

1st Ethical Charitable Trust



Make Yourself Shariah-compliant

1st EthicalTM
Charitable Trust

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The Al-Qalam Shariah Scholar Panel has vetted the Shariah accuracy of the contents of this guide. www.alqalam.org.uk

Important: The inclusion of various provider details within this guide is for information purposes only, and should not be taken as an endorsement of the providers, or the Shariah suitability of their products by the 1st Ethical Charitable Trust.

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Overview - Why is Shariah-Compliance Important?

Muslims believe the sole purpose of their existence is to seek the pleasure of their Creator. This perspective on life, though simple, has far reaching implications reaching deep into every aspect of a Muslim's day to day life.

The pinnacle of this quest, which every Muslim invariably aspires to, is to reach a state of awareness, where they are constantly mindful in each and every second, thought and deed of their day, of behaving in a manner which will result in them pleasing their Creator the most. It therefore follows, that there must be, for each and every facet of human life, from the mundane to the profound, from inward spiritual reformation to outward deeds and behaviour, some authoritative method of ascertaining what is pleasing and what is displeasing to one's Creator.

It is for this reason Islam is referred to not just as a religion but in Arabic as a '*deen*' which better translates as an all encompassing 'way of life'. The Muslim takes as his or her touchstone the revealed word of God (Quran), and the saying and actions of his Prophet Muhammed PBUH (hadith). These two sources have been meticulously codified and constantly refined over fourteen centuries into an Islamic legal code known as Shariah.

Hence for a Muslim, adhering to Shariah is of the utmost importance, for it represents a collective and ongoing effort by the global Muslim community (*ummah*) to determine and explain what actions will allow them to please their Creator and thereby achieve their lifelong objective.

Whilst the scope of Shariah is necessarily vast, the intention of this booklet is to consider specifically the Shariah perspective on legal and financial issues facing UK based Muslims at a day to day level. Let us now turn to looking at these issues in greater detail.

Introduction

Whilst most Muslims are well aware of the Islamic obligations pertaining to key modes of worship (*ibaadah*), such as prayer (*salah*), almsgiving (*zakah*), fasting (*saum*), and pilgrimage (*hajj*), there is often widespread ignorance or insufficient understanding surrounding other important Islamic obligations especially those relating to financial and commercial matters (*mu'amalat*).

This booklet is an attempt to identify common financial and legal issues facing a UK resident Muslim (which are listed in a symbol coded format below) and to provide an Islamic perspective on how these can be addressed. This list is also intended to serve as an introduction to a number of other guides published by the 1st Ethical Charitable Trust which provide a more in depth analysis of certain topics. Where applicable these guides are also shown below.



Mortgage Alternatives (Islamic Home Purchase Plans) *see page 6*



Islamic Bank Accounts - refer to 1st Ethical's Guide to Shariah-compliant Investments *see page 7*



Investments, Pensions and Child Trust Funds (CTF) – refer to 1st Ethical's Guide to Shariah-compliant Investments *see page 8*



Wills - refer to 1st Ethical's Guide to Islamic Wills *see page 9*



Personal Loans *see page 10*



Car & Equipment Leases *see page 11*



Insurance & Takaful – refer to 1st Ethical's publication, Insurance Revisited *see page 12*



Guarantees, Warranties & Credit Cards *see page 13*



Almsgiving (Zakah) – (refer to 1st Ethical's Guide to Understanding and Calculating Zakah) *see page 14*

All guides and papers can be downloaded **FREE** from www.1stethical.com

Basic Principles of Shariah-Compliance

Before delving into each of the nine areas, it is important to understand three key principles as follows:

1. The subject matter of any transaction must be Shariah-compliant.

Hence a contract to purchase an alcoholic beverage, or an investment purchasing shares in an interest based bank would not be permitted. In instances where an investment is made into a company with a mix of permissible and impermissible activities, contemporary scholars have held the investment is only permitted if the impermissible element constitutes less than 5% of turnover, and that the owner must give away any impermissible profits to charity.

