

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A and 192
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

2087537

Name of Company

Merthyr And Rhondda Cynon Taff Groundwork Trust

I / We

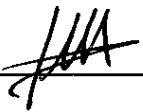
Ian J Gould, Two Snowhill, Birmingham, B4 6GA

Simon Edward Jex Girling, Two Snowhill, Birmingham, B4 6GA

the liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986.

The Progress Report covers the period from 21/04/2016 to 20/04/2017

Signed



Date

25/5/17

BDO LLP
Pannell House
159 Charles Street
Leicester
LE1 1LD

Ref: 00253091/IJG/SEJG/KR/KO/GS/CB/RH/KB

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COMPANIES HOUSE

Merthyr And Rhondda Cynon Taff Groundwork Trust
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments

Statement of Affairs	From 21/04/2016 To 20/04/2017	From 21/04/2015 To 20/04/2017
ASSET REALISATIONS		
Transfer from Administration	NIL	313,781.12
Bank Interest Gross	118.72	118.72
Bank Interest Net of Tax	NIL	135.15
Licence to Occupy	NIL	300.00
	<u>118.72</u>	<u>314,334.99</u>
COST OF REALISATIONS		
Water Rates	NIL	2,083.33
Administrators Fees	NIL	100,000.00
Liquidator's Fees	17,320.00	27,320.00
Agents/Valuers Fees (1)	NIL	8,837.70
Legal Fees (1)	4,930.00	4,930.00
VAT Irrecoverable	NIL	536.67
Stationery & Postage	192.01	748.95
Electricity	NIL	8,625.78
Storage Costs	1,607.54	3,801.25
Utility Costs	NIL	7,071.78
Statutory Advertising	NIL	153.44
Rates	NIL	2.38
Other Property Expenses	NIL	1,015.00
Insurance of Assets	NIL	37,612.46
Bank Charges	NIL	18.70
DTI Unclaimed Dividends	(52.66)	(52.66)
	<u>(23,996.89)</u>	<u>(202,704.78)</u>
PREFERENTIAL CREDITORS		
Preferential E.P.A.	NIL	25,262.73
Preferential Wages	NIL	9,219.06
	<u>NIL</u>	<u>(34,481.79)</u>
	<u>(23,878.17)</u>	<u>77,148.42</u>
REPRESENTED BY		
Vat Input		24.84
Bank 2 Current		75,947.83
Vat Control Account		1,175.75
		<u>77,148.42</u>


 Ian J Gould
 Joint Liquidator

**TO ALL KNOWN MEMBERS
AND CREDITORS**

26 May 2017

Our Ref: 00253091/IJG/SEJG/KER/GS

Please ask for Gemma Sharman
Telephone: 0116 250 4421
Email: gemma.sharman@bdo.co.uk

Dear Sirs

Merthyr And Rhondda Cynon Taff Groundwork Trust - In Creditors' Voluntary Liquidation ("the Trust")**Registered number: 2087537**

I set out below an annual progress report for the period 21 April 2016 to 20 April 2017 ("the period") in accordance with Section 104A of the Insolvency Act 1986 and Rule 18.2 of the Insolvency (England and Wales) Rules 2016 ('the Rules').

Professional information regarding the Liquidators

The Joint Liquidators are Ian James Gould (officeholder No: 7866) and Simon Edward Jex Girling (officeholder No: 9283) of BDO LLP. The Liquidators were appointed on 21 April 2015 and carry out their functions jointly and severally meaning any action can be done by one Liquidator or by both of them.

Receipts

I attach for your information a summary of our Receipts and Payments account, analysed to show activity in the last year compared to the whole of the liquidation. The account shows a balance in hand of £77,148.

The Receipts shown are largely self-explanatory and the only realisation since our previous report is £119 gross bank interest.

Payments**Legal Fees**

Legal fees of £4,930 have been paid to Squire Patton Boggs ("SPB") in the period. This fee relates to work completed in respect of a significant claim received against the Trust during the Administration period.

