

2.24B

The Insolvency Act 1986

Administrator's progress report

Name of Company A & R Services (M & E) Limited
--

Company number 06252830

In the High Court, Chancery Division <small>(full name of court)</small>

Court case number 4693 of 2011
--

(a) Insert full name(s) and address(es) of administrator(s)

I/We (a)
Simon Franklin Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London
E14 9XQ

Daniel Plant
S F P
9 Ensign House
Admirals Way
Marsh Wall
London

administrator(s) of the above company attach a progress report for the period

(b) Insert date

From (b) 31 May 2011	To
--------------------------------	----

(b) 11 May 2012

Signed

Joint Administrators

Dated

24 15 12

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form

The contact information that you give will be made available to members of the public

SFP
9 Ensign House
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DX Number

020 7538 2222
DX Exchange

FRIDAY



A36 *A19NPA9D* 25/05/2012 #87
COMPANIES HOUSE

When you have completed and signed this form, please send it to the Registrar of Companies at -
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

Strictly Private and Confidential

A & R Services (M & E) Limited (In Administration)

Final Progress Report to Creditors

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1. Introduction

- 1.1 This Report is prepared pursuant to Rule 2.117A of the Insolvency Rules 1986 (as amended) ("the Rules") in relation to A & R Services (M & E) Limited (in Administration) (Co Number 06252830) ("the Company"). This provides that when the Joint Administrators of a company have sent notice of moving from Administration to a Creditors' Voluntary Liquidation, they shall send a final progress report as soon as reasonably practicable once it has been registered at the Registrar of Companies.
- 1.2 To date, creditors have received the Joint Administrators' Report and Proposals circulated to creditors on 23 June 2011 ("the First Report") and a six monthly update on 9 December 2011 ("the Second Report"). In the light of the information contained in these previous reports, this Report simply provides an additional update.
- 1.3 Following the First Report, the Joint Administrators' proposals were approved. The Joint Administrators are moving the Company from Administration to Liquidation as they are now of the view that the outstanding issues in relation to this matter can be better dealt with in that regime.

2. Asset Realisations

The Sale of the Business and Assets

- 2.1 As detailed in the Second Report, the Joint Administrators completed a sale of the Company's business and assets on 7 June 2011 to A & R Services (Electrical S W) Limited ("ARS") for the sum of £75,000, payable on a deferred basis.
- 2.2 During February 2012, ARS advised it was suffering from cash-flow difficulties and could not maintain payments pursuant to the terms of the Sale and Purchase Agreement ("SPA"). At this time, £23,800 of the total sale consideration remained outstanding.
- 2.3 In addition to seeking a variation to the payment terms, ARS explained that they had concerns that they had over-paid for 'work-in-progress' ("WIP") at the time of the sale. This is because they realised afterwards that certain internal systems had not been updated.
- 2.4 In view of this, the Joint Administrators sought the opinion of valuation agent, Edward Symmons LLP ("Edward Symmons") as to whether or not a reduction should be applied to the agreed sale price. Having carried out a cursory review of the new position, Edward Symmons confirmed that on the face of it certain WIP may have actually been completed pre-sale.
- 2.5 However, instead of conducting a full audit, which would prove more costly than the level of reduction being sought, Edward Symmons recommended that the Joint Administrators take a commercial view and look to agree a settlement, with a reduction in the order of £3,500.
- 2.6 Accordingly, it was agreed that on the basis that ARS settled all outstanding payments, save for the final scheduled payment of £7,500, the Joint Administrators would agree a reduction from this amount.
-

- 2.7 A formal variation to the SPA was subsequently entered into. The varied payment dates provided for £3,000 per week to be paid from 24 February 2012 to 23 March 2012 and a payment of £1,600 on or before 30 March 2012. All of these have now been received.
- 2.8 The Joint Administrators are in the process of agreeing a reduction from the remaining £7,500 and will look to collect the balancing payment once the Company has been placed into Liquidation.

