



Home Office

Marriage Investigations

Version 3.0

This guidance is aimed primarily at Immigration Enforcement staff involved in investigating allegations of sham marriage, civil partnerships and marriages of convenience.

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About this guidance

This guidance is primarily aimed at:

- Immigration Compliance and Enforcement (ICE) team officers
- Immigration Enforcement National Marriage Investigation Teams (IE NMIT)
- members of staff investigating allegations of sham marriage, civil partnerships, and marriages of convenience

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 **3.0**
- published for Home Office staff on **13 February 2019**

Changes from last version of this guidance

Drafting Unit	Specifics of change	Version number	Date
Migrant Criminality Policy	Clarification on marriage of convenience terminology to align with EEA Public Policy guidance. Addition to clarify difference between compliance decisions & genuineness assessment under referral scheme	3.0	13 February 2019
RED Policy Free Movement Policy	General update to align guidance with marriage investigation schemes. EEA Marriage of convenience sections updated to refer to time limited deportations under Reg 23(6)(b) as detailed in EEA guidance: decisions taken on public policy or public security grounds'.	2.0	1 February 2017

Related content
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Summary: sham marriage removal pathways

This page provides a summary of the various removals pathways for individuals involved in sham marriages or civil partnerships, and marriages or durable partnerships of convenience.

See also: European Economic Area (EEA) administrative removal.

Scenario	Removal decision
<p>Non EEA national: Overstayers, illegal entrants, breach of conditions, and leave by deception.</p> <p>EEA residence card has not been issued, and the individual concerned does not have free movement rights under EU law.</p>	<p>Administrative removal decision Standard non-EEA administrative removal procedures.</p> <p>See: Liability to administrative removal (non EEA) - consideration and notification</p>
<p>Non EEA national: Extant leave (but assisting, entering or attempting to enter a marriage of convenience).</p> <p>EEA residence card has not been issued, and the individual concerned does not have free movement rights under EU law.</p>	<p>Administrative removal decision Curtailment and simultaneous standard administrative removal decision by fast track referral to curtailment team.</p> <p>See: Curtailment of leave of non-EEA national: process for referring cases.</p>
<p>Non EEA national: Marriage of convenience. EEA residence card issued.</p> <p>(for example Home Office previously recognised an EEA right on the basis of a sham relationship, but evidence now suggests that the person never had a right to reside under the EEA Regulations)</p>	<p>Administrative removal decision EEA administrative removal procedures under EEA Regulation 23(6)(a) – which automatically invalidates the extant EEA card. Any extant leave must be curtailed after the 23(6)(a) decision.</p> <p>See: Curtailment of leave of non-EEA national: process for referring cases.</p>
<p>Genuine family member, but involved in misuse of free movement rights (for example facilitating a marriage of convenience).</p>	<p>Public policy decision Regulation 23(6)(b) of EEA Regulations 2016. See: EEA guidance: decisions taken on public policy or public security grounds.</p>
<p>EEA national involved in a marriage of</p>	<p>Public policy decision – deportation</p>

Scenario	Removal decision
<p>convenience (for example facilitating or entering or attempting to enter a marriage, civil partnership or durable partnership of convenience).</p>	<p>under regulation 23(6)(b) of EEA Regulations 2016.</p> <p>EEA nationals may be liable for deportation where the public policy tests are met. Consider service of stage 1: liability for deportation notice, and refer the case to IE returns preparation for consideration of deportation action where they have:</p> <ul style="list-style-type: none"> • no permanent residency rights (generally under 5yrs UK residency) • no issues that may make deportation disproportionate <p>See: EEA guidance: decisions taken on public policy or public security grounds.</p>

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Types of marriage investigation

This page provides a summary of the different types of marriage investigation, and referral schemes for investigating sham marriages and marriages of convenience.

