

LIQ14

Notice of final account prior to dissolution in CVL



Companies House

FRIDAY



A22 *A759KT2H* 04/05/2018 #102
COMPANIES HOUSE

1 Company details

Company number	0 8 1 2 7 6 7 0
Company name in full	(Be)Spoke Derby Limited

→ **Filing in this form**
Please complete in typescript or in bold black capitals.

2 Liquidator's name

Full forename(s)	Andrew Peter
Surname	Smith

3 Liquidator's address

Building name/number	Totemic House
Street	Springfield Business Park
Post town	Caunt Road
County/Region	Grantham
Postcode	N G 3 1 7 F Z
Country	

4 Liquidator's name

Full forename(s)	Kenneth Webster
Surname	Marland

① **Other liquidator**
Use this section to tell us about another liquidator.

5 Liquidator's address

Building name/number	Totemic House
Street	Springfield Business Park
Post town	Caunt Road
County/Region	Grantham
Postcode	N G 3 1 7 F Z
Country	

② **Other liquidator**
Use this section to tell us about another liquidator.

LIQ14

Notice of final account prior to dissolution in CVL

6 Liquidator's release

Tick if one or more creditors objected to liquidator's release.

7 Final account

I attach a copy of the final account.

8 Sign and date

Liquidator's signature

Signature

X *John Smith* X

Signature date

0	2	0	5	2	0	1	8
---	---	---	---	---	---	---	---

LIQ14

Notice of final account prior to dissolution in CVL

Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Andrew Peter Smith**

Company name **Harrisons**

Address **Totemic House**

Springfield Business Park

Post town **Caunt Road**

County/Region **Grantham**

Postcode **N G 3 1 7 F Z**

Country

DX

Telephone **01476 574149**

Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- The company name and number match the information held on the public Register.
- You have attached the required documents.
- You have signed the form.

Important information

All information on this form will appear on the public record.

Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.

Further information

For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse

Harrisons

Business recovery and insolvency specialists

Totemic House
Springfield Business Park
Caunt Road
Grantham
Lincolnshire
NG31 7FZ

T 01476 574149
F 0845 0893489
E grantham@harrisonsinsolvency.co.uk
W www.harrisonsinsolvency.co.uk

Partners
J N Harrison FCA MIPA FABRP
K W Marland MIPA FABRP
A P Smith MAAT MIPA MABRP

(Be)Spoke Derby Limited - In Liquidation
Joint Liquidators' Final Account
For the Period: 17th March 2017 to 28th February 2018

Registered Office

c/o Harrisons
Totemic House
Springfield Business Park
Caunt Road
Grantham
NG31 7FZ

Registered Number

08127670

Date of Liquidation

17th March 2017

Appointment Details

Andrew Peter Smith
Joint Liquidator

Harrisons
Totemic House
Springfield Business Park
Caunt Road
Grantham
NG31 7FZ

Appointed: 17th March 2017

Kenneth Webster Marland
Joint Liquidator

Harrisons
Totemic House
Springfield Business Park
Caunt Road
Grantham
NG31 7FZ

Appointed: 17th March 2017

Changes to Office Holders

No changes since commencement of liquidation.

J N Harrison, K W Marland and A P Smith are authorised to act as a Licensed Insolvency Practitioner by the Insolvency Practitioners Association in the UK

Grantham | Mexborough | Bakewell | Stockton

Introduction

Andrew Peter Smith and Kenneth Webster Marland were appointed Joint Liquidators of the Company on 17th March 2017.

The liquidation is now for practical purposes complete. This is our Final Account as required by Section 106 of the Insolvency Act 1986 as amended, and Rules 6.28 and 18.14 of the Insolvency Rules 2016 as amended. It shows how the liquidation has been conducted and the Company's property disposed of, the outcome for creditors and other information that we are required to disclose.

The Liquidators may be contacted at the postal address, or via the email address or telephone number set out at the top of this Final Account.

