

Social Impact Bonds

Legal information for Australian community organisations



This fact sheet covers:

- what is a social impact bond?
 - is a social impact bond right for our organisation?
 - how do we set up a social impact bond?
 - how do we measure outcomes?
 - what are the key legal issues associated with social impact bonds?
 - other types of social impact investing
 - brief history of social impact bonds
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This fact sheet assists Australian not-for-profits to understand what a social impact bond is, and to assess whether a social impact bond might be an appropriate financial instrument for their activities. It includes information about how to set up a social impact bond and outlines some of the legal issues that may arise for a not-for-profit funded by a social impact bond.

1. What is a social impact bond?

1.1 Definition

A social impact bond (**SIB**) is a financial instrument that pays a return based on the achievement of agreed social outcomes. To date in Australia they have been initiated by state governments, to address social problems that were previously funded exclusively by government grants.

Private investors provide capital to fund a social program, usually (but not exclusively) carried out by specialist not-for-profit groups. If there is an improvement in the social issue (ie, the agreed social outcome is achieved), the government pays a service charge. That charge repays the investors their initial investment plus a return for the financial risks they assumed, but may be in 'part', not full because there is not a 100 per cent guarantee. If the social outcomes are not achieved, the investors stand to lose all or part of their investment.

SIBs mainly fund programs that involve early intervention in social problems. In preventing the escalation of a social problem, the programs can:

NOTE

SIBs are also known as 'Pay for Success' projects in the US and 'Social Benefit Bonds' in some Australian states.

- reduce the demand on acute government services
- achieve a greater positive social outcomes for the persons involved, and
- save government funds by preventing the escalation of the social issue.

Potential benefits for investors

Assuming that the program achieves agreed social outcomes, investors will earn a return on their investment. While the “upside” will be capped by the state government, recent Australian SIBs have the potential to earn returns in excess of 10% per annum. At present, to promote the growth of the fledgling SIB sector, investors also have some “downside protection” in relation to their initial capital contribution (usually 50-60% of the face value of the investment). State governments have agreed to pay a standing charge to service providers in order to smooth the cash flow generated by the program, as the first outcome measurement usually takes 18-24 months to occur. The standing charge essentially operates as a state underwrite of the program, such that the investors do not face a risk of total and permanent capital loss. This, along with early termination rights in the event that the SIB fails to achieve its stated objectives, means that the risk profile of SIBs can be quite attractive to private and institutional investment when compared to traditional fixed income investments.

Potential benefits for government

For fiscally-constrained governments, SIBs present an opportunity to outsource the upfront financing risk for social programs to private sector investors. In theory, if the social program succeeds, the government can both:

- pay the investors a premium, *and*
- save money that would otherwise be directed at addressing the social problem.

If the social program does not succeed, because the initial expenditure is funded by private sector investors, the government is able to save resources for other programs.

Potential benefits for service providers

SIBs have the potential to provide greater funding certainty for service providers. Provided that the social program is successful and is not terminated early, SIBs generally have a term of between 5–8 years. This provides the service provider with an opportunity to deliver a comprehensive and innovative program that isn’t beholden to an annual grant cycle. Service providers also develop relationships with new funders: some of whom may not otherwise participate in the philanthropic or charitable sector.

Potential benefits for clients of the service

Whether the SIB is targeting children leaving out of home care, persons in custody leaving the prison system, victims of domestic violence, or people addicted to alcohol or other drugs, the attraction of a SIB is that it often provides long-term funding for innovative programs that could provide an outstanding new service to Australia’s most vulnerable and disadvantaged people.

1.2 Example – Aspire SIB

To illustrate the operation of a SIB, consider the Aspire SIB, Australia’s first SIB focusing on homelessness. In August 2015, the South Australian Government (**SA Government**) announced it

would negotiate and develop a SIB with local service providers. This culminated in the Aspire SIB, which commenced in July 2017.

The Aspire SIB funds the Aspire Program, delivered by Hutt St Centre, an Adelaide-based homelessness services specialist, in partnership with community housing providers including Common Ground Adelaide and Unity Housing.

Under the model, up to 600 adults experiencing homelessness will be referred to the Aspire Program over a four year period. Each person will be offered intensive case-management support for up to three years.

Participants will be provided with stable accommodation, job readiness training, pathways to employment and life skills development.

FURTHER READING

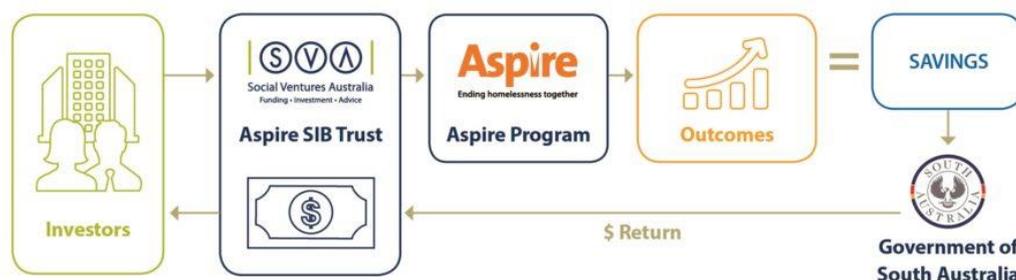
For more details on the Aspire SIB, see:

- Social Ventures Australia: www.socialventures.com.au/work/aspire-sib/
- Hutt St Centre: www.huttstcentre.org.au/how-we-help/aspire-program

1.2.1 How it works

- The SA Government puts out a request for proposals for service providers to reduce homelessness. Multiple service providers submit proposals, with a small number being shortlisted.
- The SA Government undertakes a joint development phase with shortlisted bidders, during which the programs are scrutinised and tested against the SA Government's counterfactual.
- The SA Government partners with Hutt St Centre and Common Ground to negotiate a SIB, culminating in the Aspire Program.
- The bond manager (Social Ventures Australia) attracts private investment.
- The investors supply the working capital of the Aspire Program.
- Hutt St Centre, in partnership with the housing providers, works with the referred clients to get them into housing and to assist them in achieving their employment and life goals.
- The Program contains targeted financial and social outcomes, including:
 - a 15% reduction in the number of days spent in hospital as admitted patients, relative to a baseline
 - a 15% reduction in the number of convictions relative to a baseline
 - a 50% reduction in the number of short term/emergency accommodation support periods relative to a baseline, and
 - the generation of \$20 million in government savings.
- Depending on performance, the investors stand to make a profit through payments by SA Government.

1.2.2 Structure of the Aspire SIB



Source: [Social Ventures Australia](#)

1.2.3 Who can invest?

As is usual practice, the Aspire SIB is not available to ‘retail clients’ as defined in the *Corporations Act 2001* (Cth) (**Corporations Act**). It is only available to ‘wholesale clients’. The rationale for this is that SIBs are relatively complex financial products, and retail investors may not have the requisite knowledge and experience to invest safely in the product. For the purposes of the Corporations Act, ‘wholesale clients’ include:

- people or entities that have net assets of at least \$2.5 million (as stated by a qualified accountant), or a gross income for each of the last two financial years of at least \$250,000, and
- professional investors, which include, among others, financial services licensees, bodies regulated by APRA, superannuation funds, as well as a people or entities that control gross assets of at least \$10 million (including any amount held by an associate or under a trust that the person manages).

1.3 Australian SIBs

There are more than 10 current or planned SIBs in Australia (March 2018). These include two from Victoria: the latest state to launch its SIB pilot. The first Victorian SIB focuses on homelessness and is sponsored by Sacred Heart Mission, Housing Choices Australia and Unison Housing (with National Australia Bank advising). The second SIB focuses on children leaving out of home care and is sponsored by Anglicare Victoria and VincentCare Victoria (with KPMG advising).

Attachment 1 contains a snapshot of the SIBs currently in operation in Australia.

2. Is a SIB right for your organisation?

As stated by the Ontario-based MaRS Centre for Impact Investing, the SIB ‘[is not a panacea for capitalising all social sector programs](#)’. This is because a successful SIB will usually be characterised by the two following features.

2.1 Preventive approach

SIBs are well suited to social programs that are directed at the **prevention** of negative social outcomes. This is because, for investors to receive a return, the funded social program should achieve cost savings for the government. By preventing the manifestation or escalation of a negative social outcome, a SIB program can reduce government expenditure.

A key advantage of preventive approaches is you can readily compare the group that is the subject of an interventionist social program, with a live control group or statistical counterfactual to ascertain the effectiveness of the intervention. This advantage of preventive approaches links with the second typical feature of SIB-funded social programs, quantifiable outcomes.

2.2 Quantifiable outcomes

In order to present a persuasive value proposition to both investors and government agencies, service providers will need to demonstrate that the outcome of their work can be easily substantiated with facts and figures. This is essential because any payment for a results scheme, of which a SIB is one example, relies on positive performance for payment, and that performance must be capable of objective determination.

The financial benefits should be capable of determination, including both the **direct benefits** (immediate cash savings to the government) and **indirect benefits** (e.g. avoided costs and productivity gains). The social benefits will often be **intangible**, meaning they cannot be measured directly in dollar terms.

Consider the Aspire Program: the desired social benefits include tangible benefits such as defined periods in stable housing, and intangibles such as improved mental health and feelings of wellbeing for homeless adults in Adelaide. In order to present a value proposition to government (and, by extension, investors), those intangibles must be translated into direct and indirect financial benefits. This is achieved through the objective measures of the program – a 15% reduction in conviction rates, a 15% reduction in hospital bed days, and a 50% reduction in the use of crisis accommodation.

3. Process for establishing a SIB

3.1 Developing a SIB project

The four main stages of a SIB project are:

1. **Sourcing opportunities by identifying a social need and pairing government with a not-for-profit or other sponsor**
2. **Joint development phase and entering into contractual arrangements**
3. **Sourcing investors, and**
4. **Impact management – measuring outcomes and paying returns.**

Source: Social Impact Bond Technical Guide for Service Providers (MaRS Center for Impact Investing, November 2013) 6.

1A. Sourcing opportunities

A first port of call should be the various state government initiatives in the impact investing space. In Australia, while the Commonwealth Government has [expressed interest](#) in the SIB concept, to date SIBs have been driven by state governments. The usual procurement approach is an open process with a public tender.

Attachment 2 contains a brief description of the state approaches at the time of writing. It appears that there are no current initiatives by the Tasmanian, Western Australian, Australian Capital Territory and Northern Territory governments.

