



Islamic Social Services
ASSOCIATION

A Professional Guide for CANADIAN IMAMS

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PREFACE

PROFESSIONAL AND LEGAL GUIDELINES FOR IMAMS IN CANADA

Imams in North America are faced with many demands and constantly evolving roles in Muslim communities. Not only are imams looked up to for spiritual leadership and guidance, they are also called upon to counsel, mediate and resolve conflicts. The communities they serve often turn to them in times of both joy and sorrow. They are involved in the rituals of marriage, birth and death. Imams may also be asked to mediate marital and family disputes. Imams have ethical, legal and professional responsibilities that are associated with these multiple roles.

The office of Imam requires knowledge, information, expertise and resources. The Islamic Social Services Association of Canada (ISSA) is responding to this need by providing imams with the most basic and elementary information about their professional responsibilities and duties. Ideally, imams in North America should be formally trained in counselling and mediation. Furthermore, they should be familiar with the legal requirements pertaining to issues that may arise over the course of their regular duties as imam.

In North America, formally trained and employed imams are part of the clergy sector and are thus analogous to a priest or rabbi. Because most imams are paid employees, they are accountable to their employer (usually the elected board of the mosque) and, in turn, the board is answerable to the congregation and the general body for decisions or conduct that impacts the community. Imams may also be liable for unprofessional conduct, for misuse or abuse of their office, and for circumventing the law of the land.

Most imams are dedicated and ethical professionals. However, if they do not have accurate information, or are not familiar with their legal and professional responsibilities, they may inadvertently provide counsel or advice that is unsound and at times contrary to the law of the land

Even when it comes to the most basic duty of preaching or giving sermons, imams need to be aware of laws pertaining to acceptable speech in Canada. They should also possess a good knowledge of English or French and be effective communicators both within and outside their mosques.

Although this particular handbook is aimed at imams, we recognise that mosques may hire women as counsellors. It is important to note that the same rules of conduct apply to women as well as men.

This booklet has been produced in response to the growing concern that Muslim leaders and imams lack appropriate and accurate information and resources pertaining to ethical, legal and professional protocols. The scenarios that require such knowledge include, but are not limited to, assisting in family disputes, encountering domestic abuse and child abuse, preparing marriage contracts, performing marriages and granting divorces, keeping professional records and maintaining professional etiquette.

We hope that this handbook will be of assistance to imams as they strive to fulfill their many duties. We also hope it will empower imams by providing them with a clearer understanding of their legal rights and obligations in order to better serve their community and safeguard their professional integrity.

We have used Manitoba as a sample province, and much of what applies to Manitoba will be applicable in other provinces and territories of Canada. However, we must emphasize that laws and rules may vary from province to province and it is important that imams refer to the relevant agencies and government departments in their home provinces, territories as well as their municipal jurisdictions.

This handbook is divided into several sections, each addressing a particular area of concern. ISSA has also included, as samples, its marriage contract, marriage certificates, intake forms and a resource directory.

If any organization or imam wishes to use our contracts and any other material, we ask that they acknowledge the source and inform us by way of an official request.

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President

Islamic Social Services Association, Inc-Canada

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Mennonite Central Committee (Winnipeg)

References and material sourced from the following organizational websites:

1 EnFaNCE Foundation Inc. Revised on June 2004 – E. Moutin Encourage Families in Need and Care for Education

<http://www.canlaw.com/mediator/whatismediation.htm>

Canadian Association of Social Workers, (CASW) Code of Ethics.

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SECTION 1

RESPONSIBILITIES OF PROFESSIONAL AND VOLUNTEER IMAMS

Developing Ethical Practices

ISSA highly recommends that mosques and other Muslim organizations develop ethical standards and guidelines. It is suggested that they be used as:

- ✓ A common set of values
- ✓ A basis for talking openly about ethical issues and concerns
- ✓ A foundation for creating a stronger sense of community
- ✓ A starting point for productive resolutions
- ✓ An operating framework within the mosque/organization that provides for transparency and principled behaviour
- ✓ A set of norms for the education and formation of an office of the imam

Ethical standards will enable mosques and Muslim organizations to attain two goals. The standards act as a resource for imams and other staff as they struggle with ethical issues and dilemmas in the context of their daily practice. The same standards also enable the imam and staff to be accountable to Allah, themselves and to the community.

The **standards of practice** should describe practices to which imams and leaders aspire. They should recognize that personal and professional growth is a developmental process and that imams move through a variety of career and life changes that affect their practice.

In practice, imams are expected to know and understand the culture of the congregation in which they serve so that they are responsive to the particular spiritual needs of their faith community. They take local traditions of faith and worship seriously, and share their faith in ways that are relevant and constructive.

Imams are responsible for leading, guiding and supporting the community. What is more, they touch people's lives at various points of joy, pain, celebration and vulnerability. Imams and community leaders may do this in a variety of ways—by leading in worship, by providing pastoral care, by standing with those who suffer, and by working for justice and peace.

Standards of practice are not to be viewed as measurements of performance. Rather, they are descriptions of practice to which imams and community leaders can aspire.

The position of the imam is a focal point in a Muslim's spiritual and community life. Much respect and trust is placed in the office of the imam. In turn, the imam must accept his office as an *amanah* (trust) from God and the people he serves. An imam's approach to his job should be professional, ethical and accountable.

In Islam, imams are not anointed, considered sacred, and/ or act as intermediaries between individual believers and God. Each Muslim worships the Creator directly and does not require any intercession. The imam is a spiritual teacher and an example for the community.

This office requires well defined roles and responsibilities as well as an accountability mechanism whereby the performance of the imam can be judged, assessed and evaluated. ISSA recommends a legally sound contract to be drawn up between the imam and the hiring authority of the mosque. The imam must be made aware of his duties, rights and responsibilities. Terms of reference must be mutually agreed upon, if and when the imam is required to counsel congregants, respond to media inquiries or provide mediation.

The imam must fulfill his contractual duties and must be transparent in his reporting system.

Islam requires anyone in a leadership position to be just, compassionate, forgiving, collaborative, humble and to be a positive example. In addition, Islam directs us to obey the law of the land, to be truthful, honest and to operate within the boundaries of Islamic ethics.

The office of the imam should not discriminate when dealing with individuals based on disability, ethnicity, gender, sexual orientation, race, or religious practice. Every mosque and Muslim organization should have an **Anti-Discrimination Policy**, which all employees and board members should sign and adhere to.

In Canada, imams are expected to be available equally and fairly to all members of their congregation and community. The imam may hold personal views that are biased or prejudiced towards some people; however, he should not, under any circumstances, act on those prejudices or provoke the congregation to behave in a discriminatory manner. In this vein, the imam should never use the pulpit to disseminate personal biases.

The imam must remain sensitive at all times to the diversity of religious expression among Muslims in Canada and the diversity of *madhabs* (schools of thought) within his own congregation. The imam must model tolerance and respect by honouring different schools of thought.

SECTION 2

MARRIAGE COMMISSIONER: ROLE AND RESPONSIBILITIES

Getting Married

Legal marriage gives status to individuals as spouses, resulting in certain rights and obligations. The law places some restrictions on who can enter into a valid marriage. There are also rules about how a valid marriage takes place.

Who cannot legally marry in Canada?

Closely related persons: A person may not marry his or her grandparent, parent, child, grandchild, brother or sister.

Persons certified as mentally disordered cannot marry unless a psychiatrist certifies in writing that they are able to understand the nature of marriage and its duties and responsibilities.

Persons under 18 years of age (minors) cannot marry unless:

Where the minor is over 16:

1. Both of the parents give their written consent, or
2. Where the parents are separated, the parent with whom the minor is living gives written consent, or
3. A judge gives written consent, or
4. Where a child care agency or the director of Child and Family Services is the child's guardian, the director or a judge gives written consent, or
5. Where one parent is dead, the other parent gives written consent, or
6. Where both parents are dead, the child's guardian gives written consent

Where the minor is under 16:

1. Marriage is valid only if a judge gives written consent to the marriage.

Anyone of any age who has been divorced, or whose spouse has died, may remarry without the consent of any other person.

Please note that in July of 2005, the Federal Parliament passed the *Civil Marriage Act*, allowing same-sex marriage throughout Canada. However, *religious clergy are exempted* under the Act from performing same-sex religious marriages that are not in accordance with their belief system.

How a Valid Marriage Takes Place

Marriage License

Couples need to acquire a document usually called a marriage licence before getting married. The licence itself does not mean the couple is married but that they can get married, within that province, at any time up until the license expires following the issuing of that licence. That licence can be obtained from the appropriate Provincial Government authority usually called a Vital Statistics Office. The couple are required to apply together for the marriage license, often by both attending in person with valid identification, to the appropriate Vital Statistics Office. This licence, once obtained by the couple, will be used by a registered marriage commissioner to perform the civil legal ceremony. In many provinces, the marriage licence must be obtained at least 24 hours before the wedding unless the person performing the ceremony is persuaded that the time period should be waived because of exceptional circumstances. In most provinces, the wedding must take place within three months after the licence is issued.

Ceremony

There must be a ceremony, preferably both religious *and* civil. A civil ceremony is a non-religious rite and must be performed by a marriage commissioner. Each Vital Statistics office will have a list of marriage commissioners who are authorized by law to perform civil marriages in that province. A marriage ceremony, whether religious or civil, may take place anywhere - for example, in a private home, religious centre, park or hotel. While each province will have their own specific requirements, generally at least two witnesses must be present to personally witness and sign the marriage license.

