

From: European Operational Policy Team

Subject: EEA, ECAA and marriage applications submitted by Souleiman GA Solicitors

Date: 23rd October 2013

Issue number: 07/2013

Purpose of notice

1. To provide caseworkers with information on how to deal with applications made under the EEA Regulations, Immigration Rules or Turkish ECAA agreement, submitted by Souleiman GA Solicitors.

Background

2. On 27 March 2013 an instruction to hold all cases submitted by Souleiman GA Solicitors was issued following the prosecution of solicitor Tefvick Souleiman and three immigration advisors employed by the firm for arranging sham marriages, facilitating entry to the UK, and money laundering.
3. Mr. Souleiman and his associates brought women to the UK from EU member states in Eastern Europe in order to marry citizens from outside the EU. Most couples met on the day of the wedding and required an interpreter during the wedding ceremony. The brides then left the UK following the marriage.
4. A number of cases were specifically identified during the operation undertaken by the police and the criminal and financial investigations (CFI) team and were produced as evidence in the prosecution case against Mr. Souleiman and his associates. These cases are currently being assessed by removal casework colleagues to identify appropriate action.
5. In addition, there are approximately 60 cases currently on hold within the business that were not part of the CFI team investigation, but where the application was submitted by Souleiman GA Solicitors. This instruction has been provided to support case workers when considering these cases.

Actions to be taken by caseworkers in all applications submitted by Souleiman GA Solicitors

6. All cases currently on hold awaiting a decision may now be actively considered. Caseworkers should be aware that there are broadly five scenarios which may be applicable in cases involving potential beneficiaries of crime:
 - I. There is strong evidence that the applicant was complicit in the deception.
 - II. There is some evidence to suggest the applicant may have been complicit in the deception
 - III. There is evidence which leads the caseworker to suspect that the applicant was complicit, but further investigations are needed to establish this suspicion.
 - IV. There is no evidence that the applicant was complicit, but they have benefitted or could have benefitted from the deception. .
 - V. There is no evidence that the applicant was complicit and there is no evidence that any deception has occurred.
7. The above scenarios reflect the varying levels of involvement in immigration cases where deception or abuse is identified, and are not restricted to those submitted by Souleiman GA Solicitors. They will include a range of situations, from applicants who were clearly complicit in the deception (for instance money has been exchanged in order to facilitate a sham marriage or create false documents for a business application), to situations involving an innocent party (for example where a dependent child has applied for a residence card on the basis of the parent's sham marriage).
8. Caseworkers must consider all the evidence that has been submitted with the application. In particular full checks should be made on all documentation submitted with the application. For further information on the types of fraudulent documentation Souleiman GA Solicitors have submitted with applications see annex A
9. Caseworkers should also consider any previous applications, including whether any concerns were raised, whether these concerns were investigated further and whether any leave was refused as a result. Particular note should be made where the level of supporting evidence submitted was weak or inconsistent.
10. In cases where there are no grounds for refusal or enforcement action, but concerns still exist, case owners should ensure that this is clearly recorded on CID on the personal notes screen and full enquiries must be made at the next application.
11. Where it is clear from the enquiries undertaken that an applicant has not been involved in any unlawful activity, and their application gives no cause for concern, CID should be noted to indicate the same.

12. Further information on what caseworkers need to do when dealing with specific application types submitted by this firm can be found below.

Turkish ECAA and business applications

13. While Turkish ECAA cases were not included as part of the prosecution case against Souleiman GA Solicitors, there was evidence in the documentation produced by Mr. Souleiman and his associates which indicates that they were involved two types of fraudulent activity for this route, namely:

- Forged business documentation. For example where an applicant had a very weak business case the application would be bolstered by forged testimonials or invoices and tax returns.
- Sham marriage. Sham marriages were often, but not always, used to facilitate entry. For example where a Turkish national was in the UK illegally or entered as a visitor then married an EEA national in order to vary or legitimise his residence and subsequently applied for leave under the ECAA provisions after one year of employment.

14. Caseworkers need to consider whether there is any evidence that the marriage was one of convenience. Evidence that the marriage is not genuine may include:

- No evidence of the marriage, for example failure to submit a marriage certificate or civil partnership certificate.
- The applicant does not mention the marriage in their application, or states that the marriage has recently broken down.

15. Any documents submitted with the application should be checked (see annex A for further information) and where there are concerns about the genuineness of the marriage or of any documents submitted the applicant should be invited in for interview.

16. Where the caseworker is satisfied on the evidence that the marriage is not genuine and the Turkish national was only able to work because of the sham marriage, then the application should be refused on the basis that the employment was not legal because the ability to enter the UK labour market was based solely on a sham marriage.

Marriage applications under the EEA Regulations or Immigration Rules

17. While the evidence suggests that the main focus of abuse was in relation to the use of brides brought in from the EU, it is also possible that EEA nationals already resident in the UK may have been involved in sham marriage applications.

18. It is therefore important that checks are carried out to establish the current location of the spouse in relation to the applicant. When requesting information to locate an individual caseworkers should ascertain the current address for the applicant and spouse and then conduct an Experian or DWP check before sending a request through to HMRC to verify economic activity.
19. In applications where the spouse is British or settled in the UK, caseworkers must ensure that documents relating to maintenance and accommodation are verified.
20. Where the caseworker has concerns about the genuineness of the marriage it may be appropriate to invite the applicant and their spouse to attend an interview. If it is concluded that the marriage is one of convenience, then the application should be refused accordingly.

Applications submitted by Souleiman GA Solicitors - post decision action

21. Where cases involving Souleiman GA Solicitors have been refused and the decision is upheld at appeal the case should be passed to the appropriate removals casework team for enforcement action to be considered.
22. Where the appeal is allowed, and there is no error in law on which to base a challenge, the case should be concluded. However these cases should be noted on CID, and full enquiries should be conducted on any further application.

Duration of notice

A further policy notice and, if appropriate, guidance will be issued in due course. Until then, this notice will remain in force.

Enquiries

Any policy enquiries on this Notice should be addressed to <REDACTED – section 40(2)>, Operational Policy and Rules – Tel: <REDACTED – section 40(2)>

**<REDACTED – section 40(2)>
Assistant Director, Operational Policy and Rules Unit**

Annex A: Types of fake/fraudulent documents submitted by Souleiman Solicitors

RESTRICTED SECTION: The information below is for Home Office staff use only

<REDACTED – section 31(1). Redacted portion consists of four paragraphs of 212 words in total (including sub-headings)>

END OF RESTRICTED SECTION