



Al-Ansaar
Welfare & Education
Madrasah Tajweedul Quran

140-142 Garstang Road, Preston, PR2 8NA | 01772 716060
www.alansaar.org.uk | info@alansaar.org.uk | [@mtqmadrasa](https://www.instagram.com/mtqmadrasa)

Talaq (divorce) Information Guide

Compiled by:

Mohammed Farook Kazi

Disclaimer

1. This document is merely a guide.
2. We will not be held liable for any claims whatsoever.
3. You must ALWAYS consult relevant experts before making any decisions.
4. The information in this document has been written in good faith, however it must not be treated as English or any other law.

Talaq (divorce) in Islam

1. A Nikah is a “bond” between a man and a woman. Unfortunately, at times this bond has to be broken for whatever reason(s), and it is essential all parties concerned act with integrity, honesty, and fairness.
2. The laws of Nikah (marriage) and Talaq (divorce) are governed by the Quran and Ahadith; integrity, honesty, and fairness will only be achieved when we follow these guidelines.
3. Where we fail to adhere to divine guidance, the divorce process becomes chaotic, spiteful, and difficult. This does not help either party, rather issues simply drag on making the whole process both stressful and sinful. It also consumes a lot of valuable time, especially of those who are trying to arbitrate.
4. Fiqh related issues is not the remit of this document, rather it is there to give some practical guidance and advice. Ideally, you should get in touch with a local scholar who can guide you through jurisprudential issues.

Part 1 – Reconciliation

- a) The first priority will always be to reconcile between husband and wife. Sometimes this is quite possible, especially in the very early stages.
- b) Reconciliation becomes extremely difficult when any physical separation between husband and wife has prolonged.
- c) Reconciliation is also difficult when there is unnecessary and sometimes malicious interference from third parties, including at times family members.
- d) Reconciliation is also not an option where there is domestic abuse. The safety of the individual is paramount above everything else. It is not the remit of this document to quantify / define domestic abuse, as each case will be unique and individual.
- e) Reconciliation is also not an option when either husband or wife (for whatever reason) refuses any attempt of reconciliation. Neither the husband nor wife must be “forced” to stay together. In such cases it is best to amicably dissolve the Nikah (refer to the relevant section).

Part 2 – Making reconciliation work.

If there is an opportunity to reconcile and both husband and wife are willing, then both need to reflect honestly and ask themselves:

- Is Talaq the only solution?
- Can we make it work?
- How can we make it work?
- What are the potential solutions?
- What have been barriers?
- Do we need to adjust (for example) our living arrangements, working (professional) life, social life etc?
- If children are involved, have we considered their future? This is an issue in its own right and not the remit of this document.
- Have we genuinely explored all options and solutions?
- Do we both need to make certain sacrifices/changes and are we willing?

If reconciliation is possible, then all avenues must be exhausted to achieve this.

The psychological trauma of divorce always lingers on; hence reconciliation is always a priority.

Part 3 – Dissolving the Nikah

If the Nikah has to be dissolved, then both husband and wife must appreciate the following:

1. Everything must be executed and carried out with utmost fairness, honesty, and integrity.
2. The aim must not be to “punish” the other person or family. Allah Almighty is aware of our true intentions, and we will be held accountable in his court.

3. Financial issues must be agreed and sorted out with fairness and (at times) compassion.
4. Do not engage in spreading rumours, gossip, and defamation of the other person's character or family. This only results in hatred and hostility and makes one sinful. At times it also leads to various escalations between families.

Part 4 – Mahr and Gifts

1. Neither husband nor wife is obliged to return any gifts. Neither must there be any expectation or demand.
2. When the Nikah was consummated, the husband relinquished all his rights to the Mahr. It is thus the absolute right of the wife. It does not need to be returned, nor must it be demanded.
3. The husband must not engage in any form of extortion or intimidation by making Talaq (divorce) conditional on the return of the Mahr or gifts. This is totally Haram (prohibited). Talaq is a serious matter and must not be used as a psychological weapon. Always remember that Allah showers his mercy on those who have are compassionate to others.
4. At times other family members may make demands of the return of Mahr / gifts, this must also not happen.
5. Any photos and videos must never be shared, rather they must be deleted. Respecting the privacy of your Muslim brother or sister must take precedence.

Part 4 – Arbitration & Communication

1. Neither husband nor wife must handle the dissolving of the Nikah solely by themselves. This is for various reasons, including at times the potential for intimidation and pressure upon one person.
2. Involve those who you trust and who are willing to act in your best interests. At the same time, whoever you involve must also be able to observe Shariah.

3. Those who are involved must read this document, and act with total integrity and fairness. You are there to uphold divine guidance as mentioned in the Qur'an and Ahadith.
4. Any scholars / Imams involved in arbitration and / or consultation must also act with utmost impartiality. This includes listening to both parties, and not simply giving advice / judgements etc based on one person's version of events. Greater weight and attention must not be given to either party, rather the principle must be to ensure fairness and equality in accordance with Shariah.
5. As much as possible husband and wife and all those involved must avoid communication via text messages (WhatsApp etc) and phone calls. This is a sensitive time, and at times things can be said in the heat of the moment. Text messages can at times also be misinterpreted. Rather, meetings must be held in "neutral" venues, and once matters are agreed, these must be put into writing via email. The latter ensures there is some sort of formal documentation of discussions and resulting agreements.

Part 5 – Talaq

1. Although a verbal Talaq will dissolve the Nikah, it is better to have the Talaq in writing.
2. Two independent male witnesses must witness the Talaq (whether it is verbal or written).
3. A written Talaq ensures there is formal closure in a sensitive and civilised manner.

Part 6 – Post Talaq

1. Even though the Nikah had to be dissolved, each person must still genuinely wish the best for the other. This is a trait and characteristic of a true believer.
2. If children are not involved, then there is no further requirement of husband and wife to communicate with one another. To achieve this, it may be necessary to change your mobile number.

3. If children are involved, then there will definitely be a need to communicate. This must always be done respectfully, and with due consideration.
4. Neither party must influence innocent children in a manner where they talk ill about the other. Rather, all efforts must be concentrated on giving these children the best upbringing.
5. Children must never be deprived of either parent or their respective families. Neither must children be used to “punish” or blackmail. Otherwise, these children will have strong resentment when they grow up.

Part 7 – Conclusion

The process of dissolving a Nikah must not be done in a manner where there is intimidation, unnecessary prolonging, and practices contrary to the Shariah. Everyone involved is answerable to Allah Almighty, and dutybound to act with integrity, honesty, and fairness.

Updated: 15.02.2021 | V.2.1