

General Criminal Contract (January 2008)
Frequently Asked Questions
Version 7 – updated 29 October 2007

1. Why is the contract being terminated?

Due to the uncertainty arising from the judgment in the Unified Contract judicial review, we have decided not to issue the planned contract amendment notice that would enable us to make the changes to the existing contract for October 2007. The only alternative way to ensure that the reform programme remains on track is by terminating the existing contract, and introducing the changes under a new contract starting on 14 January 2008.

Unlike the civil Unified Contract, the criminal contracts were entered into before the legal aid reform programme was announced and therefore providers would not have been aware of the proposed reforms at the time they signed the General Criminal Contract. Although the LSC is appealing the judgment, the outcome of this is unlikely to be known for some time. The LSC is committed to making the process as simple and certain as possible and acting in accordance with the law.

2. My contract is due to expire in March 2008 – why not wait until then?

The fee scheme changes were originally intended to be introduced in October 2007 in order to ensure that the LSC spend remains in accordance with our budget. We have now announced that any change to the remuneration structure for the Crown Court will be introduced in January 2008 (subject to consultation) and therefore it made sense to introduce the changes together, although each month's delay will lead to lost savings.

3. How is the January contract different from my current contract?

The Contract Documents are based on the current General Criminal Contract (out of London), with the Specification amended to facilitate the introduction of

- police station fixed fees
- the expansion of the Defence Solicitor Call Centre to cover own client work
- the expansion of CDS Direct (subject to PACE changes)
- an exclusive panel of providers for VHCC cases

Our policy is to limit the amount of change to the bare minimum, although we have also made some changes to the amendment provisions in the Contract Standard Terms in the light of the UC judgment (basically removing the ability to amend provisions in relation to quality and performance standard ("technical specifications" as defined by the Public Contract Regulations 2006). A full revised version of the contract documents is now available on our website along with a summary of all of the changes.

4. How do I get a Contract from January 08?

We will be conducting a simple application process from 1 October 2007 to 4pm on 31 October 2007. All current General Criminal Contract holders should have received an application pack by post by the end of September and full information will be available to all interested parties (including new applicants) is on our website. In short, all that is required is basic information about your firm and staff, confirmation that you remain compliant with the SQM and the contract and details of the relevant Duty Schemes for which you wish to apply. **If you are a current Contract Holder and you did not receive one in the post, please let your account manager know.**

5. I currently have a General Criminal Contract. Will I automatically get a new one?

The award of a new contract is not automatic. However, current providers who comply with the conditions of the application process, including the timetable we have published, will be eligible for a contract starting 14 January 2008.

6. Who is the application process open to?

The application process is open to both existing providers and new entrants. Under EU Procurement Law we cannot simply give existing providers new contracts, we have to run a full application process open to all; both current contract holders and new entrants/entities alike.

We have placed national advertisements regarding the application process in the Times and the Law Society Gazette in the week commencing 24 September.

7. Is the application process confidential?

Yes, we will not divulge any information concerning particular applications or applicants, or the slots applied for, to any applicant / potential applicant or any other external party during the application process.

8. Why is the closing date for the application process 31 October when the new contracts do not begin until 14 January 2008?

As well as awarding contracts, we are also allocating duty solicitor scheme slots for the duration of the new contract.

The timetable has been drawn up to allow us time to conduct an internal appeals process against any refusal of a contract (for example, if the firm fails

to comply with the application process) as well as to draw up duty solicitor scheme lists, before issuing the rotas in December to allow for a suitable notice period prior to the rotas commencing and to be able to allocate any additional slots in the event of spare capacity.

That extra period will also allow us to contact any providers who decide not to apply for a new contract to make arrangements for the orderly transfer of their work where appropriate after 13 January 2008 and for reconciliation of their account.

9. How long will the contracts last?

The contracts will last for 6 months, subject to the LSC's right to extend the contracts for up to 6 months. We hope that the uncertainty that has arisen from the judgment in the judicial review of the Unified Contract will have been resolved during this period.

10. How will duty slots be allocated for the January 08 contract?

Slots will be allocated in January on the basis of the number of duty solicitors employed. We will issue the first rota for the duration of the contract. Full details of scheme entry rules and the slot allocation process will be contained in the application pack.