While religious ceremony is a requirement in Islam and can technically be performed separately, it is forcefully recommended that an imam be a registered marriage commissioner with the province within which he resides so he can perform both a civil and Islamic marriage ceremony at the same time. The position of marriage commissioner can be applied for by an imam.

An imam who is a registered marriage commissioner registers the marriage under the appropriate provincial authority by filling out the Marriage Licence during the ceremony and returning the licence to the Vital Statistics Office. Where the imam is *not* a registered marriage commissioner, a second civil ceremony should be performed by an authorized marriage commissioner immediately. When there is no official legal record of a marriage, serious issues may arise in the event of divorce and/or death of one or both spouses.

In most cases it is the woman who suffers injustice when the marriage is not registered leaving her with very little legal recourse in cases of ongoing conflict resulting from second marriages and custody disputes.

For further details about the requirements that must be met before entering into a legally valid marriage and the relationships that prevent a legal marriage, contact your local Vital Statistic Agency.

Polygamous Marriage and Canada Criminal code

Polygamy is forbidden and illegal in Canada. The Criminal Code of Canada makes it a criminal offence to not only practise polygamy, but to sanction a polygamous relationship:

293. Polygamy

293. (1) Every one who

(a) practises or enters into or in any manner agrees or consents to practise or enter into

(i) any form of polygamy, or

(ii) any kind of conjugal union with more than one person at the same time,

whether or not it is by law recognized as a binding form of marriage, or

(b) celebrates, assists or is a party to a rite, ceremony, contract or consent that purports to sanction a relationship mentioned in subparagraph (a)(i) or (ii),

is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

When Do Couples Become Common-Law Partners?

People who live together in a conjugal or marriage-like relationship are often referred to in family law as common-law partners. There is no single definition of common-law partners or a common-law relationship in provincial or federal law. Some laws say that common-law partners must live together for a specified period of time before each partner acquires certain rights or responsibilities. Other laws require that the two people must intend to live together in a conjugal relationship on a permanent basis, but do not set out a specific length of time. For example, every Manitoba law that includes a definition of common-law partnership includes couples that have registered their relationship with the Vital Statistics Agency, no matter how long the registered couple has lived together. It is important to look at provincial laws to

determine whether or not a relationship qualifies as a common-law partnership under that law.

Registering a common-law relationship is completely voluntary. Common-law couples are not required to register. A common-law relationship may be registered by completing and filing a simple form with the Vital Statistics Agency. For more information on registering a common-law relationship, the fees for registering and certificates proving registration, contact your local Vital Statistics.

The following excerpts pertain to residents of Manitoba (for residents of other provinces, please refer to your Justice website or Vital Statistics website):

Common-law partners who have:

- Registered their common-law relationship with the Vital Statistics Agency or
- Lived together for at least one year and have a child together or
- Lived together for at least three years if there are no children of the relationship

have all the same rights under *The Family Maintenance Act* as legally married spouses, including the right to seek spousal support.

Children born within marriage and those born to common-law partners have equal legal status and rights. *The Family Maintenance Act* gives unmarried parents certain rights respecting custody of their children. If the parents have lived together after the birth of their child, they have joint custody of the child unless a court orders otherwise. If the parents have never lived together after the child's birth, the parent with whom the child lives has sole custody, unless a court orders otherwise. *The Family Maintenance Act* also has provisions for determining the parentage of a child when this is in dispute.

Court applications for custody of or access to children of common-law relationships are no different from applications involving children of married parents. The court's decisions are based on the best interests of the children involved.

Similarly, parents have equal responsibilities to support their children whether married to the child's other parent or not. (Manitoba's *Child Support Guidelines* are equally applicable to unmarried parents and to those who are married)

The rights and duties of married spouses/common law partners to each other while living together may vary in some details from province to province.

Rights and Responsibilities of Married and Common-law Partners

When spouses or common-law partners separate, the law sets out their rights and duties to each other, for example, how property is to be divided and who is to pay support and how much. Even when a couple is still living together, they have certain legal rights and responsibilities to one another. Some of these are explained below.

Financial Support

Both spouses and both common-law partners have a duty to financially support and maintain each other while living together. This duty can be met by earning income outside the home or by running the household. In both situations the spouses or partners equally contribute to the welfare of the family. The right to financial support includes the right to receive reasonable amounts for clothing and other personal expenses on a regular basis, and the right to spend this money without interference from the other spouse or common-law partner.

Financial Information

The Family Maintenance Act gives spouses or common-law partners the right to request and receive financial information from each other while they are living together. For example, a spouse or common-law partner is entitled to information such as copies of income tax returns and itemized statements of earnings, assets and liabilities. If this information is not provided when requested, the court can order the spouse or common-law partner to provide the information and pay the other spouse or partner a penalty of up to \$5,000.

Property and Use of Family Assets

Both spouses and both common-law partners have the same right to use and enjoy family assets. A family asset is property that is owned by one or both spouses or common-law partners and is used for family purposes such as shelter, transportation or recreation. Examples of family assets are the family home, household furniture and appliances, family car, summer cottage, lawnmower, and gardening tools. However, one spouse or partner does not have the right to use the other's personal belongings (for example, clothing and other items that are not usually used by both of them).

The Manitoba act does not, for example, prevent a spouse or common-law partner from selling or otherwise dealing with a family asset that is owned by him or her, unless such actions would seriously threaten the family's financial security or the asset involved is the family home.

The Family Home

The Homesteads Act gives special protection to the family home, or homestead, which can be a house, a farmhouse or a condominium. *The Homesteads Act* defines common-law partners as a couple who have either registered their relationship with the Vital Statistics Agency or who have lived together in a conjugal relationship for at least three years. Where the homestead is owned by one spouse or common-law partner alone, the other spouse or partner must consent in writing before the owner can sell, mortgage, rent for three years or more, or otherwise dispose of it.

Where either spouses or both common-law partners are the registered owners of the family home, both must agree in writing to any sale, mortgage, rental or other transaction involving it. A spouse or common-law partner who has disposed of the homestead without the other spouse's or partner's consent may be liable to that spouse or partner for damages. The defrauded spouse or

common-law partner may also be entitled to seek compensation from the Land Titles Assurance Fund.

Muslim marriages that are prone to conflict

The following marriages are considered dysfunctional and/or illegal according to the law of the land. As an Imam, please make sure that you have all the information necessary to perform a legal marriage and that you do not knowingly become party to a fraud.

There are many types of marriages taking place among Muslims that are either illegal or contradict Islamic principles. These marriages are contributing to untold misery and high divorce rates. Let us consider the following categories:

Temporary marriage

This form of marriage is clearly *haraam* (forbidden) in the sunni *fiqh* (jurisprudence). However, we are finding that this form of marriage is taking place on campuses across North America. These contracts are made in secret, specify the duration the marriage will last, and usually involve a monetary exchange. These marriages have no legal status and are emotionally harmful. Many un-informed girls, being unaware that this is *haraam* (forbidden) and illegitimate, find themselves pregnant and abandoned with limited legal recourse.

Secret marriage

These are marriages performed with no legal registration and typically without the knowledge of the immediate family. There is lack of contractual commitment and weak legal protections in these circumstances. Women are most vulnerable in this type of arrangement.

Another form of secret marriage is polygamous marriage where the first wife is unaware that her husband has taken a second or third wife. Imams who are performing such marriages are breaking the law and are also causing undue damage, hardship and emotional trauma to the wives and their children.

Condoning any marriage or giving it the cover of religion when it is conducted in secret or without the consent of all parties is unethical and against Islamic principles.

Interfaith marriage without prior counselling

Islam generally prohibits the marriage of a Muslim girl to a non-Muslim man. However, Muslim girls are marrying non-Muslims. Such marriages often go unrecognized by the community at large. Muslim men are allowed to marry Jewish and Christian women under certain conditions. Interfaith marriages in general can pose many conflicts. It is important that premarital counselling is applied to help the couple deal with the inevitable stresses that can arise. The real casualties in these marriages are often the children, who may lose their Islamic identity or be conflicted between their parents' respective faiths.

Marriage of convenience

These marriages take place solely for the purpose of acquiring immigration. The spouses are brought from overseas and their chief interest is often to live in the west, rather than form a stable marriage. Again, it is often women who bear the negative consequences of such an arrangement.

Polygamous marriage

Canadian law does not recognize polygamous marriages. The rights of the second or third wife are not protected under the law. In fact, they are not even recognized as legal wives. As an imam and marriage commissioner, you have the right and obligation to refuse to perform polygamous marriages since this is against the law of the land. If you choose to disregard the law of the land there may be legal consequences for you and your organization. Charges of facilitating bigamy or committing fraud may be lodged against you and your board. (please refer to page 11)

“Islamic” marriage

The marriage is not registered with the authorities and therefore there is no legal record of the marriage. Under Canadian law, marriages must be registered in order to ensure certain legal protections. This especially protects women from abandonment and neglect.

Unofficial marriages can, in turn, result in unofficial divorce. This leaves the woman in particular with limited or no legal recourse. Particularly vulnerable to these types of marriages are those who are desperate for social and financial security (for example, recent immigrants, refugees, and new converts).

