



Terminology

In Islam the term “divorce” constitutes many different types of ways a couple’s marriage is ended. Men can divorce their wives unilaterally by pronouncing talaq three times either consecutively or on three separate occasions depending on the Islamic school of thought by which the married couple abide. Once talaq has been pronounced, the wife enters what is known as the iddah period which lasts for three menstrual cycles (three months). If the husband and wife reconcile within the iddah period, the marriage continues. In the event that they have not reconciled within the iddah period, the marriage comes to an end. If the wife is pregnant, she will have to wait until the child is born before the iddah period commences. Although the husband is able to divorce his wife unilaterally without involving a Sharia council, the husband and/or the wife may apply to the Sharia council for an Islamic talaq certificate, which can be used as evidence that the couple are now divorced.

Unlike men, women cannot unilaterally divorce their husbands. There are three types of Sharia divorce following a wife's petition: Khula, Faskh and Tafreeq. Below is an explanation of some of the terms associated with Islamic divorce.

PLEASE NOTE – A vast majority of cases are dealt with by way of Tafreeq (Faskh-e-Nikah) at the Shariah Council and NOT Khula which is commonly mistaken

Talaq: This form of divorce is the sole right of the husband whereby he pronounces the word divorce, talaq or any other similar word (in any language) to establish a divorce. No one may deprive him of this right given that he has been awarded such a right by God. This right belongs only to the husband and moreover, he does not need the consent or approval of any one, including his wife. Therefore, a woman divorcing her husband is Islamically incorrect and is invalid as a female has no such recourse to such a right, although she may request the conclusion of the marriage through other means. Similarly, an Islamic judge cannot issue a divorce but he can (once being recognised as an Islamic judge) issue a Faskh (marriage dissolution).

Khula: It is a divorce issued by the husband in exchange of money. It happens when the wife requests her husband to divorce her, but he refuses unless she returns her dowry. Again, it is the right of the husband and is conditional to his approval.

Faskh; it is a marriage dissolution issued by a judge in response to a request by the wife and normally takes place against the will of the husband. However, the judge has to be appointed either by the leader of the Muslims, or by the Muslim community. Faskh (annulment) is pronounced by the Sharia council when a marriage is fundamentally flawed (e.g., forced marriage) and the marriage has not been consummated.

Tafreeq; (dissolution) is granted when the husband and wife have consummated the marriage and the wife wants a divorce but the husband refuses to give his wife a divorce. Once the arbitrators agree that a tafreeq should be pronounced and the iddah period has come to an end, the marriage is dissolved.

Iddah; It is the waiting period after the divorce has been given or issued, regardless of any period of separation before it. The period of iddah is three menses or three months if one does not experience menses and one has not conceived.

Civil Divorce; For Civil divorce, a solicitor must be consulted as this is an Islamic Divorce.

Marriage (Nikah) abroad; Marriages which take place abroad and are recognised by the relevant law of the land, are recognised by the English law as a legal marriage.

Grounds for Divorce/Separation

Wherever possible, the Council seeks to effect reconciliation between an applicant and respondent. The following are some grounds outside of reconciliation, where the Council can consider issuing a divorce, for the Islamic principle states, “There shall be no inflicting or receiving of harm.” (La darar wa la dirar) Zhulm (injustice) is not tolerated in Islam, regardless of who the perpetrator is.

