

**2.17B**

The Insolvency Act 1986

**Statement of administrator's proposals**

Name of Company
Esys Limited

Company number
02445975

In the Leeds District Registry <small>(full name of court)</small>
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Court case number 1936 of 2008
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(a) Insert full  
name(s) and  
address(es) of  
administrator(s)

I, (a)  
Andrew T Clay  
Centrum Recovery Limited  
Speedwell Mill  
Old Coach Road  
Tansley  
Matlock  
DE4 5FY

\*Delete as  
applicable

attach a copy of \*my proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) 19 January 2009

Signed

\_\_\_\_\_  
Administrator

Dated

\_\_\_\_\_  
19. 1. 09

**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 researchers of the public record

Andrew T Clay  
Centrum Recovery Limited  
Speedwell Mill  
Old Coach Road  
Tansley  
Matlock  
DE4 5FY

DX Number

01629 761700  
DX Exchange

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**

SATURDAY



A32

\*AF93Q6SP\*

24/01/2009

688

COMPANIES HOUSE

# **Esys Limited**

## **In Administration**

**Administrators' Report and Proposals for  
achieving the purpose of the Administration,  
pursuant to Schedule B1 paragraph 49 of the  
Insolvency Act 1986 and Rule 2.33 of the  
Insolvency Rules 1986**

January 2009

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# 1 Appointment

- 1.1 Andrew T Clay of Centrum Recovery Limited was appointed Administrator of Esys Limited ('the Company') on 15 December 2008. The appointment was made on application by the Director, under the provisions of Schedule B1, paragraph 22(2) of the Insolvency Act 1986.
- 1.2 Under Schedule B1 of the Insolvency Act 1986 the Administrator is required to perform their functions with the objective of
- a) Rescuing the Company as a going concern or,
  - b) Achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up without first being in administration or,
  - c) Realising property in order to make a distribution to one or more secured or preferential creditors.
- 1.3 Section 5 of this report sets out how the Administrator has and proposes to perform his functions.

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## 2 Background

- 2.1 The company was incorporated as Esys Limited on 23 November 1989 and carried on the business as consultants to the aerospace and telecommunications industries from its offices at The Surrey Research Park in Guildford, Surrey.
- 2.2 The company specialises in consultancy and project management services to the aerospace industry working on projects for private companies and the European Commission and European Space Agency.
- 2.3 The company employed up to 30 people at its rented premises at Surrey University's research park.
- 2.4 The company had banking facilities with Fortis Bank Plc but had no borrowing or overdraft facilities.
- 2.5 The company had traded profitably for a number of years. Accounts for the years ended 30 June 2005 and 2006 showed shareholders funds of £598,607 and £641,186 respectively.
- 2.6 However, during 2007 the Directors recognised a downturn in consulting opportunities. This position did not improve in the early part of 2008.
- 2.7 In October 2008 the Directors decided to take advice from Bramley Carrington Limited. Bramley Carrington Limited had previously assisted the Directors in restructuring and refinancing the business during 2007. However, due to the downturn in consulting within the aerospace industry, the Directors decided they could not continue in their present form. In order to protect the assets and minimise losses to creditors, the Directors were advised to seek the advice of Centrum Recovery Limited.
- 2.8 Accordingly, the company was referred to Andrew T Clay, a Licensed Insolvency Practitioner, of Centrum Recovery Limited. Centrum Recovery Limited is connected to Bramley Carrington Limited in that they have common shareholders. No fees have passed between the two companies.
- 2.9 As the company was no longer in a position to continue with its contracts and as there were significant contractual debts to collect, it was decided to appoint an Administrator.
- 2.10 Consequently, Andrew T Clay of Centrum Recovery Limited was appointed Administrator on 15 December 2008.

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### **3 Statement of Affairs**

- 3.1 It is a statutory requirement for the directors to prepare and submit an Estimated Statement of Affairs for the company as at the date of Administration.
- 3.2 I have requested the directors prepare and submit an Estimated Statement of Affairs to be received within 11 days from 17 December 2008. The Director has indicated that the statement is currently being prepared. When the statement is received it will be lodged at Companies House as a matter of public record.
- 3.3 The Administrator's estimate of the anticipated outcome for creditors is discussed in more detail in Section 6.

