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# Social Impact Bonds and recidivism: A new solution to an old problem?

by Tom Gotsis

## 1. Introduction

Recidivism is not a topic that has traditionally been associated with the world of high finance. Yet, in recent times, recidivism and other intractable social challenges have become the subject of Social Impact Bonds (SIBs); a novel form of investment that makes use of private funds to address pressing public concerns.

In July 2016 the NSW Government entered into its third SIB and Australia's first recidivism SIB, known as On TRACC (Transition, Reintegration and Community Correction). On TRACC funds intensive support services to parolees, particularly in the first four months after their release, in order to facilitate their successful reintegration into the community.

This paper provides an overview of SIBs. It defines recidivism, and considers the extent and costs of recidivism in NSW. The effectiveness of overseas SIBs designed to reduce recidivism is examined. The paper concludes by discussing NSW's nascent experience with SIBs, including its new On TRACC recidivism SIB.

## 2. Social Impact Bonds (SIBs)

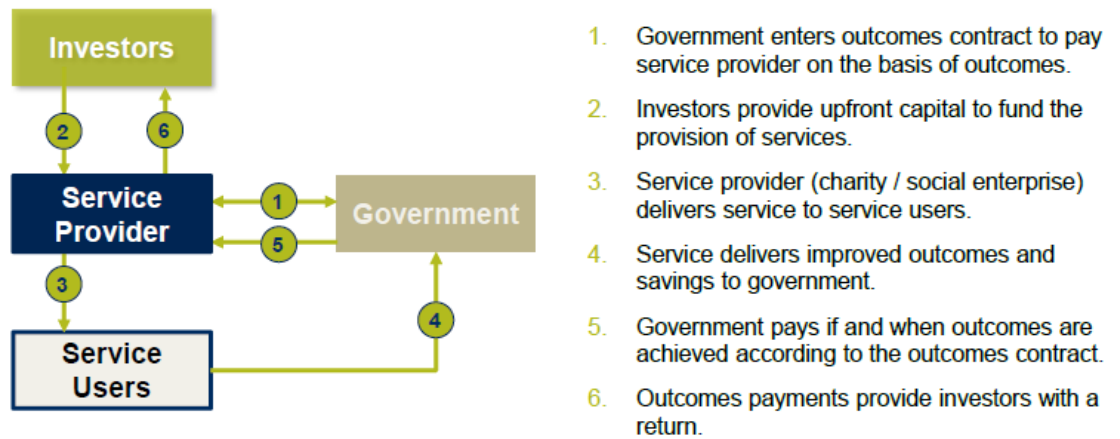
SIBs (also known as Social Benefit Bonds) are a form of Social Impact Investment.<sup>1</sup> A defining feature of Social Impact Investment is that it utilises private investment funds to address public concerns. Through this means, Social Impact Investment offers "blended returns"<sup>2</sup> on investment, a combination of measurable financial and social outcomes that many investors find appealing.<sup>3</sup> A number of factors suggest that Social Impact Investment has the potential to become an increasingly important means by which governments can address a broad range of complex social issues:<sup>4</sup>

Attitudes and perspectives around investment and wealth are shifting; major social and environmental challenges of our time need solutions; and governments are grappling with short and long-term budget constraints against a backdrop of lower economic growth and ageing populations. Sitting at the intersection of this confluence of factors is impact investing.

## 2.1 Overview of Social Impact Bonds

Central to any SIB is an outcomes-based contract between the government and non-government organisation service providers (NGOs). Under the terms of that contract, the government agrees to pay for targeted improvements in outcomes for a defined population.<sup>5</sup> Private investment is raised on the basis of this outcomes-based contract and used to fund upfront service delivery by NGOs.<sup>6</sup> Returns are paid to investors only if target outcomes are met. A structural overview of a SIB is presented in Figure 1:

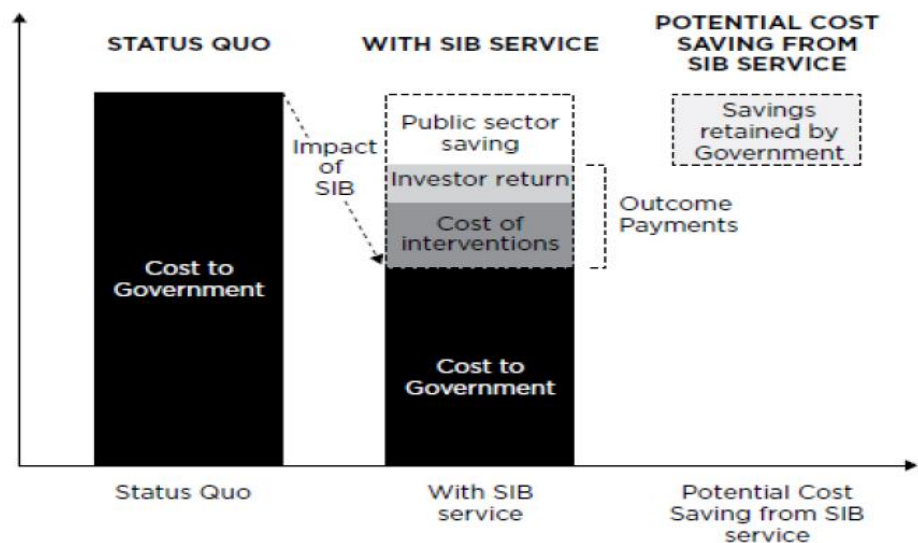
Figure 1: Structural overview of a Social Impact Bond



Source: J Palumbo and I Learmonth, *Social Impact Bonds*, 2014, Social Ventures Australia, p 5