11. What happens if insufficient providers register?

As part of the application process, we will be asking providers whether they have an interest in expanding their legal aid work on duty solicitor schemes. Where there is a shortfall of providers in any area, we will approach those providers who have already applied, and have expressed an interest in expanding, in order to meet any shortfall.

12. I am interested in expanding; how will I know what the eligibility rules are for Schemes in which I do not currently operate?

We have published a full list of all Schemes in England and Wales and any corresponding Local Scheme rules in the Duty Solicitor Guidance, which can be found at www.legalservices.gov.uk, CDS > Tenders.

13. What happens after the January contracts expire?

We will conduct a tender to award contracts from the end of the new contract. This will move criminal legal aid providers onto the Unified Contract. We expect the new terms for criminal providers will include new Key Performance

Indicators and IT capability requirements to enable us to transact more effectively with providers in the future.

14. What are the implications for fixed fees and new boundary arrangements?

Fixed fees for police station work will now be introduced as part of the January 2008 contract. Any revised boundary areas detailed in the June 2007 Police Station consultation response will now take effect at the same time. These changes are to bring Schemes into line with current police and court operating procedures.

15. Am I still required to use the new CDS6 from October 2007?

Yes. We are aware that a large number of software providers have revised their systems to introduce the additional column for scheme codes on the CDS 6 from October 2007.

Despite the delay to the implementation of fixed fees and revised boundary areas we require the new codes to be used. Providers will be required to enter both a scheme code and a police station code. These codes will be available on the LSC website (www.legalservices.gov.uk)

Duty solicitor schemes will continue to operate from October despite the requirement to report the new codes. The new CDS6 will allow the LSC to further improve the reliability of its data-gathering in advance of the introduction of fixed fees.

16. What are the implications of this for DSCC/CDS Direct expansion?

The Defence Solicitor Call Centre will become operational from 14 January 2008. CDS Direct expansion will begin 1 week later from 21 January 2008 (subject to changes to PACE Code C being in place), and follow the original phased expansion plan.

17. What are the implications of this for VHCC Panel Tenders?

We are currently in the process of assessing tenders, and will be writing to applicants individually regarding the impact of this change. The panel will now commence on 14 January 2008.

18. Are there any implications for Best Value Tendering?

No. The LSC remains committed to publishing a consultation paper on Best Value Tendering (BVT) later this year. BVT is unaffected by the Unified

Contract judicial review decision. The LSC believes that BVT remains the best way of achieving prices which reflect the true cost of doing publicly funded work in particular areas and creating a sustainable provider base over the long term.

19. Who can I direct further questions about the application process to?

We are keen to ensure that we can respond effectively to your questions. We are however very aware of our duty to ensure that all potential applicants have equal opportunity of access to any information given regarding the application process.

After publication of the application packs, we will regularly update our list of Frequently Asked Questions (FAQ's) on our website at CDS>Tenders. In the event that the FAQ's do not answer any individual queries, your local regional office will be happy to respond to general questions on the current General Criminal Contract, the current Duty Solicitor Schemes in your area, the new changes we are introducing and about the General Criminal Contract (January 2008).

Questions on the application process or allocation of duty slots or of wider interest for January 2008 will be collated and answered by updating the FAQ's, to ensure all applicants and interested parties have equal access to the information in the answers. All personal or identifying information will be removed from questions prior to publication.

20. When will I get my signed contract back from the LSC?

You will receive your signed contract at the end of the application period and no later than 9 November 2007.

21. My firm has more than one office, how many applications do I send in?

New Contracts will be awarded on an office-by-office basis, as has been the case for the current Contracts. Please submit separate individual applications for each office for which you want a contract.

22. How does the January contract relate to Preferred Supplier and other LSC initiatives?

Preferred Supplier or any other LSC initiative will not impact the award of the 6-month contract from 14 January. You should keep a watch on the Legal Services Commission website to stay up to date with the latest developments. The relevant consultation papers and Scheme updates will be placed there.

23. Why do I have to indicate the maximum number of slots my office can cover per month when it is the LSC that determines how many slots each Duty Solicitor is allocated?