Debtors

- 2.9 As detailed in the Second Report, as at the date of the placing of the Company into Administration, its sales ledger was £270,000 with Venture Finance PLC ("Venture") having an outstanding commitment of £115,720.
- 2.10 An entity associated with the Joint Administrators' firm, SFP Recoveries Limited ("SFP Recoveries") was instructed to monitor the progress of debtor collections and provide assistance to Venture, if required.
- 2.11 SFP Recoveries has advised that Venture has collected its liability in full and reassigned the remaining sales ledger back to the Company for the benefit of the estate, together with surplus funds of £9,861.
- 2.12 Since reassignment, SFP Recoveries has been pursuing the outstanding debtor ledger and has realised an additional £7,511, bringing total collections for the benefit of the estate to £17,372.
- 2.13 SFP Recoveries will continue to pursue the remainder of the ledger once the Company has been placed into Liquidation. Given that certain debtors are proving problematic, solicitors Francis Wilks & Jones LLP ("FWJ") have been instructed to assist. FWJ fees will be calculated on a percentage of recoveries achieved from its efforts.

The Company's Trading Premises

- 2.14 As stated in the Second Report, the Company occupied its trading premises at The Old Dairy, Durnford Street, Bristol, BS3 2AW ("the Trading Premises") pursuant to an informal arrangement.
- 2.15 An entity associated with the Joint Administrators' firm, SFP Property Limited ("SFP Property") advised that the arrangement held no value for the benefit of the estate and accordingly, it obtained confirmation from the landlord that the Company has no further interest in the Trading Premises.

Estate Account Balance and VAT

- 2.16 The balance held on the Administration estate account of £11,899.25 shall be transferred to the Liquidation estate account once the Company has moved to Liquidation.
- 2.17 A VAT refund of £500 is presently being awaited. Once the refund is received from HM Revenue and Customs it shall be banked in the Liquidation estate account.
-

3. Investigations

- 3.1 In accordance with the Joint Administrators' duties, investigations are being made into the conduct of the Company's current directors by SFP Forensic Limited ("SFP Forensic") The requisite D Form was submitted to the Insolvency Practitioners Compliance Unit ("IPCU") on 7 November 2011 All information contained in the D form is strictly confidential and the Joint Administrators are not permitted to divulge details of their recommendations to the IPCU
- 3.2 SFP Forensic has identified various areas of concern in relation to the Company's trading activities prior to it being placed in to Administration These are currently being investigated However, the Administrator does not wish to divulge any further information in relation to this at this stage since it may hamper enquiries / future recoveries

4. Dividend Prospects / Payments

Preferential Creditors

- 4.1 As stated in the previous report, five of the Company's employees were made redundant on 7 June 2011 for economical, organisational and technical reasons in order for the sale of the business and assets to complete to ARS In the circumstances, it is anticipated that there will be claims for arrears of wages and outstanding holiday pay The Joint Administrators are yet to receive a claim from the Redundancy Payments Office ("RPO")
- 4.2 Based upon current information, it is anticipated that the preferential element of the RPO's claim will amount to circa £7,530 The estimated preferential element of employee claims is circa £1,172

Non-Preferential Claims

- 4.3 The non-preferential creditors' claims are summarised below

Creditor	Estimated Statement of Affairs £	Claims Received as at 11 May 2012 £
HM Revenue and Customs – VAT / PAYE / NIC	291,000	185,554
RPO/ Employees	TBC	TBC
Trade and Expense	46,262	30,217

- 4.4 The quantum of any dividend distribution to unsecured creditors is dependent upon realisations achieved from collection of the outstanding deferred sale consideration, any recoveries made from SFP Forensic's investigations, and collection of the re-assigned sales ledger by SFP Recoveries These would also be subject to any further associated costs