Forced marriage

Forced marriage is not recognized as legal under Islamic or Canadian law. When one or both parties are coerced into a marriage they do not want, the situation becomes highly problematic from a legal, social, emotional and moral perspective. Please make sure that you have sought permission from both parties and in front of witnesses. If there is any doubt please refrain from performing the marriage ceremony until you have positive assurance that all parties are in agreement. Performing a marriage ceremony over the phone or via web cam may also compromise an imam’s ability to confirm consent and therefore, is strongly discouraged.

Essential considerations and requirements for Muslim marriage

Mahar (Dowry)

The dowry is a Muslim woman’s right and should be of her choosing. Unfortunately, women are often taken advantage of and persuaded to agree to an amount that is insufficient to ensure her own well-being. This goes against the shariah stipulation for *mahar*. A dowry is a Muslim

woman's protection in case of divorce and should not be minimized to the extent that it becomes meaningless. *Mahar* is also to be paid to the woman and not to her father or anyone acting as her *wali* (guardian.) It should be stipulated clearly how the *mahar* is to be paid (for example in lump sum or in instalments.) The woman must agree, in full, to the arrangement.

The opposite extreme is when the woman or her family demands unreasonable and exuberant sums, which creates conflict and an unnecessary burden on the man. This also goes against the spirit of Islamic law. *Mahar* is protection for the woman and should not be used to deter men from seeking marriage.

Often women have been known to agree to an amount that is deferred or paid in instalments, however, many never receive their *mahar*. It is the duty of the imam or person performing the Muslim marriage ceremony to inform and educate the spouses on their rights and responsibilities in this area.

Muslim Marriage Contract

Islam encourages marriage contracts and it is important that such contracts meet both Islamic and Canadian legal requirements. Both parties must agree to the contract freely and without compulsion or duress. ISSA recommends the attached contract*, developed by ISSA and derived from and based on the contract used by the British Council of Muslim organizations and sanctioned by the Shariah Council of the U.K. It has been adjusted to meet Canadian legal requirements.

Pre-marital preparation

As an imam, it is your responsibility to make sure that the prospective bride and groom are well equipped with understanding, knowledge and information on how to maintain a healthy marriage. It is important that young couples know their rights and responsibilities as spouses and as parents. Divorce rate among Muslims in North America is very high (almost 41% as documented by Dr. Ilyas Bayunus in 1995). Contributing to the high divorce rate is lack of knowledge and the absence of marriage preparation and premarital counselling.

ISSA, both in Canada and USA, has developed marriage preparation courses. Every couple should be strongly encouraged to take such a course prior to the *nikah* (Islamic marriage) ceremony. These courses cover finance, communication, self-awareness, sexuality, spirituality, and conflict resolution. ISSA also trains imams and volunteers to implement these courses.

These courses allow couples to have frank and informed discussions regarding their expectations, dreams and wishes for the marriage. It also prepares them for times when they may be in conflict and on how to resolve these conflicts. Relationships with in-laws and caring for ageing parents are topics that need mutual understanding and agreement, and these are all discussed during premarital preparation course. It is recognized that for some couples divorce may be the only option.

ISSA highly recommends that imams make these courses a prerequisite to the performance of the marriage ceremony. The ISSA course is seven sessions taken over seven weeks or can be completed in one week.

SECTION 3

MEDIATION: PROCESSES AND GUIDELINES

The imam as mediator

Many Muslims prefer mediation to resolve their family and marital conflicts and will seek out an imam to help them settle their issues. It is important to note that mediation requires skills, knowledge, training and experience and must follow ethical guidelines.

A mediator must be neutral, fair, competent and trustworthy. Unfortunately, in situations involving domestic conflict, men tend to have much easier access to imams than women. As a result, women are not given the opportunity to share their side of the story prior to mediation. This can seriously compromise the imam's neutrality and his position as a mediator.

In cases of abuse, mediation may not be an option unless the perpetrator and victim of abuse seek counselling and want to recommit to their marriage with the clear understanding that there is zero tolerance in Islam and Canadian law for domestic abuse.

ISSA recommends that imams form a mediation committee with trained mediators, both men and women. An imam can oversee the committee to make sure it is Shariah compliant, just and fair and follows clear legal and ethical guidelines. Mediators should be chosen carefully and should sign contracts with the imam or the mosque to maintain good standards of practice.

** The following sections on mediation and the mediation process were retrieved from:*
<http://www.canlaw.com/mediator/whatismediation.htm>

MEDIATION

Mediators can help resolve the most common disputes such as those that occur in the workplace or disputes that arise during separation and divorce with regard to custody issues, parenting, maintenance of children/spouse and the division of assets and liabilities.

What is mediation?

- Mediation is a process provided by a neutral third party to assist two or more parties to resolve their dispute and reach a voluntary settlement.
- The neutral party does not make a decision.
- The parties may terminate the process at any time.
- Parties to mediation meet privately with the mediator to resolve their dispute on their own terms, rather than a judge or arbitrator making a decision after hearing evidence.
- Mediation is confidential and without prejudice and cannot be used in court.
- The parties are encouraged to seek independent legal advice.
- Where a voluntary settlement is achieved, it only becomes binding when the parties have concluded a settlement agreement.

How can mediation help?

- If you are undergoing disputes or conflicts, mediation may be the answer.
- Mediation can be used whether or not the parties have already started another process such as a court action.
- In fact, in civil disputes, many courts now require and will impose mediation prior to a trial.

How much does mediation cost?

Costs vary, depending on such things as:

- How many parties are involved
- Whether lawyers are participating in the mediation
- How many issues there are to discuss in mediation

Some of the things mediators are paid or reimbursed for include:

- Time spent helping parties prepare for mediation;
- Time spent in mediation;
- Travel time to and from mediation, if in another city;
- Rental of a mediation room
- Other possible expenses incurred by the mediator for the mediation.

Who Pays?

Costs are usually split equally between the parties. Some mediators may volunteer their time but are still required to follow the legal and ethical guidelines.

THE MEDIATION PROCESS

The mediator will help you to resolve your problem so that the parties are the decision-maker.

During the process of mediation, the mediator will meet with the parties jointly and individually as required, to work towards resolution of issues.

The role of the mediator includes:

- Reducing the obstacles to communication.
- Maximizing the exploration of alternatives.
- Addressing the needs of those involved or affected.

The mediator assists the parties in a conflict resolution process that focuses on the needs and interests of the participants, fairness, privacy, self-determination and the best interests of both parties.

Where there are legal disputes, parties to mediation are strongly advised to obtain independent legal counsel, preferably before mediation commences and in any event before a final agreement is reached.

Mediators do not provide legal advice or professional opinions but may provide general information for the parties.

A mediator tries to ensure that the participants reach agreement freely, voluntarily, without undue influence and on the basis of informed consent.

The Benefits of Mediation:

- Usually mediation saves the parties money compared to going to court.
- Mediation is usually a faster process for resolving conflict than court action.
- The parties participate in the resolution of their dispute which is better than having a judge impose a solution no one likes.
- Relationship with the other party is preserved (for example as customer, supplier, business associate, parent or spouse).
- The parties can keep the situation private.

ROSTER MEDIATIONS

Many courts now demand that mediation precede any litigation or trial.

Usually parties have 30 days to select their own mediator. If they fail to do so, the court automatically appoints a mediator from a list of "Roster Mediators" the courts keep on file.

This could mean you are stuck with a mediator, a schedule and a process you do not like.

It is preferable for the parties to select their own mediator rather than have one forced on you.

Guidelines for Mediation and Arbitration among Muslims

Mediation as a means for conflict resolution especially for marital conflict is encouraged. According to Islamic guidelines, contracts should be documented and witnessed by a third party.

In case of arbitration, both parties must agree to arbitration and on the choice of arbitrator or arbitrators. Arbitration must be legally binding in order to be effective.

Muslim volunteer mediator/arbitrator

All volunteer mediators should be trained, certified or experienced in the process of mediation and arbitration. Mediators must have the time to commit to the mediation process and be willing to dedicate themselves to the process itself. Both parties must consent to the selection of a particular mediator. The mediator should be a respected member of the community and possess a balanced understanding of Islam. The mediator must always take an egalitarian approach to the mediation process and should not be related to either party in the dispute. Mediators must agree to sign a confidentiality agreement and demonstrate a clear understanding of professional ethics.

Checklist for Mediators:

Have a written agreement that is signed and properly witnessed.

Have a lawyer review the agreement prior to signing.

If parties are bilingual make two contracts, one in each language (English and French, or English and the other language(s)).

If there is intent to file the agreement in a Muslim country, the contract must be on the Islamic organization's or mosque's letterhead.

Use both the legal and Muslim names (if different) of the parties on all written agreements.

Specify, in writing, the place and time when agreement was signed. Have it signed in front of witnesses (one or two from each side).

Draft an accompanying cover letter that specifies your position, qualifications and education.

The mediator must set deadlines, identify goals and spell out the objectives of the mediation in initial intake.

**Please note that a mediator is not a judge. They are unable to determine or "rule on" who is right or who is wrong. Their role is to help both parties reach just and mutually agreed upon terms for an agreement that will help resolve the conflict.*

Guidelines for imams who take on the role of mediator or counsellor

Think before reacting: The tendency in a conflict situation is to react immediately. Please consider the options, weigh the possibilities and remember the same reaction is not appropriate for every conflict.