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## **4 Prescribed Part**

- 4.1 Section 176A of the Insolvency Act 1986 provides that where a qualifying floating charge has been created, the Administrators must make a prescribed part of the Company's net property available for the satisfaction of unsecured debt (including previously preferential Crown debt).
- 4.2 However as there is no floating charge creditor this part is not applicable.

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## 5 Administration Strategy and Proposals

- 5.1 The Directors approached me on 3 December 2008 regarding the financial position of the company. The company was experiencing cash-flow difficulties and was under severe pressure from a number of creditors.
- 5.2 The company is involved in a number of I T development projects throughout Europe both as a main contractor and sub-contractor.
- 5.3 During 2008, the Directors became aware of a downturn in project opportunities due to a reduction in research budgets throughout their client base in Europe.
- 5.4 In November 2008, it was decided that the Director's only option was to seek advice to place the company into a formal insolvency procedure. In order to attempt to preserve the value of the company's sales ledger by discussing and assisting clients with on-going contractual obligations, it was decided to appoint an Administrator.
- 5.5 The Administrator was appointed on 15 December 2008. Following the Administrator's appointment, I have contacted all project managers and clients in an attempt to protect the company's position as regards outstanding monies due. The book debts are due at different stages of the contracts and it is far from certain as to what will be realised. It is evident that the company may have breached certain contractual terms by not completing its work.
- 5.6 I have had a number of meetings with clients of the company to discuss how I may be able to assist in the continuity of the projects and whether it may be possible to novate agreements in order to recover fees billed to date. These discussions are on-going.
- 5.7 Agents have been instructed to value and dispose of the office furniture and equipment. This is not anticipated to be of significant value.
- 5.8 The realisation of assets is reflected on the Estimated Outcome Statement at Appendix 2.

### Administrators Objectives

- 5.9 The inability of the company to trade due to its cash-flow difficulties and diminishing project base meant that objective a) rescuing the company as a going concern was not achievable.



- 
- 5.10 Accordingly the Administrator determined that he should perform his function to achieve objective b) a better result for the company's creditors as a whole than would be likely if the company were wound up without first being in Administration.
- 5.11 As a result it is likely that a distribution will be made to unsecured creditors, although the quantum and timing of this dividend are not yet known.

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## **6 Estimated outcome statement**

- 6.1 The realisations following the sale agreement are reflected on the Estimated Outcome Statement shown at Appendix 2.
- 6.2 This reflects the realisation of the funds held in the company's bank accounts at the date of the Administrator's appointment.
- 6.3 I have not been made aware of any secured or preferential creditors.
- 6.4 The statement indicates that on current information there may be funds available to distribute to the unsecured creditors.

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## **7 Proposed exit route**

- 7.1 In the event that there are funds available to unsecured creditors, the company will proceed into liquidation to enable a distribution to be made. However, should there be no funds available then the company will be dissolved following the end of the Administration.

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## **8 EC Regulation on Insolvency Proceedings 2000**

- 8.1 The EC Regulation on Insolvency Proceedings 2000 applies to this case. The centre of main interest is Guildford, Surrey in England. The proceedings are main proceedings.

## 9 Administrators' Remuneration

9.1 The Administrator's time costs to 9 January 2009 may be summarised as follows:

	Hours	£
Partner	3	900
Senior Professionals	4	9,020
Assistant & support staff	15	1,660
	<u>59</u>	<u>11,580</u>

9.2 Time spent can be broadly allocated as follows:

	Hours	£
Administration and planning	31	5,420
Asset realisations	25	5,500
Creditor correspondence	3	660
Employees	-	-
	<u>59</u>	<u>11,580</u>

9.3 A detailed analysis of the time costs to date is attached at Appendix 3.

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## 10 Administrator's Proposals

Administrator's Proposals to be considered at the initial creditors meeting are as follows:-

