



Home Office

# Marriage investigations

Version 5.0

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# About this guidance

This guidance tells you about marriage investigations.

This guidance is primarily aimed at:

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

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

## Contacts

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

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

## Publication

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

- version **5.0**
- published for Home Office staff on **8 June 2021**

## Changes from last version of this guidance

Update of curtailment provision in line with change to the Immigration Rules.

### Related content

[Contents](#)

# EU Exit and sham marriage

This section provides you with an overview of amendments to the UK sham marriage provisions following the end of free movement.

## Overview

On 31 December 2020 the [Immigration \(European Economic Area\) Regulation 2016](#) ('the EEA Regulations') were revoked and EU free movement ended. As a result, from 1 January 2021, free movement rights under Directive 2004/38/EC cease to have effect in the UK and EEA citizens and their family members will require permission to enter and remain in the UK.

For EEA citizens and their family members lawfully resident in the UK before the end of the transition period on 31 December 2020, who do not yet have leave under the [EU Settlement Scheme](#) (EUSS), their residence rights in the UK are protected under the [Citizens' Rights \(Application Deadline and Temporary Protection\) \(EU Exit\) Regulations 2020](#). Their right of residence will continue to be protected during the grace period which runs between 1 January 2021 and 30 June 2021.

EEA citizens and their family members resident in the UK and reliant upon their EU free movement rights before the end of the transition period (31 December 2020) should seek to regularise their immigration status by making an application to the EUSS before the end of the grace period (30 June 2021). See: the EUSS and EEA guidance for full details on the EUSS and EEA applications.

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

## From the end of the transition period

After 23:00 GMT 31 December 2020, when the transition period ends, the removal options following a sham marriage determination will depend on:

- immigration status
- any admission or residence rights under the EEA Regulations, as saved or frontier workers regulations ([Citizens' Rights \(Frontier Workers\) \(EU Exit\) Regulations 2020](#)) that are protected by the Withdrawal Agreements (the EU Withdrawal Agreement, the EEA EFTA Separation Agreement and the Citizens' Rights Agreement with Switzerland)
- whether the relevant conduct commenced before or after the end of the transition period

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

## During the grace period

Until and including 30 June 2021:

- EEA citizens will remain exempt from the sham marriage scheme if they are seeking to marry another EEA national, British citizen or a non-EEA national with the 'appropriate immigration status' and can continue to use their EEA passport or national ID card as evidence of nationality when giving notice to marry or form a civil partnership
- non-EEA nationals who are family members of EEA citizens who provide evidence of having EUSS indefinite leave to enter or remain (settled status), will be treated as having 'appropriate immigration status' which will exempt them from the sham [marriage scheme](#)

See also: 'Guidance for Immigration Enforcement in respect of EU, other EEA and Swiss citizens and their family members'

## After the grace period

From 1 July 2021:

- EEA citizens who do not have status under the EUSS or a decision pending on an EUSS application submitted before 1 July 2021 are within scope of the sham marriage referral and investigation scheme
- British and Irish citizens remain exempt from the sham marriage scheme
- non-EEA nationals and EEA citizens with status under the EUSS or a decision pending on an EUSS application submitted before 1 July 2021 are exempt from the sham marriage scheme
- EEA citizens, except Irish citizens and those with status under the EUSS or a decision pending on an EUSS application submitted before 1 July 2021, will require a mandatory marriage visitor visa if they are travelling to the UK to marry or form a civil partnership whilst visiting

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

## Pending EUSS applications

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

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**Related content**

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# Definitions

This section tells you about definitions used in this guidance.

## Sham marriage, civil partnership and durable partnership.

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

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

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

## Relevant national

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 is:

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

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

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

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

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

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

## Forced marriages

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

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

See also: identifying people at risk guidance.

## Arranged marriages

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

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

## Marriage by proxy

A proxy marriage or civil partnership is where one of the contracting parties has appointed someone (a 'proxy'), to represent them at the ceremony. Marriages by proxy can be open to abuse and where encountered must be thoroughly investigated in line with guidance. Proxy marriages in EEA applications should be referred for a full marriage interview as standard practice.

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

**Related content**  
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# Sham marriage determinations

This section tells you about sham marriage determinations.