1B. Developing your proposal

The NSW Government's Office of Social Impact Investment (OSII) has [helpfully articulated](#) some tips on developing your proposal, including what should be included in the proposal to increase the chance of being selected for joint development. These tips are the result of lessons coming out of the 2015 request for proposal (RFP) process. While strictly speaking, they only apply to NSW RFPs, Justice Connect's Not-for-profit Law service considers that the advice has national application.

Not-for-profits should consider partnering with other service providers in the interests of smooth implementation, including:

- local not-for-profits, and
- existing service providers.

1. Review a request for proposal document carefully

As with any tender process, proponents should review the RFP documents carefully. RFPs will clearly state evaluation criteria and describe what information the particular government requires in order to assess proposals. Often, the RFP will also include a submission structure. While not mandatory, it is a good idea to follow the submission structure.

2. Provide a clear and comprehensive description of the proposed service and target clients

According to OSII, many service providers fail to clearly describe the nature of the proposed service and the target clients. The proposal should outline each component of the service, show how clients will move through it, and establish the link between the service provided and the outcome (where the outcome includes both the positive social outcome and the reduction in government expenditure).

A good proposal will also outline the basis upon which the client group will be targeted, and the process for their referral. The target population must be large and objectively determined. As Elyse Sainty of Social Ventures Australia notes, "finding and assessing people 'at risk of losing a job' is much more problematic than people 'employed less than 10 hours per week'".

FURTHER READING

See Elyse Sainty's (Social Ventures Australia) article '[Is your program suitable for a social impact bond?](#)' for further information.

3. Address all evaluation criteria

It is important to address all evaluation criteria. OSII has seen many proposals that do not fully address all criteria, particularly the 'value for money' or 'sharing of financial risk and return' sections. The weighting of questions will differ from government to government, but you should assume that service providers will be expected to provide detailed submissions as to financial risk and the expected economic outcome.

4. Provide a preferred position, if outlining options in your response to criteria

Some RFPs will provide scope for a service provider to list a number of potential positions or options for different aspects of their proposals. While you may want to list a number of options, OSII [recommends](#) that you outline a preferred option: '[t]o ensure your proposal receives the appropriate score, it must clearly identify a preferred position, the rationale for that position, and indicate whether or not the stated position is negotiable'.

5. Clearly explain 'program logic'

A program logic tells the story of a proposed service – how it works and why. The program logic will explain how inputs, activities and outputs are expected to contribute to the intended outcomes (social and financial), and will include what should be measured.

DEFINITION

According to the OSII, a 'program logic':

Presents the logic of how an intervention will work. The links between activities, intended outcomes, and between outcomes are shown, to articulate the intended causal links for the program. There is no one way to represent program logic – the test is whether it is a logical representation of the intervention's causal links.

Synonyms include program theory, logic model, theory of change, causal model, outcomes hierarchy, results chain, and intervention logic.

Further information is here: www.osii.nsw.gov.au/assets/office-of-social-impact-investment/files/Technical-guide-for-outcomes-measurement.pdf.



6. Provide a reasonable level of evidence of service effectiveness

There is an obvious tension in a SIB, in that it is intended to promote innovation in the search for solutions to complex social problems. Of its nature, innovation involves the testing of novel methods, and this means there will not always be a wealth of evidence as to the efficacy of the method.

Despite this, what evidence there is for the proposal should be clearly set out. This might be in the form of an academic literature review, analysis of comparable programs trialled in other jurisdictions, and where possible, should have a focus on quantifiable client outcomes a result of participating in a service. Additionally, OSII recommends that a proposal demonstrates that the service incorporates nationally or internationally-accepted principles for quantifying outcomes in the policy or service area.

7. Provide financial information

At a minimum, the cash inflows and outflows of all parties for each year of the contract period should be clearly set out in the proposal.

Any government savings that are expected to accrue beyond the contract periods should also be included (e.g. indirect financial benefits).

You should also include desired payment frequency (e.g. quarterly, annually), and reflect this in cash flow modelling.

TIP

OSII has developed a financial model template, 'The Model', to support proponents in assessing the feasibility of their proposed social impact investment and in particular, to think through the financial risks and returns to various stakeholders. This can be accessed at: www.osii.nsw.gov.au/tools-and-resources/financial-modelling-template/.



2. Joint development phase

The joint development phase essentially involves the legal advisors preparing a suite of template documents, and the state government team and the short-listed bidders further refining the proposed program, its measurement and its economics. A short-listed bidder and the relevant government line agency will identify outcomes and define and agree upon supporting key performance indicators. Other features that will be negotiated and/or developed over the course of a joint development phase include:

- timing and triggers for government payments for the SIB
- contractual relationships and legal structure
- risk allocation between the parties, and
- determination of the participant cohorts.

The practice has usually been that the relevant State government Department of Treasury will facilitate the overall process.

1. Relevant contractual documents

[OSII's website](http://www.osii.nsw.gov.au) contains a number of template legal documents that have been developed by King & Wood Mallesons and the NSW Crown Solicitor's Office, in consultation with Trevor Danos AM.

They can be accessed at: www.osii.nsw.gov.au/tools-and-resources/sample-legal-docs/.

The same parties have also adapted these templates for the Victorian jurisdiction, and are available at: www.dtf.vic.gov.au/social-impact-bonds/sample-legal-template-documents

The core legal arrangements for any SIB are the joint development agreement and the implementation agreement between the relevant State government agency and the service provider. In a consortium scenario, organisational arrangements are necessary to establish (among other things) how the parties forming the consortium are arranged, who performs what role, and who bears what risk.

