

**2.24B**

The Insolvency Act 1986

**Administrator's progress report**

Name of Company
J & S Component Engineering Limited

Company number
02429422

In the Leeds District Registry (full name of court)
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Court case number 1944 of 2010
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(a) Insert full  
name(s) and  
address(es) of  
administrator(s)

We (a)  
Paul Whitwam  
BWC Business Solutions Limited  
8 Park Place  
Leeds  
LS1 2RU

Gary Blackburn  
  
8 Park Place  
Leeds  
LS1 2RU


administrators of the above company attach a progress report for the period

(b) Insert date

From (b) 22 September 2010
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To (b) 21 March 2011
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Signed

  
Joint Administrators

Dated

30 March 2011

**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 visible to searchers of the public record

Paul Whitwam BWC Business Solutions Limited 8 Park Place Leeds LS1 2RU	0113 243 3434 DX Exchange
DX Number	

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**

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COMPANIES HOUSE

# **J & S Component Engineering Limited - In Administration**

## **Interim Report of the Administrators Pursuant to Rule 2.47 of The Insolvency Rules 1986**

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## 1. COMPANY AND ADMINISTRATORS' DETAILS

<b>Name of Court &amp; Court Reference Number:</b>	High Court of Justice Leeds District Registry Chancery Division Number 1944 of 2010
<b>Company Registered Number:</b>	02429422
<b>Registered Office:</b>	C/O BWC Business Solutions Limited, 8 Park Place, Leeds, LS1 2RU
<b>Name of Administrators:</b>	Paul Andrew Whitwam and Gary Edgar Blackburn Licensed Insolvency Practitioners of BWC Business Solutions Limited, 8 Park Place, Leeds, LS1 2RU The Administrators are licensed by the Insolvency Practitioners' Association
<b>Date of Appointment:</b>	22 September 2010
<b>Persons Making Appointment:</b>	Aldermore Invoice Finance Limited (formerly Absolute Invoice Finance) – Qualifying Floating Charge Holder
<b>Acts of the Administrator</b>	The Administrators act as officers of the Court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an Administrator may be done by any one or more persons holding the office of Administrator from time to time

## 2. ADMINISTRATORS' ACTIONS TO DATE

### Administrators' Proposals

This report should be read in conjunction with the report dated 8 November 2010, previously submitted under paragraph 49 of Schedule B1 to the Insolvency Act 1986

In that report the Administrators made various proposals regarding the conduct of the Administration and these were approved. The key proposals approved by the Company's creditors by correspondence were as follows

- The Administrators' proposals dated 8 November 2010 were approved
- The remuneration of the Administrators be fixed by reference to time properly given by them and their staff in attending to matters arising from the Company's administration, in accordance with the Statement of Insolvency Practice number 9 and that they be authorised to draw remuneration and disbursements as and when funds are available
- The Pre-Administration Costs of the Joint Administrators be approved for payment out of the assets of the company as an expense of the administration

## **Outcome for Creditors**

At the time of drafting the initial report to creditors it was anticipated that insufficient funds would be realised to enable a dividend to be paid to unsecured creditors. The Administrators now confirm that there will be insufficient funds to enable a dividend to be paid to creditors from realisations generally, or from the prescribed part calculated pursuant to Section 176A of The Insolvency Act 1986 (see Section 4).

## **Administrators' Actions to Date**

Since the submission of their initial report the Administrators have undertaken the following work:

- Submission of a report on the Directors' conduct to the Department of Trade & Industry
- Dealing with creditor correspondence.
- Completion and submission of outstanding Returns
- Preparation and submission of statutory reports and other statutory duties.
- Dealing with the surrender of the leases of the properties in Cumbernauld and Rainham
- Dealing with claims of employees of the Company.
- Dealing with sale of the stock and motor vehicle
- Monitoring the collection of the deferred consideration.
- General administrative tasks

## **Connected Party Transactions**

Following the appointment of the Joint Administrators, details of the residual stock held in a 3<sup>rd</sup> party storage unit were provided by the Director. This stock was valued at £100 on an ex-situ basis by Michael Steel & Co (Plant & Machinery) Limited, Chartered Surveyors based in Leeds ("the Agents").

