

Supervised Bail in Scotland: Research on Use and Impact

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Supervised Bail in Scotland is a social work (or sometimes third sector) service whereby those who would otherwise be put on remand (that is, imprisoned while awaiting trial) are released on bail on the condition that they meet with a bail supervisor a specified number of times a week, with the aim of supporting them to comply with bail conditions and reducing remand numbers. This research findings paper outlines the key findings of research into the use and impact of supervised bail in Scotland.

Main Findings

- Supervised bail schemes are in place in most, but not all, Local Authority areas in Scotland. Uptake of the service has declined in recent years.
- Lack of appropriate and timely processes for getting information to bail workers about the people in the cells and Procurator Fiscal bail positions hinders the screening process where bail workers are court based.
- The findings suggest cases where supervised bail is applied where the accused would not have been remanded are rare. A clear understanding that supervised bail is an alternative to remand is important to bailees' understanding of supervision.
- Three quarters of bail supervision orders studied were completed successfully, and bail workers felt that breach rates were low. Some bailees described having previously breached regular bail or electronic tags, but talked with pride about fully complying with supervised bail. Members of the judiciary who believed breach rates were low said that this influenced their use of supervised bail.
- A fifth of cases where there had been a supervised bail order resulted in prison sentences, two fifths resulted in community sentences, and the remaining had resulted in another disposal, or no disposal where the accused had been found not guilty or the case had been dropped. Evidence suggested that successful completion of supervised bail encouraged the use of community sentences over prison sentences.
- When bailees interviewed talked positively about supervised bail and its impact on their behaviour and lives in the short and potentially also the long term, this positive impact was due to being in the community rather than prison, having a good relationship with their bail worker, flexibility around meetings and support, and receiving positive feedback throughout and at the end of an order.
- The economic analysis found that the net benefits of supervised bail as an alternative to remand over the three years examined were between £2 million and £13 million, and that the average cost of a supervised bail case would need to rise by between 75% and 560% for supervised bail to no longer be cost effective.
- This research has found that supervised bail can be an effective tool for encouraging and supporting compliance in a way not possible with standard bail conditions. It can in some cases also assist bailees with their longer term process of desistance from offending behaviour.
- This can only happen in the specific kind of 'borderline' cases for which supervised bail is appropriate, where there are good processes in place for the screening of potential bailees, and where there is good local awareness of and buy in to supervised bail. If there is to be optimal use of supervised bail in Scotland, it needs to be ensured that these three conditions are met throughout the country.

Background

Supervised bail was initially piloted in Glasgow and Edinburgh from 1994. Its aim was to reduce the number of people on remand, while providing support to bailees to address the risk of offending on bail.

Following an evaluation of nine months of the pilot, funding was made available across Scotland, which areas could choose to use for bail supervision, or for bail verification schemes, which confirm addresses for potential bailees. As a result, bail supervision was not introduced in all Local Authority areas.

The operation and impact of supervised bail in Scotland has not been examined since the evaluation of the pilots in 1999. This research was designed to address this gap, with a focus on issues around uptake of bail supervision, and its impact on the lives and behaviours of supervised bailees.

Methods

The research comprised of several strands of work, namely: analysis of three years of case level data; a workshop with supervised bail workers from across Scotland; email surveys of members of the judiciary and Procurators Fiscal (PFs); interviews with people who had been on supervised bail in three supervised bail scheme areas¹; and economic analysis of supervised bail as an alternative to remand.

Availability and Uptake

When data was requested from supervised bail schemes in 2009, the majority of Local Authorities (LAs) had a bail supervision scheme in place, many of them shared across LAs. However, some of these had experienced a very low uptake over the previous three years. There were some LAs where schemes were in development, and a small handful had no scheme in place.

There has been a downward trend in the number of supervised bail orders between 2006/07 and 2009/10, with a slight increase between 2009/10 and 2010/11.

