within NI there is no prosecutor referral stage. You, as the officer, submit the case file with charges already laid against the defendant.

Criminal investigation: sham marriage

Sham marriage: CPS suggested good practice and potential scenarios

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences EEA administrative removal options</p>	<p>This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the Crown Prosecution Service (CPS) suggested good practice and the potential offences that are revealed during sham marriage investigations.</p> <p>Throughout this guidance, the generic term of 'sham marriage' has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>The Crown Prosecution Service (CPS) The CPS is responsible for prosecuting criminal cases investigated by law enforcement agencies in England and Wales. A range of offences might be revealed in cases of sham marriage.</p> <p>There has been a significant increase in numbers of cases of sham marriages referred to the CPS. This has revealed different criminality dependent on:</p> <ul style="list-style-type: none">• the number and identity of the participants• the role the participants play during a sham marriage investigation <p>For example, the suspects who have arranged the ceremony and the participants at the wedding, including witnesses and the vicar conducting the ceremony, can be charged with assisting unlawful immigration (facilitation) and conspiracy to facilitate breach of immigration law.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none">• CPS sham marriage guidance• section 25 of the Immigration Act 1971• section 1(1) of the Criminal Law Act 1977 <p>CPS suggested good practice The CPS has suggested the following points as good practice to adopt during a criminal</p>	<p>In this section Sham marriage: scenarios, potential suspects and charges</p> <p>Related links Links to staff intranet removed</p> <p>External links CPS sham marriage guidance Section 25 of the Immigration Act 1971 Section 1(1) of the Criminal Law Act 1977</p>
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investigation into sham marriages:

- early consultation between the CPS and the senior investigating officer (SIO) is recommended
- make enquiries to identify whether the sham marriage case is part of a larger, more complex investigation that may involve organised crime groups (OCG)
- if it is a case where you are considering conspiracy charges, where the arrangements for the marriage have taken place outside the UK, but the marriage or breach of immigration law is to be within the UK, you may require the consent of the Attorney General before you can bring charges
- make enquiries to identify whether there are ongoing immigration tribunal proceedings running in conjunction with the criminal investigation - if the claimant is granted leave to remain this might undermine a criminal prosecution in relation to the offences revealed by the sham marriage
- you must make sure that you prepare the file of evidence effectively and subsequent criminal case building is done to:
 - influence the direction of the investigation
 - resolve any potential jurisdictional issues
 - advise on confiscation strategy in the event of money laundering or proceeds of crime investigation

For more information, see related links:

- financial investigation
- criminal investigation: organised crime group disruption manual

Criminal investigation: sham marriage

Sham marriage: scenarios, potential suspects and charges

[About this guidance](#)
[Sham marriage: definition](#)
[Bigamy and Polygamy Referral and investigation scheme](#)
[Section 24 and 24A Immigration and Asylum Act 1999](#)
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[EEA administrative removal options](#)

This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the Crown Prosecution Service (CPS) suggested potential offences that are revealed during sham marriage investigations in England and Wales.

These are some scenarios involving sham marriages indicating the potential suspects to be charged and offences which you might consider. For more information on the legislation, see related links.

Suspects or defendants	Charge	Example	Comments
<p>The suspects who have arranged the ceremony.</p> <p>Participants at the wedding including witnesses.</p>	<p>Section 25(1) of the Immigration Act 1971, assisting unlawful immigration (facilitation).</p> <p>Section 1(1) of the Criminal Law Act 1977, conspiracy to facilitate breach of immigration law.</p>	<p>An EU female is brought to the UK to marry a non-EEA national (African) male. She is paid for going through the marriage ceremony and is returned when the marriage is completed.</p>	<p>By virtue of section 4(5) of the Criminal Law Act 1977, a charge of conspiracy under section 1(A).</p> <p>You will need the Attorney General's consent.</p>
<p>Parties to the sham marriage</p>	<p>Section 1 of the Criminal Law Act 1977, conspiracy to facilitate breach of immigration law.</p>	<p>An EU national female living in Scotland contracts a marriage with a non-EEA national (Pakistani) male residing in England. The</p>	<p>You cannot use conspiracy under section 1(1) of the Criminal Law Act 1977, as section 1A (2) states that the act or event must be intended to take place outside the UK. Scotland is not</p>

Related links
 Links to staff intranet removed

External links
[Section 25 of the Immigration Act 1971](#)
[Section 1\(1\) of the Criminal Law Act 1977](#)
[Section 4 \(5\) Criminal Law Act 1977](#)
[Section 1 \(a\) 2 Criminal Law Act 1977](#)
[Section 24 1 \(a\) Immigration Act 1971](#)