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

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

- entered into a 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 (whether or not they were successful)

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

## Burden and standard of proof

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

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

See: [post investigation actions](#)

### Related content

[Contents](#)

# Sham marriage intelligence and data sharing

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

## Section 24 duty to report sham marriages

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

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

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

## Handling sham marriage intelligence

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

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

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

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## **Suspected victims of trafficking**

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

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

- Victims of modern slavery
- Identifying people at risk
- Criminality investigations (Immigration Enforcement)

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

**Related content**

[Contents](#)

Data sharing in enforcement cases

# Types of marriage investigation

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

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

Investigations into suspected sham relationships fall into four broad categories:

- [investigations undertaken as part of the sham marriage scheme](#)
- [investigations following applications for leave](#)
- [investigations following intelligence, tasking or other encounters](#)
- [criminal investigations into sham marriages](#)

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

## The marriage referral and investigation scheme

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

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

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

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

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

- a 'relevant visa' such as a marriage or civil partnership visitor visa, or fiancé(e) or proposed civil partner visa or leave.
- an 'appropriate immigration status' because they are settled in the UK or are exempt from immigration control

During the grace period, any non-EEA citizen who provides the required evidence of having EUSS settled status must be treated as having an 'appropriate immigration status' under the scheme. This does not include pre-settled status. After the grace period ends, from 1 July 2021 any non-UK citizen providing the required evidence of having either EUSS settled or pre-settled status will be treated as a relevant national.



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

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

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

## Conduct of investigation under the scheme

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

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

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

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

## Genuineness of relationship

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

The investigation officer must aim to inform the registration officer of the outcome of the investigation, including the compliance decisions by the 65th day, where possible.

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

## The compliance decision

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

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

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

### Failure to respond

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

### Weighting of compliance decision

The purpose of the investigation is to establish the genuineness of the relationship. Therefore, if it is possible to establish that the relationship is genuine, even where the couple failed to present all required documents or requests officers should consider:

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

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

If either party fails to comply, they must be notified and given an opportunity to contact the Home Office with a view to complying. The person must be given at least 3 working days from receipt of the notification in which to reply. Notification given in person or by e-mail is considered to have been received on that date. If sent by post notification is considered to have been received two working days after the date of dispatch.

### Consequences of the compliance decision

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

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

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

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

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

## Roles and responsibilities under the scheme

### Marriage Referral and Assessment Unit (MRAU)

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

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

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

Following triage, all referrals are allocated either a:

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

MRAU process these outcomes and are required to send letters confirming whether or not the couple will be investigated, within 28 days of the couple giving notice to

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

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

## **Immigration Enforcement (IE) Investigation Officers**

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

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

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

- arranging and conducting office interviews and collating evidence to establish whether a relationship is genuine or not in accordance with guidance on [conduct of investigation under the scheme](#)
- conducting home visits to subjects on behalf of casework teams where:
  - involvement in 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 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 case work teams to:
  - pursue cancellation of any extant leave
  - refuse or revoke any pending residence card application
  - refuse any pending leave to enter or remain application, including to the EUSS
  - 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 Immigration Intelligence through the Intelligence Management System (IMS)
- identifying, collecting and reporting useful intelligence, such as emerging patterns or trends of abuse and information about suspected facilitators or 'fixers', encountered during the course of their activities to IMS, where the information is processed by the Receive Evaluate Develop Intelligence Team (RED team) and referred to Operational Intelligence Units (OIUs) or Crime Development Team (CDT) if additional criminal or financial investigation is required

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

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

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

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

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

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

## Investigations following applications for leave

### Appendix FM

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

### EEA applications

UKVI case workers will continue to make decisions during the grace period on pending EEA applications submitted on or before 31 December 2020 and, where appropriate, on any application for a family permit submitted validly after 31 December 2020 in accordance with [paragraph 3\(2\) of Schedule 3 to the Immigration and Social Security Co-ordination \(EU Withdrawal\) Act 2020 \(Consequential, Saving, Transitional and Transitory Provisions\) \(EU Exit\) Regulations 2020](#)

UKVI case workers considering applications such EEA documents must do so in accordance with the Free Movement Rights: direct family members of European Economic Area (EEA) nationals guidance.

### All UKVI investigations

Where UKVI are considering any application based on a marriage or a civil partnership, they may invite the couple for an interview or alternatively commission a home visit if there are reasonable suspicions that the relation is not genuine. These cases will be tasked to IE Investigation Officers.