Seven schemes supplied a 'capacity' figure and of these schemes, only two were operating at over 50% capacity.

¹ A full report on the interview findings 'Experiences of Supervised Bail' will be published alongside this report

Screening

The process for identifying potential supervised bailees differs from area to area, and so there is no 'standard' process that can be mapped out. In some places there are bail officers based in the courts who screen people in the cells before bail hearings, based upon information about PF bail positions². In other places screening for suitability for supervised bail is more ad hoc, and is requested by other court actors, most often defence agents, but sometimes members of the judiciary.

It is clear from the research that for the maximum number of potential bailees to be screened in courts by court-based bail workers, there needs to be clear processes in place for timely communication of information about those in the cells and about PF bail positions to bail workers. It seems that such processes were not always in place or successfully implemented.

Targeting

The research found that some net-widening does occur - where those given supervised bail would not otherwise have been remanded - but that it is likely that it is quite rare. All but one of the ten bailees interviewed were very clear that they would have been remanded if they had not been given supervised bail³, and in the survey responses from members of the judiciary, only one respondent seemed to advocate its use in cases with vulnerable accused where remand was not being considered.

For the bailees interviewed who believed they would otherwise have been remanded, this had a big influence on how they evaluated supervised bail and its impact on their life, either in terms of appreciating that they avoided a disruptive spell in prison, or in terms of feeling they had been given a 'second' or 'last' chance when they were bailed rather than remanded.

On the secondary level of targeting - of vulnerable groups - data seem to show that targeting of bail supervision at females and young people was being borne out in practice, with a larger proportion of supervised bailees being young or female, than in the remand population, or the wider population of those with a charge against them.

² Which allows them to screen only those for whom bail is opposed.

³ The remaining bailee did not know what would have happened otherwise, so without speaking to the Sheriff in question we do not know if this was indeed a case of net-widening.

However, it was clear from the survey that, when considering supervised bail, members of the judiciary look more to the circumstances of the case than to whether a potential bailee belongs to any particular demographic group.

Meeting structure and content

There was found to be some flexibility as to the frequency, duration, and location of supervised bail meetings. Most bailees interviewed began by meeting their bail workers two to three times a week, usually at the bail worker's offices, with some having one of these meetings in the bailee's home. For some bailees this was seen as non-negotiable, and this frequency of meetings was maintained throughout their bail order.

However, some bailees described a reduction in the frequency or location of their meetings, such as to two or one meetings a week; a movement of location to the bailee's home; or a shift to having meetings over the phone.

This was either to fit in with new employment, or was a reward for good attendance at meetings. Where the latter was the case, bailees talked with a real sense of pride about achieving such a reward, and this seemed in turn to encourage compliance with the order through a positive focus on achievements rather than a preoccupation with the crime they were accused of.

The length of the meetings ranged between bailees interviewed from 5 minutes to up to and over an hour, and some said meetings lasted a set amount of time e.g. 15 minutes. In this time bailees said that they talked to their bail worker about their behaviour, their lives and their problems, and some described taking surveys for their bail worker. Some said they received help and support from their bail worker, while others said they did not need or want to talk or receive any help. Some were sign-posted on to other services such as counselling or employment support services.

Breach

Approaches to breach varied across schemes, from breach proceedings beginning if bailees were 15 to 20 minutes late for appointments, to two warning letters being given for non-attendance before breach proceedings were begun. Overall, in the areas who supplied data, nearly three quarters of bail supervision orders were completed successfully, compared to around a quarter ending because of breach and/or the bailee being remanded.

There was no comparable population for this breach rate, but it was felt by bail workers in the workshop that breach was not a major problem with supervised bail. Furthermore, judicial survey respondents who said that supervised bail breach rates were low were most likely to say that perceived breach rates influenced their use of supervised bail.