Private investor arrangements are required for the raising and servicing of private funding. This may be via bonds, equity or loan funding.

The key general contractual documents that are likely to be required include:

- **Joint development agreement:** sets out contractual arrangements between the relevant government department and the service provider during the joint development phase.
- **Implementation agreement:** sets out contractual arrangements between the relevant government department and the service provider for providing services and issuing bonds.

! CAUTION

If you are a service provider engaging in a joint development phase process, be sure to obtain independent financial and legal advice, as you may be assuming significant obligations.

- **Information memorandum:** an offering document provided to potential investors, which describes the service provider, the proposed services, the terms and conditions of the bonds, and key risks of investment.
- **Bond conditions:** a document that outlines the terms and conditions of the bonds.
- **Bond deed poll:** an agreement that creates the service provider's legal 'promise' to investors to perform its obligations under the bonds and creates the bond instrument.
- **Bond purchase agreement:** an agreement between the service provider and investors in relation to the first issue and sale of bonds.
- **Services subcontract:** an agreement that provides for how the proposed services will be provided by any subcontractors.
- **Direct agreement:** if the service provider is operating via a "special purchase vehicle" (SPV), an agreement that creates direct legal arrangements between the service provider and the government department, to deal with the situation where the SPV become insolvent.
- **Security agreements:** if the service provider is operating via an SPV, and if investors or the government department require security over that SPV, security agreements over the assets of the SPV may be required.

DEFINITION

A "special purpose vehicle" is a company or trust that is established solely for the purpose of entering into the contracts related to the SIB. It provides a higher level of protection for the service provider's own balance sheet.

If the social impact investment is to be funded by way of a loan, rather than a series of bonds, a loan agreement would be entered into instead of the bond documents.

3. Sourcing investors

Potential steps to identify investors include:

- analyse the investment market.
- obtain a rating of principal repayment to assist attracting investors, and
- consider flexibility in the investment structure.

Potential investors include:

- philanthropic foundations
- private ancillary funds (PAFs), formerly known as prescribed private funds
- superannuation funds, both self-managed and larger superannuation funds
- high net worth individuals
- banks or other financial institutions, and
- other commercial institutions like insurance companies.

CAUTION

While obtaining a credit rating from a ratings agency like Standard & Poor's or Moody's may increase the number of investors who can invest in a SIB, this can be an expensive and time-consuming process. No Australian SIB to date has had a formal rating.

4. Impact management

4.1 Measuring outcomes and paying returns between the service provider and government

The contracts entered into between the service provider and the government will be an outcome-based agreement which will:

- define the outcomes and identify performance measures against which attainment of the outcomes can be tested
- detail the payment mechanism for the outcomes including the nature and components that are outcome based and whether there are any 'standing charges' payments. This mechanism will determine the extent of principal repayment and amortisation of the bonds
- identify a pathway for resolving issues such as cohort definition, referral and recruitment
- provide for an independent and transparent process to assess and measure the delivery of services against the outcomes' performance measures, and
- set the parameters for the not-for-profit to identify potential investors and to set the commercial terms for the SIB.

4.2 Measuring outcomes and paying returns between the service provider and investors

A SIB is essentially a debt arrangement. Upon execution, the investors will have an obligation to pay to the service provider a specified amount of investment capital (principal) on an agreed date or in multiple tranches on a series of agreed dates. The service provider will apply the principal towards the program.

The SIB will:

- set out the commercial terms for the payment of interest, including any pre-conditions and including any deferral and capitalisation
- set out the commercial terms for the repayment of principal, including any pre-conditions and including the end date, and
- generally limit the recourse of the not-for-profit to moneys received from government under the program.

4.3 Determining, evaluating and monitoring outcomes of SIBs

RAND Europe, in a 2016 [presentation](#) for the Organisation for Economic Co-operation and Development (OECD), notes the following five things to think about in determining, evaluating and monitoring outcomes of SIBs:

1. Select indicators of the outcome and identity a data source

For instance, if the outcome sought is a reduction in homelessness, the indicator might be the number of nights in crisis accommodation, or the number of members in a cohort afforded social housing, and the data source might be the case management records of an existing local authority.

2. Attribute the outcome to the intervention (establish a counterfactual)

Establishing a counterfactual refers to the asking of the question: ‘what would the outcome have been if the intervention had not occurred?’

3. Decide duration and frequency of measurement

This very important question should be considered at the beginning of bond design, and can be complicated given the potential for non-alignment of investor and social interests. Too short a duration risks paying for short-term effects, yet too long a duration of measurement risks a shortfall in investment, as investors are keen to see early results in order to receive outcome payments.

Again, taking reduction in homelessness as the goal, if the duration of measurement is one month, for instance, it would be very easy to design a program that vastly reduced homelessness over that term by providing short-term accommodation options. This would ignore, however, the broader systemic changes and intensive psychological and social support needed for a long-term reduction in homelessness. If the duration of measurement is two years, however, it might be challenging to find investors willing to wait that long before assessing the financial health of their investment.

4. Identify who should measure the outcomes

Best practice suggests that measurement and assessment of the outcomes should be undertaken by an independent assessor in order to both mitigate the risk of mistakes and maintain good governance.

