

Chapter 30: sham marriages / civil partnerships / marriages of convenience

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30.1 Introduction and purpose

This guidance is primarily aimed at Immigration Enforcement staff involved in investigating allegations of sham marriage / civil partnerships / marriages of convenience and conducting enforcement visits to register offices where it is suspected that a sham marriage / civil partnership / marriage of convenience is going to take place.

This guidance must be read in conjunction with other relevant guidance in the Enforcement instructions and guidance. There is separate sham marriage guidance being developed for Criminal Investigation officers working within Immigration Enforcement Criminal Investigation teams. A link to this will be provided when this is published.

Increasing numbers of sham marriage cases involve non-European Economic Area (EEA) nationals who have current valid leave to enter or remain (for example as a worker or student). Many are marrying EEA nationals to try to benefit from Free Movement rights.

30.2 Definition of sham marriage / civil partnership / marriage of convenience

A sham marriage / civil partnership is one where the relationship is not genuine but one party hopes to gain an immigration advantage from it. There is no subsisting relationship, dependency, or intent to live as husband and wife / civil partners.

The Immigration and Asylum Act 1999 defines a sham marriage as a marriage entered into between a person ('A') who is neither a British citizen nor a national of an EEA State other than the United Kingdom and another person (whether or not such a citizen or such a national) and entered into by A for the purpose of avoiding the effect of one or more provisions of United Kingdom immigration law or the immigration rules. From 2 March 2015, the existing definition in the Immigration and Asylum 1999 will be amended by section 55 of the Immigration Act 2014.

Under European Union (EU) law marriages of convenience are defined as marriages contracted for the sole purpose of obtaining a right of Free Movement and residence under (Directive 2004/38/EC) ('the Free Movement Directive') to which someone would not otherwise be entitled. The key factor in a marriage of convenience is the absence of intention of the married couple to be involved in a genuine and subsisting marriage or relationship akin to marriage and create a family unit. Chapter 50 (EEA) - EEA administrative removal sets out in more detail the actions that can be taken against EEA nationals not exercising Treaty rights or abusing Treaty rights.

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

30.3 Legislation and powers

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

- Section 24A of the Immigration Act 1971: Obtain leave to enter or remain in the UK by deception
- Section 25(1) of the Immigration Act 1971: Assisting unlawful immigration (facilitation).

30.3.1 Registration officials' duty

Sections 24 and 24A of the Immigration and Asylum Act 1999 place a duty on registration officials across the UK to report suspected sham marriages and civil partnerships to the Home Office. The Immigration Act 2014 extended this duty to cover the period before a marriage or civil partnership notice is taken. This means that registrars will be able to report suspected sham marriages or civil partnerships even where notice is not taken, for example because a registrar rejects false documentation submitted by the couple.

30.3.2 Non-EEA nationals

The Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 and the Civil Partnership Act 2004 require non-EEA nationals subject to immigration control intending to marry or register a civil partnership in England and Wales to give notice of marriage or civil partnership in person together with the other party to the marriage or civil partnership at a Designated Register Office (DRO). In Scotland and Northern Ireland, where notice may also be given by post, it must be given at a prescribed register office or to a prescribed registrar. Currently every registrar of every register office is prescribed for Northern Ireland and all registration districts for Scotland.

30.3.3 EEA nationals

Regulation 21B (1) (c) of the Immigration (European Economic Area) Regulations 2006 (as amended) enables an 'EEA decision' (including administrative removal) to be made where there are reasonable grounds to suspect an **EEA national** has either entered into, attempted to enter into, or assisted another person to enter into or attempt to enter into, a marriage of convenience.

30.3.4 Sharing information

Part 4 of the Immigration Act 2014 introduced new powers in England and Wales for information to be shared between the Secretary of State and registrars, and between registrars, to tackle sham marriages, immigration offences and wider abuse. This will allow registrars in England and Wales to report immigration offenders and related abuse to the Home Office, regardless of whether they suspect a sham marriage. These powers came into force on 14 July 2014. It is anticipated that very similar powers will extend to registration officials in Scotland and in Northern Ireland from 2 March 2015.

30.3.5 Future legislation changes

Part 4 of the Immigration Act 2014 also provides for a major reform of the preliminaries for marriage and civil partnership and subject to Parliamentary approval of the necessary secondary legislation, these provisions will be implemented on 2 March 2015.