Since our last report the following expenses have accrued and where possible been drawn:-

Disbursement	Accrued (£)	Paid (£)	Anticipated (£)
Stationery & Postage	192	192	
Storage Costs	1,608	1,608	



DTI Unclaimed Dividends

A dividend cheque of £53 will be transferred to the Treasury Solicitors unclaimed dividends department following the next dividend payment as the cheque has not been cashed by the recipient.

Progress of the liquidation

During the period I have dealt with the statutory obligations of Liquidators and continued to maximise realisations from the Trust's assets. I have commenced the review of the unsecured claims in anticipation of the dividend payment to unsecured creditors and submitted a VAT bad debt relief claim which I am currently awaiting the outcome of.

Assets

Debtors

As the debtor realisations process has now been concluded I have submitted a VAT bad debt relief claim in respect of irrecoverable amounts. I anticipate that any amount due to the Trust may be subject to Crown set-off and, therefore, may not result in any realisation but would help in reducing the overall creditor claims.

Other Realisations

There are no further asset realisations anticipated. The only realisation in the period is gross bank interest of £119 as detailed above.

I can confirm that there are no assets of a peculiar or special nature which cannot be sold. Consequently there has been no distribution of unsold assets to creditors, as mentioned in Rules 18.10/14.13 of the Insolvency (England & Wales) Rules 2016.

Future Prospects

As advised earlier in this report, I am currently in the process of adjudicating the unsecured claims prior to declaring the dividend payment. I would urge any creditor who has not yet submitted a claim to do so using the enclosed proof of debt form.

Once the dividend payment to the unsecured creditors has been finalised I will seek tax clearance and move the case to closure.

Secured Creditors

According to office copy entries obtained from the Land Registry, the property owned by the Trust was the subject of a legal charge in favour of The Co-operative Bank ("the Co-op"). However, the legal charge had not been registered with the Registrar of Companies. SPB advised on the validity of the security charged against the property by the Co-op.

As the Legal Charge had not been registered at Companies House, under Section 874 of the Companies Act 2006 it is void (so far as any security on the Trust's property or undertaking is conferred by it). Irrespective of the terms of the charge, when a charge becomes void under Section 874, the money secured by it becomes immediately due and payable but only as an unsecured debt. Thus, the Co-op is an unsecured creditor and its claim against the Trust will be an unsecured claim.

As previously advised, to enable the sale of the freehold property to proceed, the Co-op released their charge registered at the Land Registry and the property was accordingly sold free of the charge.

Preferential Creditors

As advised in our previous report, a distribution of 100p in the £ was declared to the preferential creditors of the Trust on 3 November 2015.

The total amount paid to preferential creditors was £34,481.79 and related to arrears of wages and holiday pay due to the former employees of the Trust.

Prescribed Part

Under Section 176A of the Insolvency Act 1986 where after 15 September 2003 the company has granted a floating charge to a secured creditor, a proportion of the net property of the company must be made available purely for the unsecured creditors.

The Trust has not granted a floating charge to any creditor after the 15 September 2003 and consequently there will be no prescribed part in this liquidation.

Unsecured Non-Preferential Claims

Based on a combination of the claims received from creditors and the amounts shown as being due in the Trust's books and records, the Trust would appear to have the following unsecured non-preferential claims:

	£
Trade & Expense Creditors	196,242
H M Revenue & Customs - PAYE/NI	19,043
H M Revenue & Customs - VAT	3,096
Employee Claims	529,582
Groundwork UK	35,800
The Co-operative Bank	264,695
Total	1,048,458

Based on current information, it is estimated that there will be a return to unsecured creditors of circa 6p in the £. This is dependent upon further claims being received which may dilute the distribution to the unsecured creditors.

Creditors' claims are currently being reviewed and a notice of intended dividend will shortly be sent to any creditors who have not made a claim.



Investigations

The Joint Liquidators have a duty to investigate the affairs of the Trust and also the conduct of the directors and in respect of the latter, to submit a confidential statutory report to the Secretary of State. I confirm that a report has been submitted.

I have completed a review of the Trust's affairs and assets to establish whether there are any actions that can be investigated for the benefit of the creditors and concluded there are no causes of action to be pursued.

