

Interim Policy on Bail with Electronic Monitoring

Background

Bail with Electronic Monitoring ('EM bail') has been launched in Auckland, Counties-Manukau, North Shore, Waitakere, Rodney, Northland, Bay of Plenty, Waikato, and Wellington and is about to be rolled out for the rest of the country later this month (see below). EM bail will be available to people who have had bail refused or who have been remanded in custody because bail was not sought pre-trial. This will allow the person to be released back into the community subject to being monitored electronically during the remand period along with any other conditions the Court specifies.

The process involves the applicant completing a 6-page application form, an assessment by a bail assessor and a bail hearing by a Judge. The Police will be managing the bail application and assessment process.

The Agency has developed an interim policy. The policy is interim at this stage as bail with electronic monitoring is completely new and is being rolled out in phases.

Applications

EM bail applications are criminal proceedings before a District Court in terms of s 6(a) of the Legal Services Act 2000.

A new application for criminal legal aid for an EM bail application is **not** required. Bail proceedings are covered by an application for criminal legal aid for the substantive proceedings.

However, providers are required to submit an estimate on Form 2 *Estimate for criminal proceedings*.

The application for EM bail is made to the court. Copies of the application form are available at court.

Funding Policy

The Agency will fund legal services related to bail with electronic monitoring on the following basis:

- Up to 1 hour preparation time at the GHR. Preparation time may include: discussion with the client, taking instructions, completing the EM bail application form, ensuring the applicant understands the conditions, and possible telephone calls to the resident at the proposed address to confirm details;

OR

- Up to 1.5 hours preparation time if the provider visits the proposed residential address.

Plus

- Actual hearing time @ GHR.

Plus

- Travel time of up to 1.5 hrs @ GHR to attend the client

The maximum travel time to attend the client is expected to be 1.5 hours (return trip). If travel time to attend the client takes longer than 1.5 hours, it will generally be considered preferable for a local agent to attend the client. The provider should seek prior approval from the Agency before undertaking travel. See Travel policy in Part 7 of the Services Practice Manual.

Plus

- Travel time of up to 1.5 hrs @ GHR, if the proposed residential address is visited

The maximum travel time to the proposed residential address is expected to be 1.5 hours (return trip). If the travel will take longer than 1.5 hours, it will generally be considered preferable for a local agent to attend the client. The provider should seek prior approval from the Agency before undertaking travel. See Travel policy in Part 7 of the Services Practice Manual.

Plus

- Travel costs @ relevant travel reimbursement rate. See Travel policy in Part 7 of the Services Practice Manual for the correct rate.

The Agency's maximum rates can only be exceeded in special circumstances. Providers will need to submit a completed Form 2 Estimate for criminal proceedings and a covering letter advising the reasons for seeking a grant in excess of the maximum rate. When you have received form 2 and the covering letter, you may refer the file to a specialist adviser for a recommendation.

If there are subsequent applications for the same client:

- 30 minutes additional preparation time at GHR and
- Additional hearing time will be paid
- Travel time and costs will be considered.

Implementation

The interim policy was implemented in the following regions according to the following timetable:

- 25th September 2006; Auckland, Counties-Manukau, North Shore, Waitakere, Rodney and Northland
- 6th November 2006; Bay of Plenty, Waikato, Eastern, Central and Wellington
- 27th November 2006; Canterbury, Tasman and Southern.

Clarification

If providers have any questions about EM bail, they should contact the local office of the Police Prosecution Service.

Further information on EM bail can be found at www.police.govt.nz/service/embail/

If you have any questions about the interim policy, please contact Tara Sewell or Andrew Harbidge at Head Office.