- The Administrator's realisation of the assets as set out in the Administration Strategy and Proposals on the terms agreed are confirmed.
- The Administrator shall continue to negotiate with clients regarding incomplete contracts and recovery of book debts.
- In the event of sufficient funds being available for a distribution to creditors, the company be placed in creditors voluntary liquidation in accordance with paragraph 83 of Schedule B1 of the Insolvency Act 1986.
- The Administrator be appointed Liquidator for this purpose.
- If no funds are available for a distribution to creditors, the Company shall be dissolved in accordance with Paragraph 84 of Schedule B1 of The Insolvency Act 1986.
- The Administrator does not feel that a creditors committee is necessary in this case and therefore propose that no committee is formed.
- The Administrators remuneration be fixed by reference to the time properly incurred by the Administrator and his staff in attending to matters arising in the Administration. In addition, the Administration disbursements be paid as an expense of the Administration.

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## Appendix 1 – Statutory Information

<b>Court Details</b>	Leeds District Registry 1936 of 2008
<b>Company Number</b>	02445975
<b>Registered Office</b>	Speedwell Mill Old Coach Road Tansley Matlock De4 5FY
<b>Director</b>	Michael Dillon James Boulcher (resigned 31/12/07) Andrew Davies (resigned 31/12/07) Peter Poskett (resigned 31/12/07)
<b>Company secretary</b>	Charles Michael Brooks
<b>Shareholder</b>	Mike Dillon 70,700 Ord £1 shares John Holt 1,010 Ord £1 shares Austin Stanton 3,939 Ord £1 shares
<b>Auditors</b>	Baker Tilly The Clock House 140 London Road Guildford GU1 1UW
<b>Bankers</b>	Fortis Bank Camomile Court London EC3A 7PP

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## **Appendix 2 – Administrator’s Estimated Outcome Statement**



# Esys Limited

## Estimated outcome statement as at 14 January 2009

	Notes	R & P £	Estimated Future movements £	Estimated Final Outcome £
<b>Asset realisations</b>				
Cash at Bank	1	117,375	-	117,375
Book debts	2	-	100,000	100,000
Office fixtures & fittings	3	-	2,000	2,000
		<u>117,375</u>	<u>102,000</u>	<u>219,375</u>
<b>Less costs of realisation</b>				
Rent	4	-3,216	-	-3,216
Agents	5	-	-2,000	-2,000
Legal fees (estimated)	6	-	-5,000	-5,000
Administrators fees (estimated)	7	-	-50,000	-50,000
		<u>-3,216</u>	<u>-57,000</u>	<u>-60,216</u>
<b>Balance available to creditors</b>		<u>114,159</u>	<u>45,000</u>	<u>159,159</u>

### Notes

1. The cash has been realised from the Fortis Bank.
2. The sales ledger has a book value of £264,632. However the Directors maintain that contractual debts on unfinished contracts will not be realised.
3. The fixtures & fittings include office furniture and I T equipment.
4. The rent covers the period 19/12/08 to 31/12/09
5. Agents fees for the uplift and sale of equipment has been estimated.
6. The Administrator's fees are estimated.

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## **Appendix 3 – Administrator's Time Cost Summary**

**SIP 9 - Time & Cost Summary**

Period: 15/12/08..16/01/09

## Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	3.00	13.00	0.00	15.00	31.00	5,420.00	174.84
Investigations	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Realisations of assets	0.00	25.00	0.00	0.00	25.00	5,500.00	220.00
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors	0.00	3.00	0.00	0.00	3.00	660.00	220.00
Case specific matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Hours</b>	<b>3.00</b>	<b>41.00</b>	<b>0.00</b>	<b>15.00</b>	<b>59.00</b>	<b>11,580.00</b>	<b>196.27</b>
<b>Total Fees Claimed</b>						0.00	

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## **Appendix 4 – Creditors' Details**