Listen actively: Listening is the most important part of communication. Please pay attention not only to words but to both the body language and intonation. It is important to let the parties know that you heard what they have said. This is especially important when using an interpreter or when the parties are not proficient in the language the mediation is being conducted in. It is important to take into consideration the languages spoken in the community and to choose and train mediators accordingly. Ideally, we should have distinct pools of mediators and interpreters that are multilingual, well versed in the legal aspects of mediation and interpretation and who are seen as , ethical and trustworthy. Never use children to translate or interpret for their parents. This seriously mars the process and affects the power dynamics of the family.

Assure a fair process: The process of resolving the conflict is often as critical as the conflict itself; therefore, ensure the method and means of reaching a settlement is fair to both parties. Even the perception of unfairness can destroy the resolution. Gender related biases are commonly cited reasons for discomfort by women participating in mediation with imams or male mediators. This can be easily resolved by including women mediators in the process. Fairness, equity and justice are the bedrock of Islamic mediation.

Attack the problem: When emotions are high it is easy to attack the person rather than the problem. Conflicts are resolved when we attack the problem and not each other. The mediator must assess what the problem behind the emotion is and determine what the causes are instead of focusing on the symptoms. Because we deal with a multicultural community, we must be culturally competent and understand how different cultures communicate and what their social norms are. The object is to provide a culturally and spiritually safe environment for mediation and counselling for the process to succeed. Please remember, mediators should not set themselves up as judges and must restrain themselves from giving advice, even when pressed. A mediator's job is to help people reach a resolution that is mutually acceptable, just and fair by facilitating dialogue and positive interactions.

Accept responsibility: There are many sides to any conflict. Attempting to place blame creates resentment and anger. Mediators should encourage all parties to be accountable so that the concept of blame is diminished.

Use direct communication: Encourage and direct parties to say what they mean and mean what they say. Do not allow them to talk around the problem; suggest that they use "I message" and not "you message".

Look for interests: Positions are usually easy to understand. Look for true interest of all the parties.

Focus on the future: Understand the dynamics of the relationship and the history of the relationship for the purpose of resolving the issue, but focus on the future. This encourages hope and empowers people to consider change as they move forward.

Options for mutual gain: Remind both parties that attempts at gain at the expense of one another prolongs conflict.

Conflict resolution skills needed to be an effective mediator: Creativity, empathy, assertiveness, ability to work co-operatively, ability to manage emotions, a willingness to resolve the conflicts by developing options, ability to handle complex negotiations, capacity of taking a broad perspective.

Please Remember

- ✓ You are a mediator not a judge.
- ✓ Do not conduct sessions at private residences.
- ✓ Hold sessions in the office.
- ✓ After initial contact, meet separately with both parties.
- ✓ Ensure both parties are satisfied with you as mediator.
- ✓ Know that counselling may be part of the mediation process.
- ✓ Stay focused on the issue. Do not be drawn into arguments, lies, rumours, slander, put-downs and insults.
- ✓ Open and close sessions with *dua* (supplication).
- ✓ Set ground rules in first session.
- ✓ Be punctual and demand it from your clients.
- ✓ Allot a set time for each session. Do not exceed the 2 hour mark for each session.
- ✓ Terminate the session if clients become angry, abusive or violent.

SECTION 4

FAMILY COUNSELLING: ETHICAL STANDARDS FOR IMAMS

Preamble

- a. Each person has the right to respect and dignity as a human being and to counselling services
 - Without prejudice to the person, character or belief.
 - Regardless of age, colour, disability, ethnic group, gender, race, religion, sexual orientation, marital status or socioeconomic status.
- b. Each person has the right to self-direction and self-development.
- c. Each person has the right of choice and the responsibility for goals reached.
- d. Each person has the right to privacy and thereby the right to expect the imam to comply with all laws, policies, and ethical standards pertaining to confidentiality.

Responsibilities to beneficiaries

Basics responsibilities of the imam counselor

- a. The beneficiary is treated with respect as a unique individual.
- b. The imam is concerned with the educational, vocational, emotional, behavioral and basic social needs of the beneficiary and encourages their maximum development.
- c. The imam refrains from consciously encouraging the beneficiary's acceptance of values, lifestyles, plans, decisions and beliefs that represent the imam's personal orientation.

Confidentiality

The imam informs the beneficiary of the purposes, goals, techniques, and rules of procedure under which she/he may receive counselling at/or before the time when the counselling relationship is starting.

*1 EnFaNCE Foundation Inc. Revised on June 2004 – E. Moutin Encourage Families in Need and Care for Education

Disclosure notice for:

- Necessity of consulting with other professionals.
- Legal requirements demanding confidential information to be revealed may include suicide ideation, disclosure of sexual abuse or molestation.
- Prevention of a clear and imminent danger to the beneficiary or others.
- Relationship of the beneficiary with a third party who is at a high risk of contracting a disease that is commonly known to be communicable and fatal (the imam will first ascertain that the beneficiary has not already informed the third party about his or her disease and he/she is not intending to inform the third party in the immediate future)

The imam counsellor protects the confidentiality of the beneficiary's records and all information received in the counseling relationship. He releases personal data only:

- Consistent with the family counselling ethical obligation
- With the informed consent of the beneficiary
- According to prescribed laws and institutional policies

Counselling Plans

The imam and the beneficiary work together in developing an integrated and effective counselling plan. Such plans will be regularly reviewed to ensure continued viability and effectiveness, respecting the beneficiary's freedom of choice.

Dual Relationships

The imam avoids dual relationships, which might impair his objectivity and increase the risk of harm to the beneficiary (e.g., counselling one's family members, close friends, or coworkers).

Appropriate Referrals

The imam makes referrals when necessary or appropriate to outside resources. Appropriate referral necessitates knowledge of available resources and making proper plans for transitions with minimal interruption of services. Beneficiaries retain the right to discontinue the counselling relationship at any time.

Danger to Self or Others

The imam informs appropriate authorities when the beneficiary's condition indicates a clear and imminent danger to the beneficiary or others. This is to be done after careful deliberation and, if possible, after consultation with other counselling professionals. The imam informs the beneficiary of actions to be taken in order to minimize his or her confusion and to clarify beneficiary and imams expectations.

Beneficiary records

The imam maintains and secures records necessary for rendering professional services to the beneficiary as required by laws, institutional procedures and confidentiality guidelines.

Evaluation, Assessment, and Interpretation

- The imam provides explanations of the nature, purposes, and results of assessment/evaluation measures in a language the beneficiary(ies) can understand.
- b. The imam does not misuse assessment results and interpretations and takes reasonable steps to prevent others from misusing the information.

*2 EnFaNCE Foundation Inc. Revised on June 2004 – E. Moutin Encourage Families in Need and Care for Education

Responsibilities to Parents (When counselling is required for one child in a family relationship)

Parent Rights and Responsibilities

The imam will:

- Respect the inherent rights and responsibilities of parents for their children and intend to establish, as appropriate, a collaborative relationship with parents to facilitate the beneficiary's maximum development.
- b. Adhere to laws and local guidelines when assisting parents experiencing family difficulties that interfere with the beneficiary's effectiveness and welfare.
- c. Be sensitive to cultural and social diversity among families and recognizes that all parents, custodial and non-custodial, are vested with certain rights and responsibilities for the welfare of their children by virtue of their role and according to law.

*3 EnFaNCE Foundation Inc. Revised on June 2004 – E. Moutin Encourage Families in Need and Care for Education

Parents and Confidentiality

The imam will:

- Inform the parents of their role as counsellor and emphasize the confidential nature of the counselling relationship between them and the beneficiary.
- Provide parents with accurate, comprehensive, and relevant information in an objective and caring manner. The information provided shall be appropriate and consistent with ethical responsibilities to the beneficiary.

- Make reasonable efforts to honor the wishes of parents and guardians concerning information that they may share regarding the beneficiary.
- When child abuse (physical, emotional, sexual, neglect) is reported or suspected, imams must adhere to protocol with regard to child protective services.

Responsibilities to Colleagues and Other Professionals

Sharing Information with Other Professionals

The imam will:

- a. Promote awareness and adherence to appropriate guidelines regarding confidentiality, the distinction between public and private information and staff consultation.
- b. Provide professional personnel with accurate, objective, concise and meaningful data necessary to adequately evaluate, counsel and assist the beneficiary.
- c. If a beneficiary is receiving services from another counsellor or other mental health professional, the imam, with beneficiary consent, will inform the other professional and develop clear agreements to avoid confusion and conflict for the beneficiary.

Responsibility to the Community

The imam will:

Collaborate with agencies, organizations and the community in the best interest of beneficiaries and without regard to personal reward or remuneration.

*4 EnFaNCE Foundation Inc. Revised on June 2004 – E. Moutin Encourage Families in Need and Care for Education

SECTION 5

GENERAL COUNSELLING: ETHICS AND RESPONSIBILITIES

Imams fall in the same category as clergy. Because of their role as spiritual teacher and advisor, they are frequently called upon to counsel members of the community. However, it is extremely important that people who are not trained in counselling or have not been mentored by a trained counsellor should not advertise themselves as counsellors. Spiritual counsellors, such as imams and other clergy, should have and apply the same ethics and processes as registered counsellors.