Figure 2 presents a financial overview of a successful SIB. It is based on a cost-benefit analysis that focuses on the financial position of the NSW Government.<sup>7</sup> As to the potential savings depicted in Figure 2, the NSW Government’s *Social Impact Investment Policy* notes that the “savings generated from achieving better outcomes enables Government to repay the upfront investment and provide a return”.<sup>8</sup>

Figure 2: Financial overview of a Social Impact Bond



Source: Technical Guide: NSW Office of Social Impact Investment, 2016, p 29

## 2.2 Potential benefits, costs and challenges

### 2.2.1 Potential benefits

SIBs offer potential financial, social and innovation benefits to governments, investors and the community. The benefits, which are both short-term and long-term, include: cash savings to government agencies; avoided costs to government agencies; productivity gains; and (measurable) benefits to individuals and communities.<sup>9</sup>

The potential financial benefits of SIBs to governments were discussed by Stellina Galitopoulou and Antonella Noya in a 2016 OECD paper:<sup>10</sup>

A successful SIB intervention may prosper financial returns for the government authorities ... [T]he short-term savings are made because the government uses investor's capital to fund an already existing or completely new intervention filling a service gap ... In the long-run, the government may enjoy savings by reducing its budget to treat a specific social issue simply because the population in need has been decreased as a result of a preventative SIB intervention.

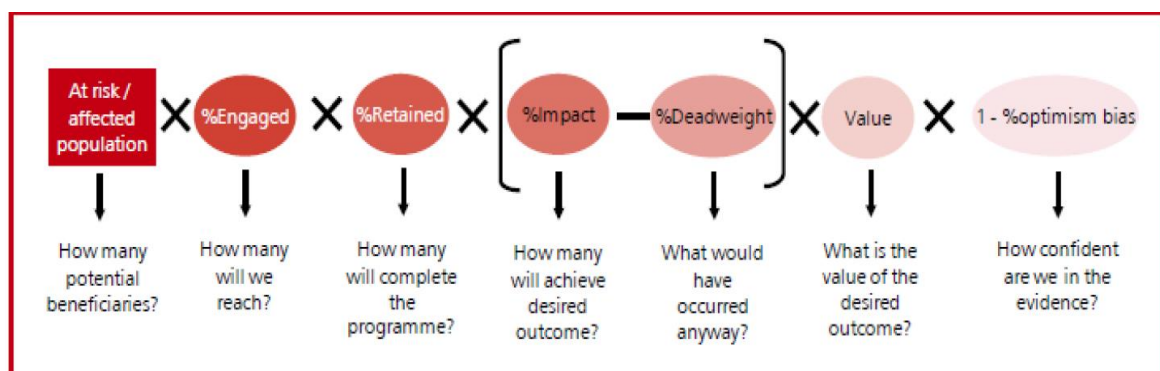
Investors are provided with the opportunity to facilitate the development of positive social outcomes and — provided agreed outcomes are met — receive fixed returns, which can typically range from 5% to 12%,<sup>11</sup> in an agreed timeframe.<sup>12</sup>

Service providers gain access to growth capital for early intervention programs that may not have otherwise been funded; which, if successful, can reduce demand for more acute government services.<sup>13</sup> Further, due to the focus of SIBs on payment for outcomes, rather than service delivery, SIBs may facilitate innovation; as service providers are encouraged by investors to continually refine their service delivery methods in order to achieve the best possible outcomes.<sup>14</sup>

Society can gain from an increase in services. Further, the evidence base that accrues from the use of SIBs is itself another social benefit; as the capacity to identify successful programs can encourage ongoing government and investor support of effective social interventions.<sup>15</sup>

For the purpose of weighing the benefits of any given social impact investment against its costs, the benefit of an outcome is calculated in monetary terms using the formula set out in Figure 3:<sup>16</sup>

**Figure 3: Benefit calculation formula**



Source: [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), p 34.

### 2.2.2 Potential costs

Viewed broadly, the potential costs associated with SIBs include: the upfront amount contributed by investors (which may be lost in full or in part if the bond's social outcomes are not met); the potential returns paid to investors; the cost of the intervention; transaction costs;<sup>17</sup> and evaluation costs.<sup>18</sup> For the more specific purpose of determining whether the potential benefits of any given social impact investment exceed its potential costs, the NSW Government's Office of Social Impact Investment refers to the categories of costs set out in Table 1:<sup>19</sup>

Type of cost	Description	Example
Capital	Upfront costs of assets used over a number of years	Land, building and equipment
Recurrent	Ongoing costs required for the operation of an intervention	Staff and consumables
Other government services	Costs flows to other government services as a direct consequence of intervention	Referral to existing mental health or addiction services
Transactions	Costs associated with setting up the social impact investment transaction	Legal, financial costs
Measurement and evaluation	Costs association with initial, ongoing and final measurement and evaluation of intervention and financial outcomes	Data collection and analysis

*Source: Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government, p 31*

### 2.2.3 Potential challenges

Establishing that the benefits of any proposed SIB exceed (or at least equal) its costs is the fundamental challenge to be overcome. Moreover, in order to identify the most efficient and effective form of service delivery, the use of a SIB model should be weighed against the potential use of other forms of social impact investments,<sup>20</sup> and against the traditional commissioning of services.<sup>21</sup>

SIBs have also tended to target relatively small populations, prompting questions as to whether they can be scaled up to make a real difference to the social issues they address.<sup>22</sup> On this point, Galitopoulou and Noya comment:<sup>23</sup>

[E]vidence so far suggests that SIBs have been reaching a relatively limited number of beneficiaries. According to a recent study by [the] Brookings Institution ... among the 38 SIBs that it examined, 25 of them serve populations of less than 1,000 beneficiaries. Of course, scaling — particularly in terms of number of beneficiaries — is not the ultimate aim of SIBs in principle. Therefore, when scaling occurs, it can be viewed as a ripple effect. Moreover, scaling is a relative term and can have multiple interpretations and should not be measured only in quantitative (number of

beneficiaries, for example) but also in qualitative terms (depth of impact). That being said, it should be underscored that SIBs are one among other tools of impact investing market ... Given the scale and severity of social needs globally and locally, we should not overestimate SIBs capacity to address them.

