

Defence Solicitor Call Centre Questions and answers for service providers

DSCC Questions

This Q & A is the first version dated 9th January 2008

<p>Which cases can be accepted from elsewhere other than DSCC</p>	<p>Cases may be accepted from a family member. These need to be logged with the DSCC before the solicitor undertakes any work so the DSCC does not pass the case elsewhere.</p> <p>A requested solicitor may accept a case from the police if they are in the police station at the time the request for legal advice is made, see question below for further details. In this instance they must log the case within DSCC within 48 hours.</p>
<p>For cases that are accepted directly from the police because I am already at the police station or from a third party, how do you log cases with the DSCC? Do you have to fill in a form?</p>	<p>To log a case with DSCC, you can call, fax or email them. The telephone number has not changed. It is 08457 500 640. Attached is a template form to use when emailing or faxing the DSCC. The email address for contacting the DSCC is: casereferrals.dsc@firstassist.co.uk. The fax number is 020 8763 3191.</p>
<p>What information do you need to log a case with the DSCC?</p>	<p>We will ask you to supply as many of the following as possible: detainee's name, offence, police station and your main scheme or the scheme which is most appropriate to the client, custody number. As a minimum, we will require the detainee's name, the police station, the offence and the date the advice was provided.</p>
<p>What's the timescale for DSCC informing own solicitors that client has been arrested? What information will the solicitor receive and how will they receive it?</p>	<p>The DSCC will contact the named solicitor as soon as the police inform them of the detainee's request for advice.</p> <p>If the case is within the scope of CDS Direct so that they deal when an own solicitor has been requested, DSCC will inform the own solicitor within approximately 12 hours of the case being closed, confirming in an email the detainees name, police station and date and that they were advised by CDS Direct. For further info, the solicitor will need to contact the client for written confirmation to be faxed to the DSCC on 020 8763 3191 that a copy of the record of advice is required.</p>

<p>If you've given DSCC 2 numbers, will they try both every 20 minutes?</p>	<p>The DSCC will try the most appropriate number first and then if no response, try the other numbers. If the DSCC still do not receive a response, they repeat the process again in accordance with current rota response timings until a response is received or the 2 hour response time is exhausted. It is envisaged that this will occur approximately every 20 minutes.</p>
<p>When you call DSCC to inform of 3rd party instruction, what information do you need to give them?</p>	<p>As above – the minimum information is detainee's name, police station, offence and date.</p>
<p>Attendances with police at prison interviews, e.g. if they're TICs and attendances at client's home address where police are attending re an offence. When record with DSCC?</p>	<p>Legal advice should be requested by the police via DSCC. Instructions should only be accepted directly from relatives, in such instances the case should be logged with the DSCC within 48 hours.</p>
<p>What happens when you don't have a custody number to give to the DSCC?</p>	<p>The information required by the DSCC in order to log a call is set out above.</p>
<p>Why can't DSCC calls be recorded?</p>	<p>Such an arrangement would be very costly. It is considered that the cost of implementing such an arrangement would outweigh the benefits gained.</p>
<p>Can DSCC search to see if a solicitor has already been allocated to a particular case?</p>	<p>Yes – DSCC can search using the client's name, the police station or the custody reference number.</p>
<p>What about multiple clients on same charge – does each need to be logged with the DSCC?</p>	<p>If a separate fee is to be claimed, then each case must be logged with the DSCC.</p>
<p>Do you need to include the DSCC ref in your payment form?</p>	<p>The DSCC will, if the case is logged by telephone and requested by the solicitor, provide a reference number. This does not need to be supplied when claiming for payment.</p>
<p>Where a client is bailed back several times, do you need to log this with the DSCC once or each time?</p>	<p>Such cases should be covered by the provider that originally provided advice and therefore do not require separate logging with the DSCC.</p>
<p>Currently there are times when the police call the DSCC even though there is a duty solicitor present in the custody suite. As this is an exception to cases going via the DSCC, where is the check to ensure police are not calling the DSCC regardless?</p>	<p>When a request is logged with the DSCC by the police, the DSCC ask whether the duty solicitor is at the police station. If the duty solicitor is at the police station, the DSCC will speak with them and deploy the case to them.</p>
<p>How will we prove that we have informed</p>	<p>There is no need for "proof". The LSC will identify those firms where the claims submitted</p>