Officers may undertake enquiries into a suspect marriage in many ways, including, but not limited to:

- a referral for further investigation in connection with the 'marriage and civil partnership referral and investigation scheme'
- a referral from UK Visas and Immigration (UKVI) in relation to EEA residence documentation applications that appear to be based on sham relationships.
- an encounter with a person during an enforcement operation whose claimed relationship to a British citizen or European Economic Area (EEA) national is in doubt
- an allegation in relation to a person who has not previously been encountered or in relation to a person who is already known to be in breach of immigration law

Marriage and civil partnership 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 involving a non-EEA national who could benefit in immigration terms.

Under this 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 non-EEA national with limited or no immigration status in the UK
- a non-EEA national who does not provide specified evidence that they are exempt from the scheme

Cases referred for investigation under this scheme must be conducted in accordance with the [statutory guidance](#) and according to the procedures outlined in the [marriage and civil partnership referral and investigations scheme](#) section.

Where a decision is made to investigate a proposed marriage or civil partnership under the scheme, the investigation must be conducted in accordance with the [Proposed Marriages and Civil Partnerships \(Conduct of Investigations, etc\) Regulations 2015](#). Careful attention must also be given to the notice periods for interview.

Designated register offices (DRO)

The following legislation requires all non-EEA nationals, except those exempt from immigration control, to give notice of marriage or civil partnership at a designated register office (DRO):

- [the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#)
- [Civil Partnership Act 2004](#) as amended by [section 58 of the Immigration Act 2014](#)
- [Referral and Investigation of Proposed Marriages and Civil Partnerships \(Northern Ireland and Miscellaneous Provisions\) Order 2015](#)
- [Referral and Investigation of Proposed Marriages and Civil Partnerships \(Scotland\) Order 2015](#)

This includes non-EEA nationals with a temporary or permanent right to enter or remain in the UK under the Immigration Rules, and those who have a European Union (EU) right to enter or remain in the UK. For example, holders of EEA family permits, residence cards and permanent residence cards.

In England and Wales, both parties to the marriage or civil partnership must attend the DRO together in person.

In Scotland and Northern Ireland, notice may also be given by post as well as in person, and it must be given at a designated register office. Currently every register office is designated for Northern Ireland and Scotland.

Duty to report suspicions of a sham marriage or civil partnership

Section 24 and 24A of the Immigration and Asylum Act 1999, as amended by [section 55 of the Immigration Act 2014](#), 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 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.

Under [schedule 6 of the Immigration Act 2014](#), 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 while registering a birth or death.

For further information see the [marriage and civil partnership referral and investigation scheme](#).

UKVI sham marriage case referrals

UK Visas and Immigration (UKVI) are responsible for considering applications for leave to remain based on a marriage or a civil partnership and applications for EU residence documentation.

UKVI may invite the couple for an interview or alternatively commission a home visit. Cases are triaged against specific risk criteria and if the threshold is met, caseworkers may request a home visit by the relevant ICE team to establish whether the relationship is genuine and subsisting.

These cases will be tasked to ICE or IE national marriage investigation teams (NMIT) through the Immigration Enforcement tasking and co-ordination group (TCG) tasking process.

Other investigations into suspect marriages

Where intelligence indicates that a sham marriage is planned or has already been contracted without a referral being made by a registration official, enforcement officers may investigate the relationship as part of normal enforcement action to determine the immigration status of those involved.

When it is necessary to interview suspects about the genuineness of their marriage or civil partnership at non-Home Office premises, enforcement officers must conduct the interview according to procedures outlined in the [marriage interviews](#) section of this chapter. Enforcement officers must also be aware that the interview record may be used for evidential purposes.

You must also refer to and follow the general guidance on marriage and civil partnership interviews as detailed in the:

- enforcement interviews: marriage interviews section
- operational enforcement visits: investigation of non-referral scheme marriages.

Where information suggests that a marriage has been contracted for a criminal purpose, such as facilitation and obtaining leave by deception, a Criminal Investigation team must be notified.