UKVI case workers may encounter applications for leave from couples where the Home Office previously investigated a proposed marriage or civil partnership where there were reasonable grounds to suspect the relationship was a sham, but ultimately no sham marriage determination was made. In such circumstances, where new, significant, or compelling information comes to light raising reasonable suspicion about the genuineness of the relationship again, decision makers may arrange a marriage interview or make further enquiries.

In all cases where a sham marriage determination is made, the decision maker must determine if discretionary action to refuse or cancel leave, and subsequent removal from the UK is appropriate

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

## IE investigations following tasking or other encounters

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

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

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

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

See: [Criminal investigations](#)

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

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

If you have reasonable grounds to suspect that:

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

you must investigate further.

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

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

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

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

## Visits to residential premises

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

## Unannounced marriage investigation visits

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

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

If no one is at the premises when the visit takes place, officers may consider speaking to neighbours about who lives at the residential address. At least 2

attempts must be made to visit the couple at the premises subject to operational resources.

## Actions during a marriage visit

You must record interviews on PRONTO or on form ISCP4 and ISCP4 continuation as this provides good evidence for an appeal bundle or curtailment decision and immigration judges prefer verbatim interview records. You must also complete an IS126e outlining your conclusions as a cover to the interview record.

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

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See also: Enforcement Visits

## Criminal investigations

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

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

The main types of offences relating to sham marriages are:



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

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

You must notify Criminal and Financial Investigations (CFI) through your local CFI team manager at any stage where either of the following apply:

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

This allows a joint response to be agreed with CFI.

For more information see: Criminal investigations (Immigration Enforcement)

#### **Related content**

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# Marriage interviews

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

All marriage interviews are administrative interviews, with the exception of those taking place as part of a criminal investigation.

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

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

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

For example, the relevant party or parties might be asked about:

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

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

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

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

For further guidance on assessing whether a marriage or civil partnership is genuine, see: Validity of marriages and Appendix FM Section 2.0 - Genuine and subsisting relationship.

## Key elements for each marriage interview

### Genuineness of relationship

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

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

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

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

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## Credibility and reasonableness

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

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

## Complicity of each party

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

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

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

## Length of UK residency

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

Length and lawfulness of UK residency is especially important where you are investigating an EEA national who has, or is eligible for, status under the EUSS, who engaged in sham marriage behaviour before 1 January 2021. In these cases length and lawfulness of residency in the UK under the EEA Regulations indicates the applicable level of grounds required for the public policy decision, for example a person who has been lawfully resident under the EEA Regulations for 5 years of more requires 'serious grounds of public policy or public security', whilst an EEA national lawfully resident for 10 years of more would require 'imperative grounds of public security as detailed in EEA decisions taken on public policy grounds.

## Date the sham marriage abuse commenced

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

## Record of the interview

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

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

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

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

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

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

Officers must also be aware that all interview records may be used for evidential purposes.

Marriage investigation and referral scheme investigations are subject to additional regulations and must be conducted in accordance with statutory guidance for Home Office staff; if requested by the individual at the end of the interview, a written copy of the interview transcript must be provided. Please refer to [conduct of investigation under the scheme](#).

## No comment responses

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

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

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

## Interviews while detained

A party detained in an Immigration Removal Centre (IRC) or in prison can be required to attend an interview conducted in person or by telephone. However, 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.

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

## Interviews in residential premises

If further evidence is required to confirm residential arrangements of a couple who are subject to an ongoing marriage investigation, a team may be requested to conduct a compliance visit to confirm whether the parties still live at the address.

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

Marriage investigation and referral scheme investigations are subject to additional regulations; if you are conducting a scheme interview by agreement, in residential

property or non-Home Office premises, please refer to [conduct of investigation under the scheme](#).

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# Post investigation actions

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

A sham marriage investigation should determine whether or not, on a balance of probabilities, it is considered that the individual has knowingly:

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

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

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

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

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

The power to cancel or refuse immigration leave following a sham marriage determination is discretionary and must be applied proportionately on a case-by-case basis, depending on the nature of the conduct and circumstances of the individual. As such, you must not automatically refuse or cancel leave if there are reasons that suggest it may not be appropriate to do so. You must reflect in your case notes and decision letter that you have considered:

- all the available evidence
- the exercise of discretion

You must also carefully consider:

- the duty in [section 55 of the Borders, Citizenship and Immigration Act 2009](#) to have regard to the need to safeguard and promote the welfare of a child in the

UK, together with Article 3 of the UN Convention on the Rights of the Child, which mean that consideration of the child's best interests must be a primary consideration in immigration and nationality decisions affecting them. For further information in relation to the section 55 duty, see [every child matters](#) and introduction to children and family cases

You must consider the following:

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

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 to refuse or cancel their stay on sham marriage grounds. The decision must be made on the balance of probabilities and must identify the relevant grounds under which you are cancelling or refusing any leave.

