

Rule 1 26A/1 54

The Insolvency Act 1986

Notice to Registrar of Companies of  
Supervisor's Progress ReportPursuant to Rule 1 26A(4)(a) or  
Rule 1 54 of the  
Insolvency Rules 1986**R.1.26A(4)(a)/  
R.1.54**

For Official Use

To the Registrar of Companies

Company Number

02651168

Name of Company

Durham County Waste Management Company Limited

I / We

Mark Granville Firmin, Quayside House, 110 Quayside, Newcastle upon Tyne, NE1 3DX

Howard Smith, 1 The Embankment, Neville St, Leeds, LS1 4DW

supervisor(s) of a voluntary arrangement taking effect on

12 February 2013

Attach my progress report for the period

12 February 2013

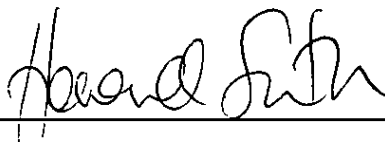
to

11 February 2014

Number of continuation sheets (if any) attached

☐

Signed



Date

4/4/14

KPMG LLP  
1 The Embankment  
Neville St  
Leeds  
LS1 4DW

Ref DD129C0400/CMC/LR/SR

WEDNESDAY



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**Voluntary Arrangement of  
Durham County Waste Management Company Limited**

Statement of Affairs		From 12/02/2013 To 11/02/2014
	<b>ASSET REALISATIONS</b>	
53,040 00	Freehold land	NIL
	Shares and investments	242,000 46
271,349 00	Cash at bank	111,815 96
		<u>353,816 42</u>
	<b>OTHER REALISATIONS</b>	
	Bank interest, gross	342 96
	Sundry refunds	174 06
	Funds held for employee compromise	130,000 00
		<u>130,517 02</u>
	<b>COST OF REALISATIONS</b>	
	Employee compromise - payment	130,000 00
	Supervisors' fees	57,193 50
	Legal fees	38,500 00
	Legal disbursements	11,500 00
	Bank charges	75 00
		<u>(237,268 50)</u>
	<b>UNSECURED CREDITORS</b>	
(375,915 00)	Employees	NIL
(1,484,440 00)	Barclays Mercantile	NIL
(305,359 00)	Lease Prospect House	NIL
(378,367 00)	Lease Tursdale	NIL
(291,928 00)	Operating lease	NIL
(800,783 00)	DCC loan	NIL
		<u>NIL</u>
	<b>DISTRIBUTIONS</b>	
(1,378,002 00)	Ordinary shareholders	NIL
		<u>NIL</u>
<u>(4,690,405.00)</u>		<u><u>247,064 94</u></u>
	<b>REPRESENTED BY</b>	
	Supervisors trust account	246,856 37
	Employee trust account	208 57
		<u><u>247,064 94</u></u>



**Durham County Waste Management  
Company Limited under a Company  
Voluntary Arrangement (“the  
Company”)**

**Annual Report to creditors  
pursuant to Rule 1.26A(4) of  
the Insolvency Rules 1986**

KPMG LLP

4 April 2014

*This report contains 5 Pages*

HS/LF/CMC



*Durham County Waste Management Company Limited under a Company Voluntary  
Arrangement ("the Company")*

*Annual Report to creditors pursuant to Rule 1.26A(4) of the Insolvency Rules 1986*

*KPMG LLP*

*4 April 2014*

## Notice: About this Report

This Report has been prepared by Mark Granville Firmin and Howard Smith, the Joint Supervisors of Durham County Waste Management Company Limited, solely to comply with their statutory duty to report to creditors under the Insolvency Rules 1986 on the progress of the voluntary arrangement, and for no other purpose. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

This Report has not been prepared in contemplation of it being used, and is not suitable to be used, to inform any investment decision in relation to the debt of or any financial interest in Durham County Waste Management Company Limited.

Any estimated outcomes for creditors included in this Report are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors. Any person choosing to rely on this Report for any purpose or in any context other than under the Insolvency Rules 1986 does so at his or her own risk.

