

# CVA3

## Notice of supervisor's progress report in voluntary arrangement



Companies House

For further information, please  
refer to our guidance at  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

### 1 Company details

Company number 0 2 6 5 1 1 6 8

Company name in full Durham County Waste Management Company Limited

#### → Filling in this form

Please complete in typescript or in  
bold black capitals.

### 2 Supervisor's name

Full forename(s) Howard

Surname Smith

### 3 Supervisor's address

Building name/number Interpath Advisory, 4th Floor, Tailors Corner

Street Thirsk Row

Post town Leeds

County/Region

Postcode L S 1 4 D P

Country

### 4 Supervisor's name<sup>①</sup>

Full forename(s) James Ronald Alexander

Surname Lumb

#### ① Other supervisor

Use this section to tell us about  
another supervisor.

### 5 Supervisor's address<sup>②</sup>

Building name/number Interpath Advisory, 4th Floor, Tailors Corner

Street Thirsk Row

Post town Leeds

County/Region

Postcode L S 1 4 D P


Country

#### ② Other supervisor

Use this section to tell us about  
another supervisor.

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<b>6</b>	<b>Date of voluntary arrangement</b>																
Date	<sup>d</sup>	1	<sup>d</sup>	2	<sup>m</sup>	0	<sup>m</sup>	2	<sup>y</sup>	2	<sup>y</sup>	0	<sup>y</sup>	1	<sup>y</sup>	3	
<b>7</b>	<b>Period of progress report</b>																
Date from	<sup>d</sup>	1	<sup>d</sup>	2	<sup>m</sup>	0	<sup>m</sup>	2	<sup>y</sup>	2	<sup>y</sup>	0	<sup>y</sup>	2	<sup>y</sup>	1	
Date to	<sup>d</sup>	1	<sup>d</sup>	1	<sup>m</sup>	0	<sup>m</sup>	2	<sup>y</sup>	2	<sup>y</sup>	0	<sup>y</sup>	2	<sup>y</sup>	2	
<b>8</b>	<b>Progress report</b>																
<input checked="" type="checkbox"/> I attach a copy of the progress report																	
<b>9</b>	<b>Sign and date</b>																
Supervisor's signature	Signature																
																	
Signature date	<sup>d</sup>	0	<sup>d</sup>	6	<sup>m</sup>	0	<sup>m</sup>	4	<sup>y</sup>	2	<sup>y</sup>	0	<sup>y</sup>	2	<sup>y</sup>	2	

# CVA3

## Notice of supervisor's progress report in voluntary arrangement



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name **Rose Bevan**

Company name **Interpath Ltd**

Address **5th Floor, 130 St Vincent Street**

Post town **Glasgow**

County/Region

Postcode **G 2 5 H F**

Country

DX

Telephone **Tel +44 (0) 191 933 4543**



### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed and dated the form.



### Important information

**All information on this form will appear on the public record.**



### Where to send

**You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.



### Further information

For further information please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**

# Supervisors' Annual Progress Report 12 February 2021 to 11 February 2022

Durham County Waste Management  
Company Limited – under a  
Voluntary Arrangement and in  
Liquidation

6 April 2022

# Glossary

**The Company and/or DCWM**

Durham County Waste Management Company Limited under a Company Voluntary Arrangement and in Liquidation (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/Supervisors/we/our/us**

Howard Smith and James Ronald Alexander Lumb of Interpath Advisory, 4<sup>th</sup> Floor, Tailors Corner, Thirsk Row, LS1 4DP

**The Period**

12 February 2021 to 11 February 2022

**PWM and/or Premier Waste**

Premier Waste Management Limited under a Company Voluntary Arrangement and in Liquidation (registered number 03616068)

**HMRC**

HM Revenue and Customs

**FTT**

First Tier Tribunal (Tax)

**UT**

Upper Tribunal (Tax)

**CoA**

Court of Appeal

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In the High Court of Justice

Case No. 70 of 2013

Chancery Division

High Court of Justice Newcastle upon Tyne

District Registry

In the matter of Durham County Waste  
Management Company Limited (the 'Company')

and in the matter of the Insolvency Act 1986

We attach as Appendix 1 a copy of the Supervisors' annual summary of receipts and payments in the above Voluntary Arrangement for the period 12 February 2021 to 11 February 2022 (the 'Period') and we report as follows:

## **1 Receipts**

There were no receipts in the Period.