A further challenge is ensuring that SIBs are designed and evaluated along scientific lines.<sup>24</sup> SIBs which involve sound design and robust evaluation, particularly those that randomly allocate participants to control and intervention groups, avoid the type of selection bias set out in Table 2 and are better placed to accurately identify any effect of their intervention.<sup>25</sup>

**Table 2: Selection bias**

Type	Definition
“Cherry picking”	Only selecting participants who are likely to achieve expected outcomes
“Cream skimming”	Including only the highest achievers in the final cohort
“Parking”	Excluding low achievers from the final cohort

[Source: S Galitopoulou and A Noya, \*Understanding Social Impact Bonds\*, 2016, Organisation for Economic Co-Operation and Development \(OECD\), Paris, France, pp 16–17](#)

### 2.3 Existing evidence base

In 2015 the United Kingdom’s Ministry of Justice reported that a broad evidence base against which the benefits and costs of SIBs can be tested had yet to emerge:<sup>26</sup>

There is a small but growing body of research into the implementation and operation of SIBs, although the evidence base remains limited. This means that the potential benefits of SIBs ... remain largely untested.

Similarly, in their 2016 OECD paper, Galitopoulou and Noya stated:<sup>27</sup>

Evaluation can be a useful avenue for assessing the strong and weak points of each SIB as well as illustrating causality for its impact ... However, it is not a mandatory part of the mechanism and has not been widely used. Until ... 26 May 2016 ... 54 SIBs have been implemented ... very few completed and even less evaluated ... additional knowledge and sound evidence need to be generated in order to reduce controversies around SIBs. The jury is still out.

A different set of figures was presented in a July 2016 report by the not-for-profit group Social Finance, which stated:<sup>28</sup>

- 60 SIBs have launched in 15 countries;
- 22 projects have reported performance data;
- 21 projects indicate positive social outcomes;
- 12 projects have made outcome payments, either to investors or to be recycled into service delivery; and
- 4 projects have fully repaid investor capital and anticipate delivering a return on investment.

The authors of the Social Finance report emphasise that, despite the fact that 21 projects report positive performance, “not every project has delivered positive impact or will in the future”.<sup>29</sup> They continue by commenting that:<sup>30</sup>

In the next five years, many of the projects underway today will complete. The field will have a wealth of data on the achievements of these “first generation” efforts — including, no doubt, both successes and failures.

### 3. Recidivism

Recidivism refers to the continuation of criminal behaviour following contact with the criminal justice system.<sup>31</sup> It is, for practical purposes, synonymous with reoffending and measurable at various points on the criminal justice spectrum, most notably: arrest, conviction, return to community corrections and re-imprisonment.<sup>32</sup>

Due to the personal, social and economic costs recidivism imposes on victims of crime, the community and government, reducing recidivism is an important objective of the criminal justice system. In line with that objective, the rehabilitation of offenders is a legislated purpose of sentences imposed by the Courts<sup>33</sup> and their administration by Corrective Services NSW.<sup>34</sup>

Recidivism is not a uniform phenomenon. As detailed in the NSW Bureau of Crime Statistics and Research’s Reoffending Database, recidivism varies across time, different offender groups and different offence categories.<sup>35</sup> This underscores the need for the evaluation of interventions designed to reduce recidivism to be based on the random allocation of participants to control and intervention groups, in order to reduce the potential for the type of selection bias detailed in Table 2.

Table 3 presents an overall measure of recidivism across Australia, from 2010–11 to 2014–15, based on the rate of released adult offenders returning to prison under sentence within two years.<sup>36</sup>

**Table 3: Released adult prisoners returning to prison under sentence within 2 years (%)**

Year	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aus
2010-11	43.3	37.1	35.2	44.2	29.8	36.2	n/a	47.1	39.9
2011-12	42.5	35.1	36.1	36.1	29.1	36.4	40.8	58.8	39.4
2012-13	42.7	36.8	38.3	36.3	29.0	39.1	46.6	60.1	40.5
2013-14	45.8	39.5	39.8	39.0	38.4	39.3	41.9	57.3	42.9
2014-15	48.1	44.1	40.9	36.2	38.1	39.9	38.7	57.5	44.3

[Source: Productivity Commission, Report on Government Services 2016, Vol C, p C 19](#)

Table 3 reveals that:

- in 2014–2015, 48.1% of NSW prisoners returned to prison under sentence within two years of being released;
- NSW’s recidivism rate has increased by 4.8% since 2010–2011; and

- NSW's recidivism rate for 2014–2015 is higher than the equivalent rates across all other Australian jurisdictions, except for the Northern Territory.

The potential financial implications of almost half of adult prisoners returning to prison within two years of release are evident when it is considered that:

- the NSW adult prison population increased by 21% in the last two years to a record high of 12,641 inmates in September 2016;<sup>37</sup> and
- excluding fixed costs, the (variable) cost of incarceration in NSW during 2014–2015 is approximately \$19 per prisoner per day,<sup>38</sup> which equates to \$6,935 per prisoner per year; and
- the total net operating expenditure per prisoner per day in NSW during 2014–2015 was \$180.95,<sup>39</sup> which equates to \$66,046.75 per prisoner per year.<sup>40</sup>

Greg Piper MP has recently considered the issue in the following terms:<sup>41</sup>

Today a record high number of more than 12,500 people are incarcerated in New South Wales. ... Almost half of them will reoffend upon their release and return to jail at some stage, at great financial and social cost to the community. ...

