

Dealing with Distress – The Impact Investor’s Dilemma

Louise Harman (Bates Wells)

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Nick Temple (Social Investment Business)

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Chair: Peter Cafferkey (EVPA)

AGENDA

10:30 - 10:35: Introduction and welcome

10:35 - 10:55: Setting the scene (legal and practical)

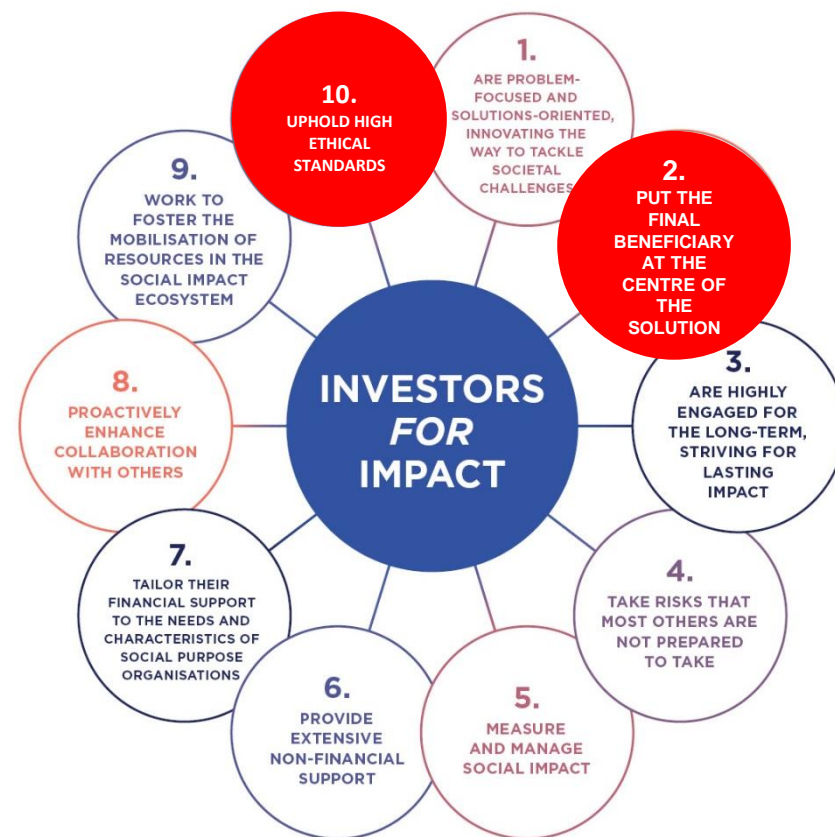
10:55 - 11:00: Q&A

11:00 - 11:20: Case Study 1 & Q&A

11:20 - 11:40: Case Study 2 & Q&A

11:40 - 12:00 : Group Discussion

CHARTER OF INVESTORS *FOR* IMPACT



Setting the Scene: Legal and Practical Key Issues

Louise Harman (Partner, Bates Wells)

Sung-Hyui Park (Senior Associate, Bates Wells)



Common cashflow challenges

- Reduction in cash balances
- Reduced production/services
- Increases in amounts owing to suppliers
- Late payments to creditors, e.g. HMRC
- Increases in amounts owing from grant funders (or other debts)
- Increased costs compared with budget
- Decreased income compared with budget

Underperformance

Distress

Crisis

- Breaching representations / warranties / covenants
 - Deferred payments
 - Events of default
- Seeking waivers and consents
 - Restructuring discussions
- Insolvency rescue mechanisms
 - Liquidation/winding up

Challenges meeting key financing terms

- Purpose
- Payment (interest / principal)
- Representations & warranties
- Commercial undertakings
- Financial covenants
- Information undertakings
- Events of default

Remedies available to investors

- Range of contractual / practical options available, depending on the degree of risk appetite:
 - Amendments and/or waivers
 - Providing additional funding to support investee cashflow issues
 - Provide bridge loans
 - Help borrower unlock capital by guarantees
 - Requesting additional collateral protection: security and/or guarantees
 - Exit / refinancing/restructuring of debt
 - Enforcement of existing security and/or guarantees

Key Legal and Practical Considerations

- Intercreditor arrangements
- Insolvency law considerations (depending on local jurisdiction)
- Relationships and reputational issues
- Balancing stakeholder interests

What makes impact investors different?