Part 4 extends the marriage and civil partnership notice period from 15 days to 28 days for all couples in England and Wales marrying following civil preliminaries or forming a civil partnership.

Couples involving a non-EEA national who wish to marry in the Church of England or the Church in Wales will be required to complete civil preliminaries and give notice at a register office.

All proposed marriages and civil partnerships involving a non-EEA national with limited or no immigration status in the UK, or who does not provide specified evidence that they are exempt from the scheme, will be referred by registrars to the Home Office. Where we have reasonable grounds to suspect a sham¹, we will be able to extend the notice period in these referred cases to 70 days to allow us to investigate and take appropriate enforcement or casework action where we establish

¹ According to the amended definition in the IAA 1999 referred above

a sham. A couple will be unable to get married or enter into a civil partnership on the basis of that notice if they do not comply with an investigation under the scheme.

By extending the notice period and channelling to the Home Office all proposed marriages and civil partnerships which could bring an immigration benefit, the new system will give us much more time and information to identify and act against sham marriages and civil partnerships before they happen and, where they do go ahead, we will have the evidence we need on file to be able to refuse any subsequent immigration application in terms that should withstand appeal.

The referral and investigation scheme will be extended to Scotland and to Northern Ireland from 2 March 2015.

The enforcement instructions and guidance will be updated once these changes come into effect.

30.4 Roles and responsibilities of Immigration Enforcement officers

Following tasking, immigration compliance and enforcement (ICE) teams are responsible for:

- conducting home visits to subjects on behalf of caseworking teams where involvement in sham marriages or civil partnerships is suspected and/or 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 or register offices where intelligence indicates a sham marriage or civil partnership is going to take place
- liaising with register office staff and obtaining the agreement of the superintendant registrar to enter register offices after commissioning by regional intelligence teams
- ensuring that all section 24/24A reports of suspected sham marriage received direct from register office staff are referred to the Liverpool Thematic Intelligence hub, and not dealt with directly by local intelligence or enforcement teams
- gathering and recording evidence that a marriage, civil partnership or attempted marriage or civil partnership is sham, interviewing the individual(s) involved, obtaining witness statement(s), and collating supporting evidence from Home Office systems or the police
- liaising with caseworking teams to pursue curtailment of any extant leave, refusal or revocation of any residency card or leave to remain applications, making a removal decision, and serving appropriate paperwork
- reporting students suspected of involvement in sham marriage to UK Visas and Immigration (UKVI) and to Intel via the Liverpool Thematic Intelligence hub

- identifying, collecting and sharing useful intelligence encountered during the course of their activities with the relevant intelligence unit or the Liverpool Thematic Intelligence hub, for example emerging patterns/trends of abuse and information about suspected facilitators or 'fixers'
- considering the arrest and detention of those individuals who are liable to be detained and/or removed from the UK
- referring suitable cases to Criminal Investigation where there is clear evidence of organised criminality regarding those planning and attending any marriage/civil partnership ceremony, and
- securing evidence and investigating Level 1 criminality where there are Professionalising Investigations Programme (PIP) trained crime officers embedded within the ICE team.

30.5 Referrals from casework

UKVI are responsible for considering applications for further leave to remain or residence on the basis of marriage / civil partnerships and applications for EU residence documentation. UKVI may call the couple for an interview or alternatively commission a home visit. Incoming cases are triaged against specific risk criteria and should a case trigger the risk threshold, caseworkers may request a home visit by the relevant ICE team to establish whether the relationship is genuine and where appropriate subsisting. These cases will be tasked to ICE teams through the Immigration Enforcement tasking and co-ordination group (TCG) tasking process.

30.6 Home visits

Guidance on carrying out home visits including marriage compliance visits to home addresses is contained in chapter 31 Enforcement visits and must be adhered to, including carrying out relevant checks and risk assessments before the visit.

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If the intention is to make an arrest, guidance in section 31.7 Enforcement visits, must be observed.

30.7 Section 24/24A reports

Registration officers are required to submit a s24/24A report if, at any stage in the process, they have reasonable suspicions that the marriage / civil partnership will be or is a sham. A report can be made at any point from when initial contact is made at the Register Office to any time immediately after the marriage / civil partnership has taken place².