## **2 Payments**

### **2.1 Legal fees**

We paid £600 in the Period in legal fees relating to the extension of the CVA.

## **3 Progress of the Arrangement**

### **3.1 Unsecured Creditors**

As you are aware, the Proposal stated that the expected distribution to creditors, 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 liquidation.

On 12 September 2018 a dividend of 16.21 pence in the pound, totalling £389,626, was declared on the claims of unsecured creditors admitted in the Voluntary Arrangement of £3,004,617 (£2,403,694 at 80% of claim value).

As you are also aware, a key asset in the CVA is an intercompany balance due from Premier Waste. On 6 March 2015, the Joint Supervisors received an interim dividend payment of £381,202 from the CVA of Premier Waste, and £5,152 from the CVL of Premier Waste on 11 June 2016. A further dividend is expected from the Premier Waste CVA, although the timing and quantum of this is dependent on the outcome of the landfill tax claim, see section 3.2 for further information.

## **3.2 Landfill tax claim and extension to the period of the CVA**

As previously reported, Premier Waste has an ongoing landfill tax claim against HMRC. The claim is valued at approximately £4.5 million and returns to the creditors of PWM, which includes DCWM, would increase if it is successful. As previously reported, PWM has joined an appeal against HMRC's decision on its treatment of landfill tax, together with a number of other parties, behind a lead appellant.

The claim is progressing but has not been resolved and, accordingly, the Joint Supervisors received approval during the Period to extend the period of the CVA by a further two years, to 1 June 2023, to allow them to continue to pursue this claim. Please see the progress of the claim below.

As creditors are aware, a hearing was held before the First Tier Tribunal (Tax). The FTT found in favour of HMRC in May 2018, however, permission was granted to appeal the FTT's decision to the Upper Tribunal. As required by the Upper Tribunal rules, a Notice of Appeal was served on 27 July 2018, which was formally acknowledged by the UT.

Permission was granted to appeal to the UT; an appeal hearing took place in November 2019.

In January 2020, the UT issued its decision which overturned the decision of the FTT, finding in favour of the appellants (which included PWM).

Following this, HMRC applied for permission to appeal the decision of the UT. The UT granted HMRC leave to appeal on two of the eight grounds for appeal it had raised. The remaining six grounds for appeal were dismissed.

HMRC has since applied to the Court of Appeal ('CoA') in respect of the grounds on which it was refused permission. The CoA has allowed HMRC's application which means it can bring forward all of its arguments in the appeal.

A hearing at the CoA took place in March 2021, and in April 2021, the CoA found in favour of HMRC.

The CoA refused permission for the appellants to appeal to the Supreme Court, which is in line with the CoA's usual practice, therefore an application for permission to appeal was submitted directly to the Supreme Court in May 2021. We are currently awaiting the outcome of the Supreme Court's decision and have been advised that this could take several months. We will update creditors in the next progress report.

As mentioned above, DCWM is a creditor of PWM and so, should the claim be successful, a further distribution will be made to unsecured creditors, including DCWM, and the return to the creditors of the Company will also increase. The landfill tax claim has not been resolved during the Period and, accordingly, the Joint Supervisors of PWM extended the period of the CVA for a further two years, to 1 June 2023, to allow them to continue to pursue the claim.

This extension was considered to be a material variation to the CVA Proposal and as such a decision procedure was convened on 17 May 2021 whereby creditors considered and granted the extension.

