

Al Hidayah Centre

## Process for Marital Mediation Ulama Course Part 1

*Disclaimer: This is a basic course intended to be used as a guide only.*

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### Audio Visual Course

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1. These notes are supplementary to the audio visual presentation which can be found here: <http://alhidayah.co.za/marriage-presentation-1/>
  2. Access part two here: <http://alhidayah.co.za/marital-mediation-course-2/>
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### Counsellor

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1. In counselling marital issues, the counsellor, whilst being knowledgeable of the Quraanic injunctions pertaining to both spouses regarding the laws of Nikah, Talaq, children, arbitration etc., also needs to gain experience as to how to apply discretion, taking into account the differing temperaments of the spouse. In simple terms, not all cases have the same solutions.
  2. The counsellor's job is not to control lives; but merely to offer advice. It boils down to empowering the spouses to adjust their lives and relationships towards that which is deemed beneficial for them, within the ambit of the Shariah.
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### Initial Steps

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1. **Always get both sides of the story in writing first.** Both parties must highlight what they perceive to be wrong in their marriage, according to their discretion of things. Once the counsellor receives this, he needs to then sift through what was written by both parties to determine the extent of the problem.
2. **There's a basic guideline that he can follow:**

- 2.1 Look for aspects wherein there are infringement of the rights of either party, in terms of the Shariah or law of the country (when the law of the country is not in conflict of the Shariah). These aspects must be highlighted for presentation to the couple when the meetings are held with them.
- 2.2 Determining behavioral patterns that are considered destructive, like abuse in any form (verbal, physical, emotional) over extended periods, or conduct unworthy of the marriage union like drugs, adultery, gambling, pornography etc.
- 2.3 Parties tend to attack one another by running down the other and making themselves look good, by covering up the entire truth, and having what could be deemed “a nag pattern”. It is imperative for a counsellor to identify this, and not be swayed by becoming overly opinionated by making judgements before having the entire story presented in front of himself.
- 2.4 He must not become emotionally attached as well, as sad stories can also persuade his mindset to sometimes lend inappropriate assistance as this is a phase of vulnerability for both parties.

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### *Information Gathering*

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#### **Acquire information from both parties:**

##### **1. Age of the couple.**

1.1 This helps to determine the mindset of the parties being addressed, to deduce as to whether it is a passing phase or something that requires more attention or whether it's an irreparable break. Advice will be rendered accordingly to them based on discretion.

##### **2. The number of kids that the couple have together and their ages.**

2.1 Children get affected by marital discord, no matter the age. Never turn a blind eye to how this impacts on them.

2.2 If the marital issues are not that serious, offering the couple advice to concentrate on a common goal like the kids can help them bond.

##### **3. How long are they married for.**

3.1 In a marriage that is only 3-6 months long/short, the spouses will never be able to know each other in such a short period.

3.2 If a divorce occurs in that time, then it is most probably due to external factors influencing the decision.

3.3 After 3 to 4 years they should be getting to know each other and can more confidently know if they are suited to each other.

3.4 After 7 years, the couple should have settled feelings for each other if they had worked through their issues. Issues are inevitable in any marriage, but working through them is key to pass this 7 seven year itch.

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### *Interview*

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#### **1. Interviewing both parties:**

- 1.1 As a rule, it is important, after having received a written submission from both parties, that they be given a chance to explain themselves verbally to you.
  - 1.2 Depending on the circumstance, if a problem is deemed not too serious, then both can be given the opportunity to attend the first meeting together.
  - 1.3 If the problem is deemed much more serious, then interviewing each one separately is a better option to apply, so as to give freedom to either party to express their grievances.
  - 1.4 Ultimately both parties will meet together at some point during the different levels of consultancy, at the discretion of the counsellor.
2. **Give each spouse a chance to speak uninterrupted for 15 minutes.**
- 2.1 This is to present their case and to express themselves. It is not to respond to each other but to give a picture of what each party perceives the problem to be.
  - 2.2 In this time the counsellor will take down notes of the serious issues like physical abuse, drug abuse, violating the rights of Nikah. Look past the other “nag stories”.
  - 2.3 The counsellor needs as much information as possible to be able to give informed advice.
  - 2.4 If the spouses don't want to come together, then give them an individual hearing.
  - 2.5 Always have two Ulama to sit in on any hearing. This will prevent the counsellor being accused of any bias, etc.
  - 2.6 Be alert for women who are vulnerable; they might want to latch on to someone for solace.
  - 2.7 If the tension and the situation is too toxic, then deal with each individually.