			<p>marriage takes place in Scotland. The documents to apply for a visa or leave to remain by the groom are lodged in England.</p>	<p>outside.</p> <p>Section 1 (a) of the Criminal Law Act 1977, a conspiracy between a person in England and a person abroad to commit a crime in England is indictable in England and seems to cover this case even though the act (marriage) is in Scotland.</p>	
	Parties to the sham marriage.	Conspiracy under section 1(1) of the Criminal Law Act 1977.	Marriage of convenience between 2 Jamaicans and 2 Bulgarians in England.	In this case section 24(1) (a) of the Immigration Act 1971, to obtain leave to enter or remain in the UK by deception was considered first. But after legal argument in court, it was decided that the concept of leave to remain is different and is not the same as residency.	
	Vicar presiding over sham marriage.	Section 1(1) of the Criminal Law Act 1977, conspiracy to facilitate breach of immigration law.		Hundreds of fake marriage ceremonies conducted at his church to enable illegal African immigrants to gain residency in UK. The brides were economic migrants from Eastern Europe paid to go through the marriage	

				ceremony by the organiser, a co-conspirator. Monies paid to the vicar to conduct the ceremonies were used to bolster the church's ailing finances.
Organised crime networks.	Section 25(1) of the Immigration Act 1971, assisting unlawful immigration (facilitation).	Network of organised criminals organise sham marriages and arrange and pay for EU brides to marry non-EEA nationals in the UK.		
Organised crime networks.	Section 1(1) of the Criminal Law Act 1977, conspiracy to facilitate breach of immigration law.	Grooms are based in Pakistan and brides from the EU travel to Pakistan to marry the grooms. The EU bride then travels to the UK and submits an application for a visa for their husband to join them in the UK.	Where a conspiracy takes place outside England and Wales and a person residing in England or Wales becomes a party to the agreement, they can be charged with conspiracy contrary to section 1(1) of the Criminal Law Act 1977. However, you need to get the Attorney General's consent before you prosecute.	

Criminal investigation: sham marriage

EEA administrative removal options

<p>About this guidance Sham marriage: definition Bigamy and Polygamy Referral and investigation scheme Section 24 and 24A Immigration and Asylum Act 1999 Offences relating to sham marriages Sham marriages: prosecuting authorities for criminal offences Sham marriages: CPS suggested good practice and potential scenarios</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams about the European Economic Area (EEA) regulations change - abuse of free movement rights in relation to sham marriages.</p> <p>Throughout this guidance, the generic term of 'sham marriage' has been used but where appropriate it also covers sham civil partnerships and marriages of convenience.</p> <p>European Union (EU) law provides all EU citizens and their direct family members with a right to move and reside freely within the EU. These rights are set out in Directive 2004/38/EC ('the Free Movement Directive'). This is transposed into UK law by the Immigration (European Economic Area) Regulations 2006 (referred to as the 'EEA regulations').</p> <p>For more information on the directive and legislation, see related links.</p> <p>The EEA regulations provide a right of residence for nationals of:</p> <ul style="list-style-type: none">• the 27 other EU member states, Norway, Iceland, Liechtenstein and Switzerland <p>The family members of an EEA national are defined in the 2006 regulations as:</p> <ul style="list-style-type: none">• regulation 7 - direct family members• regulation 8 - extended family members <p>With effect from 1 January 2014, new enforcement powers were introduced into the EEA regulations to tackle the abuse of free movement rights. These changes include the following.</p> <p>Re-entry following administrative removal</p> <p>EEA nationals who are administratively removed for not exercising treaty rights, under the current provisions – regulation 19(3) (a), will not be able to re-enter the UK for 12 months</p>	<p>Related links</p> <p>Links to staff intranet removed</p> <p>External links</p> <p>Directive/2006/38/EC Immigration (EEA) Regulations 2006</p> <p>Links to staff intranet removed</p>
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after removal, unless they can demonstrate they will immediately be exercising treaty rights on re-entry.

Removal following abuse of rights or fraud

EEA nationals can be administratively removed from the UK for the abuse of free movement rights or fraud where appropriate and proportionate under new regulation 19(3) (c). Abuse of rights includes:

- participating in or facilitating a marriage of convenience
- trying to fraudulently acquire residence rights
- conduct designed to circumvent residence requirements:
 - for example, exiting and re-entering the UK to re-set the initial unconditional 3 month period of residence

In addition, individuals involved in persistent low level offending cases as well as for serious offending will be considered for deportation by criminal casework.

For more information see related link: [EIG Chapter 50 EEA administrative removal.](#)

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Sham marriage: contact

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This page explains to criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams who to contact for more help with a specific sham marriage case.

If you have read this guidance and still need more help with this category, you must first ask your line manager.

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Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the criminal investigation operational guidance team, using the related link: Criminal investigation operational guidance inbox, who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Guidance – making changes.

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This page tells criminal investigators in Immigration Enforcement criminal and financial investigation (CFI) teams about this version of the 'Criminal investigation: sham marriage' guidance and who owns it.

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