This problem is placing significant pressure on the budget of Corrective Services. Of course, the bigger cost is the financial and social cost to the community of not reducing crime. We have growing rates of incarceration and high rates of recidivism. ... A reduction in the number of offenders means a reduction in costs to the taxpayer. Most importantly, it means a reduction in the number of victims and will create a much safer community.

Recognising the adverse impacts of recidivism, the NSW Government has made it a [State Priority](#) to reduce adult recidivism by five per cent by 2019. In pursuit of that goal, in August 2016 it [announced](#) a \$237 million plan to reduce recidivism, which Alister Henskens MP described as “the biggest financial investment in rehabilitation in the history of Corrective Services NSW”.<sup>42</sup> This followed the [announcement](#), in July 2016, of Australia's first SIB designed to reduce recidivism, the On TRACC SIB (discussed at 5.3).

#### 4. Overseas recidivism SIBs

Overseas experience highlights several issues relating to the performance and evaluation of recidivism SIBs, including:

- SIBs can be affected by future changes in government policy (the Peterborough recidivism SIB, discussed at 4.1);
- despite financial innovation and greater access to resources, the task of reducing recidivism remains inherently challenging (the Rikers Island recidivism SIB, discussed at 4.2);
- SIBs have successfully transferred financial risks associated with program failure away from the government sector (the Rikers Island recidivism SIB, discussed at 4.2); and
- while each recidivism SIB incorporates evaluation requirements into its design, the standard of evaluation used differs; with only the New

York State SIB (discussed at 4.3) evaluated by means of a randomised controlled trial.

### 4.1 The Peterborough SIB

Launched in 2010 as the world's first SIB, the £5 million Peterborough SIB financed a range of services — collectively called One Service — to three cohorts of 1,000 prisoners released from Her Majesty's Peterborough Prison, who had served a sentence of not more than 12 months.<sup>43</sup> One Service sought to reduce reoffending by addressing needs relating to accommodation, substance abuse and mental health, and by improving the co-ordination of benefits and services.<sup>44</sup>

In order to prevent selection bias, each cohort represented the entire population released from prison, rather than only those prisoners who elected to use the voluntary service.<sup>45</sup> Moreover:<sup>46</sup>

the frequency of reconviction events was selected as the outcome metric, rather than a binary measure of whether offenders were reconvicted or not, in part to incentivise the One Service to continue to work with cohort members even if they were reconvicted (reducing incentives for so called 'parking').

To determine the efficacy of the intervention its outcomes were measured using a "national comparison group design",<sup>47</sup> where each prisoner in the intervention cohort was matched up with ten similar offenders using the Police National Computer system.<sup>48</sup> An outcome payment was made to investors if, compared to the control group, there was a reduction in the frequency of reconviction events in any cohort of at least 10%, and/or an average reduction in the frequency of reconviction events of 7.5%.<sup>49</sup> Payments were capped at £8 million, which represented a rate of return of 13% for investors.<sup>50</sup>

Originally scheduled to run until 2017, on 24 April 2014 the United Kingdom's Ministry of Justice announced that it will effectively end the Peterborough SIB after the second cohort stage in light of its decision to launch its [Transforming Rehabilitation](#) strategy; which expanded the national provision of probation services<sup>51</sup> using a Payments by Results model of financing.<sup>52</sup> Regarding that development, the not-for-profit organisation Social Finance said:<sup>53</sup>

The [Ministry of Justice] judged that it would be difficult to ensure that the pilot had sufficient freedom to operate once another contractor took on responsibility for the rehabilitation of prisoners in the East of England from December 2014. This would also make it difficult to measure the impact of the pilot.

The publicly available results (those for cohort 1) found an 8.4% reduction in the frequency of reconviction events; which, while below the 10% target that triggers an early outcome payment for the cohort, is above the 7.5% target required for an outcome payment for the final combined cohort (cohorts 1 and 2).<sup>54</sup>



### 4.2 Rikers Island SIB (New York City)

Launched in 2012, the \$9.6 million Rikers Island SIB was funded by Goldman Sachs and underpinned by a capital guarantee of \$7.2 million from Bloomberg Philanthropies.<sup>55</sup> The SIB funded the Adolescent Behavioural Learning Experience (ABLE) for 16 to 18 year old youth detained in Rikers Island gaol, of which 47% returned to Rikers Island within a year of discharge.<sup>56</sup> ABLE utilised a form of cognitive behaviour therapy known as Moral Reconciliation Therapy (MRT), which progressed participants through 12 steps that were designed to incrementally develop capacity for moral decision-making.<sup>57</sup> Ultimately, the improved capacity for moral decision-making was intended to translate into an improved capacity to complete education and employment, thereby reducing the likelihood of future criminality.<sup>58</sup>

The SIB contract was designed to run for approximately six years. Over this period the ABLE program would be provided to an initial cohort of approximately 2,500 persons, followed by three further cohorts of similar size.<sup>59</sup>

The SIB's minimum criterion for success was a 10% reduction in "recidivism bed days" (a combination of re-admission rates and days spent in gaol following each re-admission) during the 12 months following release, as compared to a matched historical control group.<sup>60</sup> That 10% reduction in recidivism would result in a payment to investors of \$9.6 million dollars (equal to the initial investment) and a projected long-term net saving to government of \$1 million or more.<sup>61</sup> A reduction in recidivism of 20% would result in a payment to investors of \$11.7 million and a projected long-term net saving to government of \$20.5 million.<sup>62</sup>

An interim evaluation of the SIB's performance found that, after external factors — such as shifts in the economy and crime rates over time — were taken into account, the rate of recidivism for the intervention group was statistically equivalent to the matched historical control group.<sup>63</sup> In short, the Riker's Island SIB failed to reduce recidivism and provide a return to investors. It was subsequently discontinued, as of 31 August 2015.<sup>64</sup> MDRC, the non-profit organisation which managed the SIB, stated that:<sup>65</sup>

While it is disappointing that the program did not meet its goals, the Social Impact Bond financing arrangement worked as it was supposed to. ... The City agreed to pay for this program only if it achieved a certain magnitude of impact on reducing recidivism. Because the program did not meet the impact requirements, the City is not paying for a program that did not produce results — a positive outcome for the City and taxpayers.