In cases where the registration officer has suspicions about the genuineness of a marriage or civil partnership, they will complete a s24/24A report and send this electronically, together with scanned copies of any documentation that may be relevant, to the Liverpool Thematic Intelligence Hub. The s24/24A report and accompanying documentation is then assessed and referred to Regional Intelligence Units (RIU's) where it is researched before being taken to tasking for consideration against local and national priorities.

In cases where a s24/24A report contains time critical information (for example a wedding is due to take place imminently), Intelligence will 'hot task' it directly to an ICE team for immediate action.

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30.8 Reports on Immigration Offenders

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

² And see also section on Schedule 6 below for information on additional information sharing powers

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

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

As indicated above it is hoped that similar provision will be made in respect of Scotland and Northern Ireland next year.

30.9 Marriages in and visits to register offices

In England and Wales the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 or the Civil Partnership Act 2004 requires non-EEA nationals subject to immigration control to give notice of marriage or civil partnership in person together with the other party at a Designated Register Office (DRO). In Scotland and Northern Ireland notice of a marriage or civil partnership can be given by post.

Preliminaries to marriage in the Anglican Church are covered in section 30.10 below.

There are 75 DROs in England and Wales (out of 174 registration districts/authorities). A list is contained within the following link: <https://www.gov.uk/government/publications/designated-register-offices-in-england-and-wales>. In Scotland and Northern Ireland, all register offices have been designated as DRO's.

It may be necessary to visit either a designated or non-designated register office in order to apprehend a suspected offender where no reliable home address is known, or where the likelihood of encountering the person at the home address is low. Before conducting a visit to a register office all pre-visit checks must be carried out (see chapter 31.3 Enforcement visits) and arrangements to conduct the visit made with the superintendent registrar. The agreement of the superintendent registrar, or their deputy in their absence, to enter the premises must also be obtained in advance.

Enforcement activity at a register office should not affect the normal running of the office and any disruption should be kept to a minimum. Sensitivity must be given to other activities taking place in the register office including the registration of births, deaths and other marriages or civil partnerships.

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30.10 Marriages in and visits to religious and other venues

Where one of the people seeking to marry in the Church of England or the Church in Wales is a non-EEA national, the clergy should direct the couple to apply for a Common Licence. This is granted in the name of the Bishop of the Diocese in which the proposed marriage is to take place and he or she has discretion whether or not to grant it. A Common Licence can only be granted for the marriage to take place within the diocese and is valid for three months.

Non-EEA nationals seeking to marry at any other church or religious building or enter into a marriage or a civil partnership at premises approved for marriage (for example, a local hotel or stately home) will need to give notice at a DRO as set out in section 30.9 above.

It may be necessary to visit a church or other religious buildings. Guidance on visiting religious venues can be found in chapter 31.11 Enforcement visits and must be observed.

Staff should be aware that parties who have been arrested and charged with immigration offences, regardless of the venue, may still be able to arrange for their marriage / civil partnership to take place on another day. Further, officers have no power to prevent a marriage taking place where the couple, or one of the parties to the marriage, are not arrested. Provided they are legally free to marry or form a civil partnership, the fact that their intention to do so is to evade immigration controls is not a legal impediment. Only a registrar may prevent a marriage on the grounds that there is a legal impediment to the marriage. However, proceeding with a marriage or civil partnership will not result in any immigration advantage if there is clear evidence of sham.

30.11 Dealing with non-EEA nationals and EEA nationals involved in sham marriages/civil partnerships: Evidence and process

The guidance below sets out the process for referring evidence to casework teams to consider curtailing leave of a non-EEA national involved in a suspected sham marriage and consideration of action to be taken against an EEA national suspected of involvement in a sham marriage.

A flow chart has also been added at Annex A for ease of reference.

30.11.1 Curtailing pre-existing leave in cases of sham marriage/civil partnership

There is a fast-track process for Immigration Enforcement staff to refer non-EEA nationals with pre-existing leave who have been involved in sham marriage, for curtailment on 'Conduct, character or associations' grounds. All suitable cases should be referred. Where it is decided that existing leave should be curtailed on these grounds, a removal decision will be made simultaneously with the curtailment decision, under section 47 of the Immigration, Asylum and Nationality Act 2006. You should not serve an IS151A.

