

R V Hookway

Providers will be aware of the recent High Court decision in the case of R v Hookway. The judgment means the time suspects spend on bail could count towards any maximum period of pre-charge detention.

The Home Secretary has announced an intention to bring forward emergency legislation to 'clarify the position and provide assurance that the police can continue to operate on the basis on which they have been operating for many years.'

Until any emergency legislation takes effect we are providing some billing guidance for providers for situations where a client, who may otherwise have been bailed to return to the police station, may be rearrested and requests further legal advice and assistance.

1. When the client is initially arrested

The crime specification (Specification Part B para 9.108(a) to (d)) sets out when a claim for police station advice can be submitted. This states that

'A Claim must only be submitted when:

- (a) the Criminal Investigation has been concluded, either by way of the Client being charged or reported for summons, or the Matter has been disposed of in any other way; or
- (b) it is known that no further work will be undertaken for the Client in the same Matter; or
- (c) it is unclear whether further work will be required and a minimum of one month has elapsed since the last work in the Matter was undertaken. This provision will not apply where a Client has an outstanding bail back in the Matter, unless it is known that further work will not be undertaken on that occasion; or
- (d) post-charge work has been undertaken that is within the scope of this Unit of Work, and is not the subject of a claim under the Representations Unit of Work'.

2. If the client is subsequently rearrested

This is set out in the (Crime Specification Part B para 9.78)

'Where you have previously provided Advice and Assistance to a Client in relation to a Matter, and you have already claimed for the Matter in a Claim submitted to us in accordance with the terms of this Specification, then any further Advice and Assistance provided to the Client in relation to the same Matter must be the subject of a separate application. You must not claim a second Fixed Fee, but the original costs (as recorded) will be relevant in determining whether the Matter subsequently qualifies as an Exceptional Case and for the additional costs to be paid as such, in addition to the Fixed Fee or Exceptional Case costs already paid'.

Consequently, providers should contact their Contract Manager if having billed a matter previously, they have subsequently given advice to the client that exceeds the exceptional threshold. The Contract Manager can arrange to have the original payment reversed and the new exceptional payment entered.