

**Vision:** "Our vision is of a society where Muslim women have an effective voice and opportunity to contribute equally to society."

**Mission:** "A UK network of women to share knowledge, connect the voices, and promote the needs of diverse Muslim women."



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# Information and Advice on Muslim Marriages in Britain

— 2012 —



## Contents

Information and Advice of Muslim Marriages in Britain	02
Let's be clear about some keywords	03
Is my marriage valid under British law?	04
What rights do i have?	06
Couples' Legal Rights	07
FAQs	08
What are the arguments in favour of a civil marriage?	10
Other Muslim Countries and Communities	12
Common Sense	13
Example of Civil Registry Marriage Certificate	14
Example of 'Nikah' Certificate	14

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## Example of Civil Registry Marriage Certificate

Printed by authority of the Registrar General)

**CERTIFIED COPY of an ENTRY OF MARRIAGE Pursuant to the Marriage Act 1949**

Registration District Hannopy

2006 Marriage solemnized at The Register Office in the London Borough of Haringey

No.	When married	Name and surname	Age	Condition	Rank or profession	Residence at the time of marriage	Father's name and surname	Rank or profession of father
	<u>59 November 2006</u>							<u>Agricultural</u> <u>Worker</u>

Married in the Register Office by [Signature] in the presence of us, [Signature] and [Signature]

This marriage was solemnized between us, [Signature] and [Signature]

Certified to be a true copy of an entry in a register in my custody.

CAUTION: THERE ARE OFFENCES RELATING TO FALSIFYING OR ALTERING A CERTIFICATE AND USING OR POSSESSING A FALSE CERTIFICATE. ©CROWN COPYRIGHT WARNING: A CERTIFICATE IS NOT EVIDENCE OF IDENTITY.

Superintendent Registrar [Signature] Date 22nd November 2006

## Example of 'Nikah' Certificate

Marriage by Certificate performed by an authorised person for the building in which marriage takes place

2010 Marriage solemnized at <u>PARK ROAD MOSQUE</u> in the <u>District of Slough</u>					in the <u>PARK ROAD</u>			
Columns:-	1	2	3	4	5	6	7	8
No	When married	Name and surname	Age	Condition	Rank or profession	Residence at the time	Father's name and surname	Rank or profession
29	<u>Eleventh January 2010</u>	<u>Faisal AHMED</u>	<u>29 years</u>	<u>Widower</u>	<u>Machine Operator (Metal Box factory)</u>	<u>262 Stratford Road Slough SL1 3NN</u>	<u>Mahmood Ahmed BUTT</u>	<u>Farmer</u>
		<u>Amina MASOOD</u>	<u>20 years</u>	<u>Single</u>		<u>56 Stoney Place Slough SL2 4PT</u>	<u>Mohammed Iftehar MASOOD</u>	<u>Foundry Worker</u>

Married in the Park Road Mosque according to the rites and ceremonies of the Muslims by Certificate

This marriage was solemnized between us, { Faisal Ahmed } { Amina Masood } in the presence of us, { Ch. Elahi } { R. Ahmed } And in the presence of { Imam Saad al-Azhari } Authorised Person for said Mosque

## Common Sense

It's common sense that generally women are the more vulnerable party in a marriage for a variety of social and economic reasons. So in the spirit of justice, their rights and security need to be particularly protected. In previous generations, there were social mechanisms (family or community pressure on husbands) that ensured some measure of protection. But as society changes, these mechanisms are no longer as effective. We all know stories of women in nikahs who came home to find the locks on their homes had been changed – and that was that. A legally recognised marriage is no guarantee of good behaviour by either the wife or the husband, but at least it offers a greater measure of protection – particularly from financial insecurity – than a marriage that is not legally recognised.

Valid marriage documents ensure that the details of the marriage are properly recorded and publicly known. Unfortunately, many mosques do not keep good records and the details they record on marriage certificates for nikahs are not always clear. It seems like the Qur'anic obligation to write future obligations down is not properly fulfilled in the case of many nikahs. But ironically at least a certificate from a civil ceremony or a registered place and person does ensure proper proof of all the details. If nothing else, a civil marriage is practical.

It's interesting to ask why people are keen to get all sorts of official documents done properly, like car licence, house ownership and employment contracts, but then hesitate when it comes to the most important event of their lives: their marriage.

When someone asks "why do a civil marriage?", one answer could be "Why not?", as the information above about Muslim legal traditions and Muslim laws and practices in other countries gives plenty of food for thought.