## EUSS checks

Before taking any enforcement action you must check:

- PEGA to see if there is a pending EUSS application or
- Proviso to see if there is a pending EUSS family permit or travel permit application

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

## Pending EEA applications

If you are considering the removal of an individual who has a pending EEA application for a residence card application which is based on a sham marriage or sham civil partnership, you must 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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## Sham marriage related convictions

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

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

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

## Overstayer and illegal entrants

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

## Culpability and proportionality

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

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

## Students

You must inform UKVI of any students suspected of being involved in a sham marriage or civil partnership.

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You must also update your digital notebook via the police reporting and notebook organiser PRONTO with the outcome of any visits, using the intelligence debrief and

recording processes. You must refer this information directly to the relevant local intelligence unit for consideration and further development in cases where:

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

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# Removal Pathways

This section tells you about the removal options for people who are the subject of a sham marriage determination.

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

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

- their immigration status
- any protection the person has under the withdrawal agreements and whether the 'relevant conduct' commenced before or after the end of the transition period on 31 December 2020

## Withdrawal agreement protection

For the purpose of the sham marriage removal pathways guidance the following are considered to have protection under the withdrawal agreement:

- a person with EUSS leave (settled or pre-settled status)
- a person who does not have EUSS leave but is eligible to apply to the EUSS within the grace period (up until 30 June 2021)
- a person eligible to apply to the EUSS who applied before the end of 30 June 2021 and a decision on their application or an appeal against the decision is pending
- a person with leave as a service provider from Switzerland
- a person with leave as a S2 healthcare visitor
- a frontier worker who was working in the UK in that capacity before the end of the transition period, where the relevant conduct took place before the end of transition period

## Determining when relevant conduct commenced

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

## Participant or facilitator

Where a person or couple have taken part, or attempted to take part, in a sham marriage you can consider the relevant conduct to have started when they are confirmed to have first acted to gain an immigration advantage through the relationship.

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

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

## Single or multiple determinations

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

Where a person who may have protected rights under the withdrawal agreement is the subject of a one or more sham marriage determinations, you must establish whether the relevant conduct began before the end of the transition period (before 23:00 GMT 31 December 2020) or after the end of the transition period for each determination and following the relevant sections below in [withdrawal agreement protection: pre transition period conduct](#) and [Withdrawal Agreement protection: post transition period conduct](#) respectively.

Where a person who may have protected rights under the Withdrawal Agreement is the subject of multiple sham marriage determinations with a mix of pre and post transition period conduct, but action against the pre transition period conduct has either not been taken, or has been concluded, you must refer to the process for decisions on [withdrawal agreement protection: post transition period conduct](#) for the appropriate action, noting that you:

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

## Individuals with withdrawal agreement protection: pre-transition period conduct

### Public policy grounds

[Paragraph 6\(a\) of Schedule 1](#) to the [EEA Regulations, as saved](#) recognises involvement in a sham marriage as an abuse of rights or fraud and that where a person has been involved in a sham marriage it is consistent with public policy and public security requirements that a decision may be taken to refuse, terminate or withdraw any right conferred by the EEA Regulations.

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

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

## EEA or Swiss nationals, service providers from Switzerland and S2 Healthcare visitors

In the case of the above cohorts, where involvement in the sham marriage began before the end of the transition period, the person is liable to deportation on [grounds of public policy](#) under regulation 23(6)(b) of the [EEA](#) Regulations, in accordance with regulation 27 of the EEA Regulations:

### Frontier workers

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

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

Where deportation action is to be pursued the EEA stage one and stage two deportation notices must state that the decision is being taken on grounds of public policy and provide detailed reasons for the sham marriage determination. You must also demonstrate that you have considered the proportionality of your decision.

There is a [right of appeal](#) against the decision to deport.

A deportation order invalidates any EUSS leave the person already holds, and frontier workers' rights of admission.

