

Good Behaviour Bonds

EVIDENCE BRIEF

Good behaviour bonds are a type of court order used internationally. Researchers have not yet established whether these court orders reduce reoffending.

OVERVIEW

- A good behaviour bond is a court order which imposes certain conditions on an offender for a period of time. If they break these conditions they may be called to appear before a court. If a breach is established, the court may decide to take no action, vary or impose further conditions on the bond, or revoke the bond and proceed to sentence.
- Good behaviour bonds are mostly used in Australia.
- New Zealand does not use good behaviour bonds as a form of sentencing. However, a court may order the offender to appear for sentence if called on to do so, instead of imposing a sentence. In addition, people can apply for an order to keep the peace through the District Court.
- There is an insufficient body of evidence to conclude that good behaviour bonds reduce reoffending, although a few studies have found that longer bonds may result in a small but statistically significant reduction in recidivism.

- As an approach to crime reduction, the international evidence suggests that the appropriate rating for this investment is speculative. This is because of limited and conflicting evidence as to the effectiveness of good behaviour bonds.
- If good behaviour bonds are to be considered for introduction in New Zealand, a trial would be advisable to test their effectiveness.

EVIDENCE BRIEF SUMMARY

Evidence rating	Inconclusive
Unit cost:	NA (not used in New Zealand)
Effect size (number needed to treat)	NA (not yet shown to be effective)
Current justice sector spend:	NA
Unmet demand:	NA

WHAT ARE GOOD BEHAVIOUR BONDS?

A good behaviour bond imposes certain conditions on an offender for a set period of time. If they break these conditions they may be called to reappear before a court. If a breach is found to have occurred, a court may choose to take no action, impose further conditions on the bond or revoke the bond.¹ Further conditions could include mandatory participation in a drug rehabilitation programme.²

Good behaviour bonds can be given with a conviction or a discharge without conviction.³

Good behaviour bonds are typically given for offences including:

- driving an unregistered vehicle
- drunk driving,
- offensive conduct, and
- common assault.⁴

The length of these bonds can vary. For example, in South Australia a good behaviour bond must not exceed 3 years.⁵ Other Australian states, such as New South Wales, can set good behaviour bonds of up to 5 years.⁶

Courts may also require offenders to be supervised by a parole officer as part of the conditions for their good behaviour bond. The period of supervision can vary. For example, in New South Wales, the parole officer determines how long an offender must continue to report to them. The officer can also remove reporting and supervision conditions if they see fit.⁷

In 2007, 29% of sentences issued by New South Wales local courts included a good behaviour bond.⁸

DO GOOD BEHAVIOUR BONDS REDUCE REOFFENDING?

There are few publicly available studies examining the effect of good behaviour bonds on recidivism. However, studies that are available examine whether:

- good behaviour bonds are more effective than suspended sentences in reducing reoffending
- the length of the bond affects recidivism, and
- longer bonds are more effective than shorter bonds.

Reoffending in New South Wales: compliance with bond convictions

Of those who received a good behaviour bond in New South Wales in 2008, 23% reoffended within two years of receiving the order. This rate of reoffending (two years post-conviction) is lower than that for all adult offenders convicted in 2008 (26%). However, reoffending rates were found to differ according to the type of orders imposed. Of those receiving section 9 bonds (conviction and good behaviour bond), 30% reoffended within 2 years. For section 10 bonds (good behaviour bond with discharge without conviction), the rate of reoffending was 14%, and for those under section 10 dismissals (discharge without conviction and no good behaviour bond given), the rate was 21%.⁹

These findings should be interpreted with caution because it is not clear whether the characteristics of certain groups may have made them more likely to reoffend, or whether an alternative form of non-custodial punishment would have been more effective.