An offer of £500 plus VAT was received for the stock from Crownsbury Limited ("Crownsbury") which was accepted. The funds were received on 21 January 2011

The Company's motor vehicle, disclosed in the Statement of Affairs with a value of £500 was sold by the Agents to a party connected to a former employee of the Company for £250

Other than as detailed above, the Company in Administration has not entered into any connected party transactions since those transactions dealt with in the Administrators' Initial report.

## **Report on Conduct of Directors**

The Administrators are required to submit a 'Report on the Conduct of Directors' to the Department of Trade and Industry covering all directors who have served in the three years prior to their appointment. This report has been submitted and is based on the Administrators investigations to date. The contents of the report cannot be disclosed to creditors.

## **Receipts & Payments Account**

Attached at Appendix I to this report is the Administrators' Receipts and Payments Account for the period from the date of appointment to 21 March 2011.

### **3. UNREALISED ASSETS/CREDITORS CLAIMS**

#### **Book Debts**

The Company's book debts are factored by Aldermore Invoice Finance Limited (formerly Absolute Invoice Finance) ("Aldermore") who are continuing to collect the outstanding ledger. Aldermore has advised that they do not anticipate that any surplus funds will be available to the Administrators after application of collect out charges and accruing interest.

#### **Deferred Consideration**

As detailed in the Administrators' initial report, the Company's plant and machinery was sold for £10,000 plus VAT on 13 October 2010. The sale consideration, including VAT, was payable in three equal monthly instalments of £3,916.67.

The deferred sale consideration has been received in full. The final payment was received on 21 January 2011.

#### **Creditors' Claims**

Creditors' claims of £374,612 have been received to date. The Administrators have spent no time agreeing the claims as it is not anticipated that any distribution will be available to the unsecured creditors.

### **4. SHARE OF ASSETS FOR UNSECURED CREDITORS**

In accordance with Section 176A of the Insolvency Act 1986 where the Company has granted a floating charge after 15 September 2003, a proportion of the funds subject to the floating charge are set aside for the benefit of the unsecured creditors. This is calculated as being 50% of the first £10,000 of net property and 20% of net property thereafter subject to a maximum fund of £600,000. Net property is defined as being the realisations from assets subject to the floating charge after costs and after settlement of the preferential creditors' claims.

There is no "Prescribed Part" available to unsecured creditors pursuant to Section 176A (2) Insolvency Act 1986 after deducting expected costs of realisation, and providing for preferential creditor claims

## **5. ADMINISTRATORS' FEES AND EXPENSES**

### **Basis of the Joint Administrators' remuneration**

The Administrators' proposals included authority for the Administrators to draw remuneration by reference to time properly given by them and their staff in attending to matters arising from the Company's administration, in accordance with the Statement of Insolvency Practice number 9, and that they be authorised to draw remuneration and disbursements as and when funds are available.

### **Remuneration charged and drawn during the period of this report**

A detailed analysis of the time costs of the Administrators is attached at Appendix II to this report. The analysis discloses post appointment time costs of £19,579 which equates to 124.75 hours at an average charge out rate of £156.94

A creditors' guide to Administrators' fees was attached to the Administrators' initial report dated 8 November 2010. A further copy is attached at Appendix III. There have been no increases to BWC Business Solutions Limited standard charge out rates since 1 April 2009.

The Administrators will not draw any remuneration until the agreement of the Proposals by the secured creditors, Aldermore Invoice Finance Limited (formerly Absolute Invoice Finance)

### **Expenses incurred by the Joint Administrators**

No expenses or Category 2 disbursements have been drawn by the Joint Administrators

Michael Steel & Co (Plant & Machinery) Limited, Chartered Surveyors have been paid an agreed fee of £208 for their valuation of the Company's stock and for dealing with the sale of the stock and motor vehicle.

Solutions (Corporate Consultants) LLP have been paid an agreed fee of £1,000 for the preparation of the Company's Statement of Affairs

Katte Company Secretaries Limited have been paid an agreed fee of £350 for assistance in preparing the final tax returns for the Company

### **Pre-Administration Costs**

Lee & Priestley incurred costs of circa £1,000 in dealing with the formalities surrounding the appointment of the Joint Administrators by Aldermore.

