

GENERAL CRIMINAL CONTRACT (JANUARY 2008)

September 2007

Information for Applicants

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Introduction

Invitation to apply for a General Criminal Contract (January 2008)

The Legal Services Commission (LSC) is inviting interested parties to apply for a contract to carry out publicly funded criminal defence services in England and Wales from 14 January 2008 ("General Criminal Contract (January 2008)").

The LSC has been contracting with providers to provide this work since 2001. The Current General Criminal Contract will terminate on 13 January 2008.

We are inviting applications for the replacement General Criminal Contract (January 2008). Any legal services provider interested in undertaking publicly funded criminal work may apply, provided they meet the requirements set out in Section 3.3 of this document and the Application Forms. Applicants do not need to have a current General Criminal Contract in order to apply, and new entrants to the market are welcome.

This application process is not a competitive tender. We intend to issue a General Criminal Contract (January 2008) to all applicants who meet the requirements of a straightforward application process. We will also allocate Duty Solicitor Scheme slots to applicants who request them, provided they are awarded a General Criminal Contract (January 2008) and meet the eligibility requirements for the Duty Solicitor Scheme.

The Reform Programme

The LSC and their sponsoring department (now the Ministry of Justice) are currently undergoing a reform programme following Lord Carter's Review of Legal Aid Procurement (Legal Aid: A market-based approach to reform). Proposals as at November 2006 were set out in the paper "Legal Aid Reform: the Way Ahead" (CM 6993) with further information and subsequent consultations and policy decisions set out in more detail in sections 1 and 2 below and on our website (see below).

This Information for Applicants document

This document contains information you will require to register for the new General Criminal Contract (January 2008) and apply for Duty Solicitor Schemes. Other information is referred to in this document and can be found on our website (see below). Holding the General Criminal Contract (January 2008) will entitle you to carry out all levels of Criminal Work (see section 3 below), although applicants may apply for specific classes of contract only, e.g. Prison Law Only and/or Appeals, Reviews and Variations (including Criminal Cases Review Commission Cases) Only.

Section 1 of this document is predominantly background information which will be familiar to most current providers, although they should note section 1.4 onwards in particular.

Our website is www.legalservices.gov.uk

Further information about the Reform Programme and this application process including relevant documentation can be found on our website under Criminal Defence Service (CDS)>Tenders. We will update this website regularly throughout the application process, in particular the list of Frequently Asked Questions.

The General Criminal Contract (January 2008)

The General Criminal Contract (January 2008) is intended to last for 6 months and (subject to our right to extend it by up to a further 6 months) to expire on 13 July 2008. Prior to expiry there will be a tender round for future contract, with our intention being to align terms with our Unified Contracts under which our civil providers currently provide civil publicly funded work.

In the application process you may apply for:

- a General Criminal Contract (January 2008) to commence on 14 January 2008; and
- inclusion on the Duty Solicitor Schemes (police station and magistrates court).

You may apply for a General Criminal Contract (January 2008) but choose not to be included on any Duty Solicitor Schemes. **However, only firms that hold a General Criminal Contract (January 2008) with the LSC will be permitted to undertake publicly funded criminal work from 14 January 2008** (apart from providers who hold a Very High Cost Cases contract or a contract to provide CDS Direct telephone advice). This includes all work on the Duty Solicitor Schemes and Own Client work in the Investigations, Proceedings, Crown Court, Prison Law, Appeals and Reviews and all other associated work.

Therefore, if you want to be included on any Duty Solicitor Schemes you must also apply for a General Criminal Contract (January 2008).

Applicants who wish to conduct Crown Court work only may do so, but must apply for a General Criminal Contract (January 2008) in order to undertake this work.

Key date

Please note the deadline for submitting applications for a General Criminal Contract (January 2008) is **16.00 on Wednesday 31 October 2007.**

Questions about the application process

We hope that this Information for Applicants will contain all the information you need, but if not, applicants are welcome to ask questions before the application process closing date. Our Regional Offices 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).

A list of Regional Office contact details are set out at Annex A.

However, questions on the application process or allocation of slots on the Duty Solicitor Schemes or which we consider to be of wider interest will be collated and answered centrally in writing, to ensure that all applicants and interested parties have equal access to the information in the answers. These questions and answers will be published regularly on our website. All personal or identifying information will be removed prior to publication.

Questions can also be directed to Regional Offices or sent direct to the following dedicated email address:

CDS.Contracts@legalservices.gov.uk

Conditions of the application process

The terms and conditions applying to making an application for the General Criminal Contract (January 2008) are set out at Section 3.9 below.

Section 1 – Background Information

1.1. The Legal Services Commission

What is the Legal Services Commission?

The LSC is responsible for the provision of civil and criminal legal aid in England and Wales. Our clients are often vulnerable and socially excluded people who may have a variety of problems in areas such as benefits and tax credits, debt or crime. Through the provision of information, advice and legal representation, we help around two million people each year to get access to justice.

The LSC was established under the Access to Justice Act 1999, replacing the Legal Aid Board in April 2000. We are a non-departmental public body sponsored by the Ministry of Justice. The Secretary of State for Justice is accountable to Parliament for our activities and performance. With a head office in London, the LSC currently employs some 1,650 staff in 15 offices across England and Wales. A board of independent Commissioners oversees its work.

The LSC must provide evidence to Parliament each year that it has successfully met its four statutory responsibilities, which are:

- Maintaining and developing the Community Legal Service and the Criminal Defence Service;
- Funding legal and advice services in England and Wales;
- Identifying where there are unmet legal and advice needs; and
- Developing suppliers and innovative services to meet the priority needs identified.

Legal services are delivered through two schemes: the Criminal Defence Service and the Community Legal Service (which administers civil categories of publicly funded legal advice).

The Criminal Defence Service (CDS)

The CDS exists to ensure that, where eligible, individuals under investigation or facing criminal charges are provided with competent, quality-assured advice and representation. The solicitors that work under contract with the CDS are fundamental to delivering both access to justice for their clients and the efficient operation of the Criminal Justice System. It can also act as a gateway into the Community Legal Service, where addressing the underlying causes of offending behaviour can reduce the risk of re-offending.