DSCC that we've taken a case?	are significantly more than records show the volume of cases deployed.
Can a solicitor contact DSCC to log a voluntary attendance 2 weeks in advance?	Yes.
Should solicitors phone the DSCC to see if a detainee has already been advised? If so, what's the protocol?	This is not recommended. The solicitor can ask the client direct.
2 hour response time: If someone is in a police station and their phone is switched off, if they pick up the case after 2 hours and 5 minutes, will the case have gone to duty?	The DSCC will pass a case to the duty solicitor if the requested solicitor has not responded within 2 hours. This is in order to balance the named solicitor getting the work and the detainee getting advice in a timely fashion. If the duty solicitor has not yet picked up the case the originally requested solicitor will still be able to pick up the case.
Data Protection. Does the new system mean that the DSCC will have a record of everyone arrested who has requested legal aid? Who has access to this info? How long is the info kept?	The DSCC must comply with its obligations under the Data Protection Act and the Access to Justice Act. DSCC staff have signed a confidentiality agreement in relation to the information.
Data protection guidance. A solicitor can obtain the record of advice with the client's written authority. They won't have this written authority in the case where a family member calls to say son's been arrested. What information can a solicitor get in this case?	In the situation where a 3 rd party contacts a solicitor direct but CDS Direct has dealt with the case, written authority from the client must be obtained to release the record of advice.
Fixed fees come in at midnight on 14 th – why does the DSCC expansion start at 09.00?	This is considered to be the most sensible time for the DSCC and the profession.
When a client is drunk and arrested on a charge of, e.g. burglary, do the DSCC ring the detainee's requested solicitor immediately? Even if client is too drunk to speak and where the interview won't take place until the following morning? Currently police don't normally call the solicitor in the middle of the night, but closer to the time of interview. What will	<p>The DSCC will contact the named solicitor as soon as the police inform them of the detainee's request for advice.</p> <p>The police, in order to comply with PACE must contact the requested adviser as soon as the client requests legal advice. The police have no power, nor would we wish them to, consider delaying the provision of advice in such circumstances.</p>

DSCC do?	
Will the DSCC indicate whether or not the Case is 'Duty' or 'Own Client' when leaving a message,	No, the DSCC will only ask the Solicitor to call the DSCC on 08457 500 640. If a message is left i.e. most mobiles state a date and time, then DSCC would advise the Solicitor to call the DSCC to see if case had been accepted by anyone else.
Can we still use pagers?	Yes, if the DSCC have the contact details.
What if a client asks for a named individual and they are not available?	The DSCC will call the named individual on all appropriate numbers, approximately every 20 minutes. This may include other appropriate members of the firm. It would be useful to leave a message on the phone as to where the DSCC should try if you are not available.
What if a client only knows the solicitor by looks, not name?	DSCC will contact a named person or will pass the case to duty. We will ask the police for assistance via the client in such cases but the scenario is no different from that currently in operation.
How much notice will be given for an interview? Is there a minimum notice period?	The DSCC will notify the solicitor when the police confirm an interview is to take place within 90 minutes.
My firm uses an in-house rota – who do we need to tell so that the right person is called?	<p>The provision of telephone number(s) for each member of your staff that may be contacted are provided by you to the DSCC.</p> <p>You then need to ensure your telephone arrangements cover that when a telephone number provided by you is rung, a message is received or the call diverted to the number that you wish to be in use for that time.</p>

Access to CDS Direct advice

How do providers access the advice given by CDS Direct?	The CDS Direct adviser will record the information on their computer system. A record of this advice can be obtained by fax with signed authority from the client.
Will the CDS Direct advisor make a full detailed note of the call and advice given?	Yes – they record all advice given on a computer system. You can request a written copy of the advice. You must enclose a signed authority from your client.
Is there going to be the facility to speak to the CDS Direct advisor if you disagree with the advice?	You can request a written copy of the advice. You must enclose a signed authority from your client. If you disagree with the advice you can make a complaint.
How easily will we be given information about the advice given by the call centre?	You will require written authority from your client.
How will clients' solicitors be able to contact Language Line interpreters if they need to?	Language Line is only available via the LSC contract for CDS Direct providers.