Notice of Vacation of Office on Completion of Winding Up

At Appendix 1 we enclose a copy of the Notice of Vacation of Office on Completion of Winding Up.

Conduct of the Liquidation

We set out below an overview of the conduct of the liquidation.

Plant, Machinery, Fixtures and Fittings

The anticipated realisations related to plant, machinery, fixtures and fittings as per the Statement of Affairs amounted to £1,400, based on a valuation conducted by Eddisons, a national firm of chartered surveyors, prior to Liquidation.

The majority of the Company's plant, machinery, fixtures and fittings were sold locally by the directors under the supervision of Eddisons prior to liquidation. Where those sales involved cash, they were paid to this firm by the directors pre-Liquidation. See 'Cash at Bank' below.

Where they were paid for by the purchaser via card payment, funds were wired to Eddisons who accounted to the Liquidators after the commencement of winding up.

The remainder of the plant, machinery, fixtures and fittings were uplifted and sold by Eddisons at auction post-Liquidation. The total amount raised from local card sales wired to Eddisons and sales at auction was £1,505. The Liquidators received these funds in June 2017.

Stock

The anticipated realisations related to stock as per the Statement of Affairs amounted to £300 based on a valuation conducted by Eddisons prior to Liquidation.

Stock was comprised of three 'Orbea' bicycles and a small quantity of component stock.

The Orbea bikes were not given a realisable value on the Statement of Affairs on the basis that there was potentially a valid Retention of Title claim from the supplier.

The supplier of the three Orbea bikes ultimately proved unable to evidence that they were subject to a valid Retention of Title claim.

In order to do so, they were repeatedly asked by the Liquidators and Eddisons for evidence that the directors had been made aware of and had agreed to the retention of title clause contained within the supplier's standard terms of business. The supplier in question was only able to provide unsigned terms and conditions.

Eddisons requested the signed version on several occasions in March 2017 and the Liquidators set a final seven day deadline on 6th April 2017 which was not met.

Consequently the Liquidators instructed Eddisons to sell the bikes at auction. The amount raised from their sale and received by the Liquidators in June 2017 was £3,999.00 excluding VAT.

As detailed within the notes to the Statement of Affairs, Eddisons considered that it would not be cost effective to uplift and sell the component stock. Given their expertise of the industry, the directors therefore conducted a sale of the stock on eBay prior to liquidation.

The directors provided evidence of the amounts raised from the sale of the component stock and the costs associated with the sale in August 2017, accounting to the Joint Liquidators with the net proceeds in the same month.

The amount received by the Liquidators was £936.94, net of eBay fees of £166.74, Paypal fees of £58.39 and postage costs of £117.78 which were incurred pre-Liquidation.

Cash at Bank

The Company's Statement of Affairs suggested the Company had cash at bank of £6,065.00 as at the date of commencement of winding up. The actual value of cash paid to the Liquidation is £6,265.50.

£1,225.00 relates to cash sales completed by the Company prior to cessation of trade. £1,970.00 relates to the aforementioned cash sales of plant, machinery, fixtures and fittings by the directors to local purchasers prior to liquidation. The balance of £3,070.50 was the final balance on the Company's bank account.

Lease

The Company had traded from leasehold premises owned by a former director and was in substantial arrears of rent at the commencement of winding up.

The Liquidators obtained a copy of the lease in April 2017 and it contained provisions allowing for forfeiture by the landlord both by virtue of the rent arrears and in the event of voluntary liquidation.

The landlord, being a friend of the directors, allowed the Company to remain in the premises for a short period whilst its assets were disposed of. The lease was ultimately surrendered. Having received two separate requests from the landlord for the return of keys, the Liquidators twice asked the directors to hand the property back and on 16th May 2017, they received confirmation this had been done on 27th April 2017.

Unrealisable Assets

There are no assets detailed in the Statement of Affairs that were anticipated to be realisable but have proven to be unrealisable.

Investigations

The Joint Liquidators have a duty to report on the conduct of all directors and shadow directors who have held office within the three years ending on the date of commencement of liquidation.