For post transition conduct see: [Individuals without protection under the withdrawal agreements](#)

See also: frontier worker permit guidance

## Third Country Nationals: genuine family members

A third country nationals (TCN) who is a genuine family member of an EEA national who, before the end of the transition period facilitated a sham marriage for another person or persons, may be liable to deportation on [grounds of public policy](#) under regulation 23(6)(b) of the EEA Regulations, as described above.

For TCNs who obtained withdrawal agreement protection on the basis of a relationship that began before the end of the transition period, but was subsequently determined as a sham marriage see [Third Country Nationals: Withdrawal Agreement protection obtained through deception](#)

## Individuals with withdrawal agreement protection: post transition period conduct

### Holds EUSS leave

Where a person's involvement in a sham marriage, including assisting or attempting to assist the sham marriage, is believed to have started after the end of the transition period, existing EUSS limited leave to enter or remain may be curtailed under paragraph A3.4. (b) of Annex 3 to [Appendix EU](#) of the Immigration Rules.

EUSS indefinite leave obtained by deception as a result of a sham marriage may be [revoked](#) under section 76(2) of the Nationality, Immigration and Asylum Act 2002.

As there is a right of appeal against the decision to curtail or revoke EUSS leave you must await the final outcome of any appeal before considering [section 10 administrative removal](#).

### Grace period savings apply: eligible to EUSS, pending EUSS application, or outstanding EUSS appeal

Where a person's involvement in a sham marriage occurred after the end of the transition period but they are subject to the grace period savings (had rights of residence under the EEA regulations prior to 1 January 2021 but have yet to apply to the EUSS, or have a decision or appeal pending on an EUSS application), they are liable to deportation on the ground the decision is **conducive to the public good** under regulation 23(6)(b) and in accordance with regulation 27A of the EEA Regulations.

### Service provider from Switzerland or S2 Healthcare visitor

It is possible that a service provider from Switzerland or S2 Healthcare visitor will be found to have assisted or attempted to assist a sham marriage. Where a sham marriage determination shows that an individual from either cohort has been involved in a sham marriage after the end of the transition period, you may cancel their permission provided you are satisfied that it is proportionate to do so on the ground that:

- cancellation is justified on the ground that it is **conducive to the public good**, on the basis of the person's conduct after 23:00GMT 31 December 2020

The relevant cancellation provisions in the Immigration Rules are:

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

There is a right of appeal against the cancellation of leave for S2 Healthcare visitors where the leave is cancelled from 23:00 GMT 31 December 2020. If the person



exercises their right of appeal, you must wait for the appeal to be finally concluded before considering administrative removal action.

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

## Conducive to the public good

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

Where deportation action is to be pursued the EEA stage one and stage two deportation notices must state that the decision is being taken on the ground the decision is conducive to the public good and provide detailed reasons for the sham marriage determination. You must also show that your decision to deport is proportionate.

## Third Country Nationals: withdrawal agreement protection obtained through deception

A TCN who obtained EEA rights or withdrawal agreement protection, on the basis of a relationship that began before the end of the transition period but subsequently determined to have been a sham marriage, is liable for administrative removal under [section 10](#) of the Immigration and Asylum Act 1999.

Administrative removal action must only be considered or pursued after any appeal against the refusal of an EUSS application or curtailment or revocation of EUSS leave, is finally dismissed, withdrawn or abandoned. This is also dependent on the person not having or being eligible for leave to enter or remain in the UK on an alternative basis.

The administrative removal decision notice must clearly state the reasons why it was determined that the person was involved in a sham marriage, and that they are liable for removal under section 10 of the Immigration and Asylum Act 1999 as someone without leave to enter or remain in the UK.

## EUSS applications

Pending EUSS applications should be considered for refusal. Potential removal action will depend on the decision taken on the EUSS application and, where relevant, any appeal. See EUSS suitability guidance.

## Individuals without protection under the withdrawal agreement

### No leave held and not eligible for the EUSS

Provided the person does not have a criminal conviction relating to the sham marriage that would warrant deportation, you must consider administrative removal under [section 10](#) of the Immigration and Asylum Act 1999.

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

### Holders of other forms of leave

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

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

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

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

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

### Section 10 administrative removal: fast-track cancellation of leave

A person who is the subject of a sham marriage determination and is being considered for section 10 administrative removal, can be referred for cancellation of existing leave through the fast-track process. After extant leave had been cancelled, the person will become liable to removal under section 10.