2. The transaction must not involve any interest based lending or borrowing.

Frequently, many permissible contracts, such as buying a house, are entered into using money secured on an interest bearing basis from the bank. Whilst this does not invalidate the purchase of the item, a serious violation of Shariah principles is committed in taking out the loan. Alternatively, many investments involve purchasing shares in companies whose basic trade is permissible but who are heavily indebted to the banks.

Contemporary scholars have held it is only permissible to invest in companies whose total debt is less than one third of market value.

3. The documentation/contract wording must confirm with Shariah principles.

Contemporary contracts typically fall foul of Shariah principles in four key areas as follows:

- i. Penalty clauses (as in contracts for the supply of gas/water/electricity etc) which require the householder to pay interest charges if they default on payment. Contemporary scholars have permitted Muslims to accept such contracts for essential services and goods on the basis of necessity.
- ii. Seller not having possession of goods. The financial markets for derivatives and options as well as short selling, are all based on the premise of selling something which is either not yet in existence or is not in the ownership of the seller. Most contemporary Shariah scholars (with some exceptions) consider possession a necessity.
- iii. Contracts must be devoid of excessive uncertainty (*gharar*). Some contracts such as those for insurance services may or may not result in any service being received (depending on whether an insurance claim is made). Consequently, most contemporary scholars (with some notable exceptions) consider insurance to be impermissible. However, all contemporary scholars permit insurance to be taken where it is a legal necessity.
- iv. Finally, contracts must not be interlinked so as to form a contract within a contract. Many leasing and hire purchase agreements contain within the one contract both a hire agreement as well as a purchase contract. Contemporary scholars have resolved this dilemma by developing the use of a lease agreement alongside a 'promise to buy note' in such agreements.

Now that we have identified the key Shariah principles which govern all transactions, it becomes much easier for each individual to ascertain for themselves whether products and services meet Shariah standards. Let us now look at how these principles are applied to each of the nine aforementioned areas in greater detail.



Mortgage Alternatives (Islamic Home Purchase Plans)

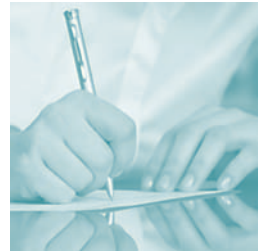
Why are conventional mortgages not permitted?

Conventional mortgages require the borrower to pay back not just the amount borrowed but additional interest payments. These payments are considered to be a major sin and both the giving and receiving of interest money has been repeatedly and unequivocally condemned in both the Quran and Hadith.

How do Islamic Home Purchase Plans differ?

Islamic Home Purchase Plans resolve this dilemma by allowing the bank to part purchase the property alongside the client.

The client then enters into an agreement as a tenant to pay a specified rent to the bank, coupled with the bank providing a unilateral promise to the tenant allowing them to purchase shares in the house on an incremental basis, at the same price originally paid by the bank. Over time therefore the client ends up steadily increasing his share in the house and the bank receives a diminishing amount of rental. This model is known as *diminishing musharaka*.



To illustrate this by way of example, let's imagine Aisha purchases a £200,000 property. The bank splits the ownership of the property into 10 equal segments worth £20,000 each. Aisha pays monthly installments to the bank, consisting both of rental payments and on account payments. Every time Aisha's on account payments with the bank reaches £20,000, the Bank will transfer one share to her thereby continually increasing her equity in the property.

Who provides Islamic Home Purchase Plans?

Provider	Home Purchase Plan Type	Contact
HSBC Amanah	Diminishing musharaka	www.hsbcamanah.com
Ansar Finance	Diminishing musharaka	www.ansarfinance.com
Al-Buraq	Diminishing musharaka	www.alburaq.co.uk
Islamic Bank of Britain	Diminishing musharaka	www.islamic-bank.com
Al Ahli United	Diminishing musharaka & ijara	www.ahliunited.com
One Option Finance	Independent advice on all schemes	www.halaloptions.com

Islamic Bank Accounts



Why are conventional bank accounts not permitted?

Conventional bank accounts allow for interest to be paid on monies held and hence fall foul of the Islamic prohibition on receiving interest money. Even current accounts which do not pay any return are problematic, as, unbeknown to most depositors, banks also use the money deposited with them to loan to others on an interest bearing basis. For more information on how the banking system works please read the 1st Ethical publication 'The Problem with Interest Based Banking.'

