



Home Office

# Suitability: Sham marriage or civil partnership

Version 2.0

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# About this guidance

This guidance tells caseworkers when entry clearance, permission to enter or permission to stay in the UK may be refused or cancelled on the grounds that a person is involved in a sham marriage.

Within this guidance the more generic term of 'sham marriage' has been used but where appropriate this includes sham civil partnerships.

This guidance must be used for decisions made after 9am on 1 December 2020.

## 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 the Migrant Criminality Policy Team.

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 **2.0**
- published for Home Office staff on **10 November 2021**

## Changes from the last version of this guidance

All internal Horizon links have been updated to those on the SharePoint guidance platform.

### Related content

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# Introduction

This section explains how to refuse or cancel entry clearance, permission to enter or permission to stay on the grounds of involvement in a sham marriage or civil partnership.

## Background

On 1 December 2020, [the Immigration Rules](#) were amended to introduce a more robust and consistent framework against which immigration applications are assessed or permission cancelled on suitability grounds. Paragraph 9.6.1. of the Immigration Rules provides that an application for entry clearance, permission to enter and permission to stay **may be refused** where it is more likely than not that the applicant is, or has been, involved in a sham marriage or sham civil partnership. Paragraph 9.6.2. of the Immigration Rules provides that entry clearance or permission **may be cancelled** where it is more likely than not that the person is, or has been, involved in a sham marriage or sham civil partnership.

Under [sections 24 and 24A of the Immigration and Asylum Act 1999](#) a sham marriage or civil partnership is one in which:

- one or both of the parties is not a relevant national
- either or both of the parties enter into the marriage or civil partnership for the purpose of circumventing UK immigration controls
- there is no genuine relationship between the parties

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

[The Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#) will amend the definition at the end of the grace period. From 1 July 2021, a relevant national includes:

- a British citizen
- an Irish citizen
- a person with settled status or pre-settled status granted under the EU Settlement Scheme (EUSS)
- a person with a decision pending on an application for EUSS leave submitted before 1 July 2021

You may refuse or cancel permission where, on a balance of probabilities, it is considered that the individual has knowingly entered, or attempted to enter, into a sham marriage or civil partnership, or has assisted another person to enter into, or attempt to enter into, a sham marriage or civil partnership (whether or not they were successful).

## Case law

In [Sadovska vs SSHD](#) the Supreme Court confirmed that the burden is on the Home Office to prove that there is a marriage of convenience, upholding previous case-law. Marriages of convenience are, for immigration purposes, synonymous with sham marriages. The standard of proof is the balance of probabilities (it is more likely than not).

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# Marriage investigations

This section explains when an investigation into a marriage or civil partnership may be necessary to establish whether the relationship is a sham.

The purpose of a marriage investigation is to determine whether on the balance of probabilities it is more likely than not that the marriage or civil partnership (proposed or substantive), is considered as a sham. This requires an assessment of the genuineness of the relationship and of any potential or actual advantage that relationship would create by circumventing UK immigration controls.

Suspicious that a relationship may be a sham may arise as a result of any of the following circumstances:

- in relation to UK marriage preliminaries (the marriage referral and investigation scheme) where the Home Office chooses to investigate prior to the marriage or civil partnership.
- following intelligence or other Immigration Enforcement (IE) encounters that raise reasonable suspicions that a relationship may be a sham
- Criminal investigations into sham marriages and related offences
- following applications for permission to enter or remain in the UK based on spousal relationships
- following applications for a marriage visitor visa UK to enter to UK for marriage tourism

The above list is not exhaustive.

You must be satisfied that there are reasonable grounds for suspecting that the marriage is a sham before deciding whether to investigate a marriage or civil partnership.

In country marriage investigations into sham marriages and civil partnerships are conducted in accordance with the Marriage investigations guidance.

## **Related content**

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# Making a decision

This section tells you what you must consider when making an immigration decision on a case that involves a sham marriage.

Involvement in a sham marriage or civil partnership is a discretionary ground for refusal or cancellation of permission. Unlike in criminal cases, you do not need to prove beyond all reasonable doubt before you refuse or cancel permission on the grounds of being involved in a sham marriage or civil partnership. You must carefully weigh up all the circumstances of the case and decide if there is sufficient evidence to say on the balance of probabilities that a person was involved in a sham marriage or civil partnership, or whether it is appropriate to exercise discretion in the person's favour.

You must not automatically refuse or cancel permission if there are reasons that suggest it may not be appropriate to do so, and any decision to take action on sham marriage or civil partnership grounds must be taken based on the individuals' specific circumstances. For example, a person who is resident in the UK may have established a family or private life here regardless of the sham marriage. While this does not mean that a person will automatically be allowed to remain in the UK on this basis you must factor it into your consideration. See Family life (as a partner or parent), private life and exceptional circumstances.

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

You must make the decision. You must fully evaluate all relevant evidence or information about the individual and their circumstances, before you reach a decision on whether or not to refuse or cancel their stay on sham marriage or civil partnership grounds. The decision must be made on the balance of probabilities.

Depending on the specifics of your case, you must consider action on sham marriage grounds in accordance with the following guidance:

- 'Removal pathways' in Marriage investigations
- EEA decisions on public policy, public security and public health
- 'Consideration and notification' in Liability to administrative removal
- General guidance on Applications from family members of persons settled in the UK
- General guidance on Refusing EEA nationals at the border

You must reflect in your case notes and decision letter that you have appropriately considered:

- all the available evidence
- the exercise of discretion

If it is decided that removal action is appropriate on sham marriage grounds, you must refer to 'removal pathways' in Marriage investigations for the options for removing an individual from the UK due to their involvement in a sham marriage.

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## Conviction for a sham marriage related offence

If you become aware that the individual has a conviction for a sham marriage related offence, you must consider whether refusal is appropriate on the grounds of criminality.

### Related content

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# Refusal and cancellation wording

Grounds	Rule	-
Refusal	9.6.1.	<p>You have applied for [entry clearance/permission to enter the UK/permission to stay in the UK] as [route] but I am satisfied that it is more likely than not, that you are/have been involved in a sham marriage/civil partnership because [Insert detailed reasons and consideration.]</p> <p>Having considered the circumstances of your case I am satisfied that it is not appropriate to exercise discretion in your favour. I therefore refused your application for [entry clearance/permission to enter the UK/permission to stay in the UK] under paragraph 9.6.1. of Part 9 of the Immigration Rules.</p>
Cancellation	9.6.2.	<p>On [date] you were granted [insert details of entry clearance/permission]. However, I am satisfied it is more likely than not that you are/have been involved in a sham marriage/civil partnership because [Insert detailed reasons and consideration.]</p> <p>Having considered the circumstances of your case I am satisfied that it is not appropriate to exercise discretion in your favour. Your [entry clearance/permission to enter the UK/permission to stay in the UK] is therefore cancelled under paragraph 9.6.2. of Part 9 of the Immigration Rules. This means that you no longer have entry clearance for the UK/permission to enter or stay in the UK. This decision has immediate effect.</p>

## Related content

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