In order to streamline the process and ensure that we can issue sufficiently staffed Scheme rotas for January 2008 in line with procurement law, we are asking all providers to indicate the maximum number of slots they would be willing to cover either with existing staff or by recruiting more Duty Solicitors.

We have set out the process we will use to allocate slots in the Information for Applicants document. Where there is insufficient supply in a particular Scheme there may be an opportunity for contractors already eligible for that Scheme to be allocated more slots up to the maximum they indicate at section 2B of the application forms, or for contractors outside the Scheme area to participate in the Scheme, provided they can meet access requirements.

24. Do I have to submit CDS12 Duty Solicitor Application Forms for all my Duty Solicitors?

Yes, once we have returned your signed Contract if you have applied for Duty Slots, you will need to submit CDS12s for all Duty Solicitors employed by you, both existing Scheme members and new Duty Solicitors, by 30 November 2007. We will not allocate duty slots to Duty Solicitors from whom we have not received a CDS12. Please note, these Duty Solicitors do not need to be employed by you by 30 November, but should be in place by 14 January 2008, i.e. the start date of the contract.

25. Is CDS Direct being expanded to cover more offences?

No, we are not extending the range of offences for which suspects may only receive telephone advice from the CDS Direct service. We are extending the scope of CDS Direct telephone advice service, which currently provides advice in minor cases where a duty solicitor is requested, to provide the same service where the suspect requests his chosen solicitor. There are currently no plans to extend the list of offences covered by this service.

The full list of the criteria for Matters to be dealt with by CDS Direct can be found in the General Criminal Contract (January 2008) Contract Specification Part B9, which is available on our website at www.legalservices.gov.uk CDS>Tenders

26. Are there any additional IT requirements associated with the Jan 08 Contracts?

No, there are no additional requirements needed to meet the criteria for award of a Contract for January 08, however, we will be consulting on additional

requirements that may be introduced as part of the award of any subsequent contracts.

The exception to this is that London providers, who were previously on slightly different Contract Standard Terms, will now be operating under the same Standard Terms as non-London providers, which includes the requirement to have an e-mail address and conduct business with us via our website (Contract Standard Terms 16.45 and 16.46)

27. The list of Schemes in the Duty Solicitor Guidance does not include the magistrates court only Schemes in my area. How do I apply for these?

The Schemes listed in the Duty Solicitor Guidance document are Police Station or Police Station / Magistrates' Court schemes and represent the vast majority of schemes operated by the Commission.

There are a small number of schemes that only cover magistrates' courts. The LSC will allocate slots on these schemes on the same basis as for the Police Station / Magistrates' Court schemes i.e. if an applicant meets the accessibility requirements for the scheme he or she will be allocated a slot. There is no need for applicants to specifically state the court only schemes they wish to be included on. If, following award of the slots, the Duty Solicitor does not want to take them up, he/she should advise us accordingly and we will re-distribute them appropriately.

28. Will we extend the deadline for applications because of the postal strike?

At the moment there are no plans to extend the deadline due to the postal strike. We have allowed for several different submission methods, i.e. email, DX and hand delivery, as well as by standard post, and we believe that, given the amount of prior knowledge of these strikes, applicants have sufficient time and notice to make suitable alternative arrangements to ensure their applications are received by 4pm 31 October.

Update regarding postal strikes – 15 October 2007

We are pleased to note that a draft agreement has been reached between Royal Mail and the relevant Unions, which has resulted in cancellation of the postal strikes planned for next week (see www.royalmail.com/update). Whilst we appreciate that there are still backlogs to be cleared, we believe that there remains sufficient time before the deadline of 4pm on 31 October for applications to be submitted, either by post or by the variety of other acceptable methods. Please note that we will not accept faxed applications.

29. What happens if I do not apply for a new contract?

If you do not apply for a new contract you will not be able to commence any new publicly funded criminal defence work from 14 January 2008. Your Account / Relationship manager will contact you shortly after the application closing date to discuss appropriate transfer of your cases and reconciliation of your account.

This does not affect any cases which may be ongoing under any other contract with us, (e.g. VHCC individual case contracts), which are not dependent on holding a General Criminal Contract.

30. How confident can we be that this process will actually go ahead and that the deadline you have set will be adhered to?

