

# SHIDUCHIM IN HALACHAH

by Rabbi Doniel Neustadt

*The following is a discussion of Halachic topics related to the Parsha of the week. For final rulings, consult your Rav.*

*Take a wife for my son for Yitzchak (24:4)*

It is a mitzvah to arrange a shiduch (1) [colloq: a match] between a man and a woman for the object of matrimony (2). It is permitted to arrange a shiduch on Shabbos (3), and if necessary, it is even permitted to discuss financial arrangements on Shabbos (4).

Arranging a match between non-observant Jews is not technically a mitzvah, but it is permitted to do so provided that the shadchan will be paid for his services (5). Even a professional shadchan, however, is advised by the poskim not to get involved in arranging a marriage between non-Jews (6).

## THE SHADCHAN'S FEE:

As with any other business transaction, a shadchan must be paid a fee for arranging a shiduch (7). It makes no difference if the shadchan was engaged by one of the parties or if he volunteered his services--in either case he must be paid for his services (8). Even a non-professional shadchan must be paid for his services (9). The shadchan may petition a beis din to force the parties to pay his fee (10).

The amount to be paid is divided equally between the two sides, even if the shadchan spent more time with one of them (11). At the shadchan's discretion, he may charge only one of the parties involved half of the going rate. He may not, however, charge more than half to one side, even if the other side is poor or for some reason refuses to pay (12). The shadchan may forego payment altogether, in which case there is no compelling reason to pay him (13).

Although the obligation to pay is the bride's and groom's, it has become customary for the parents to pay (14). If the parents fail to pay, there is no obligation for the bride and groom to pay the shadchan (15).

The amount to be paid to the shadchan is based on the customary fee in the area where the shiduch was made (16). Once the standard fee is agreed upon, the shadchan may not ask for additional

compensation to cover special expenses that he may have incurred in arranging the shiduch.

Our custom is to pay the shadchan immediately after the shiduch is completed (17). Even if the shiduch is broken later, the shadchan does not have to return his fee (18) as long as he did not give erroneous information which led to the termination of the shiduch (19).

A shadchan who does not complete the match--even though he invested a great deal of time and effort--need not be paid (20).

The poskim debate the division of payments in a situation where more than one shadchan is involved, or when the match began with one shadchan and ended with another. Whenever there is a dispute, a rav should be consulted since there are many details involved and no two cases are alike.

A shadchan whose fee is outstanding should not be a witness to the marriage ceremony (21).

### **INFORMATION:**

It is prohibited for either party in a prospective match to give false information or to withhold pertinent information about themselves. In certain cases, withholding or falsifying information could result in the invalidation of a marriage (22). Even a couple who has been married many years may be considered to be living in sin if pertinent information was withheld at the time of their marriage.

The poskim give some examples of information that may not be withheld in a prospective match [and which--if withheld--may invalidate a marriage]: A serious physical or mental illness (23), infertility (24), correct financial status (25), lack of religious observance (26), previous marital status (27), previous illicit relationships (28), conversion (29), adoption (30).

One is not required to divulge a deficiency which most people do not consider to be an impediment, such as a minor illness (31), a physical weakness or a minor blemish in one's lineage (32). Similarly, it is not required to divulge a transgression in the distant past for which the sinner has repented (33).

Since it is often difficult to gauge and judge minor drawback versus major deficiencies, a rav must always be consulted.

An individual who is asked for [or is aware of (34)] information about a shiduch must divulge what he knows regarding a "major deficiency", as detailed above. One who deliberately withholds such information transgresses the prohibition of **lifnei eiver lo sitein michshol** (35).

Detrimental information about a shiduch may only be conveyed with the proper intention--for the benefit of one of the parties, not as revenge or in spite of any individual. Even then, the information may only be relayed when (36):

- The condition is serious;
- The condition has not been exaggerated;

- There is a reasonable chance that the information will be accepted and acted upon. If it is likely to be ignored, it is prohibited to be relayed.

One who is unsure if a particular point of information is a major deficiency or if the above conditions have been met should consult a rav before divulging or withholding any information.

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## FOOTNOTES

1 The word shiduch is Aramaic for "peaceful" or "tranquil" (see Targum Shoftim 3:11), referring to the peacefulness which a woman senses when she finds her match and establishes her home (Ran, Shabbos 12a). Others maintain that the word shiduch means "to bind or tie" together (Aruch).