Liquidators' Remuneration

Pursuant to the Rules, the Joint Liquidators are obliged to fix their remuneration in accordance with Rule 18.16. This permits remuneration to be fixed either:

- (1) as a percentage of the assets realised and distributed; and/or
- (2) by reference to the time the Joint Liquidators and the staff have spent attending to matters in the liquidation; and/or
- (3) as a set amount; and/or
- (4) as a combination of the above.

The creditors have already approved the Joint Liquidators' remuneration on a time cost basis at a meeting of creditors held on 13 January 2013.

The time costs incurred during the period amount to £12,677 representing 73 hours at an average hourly rate of £174. Fees drawn during the period amount to £17,320.

Total time costs in this matter are £35,542 being 214 hours at an average hourly rate of £166. The total fees drawn to date amount to £27,320. Detailed analyses of the time costs incurred in the period of this report and since the commencement of the liquidation are enclosed.

These amounts are derived from BDO LLP's normal rates for time properly spent by the liquidators and their staff in attending to matters arising in the liquidation. Where members of staff have been employed on this case they have been so based on their experience and abilities in dealing with a case of this nature. Where appropriate certain staff have dealt with a specific area of the liquidation due to their specialist skills in that area. BDO LLP's scale rates may increase from time to time over the period of an assignment.

All staff who have worked on this matter, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the enclosed analysis. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.

For guidance, I enclose 'A creditors' guide to Liquidators' fees', together with a document that outlines the policy of BDO LLP in respect of fees and disbursements.

Disbursements

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. I therefore report that the sum of £5,259 has been drawn in respect of category 1 disbursements detailed below:-

	£
Irrecoverable VAT	537
Stationery & Postage	749
Storage Costs	3,801
Statutory Advertising	153
Bank Charges	19
	5,259

Joint Liquidators often charge expenses for example printing, stationery, photocopying, telephone and electronic communications, which cannot economically be recorded in respect of a specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements.

Creditors' rights

I provide at the end of this report an extract from the Rules setting out the rights of creditors to request further information and/or challenge the remuneration or expenses within the liquidation. Creditors may access information setting out creditors' rights in respect of the approval of Liquidator's remuneration at <https://www.r3.org.uk/what-we-do/publications/professional/fees>.

The Insolvency Service has established a central gateway for considering complaints in respect of Insolvency practitioners. In the event that you make a complaint to me but are not satisfied with the response from me then you should visit <https://www.gov.uk/complain-about-insolvency-practitioner> where you will find further information on how you may pursue the complaint.

Any other information

The joint office-holders are bound by the Insolvency Code of Ethics when carrying out all professional work relating to this appointment. A copy of the code is at: <http://www.icaew.com/en/members/regulations-standards-and-guidance/ethics/code-of-ethics-d>

If you require any further information please contact me or my colleague Gemma Sharman on 0116 250 4421.

Yours faithfully
for and on behalf of
Mertyn and Rhondda Cynon Taff Groundwork Trust


Jan J Gould
Joint Liquidator

Authorised by the Institute of Chartered Accountants in England & Wales in the UK

Enc

1. Statement from the Insolvency (England and Wales) Rules 2016 regarding the rights of creditors in respect of the Joint Liquidators' fees and expenses.
2. An abstract of the Liquidators receipts and payments account for the period.



3. Analysis of time charged to the liquidation during the period of this report and the period of the liquidation.
4. Proof of Debt Form.
5. Summary of the policies of BDO LLP in respect of fees and expenses.
6. Creditors' guide in relation to Insolvency Practitioners fees.

Statement from the Insolvency (England and Wales) Rules 2016 regarding the rights of creditors in respect of the Joint Liquidators' fees and expenses:**Creditors' and members' requests for further information in administration, winding up and bankruptcy**

18.9.—(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 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
 - (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 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).

Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive

18.34.—(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').

Applications under rules 18.34 and 18.35 where the court has given permission for the application

18.36.—(1) This rule applies to applications made with permission under rules 18.34 and 18.35.

- (2) Where the court has given permission, it must fix a venue for the application to be heard.
- (3) The applicant must, at least 14 days before the hearing, deliver to the office-holder a notice stating the venue and accompanied by a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
- (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question is not to be treated as expenses of the administration, winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or Liquidator or the administrator's or Liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration, winding up or bankruptcy.