Clients have the ability to choose to be advised by any firm of solicitors that holds a General Criminal Contract in force at that time and the CDS also funds a network of duty solicitors to advise or represent eligible clients at police stations and magistrates' courts. Public defenders also act directly for clients in more than 4,000 criminal cases each year through our Public Defender Service.

All individuals who are held at a police station are entitled to free legal advice and assistance. However, pre-charge advice to those not held at the police station, and advice and representation for those whose case has progressed to the magistrates' court or crown court is subject to financial eligibility criteria and an interests of justice test, the details of which can be found both in the General Criminal Contract (January 2008) and on our website, www.legalservices.gov.uk at CDS>Getting Criminal Legal Aid. Cases in the Crown Court are not subject to means testing however if found guilty the Court may award a recovery of defence costs order against the defendant.

1.2. Background to the Contracting Scheme

The following outline of the criminal contracting scheme is intended as a general introduction for new applicants and describes the current scheme and refers to the current General Criminal Contract. The Contract Documents for the General Criminal Contract (January 2008), are broadly similar to the current Contract Documents, subject to the introduction of the changes described at Section 2.2 below. Applicants are advised to read Section 2.2 for a description of the changes in the General Criminal Contract (January 2008) and to read the contract itself which can be found on our website.

The current General Criminal Contract defines the legal aid work that CDS providers may undertake for clients. The main classes of work undertaken under this contract are outlined below (for a full description see the General Criminal Contract Specification Part A on our website).

Criminal Investigations

This class of work includes all work properly undertaken for a client, subject to qualifying criteria, during the criminal investigation of a matter, i.e. up to the point at which the Client is charged or summonsed for the matter under investigation, or the investigation is otherwise terminated.

The Class includes:

- Advice and Assistance (not given at the Police Station)
- Police Station Telephone Advice (except Police Station Telephone Only advice which (subject to amendments to Code C of PACE Codes of Practice) will be provided by CDS Direct from Jan 08 (in West Midlands, West Yorkshire and Greater Manchester) and Apr 08 (in the rest of England and Wales))
- Police Station Attendance
- Advocacy Assistance
- Post Charge Police Station Advice and Assistance.

Criminal Proceedings

This class of work includes all advocacy assistance and representation given to a client, subject to qualifying criteria, from the date of charge or summons.

The Class includes:

- Advice and Assistance by the Court Duty Solicitor, acting as such
- Advocacy Assistance by the Court Duty Solicitor, acting as such
- Representation in the Magistrates' Court
- Advocacy Assistance in the Crown Court
- Representation in the High Court, or County Court in certain circumstances.

Representation in the Crown Court

Whilst the current General Criminal Contract does not set out the rules and guidance for performing work in the Crown Court (Crown Court work and remuneration is regulated by The Criminal Defence Service (Funding) Order 2007, copies of which can be found at www.opsi.gov.uk). Only providers who hold a current General Criminal Contract are eligible to claim remuneration from the LSC for work done for clients in relation to Crown Court cases.

Other Classes of Work

The current General Criminal Contract also provides for Advice and Assistance and Representation to be given to clients in relation to Appeals and Reviews, including appeals by way of case stated and reviews of criminal convictions or sentences, as well as Advice and Assistance and Advocacy Assistance to prisoners on remand or post conviction, or to prisoners released on licence or parole. It further provides for Legal Help, Investigative Help and Legal Representation to be provided, under the Community Legal Service, to qualifying clients for matters of Public Law arising from criminal matters, or for civil proceedings under the Proceeds of Crime Act 2002.

Very High Cost Cases (VHCC)

Very High Cost Cases¹ are not generally included in the scope of the current General Criminal Contract but are subject to separate individual case contracts. See Section 2.2 below for future plans for VHCCs.

Payment under the Contracting System

The remuneration systems and payment rates for work under the current General Criminal Contract are set out in the Contract Specification at Part E.

Holders of the current General Criminal Contract submit claims for payment to the LSC either monthly for the majority of claims, or on an ad hoc basis for larger value claims. Under the current General Criminal Contract the LSC makes a monthly payment, called a Standard Monthly Payment (SMP) to each provider based on the average value of all claims, excluding those relating to work undertaken in the Crown Court, which are currently paid by the Crown Court itself on an ex post facto basis through the National Taxing Team (NTT). Claims for this work are submitted directly to them.

Reconciliation

The current General Criminal Contract provides for periodic review, or reconciliation, of the SMP against a provider's individual claiming profile, and the relevant Account Manager may alter the SMP from time to time to ensure payments are kept in line with claims.

1.3. The Duty Solicitor Schemes

The LSC operates two Duty Solicitor schemes as part of the CDS

- The Police Station Duty Solicitor Scheme
- The Magistrates' Court Duty Solicitor Scheme

The primary objective of these schemes is to ensure that individuals requiring Advice and Assistance (including Advocacy Assistance) at a police station or magistrates' court, and who choose not, or are not able, to obtain such help from a solicitor of their choice (called an "Own Solicitor"), may have access to the services of a Duty Solicitor.

The Duty Solicitor Schemes are regulated by the Duty Solicitor Arrangements 2001 (which can be found on our website). Access to these Schemes is governed by these Arrangements (which are operated by us). Providers must hold a current General Criminal Contract to participate in them, and comply with the rules about working on the Schemes in the Duty Solicitor Manual (found on our website) and the current General Criminal Contract.

¹ See the definition at Appendix B

Access to Duty Solicitor work is through a system of “Local Schemes” operated under the Arrangements with fixed geographical boundaries. They may operate on the basis of rotas and panels, or a combination of both:

- a. **Rota Scheme** - An identifiable duty solicitor is on duty who must accept a case except where that solicitor is engaged at the police station on another case or at a warrant of further detention hearing. Each rota slot may last for 8, 12 or 24 hours, depending on local arrangements. Rotas are not restricted in number, and all Duty Solicitors who apply and qualify for that Scheme are included.

The frequency of duty slots available to each Duty Solicitor within each Scheme is related to the number of Duty Solicitor on each Rota, as well as how long the slots last. Please see Section 3.2 below for more information on rota slots allocation under the Duty Solicitor Arrangements (the system being applicable both now and under the General Criminal Contract (January 2008)).