This fast-track process does not include cancellation of leave granted under Appendix Armed forces, Appendix EU, or Appendix EU (family permit).

For guidance on this fast-track process see: Cancellation of entry clearance and permission guidance.

## Summary: removal pathways from 1 January 2021

This table provides a summary of the various sham marriage removal pathways scenarios for pre and post end of transition period conduct:

Immigration status	Relevant conduct	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
<p>EEA or Swiss national, or TCN genuine family member</p> <p>No EUSS leave but grace period savings apply (had residence rights under EEA Regulations before 1 January 2021 and has yet to apply to the EUSS, or has a decision or appeal pending on an EUSS application.</p>	<p>EEA or Swiss national: facilitator or participant</p> <p>TCN genuine family member: facilitator</p>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27</li> </ul>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on conducive grounds</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27A</li> </ul>
<p>EEA or Swiss national, or TCN family member</p> <p>Has EUSS leave (limited or indefinite leave to enter or remain)</p>	<p>facilitator or participant</p>	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27</li> </ul>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999:</b></p> <ul style="list-style-type: none"> <li>on sham marriage grounds</li> <li>after curtailment or revocation of EUSS leave and once those decisions are appeals right exhausted (ARE)</li> </ul>

Immigration status	Relevant conduct	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
			<p>Curtail EUSS limited leave under Annex 3 of <a href="#">Appendix EU</a> to the Immigration Rules, using:</p> <ul style="list-style-type: none"> <li>paragraph A3.4 (b) where person was involved in sham marriage, including facilitation, after the end of the transition period</li> </ul> <p><a href="#">Revoke</a> EUSS indefinite leave obtained by deception under section 76(2) of the 2002 Act.</p>
Service provider from Switzerland or S2 Healthcare visitor	Involvement is likely to be facilitation	<p><b>Deportation under the <a href="#">EEA Regulations</a>:</b></p> <ul style="list-style-type: none"> <li>on grounds of public policy</li> <li>under regulation 23(6)(b)</li> <li>in accordance with regulation 27</li> </ul>	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999:</b></p> <ul style="list-style-type: none"> <li>on sham marriage grounds</li> <li>only after curtailment or revocation of EUSS and</li> <li>is ARE</li> </ul> <p>Cancel limited permission on conducive grounds under the Immigration Rules:</p> <ul style="list-style-type: none"> <li>SPS 9.1.(b) of Appendix Service Providers from Switzerland</li> <li>HV 11.1.(b) Appendix S2 Healthcare Visitor</li> </ul>
Frontier worker	Involvement is likely to be facilitation	<p><b>Deportation under regulation 15(1)(b) of the <a href="#">Citizens' Rights (Frontier</a></b></p>	<p><b>Refer the case to migrant criminality policy</b> before taking any action</p>

Immigration status	Relevant conduct	Removal pathway: pre end of transition period conduct	Removal pathway: post end of transition period conduct
		<p><a href="#">Workers) (EU Exit) Regulations 2020:</a></p> <ul style="list-style-type: none"> <li>• on public policy grounds:</li> <li>• under regulation 18</li> </ul>	
Other types of leave	facilitator or participant	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999:</b></p> <ul style="list-style-type: none"> <li>• on sham marriage grounds</li> <li>• simultaneously curtail or revoke extant leave: refer to the <a href="#">fast track process for cancellation of leave</a></li> </ul> <p><b>Cancel limited leave or permission to enter or stay:</b></p> <ul style="list-style-type: none"> <li>• on sham marriage grounds under paragraph 9.6.2. in Part 9 of the Immigration Rules where applicable, (Part 9 does not apply to all people with leave under the Immigration Rules.)</li> </ul> <p><b>Revoke indefinite leave</b> obtained as a result of a sham marriage under:</p> <ul style="list-style-type: none"> <li>• <a href="#">section 76(2)</a> of the Nationality, Immigration and Asylum Act 2002.</li> </ul>	
Person does not have leave, permission or any other right to remain in the UK.	Facilitator or participant	<p><b>Administrative removal under section 10 of the Immigration and Asylum Act 1999:</b></p> <ul style="list-style-type: none"> <li>• on sham marriage grounds</li> </ul> <p>See: Liability to administrative removal (non-EEA) - consideration and notification</p>	

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