The Legal Services Commission remains committed to the reform program. This application process is an administrative procedure to facilitate implementation of key policy changes that we previously consulted upon. We chose this procedure, rather than amending the current contracts, because of continuing uncertainty arising from the Unified Contract JR. We believe that these changes are a vital step in helping the market prepare for Best Value Tendering and the move to a sustainable future.

We have timed the deadline of 31 October to allow providers as much time as possible to prepare their applications, but also to allow time following this for our Regional Offices to process the applications and draw up Rotas accordingly. To do this for every Scheme in the country is a considerable task, therefore we cannot allow this deadline to be extended and we are not able to accept applications submitted after this date.

31. When indicating the maximum slots that I am willing to undertake, (App Form Sect 2B), are you asking for Police Station, magistrates' court or total slots?

In order for Regional Offices to ensure full Duty Solicitor coverage nationally we need to know the total number of slots, both at the police station and at the magistrates' court which each interested provider can cover. Therefore, in this section of the form we are asking for the total number of times your staff can cover individual duty appearances, whether that be at the Police Station or at the mags' courts.

The Duty Solicitor Arrangements provide that, in normal circumstances, membership of a Scheme means that a Duty Solicitor will be allocated slots at both the Police Station and the magistrates' court, therefore we will split your total capacity, as indicated on the form, equally between the two, or on a proportionate basis relating to the number of police stations and magistrates' courts within that Scheme. (updated 15 Oct)

Please note that this information will only be used where there is a need for providers to expand into extra areas due to insufficient local supply.

Given this clarification, we will be contacting those providers who have already sent in their forms indicating a wish to expand, and who have entered a number in the bottom box in section 2B, to confirm their capacity should we be in a position to offer expansion.

You will have noted that a maximum number of slots field also features in section 2A. For clarity, providers do not need to enter a value in this field for their application to be valid. Where providers do not enter a maximum number of slots it should be assumed that they wish to service slots in the proportions we currently allocate i.e. one duty solicitor to one slot.

In terms of the maximum number of slots, there is no single method of calculating this. It is essentially the judgement call for firms as to the number of slots (over and above the normal entitlement of one duty equalling one slot) they believe they can service based on their existing capacity. What firms cannot do is rely on the same individual solicitors to cover slots for different schemes – CDS 12's for a named individual can only bring credit for one office. The reason there is no formula for this is that the factors involved in determining the number of slots they can service, such as duration of slots or solicitor willingness to service a given number of slots each week, is going to vary by provider.

32. Has the LSC consulted with The Law Society on the changes to the Contract?

Yes - all changes to the Contract Specification were subject to full consultation and negotiation with the Law Society prior to the publication of the contract. The only changes not consulted on were those to the Contract Standard Terms necessary to comply with legislation as it currently stands.

33. How will the appeal hearing on the Unified Contract JR affect this process?

Applicants may be aware that the Unified Contract appeal is listed for 15-16 October 2007. This means that any uncertainty regarding the amendment clauses should be removed in time for the commencement of the General Criminal Contract (January 2008), although further amendments may be necessary depending upon the terms of the judgment.

For the avoidance of doubt and in order to give the greatest possible certainty to providers, even if we are successful in removing the current restriction on amendments to "technical specifications", the LSC will not seek to reinstate the amendment provisions removed from this contract.

34. We have Solicitors who are going through CLAS accreditation and are hoping to be qualified as Duty Solicitors before 14 January. Can we include them in our application for Duty Slots?

You may only include those solicitors who are eligible to submit current CDS12 Duty Solicitor Application forms by 30 November 2007. Any solicitors qualifying as Duty Solicitors after this date will be able to service slots allocated to other Duty Solicitors in your firm through the duration of the new rotas, but will not be eligible to apply for slots in their own name until the next set of rotas are produced following the open tender process immediately preceding the expiration of the January contract.

35. How have the LSC responded to the Law Society's concerns about the GCC (Jan 08)?

In response to the letter and schedule of concerns, which only came to our attention last week, the LSC has written to the Law Society setting out our responses. A full copy of the letter and our response schedule to each concern raised can be found in the related documents section of our website www.legalservices.gov.uk CDS>Tenders.