**ESYS Limited**  
**B - Company Creditors**

Key	Name	Address	£
CA00	Aalborg University	European GNSS, Supervisory Authority (GSA), Rue de la Loi 56, 1049 Brussels, Belgium	30,334.44
CC00	Canon UK Ltd	Woodhatch, Reigate, RH2 8BF	111.83
CC01	Cobham Lock & Safe Company Ltd	37 High Street, Cobham, Surrey, KT11 3DT	235.00
CC02	CowI A/S	Parallevej, DK - 2800 Kongens Lyngby, Denmark	9,520.00
CD00	DNV Certification Ltd	Palace House, 3 Cathedral Street, London, SE1 9DE	881.25
CD01	Donald Kennedy	Telecommunications Consultant, 'Iona', Hasle Hill, Haslemere, Surrey GU27 2HA	2,958.32
CD02	POLITECNICO DI TORINO	Dipartimento di Elettrotecnica, Corso Duca Degli Abruzzi, 24, 1 - 10129 Torino, Italy	7,392.85
CE00	Econys Nederland BV	P.O. Box 4175, 3006 AD Rotterdam, Watermanweg 44, 3067 GG Rotterdam, The Netherlands	10,341.54
CE01	ENAC	7 Avenue Edouard Belin, BP 54005, 31055 Toulouse, Cedex 4	4,195.80
CF00	French Development Conseil	10 Cours Louis Lumiere, 94300 Vincennes, France	44,230.77
CF01	FluData Ltd	92-94 Tooley Street, London, SE1 2TH	978.78
CF02	Fleet Street Travel	Travel House, Hanworth Lane, Chertsey, Surrey, KT16 9JX	114.50
CF03	University Of Porto	Faculdade Ciencias - UP, Direccao de servicos financeiros, e Patrimoniais, Rua Do Campo Alegre, s/n 4169-007 Porto	3,192.31
CH00	H M Revenue & Customs - VAT	Insolvency Section, Queens Dock, Liverpool, L74 4AF	0.00
CH01	H M Revenue & Customs - PAYE	Enforcement Office, Barrington Road, Worthing, BN12 4SE	0.00
C100	IDate	Institut de l'audiovisuel, et des telecommunications en europe, BP 4167, FR - 34092, MONTPELLIER Cedex 5	9,436.36
C101	Indra Espacio, S.A	Mar Egea, Poligono Industrial No 1, 28830 San Fernando De Henares, Madrid	26,924.08
CK00	Kelly's Storage Limited	Slyfield Industrial Estate, Guildford, Surrey, GU1 1SB	95.76
CK01	Kniss	1Doryong - Dong, Yuseong- Gu, Daejeon, 305-340, Korea	8,974.89
CL00	Lombard North Central Plc	Asset Finance, 2nd Floor Cyn Building, Adwick Park, Manvers, Wath - upon Dearne S63 5AD	274.08
CN00	N Power Business	npower Business Services, Birch House Joseph St, Oldbury West Midlands, B69 2AQ	338.73
CN01	Nestle Waters Powwow	4050 Chancellor Court, Oxford Business Park South, Garsington oad, Oxford, OX4 2GX	43.71
CO00	Office Gold Ltd	Gold House, Quadrum Park, Old Portsmouth Road, Peasmarsh, Guildford, Surrey GU3 1LU	117.50
CO01	Orange	Orange Payment Processing, Southend On Sea, SS99 6LU	321.83
CP00	Position One Consulting Pty Ltd	PO Box 1703, Cleveland, QLD 4163, Australia	11,958.63
CP01	Pole star Sari	9 Rue Paulin Talbot, 31100 Toulouse	5,234.33
CP02	Pao Sfirm, SC JSC SRIFM	Ukraine, 61064, Kharkov, Akademika Pavlova, 271	20,000.00
CS00	Sistema	Wheatley House, 12 Lucas Road, High Wycombe, HP13 6QE	14,383.95
CS01	Sage (UK) Ltd	North Park, Newcastle Upon Tyne, NE13 9AA	575.75
CT00	The Surrey Research Park	30 Frederick Sanger Road, The Surrey Research Park, Guildfords, Surrey, GU2 7EF	1,684.02
CT01	Team Global	Units 2-4 Britannia Industrial Esta, Poyle Road, Cointbrook, Berkshire, SL3 0BH	16.36
CT02	Telefonica	Investigacion Y Desarrollo, S.A Unipersonal, Emilio Vargas, 6-28043 Madrid	4,444.62
CT03	Telespazio	BP 52309, 26 av JF Champollion, Toulouse, France	7,692.31
CU00	Financial Services University of Calgary	2500 University Drive NW, Calgary, AB T2N 1N4	25,089.76
CU01	Universitat der Bundeswehr Munchen	85577 Neubiberg, Germany	24,572.31
CU02	Uniwersytet Warmińsko-Mazurski	W Olsztynie IE. UL. Oczapowskiego 2, 10- 957 Olsztyn, Poland	2,222.22
CV00	Known Future Limited	29 Cornwall Road, Harpenden, Hertfordshire, AL5 4TQ	623.54
EN00	Nina Costa	Strada Chimerico 1, Castagaeto Po (TO), 10090, Italy	495.00