The Administrators' proposals included authority for this amount to be paid. However these pre-appointment costs have not yet been drawn.

No pre-administration fees will be drawn by the Administrators

## **6. SUMMARY & FURTHER PROPOSALS**

As discussed above, there is no prospect of a dividend being paid to the Company's unsecured creditors and accordingly the Administrators intend to file a notice pursuant to paragraph 84 of Schedule B1 to the Act, together with a final progress report to the Court and the Registrar of Companies, for the dissolution of the Company

The Administrators shall send copies of these documents to the Company and the creditors. In these circumstances, the appointment will end following the registration of the notice by the Registrar of Companies. Thereafter the Company will be dissolved

If any creditor requires any further information, please do not hesitate to telephone Laura Fisher of this office



For and on behalf of J & S Component Engineering Limited

**PAUL A WHITWAM**

Joint Administrator

30 March 2011

**J & S Component Engineering Limited  
(In Administration)**

**Summary of Receipts & Payments**

<b>RECEIPTS</b>	<b>Statement of Affairs (£)</b>	<b>From 22/09/2010 To 08/11/2010 (£)</b>	<b>From 09/11/2010 To 21/03/2011 (£)</b>	<b>Total (£)</b>
Plant & Machinery	10,000 00	3,916 67	6,083 33	10,000 00
Motor Vehicle	500 00	0 00	250 00	250 00
Stock		0 00	500 00	500 00
Bank Interest Gross		0 00	0 14	0 14
Director's Costs Contribution		411 25	0 33	411 58
		<b>4,327 92</b>	<b>6,833 80</b>	<b>11,161 72</b>

**PAYMENTS**

Specific Bond		126 00	0 00	126 00
Preparation of S of A		0 00	1,000 00	1,000 00
Agents/Valuers Fees		0 00	208 33	208 33
Photocopying		0 00	252 00	252 00
Accountancy fees		350 00	0 00	350 00
Re-Direction of Mail		26 00	0 00	26 00
Statutory Advertising		69 75	69 75	139 50
		<b>571.75</b>	<b>1,530 08</b>	<b>2,101 83</b>

<b>Net Receipts/(Payments)</b>		<b>3,756.17</b>	<b>5,303 72</b>	<b>9,059 89</b>
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**MADE UP AS FOLLOWS**

<b>Vat Receivable</b>	<b>73.46</b>	<b>272 98</b>	<b>346 44</b>
<b>Bank 2 Current</b>	<b>4,093 96</b>	<b>4,965 93</b>	<b>9,059 89</b>
<b>Vat Payable</b>	<b>0 00</b>	<b>(1,850.00)</b>	<b>(1,850 00)</b>
<b>Vat Control Account</b>	<b>0 00</b>	<b>1,503 56</b>	<b>1,503 56</b>
	<b>4,167.42</b>	<b>4,892.47</b>	<b>9,059 89</b>



# APPENDIX II

## J & S COMPONENT ENGINEERING LIMITED -- IN ADMINISTRATION

### ADMINISTRATORS' TIME COSTS AS AT 15 MARCH 2011

Notes	Partner Hours £310	Manager Hours £200	Admin Hours £75-£150	Total Hours	Average cost per hour £	Total Cost at 15 March 2011 £	Total Cost B/F £	Costs Incurred From initial to 6 month report £
1 Admin & Compliance	4.00	7.50	85.50	97.00	156.98	15,227.50	5,525.00	9,702.50
2 Planning & Control	2.00				310.00	620.00	1,550.00	930.00
3 Fixed Charge Assets								
4 Floating Charge Assets			2.75	2.75	150.00	412.50	150.00	262.50
5 Trading								
6 Debt Collection								
7 Creditors		0.75		0.75	200.00	150.00	200.00	200.00
8 Employees			11.25	11.25	135.00	1,518.75	168.75	1,350.00
9 Meetings & Statutory Duties			7.25	7.25	150.00	1,087.50	675.00	412.50
10 Reports & Statutory Returns			1.75	1.75	150.00	262.50		262.50
11 Investigations			2.00	2.00	150.00	300.00		300.00
Total Post Appointment Time	6.00	8.25	110.50	124.75	156.94	19,578.75	8,218.75	11,360.00