Number of breach notifications for supervised good behaviour bonds in New South Wales

In 2009, NSW Corrections supervised 455 offenders under section 10 good behaviour bonds. Applications for breach were made in respect of 37 offenders. Of these, 20 offenders had their good behaviour bond revoked (4.2% of total). In relation to section 9 bonds for the same period, 1957 of 9721 (20%) supervised offenders had applications for breach made. 1435 of these section 9 offenders had their good behaviour bond revoked (15% of total).¹⁰

Supervision of bonds has no effect

When examining the reconviction rates of 6356 offenders, Weatherburn and Bartels found no difference between offenders who had received a supervised bond (n=4957) and those who had been given a suspended sentence (n=1399).¹¹ These findings are similar to those found by Weatherburn and Trimboli.¹²

Weatherburn and Bartels suggest that supervision does not influence recidivism rates because it is not the level of supervision that influences the likelihood of reoffending but the quality of support services offenders receive while on a bond.¹³

Longer good behaviour bonds may be more effective than shorter bonds

Several studies have shown that offenders placed on longer bonds are less likely to reoffend than offenders placed on shorter bonds.¹⁴

This effect was found regardless of whether the offender was supervised, which could suggest a deterrent effect of a longer bond. Equally, a longer bond length could allow an offender more time to change their behaviour.

The reduction in offending associated with longer bonds is small. A recent study found a difference of three percentage points between those put on short behaviour bonds (23 months or less) and those placed on long behaviour bonds (24 months or longer). This means that approximately 1 in every 33 people placed on a long good behaviour bond did not reoffend within three years.¹⁵

One possible explanation for the apparent ineffectiveness of bonds in reducing reoffending is that many bonds are comparatively short. For example, 50% of bonds imposed in NSW courts are for 12 months or less (unpublished data for 2012, NSW Bureau of Crime Statistics and Research).

Poynton et al. suggest the reduced effectiveness of shorter bonds may be because they provide insufficient time for offenders to receive drug or psychiatric treatment.¹⁶

In addition, short bonds may not sufficiently deter those who either intermittently offend, or are able to desist from reoffending for some time.¹⁷

Effectiveness of bonds compared to other forms of sentencing

Australian research found that adult offenders given a Community Service Order (CSO) are less likely to reoffend than a matched comparison group of offenders issued good behaviour bonds. The researchers found that for every 24 people who received a good behaviour bond instead of a CSO, one would go on to reoffend.¹⁸

Poynton and Weatherburn (2012) found that people who received a good behaviour bond were more likely to reoffend than those who received a suspended sentence.¹⁹

POTENTIAL BENEFITS AND CONSEQUENCES OF USING GOOD BEHAVIOUR BONDS

In 2011 the New South Wales Sentencing Council commissioned a report on good behaviour bonds. This report included information on the perceived benefits and disadvantages of good behaviour bonds. This section summarises those views.

Perceived benefits to using good behaviour bonds

As with other non-custodial sentencing options, the perceived advantages of bonds and non-conviction orders in New South Wales relate to:

- their cost effectiveness compared with other sanctions, especially imprisonment
- their capacity to increase offenders' prospects of rehabilitation, and to reduce reoffending
- their ability to prevent first-time offenders coming into contact with the prison system
- their capacity to increase access to rehabilitative services and programs that address mental health and related issues
- their deterrent value, and
- their flexibility as a sentencing option, given the range of conditions that can be attached.²⁰

Perceived disadvantages of good behaviour bonds

Some of the perceived disadvantages of good behaviour bonds relate to:

- the community perception of excessive leniency
- the risk they will not deter the offender from reoffending, and

- the services and programmes attached to bonds may not be effective or accessible, which leads to the general community perceiving the bonds as ineffective.²¹

GOOD BEHAVIOUR BONDS IN NEW ZEALAND AND ABROAD

Use of good behaviour bonds in New Zealand

Currently, good behaviour bonds in New Zealand are not a formal sentencing option as set out in the Sentencing Act 2002.

However, New Zealand currently has an order to come up for sentence if called on, which is similar to a good behaviour bond and has been used in some high-profile cases.²² Under section 110 of the Sentencing Act 2002, a court may order an offender to appear for sentence if called on to do so, instead of imposing a sentence.