Should impact investors do things differently?

- Should investors for impact take a collaborative and creative approach during this period? If so how?
- UK:
 - Group of over 30 key UK social investors and Good Finance have issued a statement – “Social Investors Respond to COVID-19”
 - *“We want to reassure all of the organisations we invest in that we will support you and be as flexible as possible in the coming months. We are actively working together on how we can adapt existing schemes and funds. We are also working with government and other funders to establish new programmes that may provide additional help. We recognise that grants and business support will be at least as important as social investment.”*

What could this look like in practice? (1)

- **Early communication is key**
 - Assess how you can best support investees
 - Maintain regular communication
 - Reassure investees about your approach
 - Collaborative and supportive way forward
- **Other support**
 - Business support
 - Grant funding/blended finance?
- **Consider overall aims of restructuring**
 - Cash flow for long term survival of borrower
 - Support to maintain service delivery during crisis to meet demand for goods or services
 - Support to help revival of borrower post crisis by supporting staff and assets until service delivery can resume

What could this look like in practice? (2)

- **Potential approaches to an “impact restructuring”:**

- Service delivery challenges
- Measurement of impact challenges



Extension of maturity date

- Change in service delivery or beneficiaries



Amendments to impact metrics

- Financial obligations*



Delay interest payments and postpone principal repayments**

*Conditional on certain impacts being achieved?

**Include threshold of financial performance before repayments due?

Constraints and challenges

- Institutional risk tolerance
- Percentage of acceptable debt write-offs across portfolio
- Managing expectations of external and internal shareholders
- Determining acceptable 'red flag' thresholds e.g. deadlines for payment breaches
- Restructuring not possible but enforcement would be detrimental of survival of organisation – what would a responsible approach look like?



Any questions?



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We use the word 'partner' to refer to a member of the LLP or an employee or consultant with equivalent standing and qualifications.



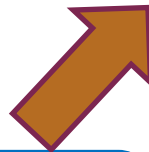
Case Study 1: Resilience and Recovery Loan Fund

Nick Temple
(CEO, Social Investment Business)

INFLUENCE



IMPACT



PARTNER



INVEST

The COVID context

- Existing customers
- Existing partners
- Data from the ground – and from the country
- Need: for grants and loans?

Establishing the fund:

- CBILS accessibility for sector
- Accreditation with British Business Bank
- Big Society Capital
- Capacity and capability – partners
(Big Issue Invest, Charity Bank, SASC)



Resilience and Recovery Loan Fund

- £25m fund (to start)
- £100k-£500k loans
- Initial 3 year term
- Fee-free and interest free for 12 months
- 6.5% thereafter
- Streamlined process

-
- Demand
 - Constant change
 - Response vs Recovery

sibgroup.org.uk/ // @thesocialinvest



Case Study 2:

Creativity and Collaboration

Martin Lawson
(Head of Impact and Innovation,
Resonance)

Creative & Collaborative

Resonance

- Capital serving people & communities
- Driven by relationship
- “We’re a bridge, not an institution”

Social capital

- Bonding
within groups
- Bridging
between groups
- Linking
across networks



Collaborative responses

Within the **organisation**

- Furloughing of some staff
- Many staff working 9 days out of 10

With **investees**

- Helping preserve cash
- Pre-approval of capital and interest deferral

On behalf of investees and with **investors**

- Communicating, coordinating and lobbying
- **Community Property Protector Fund**
 - Sale & leaseback for challenged tenants and distressed landlords
 - Aims to keep organisations impactful
 - Fitted around needs

Creative responses

Walking alongside investees and other clients

Supporting and stimulating change

- Small (£5k) grants to organisations that are trying to stay connected
one element of Resonance's toolkit for response

Matching needs and capacities

- Responding to urgent lockdown changes
- Planning a more resilient and more impactful future
Southwest food network

Developing new solutions

- Non-cash trading, on a mutual basis, in trusted networks
'Mutual Credit' (federated and resilient)

Dealing with Distress - The Impact Investor's Dilemma:

Group Q&A and Discussion



Thank You

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