2 Shulchan ha-Eizer 3:1, based on the Medrash (Rabbah, Tzav 8:1) that Hashem himself arranges matches. See also Chikrei Lev C.M. 135.

3 O.C. 306:6.

4 Ketzos ha-Shulchan 107:8. See Kaf ha-Chayim 306:50 that whenever possible it is best to delay discussing finances until after Shabbos.

5 Teshuvos Meishiv Davar 2:32; Teshuvos M'haram Brisk 1:82.

6 Be'er Heitev Y.D. 2:15 and Darkei Teshuvah 154:6 quoting Chavos Yair 185.

7 Rama C.M. 87:39 and 185:10.

8 Beiur ha-Gra, ibid.

9 Teshuvos M'harash Engel 3:15.

10 Rama, ibid.

11 Erech Shai E.H. 50.

12 Beis Yitzchak E.H. 115; Halichos Yisrael 20.

13 Reb Akiva Eiger C.M. 185; Pischei Teshuvah E.H. 50:16-- rejecting the mistaken notion that a shadchan must always be paid.

14 Avnei Nezer C.M. 36.

15 Erech Shai C.M. 185.

16 Pischei Teshuvah E.H. 50:16. In many places today, there is no clear custom as to the amount a shadchan receives. If a dispute arises, a rav needs to be consulted.

- 17 Aruch ha-Shulchan E.H. 50:42; Beis Yitzchak 1:115; Halichos Yisrael 4; Pischei Choshen, sechirus, pg. 337. When a shadchan does not get paid on time, the Biblical prohibition of delayed payment (lo salin) applies--see Halichos Yisrael 1-2.
- 18 Aruch ha-Shulchan, ibid. But in an area where the shadchan is customarily paid after the wedding, and the couple never gets married, the shadchan does not have to be paid.
- 19 Levushei Mordechai C.M. 15, quoted in Pischei Choshen, ibid. See Halichos Yisrael 11 whether the shadchan gets paid if the shiduch fell apart because of mistaken information of which the shadchan was unaware.
- 20 Beis Yosef C.M. 185.
- 21 Otzar ha-Poskim 42:45-15; Harav Y. Kamenetsky (oral ruling, quoted in Apiryon l'Shlomo, pg. 40). B'dieved, though, the kiddushin is valid.
- 22 Sefer Chasidim 507.
- 23 E.H. 39:5; Igros Moshe E.H. 4:73-2.
- 24 Otzar ha-Poskim 39:7. See Kehilos Yaakov, Yevamos 38 and ruling of Harav S.Y. Elyashiv (quoted in Nishmas Avraham, vol. 5, pg. 118).
- 25 Teshuvos Chasam Sofer E.H. 72 quoted in Pischei Teshuvah E.H. 38:14.
- 26 Chofetz Chayim Hilchos Rechilus, Klal 9, tziyur 3:6, 11.
- 27 Noda B'yehudah 2:50, quoted in Pischei Teshuvah E.H. 39:4.
- 28 Igros Moshe O.C. 4:118; Minchas Yitzchak 3:116. See, however, M'harsham 7:152.
- 29 Minchas Yitzchak 7:90; Tzitz Eliezer (quoted in Nishmas Avraham E.H. pg. 252).
- 30 Minchas Yitzchak 5:44.
- 31 Such as an ulcer--Harav Y. Zilberstein (Emek Halachah-- Asyah, pg. 160).
- 32 Chavos Yair 120. See Teshuvos Knei Bosesem 1:121 and Nishmas Avraham E.H. pg. 26 for an elaboration. See also Titein Emes l'Yaakov, pg. 85 who quotes a dispute between contemporary poskim as to whether it is permitted to slightly adjust the age of bride or groom, such as from age 20 to age 19, etc.
- 33 Minchas Yitzchak 6:139. Such information, therefore, may not be repeated by others when they are asked for information--ibid.
- 34 Tzitz Eliezer 16:4.
- 35 Chofetz Chayim, ibid 9:1; tziyur 2:3. See also Pischei Teshuvah O.C. 156 and Chelkas Yaakov 3:136.

See also Practical Medical Halachah, 3rd edition, pg. 166, quoting an oral ruling by Harav M. Feinstein that a disability which may impact negatively on an individual's functioning as a spouse or as a parent must be revealed.

36 Chofetz Chayim, ibid. 9:2.

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