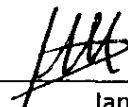
Applications under rule 18.34 where the court's permission is not required for the application

18.37.—(1) On receipt of an application under rule 18.34 for which the court's permission is not required, the court may, if it is satisfied that no sufficient cause is shown for the application, dismiss it without giving notice to any party other than the applicant.

- (2) Unless the application is dismissed, the court must fix a venue for it to be heard.
- (3) The applicant must, at least 14 days before any hearing, deliver to the office-holder a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
- (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration or winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or Liquidator or the administrator's or Liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration or as winding up or bankruptcy.

Merthyr And Rhondda Cynon Taff Groundwork Trust
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments

Statement of Affairs	From 21/04/2016 To 20/04/2017	From 21/04/2015 To 20/04/2017
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REPRESENTED BY		
Vat Input		24.84
Bank 2 Current		75,947.83
Vat Control Account		1,175.75
		<u><u>77,148.42</u></u>



Ian J Gould
Joint Liquidator

Merthyr and Rhondda Cynon Taff Groundwork Trust
Summary of time charged and rates applicable for the period from 21.4.15 to 20.4.17

Description	Partner		Senior Manager/ Manager		Assistant Manager/ Senior Executive		Administrator		Other Staff		Total		Average Hourly Rate £ per hour
	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	
A. Pre appointment matters	-	-	-	-	-	-	-	-	-	-	-	-	-
B. Steps on appointment	-	-	0.40	92.00	-	-	-	-	-	-	0.40	92.00	230.00
C. Planning and Strategy	-	-	-	-	-	-	-	-	-	-	-	-	-
D. General administration	1.95	923.30	7.85	1,889.35	90.15	17,197.15	17.35	2,456.20	45.55	3,460.25	162.85	25,926.25	159.20
E. Asset and realisations/dealing	0.65	310.00	0.75	221.25	3.70	684.60	-	-	0.55	42.90	5.65	1,258.75	222.79
F. Trading related matters	0.15	72.60	-	-	-	-	-	-	-	-	0.15	72.60	484.00
G. Employee matters	-	-	5.95	1,345.60	4.25	851.05	2.10	234.70	4.60	455.40	16.90	2,886.75	170.81
H. Creditor claims	-	-	3.45	750.65	11.95	2,380.10	2.85	373.35	1.65	132.70	19.90	3,636.80	182.75
I. Reporting	0.40	184.40	0.80	204.60	-	-	1.40	183.40	1.85	151.70	4.45	724.10	162.72
J. Distribution and closure	0.15	72.60	1.65	351.45	1.90	364.80	-	-	-	-	3.70	788.85	213.20
K. Other work	0.30	145.20	-	-	-	-	0.10	10.40	-	-	0.40	155.60	389.00
TOTAL	3.60	1,708.10	20.85	4,854.90	111.95	21,477.70	23.80	3,258.05	54.20	4,242.95	214.40	35,541.70	165.77

Merthyr and Rhondda Cynon Taff Groundwork Trust (In Liquidation)
Summary of time charged and rates applicable for the period from 21.04.16 to 20.4.17

Description	Partner		Senior Manager/ Manager		Assistant Manager/ Senior Executive		Administrator		Other Staff		Total		Average Hourly Rate £ per hour
	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	
A. Pre appointment matters	-	-	-	-	-	-	-	-	-	-	-	-	-
B. Steps on appointment	-	-	-	-	-	-	-	-	-	-	-	-	-
C. Planning and Strategy	-	-	-	-	-	-	-	-	-	-	-	-	-
D. General administration	0.20	99.30	4.55	1,116.15	35.05	6,995.10	9.75	1,310.60	11.70	883.90	61.25	10,405.05	169.88
E. Asset and realisations/dealing	-	-	-	-	0.30	60.60	-	-	-	-	0.30	60.60	202.00
F. Trading related matters	-	-	-	-	-	-	-	-	-	-	-	-	-
G. Employee matters	-	-	-	-	-	-	0.20	34.40	-	-	0.20	34.40	172.00
H. Creditor claims	-	-	0.10	25.50	8.95	1,805.90	-	-	0.20	13.80	9.25	1,845.20	199.48
I. Reporting	-	-	0.30	89.60	-	-	1.40	183.40	-	-	1.70	273.00	160.59
J. Distribution and closure	-	-	-	-	-	-	-	-	-	-	-	-	-
K. Other work	0.10	48.40	-	-	-	-	0.10	10.40	-	-	0.20	58.80	294.00
TOTAL	0.30	147.70	4.95	1,231.25	44.30	8,861.60	11.45	1,538.80	11.90	897.70	72.90	12,677.05	173.90

