

## Executive Summary

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### ❖ What is the Beth Din and what does it do?

The Beth Din is a Jewish authority which offers members of the Jewish communities two separate services – civil arbitration and religious rulings. The Beth Din provides civil arbitration as an alternative to court action under the Arbitration Act (1996), which grants all British citizens the right to resolve civil disputes through arbitration. They also provide religious rulings on personal issues of faith which are voluntary, non-binding and limited to an individual's private status.

### ❖ Is there only one Beth Din?

No, there is no centralised Beth Din in the UK; each of the main branches of Judaism in Britain has its own rabbinic authority and interprets halakha, or Jewish law, for its associated synagogues. For example, the London Beth Din, the Court of the Chief Rabbi and the oldest Jewish court in the UK – established in the early 18<sup>th</sup> century – is the best-known Orthodox authority representing 30-40% of Britain's 250,000 Jews. Other Orthodox, ultra-Orthodox communities and progressive Jewish movements also run separate Beth Din. The positions held by the different branches of Judaism on key issues demonstrate the plurality of interpretation within Jewish law – specifically between Orthodox and non-Orthodox approaches to religious divorces, conversions and determination of Jewish status.

### ❖ What is the Beth Din's remit – does it deal with criminal or family law?

No, the Beth Din does not deal directly with matters pertaining to criminal or family law. When functioning as an arbitration tribunal the Beth Din is limited to civil proceedings. The Arbitration Act (1996) preserves the English common law position in respect of matters that are capable of settlement by arbitration: civil disputes (contractual disputes, claims in tort, disputes concerning intellectual property rights and certain statutory claims) can legally be resolved by arbitration; family law and criminal matters cannot.

Religious rulings and services provided by the Beth Din are voluntary and limited to an individual's private status – a religious divorce overseen by the Beth Din, for example, does not affect the individuals' legal status. However, individuals do have the right to consult religious figures on personal matters, including ancillary relief and childcare provisions resulting from divorce. In the UK, family law can only be decided on by a family law court: the outcome of mediation by religious figures can be used as a basis for discussion in a family court, but is always subject to the authority of the court.

### ❖ Are Beth Din decisions voluntary and/or legally-binding?

All Beth Din decisions are ostensibly voluntary; decisions made within the parameters of the Arbitration Act (1996) are also legally-binding, subject to the approval of civil courts. Both parties must freely agree to accept the judgment as legally-binding; by signing an arbitration agreement with the Beth Din individuals are choosing to be judged by Jewish law. In the event of non-compliance, the arbitration agreement may be taken to secular courts for enforcement. Civil courts, however, retain the right to intervene in any case where the award of the Beth Din is considered unreasonable or contrary to public policy. Unlike civil courts, the Act does not afford a tribunal power to assume jurisdiction over individuals or entities not party to the arbitration agreement: the Beth Din may invite a non-party to submit testimony or produce documents willingly; but it cannot compel that individual or entity to do so.

Religious rulings, however, are not legally binding: they are voluntary and open to all members of the Jewish communities in the UK. However, the Beth Din's religious rulings are often seen as religiously and morally binding – some members of the Jewish communities seek a religious divorce, for example, because they feel it is necessary to maintain a sense of honour within their community.

❖ **What about religious divorce – are women disadvantaged under Jewish law?**

Jewish marriages conducted in synagogues in the UK are registered with the state; religious and civil divorces, however, are separate procedures. A Jewish divorce is not an alternative to a civil divorce. It does not alter an individual's legal status, just as a civil divorce does not dissolve a religious marriage.

A Jewish couple seeking a religious divorce must both freely agree to obtain a Jewish contractual divorce document, known as a Get, from a Beth Din, which acts as a witness. Traditionally, a Get may only be granted if both parties agree. Unsatisfactory divorces – where one party refuses to divorce – can present practical problems for the continuation of the other party's Jewish life, especially for women. Men suffer limited social opprobrium by not being divorced while women can be seriously disadvantaged - if she re-marries in the civil courts without a Get she will be regarded as being adulterous and any future child of hers will be considered a mamzer, or illegitimate in Jewish law. As a result, men have only limited incentive to grant their wives a divorce.

Movements within progressive Judaism have reinterpreted Jewish law to alleviate this problem. For example, the Reform Beth Din in Britain grants religious divorces to women without the husband's consent on the basis that an unethical law cannot be a Jewish law. Orthodox communities lobbied for legislative changes to protect women (and men) from unsatisfactory divorces: the resulting Divorce (Religious Marriages) Act (2002) compels the Beth Din to issue a religious divorce if either party to a civil divorce requires it, safeguarding against the religious divorce being used as a bargaining tool. A minority of Jewish women – from highly conservative Ultra-Orthodox communities – will not be protected by this law if their community does not recognise the necessity of civil divorce.

❖ **Is the Beth Din a recognised legal court – does it offer a parallel legal system?**

No, in neither arbitration cases nor religious judgements, is the Beth Din recognised as a legal court nor does it offer a parallel legal system; Beth Din rulings or advice can only be reflected in UK law if both parties freely agree and the decision is approved by the civil courts.

When functioning as a tribunal, the Beth Din facilitates consensual arbitration within the parameters of the Arbitration Act (1996), operating within – and not outside of – UK law. Religious rulings do not confer or change an individual's legal status – they are a matter of personal faith. The Divorce (Religious Marriages) Act (2002), however, recognises the disadvantaged position a Jewish woman can find herself in if her husband refuses her a religious divorce. The Act itself, however, does not grant the Beth Din legal recognition: the law compels the Beth Din to pursue a religious divorce if a party to a civil divorce requests it – the Jewish court must reflect the couple's status according to UK law – not act outside it.