## Some practical steps:

This guidance has hopefully given you information on how you can ask Registry Offices and find out if a mosque/hotel/centre and the person officiating at your nikah are registered so you can also do the civil ceremony along side your nikah. It also gives you advice about where to find Registry Offices and what a civil ceremony requires.

It provides some information about the religious, legal and commonsense reasons why having a civil ceremony is a good idea. It also shares information about how some Muslims in the West do indeed do both nikahs and civil ceremonies.

### "How can I start discussing civil marriage with my family/future husband/husband?"

"You have to be firm and raise it very early on... I did it during the engagement, saying 'Oh by the way...'. He was sensible and understanding too. But some girls leave it to the last minute when the wedding hall has been booked and there's all that pressure. They think 'I've come this far and now I'm not going to call the wedding off'."

"But I also know two couples who did the civil bit two years into the marriage when there were kids and the couple could see it was for their security too."

**Zaiban Ali, Nottingham**

### The link below has some useful ideas for how to start talking about these difficult subjects.

[www.oneplusone.org.uk/marriedornot/Whatifs.htm](http://www.oneplusone.org.uk/marriedornot/Whatifs.htm)

This guidance is not focused on Muslims – which makes it clear that it's not just some Muslims who are reluctant to get married properly; in other words, maybe the issue isn't religion but just social attitudes generally.

## Information and advice on Muslim marriages in Britain

Marriage is one of the most important steps you may take in your life. It has life-long effects on you, your spouse and any children you may have, so it's important to get all the paperwork right. This guidance is based on the many calls from women we receive at MWNUK asking for help and advice. We hope it at least answers some of your questions. In this guide you will find out about:

- What is a valid marriage in England, Wales and Scotland;
- Your rights depending on what kind of marriage you have;
- What Islam and Muslim family laws & practices in other countries say about valid marriage;
- Practical steps towards a marriage which protects the rights of both spouses and ensures love and mercy (*mawaddatan wa rahmah*) between them;
- Examples of how other women have ensured their marriages are valid in Britain;
- Resources, contacts and where to go for further information and advice.

**Please note:** The information contained in this guidance is very general and cannot take the place of proper legal advice, especially if you or your spouse have been previously married/is still married, or you were married abroad. Nothing in this guide is to be construed as immigration advice. For information about divorce and forced marriage, see MWNUK guidance leaflets. Some names have been changed to protect identities.

## Here are three women with some important questions. Do you know the answers?

### Amina, 47, Leeds, civil marriage + nikah

"We have our ups and downs but it's usually good. Partly it's because I feel secure that when we do have our disagreements he can't just discard me like an old shoe. He would have to go through a legal process and my rights and the children's rights would be protected, I think. I know some young couples want to be able to break up easily without having to go to court but they don't think about how complicated things can get if there are children; then the relationship changes. I'd like to know more about what rights a wife has so I can inform my daughters who are growing up fast."

### Nadifa, 23, Tottenham, London, married abroad

"I'm really confused. I'm Somali and I got married to a relative in Kenya and he came back to the UK to live with me. I'm not sure if our marriage is valid. Some people keep advising us we should get a civil marriage because Islamic marriage isn't valid in this country and any children we have won't be recognised."

### Sara, 32, Birmingham, nikah

"People say it's bad luck to think about such things but it's always at the back of my mind... If anything happens to him, I don't know what my rights are. He's not a bad person. But I've heard stories about women coming home to find their husbands have changed the locks and there's nothing they can do. I found out last year that he already has a wife and kids so if I complain too much he might throw me out."

## Let's be clear about some key words...

...The differences between a 'British civil marriage' and a 'nikah' are all about the paperwork, the formalities and the law. It's not about whether it's an arranged marriage or the couple chose each other.

### So what is a British civil marriage?

This marriage takes place in a Registry Office (usually the Town Hall or some official council building) in front of a Registrar. The marriage is recorded in an official marriage register which both spouses, plus two witnesses and the superintendent registrar and registrar all sign. There are special words that the couple **must** say to make the marriage valid.

It can take place somewhere else, like a popular hotel or public venue, provided it is an "approved premises", i.e., registered with the local Registry Office. A registrar and superintendent registrar from the local Registry Office must conduct the ceremony.