In addition, the Rikers [Island SIB] showed that it was possible for investors and government officials to consider and agree upon specific numerical metrics about what defines success. It is often difficult for governments to quantify program success or failure in this way. ...

The experience of implementing the ABLE program at Rikers offers lessons about the challenges associated with scaling and replicating evidence-based programs. ... [MRT] had considerable evidence of prior success. ... However, the prior research was not definitive, and an MRT program had never been implemented at scale in as challenging an environment as Rikers. ... All of the parties understood that it was a high-risk undertaking.

While the program did not have the hoped-for effects on recidivism, the experience offers valuable lessons for the constructive role social impact bonds can play in encouraging and supporting innovation in government.

### 4.3 New York State SIB

Announced in 2013, the \$13.5 million New York State SIB, which operates over five and a half years, aims to reduce recidivism and increase employment prospects for released prisoners.<sup>66</sup> Regarding the financial arrangements underpinning the SIB:<sup>67</sup>

Bank of America Merrill Lynch (BAML) acted as an intermediary to promote the SIB. The opportunity to finance the SIB was therefore restricted to BAML's existing clientele, who provided \$12.18m to fund the up-front delivery of services by CEO. Alongside this, the Rockefeller Foundation provided a \$1.32m guarantee facility which will cover 10% of the investors' principal should the project fail to repay 100% of their investment. The total finance behind the project is therefore \$13.5m. Beyond Rockefeller's contribution, however, investors' money can be lost if the project fails to meet certain targets which trigger payments. More than forty private or institutional investors have signed up, with an average investment of around \$300,000.

As part of the intervention established by the SIB, the non-profit organisation Centre for Employment Opportunities (CEO) will:<sup>68</sup>

work with 2000 individuals recently released from prison over a four-year period in Rochester and New York. Participants will receive support to develop life-skills, and will be placed in short-term transitional jobs supervised by CEO staff. They will also receive weekly one-to-one job searching support, and if they find employment will receive in-work support including workplace counselling, crisis management and career planning for up to one year.

The impact of the intervention will be evaluated using a randomised control trial. The two measures against which the success of the intervention will be assessed, and which trigger returns to investors, are reduced recidivism (measured in prison days) and/or increased employment (measured as a percentage point difference):<sup>69</sup>

For investors to be repaid, the project must pass a threshold of reducing recidivism by at least eight per cent and/or increas[ing] employment by at least five per cent. If results go beyond these levels, returns of up to 12.5% could be earned. However, a more probable return is thought to be in the high single digits. ...

It is anticipated that the public sector will realise savings worth \$7.8 million if the SIB performs as expected; however, those savings could reach \$21 million if the SIB results in a 20% reduction in prison bed days.<sup>70</sup>

### 5. SIBs in NSW

NSW became the first State in Australia to implement SIBs when, in 2013, the Newpin and Benevolent Society SIBs commenced operation. Both SIBs aim to reduce the number of children and young people in out-of-home care. In 2016–17, it is forecast that the number of children and young people in out-of-home care will reach 22,400 and cost more than \$1 billion.<sup>71</sup>

In July 2016 the NSW Government entered into the On TRACC SIB, Australia's first SIB designed to reduce recidivism. The On TRACC SIB involves the NSW Government partnering with the NGOs [Australian Community Support Organisation \(ACSO\)](#) and [Arbias](#), supported by a joint investment from National Australia Bank<sup>72</sup> and ACSO. Announcing the On TRACC SIB in the Legislative Assembly, the then Treasurer, Gladys Berejiklian MP, said:<sup>73</sup>

[Social Impact] Investments allow us to tackle challenges in social services that have been challenges for successive governments for many years ....

Together with the Minister for Corrections, I announced an Australian first: a social impact investment bond in recidivism. Last month a contract was signed with two not-for-profit organisations with the aim of reducing parolee reoffending and re-incarceration. It is an important initiative. ... Social Impact Investment is the way of the future, and this Government is committed to working with non-government organisations and the private sector to make a difference and to improve lives.

### 5.1 The Newpin SIB

The \$7 million Newpin SIB was launched in July 2013 and will operate for 7 years.<sup>74</sup> The bond funds the maintenance and expansion of Uniting's Newpin program in order to:<sup>75</sup>

[R]estore children in out-of-home care to the care of their families by creating and supporting safe family environments ... and to prevent children at risk of significant harm from entering out-of-home care in the first place.

The principal performance measure for the Newpin SIB is its "restoration rate", the proportion of children in out-of-home care who are restored to the care of their family for a period of 12 months.<sup>76</sup> During its first three years, the restoration rate of the SIB will be compared to a fixed rate of 25%, but after that point it will be compared to a control group.<sup>77</sup>

As to the performance of the Newpin SIB and the returns to investors generated by that performance, the Office of Social Impact Investment states:<sup>78</sup>

The Newpin bond targets a financial return of 10-12% per annum. In the three years to 30 June 2016, Newpin had successfully restored 130 children to their families and supported another 47 families to prevent their children from entering out-of-home care. The cumulative restoration rate is 61% over three years compared to a baseline of 25%. In 2016, this delivered a 12.2% return to investors.