Given the interlocking nature of the CVAs the Joint Supervisors also extended the period of the PWM CVA to 1 June 2023.



## 4 Office Holders' Remuneration

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

Attached at Appendix 2 is a detailed analysis of time spent and charge out rates for each grade of staff for the various areas of work carried out in the Period (as required by the Association of Business Recovery Professionals' Statement of Insolvency Practice No.9) together with details of expenses incurred to date.

In the Period the Joint Supervisors incurred time costs of £27,814, representing 64 hours at an average rate of £436 per hour. This includes tax, VAT and pensions advice from Interpath Advisory in-house specialists.

The Joint Supervisors have not drawn any fees during the Period. Fees drawn to date are £150,000.

The Proposal estimated that the total fees to be paid to the Supervisors would be £55,000 plus outlays and VAT thereon. The Joint Supervisors' time costs for the CVA to date are £352,869 and it is anticipated that these costs will increase to £400,000 by the time the CVA is concluded. These costs are higher than anticipated as a result of a challenge to the CVA from a creditor, agreeing the admitted value of the creditor's claim, and case administration and reporting in the CVA up until 1 June 2023 as a result of the ongoing landfill tax claim.

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.

A creditors' guide to fees can be found at:

<https://www.r3.org.uk/media/documents/publications/professional/Voluntary%20Arrangement%20Creditor%20Fee%20Guide%20April%202017.pdf>

However, if you are unable to access this guide and would like a copy then please contact Rose Bevan on 0191 933 4549.

## 5 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:

- receiving any further dividends from PWM;
- further distribution to unsecured creditors if PWM's landfill tax claim is successful; and
- any other functions which it may be necessary or expedient for the Supervisor to undertake in connection with the implementation of the Arrangement.

Signed



Dated

6 April 2022

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Howard Smith

Joint Supervisor

## Appendix 1

## Receipts and payments account for the Period

Durham County Waste Management Company Limited - under a Voluntary Arrangement			
Abstract of receipts & payments			
Statement of affairs (£)		From 12/02/2021 To 11/02/2022 (£)	From 12/02/2013 To 11/02/2022 (£)
ASSET REALISATIONS			
53,040.00	Freehold land	NIL	30,000.00
	Shares and investments	NIL	244,273.46
	Inter company debtors	NIL	386,354.28
	Receipt of funds per costs order	NIL	62,858.71
271,349.00	Cash at bank	NIL	111,815.96
	Insurance refund	NIL	3,415.50
		NIL	838,717.91
OTHER REALISATIONS			
	Bank interest, gross	NIL	7,205.05
	Bank interest, net of tax	NIL	2,090.50
	Third party funds	NIL	9,142.47
	Sundry refunds	NIL	706.36
	Funds held for employee compromise	NIL	130,000.00
		NIL	149,144.38
COST OF REALISATIONS			
	Employee compromise - payment	NIL	(130,000.00)
	Supervisors' fees	NIL	(150,000.00)
	Return of Third Party Funds	NIL	(9,142.47)
	Agents'/Valuers' fees	NIL	(7,786.58)
	Agents'/Valuers' disbursements	NIL	(720.00)
	Legal fees	(600.00)	(85,353.25)
	Legal disbursements	NIL	(11,519.00)
	Sundry expenses	NIL	(7.18)
	Storage costs	(0.78)	(0.78)
	Insurance of assets	NIL	(1,952.09)
	Bank charges	NIL	(75.00)
		(600.78)	(396,556.35)
UNSECURED CREDITORS			
	Trade & expense	NIL	(2,281.92)
(375,915.00)	Employees	NIL	NIL
(1,484,440.00)	Barclays Mercantile	NIL	(207,427.51)