This order can be for up to 12 months. The court may also make an order for the payment of costs or restitution of property, and any costs resulting from physical or emotional harm caused.²³

An order for bond to keep the peace is a type of order used in New Zealand that is similar to the good behaviour bond.¹ Under this order, any person may apply to a district court for an order requiring any other person to enter into a bond for keeping the peace. These may be issued on the following grounds:

- The applicant fears the defendant or someone on the defendant's behalf will do bodily damage to their partner, another

¹ An application for an order to keep the peace is made under the Criminal Procedure Act 2011 sections 366 to 372.

household member, and/or damage personal property

- That the defendant has provoked or annoyed the applicant through use of provocative or insulting language, exhibited any offensive writing or object, or done any offensive act
- The defendant has threatened to undertake or procure someone to undertake an offence under the following provisions of the Crimes Act 1961:
 - wounding with intent to do grievous bodily harm
 - injuring with intent to injure
 - arson
 - intentional damage
 - endangering transport, and
 - waste or diversion of electricity, gas, or water.

A bond to keep the peace can be set for up to one year. A district court has discretion around the financial amount of the bond required. A defendant who refuses a bond can receive a prison sentence of up to two month.

Where a person fails to meet the conditions of the bond, the court may make an order that the bond is forfeit to the amount that it deems fit.²⁴

These bonds are not commonly used in New Zealand, with an average of 29 issued each calendar year over the past 5 years. The use of these bonds has been decreasing with only 15 issued in 2015.²⁵

No studies have been undertaken on the effectiveness of bonds to keep the peace.

The Injunction to Prevent Nuisance and Annoyance (IPNA)

In the United Kingdom (UK), a non-custodial sentencing option, similar to a good behaviour

bond, is the Injunction to Prevent Nuisance and Annoyance (IPNA).²

Anyone over the age of 10 years can be given an IPNA when they have behaved in an antisocial manner, for example, drunken or threatening behaviour. Having an IPNA means certain behaviours and actions are no longer permitted, such as visiting a certain area of town or drinking in the street.

It can also impose obligations including attendance at rehabilitative programmes. Offenders younger than 18 years can receive an IPNA through the youth court system. Those aged 18 and older can receive an IPNA through the county or high court.

For those younger than 18 years, IPNAs can be imposed for up to 12 months. For those aged 18 and older, there is no established set length.

Breaching an IPNA is a criminal offence. Depending on the age of the offender and the circumstances around the breach, breaches can result in a maximum penalty of two years' imprisonment for an adult, or three months' detention order for a young person aged 14 to 17 years.²⁶

² The IPNA replaced the Anti-Social Behaviour Order.

EVIDENCE RATING AND RECOMMENDATIONS

Each Evidence Brief provides an evidence rating between Harmful and Strong.

Harmful	Robust evidence that intervention increases crime
Poor	Robust evidence that intervention tends to have no effect
Inconclusive	Conflicting evidence that intervention can reduce crime
Fair	Some evidence that intervention can reduce crime
Promising	Robust international <i>or</i> local evidence that intervention tends to reduce crime
Strong	Robust international <i>and</i> local evidence that intervention tends to reduce crime

According to the standard criteria for all evidence briefs³, the appropriate evidence rating for good behaviour bonds is Inconclusive.

According to our standard interpretation, this means that:

- There is conflicting evidence that interventions can reduce crime.
- It is highly uncertain whether interventions will generate return even if implemented well.

Further research into the effectiveness of good behaviour bonds may result in an upgraded investment rating.

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FIND OUT MORE

Go to the website

www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

Email

whatworks@justice.govt.nz

Recommended reading

Poynton S., Weatherburn D., & Bartels L., *Good behaviour bonds and reoffending: The effect of bond length*, (Sage, on behalf of ANZOC, 2014).

NSW Sentencing Council, *Good behaviour bonds and non-conviction orders*, (Sydney: New South Wales Sentencing Council, 2011).

³ Available at www.justice.govt.nz/justice-sector/what-works-to-reduce-crime/

Citations

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² FindLaw, <http://www.findlaw.com.au/articles/4296/good-behaviour-bonds-explained.aspx>

³New South Wales Government, NSW Legislation, <http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+1999+cd+0+N>. Accessed on 21 Jan 2016.