Signature

Date

Centrum Recovery Limited

14/01/2009

ESYS Limited  
B - Company Creditors

Address

Key Name

38 Entries Totalling

280,416.74

£

Signature

Date

## PROOF OF DEBT - GENERAL FORM

**In the matter of Esys Limited  
In Administration  
and in the matter of The Insolvency Act 1986**

Date of Administration Order 15 December 2008

1.	Name of Creditor	
2.	Address of Creditor	
3.	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into administration	£
4.	Details of any document by reference to which the debt can be substantiated. [Note the administrator may call for any document or evidence to substantiate the claim at his discretion]	
5.	If the total amount shown above includes Value Added Tax, please show:-  (a) amount of Value Added Tax (b) amount of claim NET of Value Added Tax	£ £
6.	If total amount above includes outstanding uncapitalised interest please state amount	£
7.	If you have filled in both box 3 and box 5, please state whether you are claiming the amount shown in box 3 or the amount shown in box 5(b)	
8.	Give details of whether the whole or any part of the debt falls within any (and if so which) of the categories of preferential debts under section 386 of, and schedule 6 to, the Insolvency Act 1986 (as read with schedule 3 to the Social Security Pensions Act 1975)	Category  Amount(s) claimed as preferential £
9.	Particulars of how and when debt incurred.	
10.	Particulars of any security held, the value of the security, and the date it was given	£
11.	Signature of creditor or person authorised to act on his behalf	
	Name in BLOCK LETTERS	
	Position with or relation to creditor	

## Rule 2.35

## Notice of a meeting of Creditors

Name of Company

Esys Limited

Company number

02445975

In the  
Leeds District Registry

(full name of court)

Court case number  
1936 of 2008(a) Insert full name(s)  
and address(es) of  
administrator(s)

Notice is hereby given by (a)  
Andrew T Clay  
Centrum Recovery Limited  
Speedwell Mill  
Old Coach Road  
Tansley  
Matlock  
DE4 5FY

(b) Insert full name and  
address of registered  
office of the company

that a meeting of creditors of (b)  
  
Esys Limited  
Speedwell Mill  
Old Coach Road  
Tansley  
Matlock DE4 5FY

(c) Insert details of place  
of meeting

is to be held at (c) Holiday Inn, 1 King's Cross Road, London WC1X 9HX  
  
(c)

(d) Insert date and time  
of meeting

on (d) 3 February 2009 at 12.00 noon

The meeting is:

\*Delete as applicable

\*(1) an initial creditors' meeting under paragraph 51 of Schedule B1 to the Insolvency Act 1986 ('the schedule')

I invite you to attend the above meeting.

A proxy form is enclosed which should be completed and returned to me by the date of the meeting if you cannot attend and wish to be represented.

In order to be entitled to vote under Rule 2.38 at the meeting you must give to me, not later than 12.00 hours on the business day before the day fixed for the meeting, details in writing of your claim.

Signed

Administrator

Dated

19.01.09

\*Delete as applicable

A copy of the \*proposals/ revised proposals is attached



## Proxy (Administration)

**Esys Limited**

Name of Creditor \_\_\_\_\_

Address \_\_\_\_\_

Name of Proxy Holder

1 \_\_\_\_\_

2 \_\_\_\_\_

3 \_\_\_\_\_

Please insert name of person (who must be 18 or over) or the Chairman of the Meeting. If you wish to provide for alternative proxy holders in the circumstances that your first choice is unable to attend please state the name(s) of the alternatives as well

Please delete words in brackets if the proxy holder is only to vote as directed i.e. he has no discretion

I appoint the above person to be my/the creditor's proxy holder at the meeting of creditors to be held on 3 February 2009, or at any adjournment of that meeting. The proxy holder is to propose or vote as instructed below (and in respect of any resolution for which no specific instruction is given, may vote or abstain at his/her discretion).