- b. **Panel Scheme** – an arrangement where there is no specific Duty Solicitor on call for the period, rather our call centre (which handles allocation of requests for work) holds a list of all the Duty Solicitors comprising a panel for that Scheme, and telephones the duty solicitor from that list who was approached the longest time ago, then the next one and so on until finding one willing to advise the client requesting the duty solicitor. Unlike a rota solicitor, a panel solicitor is not obliged to accept the call (subject to performance standards (see Duty Solicitor Manual 6.5)).

The frequency of calls received by each Duty Solicitor depends on both the number of other Duty Solicitors on the panel and the volume of clients requiring assistance from Duty Solicitors in that Scheme.

Duty Solicitors may apply to join any Scheme for which they meet the qualifying criteria (provided their firm holds a General Criminal Contract), as well as a number of other neighbouring Schemes subject to further qualifying criteria. In order to meet our duty to ensure an appropriate level of Duty Solicitor cover in each Scheme, some Local Schemes have consulted upon and agreed different rules about where solicitors must be based in order to be eligible to participate.

The list of current Schemes, the details of criteria for membership of Schemes under the Duty Solicitor Arrangements and local arrangements are set out in the Duty Solicitor Guidance (which can be found on our website).

1.4 The Reform Programme (Criminal Defence Service)

Following publication of “Legal Aid Reform: the Way Ahead” in November 2006 and in accordance with the timetable set out in Annex B of that paper, there have been a number of consultation exercises and subsequent policy decisions in relation to CDS reforms. In particular: announcements have been made in relation to market stability measures (which will not apply to this application process), the Advocates’ Graduated Fee scheme has been amended, revised magistrates court fees have been implemented in specified urban areas and the tender for an exclusive panel for VHCC is underway (see section 2.2 below).

The new General Criminal Contract (January 2008) will implement further reforms in relation to telephone advice at the police station, the introduction of fixed fees for police station work and facilitate the introduction of the VHCC panel. Further changes to the CDS are anticipated via amendments to The Criminal Defence Service (Funding) Order 2007, subject to consultation. More information is available in section 2.2 below and on our website at www.legalservices.gov.uk (CDS>Consultations).

1.5 The legal challenge to the LSC's Unified Contract

(R (oao Law Society) v Legal Services Commission and Others [2007] EWHC 1848)

As part of the reforms to the Community Legal Service (CLS), the LSC introduced the Unified Contract to replace former General Civil and Not-for-Profit contracts in April 2007. The Law Society subsequently issued judicial review proceedings in relation to that contract, seeking a declaration that the LSC's unilateral power to amend the contract was in breach of the Public Contracts Regulations 2006. Judgment was handed down on 27 July 2007, the court holding that the Regulations applied, the powers of amendment complied with the requirement of transparency in reg. 4(3) of the Regulations but that the power to amend the technical specifications (as defined in the Regulations) did not comply with the requirements of reg.9.

Although the case was in relation to the Unified Contract for civil providers, due to the fact that the current General Criminal Contract was entered into some time before the legal aid reform programme was announced and the uncertainty arising from the judgment, the LSC decided to terminate the current General Criminal Contracts and offer a new, amended, General Criminal Contract (January 2008), rather than simply relying on the powers of amendment in the current General Criminal Contract. Further details on how the new General Criminal Contract (January 2008) differs from the current General Criminal Contract are set out in section 2.2 below.

All parties are appealing the judgment and have applied for expedition, it is therefore hoped that the Court of Appeal will have decided the case before the General Criminal Contract (January 2008) commences. Clause 16.17 of the Contract Standard Terms (see section 2.2 below) gives the LSC the power to revise or vary the terms of the contract to comply with any decision of a UK court in the event that such revision or variation proves necessary.

1.6 Future plans for the criminal contracting scheme

The LSC will, prior to expiry of the General Criminal Contract (January 2008), conduct a tender exercise to facilitate the award of longer-term contracts (expected to run for between one and three years, depending on the implementation of the LSC's plans for Best Value Tendering of all Criminal Work, which are subject to consultation, and the outcome of the appeal in relation to the Unified Contract challenge).

1.7 Arrangements for current providers who leave the scheme

Holders of the current General Criminal Contract who are not awarded a General Criminal Contract (January 2008) will not be permitted to take on any new criminal legal aid work or undertake any Duty Solicitor slots after 13 January 2008 (unless they have a VHCC contract or a contract to provide CDS Direct telephone services).

Their right to perform Contract Work and our obligation to make payments to them will cease on termination of their current General Criminal Contract (subject to limited exceptions set out in clause 21 of the Contract Standard Terms).

They will not have another opportunity to apply for a contract to conduct publicly funded criminal work until the tender process preceding the expiry of the General Criminal Contract (January 2008). The General Criminal Contract (January 2008) will not expire before July 2008.

As soon as possible after the 31 October 2007, the relevant Account/Relationship Manager will discuss arrangements for the transfer of Case and Matters to one or more contracted providers, as appropriate, and the reconciliation of the provider's account. Depending upon

the state of the provider's account, this may affect payments made to them under their current General Criminal Contract, including their SMP.

Section 2 – General Criminal Contract (January 2008)

2.1. What Are Applicants Applying For?

This application process is for a General Criminal Contract (January 2008) to provide publicly funded legal advice in England and Wales, and for inclusion on applicable Duty Solicitor Schemes in England and Wales.

Important note on access to contract work

The award of a General Criminal Contract (January 2008) and any associated Duty Solicitor Scheme slots does not guarantee a minimum amount of contract work. While providers contract with the LSC for payment for criminal work, the LSC does not control the allocation of cases or work. Providers that are awarded a General Criminal Contract (January 2008) will be eligible for a number of Duty Solicitor Slots, both at the Police Station and as Court Duty Solicitor in the Magistrates Court, under the LSC's Duty Solicitor Arrangements (2001). Beyond this, work is obtained under open market conditions, where clients are free to choose a solicitor of their choice to advise or represent them.

This is further explained at Section 1.3 above and Section 3.2 below.

During the contract year 2006/7 providers reported 802,220 police station attendances at a cost of £177,552,000, and 502,578 representation cases at the Magistrate's Court at a cost of £273,853,000.

Contract values vary greatly depending upon the size and activity level of each provider. As a guide, for the year 2006/7 the average contract value for lower crime work (Investigations and Proceedings classes) was £204,145, with the smallest being worth just £46 and the largest £3,652,902.

How many slots will you get under the Duty Solicitor Schemes?