5. The Joint Administrators' Costs

- 5.1 At Appendix I is the Company's Final Income and Expenditure Account as at 11 May 2012 This is in the main self-explanatory
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- 5.2 At **Appendix II** is a breakdown of the time that has been incurred by the Joint Administrators' firm from 1 December 2011 to date, together with details of charge out rates / activity summaries. At **Appendix VIII** is a Guide to Administrators' Fees, being set out in Statement of Insolvency Practice 9. The Joint Administrators' fees have previously been authorised by the creditors.
- 5.3 Within 21 days of receipt of a progress report a creditor may request the Administrator to provide further information about the remuneration and expenses set out in the report. A request must be in writing and may be made by either a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors or the permission of the court.
- 5.4 In accordance with Rule 2.109 of the Rules, any secured creditor, or any unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors, or with the permission of the Court, may apply to the Court on the grounds that the remuneration or other expenses are excessive. Any such application must be made no later than 8 weeks after receipt of this report.
- 5.5 At **Appendix III** is a breakdown of the time that has been incurred by SFP Forensic from 1 December 2011 to date.
- 5.6 At **Appendix IV** is a breakdown of the time that has been incurred by SFP Recoveries from 1 December 2011 to date.
- 5.7 At **Appendix V** is a breakdown of the time that has been incurred by SFP Property from 1 December 2011 to date.
- 5.8 At **Appendix VI** is a breakdown of the time that has been incurred by SFP Datastore Limited ("SFP Datastore") from 1 December 2011 to date. Details concerning SFP Datastore can be found at **paragraph 5.14**.
- 5.9 At **Appendix VII** is a breakdown of SFP and its associated entities' charge out rates.
- 5.10 The First Report detailed the position in relation to disbursements and certain types of expenditure. To ensure that creditors are aware of how this operates, this Report reiterates the position. Disbursements and specific expenditure relating to the administration of an insolvent estate and payable to an independent third party are recoverable without creditor approval. Such expenditure is made, if funds are available from the insolvent estate. If funds are not available the payment is made from the Joint Administrators' firm's office account which is reimbursed from the insolvent estate if and when funds become available.
- 5.11 Payments made out of a firm's office account and re-charged to an insolvent estate are defined as 'Category 1 Disbursements'. This disbursement is explained further under the Expenses and Disbursements heading in the Guide to Administrators' fees, at **Appendix VIII**. There have been Category 1 Disbursements incurred to date in respect of the following:

Expenses	£	877.61
Bordereau	£	330.00
Company Search	£	25.00
Land Registry Searches	£	8.00

- 5.12 Expenditure incidental to the administration of the insolvent case, which by its nature includes an element of shared or allocated costs are recoverable with creditor approval. These payments are defined as 'Category 2 Disbursements' and, once again, this disbursement is explained further in the Guide to Administrators' fees, at Appendix VIII. There have been Category 2 Disbursements incurred to date in respect of the following:

Postage & Send Out	£	192 94
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As detailed in the First Report, SFP Forensic, SFP Recoveries, SFP Property and SFP Datastore's remuneration will be treated as a Category 2 Disbursement. Creditors have previously provided sanction to recover disbursements of this type.

- 5.13 At Appendix IX, is a summary of Category 1 and Category 2 Disbursements, detailing the rates of the latter.
- 5.14 The fees incurred by chattel asset valuers, Edward Symmons, SFP Recoveries, SFP Forensic, SFP Property and the solicitors assisting in this matter, PDT Solicitors LLP are calculated on a time cost basis. FWJ is paid on a percentage of recoveries paid. SFP Datastore has been employed by the Joint Administrators to store the Company's books and records as well as providing security services (where appropriate). Its fees for storage and security services are both on a fixed fee basis and on a time cost basis for any additional work carried out.

6. Additional Points and Conclusion

- 6.1 Creditors will recall that the Joint Administrators' approved proposals were to place the Company into creditors' voluntary liquidation. Further, for the Joint Administrators to take the appointment as Joint Liquidators without recourse to the creditors.
- 6.2 The requisite form is now in the process of being filed at Companies House to seek to place the Company into Liquidation. Following this, the Joint Liquidators will continue investigations into the Company's affairs.
- 6.3 Should any creditor have any questions or queries in relation to the above, please contact the Administrator dealing with this matter, Sonal Raikundalia on 020 7538 2222.

