



## VISHLAW GLOBAL

(a Registered Trust)

Center of Excellence for Alternative Dispute Resolution

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### THE GREEN LIST

The **Green List** in arbitration refers to a set of situations where there is no apparent or actual conflict of interest, and as a result, there is no duty for the arbitrator to disclose these circumstances to the parties. These situations are considered neutral and do not give rise to any doubts about the arbitrator's impartiality or independence. The Green List is designed to provide clarity and assurance that certain common or benign scenarios do not necessitate disclosure, thereby promoting efficiency in the arbitration process.

#### **Key Characteristics of the Green List:**

##### **1. No Disclosure Required:**

The Green List includes situations where an arbitrator is not required to disclose the circumstances to the parties, as these situations are deemed not to affect the arbitrator's impartiality or independence. The absence of a duty to disclose reflects a consensus that these scenarios are unlikely to influence the arbitrator's judgment.

##### **2. Objective and Subjective Standards:**

The Green List typically applies objective standards to determine whether a situation should be included. However, the 2024 Guidelines also allow for subjective consideration in assessing whether a situation might, in rare cases, raise concerns for the arbitrator, even if not typically requiring disclosure. This ensures flexibility in maintaining the integrity of the arbitration process.

##### **3. Promoting Efficiency in Arbitration:**

By clearly outlining scenarios that do not require disclosure, the Green List helps streamline the arbitration process. Arbitrators and parties can focus on more significant potential conflicts without getting bogged down in unnecessary disclosures. This list ensures that only relevant issues are brought to the attention of the parties, promoting efficiency and reducing the risk of unnecessary challenges.

##### **4. Non-Exhaustive List:**

While the Green List provides clear examples of situations where disclosure is not required, it is non-exhaustive. This means that other similar scenarios that meet the criteria of not affecting impartiality or independence might also be considered part of the Green List, even if they are not explicitly listed.

## SAMPLE SCENARIOS

Below is not an exhaustive list, but it includes some of the most common conflicts of interest scenarios, provided for illustrative purposes only. In practice, parties and arbitrators should carefully consider each situation, make appropriate disclosures, and assess the nature and extent of any conflicts of interest.

### **Examples of Green List Situations:**

#### **Scenario 1: Prior Arbitration Experience:**

- If an arbitrator has previously served in a different arbitration where one of the parties or their counsel was involved, but the case was unrelated and the arbitrator did not have a close relationship with the parties, this situation would fall under the Green List. The mere fact of prior service in an unrelated case does not create a conflict of interest.

#### **Scenario 2: General Academic and Professional Activities:**

- An arbitrator who has published articles, given speeches, or taught courses on legal issues that are broadly related to the subject matter of the arbitration, without directly addressing the specific case, is not required to disclose these activities. Such general academic and professional contributions are considered part of the arbitrator's role as a legal expert and do not compromise their impartiality.

#### **Scenario 3: Minor Professional Relationships:**

- If an arbitrator has had a minor and indirect professional relationship with one of the parties, such as having attended the same professional event or been part of a large team on an unrelated project, this situation is part of the Green List. The limited and indirect nature of the relationship does not raise concerns about impartiality.

#### **Scenario 4: Casual Social Interactions:**

- Casual social interactions between an arbitrator and one of the parties or their representatives, such as brief encounters at professional conferences or industry events, do not require disclosure. These interactions are not considered significant enough to impact the arbitrator's independence or impartiality.

#### **Scenario 5: Publicly Known Facts About an Arbitrator:**

- If certain facts about an arbitrator, such as their nationality, membership in professional associations, or general public statements unrelated to the case, are publicly known and do not directly relate to the arbitration, they are part of the Green List. These facts do not require disclosure as they do not present a conflict of interest.

#### **Scenario 6: Routine Professional Interactions:**

- Routine professional interactions, such as an arbitrator's firm providing unrelated services to one of the parties on a matter in which the arbitrator is not involved, are included in the Green List. These routine interactions are part of normal professional practice and do not affect the arbitrator's independence.

#### **Scenario 7: Witness Testimony in Unrelated Matters:**

- If an arbitrator has previously heard testimony from a witness in another unrelated arbitration, this situation is covered by the Green List. The prior exposure to the witness does not automatically create a conflict of interest in the current arbitration.

**Scenario 8: Employment of an Arbitrator’s Colleague by a Party:**

- The fact that a colleague of the arbitrator’s law firm or employer is employed by one of the parties in a completely unrelated matter is also part of the Green List. The arbitrator’s independence is not compromised by the unrelated work of a colleague.

**Scenario 9: Membership in the Same Professional Association:**

- An arbitrator’s membership in the same professional association or bar as one of the parties or their counsel does not require disclosure. Such affiliations are common in the legal profession and do not present a conflict of interest.

**Scenario 10: Participation in General Legal Reforms or Public Committees:**

- Participation in general legal reforms or public committees that might indirectly relate to issues in the arbitration but do not involve specific parties or disputes is part of the Green List. This involvement is seen as a normal part of the arbitrator’s professional duties and does not raise concerns about impartiality.

The Green List provides a clear framework for identifying situations that do not require disclosure in arbitration, ensuring that only relevant and potentially impactful circumstances are brought to the attention of the parties. By focusing on situations where there is no apparent or actual conflict of interest, the Green List helps streamline the arbitration process, promoting efficiency and reducing unnecessary challenges. Arbitrators and parties can confidently proceed without disclosure in these scenarios, knowing that the integrity of the arbitration process is maintained. The Green List’s inclusion of both objective and subjective standards allows for flexibility while upholding the core principles of impartiality and independence in arbitration.