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Where it is possible to make a section 10 removal decision instead (for example, someone is breaching the conditions of their current leave (e.g. by working in breach), or you can show they obtained it by deception) that may be done instead of referring the case for curtailment. Such decisions automatically cancel remaining leave and normally attract an out of country appeal right only.

Action can also be taken against the EEA national, for their involvement in the sham marriage, full guidance can be found in section 4 of chapter 50 (EEA) - EEA administrative removal.

Briefly, administrative removal can be considered where there are reasonable grounds to suspect **an EEA national** has either entered into, attempted to enter into, or assisted another person to enter into or attempt to enter into, a marriage of convenience. In such cases, a decision to administratively remove **an EEA national** can be made under regulation 19(3)(c) on the grounds that the person's removal is justified on the grounds of abuse of rights, where this is considered proportionate.

Further, where an EEA national, or family member of an EEA national, is administratively removed from the UK under regulation 19(3)(c), then they may be refused admission if it is reasonable to suspect that re-admission will lead to an abuse of a right to reside.

30.11.1.1 Curtailment of leave of non-EEA national: process for referring cases

30.11.1.1.1 Evidence

You should alert the curtailment team as soon as possible to a likely curtailment case. For example, if you have tasked an operation where an individual is suspected of trying to enter a sham marriage and has existing leave. This enables them to prepare and they will be able to deal with the referral quickly when it comes through.

You must also let them know as soon as possible on the day whether the relationship has proved to be genuine or not.

Gather and record the evidence that a marriage or attempted marriage is one of convenience. Interviews should be recorded in Q&A format and signed by the interviewee as being an accurate record. An ISCP4 and ISCP4 continuation must be used and will help to highlight discrepancies in a couple's responses to the curtailment team. Interviews should be conducted in accordance with PACE, for guidance see chapter 37 Interviewing. The ISCP4, contains the different cautions for England and Wales, Northern Ireland and Scotland.

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Evidence to be used in curtailing leave must be:

- factual (not just an allegation)
- disclosable (in court, e.g. immigration appeal)
- able to stand up to scrutiny if legally challenged, and
- must show that on the balance of probabilities there are reasonable grounds to suspect that the marriage / civil partnership is a sham and therefore it is undesirable to allow the person to remain in the UK...etc (or whatever grounds are likely to be relied on).

You must summarise the evidence on an IS126 Immigration Officer's report outlining how you encountered the individuals and the evidence for concluding the marriage / civil partnership is a sham. Also, highlight the key points, for example discrepancies

in the responses to your questions and the conclusions you have drawn from them.

30.11.1.1.2 Process

You should call the curtailment team to alert them to an incoming referral before emailing them (and where possible give them advance warning of the operation, as above).

Once the operation has been concluded and the evidence assembled, you will need to send them:

- the IS126, clearly summarising the evidence
- results of the background checks you have conducted

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- the supporting evidence (for example the record of the marriage interview), faxed or scanned for attachment to an email, and
- if it is not possible to scan or fax the evidence (for example you are out of the office with no access to equipment), take a legible photograph of each sheet and email those.

The decision about whether curtailment is appropriate will be made by the casework team, using the evidence you provide.

When they curtail leave they will make a simultaneous removal decision under section 47 of the Immigration, Asylum and Nationality Act 2006.

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30.11.1.1.3 Arrest and detention

As you have reasonable grounds for believing a removal decision may be made, you may arrest a person you believe will be liable to curtailment under paragraph 17(1) of Schedule 2 to the Immigration Act 1971. They are liable to be detained both before and after curtailment under paragraph 16(2) of Schedule 2 to the 1971 Act. This applies to anyone whose leave has or is expected to be curtailed for abuse, including witnesses and other facilitators of sham marriage as well as the couple. The grounds on which the leave is to be curtailed must be fully set out.