### 5.2. The Benevolent Society SIB

The Benevolent Society SIB, which commenced in October 2013, is a five year \$10 million bond delivering the Resilient Families Program to up to 400 vulnerable families, in order to help those families remain safely together.<sup>79</sup> As at 30 June 2016, 156 families were referred to the Resilient Families program by the NSW Department of Family and Community Services.<sup>80</sup>

The metric used to determine the effectiveness of the Benevolent Society SIB is its Improvement Percentage, which is calculated using a weighted combination of outcomes relating to:<sup>81</sup>

- out-of-home care entries (66% weighting);
- Safety and Risk Assessments (SARAs) made by the Department of Family and Community Services (17% weighting); and
- Helpline reports made by NSW Police and health care professionals (17% weighting).

As at 30 June 2016, the Benevolent Society SIB recorded an overall Improvement Percentage of 17%, which was based on:<sup>82</sup>

- Fewer children from the intervention group having entered into out-of-home care, compared to control groups: 21% for both cohort 1 and cohorts 2 and 3.
- Fewer SARAs commenced for the intervention group compared to control groups: 75% for cohort 1 and 61% for cohorts 2 and 3.
- Fewer helpline reports for the intervention groups compared to control groups: 13% for cohort 1 and 29% for cohorts 2 and 3.

The Benevolent Society SIB offers two different rates of returns to investors, as it is comprised of a capital protected class (“Class P Bonds”) and a capital exposed class (“Class E Bonds”).<sup>83</sup> Returns are paid to investors on the SIB’s maturity date, unless the bond is subject to early termination.<sup>84</sup> Based on the SIB’s performance as at 30 June 2016, investors would receive a return of 6% for the Class P bonds and 10.5% for the Class E bonds.<sup>85</sup>

### 5.3 The On TRACC recidivism SIB

The On TRACC recidivism SIB is designed to complement and augment existing services provided to parolees by Corrective Services NSW.<sup>86</sup> It will be implemented by [ACSO](#) and [Arbias](#) across the entire Sydney Metropolitan region and provided to 3,900 adult parolees with a medium to high risk of reoffending.<sup>87</sup>

In response to data suggesting that “a parolee is 2.5 times more likely to return to custody in the first three months following release compared to nine to 12 months post release,”<sup>88</sup> the On TRACC SIB provides parolees with intensive support in the first 16 weeks of parole<sup>89</sup> and after-care for an additional 8 months,<sup>90</sup> in order that they effectively reintegrate into the community.

The deliberate targeting of the program to parolees with a medium to high risk of reoffending is in direct response to:

- international research which has found that interventions targeting released prisoners with the highest risk of re-offending have the greatest effect in reducing recidivism;<sup>91</sup> and
- the fact that each year in NSW approximately 2,200 parolees who have been identified as having a medium-high and high risk of further offending are released into the community.<sup>92</sup>

The On TRACC SIB, which will run for five years, will be evaluated by the NSW Bureau of Crime Statistics and Research as to whether or not it is effective in reducing the rate of re-incarceration in the 12 months post release.<sup>93</sup> At the time of writing, there were no publicly available details concerning: the evaluation methodology; the amount of the bond investment; the reductions in recidivism required to trigger payment to investors; and the expected returns to investors.

### 6. Conclusion

Whether NSW's On TRACC recidivism SIB is a new solution to an old problem can only be answered in full after its evaluation by the NSW Bureau of Crime Statistics and Research. What can be stated at this early stage is that the On TRACC SIB will complement and enhance existing services provided to parolees, particularly in the first four months after their release. Further, the innovative funding approach that underpins the ON TRACC SIB transfers some of the financial risk associated with service delivery from the government to the private sector and encourages continual refinement of service delivery in pursuit of clearly defined target outcomes. By means of its evaluation, the On TRACC SIB will also add to the growing evidence base on what works, and what does not work, in reducing recidivism.

NSW's nascent experience with its Newpin and Benevolent Society SIBs is, at this early stage, promising; both in terms of its focus on funding program outcomes and the potential financial benefits on offer to the Government and investment sectors. Nevertheless, overseas experience with recidivism SIBs is a salient reminder that reducing recidivism remains an inherently challenging task.

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<sup>1</sup> [Principles for social impact investment proposals to the NSW Government](#), 2015, Office of Social Impact Investment, NSW Government p 2.

<sup>2</sup> E Disley et al, [Lessons learned from the planning and early implementation of the Social Impact Bond at HMP Peterborough](#), 2011, United Kingdom Ministry of Justice and RAND Europe, p 2.

<sup>3</sup> See, for instance, K Dembek, D Madhavan, F Michaux, B Potter, [Impact Investing Australia: 2016 Investor Report](#), 2016, Impact Investing Australia, pp 6–7.

<sup>4</sup> K Dembek, D Madhavan, F Michaux, B Potter, [Impact Investing Australia: 2016 Investor Report](#), 2016, Impact Investing Australia, p 6.

<sup>5</sup> J Palumbo and I Learmonth, [Social Impact Bonds: Reducing Reoffending in Western Australia](#), 2014, Social Ventures Australia, p 5.

<sup>6</sup> J Palumbo and I Learmonth, [Social Impact Bonds: Reducing Reoffending in Western Australia](#), 2014, Social Ventures Australia, p 5.

<sup>7</sup> [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, Sydney, pp 28–29.

<sup>8</sup> [Social Impact Investment Policy](#), 2015, NSW Government, Office of Social Impact Investment, Sydney, p 9.

<sup>9</sup> [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, Sydney, p 28. See also: L Roth, [Social Impact Bonds](#), 2011, NSW Parliamentary Research Service, pp 2–3.