Those reports, which are confidential, have been submitted to the Department of Business Innovation and Skills.

We have also carried out an initial assessment of the events leading to liquidation and have not identified any matters that require further investigation.

Our investigations involved a review of the Company's bank statements for the period prior to liquidation and the completion of a questionnaire by the directors and a former director.

Our initial bank statement review highlighted a number of transactions that required further explanation. However, following correspondence with the directors and a review of further bank statements, the matter was resolved with the Liquidators not considering there to be any areas for concern.

It should be noted that the Company's accountancy software was provided by a third party who blocked access to data on non-payment of their fee. The Liquidators have therefore been unable to review the Company's management accounts which were linked to the software, while the last formal accounts prepared cover the period ending 31st March 2015.

In any event we have no concerns regarding the directors' conduct or any transactions in the period prior to liquidation.

Receipts and Payments Account

Attached at Appendix 2 is the Joint Liquidators' Final Receipts and Payments Account for the whole of the liquidation.

The account is largely self-explanatory.

You will note that the Account refers to a Bank Transaction Error amounting to 30 pence. When Eddisons accounted to the Liquidators following the sale of the Company's assets as above, they underpaid by 30 pence. No action has been taken to pursue Eddisons for such a small amount as the costs involved would outweigh the benefit.

VAT of £187.39 relates to an error by the Liquidators in under claiming recoverable VAT. As detailed below, the amount realised from Company assets is insufficient to cover the Joint Liquidators' time costs to date and there are insufficient funds to enable a dividend to be paid to any class of creditor. The error in relation to VAT therefore does not impact on creditors and means the Liquidators will draw £187.39 less in remuneration than they would have done, had the error not occurred. Creditors have not been disadvantaged.

Outcomes for Creditors and Statement as to the Application of the Prescribed Part

The Company had no assets which could be the subject of a fixed charge.

No preferential claims were expected and none have been received.

As per the Company's Statement of Affairs, Barclays have confirmed the value of their claim secured by a fixed and floating charge to be £19,427.44, though they have not submitted a formal proof of debt on the basis that having been provided with an update by the Joint Liquidators in August 2017, they were aware that there would not be sufficient realisations to allow for a dividend to be paid to them out of the proceeds of sale of the assets which would have been available to floating charge creditors.

It follows that although the Prescribed Part Fund does apply to the liquidation, no distribution to unsecured creditors under Section 176A of the Insolvency Act 1986 as amended (application of the prescribed part) has been made.

Unsecured claims were anticipated to be in the region of £56,167.44. Unsecured claims of £57,285.25 have been received. A number of claims are higher than anticipated, though nine known creditors have not submitted a proof of debt.

The Joint Liquidators have not gone through the statutory process of advertising for claims or issuing a Notice of Intended Dividend as realisations are insufficient to allow for a distribution to be made to any class of creditor.

Accordingly and pursuant to Rules 14.36 and 14.37 of the Insolvency Rules 2016 as amended, Notice is hereby given that no dividend will be declared as the funds realised have already been distributed or used or allocated for paying the expenses of the insolvency proceedings.

Basis of Remuneration

This firm's fee for assisting the director(s) in convening meetings of members and creditors to place the company into liquidation and assisting in the preparation of the Statement of Affairs of £4,000 plus VAT was agreed to be paid out of the assets of the company by creditors at a meeting of creditors held on 17th March 2017.

This fee was paid in full on 3rd August 2017.

At the same meeting of creditors it was also resolved that the Joint Liquidators remuneration be based on time expended on the case by them and their staff, with remuneration to be drawn without further recourse to creditors, capped as per their Fee Estimate.

Total time costs incurred since liquidation to 28th February 2018 are £6,775. This relates to 14.80 chargeable hours at an average charge out rate across all grades of staff of £457.77 per hour.

It is estimated that a further 1 hour at an average charge out rate of £300.00 will be required to complete the formalities of filing the appropriate Notice and Final Account with the Registrar of Companies prior to dissolution and competing the general administration required to close the case.