30.11.1.1.4 Immigration Act 2014 removals

The Immigration Act 2014 changes the way a person and their children are removed from the UK. It is being introduced in a phased manner as follows

- A) Persons who applied in country for leave to remain under Tier 4 on or after the 20 October 2014.
- B) Persons who applied in country for leave to remain under any other Points Based System route, on or after **2 March 2015**.
- C) All other cases from 6 April 2015

The consequence is that if, subsequent to such an application, it is established the person and their children are to be removed then officers should follow the process laid out in chapter 50.14 for dealing with such cases

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30.11.2 Investigating claims by non-EEA nationals to be family members of EEA nationals

This section should be read in conjunction with chapter 50 (EEA) - EEA administrative removal.

ICE teams often encounter persons who are not themselves EEA nationals but claim to be the spouse or civil partner of one and who therefore claim to be entitled to live and work in the UK. Direct family members³ have an automatic right to reside under EU law and do not have to apply to the Home Office for a residence card (although see below regarding employer checks). Individuals may seek to abuse these rights.

If you have reasonable grounds to suspect that a claimed marriage / civil partnership is not genuine, you should investigate further. Reasonable grounds could include the context in which you encountered the person, their behaviour or their responses when interviewed. If you have reasonable grounds for suspecting that an immigration offence may have been committed, you may arrest and detain them pending further investigation (including a visit to their home address, if appropriate).

If the evidence shows that they are not a genuine spouse or civil partner of an EEA national, and have not previously been issued a residence card, then they have no EU rights and are liable to removal in the same way as any other non-EEA national without leave. See section 30.11.1 and section 30.11.2.2 for guidance on curtailing existing leave where a person has entered or tried to enter a sham marriage.

30.11.2.1 European casework

³ A direct family member is a spouse, a civil partner, a child (including step child or adopted child) who is under 21 or otherwise dependent, or a dependent parent or grandparent. If the EEA national is a student, the requirements are slightly different. Other family members (including unmarried partners) do not have automatic rights unless they have been issued with an EEA family permit, a registration certificate or a residence card. See 'EEA and Swiss nationals' for full details.

Close liaison between ICE teams and European casework is key to tackling sham marriage and other abuses of the EEA family route through administrative action. In the event of evidence of organised criminality contact your local Criminal Investigation team, see 'Criminal Investigation contact numbers'.

If an application for a residence card based on a sham marriage / civil partnership is pending, please contact European casework to request consideration for immediate refusal. European casework will also give priority to EEA applications that are made at the last minute in an attempt to thwart removal. An appeal against refusal of an EEA claim does **not** suspend removal (only an appeal against a decision to remove a person under the EEA Regulations (except on public policy, security or health grounds under regulation 19(3)(b)) can suspend removal).

European casework may also need ICE teams to investigate a suspected abusive application which cannot be refused solely on the papers (see section 30.6). This is key to reducing and deterring abuse of the EEA route. Visits may also lead to intelligence on other offending, with consequent arrests and removals.

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30.11.2.2 Removal decisions and revoking residence cards

A non-EEA national should only be removed under the EEA Regulations if they have already obtained a residence card on the basis of their sham marriage (or other false claim to have an EEA right), or have otherwise been accepted by the Home Office as having EU law rights (for example, through the issue of an EEA family permit which is still valid at the time of the removal decision). In these cases a removal decision should be taken under regulation 19(3)(a) of the EEA Regulations. This will automatically invalidate the residence card at the same time⁴. An appeal against removal under regulation 19(3)(c) will suspend removal. (See chapter 50 (EEA) – EEA administrative removal for removal of non-EEA nationals who have genuine EEA rights but have abused them.)

Where no residence card has been issued, normal provisions for removing a non-EEA national will apply. They should be removed under section 10 of the Immigration and Asylum Act 1999 if:

- they have overstayed their previous leave
- they are breaching the conditions of their existing leave (for example by working in breach), or
- they obtained it by deception.

See chapter 7 Service of notice of illegal entry: Procedures of the EIG for guidance on removing an illegal entrant, and section 30.11.1 for guidance on referring other cases with existing leave for curtailment on character and conduct grounds. If extant leave to enter or remain (such as work or student leave) needs to be curtailed, the curtailment caseworker will make a simultaneous removal decision under section 47 of the Immigration, Asylum and Nationality Act 2006.

If an individual has both falsely obtained a residence card and existing leave to enter or remain, the 19(3)(a) decision should be taken first. The existing leave can then be curtailed as above.

