

LEVEL

TWENTY
SEVEN

CHAMBERS



Arbitrating with Guerrillas and Gorillas
Ethics & Remedies

Shane Monks

Liability limited by a Scheme approved under professional standards legislation

>> Duty of Disclosure

IBA Guidelines:

- circumstances that **MAY** in the eyes of the parties give rise to doubts as to the arbitrator's impartiality or independence

>> Duty of Disclosure (cont.)

Model Law Article 12

Rule 5.4 LCIA Rules 2014

Rule 16.3 ACICA Rules 2016

- circumstances **LIKELY** to give rise to doubts as to the arbitrator's impartiality or independence

>> Best Practice

- Popplewell J - no obligation to disclose circumstances that in fact would not raise a real possibility of impartiality, although it may be prudent to avoid the risk of challenge.
- Court of Appeal - best practice to disclose and accordingly as a matter of law, disclosure should have been made.

>> **Lawyers Conduct Guideline**

- IBA Guidelines on Party Representation
- Annex to LCIA Rules 2014
- SIArb Guidelines on Party-Representative Ethics 2018
- ICC Note to Parties 2019

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