Some bailees interviewed said that they had previously breached regular bail, but had fully complied with supervised bail, which suggests that supervised bail can encourage compliance for individuals. However, some bailees interviewed said that they had breached their supervised bail order, which, like the numeric data described above, shows that supervised bail can reduce breach, but it cannot eradicate it in every case.

Outcomes

Across the schemes which recorded the outcomes of cases where there was a supervised bail order, around a fifth had resulted in custodial sentences, and around two fifths had resulted in community sentences. The remaining had resulted in a fine, admonishment, deferred sentence, or had resulted in no disposal, for example where accused were found not guilty or there were no further proceedings.

Custodial sentences were found to be less common when bail supervision was successfully completed than when it was terminated. Alongside evidence from the judicial survey and bailee interviews, this suggests that successfully completing bail supervision encourages the application of community sentences over custodial ones. This means supervised bail reduces both the remand and the sentenced prison population.

Impact on Bailees

For the bailees interviewed, four things emerged as leading to a positive impact of supervised bail. First, being out in the community rather than in prison was greatly appreciated, and motivated some to comply with supervised bail. Second, having a good relationship with their supervisor – seeing them as someone who was like 'a normal person', someone they could talk to and 'have a laugh' with. Third, flexibility of timing and frequency of meetings was useful to some bailees, as was flexibility around types of support provided depending on bailee needs. Fourth, positive feedback in the form of praise and rewards during supervised bail, and in bail worker reports and from the judiciary when the case came to court.

All interviewees except one talked about a positive change in their behaviour over time, and some attributed this change to supervised bail.

Overall, the impact of supervised bail on the lives and behaviour of bailees varied across the sample, from being inconvenient and embarrassing, to having a profoundly positive effect on behaviour and life ambitions, and almost all bailees reporting positive effects on their lives and behaviour. This varied according to the relevance of the four factors outlined above, as well as depending on the attitude and circumstances of the bailee.

Costs

A cost benefit analysis of supervised bail as an alternative to remand was undertaken, making use of the data collected specifically for this evaluation, including data on supervised bail expenditure, as well as other relevant publicly available statistics.

For 2006-09 the reduction in remand places would result in a reduction of between £4m and £16m to prison costs. As total expenditure on supervised bail over the same period is around £2.4 million, this results in a net benefit of between £2m and £13m.

Sensitivity analysis shows that, based on our assumptions, the average cost of a supervised bail case would have to rise by between 75% and 560% for supervised bail to no longer be cost effective.

Ongoing Issues

For supervised bail to be offered in all 'borderline' remand cases, it is essential that supervised bail is available in all areas all of the time, and that processes for screening for supervised bail are in place and consistently adhered to. This is not currently the case.

As well as smooth processes, it is vital that those involved in any way with supervised bail are both aware of the service, and of its benefits and appropriate application. This research has found that not all members of the judiciary, or PFs, are aware of supervised bail in their area, and not all PFs are convinced of its effectiveness. This could be addressed both by embedding process as outlined above, and through activities aimed solely at awareness raising.

Conclusions

While supervised bail cannot guarantee that accused will not breach their conditions, it is a useful tool for encouraging and supporting compliance in a way not possible with standard bail conditions. And beyond its primary aim of reducing use of remand, and supporting compliance, supervised bail can in some cases assist bailees with their longer term process of desistance from offending behaviour.

This can only happen in the specific kind of 'borderline' cases for which supervised bail is appropriate, where there are good processes in place for the screening of potential bailees, and where there is good local awareness of and buy in to supervised bail. If there is to be optimal use of supervised bail in Scotland, it needs to be ensured that these three conditions are met throughout the country.

This document, along with full research reports of the project, and further information about social and policy research commissioned and published on behalf of the Scottish Government, can be viewed on the Internet at: <http://www.scotland.gov.uk/socialresearch>. If you have any further queries about social research, or would like further copies of this research findings summary document or the full research report, please contact us at socialresearch@scotland.gsi.gov.uk or on 0131-244 7560.