Where you are not satisfied that a claim to be a family member is genuine, but the person cannot be detained because of other barriers to removal, the case should be referred to removals casework. For guidance, see 'Transfer or refer a case'.

⁴ The other circumstances in which a non-EEA national might be removed under the Regulations are if they are a genuine family member (or have retained rights from a previous genuine relationship) but are liable to removal for not exercising or abusing free movement rights. See chapter 50 (EEA) - EEA administrative removal for further detail.

30.11.2.3 Examples of grounds for suspicion

30.11.2.3.1 Employer visits

If an employer has conducted right to work checks, it would be usual for a non-EEA family member of an EEA national to have provided their employer with either a valid residence card, (or a derivative residence card, or permanent residence card) or a certificate of application. (Refer to 'Illegal working' guidance for the subsequent checks the employer might do.)

If during an illegal working visit you encounter a non-EEA national who claims to be a family member but has not provided this evidence (or if you suspect evidence has been forged) this would be reasonable grounds for investigating further.

Where someone was employed with a certificate of application, but this has since lapsed, you should liaise with colleagues in European casework to confirm that the certificate was validly issued and that the subject still has a right to work.

30.11.2.3.2 Visits to domestic premises / other encounters

On a visit to domestic premises you may encounter a person who claims to be the family member of an EEA national and has not obtained a residence card. Their living arrangements may support or cast doubt on their claim.

Where there are reasonable grounds to suspect the claim is false, you should request proof of the relationship (for example, a genuine passport endorsed with an EEA family permit issued by a UKVI visa section and/or a genuine marriage certificate). If there is no evidence that their partner or family member is living with them, you should ask them to explain where they are.

Where someone is stopped in the course of a street operation because their behaviour is suspicious, you should ask relevant questions about their claim to have EU law rights. If you have reasonable grounds for suspecting that an immigration offence has been committed, for example, if their responses suggest that their claim to be an EEA family member is fictitious, you may arrest them and interview them further.

30.11.2.3.3 Genuine Relationships

Where there is evidence of a marriage to an EEA national and there is no reason to doubt that the marriage is not genuine, then enforcement papers should not be served on the non-EEA national immigration offender. This is regardless of whether an application has been made for a residence card under the EEA Regulations.

If however, the person is the unmarried partner of an EEA national and they do not already have a residence card, then even if there is reason to believe the relationship is genuine, enforcement papers can be served if the person is an immigration offender. This is because a person has no rights under EU law as an unmarried partner of an EEA national until they have been issued a residence card on this basis. In such circumstances, officers should advise them to submit an application on this basis and ask European casework to expedite any application received. If no application is submitted within a reasonable timeframe, removal action should proceed.

Equally, sham marriages / civil partnerships do not need to involve both parties of the marriage and one party to the marriage may believe they are entering into a genuine marriage and have been duped by their partner. If officers come across cases where following interview, it is clear that the EEA national has been duped and sincerely believes they are entering into a genuine marriage, then they have not engaged in fraud or abuse and no removal papers should be served on the EEA national. The non-EEA national who has deployed the deception can be processed as set out in this guidance.

30.11.3 Sham marriage intelligence

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. Before carrying out the visit, ensure Intel are notified of the premises to be visited and consider requesting a field intelligence officer to accompany you as they may be able to offer expertise and assistance with interviews.

It is vital that, throughout the process of dealing with sham marriages, officers identify and collect information that will inform Immigration Enforcement's understanding of the threat from sham marriage and assist in potential development of criminal investigations against the organised criminal groups arranging sham marriages.

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Intelligence officers will also wish to have sight of any reports submitted to European casework or curtailment casework which will assist them in building the national intelligence picture.