5. Prevent gaming and perverse incentives

There is a danger that SIBs can be ‘gamed’ by cherry picking entrants to social programs (for instance, a referral process might provide an element of discretion that leads to only those ‘easy’ cases being referred to the program, resulting in larger outcome payments for investors). Another risk is that a blunt SIB design might create perverse incentives (improvements in the outcome measure for the SIB lead to, overall, worse outcomes for people). For instance, with respect to homelessness reduction, the outcome might be whether or not individuals return to care, with payments attached to a reduction in the number of individuals returning. A better measure is the number of days in care, allowing for progress to be tracked in a more holistic way (seeking care is not penalised, but an effort is made to address the root causes and thereby reduce the overall need for care). This, along with awarding larger payments for long-term outcomes, can help prevent perverse incentives.

NOTE

For a personal insight into developing a counterfactual model for a SIB, read [this article](#) by Sally Cowling, Director of Research, Innovation and Advocacy for UnitingCare Children, Young People and Families on social impact analyst Emma Tomkinson’s website.

5. Key legal issues

There are several legal issues a service provider should consider in responding to an RFP, devising a program structure, and entering into a joint development phase. These include, but are not limited to

the following. Assuming the service provider is a not-for-profit, is the SIB in keeping with the service provider's existing purpose?

In general, a not-for-profit is required to abide by its stated purpose, set out in its constitution. This can be particularly relevant if the service provider is also a registered charity and/or a deductible gift recipient (**DGR**). You should therefore consider whether undertaking a SIB is within your organisation's stated purpose.

If a service provider is constrained from pursuing a SIB due to its stated purpose being particularly narrow, that stated purpose could be amended, usually by convening a general meeting and passing a special resolution. However, the specific laws are different depending on your jurisdiction and legal structure.

For more information, view the jurisdiction-specific resources on Not-for-profit Law's website at www.nfplaw.org.au/constitution. It is important to make sure that the amended purpose does not affect the service provider's charitable and/or DGR status. That is, the wider purpose must still be a 'charitable' purpose, and (if relevant), confined enough for the particular DGR category. For example, a Public Benevolent Institution (**PBI**) that provides various forms of assistance to homeless men could change its purpose to include assisting homeless women. It could not however, broaden its purpose to provide assistance to any person living in metropolitan Melbourne (regardless of whether they were homeless) as that would extend the potential beneficiaries beyond a disadvantaged group and mean they would no longer meet the criteria of a PBI (thus losing entitlement to their DGR status).

5.1 Who owns the intellectual property (IP) of the program?

Your organisation's intellectual property is what differentiates you from other organisations. It is important, valuable and worth protecting. Your organisation's intellectual property includes the rights it may have in its:

- name
- logo
- the names or logos of any programs or services developed by your organisation
- publications
- training materials
- website design and content
- domain name
- computer applications, programs, or databases it has developed, and
- any ideas, innovations and inventions.

You should obtain legal advice to determine to whom the intellectual property of the SIB program will be attributed. For further information on intellectual property, view Not-for-profit Law's *Guide to Intellectual Property Law* at www.nfplaw.org.au/ip.

5.2 Insurance

Insurance is an important consideration for not-for-profit groups participating in SIBs. It is sometimes essential under the terms of a funding agreement, including a SIB, and is sometimes a choice for groups to consider. Not-for-profit Law's *Insurance and Risk Management for Community Organisations* guide can be found [here](#).

5.3 Other legal issues

In addition to the legal issues set out above, some other issues that may arise include, but are not limited to:

- compliance with ASIC legislative instruments for the offering of financial products
- the duties of directors of the board of the SPV, including the need to avoid conflicts of interest, and
- ensuring that any subcontracts to the implementation agreement are prepared on a back-to-back basis (meaning the SPV seeks to pass its obligations and liabilities under the main contract to the sub contractor) to minimise contractual assumption of risk on the SPV.

6. Other types of impact investing

Impact investing is a form of investing that intentionally seeks to achieve a positive social, cultural or environmental benefit as *well* as a financial return. It can span asset classes, sectors, types of organisation, and can deliver a range of financial returns and positive social impacts. The [term can be traced](#) to a gathering of leaders at the Rockefeller Foundation's Bellagio Centre in 2008.

While SIBs are one form of impact investment, there are other impact investments that might present opportunities for your organisation.

Private equity and private debt are the most common financial products adopted in impact investment.

Debt financing is where a person or organisation (the borrower) borrows money from another (the lender). The lender and borrower make an agreement (a lending contract) for the borrower to repay the money at a later date and pay interest on the amount borrowed.

By contrast, equity financing is where an investor provides capital to an organisation in exchange for a share in the organisation. Of the two, debt financing is more prevalent given the not-for-profit status of most investees (receivers of capital).

RELATED RESOURCES

For more information on debt financing, check out Not-for-profit Law's fact sheet on this topic at www.nfplaw.org.au/newfunding.



7. Brief history

The SIB was pioneered by UK not-for-profit Social Finance. The first SIB was launched in September 2010 at Peterborough Prison. The bond funded an intervention called the One Service. The One Service provided 'through-the-gate' and post-release support to adult male offenders released from HMP Peterborough who had served prison sentences of less than 12 months, with an aim of reducing reoffending.