Examples include but are not limited to the following -

1. Physical, mental, or emotional abuse. When one of the spouses becomes abusive and inflicts physical, mental, or emotional abuse, and is not willing to change by taking practical measures through therapy or counselling.
2. Failure to fulfil the objectives and purposes for which marriage was initiated. This can be utter incompatibility between the partners, which may be expressed by their irreconcilable differences in temperaments, likes, and dislikes.
3. Marital infidelity. This can be a major cause for dissolution of marriage, for marriage is built on trust and confidence. Its main purpose is to preserve the chastity and modesty of those involved. Once this foundation is eroded and undermined and there is no chance to restore the same, then divorce is the way to go.
4. Failure of the husband to provide. When the man, who is considered the provider and maintainer of the family, fails to shoulder his responsibilities and the wife decides that she cannot continue tolerating his shirking of responsibility, this is grounds for divorce.
5. Where the husband suffers certain physical defects, which are well-known in the Sharia and are considered to be legal grounds for dissolution of the marriage.
6. Where the husband accuses the wife of unchastity: in such cases, the process of “li’aan” is to be applied.
7. Where the husband/wife is untraceable.
8. Where an applicant embraces Islam but the husband refuses to do so.
9. Where the husband ill-treats the applicant or fails to fulfil his marital obligations or does not maintain her, despite having the means to do so.
10. Where the husband does not divorce his wife for one of the reasons mentioned, when so ordered by a judge.
11. A woman marries man and he is impotent, and she finds out after marriage.
12. Cruelty
13. Where the applicant feels they can no longer live with the respondent
14. If one of the spouses is unable to have conjugal relations
15. One spouse feels repulsion towards the other.
16. Extra conditions of the marriage contract cannot be met.



Procedure

1. Once the application form is completed, the form will be processed (we aim to do this within 72 hours) and the applicant will be notified (usually by email) with a case number and acknowledgement of the payment
 2. Where a woman applies for a divorce, the procedure is as follows - The husband/respondent) will be sent a letter with a copy of his wife's reasons for wanting a divorce requesting him to clarify his position in the matter.
 3. If the respondent writes to the Council and asks for reconciliation.
 - a) The applicant will be contacted again and instructed accordingly by the Council (with a copy of the respondent's letter).
 - b) The Council will invite both parties to the Council in an effort to resolve the case by reconciling both parties or issuing a divorce. The immediate petitioner (wife) filing for divorce **MUST** attend. Otherwise, a judgement cannot be passed.
 - c) Normally at the request of the respondent (husband) the Council allows a reasonable period of time for reconciliation efforts to be made by the husband through his own resources and family contacts.
 - d) **Reconciliation is only offered where both parties are willing**
- "And if you fear dissension between the two, send an arbitrator from his people and an arbitrator from her people. If they both desire reconciliation, Allah will cause it between them. Indeed, Allah is ever Knowing and Acquainted [with all things]" (Nisa 4:35)
4. If the respondent does not reply within 28 days, then a second letter will be sent giving them another opportunity and if there is still no reply after 14-21 days then a final third letter is sent to them with a date for the Shariah council hearing
 5. If the panel has decided to dissolve the Nikah, a divorce certificate will be issued to both parties.
 6. The Shariah panel will consider the case after formal proceedings and deliver their final verdict on whether to grant talaq, khula, faskh, postpone or abstain (the Shariah panel will decide which type of divorce will be granted)
 7. The final decision to issue a divorce is made during a panel meeting (held usually every 6-8 weeks); the applicant is interviewed before or during the meeting and the applicant is required to attend
 8. **THERE IS A FEE FOR THE FULL PROCEEDINGS INCLUDING THE CERTIFICATE OF £375 – PLEASE NOTE THAT PAYMENT MUST BE MADE IN FULL ONLINE OR BY BANK TRANSFER BEFORE PROCEEDINGS START** (in cases where a civil divorce has already been issued the fee payable is reduced and explained later on)
 9. If a civil divorce has been issued the procedure is slightly different
 10. In cases where no civil divorce has been issued the procedure may take between 4-6 months

The procedure for if you already have your decree Absolut is as follows

- 1- Fill out application form with as much detail as possible
- 2- We will send correspondence to your spouse if you have given an address. If you have no address, we will ask you for any contact details you may have and ask that you endeavour to get even a last known address/email/phone number so we can make contact.
- 3- Where we do have details, we will make contact periodically until we get a response
- 4 - After a period of 4 weeks if no response is received, we will send a second letter/email/message
- 5 - After a period of 2 weeks if no response is received, we will send a third letter/email/message which explains that the case will be passed onto the sharia panel and a date will be given for both parties

PLEASE NOTE THE FEE FOR IF THERE IS A DECREE ABSOLUT WILL BE REDUCED TO £200 (£150 AT TIME OF APPLICATION AND £50 AT THE END OF THE PROCESS BEFORE CERTIFICATE IS ISSUED)