Dated this 22nd day of May 2012



Simon Plant
Joint Administrator

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX I

- **Income and Expenditure Account / Comparison to Estimated Statement of Affairs**

A & R Services (M & E) Limited
(In Administration)

Income and Expenditure Account

	Statement of affairs	From 31/05/2011 to 30/11/2011	From 01/12/2011 to 11/05/2012	From 31/05/2011 to 11/05/2012
	£	£	£	£
RECEIPTS				
Debts Secured by Factoring Agreement		391 20	-	391 20
Sale of Business & Assets	75,000 00	39,000 00	28,800 00	67,800 00
Book Debts		-	17,371 86	17,371 86
Cash at Bank	7,000 00	7,011 01	-	7,011 01
Refund from supplier		107 76	-	107 76
Bank Interest Gross		2 78	5 92	8 70
Fuel Refund	7,000 00	3,575 35	-	3,575 35
TOTAL RECEIPTS		50,088 10	46,177 78	96,265 88
PAYMENTS				
Monies Sent to Factors		391 20	-	391 20
SFP Datastore Fees		1,000 00	1,697 50	2,697 50
SFP Datastore Disbursements		2,035 20	1,298 37	3,333 57
SFP Forensic Fees		-	5,480 00	5,480 00
SFP Forensic Disbursements		-	22 50	22 50
SFP Property Fees		1,800 00	-	1,800 00
Joint Administrators' Remuneration		23,374 92	29,920 00	53,294 92
Joint Administrators' CAT 1 Disb		1,219 61	21 00	1,240 61
Joint Administrators' CAT 2 Disb		135 37	57 57	192 94
Employee Consultant Services		140 00	-	140 00
Agents/Valuers Fees		6,785 00	-	6,785 00
Agents/Valuers Disbursements		256 50	-	256 50
Legal Fees		6,500 00	-	6,500 00
Legal Disbursements		223 80	-	223 80
Courier Charges		593 91	41 53	635 44
Statutory Advertising		162 45	-	162 45
Insurance of Assets		710 20	-	710 20
TOTAL PAYMENTS		45,328 16	38,538 47	83,866 63
BALANCE IN HAND		4,759 94	7,639 31	12,399 25
REPRESENTED BY				
Floating current account		1,943 64	9,955 61	11,899 25
Vat Control Account		2,816 30	-2,316 30	500 00
BALANCE IN HAND		4,759 94	7,639 31	12,399 25

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX II

- **Breakdown of Joint Administrators' Fees / Activity Codes**

SFP



A & R SERVICES (M & E) LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 1 DECEMBER 2011 TO 11 MAY 2012

CLASSIFICATION OF WORK FUNCTION	Managing Partner	Partner	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total	
Administration and Planning	3 50	-	-	5 70	1 20	18 60	26 20	60 00	90 30
Investigation	-	-	-	-	-	-	-	-	-
Realisation of assets	-	-	-	2 40	3 10	-	-	-	5 50
Trading	-	-	-	-	-	-	-	-	-
Creditors	-	-	-	-	1 80	-	0 70	0 10	3 80
Total hours	3 50	-	-	8 10	6 10	16 60	26 90	6 10	99 60
Average rate £ per hour	500 00	-	-	300 00	275 00	225 00	150 00	100 00	200 53
Total costs £	1 750 00	-	-	2 430 00	1 677 50	3 735 00	4 035 00	610 00	19 972 50

Total costs from 31 May 2011 to 30 November 2011

65,977 50

Total costs from 31 May 2011 to 11 May 2012

85,950 00

Remuneration drawn on account

53,294 92

See Appendix for Summary Charge Out Rates for staff

SIP 9 STANDARD ACTIVITY SUMMARIES

Standard Activity	Examples of Work
Administration and Planning	Case Planning Administrative set up Appointment and notification Maintenance of records Statutory reporting Estate accounting Schedule company books and records
Investigation	SIP 2 CDDA report Investigating antecedent transactions
Realisation of assets	Identifying, securing, insuring assets Retention of title Debt collection – pre and post appointment Property, business and asset sales Communication and negotiations with secured creditors
Trading	Planning Management of operation Communication/negotiation with suppliers Communication/negotiation with landlord Communication/negotiation with third parties Monitor goods outward/inwards Stock take On-going employee issues Travel
Creditors	Communication with creditors Creditor claims (including employees and other preferential creditors)