The local units will feed anything relevant to the thematic hub in Liverpool who can also be contacted directly

30.11.4 Summary of removal processes (individuals involved in marriages of convenience):

Non-EEA national	EEA national	Removal decision
No extant leave, breaching conditions extant leave, obtained by deception		S. 10 1999 Act
Extant leave (but assisting / entering / attempting to enter sham marriage)		Refer for curtailment and simultaneous removal decision (s.47 of 2006 Act)
Sham relationship but has already gained EEA residence card, derivative residence card or permanent residence card.		Removal decision under Reg 19(3)(a) of EEA Regs, automatically invalidates card
Genuine family member but involved in abuse of free movement rights (e.g. facilitating sham marriage)		Removal decision under Reg 19(3)(c) of EEA Regs
	Involved in abuse of free movement rights (e.g. facilitating / entering sham marriage)	Removal decision under Reg 19(3)(c) of EEA Regs

30.12 Forged documents

If you suspect identity documents or marriage certificates are forgeries, please contact your local forgery expert in the first instance. **Official-Sensitive – do not disclose – start of section**

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A non-EEA national who provides forged or fraudulent documentation, and can provide no other evidence that they are the family member of an EEA national, is liable to removal action in the same way as any other non-EEA national who has attempted to gain leave by deception. They may also have committed criminal offences and consideration should also be given to referring the case for criminal investigation.

If a non-EEA national can provide other satisfactory evidence that they are the family member of an EEA national but has provided forged or fraudulent documentation as evidence of their right to reside, you should consider taking action under new regulations 21B(1)(d) and (2) of the EEA Regulations. These allow the Secretary of State to take an EEA decision against a person who fraudulently obtains, or attempts to obtain, a right to reside (or assists another person to do so). For further guidance on this, refer to chapter 50 (EEA) - EEA administrative removal.

30.13 Marriage Interviews

General guidance on interviewing is contained in chapter 37 Interviewing and chapter 42 Guide to enforcement interviewing and must be adhered to.

The purpose of the marriage interview, along with any other evidence provided, is to establish whether it is a genuine and subsisting relationship or not. The types of questions asked will differ depending on the type of marriage i.e. love or arranged and the cultural backgrounds of the couple. Whilst local lists of pre-prepared marriage interview questions may be helpful, officers must ensure that their line of questioning is tailored according to the answers provided and that they pursue any inconsistencies in answers given. The questioning must be sufficiently probing to gauge, for example, how much the couple know about each other, their families, their wedding guests, their home life and shared commitments, and experiences. You must avoid asking inappropriate questions, for example, about their sex life.

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For further guidance on assessing whether a marriage is genuine, see: European Policy guidance, and Appendix FM Section 2.0 - Genuine and subsisting relationship.

30.14 Forced marriages

A forced marriage is where one or both people do not (or in cases of people with learning disabilities, cannot) consent to the marriage and pressure or abuse is used.

Officers may come across cases where they suspect force is being used or was used if the marriage has already taken place. For further information, including helpline numbers, and leaflets on forced marriage, which officers can access and provide to individuals, see: 'Forced marriage'. In addition, at this link you will find multi-agency guidance on dealing with and handling cases of forced marriage, including e-learning training for staff that may come across cases of forced marriage in the course of their work. Officers should familiarise themselves with this guidance.

30.15 Arranged marriages

Arranged marriages, where no coercion is involved, should not be confused with forced marriages where it is. Officers should be aware of the cultural differences and when interviewing couples who have had an arranged marriage, ensure that interview questions are tailored accordingly. Appendix FM Section 2.0 - Genuine and subsisting relationship sets out the factors to look for in a genuine and non-genuine and subsisting marriage and includes reference to arranged marriages.

30.16 Marriage by proxy

For guidance on marriage by proxy and other guidance on recognition of marriage and divorce, which staff may find helpful, see: '1.3 - Recognition of marriage and divorce'. Marriages by proxy are open to abuse and where encountered must be thoroughly investigated in line with the guidance above.