(Please note that ISSA provides counselling training in Islamic Spiritual Counselling and counselling 101 courses for imams and community workers.)

The following are principles that imams must follow when counselling community members*:

- Respect for inherent dignity and worth of persons.
- Pursuit of social justice.
- Service to humanity.
- Integrity of professional practice.
- Confidentiality in professional practice.
- Competence in professional practice.
- Ethical responsibilities to clients.
- Maintain the best interests of clients as a priority, with due regard to the respective interests of others.
- Do not discriminate against any person on the basis of age, abilities, ethnic background, gender, language, marital status, nationality, ancestry, political affiliation, race, religion, sexual orientation, socio-economic status, or the length of time they are Muslims (born into a Muslim family or reverted to Islam).
- Collaborate with other professionals and service providers in the interests of clients with the client's knowledge and consent. As imams, recognize the right of client self-determination in this regard and include clients (or legally mandated client representatives when clients are not capable of giving consent) in such consultations.
- Limit their involvement in the personal affairs of clients to matters related to service being provided.
- In exceptional circumstances, the priority of clients' interests may be outweighed by the interests of others, or by legal requirements and conditions. In such situations clients are made aware of the obligations you will face with respect to the interests of others, unless such disclosure could result in harm to others.
- Seek to safeguard the rights and interests of clients who have limited or impaired decision-making capacity when acting on their behalf, and/or when collaborating with others who are acting for the client.

* Based on Canadian Association of Social Workers (CASW) Code of Ethics © 2005)

Demonstrate Cultural Awareness and Sensitivity

Muslim communities are multicultural and incredibly diverse. The complexity of any given Muslim community requires an imam who is culturally aware, competent, and respectful. This should include an understanding and respect for the existence of variations in the interpretation and practice of Islam in their community (e.g. adherents of different *madhabs*).

The imam should:

- Strive to understand culture and its function in human behaviour and society, recognizing the strengths that exist in all cultures.
- Acknowledge the diversity within and among individuals, communities and cultures.
- Acknowledge and respect the impact of their own heritage, values, beliefs and preferences on their practice and on clients whose background and values may be different from their own.
- Seek a working knowledge and understanding of clients' ethnic and cultural affiliations, identities, values and customs.
- When possible, provide or secure services in the language chosen by the client. If using an interpreter, when possible, preferentially secure an independent and qualified professional interpreter. Avoid using family members as interpreters unless under extreme/exigent circumstances or when requested by the client.

Promote Client Self-Determination and Informed Consent

- Promote the self-determination and autonomy of clients, actively encouraging them to make informed decisions on their own behalf.
- Evaluate a client's capacity to give informed consent as early in the relationship as possible.
- When counselling children, determine the child's capacity to consent and explain to the child (where appropriate), and to the child's parents/guardians (where appropriate) the nature of your relationship to the child and others involved in the child's care.
- At the earliest opportunity, discuss with clients their rights and responsibilities and provide them with honest and accurate information regarding the following:
 - ✓ The nature of the service being offered.
 - ✓ The recording of information and who will have access to such information.
 - ✓ The purpose, nature, extent and known implications of the options open to them.
 - ✓ The potential risk and benefits.

Interventions

Imams should acknowledge:

- The client has right to obtain a second opinion or to refuse or cease service (recognizing the limitations that apply when working with involuntary clients).
- The client has the right to view professional records and to seek avenues of complaint.

The imam must:

- Provide services to client only with valid informed consent or when required to by legislation or court-ordered.
- Obtain client's informed consent before audio taping or videotaping or when permitting observation of services to the client by a third party.

Responsibilities to Involuntary Clients and Clients Not Capable of Consent

The imam must:

- Recognize that in some cases their ability to promote self-determination is limited because clients may not be capable of making their own decisions, are involuntary or because clients' actions pose a serious threat to themselves or others.
- Endeavour to minimize the use of compulsion. Any action that violates or diminishes the civil or legal rights of clients is taken only after careful evaluation of the situation.
- In instances when clients lack the capacity to provide informed consent, protect the clients' interests by ensuring that an appropriate third party, such as a substitute decision-maker, represents their interests.

Protect Privacy and Confidentiality

The imam must:

- Respect the clients' right to privacy. Do not solicit private information from clients unless it is required to provide services or to conduct social work research. Once information is shared or observed in a professional context, standards of confidentiality apply. The imams must protect clients' identity and only disclose confidential information to other parties (including family members) with the informed consent of clients or the clients' legally authorized representatives, or when required by law or court order. This obligation continues indefinitely even when the clients have ceased counselling. The expectation that the imam keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable and imminent harm to a client or others. In all instances, what is disclosed is the least amount of confidential information necessary to achieve the desired purpose.
- Discuss with clients the nature of confidentiality and limitations of clients' right to confidentiality at the earliest opportunity in the relationship.

- Review with clients when disclosure of confidential information may be legally or ethically required. Further discussion of confidentiality may be needed throughout the course of the relationship.
- Ascertain and take into account the manner in which individual clients wish confidentiality to apply within their cultural context.
- Inform clients, to the extent possible, about the disclosure of confidential information and its potential consequences before the disclosure is made. This applies in all circumstances of disclosure, except when, in the professional judgment of the imam/counsellor, sharing this information with the client may bring about, or exacerbate, serious harm to individuals or the public.
- When providing services to families, couples or groups the imam must seek agreement among the parties involved concerning each individual's right to confidentiality and the obligation to preserve the confidentiality of information shared by others.
- Inform participants in family, couples or group counselling that the imam cannot guarantee that all participants will honour such agreements.
- When providing services to children, the imam should outline for the child and the child's parents (where appropriate) their practices with respect to confidentiality and children. Imams may wish to reserve the right to disclose some information provided by a young child to parents when such disclosure is in the best interest of the child. This should be declared prior to the first session with a child.
- Take care not to discuss confidential information in public or semi-public areas such as washrooms, hallways, waiting rooms, prayer halls, elevators, restaurants or community gatherings.
- Take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephone answering machines and other electronic technology.
- Inform clients of the limits to confidentiality that may apply to these forms of communication.
- Protect the confidentiality of clients written and electronic records. Take reasonable steps to ensure that client records are stored in a secure location and that client records are not available to others who are not authorized to have access: this includes mosque boards and executive councils.
- Do not disclose identifying information when discussing clients for teaching or training purposes, unless the client has consented to such disclosure.
- Do not disclose identifying information when discussing clients with consultants unless the client has provided informed consent or if there is a compelling need for such disclosure. If the agency practices and policies involve routine consultations with a supervisor or professional team, make clients aware of these practices as a limitation to confidentiality.
- Protect the confidentiality of deceased clients consistent with the preceding responsibilities.
- Take reasonable precautions to protect client confidentiality in the event that the employment of the imam is terminated or the imam leaves his position as an imam.
- Take appropriate steps to address a breach of confidentiality, should it occur, with due care to the values and principles of your office and the standards of the mosque board or your employer and relevant regulatory body.

Protection of Vulnerable Members of Society

The imam must:

- When they have reason to believe a child is being harmed and is in need of protection, know that they are obligated, consistent with their provincial/territorial legislation, to report their concerns to the proper authorities.
- When they have reason to believe that a client intends to harm another person, know that they are obligated to inform both the person who may be at risk (if possible) as well as the police.
- When they have reason to believe that a client intends to harm him/herself, know that they are expected to exercise professional judgment regarding their need to take action consistent with their provincial/territorial legislation, standards of practice and workplace policies. They may in this instance take action to prevent client self-harm without the informed consent of the client.
- In deciding whether to break confidentiality, know that they should be guided by the imminence of self-harm, the presence of a mental health condition and prevailing professional standards and practices.
- When they have reason to believe that an adult client is being abused, know that they are obligated to take action consistent with their provincial/territorial legislation. Only a minority of jurisdictions in Canada make the reporting of abuse of adults mandatory. Imams must check with their local jurisdictions.

Maintenance and Handling of Counselling and Mediation Records

The imam must:

- Maintain written records of professional interventions and opinions, with due care to the obligations and standards of their employer and relevant regulatory body.
- Record information impartially and accurately and with an appreciation that the record may be revealed to clients or disclosed during court proceedings.

Take care to:

- Report only essential and relevant details.
- Refrain from using emotive or derogatory language.
- Acknowledge the basis of professional opinions.
- Protect client's privacy and that of others involved.

Take note:

- As a spiritual counsellor they may not state a professional opinion unless it can be supported by their own assessment or by the documented assessment of another professional.
- Where records are shared across professions or agencies, information is recorded only to the degree that it addresses client's needs and meets the requirements of an employer or professional standards of practice.

- Before using client's records for any purpose beyond professional services, for example education, Imams must obtain the informed consent of client.
- In some circumstances, access to client records may be officially authorized or required by statute. Where consent of client is not required, the imam must attempt to notify clients that such access has been granted, if such notification does not involve a risk to others.
- Ensure that clients have reasonable access to official records concerning them. However, if there are compelling professional, ethical or legal reasons for refusing access, the imam may advise client of their right to request a review of the decision through organizational or legal channels,
- Take due care to protect the confidences of others when providing clients with access to records. This may involve masking third party information in the record.
- Protect client records, store them securely and retain them for any required statutory period.
- Transfer or dispose of client records in a manner that protects client confidentiality and is consistent with provincial/territorial statutes governing records and regulation.
- Ensure that mechanical or electronic records are properly transferred or disposed of.