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

- [section 24A of the Immigration Act 1971](#) - obtaining or seeking to obtain leave to enter or remain in the UK by deception
- [section 25\(1\) of the Immigration Act 1971](#) - assisting unlawful immigration (facilitation)

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

For more information see:

- Criminal investigation and harm assessment
- Identifying people at risk
- Enforcement interviews

Related content

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Definitions

This page provides definitions for a number of terms that recur throughout the various types of marriage investigation and referral schemes, for investigating sham marriages and marriages of convenience.

Sham marriage, civil partnership and marriage of convenience

Within this guidance, the more generic term of sham marriage has been used but where appropriate, this also covers civil partnerships.

Marriages of convenience are, for immigration purposes, synonymous with sham marriages.

Under section 24 of the Immigration and Asylum Act 1999, as amended by [section 55 of the Immigration Act 2014](#), a sham marriage is one in which all of the following apply:

- one or both of the parties is not a British citizen, a European Economic Area (EEA) national or a Swiss 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, including under the Immigration Rules or the Immigration (EEA) Regulations 2006

The Free Movement Directive is transposed into domestic law by the [Immigration \(European Economic Area\) Regulations 2016](#) (the EEA Regulations 2016). [Regulation 2](#) sets out that a marriage of convenience includes a marriage entered into for the purpose of using these regulations, or any other right conferred by the EU treaties, as a means to circumvent either:

- Immigration Rules that apply to non-EEA nationals (such as any applicable requirement under the 1971 Act to have leave to enter or remain in the UK)
- 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

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

See family members under Appendix FM of the Immigration Rules, Annex FM Section FM 2.1, for further guidance on assessing whether a relationship is genuine and subsisting.

[Paragraph 6\(a\) of schedule 1](#) to the [EEA Regulations 2016](#) states that it is consistent with public policy and public security requirements to refuse, terminate or withdraw an EEA right. Including removal, where there are reasonable grounds to suspect that either an **EEA national** or a **family member** for the purposes of the EEA Regulations 2016 has:

- entered into a marriage, civil partnership or durable partnership of convenience
- attempted to enter into a marriage, civil partnership or durable partnership of convenience
- assisted another person to enter or attempt to enter into a marriage, civil partnership or durable partnership of convenience

See EEA administrative removal for more information on the actions that can be taken against EEA nationals not exercising Treaty rights or abusing Treaty rights.

For further information see EEA guidance: decisions taken on public policy or public security grounds for information on time limited deportations of EEA marriages of convenience.

Forced marriages

A forced marriage is where one or both people do not consent to the marriage, and pressure or abuse of various types is used to coerce them. For example, this might apply to cases involving a person with learning difficulties. It should also be noted that the marriage or relationship may be genuine on the part of one of the parties where the other has deceived them as to their motives.

The gov.uk guidance on [forced marriage](#) houses helpline numbers and leaflets that you can provide to potential victims of sham marriages. There is additional multi-agency guidance on handling cases of forced marriage, including e-learning training for staff that may come across cases of forced marriage in the course of their work. You should familiarise yourself with this guidance.

For further information see the 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.

Appendix FM section 2.0 - genuine and subsisting relationship 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

UK law does not allow for marriages to be contracted in the UK where either:

- one of the parties is represented by an appointed proxy
- the proceedings are conducted over the telephone

However, the legality of such marriages conducted abroad varies and reference should be made to guidance on the legal validity of marriages in the UK.

Marriages by proxy can be open to abuse and where encountered must be thoroughly investigated in line with guidance. Proxy marriages in EEA applications should be referred for a full marriage interview as standard practice.

For further information see: Appendix FM 1.3 - recognition of marriage and divorce for guidance on marriage by proxy and other guidance on recognition of marriage and divorce.

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 see:

- Victims of modern slavery - guidance for frontline staff
- Identifying people at risk
- Criminality and harm assessment

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Marriage and civil partnership referral and investigation scheme

This page details the background and process for the marriage and civil partnership referral scheme.

For information concerning marriage investigations that do not form part of the referral and investigation scheme, see Enforcement visits and operations by type: conduct of non-scheme marriage investigations.