What actually happens? Slough Borough Council has a helpful example of what happens on the day: <http://www.slough.gov.uk/services/1268.aspx> There's no bar to having a religious ceremony on the same day or even at the same venue (if it's not the Registry Office), but any religious ceremony must be completely separate. The couple receive a marriage certificate like this:



### What is a nikah?

Also known in some Muslim communities in Britain as 'traditional marriage' or 'Islamic marriage' or 'religious marriage', a nikah is when the couple have not also had a civil marriage. Practices vary widely and a nikah can take place at a mosque, at home, at a hotel or hall, etc. There is no requirement for an imam to be present, although very often one is. The couple may or may not receive a document recording their marriage, and the details recorded also vary a lot; some give just the names of the couple, the names of the witnesses and the date, while other documents may give more details.

### And what is a registered nikah?

Usually, couples who have **both** a *nikah* and a civil marriage do them at different places and on separate occasions, sometimes many days or even weeks apart.

But some couples have **both** a *nikah* and a civil marriage, at the same time, usually **in a mosque or Islamic centre** that is "licensed for marriage" and conducted by an "authorised person" (more details below). Some people call this a 'registered *nikah*'. The term is a bit misleading because the two ceremonies – *nikah* and civil marriage - are actually **separate** events (even if only separated by some minutes). The couple may take part in a religious ceremony but then they will still have to say, in front of the authorised person or the local registrar, the statutory declaration and contracting words needed for a civil marriage. It is only the civil part, not the *nikah*, that is legally recognised by British law. The couple will receive a marriage certificate like the one shown on **page 14**.

## Other Muslim countries and communities

The classical fiqh vision of Muslim marriage as a civil contract is reflected in some modern family laws in Muslim countries. For example, in Bangladesh and Pakistan's laws and people's practices, any elder can conduct a nikah. The Muslim Family Laws Ordinance, 1961 does not require the recitation of the Holy Qur'an or kalima (statement of faith). The marriage will be legally valid if it's registered later with the right civil authorities. In many countries in the Middle East too, the marriage officiator, maazoun, is someone with civil authority and not necessarily an imam; that's why there are now women maazoun (maazouna).

Many Muslim countries have provisions that are similar to a British civil marriage. These are just a few examples:

- Under Malaysia's Islamic Family Law Act, 1984, couples have to apply for permission to marry and then do a registration procedure;
- Morocco's Moudawana 2004 states that the bride is to receive the original marriage contract and the husband a copy;
- Under Indonesia's Marriage Act 1974 and Compilation of Islamic Law 1991 a marriage can only be proven through a Marriage Certificate and an unregistered marriage has no legal power.
- In Algeria the marriage ceremony and the registration are a one-stop process at a recognised place such as a mosque or town hall;
- Bangladesh has strengthened the laws governing Nikah Registrars to make sure these officials uphold the legal requirements and has strengthened marriage registration provisions through the Muslim Marriages and Divorces Registration Act, 1974;
- In Bangladesh and Pakistan, the marriage can take place anywhere as long as it is registered afterwards;
- In post-Revolution Iran, after women protested for the need for clarification, the authorities affirmed that the registration law was valid and registration is compulsory.

It is interesting to ask why is it that men and in-laws seem reluctant to go for a civil ceremony in addition to the nikah. Is it perhaps because of the presumption that in the event of a break-up, in a nikah the wife has no legal claim to any property or financial protection from her ex? If that is so, then perhaps they are overlooking one of the most direct (but most often ignored) verses of the Holy Qur'an:

"For divorced women is a suitable gift. This is a duty on the righteous." **Surah al-Baqarah 2:41**

Cultural traditions in South Asia (especially Bangladesh, India, and Pakistan) mean that this Qur'anic injunction is not reflected in local family laws and practices. But provision for ex-wives is now widespread in Muslim contexts outside Europe. In 1993 Iran for instance introduced 'wages for housework' (*ujjat ul mithl*), a sum that the court orders the husband to pay (in addition to any *mahr*) before he can divorce his wife. It is assessed based on how long the couple were married, the wife's activities and the husband's financial situation. Sounds familiar? You can download and read more in *Knowing Our Rights: Women, family, laws and customs in the Muslim world* on [www.wluml.org/node/588](http://www.wluml.org/node/588).



These verses tell us many important things: that Allah intends a loving, compassionate relationship between the spouses and not one of insecurity and domination. Also that Muslims are encouraged to write things down, especially when they involve ‘future obligations’. Marriage indeed involves the future obligation of maintenance (of both wife and children), and all the other future rights and responsibilities arising out of marriage. Writing down a contract is mentioned as more just, more suitable for evidence, and more convenient for preventing doubts.