The final time costs are therefore estimated to be £7,075, though actual fees drawn are limited by funds available in the liquidation at £6,052.51.

The Joint Liquidators' Fee Estimate, submitted to creditors at the meeting of creditors held on 17th March 2017, detailed anticipated time costs of £10,642.50. Fees incurred are considerably lower than this.

An analysis of time expended on the case since liquidation to 28th February 2018, in accordance with the principles set out in Statement of Insolvency Practice 9, is appended to this Progress Report together with a Creditors Guide to Liquidators Fees (Appendix 3).

Our charge out rates are £600 per hour for time expended on a case by a Partner, £500 per hour for time expended on a case by a Manager and £250 per hour for time expended on a case by an Administrator. Time is charged in 6 minutes units.

Statement of Expenses Incurred

The following table details expenses that have been incurred by the Joint Liquidators in the period covered by this report. The table also details the value of expenses that have been discharged by monies received from realisations and the balance that remains outstanding:

Description of Expense	Cost Incurred (£)	Cost Discharged (£)	Balance O/S (£)
Specific Penalty Insurance	44.00	44.00	0.00
Statutory Advertising	207.00	207.00	0.00
Agents Fees	2,239.53	2,239.53	0.00
TOTAL	2,544.53	2,544.53	0.00

The Joint Liquidators' Fee Estimate set out anticipated expenses totalling £1,820.00, however the Fee Estimate does not act as a cap on the amount of expenses which can be incurred and paid. Expenses are higher than anticipated as Eddisons were instructed to sell the aforementioned Orbea bikes, which it had been thought may be subject to a valid Retention of Title claim when the Fee Estimate was drafted.

All costs are stated net of VAT.

Creditors' Rights to Request Further Information and to Challenge the Liquidators Remuneration Pursuant to Rules 18.9 and 18.34 of the Insolvency Rules 2016 as Amended

Rule 18.9: Request for Further Information

(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report or account under rule 18.14—

- (a) A secured creditor;
- (b) An unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
- (c) Members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
- (d) Any unsecured creditor with the permission of the court; or

J N Harrison, K W Marland and A P Smith are authorised to act as a Licensed Insolvency Practitioner by the Insolvency Practitioners Association in the UK

Grantham | Mexborough | Bakewell | Stockton

- (e) Any member of the company in a members' voluntary winding up with the permission of the court.

(2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report or account by the person, or by the last of them in the case of an application by more than one member or creditor.

(3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—

- (a) Providing all of the information requested;
- (b) Providing some of the information requested; or
- (c) Declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

- (a) The time or cost of preparation of the information would be excessive; or
- (b) Disclosure of the information would be prejudicial to the conduct of the proceedings;
- (c) Disclosure of the information might reasonably be expected to lead to violence against any person; or
- (d) The office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—

- (a) The office-holder giving reasons for not providing all of the information requested; or
- (b) The expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

Rule 18.34: Challenge the Joint Trustees Remuneration

(1) This rule applies to an application in an administration, a winding-up or a bankruptcy made by a person mentioned in paragraph (2) on the grounds that—

- (a) The remuneration charged by the office-holder is in all the circumstances excessive;
- (b) The basis fixed for the office-holder's remuneration under rules 18.16, 18.18, 18.19, 18.20 and 18.21 (as applicable) is inappropriate; or
- (c) The expenses incurred by the office-holder are in all the circumstances excessive.

(2) The following may make such an application for one or more of the orders set out in rule 18.36 or 18.37 as applicable—

- (a) A secured creditor,
- (b) An unsecured creditor with either—

- (i) The concurrence of at least 10% in value of the unsecured creditors (including that creditor), or
- (ii) The permission of the court, or

(c) In a members' voluntary winding up—

- (i) Members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or
- (ii) A member of the company with the permission of the court.