To the fullest extent permitted by law, the Joint Supervisors do not assume any responsibility and will not accept any liability in respect of this Report to any such person.

Mark Granville Firmin is authorised to act as an insolvency practitioner by the Institute of Chartered Accountants in England & Wales.

Howard Smith is authorised to act as an insolvency practitioner by the Insolvency Practitioners Association.

The Joint Supervisors contract without personal liability. The appointments of the Joint Supervisors are personal to them and to the fullest extent permitted by law, KPMG LLP does not assume any responsibility and will not accept any liability to any person in respect of this Report.



## Glossary

the Company and/or DCWM	Durham County Waste Management Company Limited (Company registered number 02651168 )
CVA	Company Voluntary Arrangement
CVL	Creditors Voluntary Liquidation
the Proposal	the CVA Proposal approved by creditors on 12 February 2013
the Joint Supervisors	Mark Granville Firmin and Howard Smith of KPMG LLP, 1 The Embankment, Neville Street, Leeds, LS1 4DW
the Period	12 February 2013 to 11 February 2014
the Council	Durham County Council
PWM	Premier Waste Management Limited (Company registered number 03616068)



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*KPMG LLP*

*4 April 2014*

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2014

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February 2014



## 1 Introduction

Mark Firmin and Howard Smith were appointed as Joint Supervisors of the CVA of the Company on 12 February 2013

The Company was part of a group, with PWM being the main trading subsidiary of the Company ("the Group") PWM was also subject to a CVA, the CVAs were interlocking and conditional on the approval of one another

In accordance with Rule 1 26A(4) of the Insolvency Rules 1986, we attach as Appendix 1 a copy of the Joint Supervisors' annual summary of receipts and payments in the CVA for the period 12 February 2013 to 11 February 2014

The Joint Supervisors also provide a summary of the progress made to date and should be read in conjunction with the Appendices to this Report

Please note that unless specifically stated, all amounts in this Report are net of VAT

## 2 Progress of the Arrangement to date

The Group's activities primarily comprised its contract for the waste management services of the Council ("the Waste Contract") On 31 May 2011, the Council served two years' notice to terminate the Waste Contract

Following a consideration of alternative options, the directors believed that as a result of the termination of the Waste Contract, the Company could not avoid insolvent liquidation The directors were therefore unable to continue to trade outside of an insolvency process

The objective of the CVA Proposals was to allow the Group to continue to trade until the end of the Waste Contract on 31 May 2013 This would allow the Group to benefit from the profits generated by a further period of trading, whilst protecting the position of the Group's creditors

The CVA Proposals were further enhanced by a number of concessions which were made available by the Council

The CVA was duly implemented on 12 February 2013, and notices were sent to all known creditors and to court on 15 February 2013

The Proposal stated that the majority of the Company's assets would be held on trust by the Joint Supervisors and, following termination of the Waste Contract, the Company would be placed into CVL This would enable the liquidators to disclaim any onerous leases, licences or contracts and to realise any remaining assets that were not held on trust, for the benefit of the Company's unsecured creditors, which might accrue during the CVA trading period

The assets held on trust would be realised and distributed for the benefit of the CVA creditors despite the Company being placed into CVL



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The distribution to creditors in the CVA, would be in full and final settlement of 80% of each CVA creditor's claim (i.e. 80% of its debt) allowing those CVA creditors to vote and prove for the remaining 20% in the subsequent liquidations

At the meeting of creditors convened for the purpose of accepting/ rejecting the Proposals, a creditor challenged the value of its claim admitted by the chairman of the meeting for voting purposes. This challenge was taken to Court and the Court ruled in favour of the Joint Supervisors awarding costs against the challenging creditor.

Howard Smith and Mark Firmin of KPMG LLP were appointed Joint Liquidators of the Company and PWM on 1 July 2013.

### **3 Receipts**

Realisations during the Period are set out in the attached receipts and payments account (Appendix 1). Summaries of the realisations during the Period are provided below.