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX III

- **Breakdown of SFP Forensic Limited Fees**

A & R SERVICES (M & E) LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 1 DECEMBER 2011 TO 11 MAY 2012

CLASSIFICATION OF WORK FUNCTION

	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Investigation	3 20	-	0 10	-	0 20	-	4 90
Total hours	3 20	-	0 10	-	0 20	-	4 90
Average rate £ per hour	500 00	-	325 00	-	175 00	-	373 47
Total costs £	1,600 00	-	32 50	-	17 50	-	1,830 00

Total costs from 31 May 2011 to 30 November 2011

Total costs from 31 May 2011 to 11 May 2012

Remuneration drawn on account

See Appendix for Summary Charge Out Rates for staff

10,200 00

12,030 00

6,480 00

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX IV

- **Breakdown of SFP Recoveries Limited Fees**

A & R SERVICES (M & E) LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 1 DECEMBER 2011 TO 11 MAY 2012

CLASSIFICATION OF WORK FUNCTION

	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Debit Collection	-	-	-	3 80	8 10	-	52 90
Total hours	-	-	-	3 80	8 10	-	52 90
Average rate £ per hour	-	-	-	275 00	250 00	-	177 13
Total costs £	-	-	-	1,045 00	2,025 00	-	9,370 00

Total costs from 31 May 2011 to 30 November 2011

Total costs from 31 May 2011 to 11 May 2012

Remuneration drawn on account

See Appendix for Summary Charge Out Rates for staff

16,387 90

25,757 50

0 00

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX V

- **Breakdown of SFP Property Limited Fees**

A & R SERVICES (M & E) LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 1 DECEMBER 2011 TO 11 MAY 2012

CLASSIFICATION OF WORK FUNCTION

	Managing Director	Senior Manager	Manager	Senior Administrator	Administrator	Assistant	Total
Property issues	0.40	-	-	-	-	1.30	2.20
Total hours	0.40	-	-	-	-	1.30	2.20
Average rate £ per hour	350.00	-	-	-	-	115.00	148.86
Total costs £	140.00	-	-	-	-	57.50	327.50
Total costs from 31 May 2011 to 30 November 2011							1,821.50
Total costs from 31 May 2011 to 11 May 2012							<u>2,149.00</u>
Remuneration drawn on account							<u>1,800.00</u>

See Appendix for Summary Charge Out Rates for staff

A & R Services (M & E) Limited (In Administration)

Report to Creditors

APPENDIX VI

- **Breakdown of SFP Datastore Limited Fees / Disbursements**

A & R SERVICES (M & E) LIMITED (IN ADMINISTRATION)

SUMMARY OF TIME AND CHARGE OUT RATES FOR THE PERIOD 1 DECEMBER 2011 TO 11 MAY 2012

CLASSIFICATION OF WORK FUNCTION

	Storage Tasks Staff Costs	Hire of Security Personnel	Inventorising Staff Costs	Total
Boxing Up / Collection / Inventorising of Records	0 30	-	5 40	5 70
Security Services	-	-	-	-
Total hours	0 30	-	5 40	5 70
Average rate £ per hour	25 00	-	75 00	72 37
Total costs £	7 50	-	405 00	412 50
Total costs from 31 May 2011 to 30 November 2011				2,325 00
Total costs from 31 May 2011 to 11 May 2012				2,737 50
Remuneration drawn on account				2,697 50

See Appendix for Summary Charge Out Rates for staff

	Disbursements incurred	£
697.3 miles @ £1.10 per mile		657 03
Retrieval costs		600 00
32 boxes @ £5 per box		160 00
Storage costs		599 04
Destruction costs		288 00
Expenses		1,056 50
Miscellaneous Expenses		38 00
Disbursements incurred		3,398 57
Disbursements drawn on account		3,333 57