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Background to the scheme

The 2014 act extended the marriage and civil partnership notice period from 15 days to 28 days for all couples marrying in the UK following civil preliminaries or forming a civil partnership. It also required all couples involving a non-European Economic Area (EEA) national, who wish to marry in the Anglican Church in England and Wales, to complete civil preliminaries and give notice at a designated register office and be subject to the 28 day notice period.

Referral and initial assessment

All marriage or civil partnership notices involving non-EEA nationals with limited or no immigration status in the UK are referred from a registration officer to the Marriage Referral and Assessment Unit (MRAU). All referrals are initially assessed by MRAU and consideration is given as to whether to conduct an investigation into the marriage or civil partnership. If the marriage or civil partnership is to be

investigated, both parties and the relevant registration official are notified that the notice period is to be extended from 28 to 70 days.

Notice period: extension to 70 days

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

Although the notice period is extended to 70 days, the deadline for a notification of the result of the investigation to the registration officer is 65 days.

Where the Secretary of State decides to investigate a couple referred under the scheme, the investigation must be conducted in accordance with the [Proposed Marriages and Civil Partnerships \(Conduct of Investigations, etc\) Regulations 2015](#).

Section 3 of the [marriage and civil partnership referral and investigation scheme statutory guidance](#) sets out how an investigation into a proposed marriage or civil partnership should be conducted by the investigating officer for the purpose of establishing whether it is a sham. Including the:

- methods of investigation that can be used
- time periods relevant to the conduct of the investigation
- procedures and safeguards applicable to each investigation method

Purpose of investigations under the scheme

The purpose of the investigation is to determine whether, on the balance of probabilities, the proposed marriage or civil partnership is a sham. The investigation will result in determinations regarding:

- compliance with requirements under the scheme (the compliance decision)
- the genuineness of the relationship

The [compliance decision](#) directly impacts on permission to marry:

- if they are compliant, permission to marry may be granted, even where there are doubts about the relationship
- if they are not compliant, the couple will be refused permission to marry but may apply through the scheme again. See [Failure to comply with an investigation under the scheme](#)

The genuineness of the relationship will also be assessed regardless of the outcome of the compliance decision, and a decision will be taken on whether, on the balance of probabilities, the proposed marriage or civil partnership is a sham.

Where a proposed marriage or civil partnership is determined a sham the Home Office may, where appropriate:

- take an enforcement decision, such as curtailment, administrative removal or deportation, against any non-EEA or EEA nationals involved
- refuse any application under the [Immigration \(European Economic Area\) Regulations 2016](#) (the regulations) or the Immigration Rules which is based on the relationship in terms that will withstand any appeal
- seek the prosecution of those involved in a criminal offence, such as perjury or facilitation of illegal immigration, by consultation with or reference to, the relevant prosecuting authority

Conduct of investigations under the scheme

Both parties to the proposed marriage or civil partnership must comply with the requirements of an investigation. One or both of the parties may be required to provide information, evidence or photographs and be interviewed in any of the following circumstances:

- in person at home
- in person at Home Office premises in or outside the UK
- [whilst detained](#) in the UK
- by telephone, video-link or over the internet

As part of the investigation, each party may be required to provide information or evidence about:

- themselves and about the other party
- their relationship with the other party
- their living arrangements and those of the other party
- their future plans and those of the other party

For further information see:

- [Failure to comply](#)
- [Marriage and civil partnership referral and investigation scheme statutory guidance](#): section 3, conduct of investigations
- EEA guidance: decisions taken on public policy or public security grounds

Roles and responsibilities under the scheme

The investigating officer in the Marriage Referral and Assessment Unit (MRAU) and, where the case is allocated, the Immigration Enforcement National Marriage Investigation Teams (IE NMIT) team, must consider how to obtain information and evidence relevant to assessing the genuineness of the couple's relationship that determines whether the proposed marriage or civil partnership is believed to be a sham.