#### **3.1 Cash at Bank**

The Proposal anticipated that a cash sum of approximately £155,000 would be transferred to the Joint Supervisors on approval of the Proposal.

During the Period, £111,816 was transferred to the Trust Accounts held by the Joint Supervisors.

As stated in the Proposal, £130,000 was also transferred to the Joint Supervisors as a separate balance to be held on trust as an amount due to a director of the Company, Steve Scott, under a compromise agreement. This amount has since been paid to Mr Scott, the relevant tax and national insurance contributions were deducted and paid over to HMRC.

#### **3.2 Shares and investments**

The Proposal provided that the shares and investments of the Company would be held on trust by the Joint Supervisors. The Estimated Outcome Statement (schedule 7 of the Proposal) anticipated that £263,000 would be received from the Company's investment in Premier Landfill Contractors Limited ("PLC").

During the Period the directors of PLC have applied for the company to be struck off. The Joint Supervisors have received £242,000 as a dividend from PLC following the settlement of associated costs. A further £2,273 has been received since the end of the Period.

#### **3.3 Interest received**

Bank interest of £343 has been received during the Period in relation to funds held.





## **4 Payments**

Payments during the Period are set out in the attached receipts and payments account (Appendix 1) Summaries of the most significant payments during the Period are provided below

### **4 1 Legal fees and disbursements**

As mentioned above, at the meeting of creditors convened for the purpose of accepting/ rejecting the Proposals, a creditor challenged the value of its claim admitted by the chairman of the meeting for voting purposes

This challenge was taken to Court and legal fees of £38,500 together with disbursements of £11,500 have been paid to Eversheds LLP in relation to defending the challenge The Court hearing ruled in favour of the Joint Supervisors and awarded costs against the challenging creditor These costs along with further costs outstanding to Eversheds for its work in defending the challenge, will be recovered from the challenging creditor

## **5 Joint Supervisors' remuneration and disbursements**

### **5.1 Joint Supervisors' remuneration**

In accordance with the terms of the Proposal, the Joint Supervisors' remuneration is fixed on the basis of time properly spent by them and their staff in dealing with matters arising in the CVA

Attached at Appendices 2 and 3 are detailed analyses of time spent and charge out rates for each grade of staff for work carried out during the Period as required by the Association of Business Recovery Professionals' 'Statement of Insolvency Practice 9', together with details of expenses incurred to date

In the Period, the Joint Supervisors incurred time costs of £93,540 representing 253 hours at an average rate of £370 per hour This includes tax and VAT advice from KPMG LLP in-house specialists

During the Period, the Joint Supervisors' have drawn fees of £57,194

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent However, the cost of staff employed in central administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates

Further information is given in the Association of Business Recovery Professionals' Publication, A Creditors' Guide to Fees in a Voluntary Arrangement, which can be obtained from

[http://www.r3.org.uk/media/documents/publications/professional/Guide\\_to\\_Voluntary\\_Arrangement\\_Fees\\_Nov20111.pdf](http://www.r3.org.uk/media/documents/publications/professional/Guide_to_Voluntary_Arrangement_Fees_Nov20111.pdf)

However, if you are unable to access this guide and would like a copy please contact Clare McCain on 0191 401 3867



## **5.2 Joint Supervisors' disbursements**

Supervisors' expenses of £250 have been incurred to date

No disbursements have been drawn during the Period

## **6 Estimated Outcome for Creditors**

### **6.1 Unsecured creditors**

The Proposal stated that the expected distribution to creditors, will be in full and final settlement of 80% of each CVA creditor's claim (i.e. 80% of its debt) allowing those CVA creditors to vote and prove for the remaining 20% in the subsequent liquidation

The Directors Statement of Affairs as at 30 November 2012 (schedule 8 of the Proposal) estimated that the claims of unsecured creditors would total £3,636,792. This was based on the November management accounts prepared by the Company and was prepared on the assumption that the Company would enter liquidation immediately