On Friday 12 October, The Law Society issued a statement to clarify their advice regarding the January 2008 General Criminal Contract and the CDS Direct provisions. They stated clearly that they were 'not able to advise solicitors not to sign the General Criminal Contract' with respect to the interplay of the contract and the provisions. The LSC has drafted this contract to conform with the law and professional duties, and we therefore welcome this statement.

The Law Society referred to the compliance of CDS Direct with the Solicitors' Regulation Authority (SRA) regulatory standards in terms of supervision and independence. They also expressed views regarding the structure of organisations that have been contracted to provide CDS Direct services. We have today issued a press statement in relation to these concerns (www.legalservices.gov.uk CDS News and Events).

36. I work as an agent at the police station for other firms. Can I continue to do this under the new Contract?

Yes, nothing in this contract prohibits or restricts the use of agents, other than the existing performance criteria set out in Part D of the Contract Specification (i.e. 50% magistrates' court advocacy and 80% of police station advice and assistance to be conducted by designated staff).

Duty Solicitors will only be eligible to join Schemes as employees of firms holding the GCC (Jan 08), although they are, of course, able to offer their services to other firms as agents where appropriate as under the current Contract.

In meeting the above performance criteria, fee earners may be designated at more than one office and do not necessarily have to be employed at the

designating firm, as long as minimum supervision and SQM requirements are met.

37. Why haven't I received my application pack?

We have recently found out that a small number of current contractors have not received an application pack. We have made enquiries and are satisfied that all contractors were sent the notice of termination of the current contract and application pack for the new contract. We draw your attention to Clause 17.2 of the current General Criminal Contract standard terms which states '.....any notice or other information given by document exchange, fax or by first class pre-paid post is deemed to have been given on the day following the next working day after it was committed to document exchange, fax or posted, whether or not received.'. Whilst we have made all the necessary documents (inc Information for Applicants, Application Forms, FAQ) available to download from our website, if preferred please feel free to contact any LSC Regional Office, or CDS.Contracts@legalservices.gov.uk with your postal/DX details and we will be happy to send out a copy of the information.

38. Why can applications not be submitted by fax?

We have a finite number of fax machines available in the Commission and could not guarantee sufficient capacity or that lines would remain free to allow multiple providers to submit applications at the same time.

39. What happens if a scheme becomes unviable during the life of the Contract?

If, for reasons of court closures or providers leaving the market, a duty solicitor scheme ceases to function and the work is shifted elsewhere LSC regional offices will enter into local consultations with affected providers in order to ensure coverage is maintained.

40. When is the last time/date that FAQ's will be updated?

FAQ's will be updated regularly throughout the application window and we are endeavouring to answer questions as promptly as possible during this process. We will continue to update the FAQ's as long as relevant and pertinent questions are received up to the day before the closing date of 31 October 2007

41. What assurance is provided that the contract does not breach professional obligations of solicitors and public contract regulations?

Please see the letter to the Law Society of 16 Oct 07 and the related schedule of responses to their Contract concerns published on our website on Tuesday 16 October 2007.

42. I want to apply for a new Contract, when do I need to have my premises in place?

There is no requirement to have premises in place before 14 January 2008. To make your application you will need to provide us with a correspondence address and identify the geographical location where you intend to set up your office. This is to enable us to ascertain eligibility for any slots for which you may apply.

Any subsequent Contract award will be contingent upon you advising us of the office address once premises are secured, and any slots awarded are contingent on this address falling within the relevant geographical boundary.

43. We have a current contract but, due to changes in the legal make-up of our firm, have been told to complete Form B, am I guaranteed a Contract?

As stated in the Information for Applicants document, all firms that comply with the application process and meet the criteria set out in that document, will be awarded a Contract.

Contract award decisions will be based on individual applications and situations and no generic guarantee can be given.

44. Can I put in a second separate application for a different area in case I don't get the first Contract?

Interested parties should submit applications for the area in which they wish to carry out work and service duty slots. As stated above, all applications that comply with the application process and meet the criteria will be awarded a Contract. There is no finite number of Contracts to be awarded in any particular area and the award process is not a competitive one.

All applications will be considered on their individual merits and no dependency on other applications will be considered or inferred by the LSC.