MRAU responsibilities

MRAU are responsible for initial enquiries. For instance, MRAU may decide to make some investigations before considering tasking such as asking a party to provide a copy of their passport. MRAU may ask other units to assist with the investigation.

The relevant parties will be asked by MRAU to comply with requirements by the investigating officer so as to conduct the investigation and enable a decision to be made, whether the relevant parties have complied with it, in time for MRAU to give the relevant parties and the relevant registration official notice of that decision by the 70-day notice period.

The relevant parties will be asked by MRAU to comply with requirements by the investigating officer so as to prevent a relevant party or parties from frustrating the investigation process by withholding compliance until near the end of the 70-day notice period. This would make it difficult for the Home Office to properly decide the compliance question and give notice of the decision to the relevant parties and registration official before the end of the 70-day period.

ICE and IE NMIT team responsibilities

Once the case has been accepted and allocated by the tasking and co-ordination group, responsibility for subsequent investigation and interviewing arrangements passes to the ICE or IE national marriage investigation (NMIT) teams. The parties will be invited to attend an interview. See: [arranging an interview under the scheme](#).

Referrals from EEA casework might require a home visit if the EEA caseworker needs further information to decide an application. After referral from MRAU, and following tasking, ICE teams and IE NMIT are responsible for:

- arranging and conducting office interviews and collating evidence to establish whether a relationship is genuine or not
- conducting home visits to subjects on behalf of caseworking teams where:
 - involvement in sham marriages or civil partnerships is suspected
 - further evidence is required to support a decision on an application for a residence card or leave to remain
- conducting home visits or interviews on behalf of the MRAU to assist in determining whether it is believed the marriage is a sham or not
- 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 caseworking or curtailment teams to:
 - pursue curtailment of any extant leave
 - refuse or revoke any residency card or leave to remain applications

- make a removal or deportation decision
- serve appropriate paperwork
- reporting students suspected to be involved in a sham marriage to UK Visas and Immigration (UKVI) and to Intel through [MRAU](#)
- identifying, collecting and sharing useful intelligence encountered during the course of their activities with the relevant intelligence unit or [MRAU](#), for example:
 - emerging patterns or trends of abuse and information about suspected facilitators or ‘fixers’
- considering the arrest and detention of those individuals who are liable to be detained and or removed from the UK
- referring suitable cases to Criminal Investigation where there is clear evidence of organised criminality regarding those planning and attending any marriage or civil partnership ceremony
- securing evidence and investigating level 1 criminality where there are professionalising investigations programme (PIP) trained crime officers embedded within the ICE team

Requesting information, evidence or photographs under the scheme

The ICE team or MRAU investigating officers may require one, or both, persons to provide them with information, evidence or photographs to determine whether the relationship is genuine or whether the proposed marriage or civil partnership is a sham.

Investigating officers may require persons to provide information, evidence or photographs for the purpose of assessing genuineness of the relationship. These requests must be made in writing. If you require evidence or photographs during interview, you must follow this up in writing. When requesting these items the investigating officer must:

- include a description of the information, evidence or photographs that must be provided
- set out how the information, evidence or photographs must be provided, such as to the investigating officer by post, email or at interview, and include address details
- include the date by which the information, evidence or photographs must be received
- in relation to evidential documents - set out the circumstances in which:
 - a certified translation must be provided
 - a certified copy may be provided

A certified copy of a document must be certified as a true copy of the original, be signed and dated by that person, and state their name and contact details and position or occupation.

A certified translation of a document must be certified as a true and accurate translation by the person who translated it, be signed and dated by that person, and state their name and contact details.

A document must not be certified by either party to the proposed marriage or civil partnership, or by a person who is a family member or who lives with either party.

An electronic document can be requested and supplied as evidence and may be shown by the relevant party to the investigating officer during interview, who must make a note of its contents in the interview record, photograph it or request a screenshot. The officer alternatively can request the electronic document be sent by email to a Home Office or Foreign and Commonwealth Office (FCO) email account.