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX VII

- **SFP and Associated Entity Charge Out Rates**



Charge out Rates for SFP main practice and associated entities

SFP and the Associated Entities remuneration is calculated on an hourly time cost basis, divided into 6 minute units calculated as follows:

Main Practice		SFP Forensic Limited		SFP Property Limited		SFP Recoveries Limited	
Grade	Rate p/hr	Grade	Rate p/hr	Grade	Rate p/hr	Grade	Rate p/hr
Managing Partner	500	Managing Director	500	Managing Director	350	Managing Director	500
Partner 2	450	Senior Manager 2	350	Senior Manager 2	275	Senior Manager 2	350
Partner 1	400	Senior Manager 1	325	Senior Manager 1	250	Senior Manager 1	325
Senior Manager 2	350	Manager 2	300	Manager 2	225	Manager 2	300
Senior Manager 1	325	Manager 1	275	Manager 1	200	Manager 1	275
Manager 2	300	Senior Administrator 2	250	Senior Administrator 2	175	Senior Administrator 2	250
Manager 1	275	Senior Administrator 1	225	Senior Administrator 1	155	Senior Administrator 1	225
Senior Administrator 2	250	Administrator 2	175	Administrator 2	135	Administrator 2	175
Senior Administrator 1	225	Administrator 1	150	Administrator 1	115	Administrator 1	150
Administrator 2	175	Assistant	100	Assistant	100	Assistant	100
Administrator 1	150						
Assistant	100						

SFP Datastore Limited		SFP Recoveries Limited	
Grade	Rate p/hr	Supporting Services	
Storage Tasks (Retrieval and collection)	25	Hire of Security Personnel	£18.50 per hour
Staff costs		Mileage	£1.10 per mile
Inventorising and Additional	75	Chauffeur Services	£1.35 per mile (£50 minimum)
Staff Costs			

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX VIII

- **Guide to Administrators / Liquidators Fees**

A CREDITORS GUIDE TO ADMINISTRATORS FEES

ENGLAND AND WALES

- 1 Introduction
- 1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually 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 administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.
- 2 The nature of administration
- 2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective
- rescuing the company as a going concern, or
 - achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration
- or if the administrator thinks neither of these objectives is reasonably practicable
- realising property in order to make a distribution to secured or preferential creditors
- 3 The creditors' committee
- 3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 8 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee or when a member of the committee asks for one or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.
- 4 Fixing the administrator's remuneration
- 4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986 which states that it shall be fixed
- as a percentage of the value of the property which the administrator has to deal with
 - by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, or
 - as a set amount.
- Any combination of these bases may be used to fix the remuneration and different bases may be used for different things done by the administrator. Where the remuneration is fixed as a percentage different percentages may be used for different things done by the administrator.
- It is for the creditors committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage it is for the committee to determine the percentage or percentages to be applied, and where it is a set amount, to determine that amount. Rule 2.106 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 administrator
 - the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties
 - the value and nature of the property which the administrator has to deal with.
- 4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment.
- 4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may here to be set aside out of floating charge assets.
- In this case, if there is no creditors' committee, or the committee does not make the requisite determination the remuneration may be fixed by the approval of –
- each secured creditor of the company or
 - if the administrator has made or intends to make a distribution to preferential creditors –
 - each secured creditor of the company and preferential creditors whose debts amount to more than 50% of the preferential debts of the company (regarding debts of any creditor who does not respond to an invitation to give or withhold approval,
- having regard to the same matters as the committee would.
- Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.
- 4.4 A resolution of creditors may be obtained by correspondence.
- 5 Review of remuneration
- 5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.
- 6 Approval of pre-administration costs
- 6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.
- 6.2 Where there is a creditors' committee it is for the committee to determine whether and to what extent such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in

paragraph 4.3 apply the determination may be made by the same creditors as approve the administrator's remuneration.