45. Can I include a Duty Solicitor in applications for two separate offices in case one is not awarded a Contract?

Please see the answer to Q40. Slots will be allocated to all Duty Solicitors employed by successful applicants who apply and meet the eligibility criteria for the relevant Scheme(s) as set out in the Duty Solicitor Guidance on our website. As under the current arrangements, there is no finite limit to the number of eligible Duty Solicitors who will be allocated slots in the Scheme for which they qualify.

Individual Duty Solicitors can only submit one CDS12 for the office for which they spend the majority of the working week and we can only accept one application from each Duty Solicitor (albeit for multiple Schemes where eligible by virtue of being employed by that firm working under the relevant Contract).

46. Can firms apply for Duty Slots based on both their Duty Solicitors and their Accredited Reps?

No, the Duty Solicitor Arrangements remain unchanged and slots will be awarded to firms on a basis proportionate to the number of Duty Solicitors employed by them. This includes both slots allocated under normal eligibility rules, and any slots allocated under expansion provisions where there is insufficient local supply. Please see the Information for Applicants document at section 3.2 for more information on the slot allocation process.

47. We signed a Unified Contract earlier this year as our firm also undertakes publicly funded Civil work, do we still need to go through this process?

Yes. The Unified Contract introduced in April 2007 relates to civil work only and is distinct from the crime contracting system. We are currently working through proposals for moving crime to the Unified Contract but this will not be relevant to the January 08 General Criminal Contract.

We hope to publish a consultation document setting out these proposals later this year.

48. Why can we not extend the deadline?

In awarding contracts and allocating Duty Slots, it is necessary to give providers a -degree of certainty. By setting a firm deadline we will be able to confirm award of Contracts within a prescribed timetable. We also need to have a definite cut off date to enable us to draw up rotas for the whole country, and to allocate slots accordingly.

49. Do technical difficulties with emails constitute exceptional circumstances as outlined in 3.9.2 of the IFA? Would we accept a fax in these circumstances?

No, exceptional circumstances relate to unforeseeable problems, such as fire, flood etc. Applicants should submit their application in time to allow for 'technical difficulties' and if they are in doubt as to receipt, should contact the LSC after sending for confirmation. Responsibility for ensuring applications are submitted on time rests solely with applicants

50. What safeguards are there to prevent unnecessary dissemination of information within the LSC and MOJ.

The MOJ does not have access to the LSC IT system and as such would not be able to access any information relating to this application process. We have set up systems of control and restricted access within each of our offices to ensure that access to application information is kept to an absolute minimum.

51. What part of the application do the LSC regard as confidential as opposed to Freedom of Information information? What opportunity will be there be to make representations before disclosure of information under an FOI?

We have set out our policy with regard to Confidentiality and freedom of information in the IFA. Please see section 3.9.24 and 3.10.

52. Can all exchanges between the Law Society and the LSC be published on the website.

Where exchanges between us and the Law Society relate directly to this application process, we have published the information on our website to ensure that all potential applicants are party to the information.

53. Could the LSC publish the court documentation in the Unified Contract Judicial Review?

This case was a public law matter and as such, all related documents are widely available in the public domain. We do not believe that it is necessary to publish this information specifically on our website.

54. How will you deal with applications on the closing date?

On 31st October, Regional Offices and London Head Offices will take the following steps;

- They will set up receptacles (e.g. boxes) in LSC reception areas where providers can submit their application forms. In accordance with the IFA, we **will not** be issuing receipts where applications are submitted on time.
- Any applications that are on the premises of an LSC office, or are handed to an LSC employee by 4pm on 31 October 2007 will be posted into these receptacles – this means that if people are hand delivering applications and arrive with the application in hand and have entered any LSC reception by 4pm, these applications are deemed to be submitted on time (note, for LSC offices that share their building with other organisations, ‘entered LSC reception’ means having gone through the doors of the LSC reception area – not the general office reception¹),

¹ The only exception to this is the London Regional Office at XT – due to the arrangements for entering the building, the LSC reception point will be on the ground floor. As the area is open to the public, providers are advised to report to the general reception desk on the ground floor – they will then be directed to the LSC point

- At 4pm LSC offices will remove the receptacles from reception areas.
- Any applications that enter LSC receptions after 4pm will be noted as 'out of time', with the time and date noted on them.
- Where providers have submitted applications out of time, they have 48 hours (i.e. until 4pm on Friday 2nd November) to submit their representations for the application to be accepted due to exceptional circumstances.
- For the avoidance of doubt, exceptional circumstances relate to unforeseeable problems, such as fire, flood etc. Technical difficulties with e-mail and postal strikes are not deemed to be exceptional circumstances.
- Applicants should ensure that they leave sufficient time to enable their application to be delivered on time whatever their chosen mode of delivery. The LSC will not accept responsibility for late applications
- In keeping with the IFA, faxed applications are not permissible.