Practices for Termination or Interruption of Services

The imam must:

- Renegotiate or terminate professional services when these services are no longer required or no longer meet the needs of clients.
- Respect the right of voluntary clients to discontinue service, engage another practitioner or seek a second opinion.
- Whether the decision to renegotiate or terminate is that of the client or the imam, when appropriate, initiate a discussion with the client to appraise, and if possible, address any difficulties or misunderstandings that may have occurred. If the client desires other professional services, the imam may assist in referral.
- Discuss clients' needs, options and preferences before continuing or discontinuing services, or offering to seek transfer or referral.
- At the earliest opportunity inform the clients of any factor, condition or pressure that affects their ability to practice adequately and competently.
- When obliged to interrupt or terminate a professional relationship, advise clients regarding the discontinuation of service and if possible, ensure their referral to another professional.

Ethical Responsibilities in Professional Relationships

The imam must ensure that the relationship serves the needs of clients, and others to whom there is a professional duty, over their personal needs. In establishing a professional relationship, the imam should take into account relevant contextual issues, such as age, culture and gender of the client, and ensure that the dignity, individuality and rights of the person and vulnerable members of society are protected.

Appropriate Professional Boundaries

The imam must maintain appropriate professional boundaries throughout the course of the professional relationship and after the professional relationship.

No Exploitation for Personal or Professional Gain

Imams, counsellors and community leaders may not exploit professional relationships for personal benefit, gain or gratification. They must not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political or business interests.

Declare Conflicts of Interest

In their role as an imam, imams must avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Imams must inform clients when a real or potential conflict of interest arises, and take reasonable steps to resolve the issue in a manner that makes the client interests primary. In some cases, protecting client interests may require termination of the professional relationship with proper referral of the client to another professional.

When providing services to two or more people who have a relationship with each other (e.g. couples, family members), the imams must clarify with all parties, which individuals will be considered clients and the nature of the professional relationship with other involved parties, especially, when and if the imams are asked to testify in a child custody dispute or divorce proceedings involving clients.

Imams should consider carefully the potential for professional conflicts of interest where close personal relationships exist.

Dual and Multiple Relationships

Dual or multiple relationships may occur when imams relate to client in more than one relationship, whether professional, social or business. Dual or multiple relationships can occur simultaneously or consecutively. While having contact with clients in different life situations is not inherently harmful, it is the responsibility of the imam to evaluate the nature of the various contacts to determine whether they are in a position of power and/or authority that may unduly and/or negatively affect the decisions and actions of their client. Imams must take care to evaluate the nature of dual or multiple relationships to ensure that the needs and welfare of their clients are protected.

Avoid Physical Contact with Clients

Imams must set clear boundaries with clients around physical contact. They are responsible for setting clear, appropriate and culturally sensitive boundaries to govern such physical contact.

No Romantic Relationships with Client

Imams must not engage in romantic relationships, sexual activities or sexual contact with clients, even if the client seeks such contact. If the imam has provided in-depth counselling, the imam should not engage in romantic relationships that may unduly and/or negatively affect the decisions and actions of their former client. Especially if the imam has acted as *wali* extra care should be taken to avoid any romantic entanglement.

Sexual Harassment

Sexual harassment refers to unwelcome sexual comments or lewd statements, unwelcome sexual advances, unwelcome requests for sexual favours or other unwelcome conduct of a sexual nature in circumstances where a reasonable person could anticipate that the person harassed would be offended, humiliated or intimidated.

Practice of *Ruqiyah* (spiritual healing)

Some imams may be asked to perform *ruqiyah*, it is important to note that any form of touching, laying of hands or massage during this session especially of private parts or chest is inappropriate and may bring about charges of sexual assault or molestation. Please explain in detail to your client who is seeking *ruqiyah* what this healing process entails and have the client sign an agreement entering into this healing practise willingly. If the client is under age have a parent sign the consent.

Child Abuse

Youth camp, schools and other mosque activities that involve children must ensure that all volunteers have a police background check and abuse directory clearance.

Any and all inappropriate behaviour must be dealt with promptly and clearly. All staff and volunteers must be given clear guidelines and must sign a memo of understanding of the rules and guidelines and expectations to ensure that the imam and head of the programs have shown due diligence in ensuring that the children are in a safe environment. Islamic schools and mosques should draw up a protocol to address child abuse and that protocol must be adhered to by imams, principals and boards.

SECTION 6

GUIDELINES FOR SOCIAL ETIQUETTES

As one can appreciate, to serve the Muslim community is to be sensitive to religious requirements, as well as spiritual concerns and cultural diversity. Imams are expected to follow the etiquettes of Islam in all their interactions and in running the mosque. The etiquettes fall in 3 broad categories:

1. Ethics
2. Relationships (persona, intra- and inter-organizational and social).
3. Modesty.

Ethical standard within Islam that Imam's are expected to observe :

Speak the truth at all times.

Control their Anger

Do not indulge in suspicion, slander or backbiting.

Do not betray a trust

Cognisant that they are responsible to Allah (swt) first and to the community next.

When they make a commitment they keep it.

Verify what they hear

Do not indulge in gossip

Treat all with respect and dignity

Are reliable

Responsible and accountable

Relationships:

They appreciate, recognize, and never belittle anyone's efforts. They are charitable and flexible.

Modesty:

Imams are expected to observe the following rules of modesty

Modesty in speech and behaviour is to use kind words that are measured and not meant to hurt. Avoid swearing, sarcasm, belittling, ridiculing people, and avoid racist slurs, sexist jokes and stereotypes.

Imams in Canada, will serve an ethnically, culturally, socio economically, and educationally diverse population of Muslims. Therefore, the imam must take caution against snobbery, elitism, and self-righteous attitudes. It is imperative that the imams preserve the dignity of those they serve, honour their privacy and maintain their self-esteem.

Modesty in dress requires that imams dress modestly. Imams and leaders should also strive to be modest in all interactions with fellow human beings.

It is also important that imam and organizational leaders maintain a policy of respect for diversity and human equality at their mosques. This policy must apply to staff, volunteers and congregants. The following is one that ISSA has developed and can be adopted for use.

ISSA POLICY ON RACISM AND DIVERSITY

The following are excerpts from Dr. Muzammil Siddiqi's essay on Diversity and Islam as a preamble to ISSA's policy.

See you not that Allah sends down rain from the sky? With it We then bring out produce of various colors. And in the mountains are tracts white and red, of various shades of color, and black intense in hue. And so amongst men and crawling creatures and cattle, are they of various colors. Those truly fear Allah, among His Servants, who have knowledge: for Allah is Exalted in Might, Oft-Forgiving. (35:27-28)

There is diversity among human beings. They have variety of genders, colors and languages and multiplicity of races and tribes. These diversities are considered natural and are called "God's signs" in the Qur'an (30:20-22). They are indicative of Allah's creative power and wisdom and are good and healthy since they endow human life with richness and beauty. God wants human beings to derive benefit from this diversity and not to allow it to generate unhealthy schisms and divisions in their ranks. God says in the Qur'an:

And from amongst His signs is this, that He created you from dust; and then behold you are humans scattered far and wide. Among His signs is this that He created for you mates from among yourselves that you may dwell in tranquility with them, and He has put love and mercy between you. Verily in that are signs for those who reflect. And among His signs is the creation of the heavens and the earth and the variations in your languages and colors; verily in that are signs for those who know. And among His signs is the sleep that you take by night and by day, and the quest that you make for livelihood out of His bounty; verily in that are signs for those who hearken... (30:20-23).

The diversities of races, families and tribes also have a healthy and constructive purpose, viz. that **"you may know each other."** In the words of the Qur'an:

"O people, Allah has created you from a male and a female and made you into races and tribes so that you may know each other. Surely the most honored of you in the sight of God is the one who is the most righteous of you" (49:13).

From the above contextual prelude we extrapolate ISSA'S policy on diversity:

Whereby ISSA is a Canadian Muslim organization and is thereby guided by Islamic principles of equity and equality and the Canadian Charter of Rights and Freedom.

Since ISSA serves Canadian Muslims it will offer job opportunities to Muslims who it deems best suited to serve the Muslim community and be cognizant of its diversity.

ISSA will not tolerate racist or discriminatory attitudes and behaviour by its staff, board and volunteers. ISSA will not tolerate discrimination by its board, staff and volunteers in providing services on the basis of race, ethnicity, socio/economic status, disability, age, sexual orientation, and gender.

SECTION 7

RESPONDING TO DOMESTIC ABUSE

It is important to note that wife abuse, husband abuse, elderly abuse, sibling abuse, in-law abuse and child abuse, in short any form of domestic violence by any one or more members of a family towards another member of the family is a criminal offence in Canada and United States and is forbidden in Islam.

Abuse can take many forms such as physical, emotional, psychological, sexual, financial, and spiritual. Please note that if you consider that your client is in imminent danger please do not hesitate to **call 911** and help to provide them with safe shelter.

No one deserves to be beaten, maimed, confined, gagged, tied up or denied basic human rights to food, shelter, medical treatment, freedom of movement, conscience, expression and thought or belief.