Arranging an interview under the scheme

For more information on arranging an interview under the scheme see:

- [Marriage and civil partnership referral and investigation scheme - statutory guidance](#): section 3.5, arranging an interview

For general guidance on conducting marriage and civil partnership interviews, see:

- Enforcement interviews: marriage interviews
- EEA guidance: decisions taken on public policy or public security grounds

Notification and timing of interviews

The [MRAU](#) or the relevant ICE team may require persons investigated under the scheme, to make contact by telephone, text, email or post to arrange an interview.

The ICE team arrange the first interview under Operation Equal procedures and are responsible for re-arranging interviews if required.

ICE teams should invite the parties to interview using form ICD.4977 giving:

- at least 3 working days' written notice of the date, place and time of the interview, unless other agreements are in place
- details of the date, place and time of the interview verbally or by email, where agreements have been made for an interview with less than 3 days' notice

An interview must take place during normal office hours, unless:

- the relevant party (or parties) agree that an interview may take place outside normal office hours
- an interview has commenced and been substantially completed during normal office hours; it may then continue and be completed outside normal office hours

The person required for interview:

- must reasonably make themselves available so that a date and time can be agreed, the date can be no later than the date specified in the section 48 notice or in the notification
- may be required to agree the date and time for interview, so far as practicable, on behalf of the other relevant party, where an interview is to take place with both relevant parties
- make themselves reasonably available for interview

Whilst every reasonable effort must be made to accommodate the parties preferred time and date of interviews, where that isn't possible, the investigating officer may set an alternative date, place and time.

Re-arranging interviews

Where parties are unable to attend an interview, fail to attend an interview, or fail to attend with any requested documents the investigating officer may decide:

- to rearrange an interview - although the Home Office will not normally agree to rearrange an interview more than once
- that they have [failed to comply](#) with the requirement to be interviewed

For more information see: Enforcement interviews.

Location of interview

As part of an investigation under the referral scheme the ICE team investigating officer may require the interviewee or interviewees to participate in an interview:

- in person or by telephone where the relevant party is [detained](#) under immigration powers or in prison
- in person at their home, or at the other party's home if living at separate addresses
- in person at Home Office premises
- by telephone, video-telecommunications link or over the internet (where the relevant party must be present at Home Office premises)
- by telephone, by video-telecommunications link or over the internet (where the relevant party is not present at Home Office premises)

Where a person is required to attend an interview at Home Office premises in the UK, the notice of the interview must make clear how the interview is to be conducted. Whether this be in person, by telephone, by video-telecommunications link or over the internet, and whether it is to involve the other party.

Visits to outside premises must be conducted in accordance with usual risk assessment and planning protocols.

For further information see the operational planning and briefing, Safety and critical incidents and enforcement interviews guidance.

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, attendance at interview should not be a reason to delay the individual's planned removal from the UK.

The investigating officer should make the 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
- 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.

Compliance decisions under the referral scheme.

Within the 70-day period, a decision must be taken as to 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**.

Both parties and the relevant registration official will be informed of compliance decisions

If the couple have complied with the requirements of the scheme, they will be notified by letter (ICD.4972) – this allows the registrar to grant permission to marry where they are satisfied that there other no legal reason preventing the marriage.

If a non-compliance decision is taken: the parties will be notified 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 about the genuineness of the relationship, and enforcement action on the basis that the proposed marriage or civil partnership is a sham may still be pursued.

Failure to comply with an investigation under the scheme

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.

For further information see the [marriage and civil partnership referral and investigation scheme - statutory guidance](#): section 4, compliance with an investigation guidance.

Notifying a relevant party that they have failed to comply with a requirement

Under regulation 15 of the Proposed Marriages and Civil Partnerships (Conduct of Investigations, etc) Regulations 2015, the Secretary of State (SSHD) may give notice to the relevant party where they believe that the party has failed to comply with a requirement of the investigation. The notice (ICD.4971) should be in writing and:

- state that the SSHD believes that the relevant party has failed to comply with a requirement and giving the reasons for that belief
- require the relevant party to contact the Home Office within the period stated (which may not be less than a period of 3 working days beginning with the day on which the notice is given) with a view to complying with that (and any other) requirement
- include relevant Home Office contact details - the notice may require the relevant party to make contact by telephone

For further details of compliance and non-compliance actions, see: Operational Equal implementation process.