55. The slot allocation rules effectively mean that slots are allocated according to the proportion of duty solicitors employed on the 14th January. At that date we are obliged to employ them even though a supplier may be able to deliver the service and cover slots by operating more efficiently. This seems completely wrong and at odds with the commercial imperative and Carter's call to get lean and improve efficiency. Why is this?

The slot allocation rules for the January 2008 contract are in line with those used for the current contract – slots will be allocated in proportion to the number of duty solicitors that will be in post from 14th January 2008 (provided valid CDS 12's are completed by 30th November). This approach will only be varied through future consultation. As no consultation has happened in respect to varying the approach for the January 2008 contracts, the approach stands for these contracts.

Lord Carter's original recommendation on slot allocation did indeed focus on opening up opportunities for efficiencies. We have previously discussed the reasons why the Commission were not able to implement this recommendation; and do not propose to repeat them here (see www.legalservices.gov.uk/docs/cds_main/slotallocationconsultation180607.pdf). A key point, which has emerged as a result of litigation, is that the original recommendation may well have contravened EU procurement Law – for new providers it is impossible to use historical volumes to allocate slots.

We do however remain committed to providing the conditions that allow firms to operate more efficiently. Later this year, we will be making alternative proposals for slot allocation for subsequent contracts.

56. How will the DSCC know who to contact at providers' offices for own client work where representation is required – particularly outside of office hours?

We will be asking providers to supply contact information alongside their CDS 12 returns (or by 30 November 07 for those providers who have not requested, or been allocated, duty slots). We will send out the request alongside the contract that we will send to you on or around 9th November 2007.

The Defence Solicitor Call Centre will not retain "rotas" showing, for own client work, which individual solicitor from a firm is selected by the firm to take calls. If a client asks for solicitor "X" then the contact details for that solicitor will be tried. It would be wise for firms to make arrangements, if 'X' is not available, ideally for calls to be diverted or, as a minimum, that a message is left on the allocated contact number.

It should be noted that the Defence Solicitor Call Centre has successfully dealt with these type of issues, albeit on duty work, for some time now.

57 I am a duty solicitor who works part time for two firms. How will slots be allocated?

Para 4.8 of the Duty Solicitor Arrangements says that to join a first scheme, *"An applicant shall notify the Commission of the location of the CDS Supplier's office at which he or she is normally in attendance, i.e. at which he or she is normally based for the majority of the working week. An applicant may only notify one such office."* A solicitor cannot therefore join two first schemes, one for Firm A and the other for Firm B, because the condition that the solicitor *"may only notify one such office"* would be breached. This also excludes the solicitor joining one scheme for Firm A and a different (or the same) scheme for Firm B because the rules in 4.10 provide that the office notified under para 4.8 has to be the same office, or another office of the same CDS Supplier (depending on whether the scheme is busy or not busy). It cannot be another office of a different CDS Supplier.

Consequently, this solicitor can only be a duty solicitor for one of the two firms he or she works for.

58 I have a main office and a smaller satellite office. Am I able to conduct all of my work through just one contract?

No. The January 2008 contracts are let on an office by office basis. A contract will be required for both offices if work is being conducted from both and if slots are being applied for at both.

59 Will I have another opportunity to apply for Duty Solicitor Slots after the January 2008 contract starts?

No. The slot awards are for the duration of the contract. Rotas will be issued for six months from 14 January 2008. A duty solicitor wishing to join a local scheme will be entitled to do so in accordance with the Duty Solicitor Arrangements. However, he or she will not be allocated slots until the rota for the following six months is prepared – alongside the new contract award.

This Q&A document will be updated throughout the application process and published accordingly on our website, www.legalservices.gov.uk, CDS > Tenders.