

## **Guidance to CDS Providers on moving or opening new offices during the currency of the Unified Contract (Crime) July 2008**

**16 December 2008**

We have received a number of enquiries from Providers to various regional offices concerning whether they may move the location of their office, or whether they may open a new office in a different location. This guidance reflects the position in the Unified Contract (Crime) July 2008.

### **Changing or moving offices**

#### **(a) Closing an office and moving Duty Solicitors to another contracted office within the same firm.**

Clause 25.1 requires you to notify the LSC that an Office is going to close. The Office Schedule relating to that Office will come to an end when that Office closes. Duty Solicitors who move to another contracted office within the same firm will be able to join the Schemes to which that second Office's geographical location entitles them (subject to any applicable local rules). They will be eligible for back up and/or panel work as soon as a qualifying CDS12 is received and processed by us, and will be included on the next available Rota (provided they submit CDS12s by the published deadline for inclusion on that Rota)

#### **(b) Opening an additional and new office**

It is not within the scope of the Unified Contract (Crime) for a Provider to open an additional Office during the life of the contract and the LSC will not ordinarily agree to grant a new Office Schedule to a Provider who wishes to open a new Office. To do so would amount to allowing a Provider to do additional Contract work in an area where that Provider did not originally apply at the outset in the application process.

An exception to this might be if a Provider in an area closed an Office resulting in a shortage of CDS Coverage in that area. In those circumstances, an open invitation would be given to all interested parties to apply to open an Office in that area on terms appropriate to the particular situation. This would result either in an additional Office Schedule to currently contracted Providers who wished to open an office there, or in a new Contract if the successful applicant was a new entrant.

#### **(c) Closing an office(s) and moving staff to a new office, not currently covered by an Office Schedule.**

Office location is a material factor in an application for a Unified Contract (Crime). Providers applied for a Unified Contract (Crime) by stipulating where they wished

to perform their contract work from. The Office's geographical location determines what Duty Solicitor Schemes that firm's Duty Solicitors could apply to join. In the Contract Application form, an applicant Provider stipulated on which Duty Schemes it wished its Duty Solicitors to be able to do Duty Solicitor work (subject to individual scheme location rules). The resulting Office Schedule(s) state where the Provider's office is, and therefore, from where Contract Work can be done by that firm.

If a Provider wished to move its office, this would require a change to the relevant Office Schedule. An application to change an Office Schedule has to be made under Clause 11.11 of the Unified Contract (Crime) Standard Terms. The LSC has discretion as to whether to allow such change:

- For example, the application would probably be allowed if the change was necessitated by an expiry of lease, and if the move was not far from the original office location, i.e. within the same duty scheme boundary.
- The LSC might also exercise its discretion if a Provider wished to relocate to a new area in which its Duty Solicitors were already members of the Duty Scheme(s) in that area, e.g. to a neighbouring Duty Scheme where the entitlement to schemes is broadly unaffected.
- The LSC would take into account whether the new location gave the firm entitlement under the Duty Solicitor Arrangements 2008 (DSA) to join additional Schemes, and if so, whether there would be more than minimal impact on Providers whose Duty Solicitors were already on those Schemes.
- The LSC would be entitled not to exercise its discretion if a Provider wished to move to a wholly new area in which its Duty Solicitors were not members of the Scheme there.
- Providers have a right of appeal under Clause 32 of the Unified Contract (Crime) Standard Terms against a decision under clause 11.

If a Provider is given permission to move its office, under the DSA, the new office location entitles the Provider's Duty Solicitors to join the Schemes which are accessible from that new office location (subject to any restrictive local Scheme rules).

If this would have a significant adverse affect on the Providers already on Schemes accessible from that location, then the LSC might attach a condition on that move which would appear on the amended Office Schedule, that the Provider's Duty Solicitors may not apply to join certain additional Schemes for the remainder of the Unified Contract (Crime) July 2008.

If you notify the LSC of a new address only after moving, and without having made an application to amend your Office Schedule under Clause 11.11, the LSC may decide that Contract Work cannot be undertaken from the new Office Location. You should contact your Account Manager at the LSC Regional Office if circumstances require or necessitate your firm to move office during the course of the Unified Contract (Crime) July 2008.

For further information on this guidance, contact your Account Manager in the first instance.