How do Islamic bank accounts differ?

An Islamic bank account ensures that client funds are kept away from interest based activities and invested in permitted trades. Client deposits are used to buy commodities at spot e.g. copper, which are then sold on to a third party at a slightly higher price on a deferred payment basis. The profit is then shared between the bank and the customer. The latter procedure is known as *commodity murabaha* and is in accordance with Shariah. Some banks use a variant on traditional *commodity murabaha* (above) by paying the customer the whole return made on the trade and making their (i.e. the bank's) profit by investing the customer's funds on a *tawarruq* basis (see section on loans).

Some UK banks do not provide a return at money deposited with them, providing only a secure depository service. These banks however do ensure the monies kept with them are not used by the bank to provide interest bearing loans to other customers.

It is worth noting Shariah-compliant bank accounts are not available for some types of clients. For example those clients running businesses or those with trust based activities are not able at present, to access Shariah-compliant bank accounts. In these instances only, and in non Muslim countries only, contemporary Shariah scholars have permitted these types of clients to use the maximum interest bearing bank account available, on the condition all interest earned in given away as charity to the poor.

So who provides Islamic bank accounts?

Provider	Return Paid	Contact
Islamic Bank of Britain	Yes	www.islamic-bank.com
HSBC Amanah	No	www.hsbcamanah.com
Lloyds TSB	No	www.lloydstsb.com



Investments, Pensions & Child Trust Funds (CTF)

What's wrong with conventional investments?

As explained in the Basic Shariah Principles section, most conventional investments are not permitted from a Shariah perspective, as they either invest in a prohibited activity (alcohol, gambling etc.) and/or the investment is based to a large degree on giving or receiving interest. Given these restrictions, it is difficult to find suitable, Shariah-compliant investments and even more difficult to find suitable pension investments.

So how do Shariah-compliant investments work?

A permissible portfolio is constructed using asset classes including Shariah-compliant bank accounts (see section 2), non geared property based investments, equity based unit trusts, pure venture finance based investments, commodity based investments and direct investments in Shariah-compliant shares. This is a notoriously complex and regulated area which is best dealt with via professional advice. A specialist independent financial adviser (IFA) can assist you in choosing the right investment bearing in mind your risk profile and cash accessibility requirements. It may even be a good idea to consult an investment broker offering a Shariah-compliant brokering service which can help identify suitable shares to buy. A full explanation on all UK Shariah-compliant investments can be found at www.1stethical.com/publications.

Who provides Islamic Investments?

Firm	Type	Contact
1st Ethical	Independent Financial Advisers	www.1stethical.com
Fyshe Crestar	Stockbrokers	www.fyshe-crestar.com
Children's Mutual	Child Trust fund	www.thechildrensmutual.co.uk
HSBC Amanah	Equity based unit trusts	www.hsbcamanah.com
Scottish Widows	Equity based unit trusts	www.scottishwidows.co.uk
ETF	Commodity based investments	www.etfsecurities.com





Why do I need a will?

Contemporary scholars consider preparing a valid Islamic will an obligation for those Muslims who lives in countries, like the UK, which do not automatically distribute assets in accordance with Shariah principles on death.

Many Muslims are unaware the Quran requires wealth of the deceased to be distributed in specific shares to the surviving family members (*wiraas*), and that ensuring this happens is just as much an Islamic obligation as the washing (*ghusl*), shrouding (*kafn*), and burial (*dafn*) of the deceased along with the funeral prayer (*janazah salaah*) itself.

From an English law perspective, dying without a will can be also extremely costly given inheritance tax is levied at 40% on assets over £325,000. Furthermore, English law stipulates that those citizens dying intestate (without a will) are subject to the first £125,000 worth of assets going to their spouse and the remainder locked equally into 2 trusts. The first trust's capital is paid out to children only when the remaining spouse dies whilst the second trust's capital remains locked till the youngest beneficiary reaches the age of 18.