# **Durham County Waste Management Company Limited - under a Voluntary Arrangement**

## **Abstract of receipts & payments**

Statement of affairs (£)		From 12/02/2021 To 11/02/2022 (£)	From 12/02/2013 To 11/02/2022 (£)
(305,359.00)	Lease: Prospect House	NIL	(39,597.66)
(378,367.00)	Lease: Tursdale	NIL	(105,771.46)
(291,928.00)	Operating lease	NIL	(34,547.41)
(800,783.00)	DCC loan	NIL	NIL
		NIL	(389,625.96)
DISTRIBUTIONS			
(1,378,002.00)	Ordinary shareholders	NIL	NIL
		NIL	NIL
<b>(4,690,405.00)</b>		<b>(600.78)</b>	<b>201,679.98</b>
REPRESENTED BY			
	Floating ch. VAT rec'able		8,879.43
	Supervisors trust account		201,559.82
	Floating ch. VAT payable		(6,000.00)
	Floating ch. VAT control		(2,759.27)
			<b>201,679.98</b>

## Appendix 2 Time cost analysis for the Period

### SIP 9 –Time costs analysis (12/02/2021 to 11/02/2022)

	Hours	Time Cost (£)	Average Hourly Rate (£)
<b>Administration &amp; planning</b>			
Cashiering			
General (Cashiering)	<b>0.20</b>	65.00	325.00
Reconciliations (& IPS accounting reviews)	<b>1.90</b>	1,064.00	560.00
General			
Fees and WIP	<b>2.50</b>	867.50	347.00
Statutory and compliance			
Appointment and related formalities	<b>2.20</b>	1,245.60	566.18
Checklist & reviews	<b>10.85</b>	4,260.50	392.67
Strategy documents	<b>2.85</b>	1,354.20	475.16
Tax			
Post appointment corporation tax	<b>4.05</b>	1,891.35	467.00
<b>Creditors</b>			
Creditors and claims			
General correspondence	<b>4.75</b>	1,664.45	350.41
Statutory reports	<b>34.50</b>	15,401.85	446.43
<b>Total in period</b>	<b>63.80</b>	<b>27,814.45</b>	<b>435.96</b>
Brought forward time (appointment date to SIP 9 period start date)	905.80	325,054.20	
SIP 9 period time (SIP 9 period start date to SIP 9 period end date)	63.80	27,814.45	
Carry forward time (appointment date to SIP 9 period end date)	969.60	352,868.65	

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. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.

All time shown in the above analysis is charged in units of six minutes.

## Charge-out rates

Charge-out rates (£) for: Restructuring		
Grade	From 01 Jan 2021 £/hr	From 01 Jan 2022 £/hr
Partner / Managing Director	690	725
Director	620	675
Senior Manager	560	590
Manager	467	495
Senior Administrator	325	345
Administrator	236	245
Support	147	245

## Appendix 3      Expenses for the Period

Stationery	NIL	NIL	NIL	5.21	<b>5.21</b>
<b>Total</b>	<b>NIL</b>	<b>NIL</b>	<b>NIL</b>	<b>5.21</b>	<b>5.21</b>

### Policy for the recovery of expenses

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

*Expenses:* These are any payments which are neither an office holder's remuneration nor a distribution to a creditor or a member. Expenses also includes disbursements which are payments first met by the office holder, and then reimbursed to the office holder from the estate.

*Category 1 expenses:* These are payments to persons providing the service to which the expense relates who are not an associate of the office holder. 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 expenses:* These are payments to associates or which have an element of shared costs. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.

The above stationery costs are for costs incurred by KPMG, we have therefore classified as Category 2 expenses. These will require specific approval from creditors, however, we do not intend to recover these costs.

*Associates:* are defined in the insolvency legislation but also extends to parties where a reasonable and informed third party might consider there would be an association between the third party and the office holder or their firm.

Category 2 expenses charged by Interpath Restructuring include mileage. This is calculated as follows:

Mileage claims fall into three categories:

Use of privately-owned vehicle or car cash alternative – 45p per mile.

Use of company car – 60p per mile.

Use of partner's car – 60p per mile.

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

**[www.interpathadvisory.com](http://www.interpathadvisory.com)**

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