- 6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.
- 7 What information should be provided by the administrator?
- 7.1 When seeking remuneration approval
- 7.1.1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on
- the nature of the approval being sought;
 - the stage during the administration of the case at which it is being sought; and
 - the size and complexity of the case.
- 7.1.2 Where at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.
- 7.1.3 Where the administrator seeks agreement to his fees during the course of the administration he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case together with, where appropriate such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the expenses to be assessed (what recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:
- Administration and planning
 - Investigations
 - Realisation of assets
 - Trading
 - Creditors
 - Any other case-specific matters
- The following categories are suggested as a basis for analysis by grade of staff
- Partner
 - Manager
 - Other senior professionals
 - Assistants and support staff
- The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- Any significant aspects of the case, particularly those that affect the amount of time spent.
 - The reasons for subsequent changes in strategy
 - Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
 - The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
 - Any existing agreement about fees
 - Details of how other professionals, including subcontractors, were chosen how they were contracted to be paid, and what steps have been taken to review their fees.
- It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.
- 7.1.4 Where the fee is charged on a percentage basis the administrator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by an administrator or his staff.
- 7.2 After remuneration approval
- Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.
- 7.3 Disbursements and other expenses
- There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them as described below. Professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which – what being in the nature of expenses or disbursements may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm) they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.
- 8 Progress reports and requests for further information
- 8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include
- details of the basis fixed for the remuneration of the administrator (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 remuneration 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 remuneration charged during the periods covered by the previous reports together with a description of the work 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 administrator during the period of the report, irrespective of whether payment was actually made during that period.

- the date of approval of any pre-administration costs and the amount approved; a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the administrator's remuneration and expenses
- 8.2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) 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 administrator 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 administration or might be expected to lead to violence against any person, or
 - the administrator is subject to an obligation of confidentiality in relation to the information requested,
- in which case he must give the reasons for not providing the information.
- Any creditor may apply to the court within 21 days of the administrator'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
- The administrator must provide certain information about time spent on a case free of charge upon request by any creditor, director or shareholder of the company.
- The information which must be provided is –
- the total number of hours spent on the case by the administrator 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.
- 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 administrator's appointment, or where he has vacated office, the date that he vacated office.
- The information must be provided within 28 days of receipt of the request by the administrator and requests must be made within two years from vacation of office.
- 10 What if a creditor is dissatisfied?
- 10.1 If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the administrator are in all the circumstances excessive he may provided certain conditions are met, apply to the court.
- 10.2 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 5 weeks of the applicant receiving the administrator's progress report in which the charging of the remuneration 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 administrator a copy of the application and supporting evidence at least 14 days before the hearing.
- 10.3 If the court considers the application well founded it may order that the remuneration 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 as an expense of the administration.

- 11 What if the administrator is dissatisfied?
- 11.1 If the administrator considers that the remuneration fixed by the creditors' committee 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 resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors 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 creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee the administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration.
- 12 Other matters relating to remuneration
- 12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors committee or a meeting of creditors.
- 12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company profit costs may not be paid unless authorised by the creditors committee, the creditors or the court.
- 12.3 If a new administrator is appointed in place of another any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new administrator until a further determination, resolution or court order is made.
- 12.4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.
- 13 Effective date
- This guide applies where a company enters administration on or after 6 April 2010 except where
- the application for an administration order was made before that date or
 - where the administration was preceded by a liquidation which commenced before that date.



A CREDITORS' GUIDE TO LIQUIDATORS' 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. 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 vote on the appointment of the liquidator at the first meeting of creditors.

2.3 In a compulsory liquidation on the other hand, the function of 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 there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains 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. The committee is usually established at the creditors meeting which appoints the liquidator but 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 5 weeks of its establishment (or his appointment if that is later) 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.



- the size and complexity of the case

6.1.2 Where, at any creditors or committee meeting, the liquidator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

6.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up-to-date receipts and payments account. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case together with where appropriate such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on the subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff:

- Partner
- Manager
- Other senior professionals
- Assistants and support staff

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the liquidator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make

The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
Any existing agreement about fees.
Details of how other professionals including subcontractors were chosen, how they were contracted to be paid, and what steps have been taken to review their fees.