(3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report under rule 18.3, or final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

Dated: 28th February 2018

Appendix 1

(Be)Spoke Derby Limited - In Liquidation

Notice of Vacation of Office on Completion of Winding Up

Notice of Vacation of Office on Completion of Winding Up

In the matter of:

(Be)Spoke Derby Limited - In Liquidation
Company No: 08127670

Notice is hereby given pursuant to Section 106 of the Insolvency Act 1986 as amended (IA1986) that it appears to the Joint Liquidators that the Company's affairs are fully wound up.

Creditors have the right to request information from the Joint Liquidators under Rule 18.9 of the Insolvency Rules 2016 as amended (IR2016).

Creditors have the right to challenge the Joint Liquidators' remuneration and expenses under Rule 18.34 IR2016.

Creditors may object to the Joint Liquidators' release by giving notice in writing to the Joint Liquidators before the end of the prescribed period.

The prescribed period is the period ending at the later of:

- Eight weeks after delivery of this Notice; or
- If any request for information under Rule 18.9 IR2016 or any application to the court under that Rule or Rule 18.34 IR2016 is made when that request or application is finally determined.

The Joint Liquidators will vacate office under Section 171 on delivering to the Registrar of Companies the Final Account and Notice saying whether any creditor has objected to release

That the Joint Liquidators will be released under Section 173 at the same time as vacating office unless any of the creditors objected to the Joint Liquidators' release.

The postal address for the Joint Liquidators, Kenneth Webster Marland and Andrew Peter Smith, is Harrisons, Totemic House, Springfield Business Park, Caunt Road, Grantham, Lincolnshire, NG31 7FZ and they may also be contacted on 01476 574149 or grantham@harrisonsinsolvency.co.uk

Andrew Smith
Joint Liquidator

Dated: 28 February 2018

Appendix 2

(Be)Spoke Derby Limited - In Liquidation

Final Receipts and Payments Account

(Be)Spoke Derby Limited
(In Liquidation)
Joint Liquidators' Summary of Receipts & Payments
To 28/02/2018

S of A £		£	£
NIL	SECURED ASSETS		
	Goodwill	NIL	NIL
	ASSET REALISATIONS		
1,400.00	Plant, Machinery, Fixtures & Fittings	1,505.00	
300.00	Stock	4,935.94	
6,065.00	Cash at Bank	6,265.50	
	Bank Interest Gross	24.29	
			12,730.73
	COST OF REALISATIONS		
	Preparation of S. of A.	4,000.00	
	Office Holders Fees	6,052.51	
	Office Holders Expenses	44.00	
	Agents/Valuers Fees (1)	2,239.53	
	VAT	187.39	
	Statutory Advertising	207.00	
	Bank Transaction Error	0.30	
			(12,730.73)
(19,427.44)	FLOATING CHARGE CREDITORS		
	Barclays Bank Plc	NIL	NIL
	UNSECURED CREDITORS		
(12,097.27)	Trade & Expense Creditors	NIL	
(7,630.00)	Landlord	NIL	
(28,500.00)	Directors	NIL	
(4,253.04)	Banks/Institutions	NIL	
(3,686.13)	H M Revenue & Customs (PAYE)	NIL	
(1.00)	H M Revenue & Customs (VAT)	NIL	
			NIL
(20.00)	DISTRIBUTIONS		
	Ordinary Shareholders	NIL	NIL
(67,849.88)			0.00
	REPRESENTED BY		
			NIL

Appendix 3

(Be)Spoke Derby Limited - In Liquidation

Trustees Final Time Analysis

Creditors Guide to Fees Charged by a Trustee in Bankruptcy

Time Entry - SIP9 Time & Cost Summary

BESPOKE - (Be)Spoke Derby Limited
 All Post Appointment Project Codes
 To: 28/02/2018

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & Planning	0.00	2.00	0.00	0.10	2.10	1,025.00	488.10
Closing Case	0.00	0.50	0.00	2.40	2.90	850.00	293.10
Creditors	0.00	3.80	0.00	0.00	3.80	1,900.00	500.00
Dividends & Distributions	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investigations	0.00	4.80	0.00	0.00	4.80	2,400.00	500.00
Realisation of Assets	0.00	1.20	0.00	0.00	1.20	600.00	500.00
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	0.00	12.30	0.00	2.50	14.80	6,775.00	457.77
Total Fees Claimed						6,052.51	
Total Disbursements Claimed						0.00	

Summary of chargeout rates for staff members involved with this case.