To illustrate the above, imagine Jamil and Aisha have 2 children aged 10 and 12. Neither Jamil nor Aisha has a will. Jamil dies with an estate worth £725,000 including all his property, investments and cash. In this scenario, without a will* Jamil's estate is divided such that £125,000 worth of assets go to Aisha whilst the remaining £600,000 is divided into 2 and then locked in 2 trusts. The first trust can pay income to Aisha till she dies and only then will it pay the capital to the children. The second trust will lock the £300,000 worth of assets till the youngest child reaches 18 (another 8 years in this case). It gets worse in that there may well be inheritance tax to pay on the £300,000 which sits locked in the trust solely for the benefit for the kids. This could reduce their inheritance by an additional £120,000.

*Ignoring the Nil Rate Band

Is it enough then to just make a will?

No, all Muslims must ensure their will is made in accordance with Shariah. This means dividing the estate on death between their heirs in a manner which is consistent with the divinely prescribed provisions in *Surah Nisa* v 11-12. For Muslims with estates less than £325,000 (with the limit standing at £625,000 for husband and wife) you can download for **FREE** a will template from www.1stethical.com/pages/wills-and-inheritance and fill it in with you details. This will ensure that your estate is administered both tax efficiently and in a Shariah-compliant manner. If your estate is over £600,000 then you will need a slightly more complex will incorporating trusts to help you protect assets and eliminate the tax burden. To do this you will either need to see a specialist solicitor who can advise on this area or a firm of Shariah-compliant tax advisers. Details of both are given below:

So who can help me with an Islamic will?

1st Ethical Ltd
I-Wills Solicitors

Tax Specialists
Solicitors

www.1stethical.com
www.iwillsolicitors.com



Personal Loans

What is wrong with a conventional personal loan?

Conventional personal loans usually taken for a wide variety of purposes ranging from home improvements and new cars to paying for a wedding, are considered impermissible under Shariah as they require the lender to repay not only the amount loaned but also an additional interest charge.

How does an Islamic loan work?



The Shariah believes in a clear distinction between loan capital and investment capital. Loan capital is referred to as *Qard-e-Hasanah* (beautiful loan) and is purely a gesture of support by the lender to the borrower. The lender is entitled to every penny of his capital back but not a penny more. The system is designed to support and not exploit people in need of funds. With investment capital, the person with capital is seeking a return on his funds then he can invest them into a venture being undertaken by an entrepreneur. If the venture is successful, then both the entrepreneur and the capital

financier share the profits. If on the other hand the venture makes a loss, (due to a genuine downturn in market conditions) then the financier must bear that loss.

There is a slight twist to the conventional Shariah standpoint mentioned above which has been adopted by certain financial institutions. This twist has allowed banks to forward investments (which are identical in appearance to conventional loans) to Muslims and actually make a profit return on the investment (loan). Naturally this has been highly controversial amongst Muslim scholars themselves and within the Muslim community, including the authors of this publication. This type of loan structure is known as *tawarruq* and works by creating a debt for the borrower by selling commodities to him at a profit by the bank. This debt is then discharged by the borrower by paying monthly installments on the outstanding loan. At the outset of the arrangement the borrower is credited with the loan capital in his account. You can find out more about this type of loan by contacting the Islamic Bank of Britain.

Where can I find out more about Islamic loans from?

Provider	Loan Type	Contact
Ansar Finance	Qard-e-hasanah	www.ansarfinance.com
Islamic Bank of Britain	Tawarruq	www.islamic-bank.com

Car & Equipment Leases



Are normal leases *haram*?

A lease essentially permits the user (lessee) to rent a defined item from the owner (lessor) for a defined period of time for a fixed rental. As such its basic form does not violate any Shariah principles. However, the way the contract for conventional leases is structured under English law results in the contract being classified as defective (*faasid*). Whilst this does not nullify the contract itself, the contract cannot be considered to be acceptable under Shariah until the specific defects, which are listed below are remedied:

Responsibilities of lessor & lessee



Most leases make the lessee responsible for replacing the item in the event of total loss (for example a car which is subsequently stolen and destroyed). Shariah principles require the lessor to be responsible for the item itself (excluding maintenance). Accordingly, the contract needs amending to ensure the lessor takes on this responsibility. Contemporary scholars have permitted the lessor to take out insurance to cover this liability, where *takaful* products do not exist.