<sup>10</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, p 19.

<sup>11</sup> See, for instance, the discussion of the New York State SIB (at 4.3) and the Newpin SIB (at 5.1).

- <sup>12</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, pp 9 and 20.
- <sup>13</sup> L Roth, [Social Impact Bonds](#), 2011, NSW Parliamentary Research Service, p 3.
- <sup>14</sup> L Roth, [Social Impact Bonds](#), 2011, NSW Parliamentary Research Service, p 3.
- <sup>15</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, p 20.
- <sup>16</sup> For further information, see: [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, Sydney, pp 34–36. The NSW Government has stated that it: “prefers social impact investment proposals that demonstrate the financial benefits of the investment are likely to be greater than the total costs” (that is, “a likely benefit-cost ratio greater than 1:1”): [Request for proposals: Social Impact investments](#), 2016, NSW Government, Office of Social Impact Investment, p 13.
- <sup>17</sup> As Social Impact Bonds are in the early stages of development and each SIB is a bespoke contractual arrangement, they have thus far incurred high transaction costs: [Evaluation of the Joint Development Phase of the NSW Social Benefit Bonds Trial](#), 2014, KPMG, pp 28–29.
- <sup>18</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, p 16.
- <sup>19</sup> [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, Sydney, p 31.
- <sup>20</sup> For instance, the NSW Government’s [Social Impact Investment Policy](#) discusses the following different Social Impact Investment models (pp 9–10): SIBs, Outcomes-Focused Grants, Payments-by Results Contracts, Incentive Payments, Layered Investments and Pooled Investments.
- <sup>21</sup> Galitopoulou and Noya make the point that, at least in their initial phase of development, SIBs may entail more costs than traditional commissioning of services: S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, p 16. See also: E Disley et al, [Lessons learned from the planning and early implementation of the Social Impact Bond at HMP Peterborough](#), 2011, United Kingdom Ministry of Justice and RAND Europe, p 10.
- <sup>22</sup> M Steketee, “[Will Social Impact Bonds Change the World?](#)”, 4 October 2016, *Inside Story*.
- <sup>23</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France, p 20.
- <sup>24</sup> See: [Principles for Social Impact Investment Proposals to the NSW Government](#), 2015, NSW Government, Office of Social Impact Investment, pp 3–6; and [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, p 8, 11, 13–15.
- <sup>25</sup> [Technical guide: Outcomes measurement for social impact investment proposals to the NSW Government](#), 2016, NSW Government, Office of Social Impact Investment, pp, 11, 13–15.
- <sup>26</sup> E Disley, C Giacomantonio, K Kruithof and M Sim, [The payment by results Social Impact Bond pilot at MHP Peterborough: Final process evaluation report](#), 2015, United Kingdom Ministry of Justice and RAND Europe, p 10.
- <sup>27</sup> S Galitopoulou and A Noya, [Understanding Social Impact Bonds](#), 2016, Organisation for Economic Co-Operation and Development (OECD), Paris, France p 22.
- <sup>28</sup> A Dear, A Helbitz, R Khare, R Lotan, J Newman et al, [Social Impact Bonds: The Early Years](#), 2016, Social Finance, p 6.
- <sup>29</sup> A Dear, A Helbitz, R Khare, R Lotan, J Newman et al, [Social Impact Bonds: The Early Years](#), 2016, Social Finance, p 7.
- <sup>30</sup> A Dear, A Helbitz, R Khare, R Lotan, J Newman et al, [Social Impact Bonds: The Early Years](#), 2016, Social Finance, p 80.
- <sup>31</sup> See generally: J Payne, [Recidivism in Australia: Findings and Future Research](#), 2007, Australian Institute of Criminology, Canberra, p 4.
- <sup>32</sup> For instance, see: [Report on Government Services](#), 2016, Productivity Commission Canberra, Vol C, p C.17.
- <sup>33</sup> Section 3A(d) of the *Crimes (Sentencing Procedure) Act 1999*.
- <sup>34</sup> Section 2A(1)(d) of the *Crimes (Administration of Sentences) Act 1999*.