SIBs have rapidly grown in popularity. There are now over 80 SIBs in operation worldwide, with many more in the development phase. This includes over 30 across the UK, where SIBs originated, and at least 8 in Australia. According to Social Finance in their report [Social Impact Bonds: The Early Years](#), SIBs have been largely successful, with 21 SIBs reporting positive performance as at July 2016.

One notable exception is the first US SIB at Rikers Island Correctional Facility in New York City. The Rikers Island SIB funded a cognitive behavioural therapy program 'ABLE' for 16–18 year old youths detained on the island. The funder (Goldman Sachs, guaranteed by Bloomberg Philanthropies) stood to break even if the recidivism rate among the targeted youths reduced by 10%, and could make a USD \$2m profit on their \$9.6m investment if the rate reduced by 20%.

The ABLE therapy program did not result in any decrease in recidivism, and the program was discontinued early. Despite the poor result, it can still be viewed as a success in two interlinking ways:

- it encouraged the innovative use of a treatment option, moral reconnection therapy, that would perhaps not have been trialled otherwise; and
- the mechanism worked as intended: when the independent Vera Institute of Justice [evaluation report](#) indicated no reduction in recidivism, investors took the loss and government did not have to pay for unsuccessful services.

So while the brief history of SIBs has experienced some failures, there remains a growing demand.

QUOTE

Why do Social Impact Bonds resonate so widely? We think that it is the **values** of **partnership** and **collaboration**, **flexibility** and **responsiveness**, and a focus on **data**, **outcomes**, and **measurement** which all stand at the heart of the model.

— Social Finance

Attachment 1

SIBs currently in operation in Australia

| SIB | State | Description |
|--|-------|---|
| Newpin | NSW | <p>Policy area: family reunion and out-of-home care reduction</p> <p>Brief description: works to restore children in out-of-home care with their families and prevent at-risk children from entering care by educating parents about family environments</p> <p>Commencement date: March 2013</p> <p>Measurement of outcomes: rate of restoration of children who enter the program from out-of-home care to their parents</p> <p>Term: 7.25 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • UnitingCare Burnside (service provider) • Social Ventures Australia (trust manager) • NSW Treasury and the NSW Department of Family and Communities (government) <p>Expected contract value: \$7 million</p> <p>Performance: (actual returns based on cumulative results and paid to investors on maturity of bond):</p> <ul style="list-style-type: none"> • 2013-14: 7.5% • 2014-15: 10.7% • 2015-16: 19.42% • 2016-17: 16.44% |
| Benevolent Society Social Benefit Bond | NSW | <p>Policy area: out-of-home care reduction</p> <p>Brief description: works to keep families together through an intensive family support service. As at July 2017, 21% fewer children entered care compared to a control group</p> <p>Commencement date: 2013</p> <p>Measurement of outcomes: reduced out-of-home care entries, fewer Helpline Reports, a reduced number of safety and risk assessments</p> <p>Term: 5 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • The Benevolent Society (service provider) • Westpac and CBA (financial intermediaries) • Family and Community Services (NSW Government) <p>Expected contract value: \$12.75 million (\$10 million principal raised)</p> <p>Performance:</p> <ul style="list-style-type: none"> • Two classes of bonds: <ul style="list-style-type: none"> ○ Class P Bonds: senior, capital protected class; and ○ Class E Bonds: subordinated, capital exposed class. • Returns (actual returns calculated based on cumulative results and paid to investors on maturity of bond): <ul style="list-style-type: none"> ○ 2014-15: <ul style="list-style-type: none"> ▪ Class P: 5% ▪ Class E: 8% |

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| | | <ul style="list-style-type: none"> ○ 2015-16: <ul style="list-style-type: none"> ▪ Class P: 6% ▪ Class E: 10.5% |
| OnTRACC | NSW | <p>Policy area: reoffending and re-incarceration</p> <p>Commencement date: September 2016</p> <p>Measurement of outcomes: reduction in re-incarceration rate of participating parolees as against a randomly selected control group</p> <p>Term: 5 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Australian Community Support Organisation (service provider and investor) • arbias (service provider) • National Australia Bank (investor)* • Corrective Services NSW (Government) <p>Expected contract value: not publicly released by the NSW Government</p> <p>* OnTRACC is privately financed by ACSO and NAB.</p> |
| Aspire SIB | SA | <p>Policy area: adult homelessness</p> <p>Brief description: a program involving the immediate provision of social housing to homeless adults based in Adelaide, coupled with intensive case-management support for up to three years</p> <p>Commencement date: July 2017</p> <p>Measurement of outcomes: reduction in hospital bed days, convictions and crisis accommodation periods</p> <p>Term: 7.75 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Hutt St Centre (service provider) • Common Ground Adelaide (housing provider) • Unity Housing (housing provider) • Social Ventures Australia (trust manager, bond marketer) <p>Expected contract value: \$9 million</p> |
| Silver Chain Social Impact Investment | NSW | <p>Policy area: palliative care</p> <p>Brief description: The Silver Chain Group Community Palliative Care Service in Western Sydney Local Health District will provide approximately 8,300 patients who have an advanced, life-limiting and progressing illness with enhanced community-based palliative care services</p> <p>Commencement date: July 2017</p> <p>Measurement of outcomes: reduction in hospital use by people receiving the service, compared to a control group</p> <p>Term: 7.75 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Service Chain Group (service provider) • NSW Health <p>Expected contract value: \$80 million</p> |
| Resolve Social Benefit Bond | NSW | <p>Policy area: mental health</p> <p>Brief description: participants to be provided with comprehensive, recovery-oriented mental health support over two years, tailored to their individual needs, in an effort to reduce hospital use</p> <p>Commencement date: October 2017</p> <p>Measurement of outcomes: reduction in hospital use by Resolve participants relative to a control group</p> <p>Term: 7.75 years</p> <p>Parties:</p> |