If you are successful in applying for a General Criminal Contract (January 2008) and you have also applied for Duty Solicitor slots, you will receive slots on those Duty Schemes for which you qualify. As explained at Section 1.3 above, the amount of slots each provider is allocated on a rota or panel scheme will depend on how many other Duty Solicitors are also on the Scheme.

We are asking applicants to state on their application forms the maximum number of slots per month (for each individual office) they are prepared to undertake, and any schemes for which they would not normally qualify, but into which they would like to expand. Both of these may affect the number of slots you receive. When we prepare the Scheme rotas we will consider this information to help us decide whether the number of Duty Solicitors is sufficient and if not, whether there are Duty Solicitors who would be happy to work more intensively on that Scheme and whether we need to offer slots to providers outside the Scheme.

Information on how we will allocate slots for the January 2008 to July 2008 period is set out at Section 3.3 below.

Applicants who are in an area where there is a Public Defender Service Office may wish to note that slots will also be awarded to the PDS on the same basis as for any other applicant.

2.2. General Criminal Contract (January 2008) Documentation

The General Criminal Contract (January 2008) will run for a period of six months, from 14 January to 13 July 2008 at which point it will terminate. This is subject to the LSC's right to:

- terminate the General Criminal Contract (January 2008) earlier on 3 months' written notice;
- terminate earlier under other terms of the General Criminal Contract (January 2008), for example, for breach of contract; and/or
- extend the General Criminal Contract (January 2008) beyond 13 July 2008 (for up to a further six months).

The General Criminal Contract (January 2008) (comprising the Contract for Signature (which is Section 3 of the Application Forms), Contract Standard Terms, Specification and associated Annexes) will be placed on our website on 28 September 2007.

The Contract Documents are based on the current General Criminal Contract for out of London providers. Unlike the current General Criminal Contract for London providers, it incorporates provisions on equality and diversity, use of email and our website, false bids and updated provisions on prohibited gifts. We have also moved provisions on Peer Review from the Contract for Signature to the main Contract Standard Terms.

Applicants are advised to read the full General Criminal Contract (January 2008) documentation as it contains (in the Contract Standard Terms) the terms and conditions governing the contractual relationship, and (in the Specification) the detailed rules on scope of work, carrying out work, claiming rules and payment levels for each area of Crime Work, except for Crown Court work.

The General Criminal Contract (January 2008) contains performance criteria relating to the ability to attend the client within prescribed time periods, as well as Distant Solicitor Rules with which applicants must be able to comply. In brief, this requires that a Duty Solicitor Representative should be able to attend the police station with 45 minutes of required attendance.

How does the new contract differ from the current General Criminal Contract in force until January 2008?

A copy of the new contract, showing changes from the current General Criminal Contract, can be found on our website. As current providers will notice, most differences between the two contracts are simply to bring in the changes we proposed to make to the General Criminal Contract in October 2007:

- Introducing fixed fees for work at the Police Station, including a small number of changes to Scheme Boundary Areas to take account of changes to local police and court operating procedures
- Facilitating the expansion of CDS Direct² and the Defence Solicitor Call Centre to own client work
- Enabling the introduction of an exclusive panel to undertake Very High Cost Cases outside the scope of the General Criminal Contract (see further below)

² The expansion of CDS Direct to own client work is dependant on changes to paragraph 6 of the Police and Criminal Evidence Act 1984 Code C (Code of Practice for the detention, treatment and questioning of persons by police officers) being approved by Parliament. We expect these proposed changes to be considered by Parliament in October.

Crown Court work and Litigators' Fees changes

The remuneration structure for Crown Court work is set out in The Criminal Defence Service (Funding) Order 2007, copies of which can be found at www.opsi.gov.uk. Any changes to the remuneration structure for Crown Court work will depend on our response to the consultation on the proposals for a Litigators Graduated Fees Scheme, to be announced shortly (see our website at CDS>Consultations). Any changes will also come into effect in January 2008.

Changes to Very High Cost Cases (see definition at Appendix B)

As mentioned above, the LSC is establishing an exclusive panel of providers under separate contracting arrangements. The tender is now closed and applications are under consideration. Very High Cost Cases are excluded from the scope of this contract, and, unless a provider is a member of the VHCC Panel, they are required to refer on such cases from the point at which it becomes known that the case is, or is likely to be, a VHCC.

Our power to make changes to the Contract

There are a number of amendment provisions in the current General Criminal Contract, although the LSC has no plans to use those provisions during the life of the General Criminal Contract (January 2008) unless obliged to do so due to a change in legislation or as a result of any decision of a UK court or tribunal.

In the light of the judgment in the Unified Contract judicial review (see section 1.5 above) and bearing in mind that all parties have appealed the decision, we have decided to remove those powers which clearly apply only to amending "technical specifications" as identified by the court i.e. the SQM, Peer Review and Key Performance Indicators and will therefore remove clauses 6.4 to 6.7, 8.2 to 8.5 from the current Contract Standard Terms for the new contract. We will also amend Contract Standard Term clause 11.4 to exclude Part D of the Specification (Quality and Performance Standards) from the general power to amend the Specification. Finally, we will remove clause 16.33 from the current Contract Standard Terms, which is clearly out of date.

We believe that the LSC will therefore have complied with the judgment in relation to "technical specifications" and that these minor amendments should cause no difficulty in the short term for either the LSC or our providers. In the event that further amendments are required following the decision of the Court of Appeal, these will be implemented under clause 16.17 of the Contract Standard Terms.

Section 3 – The Application Process

3.1. Contract Award Process

We will award contracts to all applicants who have complied with this process and satisfied us that they can:

- Comply with the Specialist Quality Mark (SQM), a copy of which can be found on our website.
- Have in place a suitable Crime Supervisor (see SQM D2.1)
- Agree to comply with the new General Criminal Contract (January 2008) and the Duty Solicitor Arrangements.
- Have not had an LSC Contract terminated (except under Clause 20.2 of the current General Criminal Contract; termination by us in order to facilitate the Reform Programme) within the previous 2 years.

- If they are applying as a new applicant, meet our quality standards for providers by satisfactorily completing the documentation set out in Application Form B.