Since the date of the Statement of Affairs, the Company updated its ledgers to reflect all balances which would be claimed in the CVA and subsequent liquidation. The updated balances will be taken into account by the Joint Supervisors when agreeing claims

The Estimated Outcome Statement (schedule 7 of the Proposal) was prepared as at 12 February 2013 on two assumptions: a CVA followed by a CVL, and an immediate liquidation. The estimated outcome statement anticipated that claims in the CVA and subsequent CVL would total £2,431,000

The Company's records indicated that there were 21 unsecured creditors with potential claims in the CVA. To date the Joint Supervisors have received 5 claims totalling £4,239,632. There remain 16 creditors yet to submit a claim in the CVA

As indicated in the Proposals, the return to creditors through the CVA and subsequent CVL was estimated by the Company's directors to be 27 pence in the pound

It is anticipated that the Joint Supervisors will issue a notice of intention to declare an interim dividend to the unsecured creditors of the Company towards the end of June 2014



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*KPMG LLP*

*4 April 2014*

## 7 Future conduct of the Arrangement

The CVA cannot be concluded at present. The Joint Supervisors will continue to perform their duties as set out in the Proposal. This will include, but is not limited to

- the agreement of remaining creditors' claims,
- distribution to unsecured creditors, and
- any other functions which it may be necessary or expedient for the Supervisor to undertake in connection with the implementation of the Arrangement

Any further queries in relation to the above should be directed to Clare McCain on 0191 401 3867

Signed

H Smith  
Joint Supervisor

Dated 4 April 2014



*Durham County Waste Management Company Limited under a Company Voluntary Arrangement ("the Company")*

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*KPMG LLP*

*4 April 2014*

## Appendix 1 – Receipts and payments account for the period 12 February 2013 to 11 February 2014

### Voluntary Arrangement of Durham County Waste Management Company Limited

Statement of Affairs		From 12/02/2013 To 11/02/2014	From 12/02/2013 To 11/02/2014
	<b>ASSET REALISATIONS</b>		
53 040 00	Freehold land	NIL	NIL
	Shares and investments	242,000 46	242,000 46
271,349 00	Cash at bank	111,815 96	111,815 96
		<u>353,816 42</u>	<u>353,816 42</u>
	<b>OTHER REALISATIONS</b>		
	Bank interest, gross	342 96	342 96
	Sundry refunds	174 06	174 06
	Funds held for employee compromise	130,000 00	130,000 00
		<u>130,517 02</u>	<u>130,517 02</u>
	<b>COST OF REALISATIONS</b>		
	Employee compromise - payment	130,000 00	130,000 00
	Supervisors' fees	57,193 50	57,193 50
	Legal fees	38,500 00	38,500 00
	Legal disbursements	11,500 00	11,500 00
	Bank charges	75 00	75 00
		<u>(237,268 50)</u>	<u>(237,268 50)</u>
	<b>UNSECURED CREDITORS</b>		
(375,915 00)	Employees	NIL	NIL
(1,484,440 00)	Barclays Mercantile	NIL	NIL
(305,359 00)	Lease, Prospect House	NIL	NIL
(378,367 00)	Lease, Tursdale	NIL	NIL
(291,928 00)	Operating lease	NIL	NIL
(800,783 00)	DCC loan	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	<b>DISTRIBUTIONS</b>		
(1,378,002 00)	Ordinary shareholders	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
<u>(4,690,405 00)</u>		<u>247,064 94</u>	<u>247,064 94</u>
	<b>REPRESENTED BY</b>		
	Supervisors trust account		246,856 37
	Employee trust account		208 57
			<u>247,064 94</u>



**Durham County Waste Management Company Limited under a Company Voluntary Arrangement  
("the Company")**

*Annual Report to creditors pursuant to Rule 1 26A(4) of the Insolvency Rules 1986*