ISSA has developed 2 handbooks as guidelines for Imams when dealing with domestic abuse (wife abuse) and sexual abuse. Please refer to them for detailed information. Although the domestic abuse handbook does not address husband abuse specifically, the protocol will be similar in securing safety of the husband.

1. Helping Victims of Domestic Abuse: A Guide for Imams and Community Leaders \$3
2. Sexual Abuse: Prevention and Intervention \$3

SECTION 8

POLICY FOR THE PROTECTION OF CHILDREN, YOUTH AND VULNERABLE ADULTS

This policy should be part of every Muslim organization, mosque and cultural centre. As a community we need to protect those most vulnerable in our community centres, mosques and society. Unfortunately sad and tragic experiences consistently show the need for vigilance and awareness to provide safe space and practices, and to ensure that all feel and be at peace in a safe environment.

This policy strives in a pro-active way to promote protection for children, youth and vulnerable adults.

Canadian Muslims expect that those who manage their mosques and centres and those who occupy the *mimbar* (pulpit) and hold positions of leadership in the name of Islam or under mosque auspices will exhibit a profound respect for all and will respect the law of Allah and will abide by the laws of our Canadian civil society.

It is the responsibility of our leaders, imams and administrators to inform all of their employees and volunteers of this policy, who then must ensure that this policy is put into effect in their particular programs and services. The goal is the prevention of abuse and the elimination of potentially compromising circumstances in order to protect children, youth and vulnerable adults.

Who are Vulnerable Persons?

A vulnerable person is anyone of any age or gender who may easily be exploited by another. This would include children, youth and some adults. These people are at a disadvantage as they may be unable to fully protect themselves due to age, disability or personal circumstances (such as emotional distress due to crisis or trauma).

They may have personal handicaps and could be:

- ✓ Cognitively challenged
- ✓ Emotionally susceptible
- ✓ Physically challenged

Others may be socially isolated, and

- ✓ Desperately in need, socially or materially
- ✓ Lack the ability to communicate adequately because of speech or hearing difficulties
- ✓ Have an inability to understand, speak and read the language in use
- ✓ Living in fear, real or perceived
- ✓ In fear or awe of certain roles or authority figures
- ✓ New reverts, vulnerable and lonely

While not an exhaustive description, a vulnerable person is one who has difficulty protecting him or herself from harm either temporarily or permanently.

Sexual Harassment

Sexual harassment is any unwanted or inappropriate sexual conduct or language with others. This conduct may entail unwelcome sexual advances, request for sexual favours, or other verbal or physical conduct of a sexual nature. Harassment may be interpreted as the behaviour the victim perceives as offensive.

Harassment is contrary to the basic respect due to all persons. Victims may be employees or others who feel obliged to continue in their present circumstance. Perpetrators are often the ones in power and may or may not be aware of their abuse of power and the discomfort it causes the victim.

Islam does not tolerate sexual harassment. Employees, volunteers, and community members should feel secure and respected at all community, mosque, and school activities.

In a spirit of common mission, all involved in the leadership roles must be alert to even the beginnings of harassment and eliminate it.

Child Sexual Abuse

Sexual abuse is comprised of contact or interaction between a child and an adult when the child is being used as an object for the sexual gratification of the adult. A child is abused whether or not this activity involves explicit force, whether or not it involves genital or physical contact, whether or not it is initiated by the child, and whether or not there is a discernible harmful outcome. In the context of this policy, Muslim organizations, schools and mosques would apply the term equally when the victim is any vulnerable person.

What is “Grooming”?

- ✓The vulnerable may be particularly susceptible to a process referred to as grooming. Grooming includes a wide variety of behaviours designed to establish a special bond of trust and affectionate understanding between the groomer and the person who is the object of his or her attention. Examples of this may be spending large amounts of time with a particular person, affording special privileges, or providing gifts, trips, and other expressions of special attention.
- ✓Grooming behaviour can also lead the person to feel indebted to the groomer for these kindnesses. Once this bond of trust and indebtedness is established, the stage may be set for sexual advances.
- ✓The pattern of a groomer is made up of observable behaviours and these behaviours need to be challenged or reported. Grooming, whether intentional or not, is by its very nature seductive behaviour. As well as being a signal of possible abusive behaviour,

grooming is in itself inappropriate. Everyone must be alert to signs of grooming in all community, mosque and school related activities involving the vulnerable population.

Code of Conduct for Those Who provide for All Vulnerable Persons

All volunteers and employees eighteen years and older involved with vulnerable persons must read and agree to abide by all Safe Environment policies and protocols. A signed acknowledgement that they have read, understood and agree to abide by these policies is required. A copy of this signed acknowledgement must be submitted and kept in a confidential file in the office.

All volunteers and mosque employees eighteen years and older involved with vulnerable persons (children, youth, vulnerable adults) are obligated to have a Criminal Record Search and a Child Abuse Registry Check. These record checks are to be submitted to the administrator and kept in a confidential file in the parish office. Registry checks are valid for five years.

All new volunteers and new employees eighteen years and older involved with vulnerable persons must fill out an application form and submit the name and contact information for a minimum of two references. A minimum of two reference checks must be completed prior to employees or volunteers beginning their employment or as an imam. Copies of this documentation must be kept in a confidential file in the office.

- ✓ **Two adults, unrelated** to each other, should be present when involved with all vulnerable persons (children, youth or vulnerable adults). In instances where two unrelated adults are not present, doors to classrooms and meeting rooms must remain open or a window providing clear visibility into the room is required.
- ✓ **Appropriate child–adult** physical boundaries are to be respected at all times. Physical contact between adults and children or youth must occur in public. Any sexual attention towards a child is strictly forbidden (this can include jokes or comments).
- ✓ **Qualified adults** must be present and monitor the leadership techniques used by youth leaders to ensure that Safe Policies are followed. A qualified adult is defined as a person who has been approved to work with children and youth by boards of the organization, school and mosque.
- ✓ **Leadership must provide** adequate adult supervision at all school, mosque and organizations sponsored youth activities. These activities could be as diverse as: recreational, spiritual or community service projects.
- ✓ **There are to be no off-site** activities with a child or group of children without the express permission of the parent, guardian and the appropriate care giver. A minimum of two adults, unrelated to each other, must be present at all off-site activities.
- ✓ **During overnight** events no child should be permitted to sleep in the same room as a teen or adult, other than with his or her own parent or guardian. However, adults and minors may share a large sleeping space (for example: a dormitory, classroom, or gym) if at least two qualified adults, not related to each other, are present at all times.
- ✓ **If help with toileting** is required, the parent or guardian must give permission before toileting or changing help is given. Two adults, unrelated to each other, must be present if help with toileting is required.

- ✓ **Discipline of children and youth** will be done constructively reflecting Islamic values. Ridicule, shame, corporal punishment and abusive language are prohibited.
- ✓ **Hazing and harassment** are prohibited in any mosque activity. At all mosque sponsored events, every effort must be taken to respect the privacy of children, youth and adults.
- ✓ **Scrupulous attention** should be given to the confidentiality of personal information given by or about persons being ministered to.
- ✓ **As employees and volunteers** are generally not qualified to counsel, counselling relationships are discouraged. Referral to professional assistance is recommended and should be done with the consultation of the imam or mosque management. Employees and volunteers should not delay in making referrals to suitable professionals as required.

All concerns regarding individuals not adhering to this code of conduct must be reported to the board secretary. Board secretary is ethically bound to take the matter to the board for immediate and appropriate action.

Response to a Complaint of Sexual Abuse of Minors by Volunteers or Employees

Any individual receiving a disclosure regarding abuse of a minor by an employee or volunteer of the mosque, school or Muslim organization or any individual witnessing the abuse of a minor by an employee or volunteer must immediately inform the board chair or president who are obligated to file a report with Child and Family Services.

The following principles will be recognized:

- ✓ In the case of an allegation of abuse involving a person who is presently a minor, the leadership should, in accordance with the laws of respective province, immediately report the allegation to civil authorities. The report should include the name of the complainant and the name of the alleged offender. The complainant should be informed of this procedure and should be reminded of their obligation to report to civil authorities.
- ✓ In cases where allegations have been reported to the proper civil authorities, such as police and child protection agencies, the leadership should cooperate with the civil authorities in their investigation.
- ✓ When an allegation of abuse of a minor by an employee has been received, the employee should be suspended pending the completion of the investigation. In the case of volunteers, the volunteer should be removed from situations where the problems could continue, pending the completion of any investigation.
- ✓ The leadership should respond and take immediate action if it receives an allegation of sexual abuse of a minor even if the abuse occurred long ago and the alleged victim is no longer a minor.

All complaints should be handled in confidence. The leadership should not disclose the identity of any parties involved, or the circumstances of the complaint, except where necessary for the purpose of investigation or corrective action, where required by law, or for the protection of individuals. Similarly, employees and volunteers interviewed as part of an investigation under this policy must treat all information in a confidential manner.

SECTION 9

HATE SPEECH IN CANADA

What constitutes hate speech in Canada?