The application process for current Contract holders

Applicants who hold the current General Criminal Contract and for whom nothing has changed in the supervision of the service provided, SQM standard, or the legal entity / composition of the firm or location of the office(s) will be awarded a contract if they correctly complete Application Form A confirming these facts and comply with the rules of the application process. Normally, no other supporting documentation will be required (although we reserve the right to request further information if we consider it necessary).

What if we hold a current General Criminal Contract but there have been changes to our organisation or office location?

If you are a provider holding a current General Criminal Contract and since signing your contract there has been a significant change in your legal composition (see below) or you have moved the location of your office since signing your contract, you should discuss this with your Regional Office listed at Annex A as soon as possible.

Your Regional Office will notify you whether we accept this change for the purposes of this application process and you may use **Application Form A**, or whether you are required to apply as a new applicant and use **Application Form B**.

If we accept the change for the purposes of this application process, this is without prejudice to our right to request appropriate personal indemnities if you have changed to a limited liability entity (LLP or company) in accordance with the Contract for Signature (which forms Section 3 of the Application Form).

What is regarded as a significant change?

For the purposes of this application process we regard the following as being significant changes potentially requiring you to apply as a new applicant using Application Form B:

- A change between partnership, LLP or company status if, at the same time as this change, more than two thirds of the partners/members/directors have also changed;
- A change in more than two thirds of the identity of (a) your partners (b) the members of your LLP or (c) the individual directors of your company since you signed the current General Criminal Contract
- Any change in the location of your office since you signed your account

But in both cases, only if you have not already notified these to us in writing.

Any significant change should have been notified to us under Contract Standard Term clause 18 but we anticipate that some providers may not have done so to date.

If there has been a significant change in the legal composition of your organisation or you have moved your office and you have notified us in writing already you do NOT need to contact your Regional Office, and may fill in **Application Form A**.

If there has been a change in the legal composition of your organisation which is not significant (as defined above) then you do NOT need to contact your Regional Office, and may fill in **Application Form A**.

We do **not** require you to contact your Regional Office or fill in Application Form B if any of the following have occurred:

- changes between partnership, LLP and company status if you have kept predominantly the same individuals as partners/members/directors before and after the change
- changes of less than 2/3rds of your partners, LLP members or directors have changed since you signed your contract

but this is without prejudice to our right to ask for appropriate personal indemnities if you have moved to a limited liability form (LLP or company) if we award you a General Criminal Contract (January 2008), as we would have done had you notified us of this change when it took place, as required by Contract Standard Term Clause 18.

What about other changes to my organisation?

Where any changes relate to other aspects of the application, the applicant should fill in **Application Form A** indicate the change(s) at Section 1A or 1B of the Application Form, and submit the relevant supporting documents which relate to the changes, e.g. revised Supervisor Self Declaration Form where a supervisor has changed, or relevant sections of the SQM Self Assessment Checklist (note – at our discretion this may be subject to audit following the award of a contract). We will assess these to ensure that you still meet these requirements, and may decline you a contract if you do not.

The application process for new applicants

Applicants who do not currently hold a General Criminal Contract or holders of the current General Criminal Contract who have been told to apply as a new applicant by their Regional Office as above, should submit **Application Form B** and send us all supporting documentation (see section 3.3 below), including an Office Manual³. We will then conduct a desktop (internal, paper based) audit of the documents and the Office Manual to determine whether to award a contract. We reserve the right to conduct further enquiries as to suitability, or to audit new contractors within the duration of the Contract, where appropriate. If awarded a General Criminal Contract (January 2008) you may also be required to fill in additional LSC forms (applying for an account number etc).

Providers with more than one office

The General Criminal Contract (January 2008), like the current General Criminal Contract, is awarded on an office basis rather than a firm basis. That means that if you are a current provider with more than one office (and you are not required to submit Application Form B) you need to submit Application Form A for each office you wish to be awarded a General Criminal Contract (January 2008).

If you are a new applicant applying for a General Criminal Contract (January 2008) for more than one office (or you hold a current General Criminal Contract but are required to submit Application Form B), you must submit an Application Form B and full supporting documentation for each office.

All forms are available on our website.

³ An Office Manual is a written document which contains details of the processes and procedures in place to control the administration of the service. The SQM sets out a number of specific written procedures which need to be in place, although these may be held separately and do not have to be incorporated in the Manual.

How will you get your new General Criminal Contract?

By signing and submitting the Contract for Signature at Section 3 of the Application Form you are making an offer to us to undertake publicly funded criminal work on the terms of the General Criminal Contract (January 2008) (see section 2.2 above).

If we accept your offer, we will notify this to you by signing Section 3 (Contract for Signature) and sending you a copy either by email or post/DX. A binding contract on the terms of the General Criminal Contract (January 2008) will then have been completed between us, although it will not be effective until the start date on 14 January 2008.

For current providers, your Standard Monthly Payment (“SMP”) will continue at the same level as prior to January 2008 (subject to our right to alter your SMP if your levels of reported work change).

If you are a new provider, we will set your initial SMP after discussion with you regarding your expected level of claiming.

3.2. Duty Solicitor Slot Allocation Process

If you are successful in applying for a General Criminal Contract (January 2008), and you have also applied for Duty Solicitor slots, we will allocate you work on those Schemes for which you qualify.

The LSC will maintain a list of slots for each Scheme for a six month period (“the Scheme List”). All the Duty Solicitors who have applied and qualify to be allocated work in that Scheme will be put on a Rota for that Scheme. A Rota is a list of the Duty Solicitors on a Scheme. The Rota is then used to allocate slots equally to all solicitors on that Rota. There is no maximum number of Duty Solicitors who may be on any given Rota. The number of slots available to each solicitor within each Scheme is directly related to the number of solicitors on each Rota. From the successful applications received, the LSC intends to finalise the Rotas for all Schemes from 14 January 2008 for the duration of the Scheme List (six months).

By joining a Scheme, Duty Solicitors will normally be allocated slots on both the Police Station Scheme and Magistrates’ Court Scheme in that area.

Where Schemes operate a panel system each of your Duty Solicitors will be included in the relevant panel list. The frequency of calls received by each Duty Solicitor, will depend on both the number of other Duty Solicitors on the panel and the volume of clients requiring assistance from Duty Solicitors in that Scheme.