Although verse 2:282 doesn’t mention marriage, in classical Muslim fiqh or legal traditions, Muslim marriage has always been regarded as a contract between a man and a woman – and not a sacrament (or something that requires divine blessing as for Christian marriage). This means that according to fiqh the process of getting married is actually a civil (*mo’amalaat*) and not a religious matter (*ibadaat*). Of course a couple may want a divine blessing and there’s no prohibition on having a religious ceremony. But it is not mandated by Islam.

That’s why family laws in Muslim countries treat the procedure for marriage as a civil procedure (see below for examples).

Classical fiqh for all the main sects and schools of Islam (*madhab*) have the same list of essentials for a valid marriage: the couple must be free to marry each other (i.e., there is no prohibition like being close relatives or the woman is already married or the man is non-Muslim); there has to be a clear offer and acceptance (*ejab o qabul*) (which implies consent from the couple) and there have to be witnesses. It is useful to reflect how similar these basic requirements are to a British civil marriage.

Apart from the Hanafis, other schools also require a wali or guardian for the bride; but the schools do differ on the exact meaning of this role: is it just to represent the woman’s wishes (like an agent – *wakil*) or does he have greater powers? Finally, Muslim marriage requires dower (*haq mehr/mahr*) which is money or possessions given or promised by the groom to the bride. Here too it is useful to ask oneself: surely ways can be found to enable parents to be an important part of a British civil marriage and to make an arrangement for dower?

## Is my marriage valid under British law? Take the quiz! Get informed!

**Q1** Is this your first marriage?  
No - go to Q2  
Yes - go to Q3

**Q2** Did a British civil court dissolve your 1st marriage?  
No - see Notes  
Yes - go to Q3

**Notes:** If your 1st marriage was dissolved abroad or in Britain by any forum other than a British civil court, seek expert advice. You now need to find out if your 1st marriage was valid and if it was validly dissolved.

**Q3** For your present marriage, were you married in Britain?  
No - see Notes  
Yes - go to Q4

**Notes:** When someone is married abroad, the basic rule is that if the marriage is valid under the law of that country, then it is also valid under British law. But don’t assume that an unregistered nikah conducted in a Muslim country is automatically valid just because it’s a Muslim country; most countries have proper legal procedures for registration of marriage that need to be followed.

If you or your spouse are not a British national and you/they came to the UK on a visa, then check the passport. If the passport says you/they came in on a spousal visa, that means the British visa authorities recognised your marriage abroad as valid under British law. If you/they came in on a fiancé visa that means that when you/they came to Britain, the British authorities did not regard you as married.

**Q4** Did you go to give notice at a Registry Office?  
No - go to Q5  
Yes - see Notes & go to Q5  
Not sure - see Notes & go to Q5

**Notes:** For a valid marriage, the intending couple must each give notice of intention to marry at the Registry Office(s) in the area(s) where they have been living for the past 7 days. You must go in person and no one can give notice on your behalf. If you were validly married before, you have to show a valid divorce certificate. After 15 days (14 in Scotland), if no one files an objection to the marriage, you will be given a ‘certificate for marriage’ (England & Wales) or ‘certificate of no impediment’ (Scotland) and the wedding can go ahead – and must take place within 12 months. You can’t get married without this certificate.

**Q5** Did you get married at a Registry Office?  
No - go to Q6  
Yes - go to Q6

**Other things to think about:** A valid marriage also requires: the couple to be at least 16 (and have the parents’/guardians’ consent if they are under 18 in England & Wales) and not closely related (also applies to Scotland); 2 witnesses aged 16yrs+. The couple can be of any religion, ethnicity. A marriage without valid consent or where one party is not of sound mind can be annulled but do not presume it is automatically invalid.

**Q6** Do you have a marriage certificate that looks like **Certificate 1** on Page 14?  
No - see Notes & go to Q7  
Yes - see Notes

**Notes if you answered YES:** It looks like your marriage is valid under British law. However, if you or your spouse were already validly married to someone else at the time of your wedding, then this (additional) marriage will be invalid. That’s why it is important to make sure any previous valid marriage was properly dissolved,

or that your spouse is not a bigamist (someone who is deliberately and illegally in a recognised marriage to more than one person at the same time).