Penalties on default

Almost all lease contracts bind the hirer into paying interest based penalties in case of payment default. This clause needs replacing with one which permits fixed penalties payable to a charity.

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Interlinked contracts

Some leases have a clause allowing the lessee to purchase the item for a fixed price at the end of the term. This clause needs replacing with a unilateral promise from the lessor to sell the item or alternatively it can be removed altogether.

Taking the above into account, contemporary scholars differ on whether conventional leases can be used. Some are of the view one should live within one's means and as such only that which can be afforded should be purchased rather than living on lease payments tied to a monthly future income stream. Notwithstanding the above deficiencies, other scholars feel that as long as the person taking out the loan is sure they will not default on repayments (and hence will never incur interest) then such leases can be tolerated, though never recommended.

There are a huge number of lease companies offering products in the UK. Leases are typically taken out for vehicles, and for business plant and machinery. Many smaller lease companies are prepared to vary the contract terms to remedy the above defects.



Insurance & Takaful

So what's wrong with conventional insurance?



For a detailed Shariah analysis of insurance please read 'Insurance Revisited – The Shariah View' www.1stethical.com/pages/knowledge-base. The key Shariah concern with insurance is over the uncertainty (*gharar*) prevalent in the basic contract, as explained in the *Basic Shariah Principles* section earlier in this guide.

With an insurance contract, *gharar* is considered a concern, as it is not certain what will be received in exchange for the premium paid today. In the case of car insurance, it may be that the customer receives a new replacement car if his is stolen or at the other extreme it may be that the premium payer tangibly receives nothing if he suffered no loss during the year.

Notwithstanding this concern, contemporary scholars have tolerated the use of insurance contracts in instances where it is a legal requirement to be insured. (e.g. to drive a car or have indemnity insurance).

So how does Islamic insurance work?

Many scholars have cited *takaful* as an alternative to conventional insurance. The principal legitimising difference between *takaful* and conventional insurance, in the eyes of some Shariah scholars, is that although the *takaful* contract contains the same uncertainty as conventional insurance, this uncertainty can be tolerated and moreover does not render the contract void, as the *takaful* system is governed under the gift (*aqd tabaru*) rules and not contract with consideration (*aqd mu'awadha*). Scholars hold uncertainty of receiving something in return for the payment made is permissible for gifts made to another, but not for payments under a commercial contract. To read the full debate on this, please visit www.1stethical.com/pages/knowledge-base.

Where can I buy Shariah-compliant insurance?

Provider	Loan Type	Contact
British Islamic Insurance	Home & Car Insurance	www.biih.co.uk
HSBC Amanah	Buildings only insurance for Amanah customers	www.hsbcamanah.com
Salaams Insurance	Home and Car Insurance	www.salaaminsurance.com

Guarantees, Warranties & Credit Cards



Are warranties considered to be insurance?

Contemporary scholars differentiate between guarantees (*offered at no cost when a product is purchased*) and warranties (*which allow guarantee periods to be extended for an additional charge*). Guarantees are considered permissible, whilst warranties are considered insurance hence fall under the rulings on conventional insurance. Contemporary scholars differ in their treatment of breakdown services (for cars, boilers etc.) where a fee is payable in exchange for assistance in case of breakdown. Some scholars consider these to be a type of insurance whilst others consider them to be a hire of a service (*ijarah*) not insurance, as the user does have access to a tangible service at all times. We have asked the Al Qalam Shariah scholar panel to provide a comprehensive fatwa on the permissibility on guarantees, warranties and breakdown service contracts. This will be available to download at www.alqalam.org.uk.

Are conventional credit cards acceptable?

Using a card as a proxy for cash to purchase goods is not in itself impermissible. However, the contract for such a card always permits the issuer to charge the user interest on outstanding balances which are not settled within four weeks of the monthly statement being issued. This clause is considered a flagrant violation of Shariah principles hence would be sufficient, on its own, to void the entire contract. In addition, many contemporary scholars consider many credit card providers encourage people to live beyond their means which is an attitude strongly discouraged by Shariah.