## Voting Instructions for resolutions

\*Please delete as appropriate

1. For the acceptance/rejection\* of the administrator's proposals/revised proposals\* as circulated

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

2. For the appointment of

\_\_\_\_\_  
 of  
 \_\_\_\_\_

representing \_\_\_\_\_

as a member of the creditors' committee

This form must be signed

Signature \_\_\_\_\_ Date \_\_\_\_\_

Name in CAPITAL LETTERS \_\_\_\_\_

Only to be completed if the creditor has not signed in person

Position with creditor or relationship to creditor or other authority for signature

\_\_\_\_\_  
 \_\_\_\_\_

Remember: there may be resolutions on the other side of this form

## A CREDITORS' GUIDE TO ADMINISTRATORS' FEES

Where Petition Presented or Appointment Made On or After 15<sup>th</sup> September 2003

ENGLAND AND WALES

### 1 INTRODUCTION

- 1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of their rights under the legislation to approve and monitor fees and explains the basis on which fees are fixed.

### 2 THE NATURE OF ADMINISTRATION

- 2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:
- rescuing the company as a going concern, or
  - achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,
- or if the administrator thinks neither of these objectives is reasonably practicable
- realising property in order to make a distribution to secured or preferential creditors.

### 3 THE CREDITORS COMMITTEE

- 3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

### 4 FIXING THE ADMINISTRATOR'S 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.

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed, and if it is fixed as a percentage fix the percentage to be applied. 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, the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator.

- 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 WHAT INFORMATION SHOULD BE PROVIDED BY THE ADMINISTRATOR?

### 5.1 When seeking fee approval

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

- the nature of the approval being sought;
- the stage during the administration of the case at which it is being sought; and
- the size and complexity of the case.

5.1.2 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.

5.1.3 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 be 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 to 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 on 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.

5.1.4 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.

### 5.2 After Fee Approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his function, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent report 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 5.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraphs 5.1.4 above regarding work which has been sub-contracted out.

### 5.3 Expenses and Disbursements

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 and 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.

## 6 WHAT IF A CREDITOR IS DISSATISFIED?

- 6.1 If a creditor believes that the administrator's remuneration is too high he may, if at least 25% in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must be paid by the applicant and not as an expense of the administration.

## 7 WHAT IF THE ADMINISTRATOR IS DISSATISFIED?

- 7.1 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 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.

## 8 OTHER MATTERS RELATING TO FEES

- 8.1 Where there are joint members 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.
- 8.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.

## 9 PROVISION OF INFORMATION – ADDITIONAL REQUIREMENTS

In any case where the administrator is appointed on or after 1<sup>st</sup> April 2005 he must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company.

The information which must be provided is:

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

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

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

## **CENTRUM RECOVERY LIMITED CHARGE OUT RATES**

In accordance with the statement of insolvency practice covering fees and disbursements, we are required to disclose our policy for recovering non-specific disbursements, and the charge out rates for the various grades of staff who may be involved in this case.

### **Hourly charge out rates**

Directors	£300
Managers	£190 - 220
Administrators	£110 - 150
Cashiers & support staff	£ 90 - 130

The office holder(s) will seek approval from creditors to draw remuneration on a time cost basis, in accordance with the rates detailed above, at the meeting of creditors

In common with all professional firms, our charge out rates increase from time to time, and we reserve the right to change the rates without prior notice. Any change will be reported to you in the next statutory report to creditors

### **Rechargeable disbursements**

Category two disbursements, as defined by SIP 9, requiring prior approval of creditors

Room hire (if at Centrum Recovery office)	£80 or as invoiced
Mileage	45p per mile

The office holder(s) will seek approval from creditors to draw these disbursements at the creditors meeting

These rates are applicable on all insolvency appointments from 1 September 2008 until further notice