**Notes if you answered NO:** If you think you got married in a Registry Office or a place registered for marriages but you have never had any certificate or your certificate looks very different to our sample, then seek expert advice. You can start by consulting the Registry Office in the district where the marriage took place; or you could get a copy of the certificate online here (England & Wales), or here and here for N. Ireland, or from the Extract Ordering Service 0131 314 4411 (Scotland). If you think someone else has your original certificate: It is important to take responsibility for documents that affect your life. If you cannot get your original from whoever has it, then see above for advice on where to go to get a copy.

**Q7** Did you get married in a mosque, in a hall, hotel or similar?  
No - see Notes  
Yes - go to Q8

**Notes:** If you were married in a house, and not also married through a civil ceremony at the Registry Office or an approved premises, then your marriage is not valid.

**Q8** Was the place an "approved premises" or a religious place "licensed for marriage" at the time of your marriage?  
No - see Notes  
Yes - see Notes & go to Q9  
Not sure - see Notes & go to Q9

**Notes:** To be valid, a marriage must be conducted in an "approved premises" or religious place "licensed for marriage". If your marriage was not in such a place, then your marriage is not valid.

Finding out the status of the place you got married can be difficult. Try to get clear answers from the local Registry Office. An "approved premises" is a hall, hotel, public venue

that is registered with the local Registry Office as somewhere that a civil ceremony can legally take place. There are usually many places in each district. You can search for some here (England & Wales) or here (Scotland), or you can ask your local Registry Office to advise you. The local Registry Office where you got married will be able to tell you if the religious place you were married was registered as "licensed for marriage".

**Q9** Did a Registrar or an "authorised person" conduct the marriage?  
No - see Notes  
Yes - see Notes & go to Q6 again  
Not sure - see Notes & go to Q6 again

**Notes:** In addition to being conducted in a place registered for marriages, to be valid a marriage must also be conducted by a person authorised to conduct marriages, or a Registrar must witness & register the marriage. You have to ask for a Registrar to attend when you give notice. The Registry Office in the area where you were married will be able to tell you if the person who conducted the ceremony was authorised.



## What are the arguments in favour of a civil marriage?

Here is some information about how Muslim legal traditions (Holy Qur'an and fiqh) as well as contemporary Muslim family laws address marriage and marriage registration. We also share some commonsense experiences about

marriage. All this may help you work out for yourselves whether or not it's the right thing for you to do a civil ceremony in order to ensure your nikah is valid.

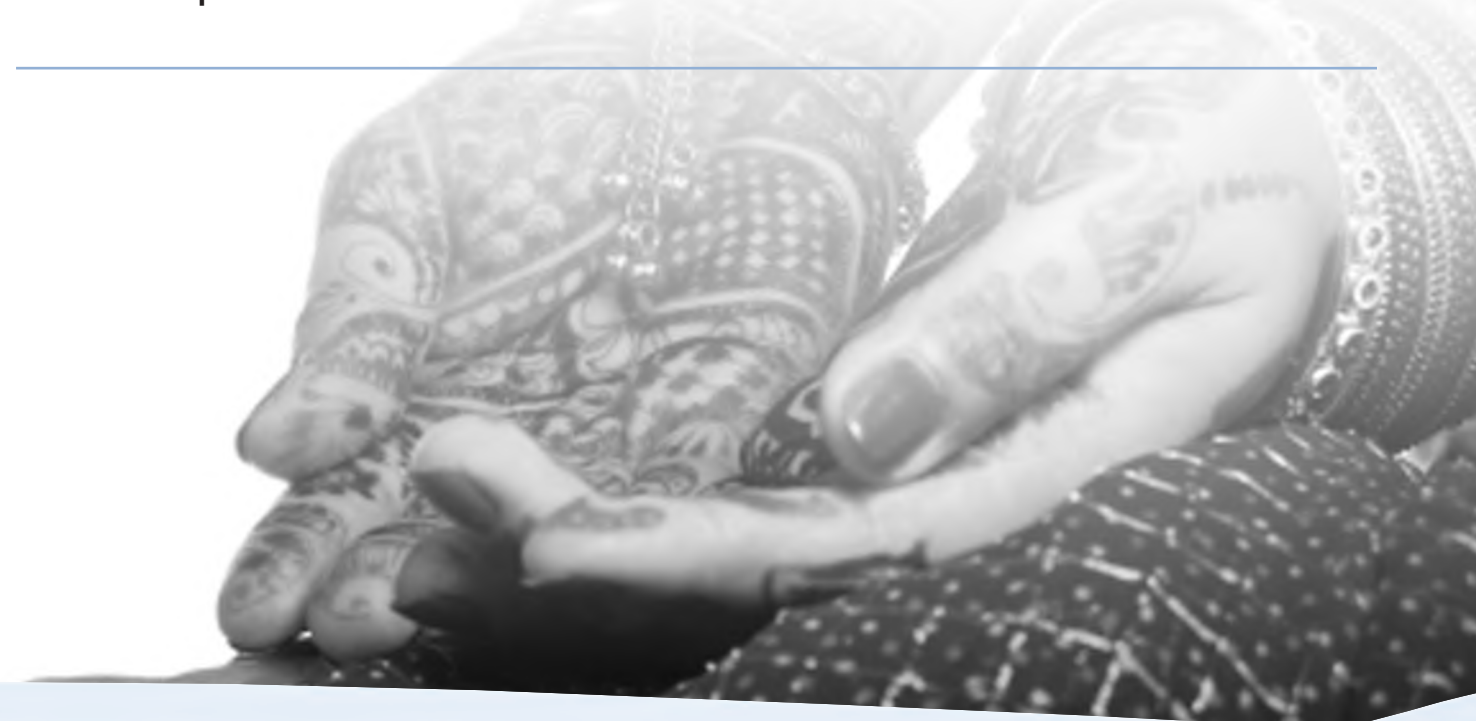
### Muslim legal traditions: Holy Qur'an and fiqh