Related content

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Post investigation actions

This page provides information on the processes and actions following an investigation under the marriage and civil partnership referral and investigation scheme, and other marriage investigations.

Role of European casework

European casework has a number of important roles within European Economic Area (EEA) marriage investigations including:

- close liaison between Immigration Compliance and Enforcement (ICE) teams and European casework, which is important in tackling sham marriage and other abuses of the EEA family route through administrative action
- requesting ICE teams to investigate a suspected abusive application, which cannot be refused solely on the papers; this is important to reducing and deterring abuse of the EEA route.
- visits may also lead to intelligence on other offending, with consequent arrests and removals
- prioritising EEA applications that are made at the last minute in an attempt to delay or prevent removal

If you are considering the removal of an individual who still has a pending application for a residence card which is based on a sham marriage or sham civil partnership, you should contact European casework to request consideration for immediate refusal.

In most cases, an appeal against **refusal** of an EEA residence card is likely to be non-suspensive (that is, it does not necessarily suspend removal), depending on the individual case circumstances. There may be additional factors to be taken into account. It is different to an appeal against a **removal decision** which will, in most circumstances, suspend removal. See Returns preparation: case conclusion for full information on suspensive and non-suspensive appeals

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Genuine relationships involving EEA nationals

Where there is evidence that a non-EEA immigration offender is now genuinely married to an EEA national, you must **not** serve enforcement papers on the non-EEA national immigration offender. This is regardless of whether an application has been made for a residence card under the EEA Regulations.

However, you **can** serve enforcement papers where a person meets **all** of the following criteria:

- is the genuine unmarried partner of an EEA national
- does not yet hold an EEA residence card
- is an immigration offender

This is because a person has no rights under European Union (EU) law as an unmarried partner of an EEA national until they have been issued a residence card on this basis. In such circumstances, you must advise them to submit an application on this basis and ask European casework to expedite any application received. If no application is submitted within a reasonable timeframe, you can proceed with removal action.

You may also encounter a marriage where one party to the marriage has been deceived by their partner and believes they are entering into a genuine marriage. If, following interview, it is clear that the EEA national believed they were entering into a genuine marriage and that, they have not engaged in fraud or abuse; you must not serve removal papers on the EEA national. You must refer to [other investigations into suspect marriages](#) for guidance on processing the non-EEA national who has deployed the deception.

Removal decisions and revoking residence cards

The various removal pathways are laid out in [summary: sham marriage removal pathways](#).

Where a non-EEA national has been issued with a document by the Home Office confirming a right of residence under EU law, any removal action **must** be taken under the EEA Regulations 2016.

Documents issued to non-EEA nationals to confirm EU law rights are:

- EEA family permit
- UK issued residence card
- UK issued permanent residence card

In these cases a removal decision should be taken under [regulation 23\(6\)\(a\)](#) of the EEA Regulations 2016 which automatically invalidates the residence card. An appeal against removal under regulation 23(6) will suspend removal.

Where no EU rights exist, and no EEA documentation has been issued, normal provisions for removing a non-EEA national will apply. You can proceed with removal in accordance with [part 1, section 1, of the Immigration Act 2014](#) if the person requires leave to enter or remain in the UK but does not have it.

If extant leave to enter or remain (such as work or student leave) needs to be curtailed, the curtailment caseworker will make a simultaneous removal decision under [section 47 of the Immigration, Asylum and Nationality Act 2006](#).

If an individual has both falsely obtained a residence card and existing leave to enter or remain, make the regulation 23(6)(a) decision first. The existing leave can then be curtailed as detailed previously.

Where you are not satisfied that a claim to be a family member is genuine, but the person cannot be detained because of other barriers to removal, you must refer the case to Returns Preparation.

