

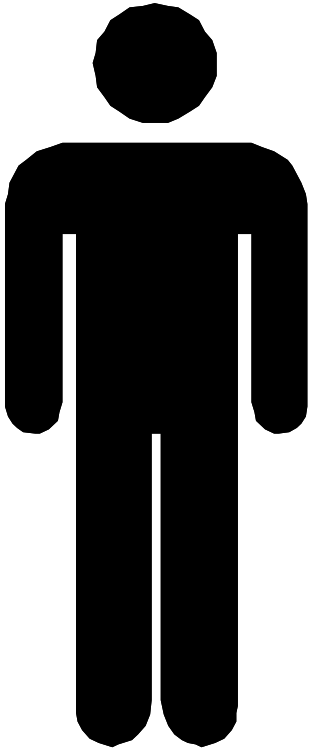
Whose expert is it anyway?

Obligations and duties of expert witnesses

8 November 2013

Ermelinda Beqiraj

What impacts the role and conduct of expert?



Who is the expert appointed by? Duty to whom?

What are the expert's instructions?

What are the requirements of the arbitration forum/seat?

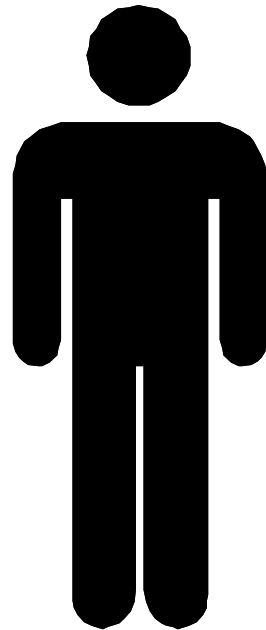
Expert's professional obligations?

Impartiality, objectivity, ethical standards, understanding of role

***Chartered
Accountant***

***Qualified in –
England & Wales***

***Instructing Counsel
located in UK***



***Chartered
Accountant***

Qualified in – X

***Instructing Counsel
located in Switzerland***

IBA rules apply

Level playing field?

How can it possibly go wrong?

- Tension between duty to the Tribunal (if applicable) versus duty to the client/instructing counsel
- Expert's understanding of applicable rules (vs that of the Tribunal, counsel, other expert)
- Differing instructions
- Experts indirectly pleading their client's case
- Cross examination process

Possible improvements?

Light touch

Uniformity of instructions and greater involvement by Tribunal

Common understanding of the obligations of experts

Greater use of joint statements/witness conferencing

Greater use of panel appointed experts

Other options

Harmonisation of ethical standards?

'Policing' expert misdemeanours?

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