The procedure for a male applying for a talaq certificate

1. Fill out the application form with as much detail as possible
2. IF A TALAAQ HAS ALREADY BEEN ISSUED AND YOU REQUIRE A CERTIFICATE THEN YOU MUST SEND EVIDENCE OF THE TALAAQ WHERE POSSIBLE (if it was done as a verbal talaq please state the date when this was done)
3. You must tell us if it was the 1st, 2nd or 3rd talaq
4. We will email a copy of our talaq certificate for you to print 3 copies and fill in and return all 3 copies to us by post (alternatively we can print of and send 3 copies to you)
5. We will then contact your spouse and confirm with her that she has been issued the talaq and if the mahr was paid – IF YOU HAVE NOT ALREADY DONE SO WE ADVISE THE DAY YOU FILL OUT THE CERTIFICATE – TO CONTACT YOUR SPOUSE AND TELL HER YOU HAVE ISSUED A TALAAQ AND SHE WILL BE GETTING A CERTIFICATE IN THE POST
6. You MUST pay the mahr if any is outstanding to your spouse as stipulated at the time of the Nikah
7. We will then stamp the certificates, keep one for our records, send one back to the applicant and send one to the spouse for her to keep and a letter confirming the closing of the case

THE FEE FOR A TALAAQ CERTIFICATE IS £200 WHICH IS PAID AT THE TIME OF THE APPLICATION

The procedure for a Khula certificate

1. Fill out the application for with as much detail as possible
2. If a Khula has already been granted and you want a certificate you must send evidence of this to be reviewed and assessed
3. We will email a copy of the khula certificate for you to print 3 copies and fill in and return all 3 copies to us by post (alternatively we can print of and send 3 copies to you)
4. We will then contact your wife to confirm that this has been done by done or where there has been a khula agreed to confirm the agreement
5. **IF YOU ARE CONTACTING US IN ORDER TO NEGOTIATE BETWEEN THE TWO PARTIES PLEASE STATE THAT IN THE APPLICATION**



6. Once the completed khula certificates have been returned to us we will then stamp the certificates, keep one for our records, send one back to the applicant and send one to the spouse for her to keep and a letter confirming the closing of the case

THE FEE FOR A KHULA WHERE IT HAS BEEN AGREED BY THE TWO PARTIES IN ADVANCE IS £200

– WHERE A KHULA COMES ABOUT THROUGH THE NORMAL PROCEDURES THE COST IS **£375** AS PER THE NORMAL PRICE – PLEASE NOTE THAT PAYMENT MUST BE MADE IN FULL ONLINE OR BY BANK TRANSFER BEFORE PROCEEDINGS START

PAYMENT FOR ALL CASES CAN BE MADE ONLINE AT THE TIME OF THE APPLICATION – **THERE IS A SMALL FEE FOR CARD PAYMENTS (ROUGHLY 3%)**

PLEASE MAKE SURE YOU PAY FOR THE CORRECT SERVICE – IF YOU ARE UNSURE ABOUT WHICH AMOUNT TO PAY PLEASE CONTACT US FIRST – IF YOU PAY THE INCORRECT AMOUNT IT WILL DELAY PROCESSING OF YOUR CASE AND YOU WILL NEED TO PAY THE FULL AMOUNT BEFORE WE START THE PROCESS

ALTERNATIVELY, IF YOU WOULD LIKE TO PAY BY BANK TRANSFER, PLEASE SEND PAYMENT TO -

ACCOUNT NAME - ISLAMIC AND FAMILY SERVICES CIC

SORT CODE – 60-83-71

ACCOUNT NUMBER - 68081075

How to apply

Forms are available online to download and complete online

If you need a copy sent to you by email, please request one to – admin@mcrshariacouncil.co.uk

Required Documentation

Please note that we will require the following documents from you in order to process your application – IF ANYTHING IS MISSING THE APPLICATION WILL BE RETURNED

Particulars of Divorce

(Your grievances against your spouse/reasons for petitioning divorce/dissolution) Please set out your statement on a separate piece of paper.