CDS Direct service

What assurance can you give us that the system will work?	CDS Direct has been working well for the last two years - the service is now just being extended to own client work.
Are call centres going to be giving advice on things like ABH?	No – the scope of offences covered by CDS Direct will not change. CDS Direct will advise only on minor offences – those limited to telephone advice only under the General Criminal Contract.
How many solicitors are available at any time?	CDS Direct providers will use a pool of around 120 advisers. Advisers will either be duty solicitors, solicitors with the PSQ, Accredited reps with the PSQ or probationary reps. At any time there will be a minimum of 3 supervising solicitors available.
Can you call a CDS Direct adviser as a witness?	Yes.
How do you oblige/ensure the CDS Direct adviser's co-operation when called as a witness - e.g. not going to be happy about travelling from London to Manchester for an attendance.	Any requests for advisers to attend court will be considered by the CDS Direct supervisor for the relevant provider. It is expected that a witness statement prepared by the relevant adviser should usually suffice. However if attendance is required, solicitors will need to serve a witness summons for the relevant CDS Direct adviser. The CDS Direct adviser will seek the usual payments as a witness if a statement cannot be agreed.
Will CDS Direct call statistics be available?	The LSC will be monitoring CDS Direct statistics and will carry out a 3 month evaluation. This information will include call stats and will be published on our website.
Where can we find the CDS Direct pilot evaluation?	The pilot evaluation is contained on the LSC website at the following address: http://www.legalservices.gov.uk/criminal/contracting/duty_solicitor.asp#Evaluation
Will the scope of CDS Direct be extended?	There are no plans to extend the scope of CDS Direct.
How do we make a complaint?	By telephone, letter or email. The email addresses are: Solicitor.dscfeedback@firstassist.co.uk Solicitor.cdsfeedback@firstassist.co.uk
What PR score did the pilot get? When is PR scheduled for the new contracts?	Peer review was not conducted for the pilot. Contractually the current CDS Direct providers must obtain a peer review 2 or higher rating within the first 12 months.
Who are the 3 suppliers?	O'Garras solicitors, The Johnson Partnership and Bostalls.

<p>Will the detainee be told s/he is not speaking to a solicitor when speaking to CDS Direct?</p>	<p>The CDS Direct adviser will let the detainee know that s/he is speaking to a qualified rep or a solicitor as appropriate.</p>
<p>What are the dates for PACE consultation?</p>	<p>The Consultation on the amendments to the PACE codes closed in October 2007 and responses have been published. The order was laid before Parliament on 17th December and debates will be held in January 2008.</p>
<p>Negligence. Can the advisers be subject to negligence when they may not be subject to same practice rules?</p>	<p>Yes – advice is given on behalf of the supervising solicitor as happens with reps in private practice therefore the same rules re. negligence apply.</p>
<p>Political cases – our firm has a niche market in political cases that may be non imprisonable but linked to protest marches etc. Will these cases be included in the remit of CDS Direct?</p>	<p>The list of cases covered by CDS Direct can be found in the General Criminal Contract. Part B, S8.2.</p>
<p>There is a 3 month roll out period for CDS Direct – what analysis will be done in this period?</p>	<p>We will look at volumes of calls, speed of response times, case duration and quality of service. We will also look at how workable the system is and consider its value for money.</p>
<p>Under what conditions would you not follow the planned roll out.</p>	<p>As the CDS Direct service has been working well for 2 years already, it is not anticipated that there should be any reason that the roll out will not take place as planned. The phasing in period is to be used to refine working practices and identify improvements that need to take place before national implementation. The roll out would only not take place if there was a technical system failure or if the new system proved completely unworkable.</p>