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| | | <ul style="list-style-type: none"> • Flourish Australia (service providers) • Social Ventures Australia (trust manager) <p>Expected contract value: \$7 million</p> <ul style="list-style-type: none"> • AUD \$7 million in funding, raised and managed by Social Ventures Australia, to Flourish Australia to deliver the Resolve Program to approximately 530 patients in Nepean Blue Mountains and Western NSW Local Health Districts <p>Expected return: 7.5% p.a.</p> |
| Newpin Queensland | QLD | <p>Policy area: family reunion and out-of-home care reduction</p> <p>Brief description: based on the NSW Newpin Program, will focus on working with 200 families, the majority being First Australians, over a five year period, to reunite children in state care with their families</p> <p>Commencement date: TBD</p> <p>Measurement of outcomes: the rate of child-to-family restorations, as against a counterfactual restoration rate of 25%</p> <p>Term: 7.25 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • UnitingCare Queensland (service provider) • Social Ventures Australia (trust manager) <p>Expected contract value: \$6 million</p> |
| Queensland Reoffending | QLD | <p>Policy area: reoffending and re-incarceration</p> <p>Brief description: a multi-systemic therapy (MST) model targeting high risk young people aged 10 to 16 years in Brisbane and surrounding areas</p> <p>Commencement date: TBD (announced 31 May 2017)</p> <p>Measurement of outcomes: reduction in reoffending frequency</p> <p>Term: 6.75 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Life Without Barriers (service provider) • National Australia Bank (management, bond design) • Youth Justice (Queensland Government) <p>Expected contract value: \$8.2 million</p> |
| YouthCONNECT SBB | QLD | <p>Policy area: youth homelessness</p> <p>Brief description: The Youth Connect Program will help up to 300 youth in Logan, Ipswich and Townsville who are at risk of homelessness, and who are referred to the service by the Queensland Government</p> <p>Commencement date: TBD (market launch 25 July 2017)</p> <p>Measurement of outcomes: 'resilience', measured through maintaining housing stability, and participation in a combination of education, employment and/or personal development activities for 12 months</p> <p>Term: 6.5 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Churches of Christ in Queensland (CoCQ) (service provider) • Social Outcomes, Westpac (bond design, measurement framework, financial and commercial modelling, bond investment structure) <p>Expected contract value: \$5 million</p> |

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| <p>Journey to Social Inclusion (J2SI)</p> | <p>VIC</p> | <p>Policy area: homelessness</p> <p>Brief description: <i>Journey to Social Inclusion</i> will provide intensive case management, supplemented by rapid access to stable housing, to 180 clients who are chronically homeless. The aim is to create a lasting positive change for people experiencing homelessness. Specifically, clients are expected to maintain stable, secure housing, have better health outcomes and establish stronger community connections.</p> <p>Commencement date: TBD (market launch 21 December 2017)</p> <p>Measurement of outcomes:</p> <ul style="list-style-type: none"> • Achievement of stable housing – the percentage of the cohort in stable housing as evidenced by case notes that demonstrate the achievement of a sustained tenancy. • Improved health and wellbeing – reductions in hospital bed days across the cohort. <p>Term: 3 years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Sacred Heart Mission • Housing Choices Australia • Unison Housing • State Government of Victoria <p>Expected contract value: \$3.69 million</p> |
| <p>COMPASS Social Impact Bond</p> | <p>VIC</p> | <p>Policy area: homelessness and young people living care</p> <p>Brief description: <i>COMPASS – Achieving life outcomes for care leavers</i> is a preventative program aimed at improving the outcomes for young people as they transition from care to independent living. It provides care leavers with two years of access to housing, a key worker to navigate the system, an education specialist, and specialist support services based on the level of assessed need.</p> <p>Commencement date: TBD (market launch 15 February 2018)</p> <p>Measurement of outcomes:</p> <ul style="list-style-type: none"> • Achievement of stable housing – a decrease in homelessness as measured by access to short-term or emergency accommodation from Specialist Homelessness Services. • Improved health – physical and mental health improvements as measured by emergency department presentations. • Decrease in offending behaviour – as measured by the number of convictions recorded. <p>Term: Two years</p> <p>Parties:</p> <ul style="list-style-type: none"> • Anglicare Victoria • VincentCare • State Government of Victoria <p>Expected contract value: \$14.2 million</p> |