If you are interested in undertaking Duty Solicitor work in Schemes other than where you qualify, you should state this on your application form where indicated, as we may allocate you additional slots in other Schemes if we consider we need additional capacity on any particular Scheme (please see Steps 2 – 4 below).

The Duty Solicitor Arrangements (the Arrangements) are issued by the LSC and set out the processes and procedures relating to our administration of the Duty Solicitor service. A full version of the Arrangements can be found on our website.

For clarity and for ease of reference, we have set out below the process we will take to allocate slots from 14 January 2008. It is already set out in the Duty Solicitor Arrangements 2001 and reflects current practice. Basically, if we can fill the rota or panel from Applicants applying for their Local Schemes we will do so, in preference to applicants from outside the area:

Step 1:

For all applicants who have:

- a) been awarded a General Criminal Contract (January 2008);
- b) applied to join a Duty Solicitor Scheme; and
- c) qualify under the Arrangements for a first Scheme and meet any other local qualification rules for that Scheme (see the Duty Solicitor Scheme Guidance on our website);

we will enter the name of each declared Duty Solicitor on the relevant Rota.

We will then allocate slots to each of those solicitors in proportion to the number of solicitors on that Rota.

If, after this step, the LSC determines that the Rota is adequately staffed, both in terms of the number of separate contractors to avoid conflicts of interest, and sufficient individual Duty Solicitors to staff the Scheme fully, the Rota for that Scheme will be finalised for the duration of the Scheme List (six months).

Step 2:

If it appears to the LSC that there is an inadequate supply of Duty Solicitors on a particular Rota to run that Scheme, we will consider the applications of those who have expressed an interest in appearing on that Rota more frequently (by considering the maximum number of slots they are prepared to undertake as indicated on the Application Form). The additional frequency allocated to the provider will be in proportion to their number of Duty Solicitors. This allocation will be up to either the maximum indicated by the provider, or as required by us. The Rota will thus be extended using the Duty Solicitors already on that Rota.

If, after this step, the LSC determines that the Rota is adequately staffed, both in terms of the number of separate contractors to avoid conflicts of interest, and sufficient individual Duty Solicitors to staff the Scheme fully, the Rota for that Scheme will be finalised for the duration of the Scheme List.

Step 3:

If after Step 2 has been taken, it still appears to the LSC that there is an inadequate supply of Duty Solicitors on a particular Rota to run that Scheme, we will assess the applications from providers outside that Scheme who have expressed an interest in expanding into that Scheme. The LSC will consider those applicants who can demonstrate that they meet the performance standard of attending the Police Station within 45 minutes of receiving a call.

If, after this step, the LSC determines that the Rota has an adequate number of Duty Solicitors, both in terms of the number of separate contractors to avoid conflicts of interest, and enough individual Duty Solicitors to staff the Scheme fully, the Rota for that Scheme will be finalised for the duration of the Scheme List.

Step 4:

If it appears to the LSC that there is still inadequate supply following the steps above, we may relax the travel time requirements incrementally until we are satisfied that we have enough solicitors / firms to operate the Scheme fully.

Once the Scheme is adequately staffed, both in terms of the number of separate contractors in case of conflicts of interest, and enough individual Duty Solicitors to staff the Scheme fully, the rota for that Scheme will be finalised for the duration of the Scheme List.

3.3. How to Apply for a Contract

Responses must be submitted in English and be word-processed for ease of reading. Separate applications must be submitted for each office for which a contract is required.

You should read the Information for Applicants, the FAQ's and other relevant documentation on the website, before completing and submitting to us the following documents:

Form A. Current Contract Holders:

Current contract holders should submit Application Form A for each office UNLESS they have undergone a significant change in the legal composition of their organisation or have changed their office location since last signing their current General Criminal Contract and have been told by their Regional Office to apply as a new applicant (see Section 3.1 above), in which case they should submit Application Form B and supporting documentation. New applicants for contracts should submit Application Form B and supporting documentation.

Applicants who hold the current General Criminal Contract should complete section 1 and, where duty slots are desired, section 2 of Application Form A. Where there are no changes to the firm or to the service offered, no other documentation is required (unless we exercise our right to request it). The form must then be signed at section 3 and send it to the LSC.

Form B. New Entrants:

New applicants will need to complete Application Form B for each office which simply:

- asks you to provide basic details about your organisation and each office for which you are applying for a contract;
- asks you to fill in the following SQM ("Specialist Quality Mark") forms:
 - QM1 – Quality Mark Application form - requests the contact details of the organisation as a whole;
 - SQM Self Assessment Checklist - requests brief written confirmation of how the organisation meets, or intends to meet, each separate requirement in the SQM;
 - Supervisor Self Declaration form – requests information about how the supervisor for publicly funded criminal work will meet the supervisor requirements in the SQM;
 - Franchise Status Enquiry Forms (SIF1) – requires organisations to declare any claim against the Solicitors' Indemnity Fund within the last 5 years;
 - Status Enquiry Forms (OSS1,2,3) which the LSC submits to the regulator to check for disciplinary proceedings or any other adverse findings by regulatory bodies against the firm or staff as part of your application;
- invites you to apply for slots on your local Duty Solicitor schemes;
- invites you to indicate any other Duty Solicitor schemes you would like to join should the LSC consider that there is insufficient capacity in any particular local scheme.

Please note that if you are applying for a contract for more than one office you must submit one set of SQM forms for each office, even if this entails some duplication.

This is because SQM considerations may be different if offices are in different locations.

New Applicants should complete section 1 and, where Duty Solicitor Scheme slots are desired, section 2 of the Application Form. The form(s) must then be signed at section 3, and sent to the LSC together with the relevant supporting documentation as detailed in the above list, and a copy of your Office Manual.

Whilst there is no requirement for the stated office and systems to be in place at the time of the application, they must be in place by the start of the Contract, i.e. 14 January 2008.

Employment of Duty Solicitors – applicable to current providers and new applicants

There is no requirement for your Duty Solicitors to be employed by you at the time of your application, but you must be able to state how many you will employ by 14 January 2008 on your application form, and they must send us the appropriate CDS12 (Duty Solicitor Application Form) no later than 30 November 2007.

3.4. How to Apply for Duty Solicitor Schemes

All applicants wanting to work on the Duty Solicitor schemes should complete section 2 of the Application Form. You should indicate on the Application Form the maximum number of slots the firm is prepared to undertake per office.