Police

<p>What training have the police had concerning the DSCC?</p>	<p>We are working with ACPO on the dissemination of materials explaining the changes to DSCC and CDS Direct. Internal custody suites are then carrying out further training. Additionally, for the 1st 3 areas, we are organising meetings with relevant staff to discuss concerns and assist with any training where possible. A copy of the training material issued to the police has been published on the LSC's website.</p>
<p>In some areas the police automatically call the duty solicitor when the client is a minor – what will happen in DSCC cases?</p>	<p>If an appropriate adult is required, the DSCC will not refer cases to CDS Direct and the case will be deployed to the duty solicitor, or the own solicitor if the client has requested a particular solicitor.</p>
<p>Script for police. Will they be using this script for all cases?</p>	<p>Please see below for more detail on the framework we are working with the police.</p>
<p>How are we telling police to ask if client wants to pay?</p>	<p>Please see below for further details.</p>
<p>Will the police record their conversation with the client where they offer them free or tell them they can pay for legal advice?</p>	<p>No – these conversations are not currently recorded. If a provider notes any concerns at a police station, these should be reported to the regional office.</p>
<p>Police are telling clients that it will take hours to get a solicitor but that they could be finished in an hour without one. How will the LSC tackle that?</p>	<p>This is a long held anecdotal view but any such instances should be raised by you with the local police as a complaint as it is contrary to PACE.</p>
<p>What about when a client has requested advice and then, because the police have said it will take hours, have changed their mind and proceeded without advice?</p>	<p>See above.</p>
<p>Can we/someone speak to a client who has changed their mind about receiving advice?</p>	<p>This scenario is covered by PACE.</p>

<p>Client requests duty who advises client at station. Own Solicitor is notified by relative of situation and wants to speak to client to make sure they are OK and happy with advice- Will police allow?</p>	<p>The decision in this scenario as to who to instruct has been taken by the client. The police MAY allow a call from the detainee's family solicitor (not our call) but the LSC will not pay for advice provided by the second solicitor.</p>
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Suggested Framework for Police

<p>Will the police stations receive a script to confirm who is available for the client?</p>	<p>The LSC has developed some suggested wording, in consultation with ACPO, for the Police to use as a framework for informing detainees of their options in obtaining legal advice. This suggested wording together with training materials explaining the details of the changes to DSCC and CDS Direct, is being circulated via ACPO to custody officers and staff. A copy of the suggested wording is available on the LSC website at: http://www.legalservices.gov.uk/criminal/payrates_scheme.asp</p>
<p>What does the custody sergeant offer the client within the script?</p>	<p>The custody sergeant will offer a straight choice between privately funded work and publicly funded advice. Some providers have questioned why we cannot indicate that pro-bono advice may be available, our position on this is that it is open to providers to tell their own clients that they will provide this advice for free, but it is not the role of the custody sergeant or the LSC to alert the client to this.</p>
<p>Apparently the Custody Sergeant will ask the suspect "Do you wish to pay for a solicitor or to have free legal advice?" Is this correct and if not, what question will be asked of the suspect?</p>	<p>The custody sergeant will need to offer the client a choice between accessing free legal advice and paying for legal advice so they know how to proceed with the matter.</p>
<p>Have you consulted with the Defence Solicitors over the form of words?</p>	<p>The Professional Bodies have provided comments on the suggested wording.</p>

Can we see the script being given to the police

As mentioned above, we have worked with ACPO to provide a framework in which the police can work. As part of this we have suggested wording which would enable the police to implement the new system. This is not a national script – there has never been a national script for use by police and we have not implemented one.

The suggested wording is laid out below:

You are entitled to free and independent legal advice while you are at the police station or you can pay privately for a legal adviser to represent you.

This does not alter your right to have a solicitor free of charge.

Do you want legal advice?

Do you want legal advice free of charge?

Do you want to pay for legal advice?

If the detainee wants to pay for legal advice, the police should ask for the Solicitor's details and contact them directly, informing the solicitor that the detainee wants to pay for legal advice.

If the detainee wants free legal advice, the following question should be asked:

Do you want to consult with a specific solicitor?

If the answer is yes obtain the details and forward to DSCC if no, pass to DSCC for allocation to duty Solicitor.

Options for the client

Rather than limiting client choice why won't suspects be offered more options?	As currently, and as required by PACE, clients will still be offered free and independent legal advice.
Is the LSC aiming to direct clients towards CDS Direct and away from solicitors i.e. get rid of own client work?	There is no plan to extend the scope of CDS Direct.