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

6.1.4 Where the fee is charged on a percentage basis the liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a liquidator or his staff.



4 Fixing the liquidator's remuneration

4.1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 - 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed:

- as a percentage of the value of the assets which are realized or distributed or both,
- 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.

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

It is for the liquidation committee (if there is one) to determine on which of these bases or combination of bases the remuneration is to be fixed. Where it is fixed as a percentage it is for the committee to determine the percentage or percentages to be applied. Rule 4.127 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 assets which the liquidator has to deal with.

4.2 If there is no liquidation committee or the committee does not make the requisite determination the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is 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 remuneration 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 in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 6 below).

5 Review of remuneration

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

6 What information should be provided by the liquidator?

6.1 When seeking remuneration approval

6.1.1 When seeking agreement to his fees the liquidator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and



6.2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 7.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work which has been sub-contracted out.

6.3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements but there is provision for the creditors to challenge them as described below. Professional guidance issued to insolvency practitioners requires that, where the liquidator proposes to recover costs which relate to the nature of expenses or disbursements, may include an element of shared or allocation costs (such as room hire, document storage or communication facilities provided by the liquidator's own firm) they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and recovers remuneration out of the proceeds (see paragraph 11.1 below) he should disclose the amount of that remuneration to the committee (if there is one) at any meeting of creditors convened for the purpose of determining his fees and in any reports he sends to creditors.

7 Progress reports and requests for further information

7.1 The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration 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 remuneration 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 remuneration charged during the periods covered by the previous reports, together with a description of the work 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.
- a statement of the creditors' rights to request further information as explained in paragraph 7.2 and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration 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.

7.3 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 the information

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

8 Provision of information – additional requirements

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

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

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

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

9 What if a creditor is dissatisfied?

9.1 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. To enable them to carry out the function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing

9.2 If a creditor believes that the liquidator's remuneration is too high, 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.

9.3 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 remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 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.

9.4 If the court considers the application well founded, it may order that the remuneration 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 What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration 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 resolution of the creditors. If he considers that the remuneration 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.

11 Other matters relating to remuneration

11.1 Where the liquidator releases 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.

11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.

11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.

11.4 If a new liquidator is appointed in place of another, any determination, resolution 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, resolution or court order is made.

11.5 Where the basis of the remuneration 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 remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.

11.6 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.

12 Effective date

This guide applies where a company –

- goes into liquidation on a winding-up resolution passed on or after 6 April 2010
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010 except where the preceding administration began before that date
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010 except where the liquidation was preceded by – an administration which began before that date – a voluntary liquidation in which the winding-up resolution was passed before that date

A & R Services (M & E) Limited (in Administration)

Report to Creditors

APPENDIX IX

- **Category 2 Disbursement Summary Charge Sheet**



DIRECT EXPENSES (Category 1 Disbursements)

Category 1 disbursements as defined by SIP 9, which can be specifically identified as relating to the administration of the case, will be charged to the estate as cost, with no uplift. These include, but are not limited, to such items as advertising, bonding and other insurance premiums and properly reimbursed expenses.

INDIRECT EXPENSES (Category 2 Disbursements)

It is normal practice to also charge the following indirect disbursements (Category 2 Disbursements, as defined by SIP 9) to the case, where appropriate. These costs are as follows:

Stationery / Photocopying	Cost Per Page / Envelope
* 1 page of headed paper	0.12
* 1 page of continuation paper	0.10
* 1 page of photocopying paper	0.02
* Envelopes (all sizes)	0.10

Postage	Postage Rate
Postage – 1 st class (small)	0.32
Postage – 1 st class (large)	0.44
Postage – 2 nd class (small)	0.22
Postage – 2 nd class (large)	0.36

Travel

Mileage incurred as a result of necessary travel is charged at the Inland Revenue approved rate of 40p per mile.

Please note that sanction has been obtained to treat the fees of SFP Forensic Limited, SFP Property Limited, SFP Recoveries Limited and SFP Datastore Limited as Category 2 disbursements.