

Muslim Arbitration Tribunal

1. What courts, tribunals or other adjudicative structures exist within your religion?

Historically, an Islamic judge known as a Qadhi would be appointed by the Chief Judge (known as the Qadhi al-Qudha) who himself would have been appointed by the Caliph. These judges would preside as judges over a given geographical location and were largely independent of the Caliph. Indeed, there have been many cases in which the Caliph himself has had to present himself before the Qadhi.

However, today there no longer exists a caliph or any Islamic state. Some Muslim countries now operate a system of religious courts which purport to implement Islamic Law along side civil or secular courts, but unfortunately, in most instances these religious courts fall well short of the standards required by Islamic Law. Such courts are often influenced more by cultural practices than by any meaningful or real implementation of Islamic Law.

Here, in the United Kingdom over the past 30 years or so, a system of informal "Shariah Councils" has developed dealing almost exclusively with Islamic family and personal law. In some instance these Shariah Councils have assisted in attempting to resolve disputes between two parties and to affect reconciliation. However, as these Shariah Councils do not have any set procedural rules governing their conduct nor do they operate under the Arbitration Act 1996, their decisions are not binding and as such, rely solely on the goodwill of the parties to agree to follow and implement any decision reached by the Shariah Council.

Furthermore, they normally sit in private and with just a single Islamic scholar presiding. They do not employ or seek assistance from any legally qualified individuals.

It is also the case, that many Imams and Islamic scholars who are not part of any Shariah Council sit in private at home or at the mosque providing the same services, albeit on a smaller scale than the Shariah Councils.

It is for the above reasons that it was felt that the Muslim Arbitration Tribunal (MAT) was needed and thus duly established in 2007 to provide a viable alternative for the Muslim community seeking to resolve disputes in accordance with Islamic Law and without having to resort to such Shariah Councils or costly and time consuming litigation. The establishment of MAT is an important and significant step towards providing the Muslim community with a real opportunity to self determine disputes in accordance with Islamic Law.

MAT operates within the legal framework of England and Wales thereby ensuring that any determination reached by MAT can be enforced through

existing means of enforcement open to normal litigants. Although MAT must operate within the legal framework of England and Wales, this does not prevent or impede MAT from ensuring that all determinations reached by it are in accordance with one of the recognised Schools of Islamic Law. MAT will therefore, for the first time, offer the Muslim community a real and true opportunity to settle disputes in accordance with Islamic Law with the knowledge that the outcome as determined by MAT will be binding and enforceable.

2. What matters are dealt with?

All areas of civil and personal religious law can be dealt with by MAT. The only areas of law that MAT cannot deal with are divorce proceedings (other than a religious divorce), child custody and criminal matters, as MAT does not have jurisdiction to deal with such matters. In such instances, the applicants will be referred to the civil courts and/or any other appropriate body.

It is important to remember that MAT is an arbitration tribunal and as such, does not offer or give legal advice.

Further examples of the types of cases that MAT deals with can be found on our website. <http://www.matribunal.com>

3. Is legal representation permitted/encouraged?

Clause 13 of our Procedural Rules specifically deals with representation and allows for any applicant to be legally represented. In fact, it allows an applicant to be represented by another individual regardless of whether the individual is legally qualified or not.

As we are an arbitration tribunal, it is not a requirement that the applicant must either be representing themselves or be represented by a legally qualified person. It is a matter for each individual applicant to decide how they wish to be represented. Clearly, in complex cases not relating to matters of personal Islamic law, it would be strongly recommended that an applicant seek legal advice and representation.

4. How are the decision makers selected?

The adjudication panel consists of two members, a legally qualified member and a recognised Islamic Scholar. It is a requirement that the legally qualified member must be a solicitor or barrister registered to practice in England and Wales and must have a minimum of at least three years post qualification experience.

Anybody who wishes to be appointed to the panel is required to forward a full CV which should confirm their relevant legal or religious qualifications and experience. They must then also pass a detailed interview following which they will be required to undertake a period of training. The training

is conducted by senior members of the legal profession who themselves have relevant judicial experience.

5. How detailed are rules of practice or procedure?

Attached is a copy of our Procedural Rules. They are also available to be viewed online at http://www.matribunal.com/procedure_rules.html. It will be noted that our Procedural Rules are very detailed and cover all aspects of the hearing. They have been modelled on existing tribunal procedural rules and are designed to ensure that all hearings are dealt with as fairly, quickly and efficiently as possible.

6. What provisions exist for appeal and enforcement?

Clause 23 of our Procedural Rules deals with appeals. It states as follows, 'No appeal shall be made against any decisions of the Tribunal. This rule shall not prevent any party applying for Judicial Review with permission of the High Court.'

As MAT operates under the Arbitration Act 1996, all decisions reached by it can be enforced through the normal civil courts.

7. To what extent have these processes been subject to review or examination by the secular courts?