Exceptions

<p>If the client is not confident that speaking on the phone is secure – does this count as an exception?</p>	<p>This does not count as an official exception to advice being provided through CDS Direct – as it is not currently an exception to telephone advice. The CDS Direct adviser will try to establish whether the detainee can speak privately – if not, they will advise the client to answer questions with yes/no answers – this is the situation for duty/own client work at present.</p>
<p>Serious Maltreatment – what's the definition?</p>	<p>This wording has been used in the General Criminal Contract for several years and is not defined further.</p>
<p>One exception to CDS Direct is when a solicitor is already at the police station. What happens if there's a duty sol there who isn't on the rota or an own sol? Would they take the call from duty?</p>	<p>If the client has requested the duty then only a duty solicitor or accredited rep from the firm who is on duty may accept.</p> <p>If the client has expressed a wish to be instructed by a particular firm, then a duty solicitor, accredited rep or probationary rep (provided case is not indictable only) from that firm can accept. Clients will not therefore be poached by solicitors who are hanging around the police station.</p>
<p>When a client needs an appropriate adult, will the case go to CDS Direct?</p>	<p>No - these cases will be referred to the duty or own solicitor as appropriate.</p>
<p>Is a way round the system to tell clients to say they will pay privately then when you arrive at the station it becomes clear that they cannot pay privately? In this case, call goes to DSCC. With the exception, won't this mean that since you're at the station you'll get the case and be able to claim the fixed fee?</p>	<p>You would be able to get the case in this instance, but where a matter is eligible for telephone advice only, you would only be able to claim the telephone advice only fee. We will also monitor this kind of behaviour and it would be something your account manager may decide to challenge.</p>

<p>“A representative in the police station” - what does that mean? E.g. Scenario – A solicitor is in a police station with a shoplifter and another client is brought in for drink drive. Is the solicitor in the police station?</p>	<p>Yes, but you could only claim for telephone advice for advising the drink drive client, unless there was going to be an interview.</p>
<p>Isn't a way around CDS Direct just telling them to say they've been seriously maltreated by police?</p>	<p>This may be possible but we are monitoring all police concerns, including serious maltreatment on a fortnightly basis. If a pattern formed within an area or a firm, this is something we would raise with the account manager to deal with.</p>

Contacting a solicitor / provider

If a client requests his/her own solicitor how will the solicitor be notified?	You will be notified by the DSCC that the client has been advised. If the client is in court the next day you will be faxed a template giving details, including the time of the court appointment. If the matter is urgent, the CDS Direct adviser may contact you – we would expect this to happen only occasionally.
What if the client has not been charged at that point?	The client has the choice whether to instruct the original firm or not.
What about Saturdays/Bank Holidays when there will be no one in the office to pick up a fax?	Most practitioners have arrangements to collect urgent post amend faxes at the start of the next working day. If the matter is urgent, the CDS Direct adviser may contact you – we would expect this to happen only occasionally.
If someone asks for a particular firm and doesn't get them – i.e. CDS Direct case, will that firm be advised?	Yes. The DSCC will advise the firm if their client has been advised through CDS Direct.
What about when breach of bail disputed – will CDS Direct contact own sol for further information?	Yes, CDS Direct may contact the requested solicitor for additional information that may assist the detainee.
Where a matter starts as CDS Direct, then attendance is needed, will police pass to originally named sol?	In this case, CDS Direct would refer the case back to the DSCC who will pass the case to the originally requested solicitor.

Payment

Most of the questions relating to payment are contained in the fixed fees section of the Q&A document.

Under the new system, how/what payment will be claimed/received where instructed on an own client basis?	How to claim/ receive payment from an own client who is paying privately is a matter for the solicitor and the client.
How are you going to pay us for the call to the DSCC to obtain details of the advice provided by CDS Direct?	It is included in the fixed fee and the £8 acceptance fee.

Pro Bono advice

<p>Where a solicitor wishes to provide pro bono advice to a suspect in the police station it suggests that the onus must be with the solicitor to alert clients to this in advance. How can solicitors let clients know in advance (particularly a new/potential client) so that they know pro bono advice is available?</p>	<p>The option to make pro bono arrangements relates particularly to situations where a detainee requests their own solicitor – we are not responsible for allowing firms to access future clients.</p>
<p>How will clients be made aware of or offered the option to take advantage of any pro bono advice that may be available?</p>	<p>Solicitors should make their clients aware if they wish to offer a pro bono service to them.</p>
<p>Every CJSSS area has a list of suppliers. Police can say that you can get free legal advice on the phone from CDS Direct or from any of these – wouldn't this create a level playing field?</p>	<p>Most suppliers have indicated that they would only be willing to provide pro bono advice for certain of their clients, not as a general rule.</p>