⁴ NSW Sentencing Council, Good behaviour bonds and non-conviction orders, (Sydney: New South Wales Sentencing Council, 2011)

⁵ Legal Services commission of South Australia. <http://www.lsc.sa.gov.au/dsh/ch10s11.php>. Accessed on 20 January 2016.

⁶ New South Wales Consolidated Acts, http://www.austlii.edu.au/au/legis/nsw/consol_act/cpa1999278/s3.html#good_behaviour_bond. Accessed on 21 Jan 2016.

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⁸ NSW Sentencing Council, Good behaviour bonds and non-conviction orders, (Sydney: New South Wales Sentencing Council, 2011), p. 28.

⁹ New South Wales Sentencing Council, p. 44.

¹⁰ Good behaviour bonds and non-conviction orders, NSW sentencing council, 2011

¹¹ Poynton et. al (2014), Community supervision and rehabilitation: Two studies of offenders on supervised bonds

¹² Weatherburn and Trimboli (2008) in Poynton et. al (2014), Community supervision and rehabilitation: Two studies of offenders on supervised bonds.

¹³ Weatherburn D and Lorana Bartels, The Recidivism of Offenders Given Suspended Sentences in New South Wales, Australia (Oxford University Press on behalf of the Centre for Crime and Justice Studies, 2008).

¹⁴ Poynton S and Weatherburn D, Bonds, suspended sentences and reoffending: Does the length of the order matter, (Criminology Research Advisory Council, 2012), p. 2;

¹⁵ Poynton S., Weatherburn D., & Bartels L., Good behaviour bonds and reoffending: The effect of bond length, (Sage, on behalf of ANZOC, 2014).

¹⁶ *ibid*

¹⁷ *ibid*

¹⁸ Snowball L, and Bartels L, Community Service Orders and Bonds: A comparison of reoffending (NSW: Bureau of Crime Statistics and Research Issue 171, 2013)

¹⁹ Poynton and Weatherburn, Bonds, suspended sentences and reoffending: Does the length of the order matter, (Australia: Australian Institute of Criminology, 2013).

²⁰ *Legislative Council Standing Committee on Law and Justice, Parliament of NSW, Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations, Report 30 (2006) IN NSW Sentencing Council, Good behaviour bonds and non-conviction orders, (Sydney: New South Wales Sentencing Council, 2011). p. 24, 25; Armstrong et al., International Evidence Review of Conditional (Suspended) Sentences (The Scottish Centre for Crime and Justice Research, 2013), p. 5. p. 6.*

²¹ Armstrong et al., International Evidence Review of Conditional (Suspended) Sentences (The Scottish Centre for Crime and Justice Research, 2013), p. 25.

²² The New Zealand Herald, http://www.nzherald.co.nz/northern-advocate/news/article.cfm?c_id=1503450&objectid=11106498. Accessed 21 January 2016. http://m.nzherald.co.nz/entertainment/news/article.cfm?c_id=1501119&objectid=11534180. Accessed 20 January 2016.

²³ The Sentencing Act 2002, Parliamentary Counsel Office, http://www.legislation.govt.nz/act/public/2002/0009/last/DLM136814.html?search=ts_act%40bill%40regulation%40deemedreg_sentencing+act_resele_25_a&p=1#DLM136814 (110, 1-3). Accessed 21 January 2016.

²⁴ Criminal Procedures Act (New Zealand: Parliamentary Council Office, 2011) ss 366-372.

²⁵ Unpublished data, Ministry of Justice (data drawn March 2016)

²⁶

<http://www.criminalawandjustice.co.uk/features/Replacing-ASBO-IPNA>. Accessed on 11 April 2016;

²⁷ Legislation.Gov.Uk <http://www.legislation.gov.uk/ukpga/2014/12/part/1>, Accessed 11 April 2016;

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/251312/01_Factsheet_Replacing_the_A_SBO_-_updated_for_Lords.pdf, accessed 11 April 2016.