[Constitution of Canada](#) incorporates the [Canadian Charter of Rights and Freedoms](#).^[1] [Section 2](#) of the Charter grants to everyone, among other things, freedom of conscience and religion, and freedom of thought, belief, opinion and expression, including freedom of the press and other media. [Section 1](#) restricts the granted freedoms by making them subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."^[2]

The Criminal Code of Canada

Sections 318, 319 and 320 of the Code forbid hate propaganda.^[3] "Hate propaganda" means "any writing, sign or visible representation that advocates or promotes genocide or the communication of which by any person would constitute an offence under section 319." Section 318 prescribes imprisonment for a term not exceeding five years for anyone who advocates genocide. The Code defines genocide as the destruction of an "identifiable group." The Code defines an "identifiable group" as "any section of the public distinguished by colour, race, religion, ethnic origin or sexual orientation." Section 319 prescribes penalties from a fine to imprisonment for a term not exceeding two years for anyone who incites hatred against any identifiable group. Section 320 allows a judge to confiscate publications which appear to be hate propaganda. Under section 319, an accused is not guilty: (a) if he establishes that the statements communicated were true; (b) if, in good faith, the person expressed or attempted to establish by an argument an opinion on a religious subject or an opinion based on a belief in a religious text; (c) if the statements were relevant to any subject of public interest, the discussion of which was for the public benefit, and if on reasonable grounds he believed them to be true; or (d) if, in good faith, he intended to point out, for the purpose of removal, matters producing or tending to produce feelings of hatred toward an identifiable group in Canada.

Cases under the Criminal Code

In 2003, in [Saskatchewan](#), the Crown charged [David Ahenakew](#) with wilfully inciting hatred because of the remarks he made about Jews to a reporter. In 2005, the Provincial Court convicted Ahenakew, and fined him \$1,000.^[4] In 2008, the Attorney General for Saskatchewan decided to retry the matter after the conviction was overturned on appeal. On 23 February 2009, Judge Wilfred Tucker of the Saskatchewan Provincial Court said Ahenakew's remarks were "revolting, disgusting and untrue," but they did not constitute "promoting hatred."^[5]

In *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892 at 902, the Supreme Court said hate propaganda denotes any expression that is "intended or likely to circulate extreme feelings of opprobrium and enmity against a racial or religious group".^[6] The [Supreme Court of Canada](#), by a bare 4-3 plurality, upheld the constitutionality of section 319 in [R. v. Keegstra](#) [1990] 3 S.C.R. 697.^[7]

Can *khateeb*s be liable for hate speech based on what they say in their *khutbah* or talks with their congregants in a halaqah setting?

Imams can be charged if any comment or sermon is made that incites violence against an identifiable group, or promotes intolerance that may lead to violence against such group. Imams must be careful when translating from Arabic or any other language to English or French because it may change the meaning or the spirit of the message drastically.

How to protect yourself against accusations of hate speech?

Imams should avoid sexist and racist remarks at all times. They should also avoid making inflammatory comments that could be based on events taking place overseas or due to their own political bias. *Khutbahs* should be written or recorded to avoid any misrepresentation and this can also serve to help imams improve their communication skills. It would be highly beneficial if the mosque boards would facilitate training in spoken and written communication for their imams in either of the two official languages.

What is the difference between Freedom of Expression and Hate Speech?

While Canada respects free speech, there are laws that prohibit the expression of hate as explained above. There is a vibrant debate on whether these laws infringe Canadians' right to free speech. However it is critical to remember that any hateful statement made during a *khutbah* is not only morally abhorrent and un-Islamic, it can lead to a criminal investigation. This is true even for statements that are ambiguous and unclear but could be interpreted as promoting hatred. If this happens, even if charges of promoting hatred are not laid or not eventually proven in court, the public perception of an imam having engaged in questionably hateful speech or conduct can have a negative effect on an imam's career and the organization they work for and, more importantly, on the community as a whole.

SECTION 10

INFORMATION AND COMMUNICATION TECHNOLOGY (ICT)

Access to computers and other information and communication technologies at the mosque, school or organization's office may offer vast and diverse resources to employees and volunteers in support of community business. The right to use the ICT facilities carries with it the responsibility to respect the rights of others. Failure to respect the rights of others and to live up to one's responsibilities will result in appropriate disciplinary and/or legal action.

All employees of the mosque should be required to review this document on an annual basis

In general, this policy is established to maximize resource availability to all users. Security and data integrity are key considerations for this policy. Common sense, courtesy, and law form the foundation of system use, policies and practices.

In particular, users are expected to conform to the following:

RESPECT FOR PRIVACY

I will respect others' right to privacy. I will only access, look in or use information from other individuals, organizations or companies on computer or through telecommunications if I have the permission of the individual, organization or company who owns the information.

RESPECT FOR PROPERTY

I will respect others' property. I will only make changes to or delete computer programs, files or information that belongs to others if I have been given permission to do so by the person, organization or company who owns the program, file or information.

RESPECT FOR OWNERSHIP

I will respect others' rights to ownership and to receive monetary compensation for their work.

While using the organization's computers or its network, I will only use such software, files or information for which I have or the organization has a valid license or for which I have been given permission to use. I will only make copies of computer files and information that I own or have written. I will only sell computer programs that I have written or have been authorized to sell by the author. I will pay the developer or publisher for any shareware programs I decide to use.

LEGAL RESPONSIBILITIES

It is expected that all users comply with existing laws regarding the use of technology. Examples of illegal activities are: distributing or posting copyrighted material without the copyright owner's permission; installing software that is not properly licensed; distributing pornography; accessing hate sites or deliberately spreading viruses. All illegal actions will be referred to the appropriate authorities.

(Detailed information on copyright laws can be found at the government's education website: <http://www.edu.gov.mb.ca/ks4/iru/copyright.>)

SOCIAL NETWORKING WEBSITES

While we recognize the value to employees of social networking websites (such as MySpace, Facebook, and others) as a means of communicating with friends and relatives, employees must understand the public nature of these sites and be aware of the responsibility and accountability that they must assume when using them.

Employees or volunteers must maintain an appropriate relationship with children at all times while on social networking sites. While this is usually a friendly relationship, children are not our "friends," and it is our responsibility to maintain the appropriate professional distance and conduct ourselves accordingly.

Employees or volunteers must not use social networking sites as a means of communicating with children. It is inappropriate for adults to have un-related children as "friends" on these sites and any invitations from children to join a social network site should be declined. All communication with children should be through the usual communication.

When posting material to social networking sites, one should have no expectation of privacy; It is important to be aware that since posted materials are owned by the site, they can be redistributed at any time to others without the author's permission; and employees and volunteers should check each site's privacy and security policies carefully before adding content they may not wish to have viewed by others, either presently or in the future.

Please note that an investigation may be warranted when specific allegations of inappropriate communication, bullying, harassment or defamation are linked to postings on these sites and appropriate disciplinary action will be taken where necessary. Employees or volunteers who become aware of inappropriate communication, bullying, harassment or defamation on these sites related to a member of the community should inform their supervisor who will determine what, if any, action is warranted. Furthermore no software is to be installed that is not properly licenced.

GROUPWISE EMAIL SYSTEM

It is your responsibility to:

- Check email daily and delete unwanted messages immediately since they take up disk storage space on the network;
- Keep messages remaining in your mailbox to a minimum or use the GroupWise Archive feature;
- Save attachments that you need to keep and then delete the email;
- Limit the size of attachments you send. Attachments should not be larger than 1.5 MB but the system can handle attachments up to 50 MB.

GUIDELINES FOR STAFF EMAIL

PART 1: NETIQUETTE

Netiquette refers to a set of informal but important guidelines for accepted and appropriate behaviour with online communication such as email. It includes common courtesies and ways of showing respect when communicating with colleagues, volunteers and other members of the community. This is not intended to be an exhaustive list, but rather highlights three broad areas of Netiquette: Respect Other People's Time

This Time includes the time it takes to read unneeded emails. To show this respect to others, do the following:

- **Avoid sending emails containing non-work-related material.**
- **Avoid sending emails to people who do not need to be involved.**
- **Always fill in the subject line of your email message.**
- **Be considerate of other people's schedules: Follow the "24 hour" rule.**

Be aware that it is impossible to communicate tone or feeling effectively through email.

Email differs from face-to-face conversation or even telephone communication in that it is only visual text. In an email we do not have body language, facial expression, or tone of voice to convey the intended feeling of a message. As a result, be aware that the intended tone or feeling of an email may be interpreted quite differently by the recipient. Keeping this in mind, please use the following guidelines:

Never send an email with an emotionally-charged message.

This includes disagreements, complaints, and sarcasm. Even if you intend the email to be polite and respectful, the recipient may interpret it differently. Decide carefully whether another means of communication is needed for a sensitive topic. It is better to meet with a colleague about a disagreement, rather than sending a critical or judgmental email.

Be aware that emails are permanent records that may be printed, forwarded and saved.

Before sending any email, ask yourself if you are comfortable with that email becoming a permanent record.

Be aware that an email may not get to an intended recipient.

This may be due to firewalls, spam filters, etc. Please ensure that if a message absolutely needs to be received (e.g. university reference) that you have a second means of communication or be certain to request confirmation of receipt of the email message.

SECTION 11

RESOURCES FOR IMAMS

Imams should have the following resources available to them:

Access to affordable Muslim lawyers

A legal coverage plan

Information on shelters, safe houses, and Muslim foster homes

Police and other emergency services information

Access to Muslim social workers

Access to Muslim counselors, psychologist, therapist and psychiatrist

Interpreters in various languages spoken within the Muslim community and who have signed confidentiality agreements

******* ISSA Marriage Contract and intake forms included as samples. Any uses of this material please give credit to source.**