Consequently, contemporary scholars consider the using of cards to be forbidden under Shariah. However, scholars have provided an exception to this rule for those people who would face significant inconvenience if they had to stop using their cards, on condition that payments to the card provider are made in a manner to always avoid interest charges becoming payable.





Almsgiving (Zakah)

Why is it important to pay the right amount of *zakah*?

Zakah is one of the five pillars of Islam and as such it is pivotal to a Muslim's faith to fulfill this obligation. It is therefore essential for every Muslim to diligently calculate and promptly pay *zakah* annually.

What do I pay *zakah* on?

Zakah is payable at a rate of 2.5% by those who own wealth over a *de minimis* level (*nisaab*) on a wide range of assets including gold, silver, cash and liquid investments, property (acquired for resale), pensions, livestock and agricultural output. There are a number of important rules pertaining to each of the classes which you can find out more about at www.1stethical.com/pages/knowledge-base.

Are there tax benefits for me or the charity I give to when I pay *zakah*?

Higher rate tax payers receive tax relief by virtue of an increase in their basic rate band equal to the gross amount of the donation to a UK registered charity. The charity itself is also able to claim Gift Aid totalling 25% of the donation made tax-payers (basic or higher). For a full explanation of the reliefs in this area, please consult the link above which contains a section on tax reliefs.



Summary

The Muslim considers following Shariah to be important as it allows him or her to please their Creator, which is after all, the main purpose of a Muslim's life. Following Shariah has additional benefits, however in that the cumulative impact on society is to ensure wealth is distributed more evenly, and exploitative and harmful activities and trades are curbed. In this sense Shariah principles promote a greater sense of well being and fairness for all, irrespective of religion.

Islamic finance has evolved massively over the past few decades to the extent that the UK now leads the Western world in product development, and London has become the preferred location for most Middle Eastern institutional investment and product regulation and development. The UK also has a number of fully fledged, licensed Islamic banks. All these developments are a credit to the Shariah scholars and industry professionals who have pioneered them as well as the host government which has been highly co-operative.

The current suite of products available in the UK, though not perfect, has gone some distance towards allowing Muslims to fulfill their Islamic obligations in the financial domain. This guide has attempted to summarise concisely all those available products and options.

This guide has also been designed as an introduction to a number of other guides written by the 1st Ethical Charitable Trust on subjects such as *riba* (interest), *wills*, *zakah*, Islamic investments etc.

Our sincere hope is that this guide has provided the reader with the information required in order for them to be able to conduct their financial and legal transaction in a more Shariah-complaint manner, and that the reader is sufficiently interested in learning more about this subject matter. The additional guides can be easily downloaded from www.1stethical.com

Lastly, anything correct and beneficial in this guide is from Allah (SWT) and any errors can only be from ourselves. We pray the Almighty is pleased with this guide, and it becomes a means for both its authors and readers to gain His pleasure.

1st Ethical What is the 1st Ethical Charitable Trust?

1st Ethical Charitable Trust is the charitable arm of the 1st Ethical Group and is regulated by the Charities Commission. In addition to providing humanitarian relief, the Charitable Trust seeks to provide information to UK based Muslims on how best to apply Shariah principles to common legal and financial concerns. The Charitable Trust has published guides on topics such as Zakah, Islamic wills, Halal investments and alternatives to interest, and also operates an extensive online Shariah resource library. For more information please visit www.1stethical.com.

1st Ethical Who are 1st Ethical?

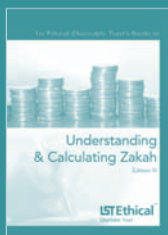
1st Ethical Limited are the only national firm of Shariah-compliant tax planners and FSA authorised financial advisers. We specialise in Islamic wills, Halal investments and pensions, tax efficient trusts and non-domicile/off-shore planning. We also advise companies and individuals on how to mitigate corporation, income and capital gains tax liabilities through a variety of tailored tax solutions. For more information please visit www.1stethical.com.

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