- <sup>35</sup> NSW Bureau of Crime Statistics and Research: [Re-offending statistics for NSW](#) and [Re-offending in NSW](#) (Excel Table).
- <sup>36</sup> This measure excludes a return to prison resulting from the cancellation of a parole order.
- <sup>37</sup> NSW Bureau of Crime Statistics and Research: [NSW adult prison population continues to increase](#); and [NSW Custody Statistics: Quarterly update September 2016](#), pp 15, 18 and 29.
- <sup>38</sup> [Market Sounding: Reducing Re-Offending and Return to Custody Among Parolees](#), 2015, NSW Government, NSW Office of Social Impact Investment, p 5.
- <sup>39</sup> [Report on Government Services](#), 2016, Productivity Commission, Canberra, Vol C, Table 8A.7.
- <sup>40</sup> See also: D Weatherburn, G Froyland, S Moffatt and S Corben, “[Prison populations and correctional outlays: The effect of reducing re-imprisonment](#)” (2009) 138 *Contemporary Issues in Crime and Justice*, p 7.
- <sup>41</sup> [NSWPD, 16 November 2016, p 47 \(G Piper\)](#).
- <sup>42</sup> [NSWPD, 17 November 2016, pp 13–14 \(A Henskens\)](#).
- <sup>43</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 11.
- <sup>44</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 11.
- <sup>45</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 14.
- <sup>46</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 14.
- <sup>47</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 14.
- <sup>48</sup> [Ministry of Justice: Offenders released from Peterborough Prison](#), no date, Centre for Social Impact Bonds, United Kingdom Cabinet Office.
- <sup>49</sup> E Disley, C Giacomantonio, K Kruihof and M Sim, [The payment by results Social Impact Bond pilot at HMP Peterborough: final process evaluation report](#), 2015, United Kingdom Ministry of Justice, London, p 14.
- <sup>50</sup> [Ministry of Justice: Offenders released from Peterborough Prison](#), no date, United Kingdom Cabinet Office, Centre for Social Impact Bonds.
- <sup>51</sup> [Peterborough Social Impact Bond Reduces Reoffending by 8.4%; Investors on Course for Payment in 2016](#), 7 August 2014, Social Finance, pp 1, 3 and 6.
- <sup>52</sup> [Transforming Rehabilitation: A Strategy for Reform](#), 2013, UK Ministry of Justice, pp 14–15, and 33–34. See also: [Outcomes-based payment schemes: government’s use of payments by results](#), 2015, National Audit Office, London; and S Pearce et al, [HMP Doncaster Payment by Results Pilot: Final process evaluation report](#), 2015, UK Ministry of Justice, London.
- <sup>53</sup> [Peterborough Social Impact Bond Reduces Reoffending by 8.4%; Investors on Course for Payment in 2016](#), 7 August 2014, Social Finance, p 6.
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- <sup>55</sup> J Parsons, C Weiss and Q Wei, [Impact Evaluation of the Adolescent Behavioural Learning Experience \(ABLE\) Program](#), 2016, Vera Institute of Justice, New York, pp 6–7.
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- <sup>58</sup> [Reoffending on Rikers Island](#), no date, United Kingdom Cabinet Office, Centre for Social Impact Bonds.
- <sup>59</sup> [Reoffending on Rikers Island](#), no date, United Kingdom Cabinet Office, Centre for Social Impact Bonds.

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- <sup>61</sup> City of New York et al, [Fact Sheet: The NYC ABLE Project for Incarcerated Youth](#), 2 August 2012, p 2.
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- <sup>64</sup> [MDRC Statement on the Vera Institute’s Study of the Adolescent Behavioural Learning Experience \(ABLE\) Program at Rikers Island](#), July 2015, MDRC, New York.
- <sup>65</sup> [MDRC Statement on the Vera Institute’s Study of the Adolescent Behavioural Learning Experience \(ABLE\) Program at Rikers Island](#), July 2015, MDRC, New York.
- <sup>66</sup> [Investing in What Works: ‘Pay for Success’ in New York State: Increasing Employment and Improving Public Safety, Fact Sheet](#), March 2014, State of New York.
- <sup>67</sup> [New York State: Reducing Reoffending](#), no date, United Kingdom Cabinet Office, Centre for Social Impact Bonds.
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- <sup>70</sup> [New York State: Reducing Reoffending](#), no date, United Kingdom Cabinet Office, Centre for Social Impact Bonds.
- <sup>71</sup> [NSW Budget Estimates 2016–17](#), p 3–11. See also, [NSW Budget — reforms for kids needing care](#), 18 June 2016, Media Release, NSW Family & Community Services. The number (22,400) of children and young persons in out-of-home-care includes those on guardianship orders.
- <sup>72</sup> [NAB Finances Social Impact Investment to Reduce Parolee Re-Offending](#), 12 July 2016, National Australia Bank.
- <sup>73</sup> [NSWPD, 25 August 2016, p 34 \(G Berejiklian\)](#).
- <sup>74</sup> [Newpin Social Benefit Bond: Annual Investor Report](#), 2014, Social Ventures Australia, p 4.
- <sup>75</sup> [Newpin Social Benefit Bond: Annual Investor Report](#), 2014, Social Ventures Australia, p 4. See also: [Information Memorandum: Newpin Social Benefit Bond](#), 2013, Social Ventures Australia, pp 13–14.
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- <sup>79</sup> [The Benevolent Society’s Social Benefit Bond: Information Sheet 1](#), 2016, Benevolent Society, p 1. See also: [Social Benefit Bonds](#), 2016, NSW Government, Office of Social Impact Investment, Sydney; and [The Benevolent Society Social Benefit Bond](#), 30 June 2015, The Benevolent Society, Sydney, pp 7–10.
- <sup>80</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, p 7.
- <sup>81</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, pp 11–12.
- <sup>82</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, p 12.
- <sup>83</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, p 13.
- <sup>84</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, p 13. Returns are based on a Performance Percentage that is calculated using: the Improvement Percentage (90% weighting), an Unmatched Children Percentage (1% weighting) and a Guaranteed Referrals Shortfall Percentage (9% weighting). At 30 June 2016 that Performance Percentage was 19%.
- <sup>85</sup> [The Benevolent Society Social Benefit Bond: Investor Report: 30 June 2016](#), 2016, The Benevolent Society, Sydney, p 13. See Figure 6 on p 13 for a table of potential investor returns for both Class P and Class E bonds.



- <sup>86</sup> [\*New Social Impact Investment to Reduce Parolee Reoffending and Re-incarceration\*](#), 2016, NSW Government, Office of Social Impact Investment.
- <sup>87</sup> [\*New Social Impact Investment to Reduce Parolee Reoffending and Re-incarceration\*](#), 2016, NSW Government, Office of Social Impact Investment; and telephone interview dated 7 November 2016, between the author and Vaughan Winther, Chief Operating Officer of the Australian Community Support Organisation.
- <sup>88</sup> [\*Market Sounding: Reducing Re-Offending and Return to Custody Among Parolees\*](#), 2015, NSW Government, Office of Social Impact Investment, p 11.
- <sup>89</sup> [\*New Social Impact Investment to Reduce Parolee Reoffending and Re-incarceration\*](#), 2016, NSW Government, Office of Social Impact Investment.
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