Proof of Debt/Claim Form
Merthyr And Rhondda Cynon Taff Groundwork Trust
Company No: 2087537
- Company Voluntary Liquidation

Debt as at the date of the winding up Resolution: 21 April 2015

1	Name of creditor (If a company please also give company registration number and where registered).	
2	Address of creditor including email address for correspondence.	
3	Total amount of claim, including any Value Added Tax at the above date.	
4	If amount in 3 above includes outstanding uncapitalised interest please state amount.	£
5	Particulars of how and when debt incurred. (If you need more space append a continuation sheet to this form).	
6	Particulars of any security held, the value of the security, and the date it was given.	
7	Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates.	
8	Provide details of any documents by reference to which the debt can be substantiated. (Note: There is no need to attach them now but the Liquidator may call for any document or evidence to substantiate the claim at his discretion as may the Chair or convener of any meeting).	
9	Signature of creditor or person authorised to act on his behalf _____	Dated _____
Name in BLOCK LETTERS _____		
Position with or in relation to creditor _____		
Address of person signing (if different from 2 above) _____		



Merthyr And Rhondda Cynon Taff Groundwork Trust - In Liquidation

In accordance with best practice we provide below details of the policies of BDO LLP in respect of fees and expenses for work in relation to the above insolvency.

The current charge out rates per hour of staff within our firm, who may be involved in working on the insolvency, follows: This in no way implies that staff at all such grades will work on the case.

GRADE	£
Partner	509
Director/Senior Manager	300-326
Manager	224-255
Assistant Manager/Senior Executive	202
Executive	172-191
Administration Assistant	110-153
Junior Administrator	87
Support staff/Secretary	69

The rates charged by BDO LLP are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO LLP records work in respect of insolvency work under the following categories:-

- Pre Appointment
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.

Where officeholders' remuneration is approved on a time cost basis, the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.



Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into two categories.

Category 1

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents etc. In each case the recharge will be reimbursement of a specific expense incurred.

Category 2

Insolvency practice additionally provides for the recharge of expenses such as postage, stationery, photocopying charges, telephone, fax and other electronic communications, which cannot be economically recorded in respect of each specific case. Such expenses, which are apportioned to cases, must be approved by the creditors in accordance with the Insolvency Rules 1986, before they can be drawn, and these are known as category 2 disbursements. The current policy of BDO LLP is to recharge this expense on the basis of a figure based upon the number of creditors with whom we have to communicate and report during the insolvency. This is the method of calculation that was historically provided under statutory orders for the Official Receiver.

Where applicable, all disbursements will be subject to VAT at the prevailing rate.

BDO LLP

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 6 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.

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 realised 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 8 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 fixing bases of remuneration

6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.

6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.

6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.2 After the bases of remuneration have been fixed

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.3 Disbursements and other expenses

6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:

- Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.
- 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 can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

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 may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.2 The following are not permissible:

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

6.4 Realisations for secured creditors

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 to the committee (if there is one), to 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 this 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 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.

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 or after 1 November 2011.

Appendix

Suggested format for the provision of information Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format. Narrative overview of the case In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the liquidator;
- the liquidator's effectiveness;
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known);
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
- any significant aspects of the case, particularly those that affect the remuneration and cost expended;
- the reasons for subsequent changes in strategy;
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
- any existing agreement about remuneration;
- 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;
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed;
- details of work undertaken during the period;
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
 - details of work undertaken during the period, related to the table of time spent for the period;
 - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used;
 - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

The following areas of activity are suggested 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 level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply:

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explaining unusual features of the case;
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features);
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.