30.17 Suspected trafficking victims

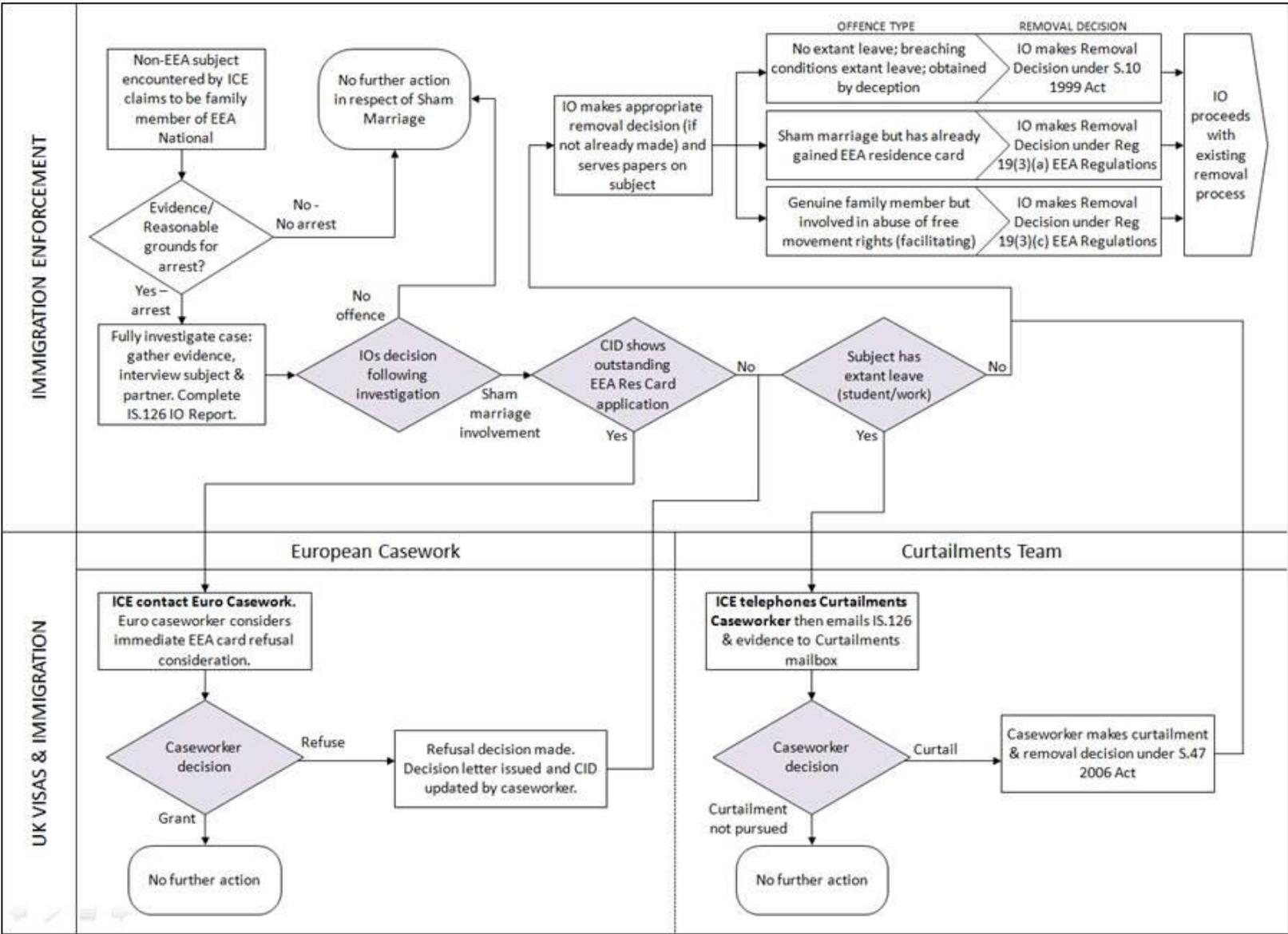
In investigating cases, Immigration Enforcement staff should be alert to any indication that the individual is a victim of trafficking. For information see: 'Human trafficking - guidance for frontline staff'. Early contact with Criminal Investigation should be made in such cases with a view to identifying and investigating any potential traffickers. For Criminal Investigation contacts, see 'Criminal Investigation

contact numbers’.

30.18 CID guidance

You must ensure that the relevant CID screen is updated when sham marriage enforcement action is taken. See Annex B and Annex C for CID guidance.

Annex A: Evidence and process flow chart



Annex B: Guide to recording actions on EEA nationals served an IS151 (EEA) on CID

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Annex C: CID guidance for detaining sham marriage cases with existing leave before curtailment

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Revision History

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16 December 2014	Enforcement & Returns Operational Policy	New chapter on sham marriage	Kristian Armstrong, Head of Criminality & Enforcement Policy	v1
27 February 2014	Enforcement Operational Policy	Revision to 30.11.1.1..4 on changes coming into force under IA2014 from 2/3/2015	Andrew Elliot	V2