1. If possible, write your statement in English.
2. Be precise and provide full details of the problems occurred.
3. If possible, type/print your statement; otherwise, be sure it is clearly written.
4. At the end of your statement:
 - Print your full name
 - Sign (all the pages of the statement)
 - Write the date

If you have used more than one piece' of paper for your statement please sign and number each page.

Forward the original statement with the completed application form (keep copies of all documents for your own records. A copy of your statement will be sent to the respondent.

1. Proof of Identification (PLEASE DO NOT SEND ORIGINALS)

We require ONE form of photographic proof confirming your identity. This may be:

- A valid Passport
- A Current Full UK Driving license
- Residence Permit issued by Home Office
- EEA member state ID card
- National Identity Card containing your photograph



2. Marriage Certificate

Please send a copy of your Islamic marriage certificate or a copy of registration. IF YOU DO NOT HAVE A COPY OF THIS YOU WILL NEED TO PROVIDE A SWORN STATEMENT WHICH IS STAMPED BY A SOLICITOR (A template of this is available)

IF YOU DO NOT HAVE POSSESSION OF YOUR ORIGINAL NIKAH CERTIFICATE

If you have lost or do not have a copy of or your original Nikah certificate you must get a sworn statement (otherwise known as a sworn affidavit we can provide you with a draft copy if need be) signed and/or stamped by a solicitor notary or commissioner for oaths.

This will usually be at a small fee. They must witness you signing it.

You can write your statement or have it typed or use the draft.

The statement needs to confirm your names/ date of islamic marriage and where the marriage took place.

And to swear that you do not have possession of the document.

Signed by yourself Infront of the solicitor notary or commissioner of oaths.

3. Copy of Decree Nisi or Absolute If applicable.

4. Documents Confirming Legal Injunction

If you have an injunction against your spouse preventing him from contacting you, please notify us and provide copies of any documents confirming this. (Copies of NMO/Restraining order)

5. Copy of any previous Talaq/Khula if applicable

The Panel

The Shariah Council is made up of Scholars and elders who are well versed in the science of Islamic jurisprudence and Islamic matters and rulings most of whom are based in Manchester.

Manchester Sharia Council is only the second Islamic institution in Britain in which a woman has been elected as a high official of a Shariah court

Additional Information:

Issues Relating to Children

- The Shariah Council does not deal with issues regarding access to children and the parties are strongly advised to refer the matter to the courts.

Financial Issues



- Any financial issues that might be mentioned for the clarity of the case are outside the scope of the Shariah Council and are not dealt with by the panel. All parties would be strongly advised to refer the matter to the courts

Complaints/Comments/Suggestions

Sometimes there may be a situation in which you are unhappy with the service and we aim to deal with any problems, complaints or issues. Manchester Sharia council will aim to provide a quality service and in cases where you are dissatisfied Our complaints procedure is as follows –

All complaints must be in writing by postal letter or email with a reference number from the case, a clear and comprehensive nature of complaint and contact details (Full postal address and number included) and a photocopy of ID within FOUR weeks of a decision being made.(please note after this time complaints will only be responded to where there are exceptional circumstances which will be determined by the administrators)

Complaints are to be sent to the address on the form and marked “FAO the Sharia Panel”.

Once a complaint is received, we will send a letter or email acknowledgement within 2 weeks

It will then be put to the panel at the next Shariah council meeting (which usually takes place every 4-6 weeks)

A response will then be sent to you in writing within two weeks of the panel meeting

If the complaint relates to a specific person, they should be informed and given a fair opportunity to respond.

Whether the complaint is justified or not, the reply to the complainant should describe the action taken to investigate the complaint, the conclusions from the investigation, and any action taken as a result of the complaint.

Complaints are reviewed periodically to identify any trends, which may indicate a need to take further action.

We will do this by monitoring all complaints and suggestions to help us identify what is going wrong and how we can improve our service.

PLEASE EMAIL ANY QUESTIONS TO ADMIN@MCRSHARIACOUNCIL.CO.UK OR TEXT **07305 330159**

Manchester Sharia Council Is part of ISLAMIC AND FAMILY SERVICES CIC - Company number 13566810