Expansion

Applicants may also indicate, in the second part of section 2 of the Application Form, any additional schemes they may be willing to cover if there were insufficient Duty Solicitors from providers who qualify under the usual rules on those Schemes. The provision of this information is not compulsory.

3.5. Questions and Answers

A list of FAQs will be on our website. Applicants are welcome to ask other questions before the application process closing date. Our Regional Offices 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).

A list of Regional Office contact details are set out at Annex A.

However, questions on the application process, allocation of slots on the Duty Solicitor Schemes or of wider interest will be collated and answered centrally in writing, to ensure that all applicants and interested parties have equal access to the information in the answers. These questions and answers will be published regularly on our website. All personal or identifying information will be removed prior to publication.

Questions on the application process or allocation of slots can be directed to Regional Offices or sent direct to the following dedicated email address:

CDS.Contracts@legalservices.gov.uk

3.6. How to Submit Applications

The application closing date is 16.00 on Wednesday 31 October 2007.

Applications may be delivered by hand or sent by recorded delivery/ guaranteed post, normal post, tracked DX or DX, or by email. **Faxed applications will not be accepted.**

All applications, however sent or delivered, must be marked "General Criminal Contract (January 2008) application".

Please send postal applications to your LSC Regional Office (see list at Appendix A. If you hold a current General Criminal Contract, this should be the one that deals with your account. If you are a new applicant, please send you application to the Regional Office nearest to you (unless you send it by email, in which case use our central address set out below) – if this is not the one which deals with accounts in your area, we will forward it as appropriate.

Email applications should be sent to:

CDS.Contracts@legalservices.gov.uk

It is your responsibility to check we have received your application, however it was sent. We are not responsible for any failure of post ,DX or email. Please note that we will not acknowledge receipt of any applications in writing. Please do not assume we have received your application until you have telephoned us and we have confirmed receipt.

3.7 Appealing the Decision

Unsuccessful applicants will be given written reasons as to why they were unsuccessful. There will be a right of appeal against a decision by us not to award you a General Criminal Contract (January 2008) following receipt of this information.

Appeals should be made to your local LSC Regional Office by 20 November 2007. The Legal Director (or her representative) will review all appeals internally and inform firms of the decision by 7 December 2007.

There will be no further right of appeal.

There is no separate right of appeal against decisions on awarding slots on Duty Solicitor Schemes. These decisions are covered by the terms of the Duty Solicitor Arrangements.

3.8. Application Process Timetable

Stage	Activity	Dates
Stage 1	Documents published: <ul style="list-style-type: none">• Information for Applicants• Application Forms General Criminal Contract (January 2008) with fixed fee annexes available on LSC website	28 September 2007
Stage 2	Application process opens	1 October 2007
Stage 3	Deadline for submission of applications.	Up to 16.00 on 31 October 2007
Stage 4	Successful applicants informed of Contract award.	9 November 2007
Stage 5	Deadline for submission of appeals	20 November 2007
Stage 6	Deadline for submission of CDS12 Duty Solicitor Application Forms from successful applicants to Regional Offices.	30 November 2007
Stage 7	Rotas for period 14 January – 14 July 2008 issued.	By 14 December 2007
Stage 8	Contract start date.	14 January 2008

3.9. Conditions of Application

1. Applications will be received until 16.00 on the application closing date (31 October 2007). No applications will be accepted after this time unless there are exceptional circumstances as defined in 3.9.2 below. Outside these exceptional circumstances we will not consider any late responses nor will we consider requests for extension of the time or date fixed for the submission of responses.
2. "Exceptional circumstances" means a cause which prevents the applicant from meeting the stated time and date for submission of applications and which is directly attributable to an event or accident which:
 - (a) was beyond the actual contemplation of the applicant concerned;
 - (b) would ordinarily be beyond the contemplation of a reasonable applicant; and
 - (c) the impact of the event or accident on the delay was not attributable to any act or omission of the applicant

(for example, act of God, war or national emergency, acts of terrorism, fire, flood, or storm).
3. All applications shall be signed by a duly authorised director, partner or designated member of the applicant.
4. We reserve the right to amend the application rules, the application process/procedure and/or the selection criteria, at any time in writing before or after the application closing date, by giving general notice on our website.
5. It is the obligation of applicants to make sure that their Application Form is fully and accurately completed and accompanied by the appropriate documents. We are under no obligation to contact you to clarify your application or to obtain missing information or documents. It may not be possible to consider an application if incomplete information is given at the time of application, or if any particulars and data asked for in the Information for Applicants or Application Form are not provided in full.
6. We reserve the right to take into account any knowledge of an applicant that we may have, but applicants should not assume that any such information will be taken into account and should restate it on their Application Form if they consider it relevant. For applicants that hold a current General Criminal Contract, we may corroborate the information given on your Application Form with your regional office.
7. You are required to reply to all questions on the Application Form (with the exception of Sections 2 if you do not wish to apply for Duty Solicitor Scheme work, or Section 3 if you do not want to expand in to other Duty Solicitor Schemes), even if you have previously provided this information or if you think we are already aware of it (e.g. if you hold an existing contract with us). This is to ensure that we can compare each application and applicant in a fair, like-for-like and reasonable manner.
8. We may request applicants to give additional information/clarification at any time during the application process. You should be prepared to discuss any aspect of your response with us.
9. Any questions and answers posted on our website during the application process (or before) will not form part of the contract.