Attachment 2

State approaches to establishing SIBs

| State | Information |
|-------|--|
| NSW | <p>New South Wales has developed an Office of Social Impact Investment (OSII). OSII regularly makes formal requests for social impact investment proposals (RFPs) through NSW eTendering. RFPs are open to proposals in any policy area, though the NSW Government usually identifies target areas.</p> <p>In 2015, the NSW Government held two RFPs and received 37 proposals across both RFPs. To give an indication of the frequency of RFPs, the last three RFPs have closed on the following dates:</p> <ul style="list-style-type: none"> • 18 September 2017 • 12 December 2016 • 15 February 2016 <p>Previous target areas have included:</p> <ul style="list-style-type: none"> • increasing permanency for children in out of home care, particularly through open adoption • improving outcomes through early childhood education • addressing youth unemployment • managing chronic health conditions • managing mental health hospitalisations • supporting vulnerable young people, particularly out-of-home care leavers, to transition to independence, and • supporting offenders on parole to reduce their levels of reoffending and re-incarceration. <p>OSII periodically hosts market sounding sessions to help interested parties prepare for future requests for social impact investment proposals.</p> <p>OSII also produces annual Statements of Opportunities that identify the NSW Government's priorities for future social impact investment transactions, available here.</p> <p>All prior RFPs are available on OSII's website here.</p> |
| VIC | <p>The Victorian Government Department of Treasury and Finance website contains an overview for SIBs in Victoria. The website contains sample legal template documents, SIB workshop presentations and notices regarding RFPs.</p> <p>At time of writing there were no active RFPs.</p> |
| QLD | <p>The Queensland Government Treasury website contains some useful links and information.</p> <p>The Queensland Government announced in the 2015-16 Budget the intention to explore the use of Social Benefit Bonds (SBBs) to address complex social issues affecting Queenslanders. Queensland Treasury is leading the pilot program in close collaboration with allied government agencies. The SBBs Pilot Program has been established to deliver three SBBs in the areas of re-offending, homelessness and issues facing Aboriginal and Torres Strait Islander people.</p> <p>The Qld Government made available \$1 million through the SBBs Pilot Program Readiness Fund to eligible service providers as a contribution toward the purchase of external professional advisory services necessary for their participation in the Joint Development Phase.</p> <p>The SBBs Pilot Program is nearing completion with the market launch on 25 July 2017 of the third SBB, YouthCONNECT. The first two Queensland pilot SBBs were Newpin Qld and Queensland Reoffending.</p> <p>At time of writing there were no active RFPs.</p> |
| SA | <p>The South Australian Government concluded a social impact investment consultation period on 19 December 2014.</p> <p>The Government then announced on 27 August 2015 that it would proceed with the Aspire SIB.</p> |

In connection with Social Ventures Australia (**SVA**), the South Australian Government has developed a SIB [self-assessment tool](#), designed to help organisation consider whether a SIB is a viable funding model for a particular social program.

The tool allows the service provider to input details of its social program design, and provides an indicative score with feedback on matters such as the program's financials, government exposure, outcome and more.

Resources

Related Resources

- ✔ [IMPACT- Australia: Investment for social and economic benefit](#) (Rosemary Addis, John McLeod, Alan Raine)
- ✔ [Social Impact Bonds: The Early Years](#) (Social Finance, July 2016)
- ✔ [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#) (Office of Social Impact Investment, June 2016)
- ✔ [Making Sense of the Many Kinds of Impact Investing](#) (Brian Trelstad, Harvard Business Review, 28 January 2016)
- ✔ [Social Impact Bond Technical Guide for Service Providers](#) (MaRSDD, Ontario)

A helpful guide for NGOs and not-for-profits acting as service providers in the SIB space. Prepared for a Canadian audience, but containing many useful points applicable in the Australian context

Research

- ✔ [Centre for Social Impact Bonds](#), UK Cabinet Office

International SIB Evaluation Reports

- ✔ [Final process evaluation report of the Social Impact Bond pilot at HMP Peterborough](#) (RAND Corporation, 2015)
- ✔ [Impact Evaluation of the Adolescent Behavioral Learning Experience \(ABLE\) Program](#) (Vera Institute of Justice, September 2016)

Further information

- ✔ [Social Impact Investing Discussion Paper](#) (Australian Government, January 2017)
- ✔ [Pay For Success – Readiness Questionnaire for Service Providers](#) (Nonprofit Finance Fund (US), January 2017)
- ✔ [Is your program suitable for a social impact bond?](#) (Elyse Sainty, Social Ventures Australia, 8 June 2015)
- ✔ [Social benefit bonds and impact investing](#) (KPMG, 27 September 2016)

New South Wales

- ✔ [NSW Social Impact Investment Policy](#) (NSW Government, February 2015)
- ✔ [Principals for social impact investment proposals to the NSW Government](#) (OSII, June 2015)
- ✔ [Sample legal template documents](#) (OSII, developed by King & Wood Mallesons with Trevor Danos AM)
- ✔ [Evaluation of the Joint Development Phase of the NSW Social Benefit Bonds Trial](#) (KPMG, January 2014)

Queensland

- ✔ [Social Benefits Bonds Pilot Program – Readiness Fund](#)

📌 [Queensland Treasury response to Australian Government Social Impact Investing Discussion Paper](#) (March 2017)

📌 [Market Sounding Report Highlights](#) (January 2016)

Victoria

📌 [Social Impact Bonds – General Information](#) (Department of Treasury and Finance (DTF))

📌 [Social Impact Bonds – FAQs](#) (DTF)

📌 [Sample legal template documents](#) (DTF, developed by King & Wood Mallesons with Trevor Danos AM)

South Australia

📌 [Aspire SIB](#) overview

A Not-for-profit Law Information Hub resource. Access more resources at www.nfplaw.org.au. Justice Connect Not-for-profit Law acknowledges the generous support of our funders and supporters. Find out more at www.nfplaw.org.au

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