For further information see the EEA administrative removal, EEA guidance: decisions taken on public policy or public security grounds, curtailment and non-EEA administrative removal notification guidance.

Action against EEA nationals contracting sham marriages

Changes to the public policy and public security provisions of the [Immigration \(European Economic Area\) Regulations 2016](#) commenced on 1 February 2017.

The changes mean that an EEA national involved in a marriage, civil partnership or durable partnership of convenience is subject to a public policy decision can be removed from the UK by means of a time-limited deportation, order rather than an administrative removal, as was the case under the EEA Regulations 2006.

A decision to deport on the grounds of public policy can be considered where there are reasonable grounds to suspect **an EEA national** has entered into, attempted to enter into, or assisted another person to enter into or attempt to enter into, a marriage, civil partnership or durable partnership of convenience.

Such decisions can be made under regulation 23(6)(b) of the [EEA Regulations 2016](#), only where this is considered proportionate.

For further information see the EEA guidance: decisions taken on public policy or public security grounds guidance.

Genuine relationships involving non-EEA or British nationals

Where notice has been given, or a marriage taken place, involving a person with no valid leave and a non-EEA or British national, you should consider serving enforcement papers and proceeding with appropriate removal action. Regardless of whether the relationship appears to be genuine.

For further information see the EEA administrative removal guidance.

Visit and office interview outcomes

This section provides guidance about:

- reporting evidence to casework teams to consider curtailing leave of a non-EEA national involved in a suspected sham marriage
- consideration of action to be taken against an EEA national suspected of involvement in a sham marriage
- who and what should be reported for intelligence purposes

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Non-EEA fast track curtailment: referrals

There is a fast-track process for Immigration Enforcement staff to refer non-EEA nationals with pre-existing leave who have been involved in sham marriage, for curtailment on conduct, character or associations grounds.

If notice of liability to removal was served within the curtailment letter, a RED.0001 is not required for removal.

For further information see the curtailment: curtailment in sham marriage cases guidance.

Initial referral to curtailment team

You must alert the curtailment team as soon as possible to a likely curtailment case. For example, if you have been tasked with an office interview or operation where an individual is suspected of trying to enter a sham marriage and has existing leave. This enables them to prepare and they will be able to deal with the referral quickly when it comes through. You must also let them know as soon as possible on the day whether the relationship has proved to be genuine or not.

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Submission of evidence for curtailment

Once the investigation has been concluded and the evidence assembled, you will need to send to the curtailment team:

- the IS126, clearly summarising the evidence
- results of the background checks you have conducted
- the supporting evidence (for example the record of the marriage interview) faxed or scanned for attachment to an email

If it is not possible to scan or fax the evidence, for example you are out of the office with no access to equipment, take a legible photograph of each sheet and email those.

The decision about whether curtailment is appropriate will be made by the casework team, using the evidence you provide. Evidence to be used in curtailing leave must be (all apply):

- factual (not just an allegation)
- disclosable (in court, such as an immigration appeal)
- able to stand up to scrutiny if legally challenged

Evidence must also show that on the balance of probabilities the marriage or civil partnership is a sham and therefore it is undesirable to allow the person to remain in the UK (or whatever grounds are likely to be relied on).

You must summarise the evidence on an IS126 Immigration Officer's report outlining how you encountered the individuals and the evidence for concluding the marriage or civil partnership is a sham. Also, highlight the important points, for example discrepancies in the responses to your questions and the conclusions you have drawn from them.

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When they curtail leave, the person will become liable to removal under section 10 (as amended by the Immigration Act 2014).

Related content

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Handling intelligence on suspected sham marriages

This page provides information on handling intelligence gathered throughout any of the marriage investigations and schemes.

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

Intelligence and data sharing

It is vital that, where a sham marriage is suspected, Immigration Compliance and Enforcement (ICE) team members, or investigating officers, identify and collect information as part of the sham marriage investigation. Information will inform understanding of the wider threat from the sham marriage and can support criminal 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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