"And Among His Signs is this, that He created for you mates from among yourselves, that you may dwell in tranquillity with them, and He has put love and mercy (*mawaddatanwwa rahmah*) between your (hearts): verily in that are Signs for those who reflect."

#### Surah ar-Rum 30:21

"Oh ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing. Let a scribe write down faithfully as between the parties: let not the scribe refuse to write: as Allah has taught him, so let him write. Let him who incurs the liability dictate, but let him fear Allah, his Lord and not diminish aught of what he owes. If the party liable is mentally deficient, or weak, or unable himself to dictate, let his guardian dictate faithfully. And get two witnesses, out of your own men. And if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on (for evidence). Disdain not to reduce to writing (your contract) for a future period, whether it be big or small; it is juster in the sight of Allah, more suitable as evidence, and more convenient to prevent doubts among yourselves, but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you if ye reduce it not to writing. But take witnesses whenever ye make a commercial contract; and let neither scribe nor witnesses suffer harm. If ye do (such harm), it would be wickedness in you. So fear Allah; for it is Allah that teaches you. And Allah is well acquainted with all things."

#### Surah al-Baqarah 2:82



### I got married abroad through a nikah/religious marriage. Is that valid here?

If the marriage is valid in the country in which you got married, then most likely it's valid in Britain too. But be careful: many Muslim countries and minority Muslim family laws abroad have a proper legal procedure for getting married. So a nikah may not be valid. For example, in Bangladesh and Pakistan there is a legal requirement to register a marriage, using a standard marriage contract form ('*nikahnama*'). Even if a *nikahnama* was used but it wasn't registered, you can have difficulty proving the existence of the marriage.

### If nikahs abroad are valid, aren't they valid here in Britain?

Again, a marriage without any formal procedure might be valid in some Muslim contexts abroad; or it might not. You need to check the laws of that country carefully. Each country likes its own laws to be taken seriously by other countries. So Britain insists that marriages must be through the legally required process, and a nikah only doesn't match those requirements.

### Is a civil ceremony allowed in Islam?

Islam doesn't have one single authority like a Pope. So there are many different possible understandings of "what Islam says". Have a look at the arguments in favour of civil marriage below, and remember that the Holy Qur'an mentions 'people who think' (*ulil al-baab*) in a positive light. So think for yourself!

### What happens if a marriage takes place on top of an existing marriage (between the same couple)?

It depends on the status of that existing 'marriage'.

If it is a nikah performed in Britain that was not accompanied by a civil ceremony, then any later civil marriage is perfectly valid (and in fact that law will only regard the civil marriage as the date from when to count the existence of the marriage).

A nikah on top of another nikah (between the same couple and both are nikah only, per-

formed in the UK) could cause some confusion about their status under some foreign Muslim laws that the couple may be governed by. So although British law would regard the couple as unmarried, no matter how many times they performed a nikah only, it's safer not to do a nikah on top of a nikah.

If a couple was married abroad through some religious ceremony and that marriage is valid in that country, then later doing a civil marriage in Britain is not a good idea: it can cause great confusion over which marriage is the 'really valid' one. Unfortunately, Registry Offices often allow couples to go ahead with a civil marriage even though they probably have a perfectly valid foreign marriage. Registry Office officials feel it is not their responsibility to check the validity of everyone's previous ceremonies, and sometimes they don't give a clear warning that the 2nd marriage may create confusion.