10. After evaluation is complete, we will retain copies of all responses to satisfy our audit obligations and for other purposes in accordance with condition 21 below.
11. We reserve the right to cancel this invitation to apply for the General Criminal Contract (January 2008) in its entirety, or in certain geographical areas only, at any time at our absolute discretion.
12. If we award a General Criminal Contract (January 2008) as a result of your application the Application Form and documents submitted as part of the application, will form part of the contract for the successful applicants.
13. Applications are submitted on the conditions stated in this Information for Applicants (as may be amended). Applications submitted subject to additional or alternative conditions may be rejected on the grounds of such conditions alone.
14. By submitting an application, you are agreeing to be bound by the terms and conditions in the General Criminal Contract (January 2008) if you are awarded one.
15. The right of internal appeal for unsuccessful candidates is limited to that set out at Section 3.7. above.
16. Applicants will be responsible for and bear all of their own costs, liabilities and expenses which may be incurred in the preparation of their responses or any subsequent application arrangements, regardless of whether a contract is awarded.
17. All intellectual property rights in this Information for Applicants, associated documents, Application Forms, and Contract Documents are and shall remain our property.
18. The information contained in the Information for Applicants does not purport to contain all of the information which an applicant may require. While we have taken all reasonable steps to ensure, as at the date of this document, that the facts which are contained in this document are true and accurate in all material respects, we do not make any representation or warranty as to the accuracy or completeness or otherwise of this document, or the reasonableness of any assumptions on which this document may be based. All information supplied by us to applicants, including that within this document, is subject to applicants' own due diligence. We accept no liability to applicants whatsoever resulting from the use of this document, or any omissions from or deficiencies in this document.
19. Applicants should note that any quantities or volumes contained in the Information for Applicants are for indicative purposes only and any future quantities or volumes may vary from those stated.
20. It is your responsibility to obtain at your own expense all additional information necessary for the preparation of your response to the application documents. No claims of insufficient knowledge will be entertained.
21. We may use the information included in your response for any reasonable purpose connected with this application exercise.
22. Any applicant who directly or indirectly canvasses any employee of the LSC concerning the award of the contract(s) will be disqualified.
23. All applicants are recommended to seek their own financial and legal advice.

24. Confidentiality

Applicants must treat the application documents (the Information for Applicants and all documents referred to in the Information for Applicants) as confidential. These documents are issued solely for the purpose of enabling an application to be completed and may not be used for any other purpose. Applicants shall ensure that all third parties to whom disclosure is made shall keep the application documents confidential and not disclose them to any other third party except as set out above.

25. Applicant changing its status

If, between submitting your application and being awarded a contract, your organisation undergoes a significant change⁴ in its legal composition from that named in the Application Form, we reserve the right to decide whether to award a contract to the new organisation. Any decision would be solely within our discretion. You must inform us immediately of any such change in writing.

3.10. Freedom of Information Act 2000

Applicants should note that under the Freedom of Information Act 2000 (“the Act”), we may be required to disclose details of your application to third parties, either during or after the application process. We can only withhold information where it is covered by a valid exemption as set out in the Act.

If you are concerned about possible disclosure you should clearly identify the specific parts of your application and supporting documentation that you consider commercially sensitive or confidential (within the meaning of the Act), the harm that disclosure may cause and an estimated timescale of that sensitivity.

You should be aware, however, that the receipt by us of information marked confidential does not mean that we accept any duty of confidence in relation to that marking. Neither do we guarantee that information identified by you will not be disclosed, especially where the public interest favours disclosure.

It is important to note that the sensitivity of information is likely to change over time and therefore it is likely that general contract details would be disclosed once the selection process is complete. Where possible, we would consult with you before any disclosure was made.

⁴ For our definition of a “significant change” see Section 3.1 above

Annex A - Regional Office Contact Details

<p>London Regional Office</p> <p>Exchange Tower 2 Harbour Exchange Square London E14 9GE</p> <p>DX 100170 Docklands 2 Switchboard: 020 7718 8466</p>	<p>South East Regional Office</p> <p>3rd and 4th Floors Invicta House Trafalgar Place Cheapside Brighton BN1 4FR</p> <p>DX 2752 BRIGHTON-1 Switchboard: 01273 878 800</p>
<p>South Western Regional Office</p> <p>33-35 Queen Square Bristol BS1 4LU</p> <p>DX 7852 BRISTOL – 1 Switchboard Tel: 0117 302 3000</p>	<p>Wales Regional Office</p> <p>Marland House, Central Square, Cardiff CF10 1PF</p> <p>DX 33006 CARDIFF-1 Switchboard Tel: 0845 608 7070</p>
<p>West Midlands Regional Office</p> <p>Centre-City Podium, 5 Hill Street, Birmingham B5 4UD</p> <p>DX 13041 BIRMINGHAM-1 Switchboard Tel: 0121 665 4700</p>	<p>North West Regional Office</p> <p>2nd Floor Lee House 90 Great Bridgewater Street Manchester M1 5JW</p> <p>DX: 14343 MANCHESTER-1 Tel: 0845 602 1400</p>
<p>North East Regional Office</p> <p>2-8 Fenkle Street, Newcastle upon Tyne NE1 5RU</p> <p>DX 61005 NEWCASTLE-Upon-TYNE-1 Tel: 0191 244 5800</p>	<p>Yorkshire & Humberside Regional Office</p> <p>Harcourt House Chancellor Court 21 The Calls Leeds LS2 7EH</p> <p>DX 12068 LEEDS Contracting team 0113 3907427</p>

<p>East Midlands Regional Office</p> <p>Fothergill House 16 King Street NOTTINGHAM NG1 2AS</p> <p>DX MDX 10035 NOTTINGHAM 0115 908 4200</p>	<p>East Regional Office</p> <p>62-68 Hills Road, Cambridge CB2 1LA</p> <p>DX 5803 CAMBRIDGE-1 Telephone 01223 417860</p>
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<p>Merseyside Regional Office</p> <p>Cavern Walks, 8 Mathew Street, Liverpool L2 6RE</p> <p>DX 14208 LIVERPOOL-1 Tel: 0151 242 5200</p>	<p>Southern Regional Office</p> <p>80 King's Road READING RG1 4LT</p> <p>DX 4050 READING 0118 955 8600</p>
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Annex B - Definition of a Very High Cost Case

A Very High Cost Case is:

1. A case which if it were to proceed to trial would be likely to last for more than 40 days at trial (and the LSC considers that there are no exceptional circumstances which mean it is not suitable to be treated as a Very High Cost Case); or

2. A case which if it were to proceed to trial would in the opinion of the LSC be likely to last no fewer than 25 and no more than 40 days inclusive, and

a. is prosecuted by the Serious Fraud Office:

b. the charge is under the Terrorism Act 2000; or

c. at least 2 of the following criteria (i) to (iv) apply;

(i) there are more than 5 defendants;

(ii) there are at least 10,000 pages of served prosecution evidence;

(iii) there are at least 10,000 pages of unused or third party material;
or

(iv) is a fraud case or one primarily involving serious drugs offences and the value of the fraud or drugs (as estimated by the prosecution authority) exceeds £1 million.