Grade Category	Minimum Rate	Maximum Rate
Partner	600	600
Manager	500	500
Assistants & Support Staff	250	250



Guidance Note

**LIQUIDATIONS
A CREDITOR'S GUIDE TO
INSOLVENCY
PRACTITIONERS' FEES**

Amended for changes introduced by
The Insolvency (England and
Wales) Rules 2016

6 April 2017

LIQUIDATIONS - A CREDITORS' GUIDE TO INSOLVENCY PRACTITIONERS' FEES

ENGLAND AND WALES

1 Introduction

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees (also referred to in this guide as 'remuneration'). This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

2 Liquidation procedure

- 2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can participate in the appointment of the liquidator. A solvent liquidation is called a members' voluntary liquidation. It should be noted that this guide does not extend to members' voluntary liquidations as the fees in these cases are not determined by the creditors.
- 2.3 In a compulsory liquidation, the function of the liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where the specialist skills of an insolvency practitioner are required or the majority of creditors request the appointment of an insolvency practitioner, an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver. Where an insolvency practitioner is not appointed the official receiver remains as liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

3 The liquidation committee

- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. An invitation to decide on whether a committee is to be established will be sent to creditors at the same time as a decision is sought on the appointment of a liquidator. In cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the progress of the liquidation, unless the committee directs otherwise. This provides an

opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

4 Fixing the liquidator's fees

4.1 Basis

4.1.1 The basis for fixing the liquidator's fees is set out in Rules 18.16, 18.17, 18.19 and 18.20 of the Insolvency (England and Wales) Rules 2016. The Rules state that the basis of fees must be fixed:

- as a percentage of the value of the assets which are realised, distributed or both, by the liquidator
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, or
- as a set amount.

4.1.2 Any combination of these bases may be used to fix the fees, and different bases may be used for different things done by the liquidator. Where the fee is fixed as a percentage, different percentages may be used for different things done by the liquidator.

4.2 Advance information where fees are not based on time costs

4.2.1 Prior to the determination of the basis of fees, the liquidator must give the creditors details of the work the liquidator proposes to undertake, and the expenses he considers will be, or are likely to be, incurred.

4.3 Fees estimates where fees are to be based on time costs

4.3.1 Where the liquidator proposes to take fees based on time costs, he must first provide the creditors with detailed information in the form of a 'fees estimate'. A fees estimate is a written estimate that specifies –

- details of the work the liquidator and his staff propose to undertake;
- the hourly rate or rates the liquidator and his staff propose to charge for each part of that work;
- the time the liquidator anticipates each part of that work will take; whether the liquidator anticipates it will be necessary to seek approval or further
- approval under the Rules; and
- the reasons it will be necessary to seek such approval.

4.3.2 In addition, the liquidator must give the creditors details of the expenses he considers will be, or are likely to be, incurred.

4.4 Who fixes the fees?

4.4.1 It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the fees are to be fixed. Where it is fixed as a set amount or a percentage, it is for the committee to determine the amount, percentage or percentages to be applied. Rule 18.16 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case;
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency;
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties;

- the value and nature of the property with which the liquidator has to deal.

4.4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's fees may be fixed by a decision of the creditors by a decision procedure. The creditors take account of the same matters as apply in the case of the committee.

4.4.3 If the fees are not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his fees fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be calculated in accordance with a scale set out in the Rules.

4.4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of fees fixed in the administration continues to apply in the liquidation).