The official advice is this: "A couple who suspect some irregularity with their marriage ceremony may re-marry each other, as long as they have given notice to the superintendent registrar. [The "authorised person"] should, however, point out that the ceremony will have no legal effect and could cast doubt on the validity of any previous marriage and the status of any children. [The "authorised person"] should use the description "previously went through a form of marriage at\_\_\_\_ on\_\_\_\_" in the entry.

#### Did You Know?

A British civil marriage is recognised as a valid marriage for Muslims by courts in Bangladesh and Pakistan (except if a Muslim woman marries a non-Muslim man). This is because the requirements for validity (the couple are not minors and have freely consented; there were witnesses and a public statement of contract; the woman is not already married) are very similar. The most famous cases are *Ali Nawaz Gardezi* PLD 1963 SC 51, and *Marina Jatoi* PLD 1967 SC 580.

## What rights do I have?

Citizens Advice Bureau have a very useful online guide on living together and marriage: legal differences (which applies to England, Wales & N. Ireland; for Scotland see here). This covers the different rights and responsibilities for couples in a valid marriage as compared to those who have had only a nikah and are therefore, in the eyes of British law, regarded as just living together or 'co-habitees'. Also, One Plus One, which focuses on family relationships have good online guidance which is linked to the official Direct.gov pages.

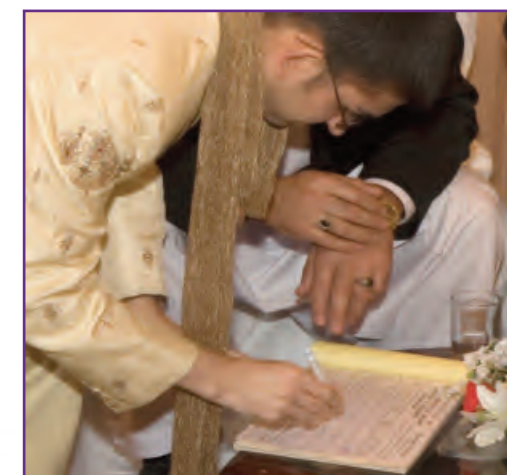
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**FAQ: "Doesn't British law recognise a 'common law wife'?" "Surely couples who live together have the same rights, or almost the same rights, as married couples?" ...**

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**England & Wales:** The idea of a 'common-law wife' is a myth: in England and Wales there is no such thing. For many issues, the legal rights for married couples and couples in a nikah are quite different. The chart overleaf is a very simplified version of some of the information in these two online sources. Make sure you look at the detailed online advice and then get proper legal advice if you have any questions.

**Scotland:** For Scotland, however, the situation is slightly different. In 2006, Scotland amended its laws to provide some greater protection to co-habitees in the area of maintenance and property.



# Legal rights of couples

	Civil marriage/marriage valid under British law	only nikah / 'religious' / 'traditional' marriage
<b>Maintenance of wife</b>	Married couples have a legal duty to support each other during the marriage and after any divorce.	The husband has no legal obligation to support the wife (and she has no legal obligation to support him). However, for benefits like Income Support and Housing Benefit, etc, living together and being married are usually treated the same and the two incomes are added together.  <b>Scotland only:</b> there are some limited rights to post-divorce maintenance which have to be applied for through a court and within 1 year of separation.
<b>Housing</b>	Tenants: No matter whose name the tenancy agreement is in, a married person cannot be thrown out of the marital home.  Owned/mortgaged: Both spouses have a right to remain in the matrimonial home (regardless of who bought it or has a mortgage on it) until a court has ordered otherwise - for example as part of a divorce settlement.	Tenants: if the tenancy agreement is not in the woman's name or joint names, she has no right to stay in the home if the man asks her to leave.  Owned/mortgaged: If one partner is the sole owner, the other has no rights to remain in the home if asked to leave.
<b>Inheritance</b>	If there is a will, then a spouse inherits according to the will; and if there is no will, then the spouse may inherit all or some of the deceased's estate.	If one partner dies without leaving a will, the other partner will not automatically inherit anything (unless owned jointly).
<b>Protection from violence</b>	You can go to court for an order to protect yourself and your children if your partner is violent.	You can go to court for an order to protect yourself and your children if your partner is violent.
<b>Polygamy</b>	If the husband is polygamous, then only the wife in a valid marriage will be legally recognised. If a man contracts two valid marriages, he can be charged with bigamy, which is a criminal offence.	No protection under the law.
<b>Maintenance of children</b>	Any child is automatically presumed to be from both parents. Both parents are responsible.	Unless the mother registers the father on a child's birth certificate, the father has no legal responsibility. If he is named, then both parents are responsible.
<b>Divorce, custody of children and property</b>	Divorce is through a British civil court which will make a legally binding order about custody, child support, maintenance of the wife, and division of property. The court takes many issues, including housework and looking after children, into account when making any financial settlement.	There is no legal obligation to settle the matter before any forum. The woman cannot claim any legally binding post-divorce maintenance and will find it very difficult to claim any share of property in a British civil court. Custody and child support can still be decided by a British civil court.  <b>Scotland only:</b> Apart from inherited property, gifts, and possessions owned before living together may be regarded as owned equally.