Private clients

<p>Has consideration been given to clients with private insurance?</p>	<p>This is an infrequent occurrence but, should a client have the benefit of private legal insurance, the onus is on the private insurance provider to inform the client in advance that if they are arrested, they should indicate to the police that their legal advice will be paid privately under the terms of their policy.</p>
<p>A client is going to be asked if they want free advice or if they want to pay privately for it. They are not going to understand what is meant by paying privately and they/the police won't know if the clients preferred advisor will offer to do it pro bono. The client may choose duty whereas, if they knew the solicitor would act pro bono they would choose their own solicitor.</p>	<p>Solicitors should make existing clients aware if they are willing to offer pro bono advice. Where a client requests an own solicitor, the police will contact that solicitor. If the solicitor is unwilling to take on a case that falls under the scope of CDS Direct on a pro bono basis, the matter will be passed to the DSCC for allocation to CDS Direct.</p>
<p>What happens if a client agrees to instruct privately, then asks for public funding?</p>	<p>See above.</p>
<p>What happens when a client doesn't know if they can pay?</p>	<p>Clients will need to discuss charges with the solicitor.</p>
<p>What action will the police will take if they ask a detainee whether they wish to pay privately or not, and the client responds by asking 'I don't know; how much will it cost?'</p>	<p>The client must decide whether they wish to pay privately or not. The police will not agree (and the LSC support this view) to a "half way house" of "maybe". The additional work that this will involve the police in and the additional time that a client will be detained cannot be justified.</p>

Relatives

<p>Calls from relatives – what happens if the DSCC receives a call about a client before the relatives contact the provider?</p>	<p>If the DSCC has already deployed the case to the duty solicitor and the duty solicitor has accepted it, the named provider will not be able to take the case. If however, the duty solicitor has not yet accepted the case when the named provider contacts the DSCC, the DSCC will deploy the case to the named provider.</p>
<p>What is the position where the police allow contact with the family and a request is received from a relative?</p>	<p>As above – if the relative makes a request for a solicitor after the case has been deployed to duty, the case will remain with the duty. If the case has not yet been deployed, the named solicitor can accept it.</p>
<p>What happens if a parent rings a solicitor and they call the DSCC but the defendant, an adult, when being booked in later asks for someone else or the duty and that solicitor attends? Which solicitor will be paid – the solicitor requested by parent or defendant?</p> <p>What happens when the solicitor requested by the parent attends the police station and is told s/he is not required?</p> <p>If the solicitor requested by the defendant attends and the solicitor requested by the family has already attended and claimed the fee how is the second solicitor to be paid?</p> <p>Can the second solicitor call a conflict?</p>	<p>If the defendant has requested the duty solicitor and the duty solicitor accepts, then the case will go to the duty solicitor. The solicitor requested by the family must contact the DSCC to see if the case is already allocated to duty. If so, we will not pay the family solicitor.</p> <p>The solicitor requested by the parent should not attend the police station as they will have verified with DSCC that the case has been passed to duty.</p> <p>If the solicitor requested by the family does not log the case with the DSCC before undertaking any work, the LSC will not pay them for this work.</p>

Rules

<p>Solicitors do not want to be told who they can or can't represent as that is their choice, so can the rules be re-written to indicate what the LSC is prepared to pay for and what the LSC is not prepared to pay for and can the Q&As be responded to in the same terms?</p>	<p>The wording relating to CDS Direct is contained in the GCC. In this Q&A document, the language used has been chosen so as to make the situation as clear as possible in terms of what will change and how the LSC will administer these changes. Details on when fixed fees will and will not be paid are contained in the fixed fees training materials and Q&As.</p>
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Other

<p>Under Section 136 of the Mental Health Act 1993, people may be taken to the Police Station and await an assessment. Who will phone the police station to check what's happening with their assessment?</p>	<p>If the Police decide an Appropriate Adult is required, the case will not be passed to CDS Direct and DSCC will deploy to private practice. If an Appropriate Adult is not requested by the Police, CDS Direct will deal with the client.</p>
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