*4 April 2014*

## Appendix 2 – Joint Supervisors' time costs and expenses as at 11 February 2014

12/02/2013 to 11/02/2014

	Partner / Director	Manager	Administrator	Support	Total hours	Time cost	Average hourly rate
<b>Administration &amp; planning</b>							
<b>Cashiering</b>							
General (Cashiering)	0 40		4 65		5 05	£1,280 50	£253 56
Reconciliations (& IPS accounting reviews)			1 80		1 80	£421 50	£234 17
<b>General</b>							
Books and records			1 00		1 00	£250 00	£250 00
Fees and WIP	0 40	0 90	8 00		9 30	£2,522 50	£271 24
<b>Statutory and compliance</b>							
Appointment and related formalities	6 60	3 50		0 50	10 60	£4,584 00	£432 45
Checklist & reviews	0 50	9 20	22 50		32 20	£9,469 50	£294 08
Reports to debenture holders	0 50				0 50	£242 50	£485 00
Statutory receipts and payments accounts			0 30		0 30	£79 50	£265 00
Strategy documents	12 50	12 90			25 40	£11,651 00	£458 70
<b>Tax</b>							
Initial reviews - CT and VAT		5 70			5 70	£2,267 50	£397 81
Post appointment corporation tax		0 80			0 80	£360 00	£450 00
Post appointment VAT	0 50		4 00		4 50	£1,270 50	£282 33
<b>Creditors</b>							
<b>Creditors and claims</b>							
General correspondence	0 50	5 50	8 80		14 80	£4,467 00	£301 82
Statutory reports		7 00	1 00		8 00	£2,805 00	£350 63
<b>Employees</b>							
Correspondence			7 20		11 20	£3,260 00	£291 07
Pensions reviews		5 40	7 50		12 90	£3,800 50	£294 61
<b>Investigation</b>							
<b>Directors</b>							
Correspondence with directors		1 50			1 50	£547 50	£365 00
<b>Realisation of assets</b>							
<b>Asset Realisation</b>							
Cash and investments		5 20	1 00		6 20	£2,183 00	£352 10
Freehold property	0 40	12 00			12 40	£4,594 00	£370 48
Leasehold property	38 40	49 75	0 50		88 65	£37,483 75	£422 83
<b>Total in period</b>					<b>252 80</b>	<b>£93,539 75</b>	<b>£370 01</b>



**Durham County Waste Management Company Limited under a Company Voluntary Arrangement ("the Company")**

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**KPMG LLP**

**4 April 2014**

**Joint Supervisors' disbursements**

<b>Expense</b>	<b>Amount (£)</b>
Bordereau	250 00
<b>Total expenses</b>	<b>250.00</b>

Where funds permit the officeholder will look to recover both Category 1 and Category 2 disbursements from the estate. For the avoidance of doubt, such expenses are defined within SIP 9 as follows

**Category 1 disbursements** These are costs where there is specific expenditure directly referable both to the appointment in question 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 officeholder or his or her staff.

**Category 2 disbursements** These are costs that are directly referable to the appointment in question but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.

Any disbursements to be paid from the estate are disclosed within the summary of disbursements above.

The only Category 2 disbursement that KPMG Restructuring currently charges is mileage. Mileage claims fall into three categories:

- use of privately-owned vehicle or car cash alternative – 40 pence per mile,
- use of company car – 60 pence per mile, and
- use of partner's car – 60 pence per mile

For all of the above car types, when carrying passengers an additional 5 pence per mile per passenger will also be charged where appropriate.



## **Appendix 3 - Charge out rates for the period 12 February 2013 to 11 February 2014**

<b>KPMG Restructuring team</b>		
<b>Grade</b>	<b>From 1 October 2012 £/hr</b>	<b>From 1 October 2013 £/hr</b>
<b>Partner</b>	565	565
<b>Associate Partner</b>	485	485
<b>Director</b>	485	485
<b>Senior Manager</b>	450	475
<b>Manager</b>	365	385
<b>Senior Administrator</b>	250	265
<b>Administrator</b>	185	195
<b>Support</b>	115	120