## APPENDIX II (Cont)

### Explanation of Work Classifications

Notes	
1	Admin & Compliance Includes Maintenance of cash and estate records, general correspondence, compliance, review of case files
2	Planning & Control Includes Case planning/strategy/trading strategy
3	Fixed Charge Assets Includes Dealing with various actions effecting the disposal of charged assets including sales pack, meetings with potential purchasers
4	Floating Charge Assets Includes Dealing with various actions affecting the motor vehicles, plant, machinery and office equipment
5	Trading Includes Disposal of work in progress/ stock and general continuation of the business
6	Debt Collection Includes Correspondence with debtors, collection of outstanding debts, maintaining debtor records
7	Creditors Includes Dealing with preferential and unsecured creditors claims
8	Employees Includes Employee claims (preferential and unsecured), pension matters
9	Meetings & Statutory Duties Includes Appointment formalities, meetings of creditors
10	Reports & Statutory Returns Preparation of creditors reports, directors conduct reports, statutory returns submitted to Companies House
11	Investigations Includes Investigation work

## APPENDIX III

### J & S COMPONENT ENGINEERING LIMITED - IN ADMINISTRATION

#### CREDITORS' GUIDE TO FEES & STATEMENT OF CREDITORS RIGHTS

##### 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 and 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 established at the meeting of creditors which the administrator is required to hold within 3 months of the administration order to consider his proposals. The administrator must call the first meeting of the committee within 3 months 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 fees

- 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 either:

- as a percentage of the value of the property which the administrator has to deal with, or
- 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 an 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 as a fixed 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 have 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, disregarding 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% 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 bases 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 fee 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 judgment 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 exercise to be assessed (whilst 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

Details of the charge out rates of staff employed by BWC Business Solutions Limited with effect from 1 April 2009 are as follows

STAFF GRADE	CHARGE OUT RATE £ PER HOUR
Partner	310
Manager	200
Assistant Manager	175
Senior	150
Case Administrator	150
Cashiering	150
Clerical	75

## 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. 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. However, professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which, whilst 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, 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 creditors or 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 a 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 unsecured creditor, or by any unsecured creditor provided at least 10% 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 administrator's progress report in which the charging of the remuneration or incurring of the expense 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 he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for it to be increased. 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 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 or court order is made.
- 12.4 Where the basis of 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 Policy for Re-Charging Expenses Incurred by Office Holders in Respect of the Administration of Insolvent Estates**

- 13.1 This note applies where the administrator seeks creditor approval to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by him. Best practice guidance<sup>[1]</sup> requires that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.
- 13.2 Best practice guidance classifies expenses into two broad categories:
- Category 1 expenses (approval not required) – specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges,
  - Category 2 expenses (approval required) – all other items of expenditure which cannot, or cannot easily be directly related to a particular insolvency case because there is an element of shared or allocated cost, and/or where the cost of the expense incurred is an estimated, unutilised cost with the estimate based on external costs or opportunity cost.
- 13.3 Category 1 expenses (approval not required) – with the exception of any items referred to below, all such items are re-charged to the case as they are incurred.
- 13.4 Category 2 expenses (approval required) – the following items of expenditure are re-charged as described:
- Internal meeting room usage for the purpose of statutory meetings of creditors is re-charged at the rate of £100 per meeting,
  - Car mileage is re-charged at the rate of 40 pence per mile,
  - Storage of books and records (when not rechargeable as a Category 1 expense) is recharged at the rate of £3 per archive box per year or part thereof;

In respect of category 2 expenses, a re-charge will be made without specific approval, where the precise cost to the case can be determined because the item satisfies the test of a category 1 expense.

In respect of the above three items of expenditure it is anticipated that the cost to the case can be precisely determined and accordingly, the item satisfies the test of a category 1 expense and hence will be charged without requiring specific approval.

The following items of expenditure will normally be treated as general office overheads not subject to a re-charge:

- Telephone and facsimile
- Stationery
- IT licences and software
- Postage

## **14 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.