This is what one lawyer has to say about cohabitation (which also applies to couples in a nikah only):  
 "There is currently no legislation in England specifically designed to deal with cohabitantes' rights on the breakdown of a relationship. The law in this area remains a cocktail of contract, trust and property law. This is excellent for lawyers, but disastrous for clients and the public at large. The result is expensive and risky litigation." So why take the risk?

If you want to read more:

- Marriage Act, 1949 (England & Wales; mostly about solemnisation and registration of marriages)
- Matrimonial Causes Act, 1973 (England & Wales; mostly maintenance, status of children, validity of marriage, divorce)
- Marriage (Scotland) Act, 1977 (mostly about solemnisation and registration of marriages)
- Family Law (Scotland) Act, 2006 (mostly maintenance, status of children, validity of marriage, divorce)
- A useful 2-page briefing by law firm Harper Macleod on the new provisions in Scotland: Cohabitantes - The New Rights.

## FAQs

### Is there a time limit on doing a civil marriage?

If you are not already validly married, you can have a civil marriage any time – it's never too late! Just remember, any legally enforceable rights will start from the date of the civil marriage and not the nikah because in the eyes of British law, the nikah was not a valid marriage. Also, if your nikah was at a registered mosque or place, just be 100% sure you didn't also go through the civil ceremony (see the quiz).

### Which is better to do first – nikah or civil?

There is no 'proper' way. Some mosques apparently ask to see the civil marriage certificate before agreeing to perform a nikah. MWNUK thinks this is good practice because it ensures that the civil marriage does indeed take place; if the nikah is done before, there can be greater pressure on the woman not to insist on the civil part.

### How do I find out if the place I want to get married in is registered?

Have a look at the Notes to Q8 in the quiz. That tells you where you can start checking. And remember also to make sure the person conducting the ceremony is an "authorised person" (or perhaps arrange for the local Registrar to attend). Both the place and the person conducting the ceremony have to be registered or the marriage won't be valid. You can also search for a local Register Office here. A pamphlet issued by the Ministry of Justice and MINAB gives the same advice.

### Why aren't people doing civil marriages or getting their nikahs done in a registered place?

Good question, especially since some communities in Britain and other minority contexts do practice civil marriage (see Did You Know on the right). Also, when Muslim countries have introduced Muslim family laws, registration of marriage has always been one of the very first provisions – because people recognise how important it is to be clear about a wife's status. When we asked people why, MWNUK received various responses: "it's just not deemed impor-

tant." "Women are promised registration later, but it never happens." "It didn't seem appropriate for me to ask for one... girls are meant to be shy." "Civil marriage is not an accepted form of marriage from a religious point of view." Perhaps this guidance pamphlet can help address some of these misperceptions. Also, there are few mosques or religious centres that are licensed for marriage, and the "authorised person" isn't always available. Many mosques don't have the capacity or will to go for licensing.

### What are the arguments in favour of civil marriage?

Have a look at pages 6 and 7 of this guidance. They compare the rights from a civil marriage and from a nikah only. Also see the section below on Arguments in favour of a civil marriage.

#### Did You Know?

"Nearly all of our members from abroad have performed Nikah as well as Civil Marriages before leaving Mauritius. For those marriages that are performed here in UK, most Mauritian families will perform Nikah and Civil Wedding or vice versa."

Ruhoof Nozeer, Chairman of the Mauritian Muslim Welfare Association

"The vast majority of Canadian Muslims do civil marriage in addition to any religious ceremony."  
 Alia Hogben, Executive Director, Canadian Council of Muslim Women.