5. Review of fees

5.1 Where there has been a material and substantial change in circumstances since the basis of the liquidator's fees were fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the fees, and the same rules apply as to the original approval.

6 What information should be provided by the liquidator?

6.1 General principles

6.1.1 The liquidator should provide those responsible for approving his fees with sufficient information to enable them to make an informed judgement about the reasonableness of the liquidator's request. The information should be presented in a manner which is transparent, consistent throughout the life of the case and useful to creditors, while being proportionate to the circumstances of the case.

6.1.2 A proposed liquidator may issue a fees estimate to creditors prior to being appointed liquidator.

6.1.3 The liquidator should disclose:

- payments, fees and expenses arising from the administration paid to the liquidator or his or her associates;
- any business or personal relationships with parties responsible for approving the liquidator's fees or who provide services to the liquidator in respect of the insolvency appointment where the relationship could give rise to a conflict of interest.

6.1.4 The liquidator should inform creditors and other interested parties of their rights under insolvency legislation, and should advise them how they may access suitable information setting out their rights within the first communication with them and in each subsequent report.

6.1.5 Where the liquidator sub-contracts out work that could otherwise be carried out by the liquidator or his staff, this should be drawn to the attention of creditors with an explanation of why it is being done.

6.2 Key issues

6.2.1 The key issues of concern to those with a financial interest in the level of payments from the insolvency estate will commonly be:

- the work the liquidator anticipates will be done, and why that work is necessary; and the anticipated cost of that work, including any expenses expected to be incurred in connection with it;
- whether it is anticipated that the work will provide a financial benefit to creditors, and if so what anticipated benefit (or if the work provided no direct financial benefit, but was required by statute);
- the work actually done and why that work was necessary;
- the actual costs of the work, including any expenses incurred in connection with it, as against any estimate provided;
- whether the work has provided a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute).

6.2.2 When providing information about payments, fees and expenses, the liquidator should do so in a way which facilitates clarity of understanding of these key issues. Narrative explanations should be provided to support any numerical information supplied. Where it is practical to do so, the liquidator should provide an indication of the likely return to creditors when seeking approval for the basis of his fees.

6.2.3 When approval for a fixed amount or a percentage basis is sought, the liquidator should explain why the basis requested is expected to produce a fair and reasonable reflection of the work that the liquidator anticipates will be undertaken.

6.3 Fee estimates and subsequent reports

6.3.1 When providing a fees estimate, the liquidator should supply that information in sufficient time to facilitate those with the authority to approve fees making an informed judgement about the reasonableness of the liquidator's requests. The estimate should clearly describe what activities are anticipated to be conducted in respect of the estimated fee.

6.3.2 When subsequently reporting to creditors, the actual hours and average rate (or rates) of the costs charged for each activity should be provided for comparison.

6.4 Disbursements

6.4.1 Costs met by and reimbursed to the liquidator in connection with the liquidation will fall into two categories:

- **Category 1 disbursements:** These are payments to independent third parties where there is specific expenditure directly referable to the liquidation. Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses.
- **Category 2 disbursements:** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that may be incurred by the liquidator or their firm, and that can be allocated to the liquidation on a proper and reasonable basis. Category 2 disbursements require approval in the same manner as a liquidator's fees.

6.4.2 When seeking approval, the liquidator should explain, for each category of cost, the basis on which the charge is being made. If the liquidator has obtained approval for the basis of Category 2 disbursements, that basis may continue to be used in a sequential appointment where further approval of the basis of remuneration is not required, or where the liquidator is replaced.

6.4.3 The following are not permissible as disbursements:

- a charge calculated as a percentage of fees;
- an administration fee or charge additional to the liquidator's fees; recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

6.5 Payment of pre-appointment expenses

6.5.1 The following categories of expenses may be paid out of the company's assets, either before or after the commencement of the winding up, as an expense of the winding up:

- any reasonable and necessary expenses of preparing the statement of affairs
- any reasonable and necessary expenses of the decision procedure or deemed consent procedure to seek a decision from the creditors on the nomination of liquidator

6.5.2 If payment has not been made pre-commencement of the liquidation, payment may not be made to the liquidator or any associate of the liquidator, otherwise than with the approval of the liquidation committee, creditors or the court.

6.5.3 Disclosure should be made of amounts already paid to the liquidator in respect of pre-appointment costs, giving the amounts paid, the name of the payer, and its relationship to the estate and the nature of the payment.

6.5.4 Disclosure should follow the principles and standards as set out in this Guidance.

6.6 Realisations for secured creditors

6.6.1 Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration in any reports he sends to creditors.

7. Exceeding the amount set out in the fees estimate

7.1 Fees cannot be drawn in excess of the fees estimate without approval by the body which fixed the original basis of the fee. The request for approval must specify –

- the reason why the liquidator has exceeded, or is likely to exceed, the fees estimate;
- the additional work the liquidator has undertaken or proposes to undertake;
- the hourly rate or rates the liquidator proposes to charge for each part of that additional work;
- the time that additional work has taken or the liquidator anticipates that work will take;
- whether the liquidator anticipates that it will be necessary to seek further approval; and
- the reasons it will be necessary to seek further approval.

8. Progress reports and requests for further information

8.1 The liquidator is required to send annual progress reports to creditors. In addition to the items described above and especially those in paragraph 6.2.1, the reports must include:

- details of the basis fixed for the fee of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
- if the basis has been fixed, the fee charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report);
- if the report is the first to be made after the basis has been fixed, the fee charged during the periods covered by the previous reports, together with a description of the things done during those periods, irrespective of whether payment was actually made during the period of the report;
- a statement of the expenses incurred by the liquidator during the period of the report, irrespective of whether payment was actually made during that period;
- details of progress during the period of the report, including a summary of the

- receipts and payments during the period;
- details of what needs to be done;
- where appropriate, a statement setting out whether, at the date of the report –
 - the fee expected to be charged is likely to exceed the fees estimate or any approval given;
 - the expenses incurred or expected to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of fees; and
 - the reason for that excess.
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the liquidator's fees and expenses.

8.2 Within 21 days of receipt of a progress report a creditor may request the liquidator to provide further information about the fees and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

8.3 The liquidator must provide the requested information within 14 days, unless he considers that:

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing some or all of the information.

8.4 Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days' time limit for the provision of the information.

9. Provision of information – additional requirements

9.1 The liquidator must provide certain information about the time spent on the case, free of charge, upon request by any creditor, director or shareholder of the company.

9.2 The information which must be provided is –

- the total number of hours spent on the case by the liquidator or staff assigned to the case;
- for each grade of staff, the average hourly rate at which they are charged out;
- the number of hours spent by each grade of staff in the relevant period.

9.3 The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the liquidator's appointment, or where he has vacated office, the date that he vacated office.

9.4 The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office.

10. What if a creditor is dissatisfied?

10.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees.

10.2 If a creditor believes that the liquidator's fees are excessive, the basis is inappropriate, or

the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

- 10.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the fees or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.
- 10.4 If the court considers the application well founded, it may order that the fees be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not out of the assets of the insolvent company.
- 10.5 On receipt of the liquidator's final account creditors have 8 weeks in which they may challenge the liquidator's fees and expenses as set out above.

11. What if the liquidator is dissatisfied?

- 11.1 If the liquidator considers that the fees fixed by the liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by decision of the creditors. If he considers that the fees fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

12 Other matters relating to fees

- 12.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 12.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the fee payable should be apportioned. Any dispute between them may be referred to the court, the committee or the creditors.
- 12.3 If a new liquidator is appointed in place of another, any determination, decision or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, decision or court order is made.
- 12.4 Where the basis of the fees is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the fees. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 12.5 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result

in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

13. Effective date

This guide applies where a liquidator is appointed on or after 1 October 2015, or where information is provided by the liquidator about fees, expenses or other payments after 6 April 2017.