

The Insolvency Act 1986

Administrator's progress report

Name of Company The Castle (Wellingborough) Limited	Company number 02867446
In the High Court of Justice [full name of court]	Court case number 001828 of 2016

(a) Insert full name(s) and address(es) of administrator(s)

I / We (a) Gary Steven Pettit of PBC Business Recovery & Insolvency Limited, 9-10 Scirocco Close, Moulton Park, Northampton, NN3 6AP and Gavin Geoffrey Bates of PBC Business Recovery & Insolvency Limited, 9-10 Scirocco Close, Moulton Park, Northampton, NN3 6AP

administrator(s) of the above company attach a progress report for the period

from

to

(b) Insert dates

(b) 13 April 2016

(b) 12 October 2016

Signed

Joint Administrators

Dated

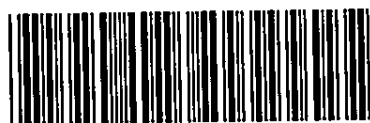
11 November 2016

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.

PBC Business Recovery & Insolvency Limited	
Natasha Pink	
	Tel 01604 212150
DX Number	DX Exchange

COMPANIES HOUSE



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Companies House, Crown Way, Cardiff, CF14 3UZ DX 33050 Cardiff

SATURDAY

THE CASTLE (WELLINGBOROUGH) LIMITED – IN ADMINISTRATION

ADMINISTRATORS' PROGRESS REPORT TO CREDITORS AND MEMBERS FOR THE PERIOD ENDING 12 OCTOBER 2016

1 Introduction

- 1.1 This is my report to members and creditors for the period ended 12 October 2016. This report should be read in conjunction with my proposals.

2 Statutory Information

- 2.1 The table below details key information regarding the company and the administration.

Company name	The Castle (Wellingborough) Limited – In Administration
Trading Name	The Castle Theatre
Trading Address	10 Castle Way, Wellingborough, Northants NN8 1XA
Principle trading activity	Performing arts, support activities to performing arts, artistic creation and operation of arts facilities
Registered office	9/10 Scirocco Close, Moulton Park, Northampton, NN3 6AP
Former registered office	Castle Way, Wellingborough, Northamptonshire NN8 1XA
Company number	02867446
Date of incorporation	29 October 1993
Joint Administrators' names	Gary S Pettit and Gavin G Bates
Joint Administrators' address	PBC Business Recovery & Insolvency Ltd ("PBC"), 9/10 Scirocco Close, Moulton Park, Northampton, NN3 6AP
Joint Administrators' date of appointment.	13 April 2016
Court name and reference	In the High Court of Justice Chancery Division Companies Court – CR-2016-001828
Appointment made by	The directors of the company
Actions of Administrators	Any act required or authorised under any enactment to be done by an administrator may be done by either or both of the Administrators acting jointly or alone

3 Administrators' Actions Since Last Report

3 1 Since my last report to creditors, the joint administrators have undertaken the following actions

- i Realised the assets of the company as detailed below
- ii Investigated the affairs of the company as detailed below
- iii Dealt with all routine correspondence and emails relating to the case
- iv Maintained and managed (including regular bank reconciliations) the office holder's estate bank account and cashbook
- v Reviewed the adequacy of the specific penalty bond (this is insurance required by statute that every insolvency office holder has to obtain for the protection of each estate)
- vi Undertook periodic reviews of the progress of the case
- vii Prepared, reviewed and issued annual progress reports to creditors and members
- viii Filed returns at Companies House
- ix Obtained information from the case records about employee claims
- x Completed documentation for submission to the Redundancy Payments Office
- xi Corresponded with employees regarding their claims
- xii Liaised with the Redundancy Payments Office regarding employee claims
- xiii Dealt with creditor correspondence, emails and telephone conversations regarding their claims
- xiv Maintained up to date creditor information on the case management system
- xv Corresponded and administered a substantial volume of advance ticket refunds to the general public

3 2 The above list includes certain work that I am required by the insolvency legislation to undertake in connection with the administration but provides no financial benefit for the creditors

4 Receipts and Payments

4 1 My receipts & payments account for the period from 13 April 2016 to 12 October 2016 is attached

4 2 The balance of funds is held in an interest bearing estate bank account

4 3 The following transactions have occurred since the period covered by the report

5 Trading

5 1 The joint administrators traded the business with a view to selling as a going concern and meeting the statutory purpose of survival of the company as a whole Please find attached a receipts and payments account for the trading aspects of the administration only

5 2 The administrators decided to trade the business in the short term because employees' jobs could be saved and future performances could be honoured Furthermore, it protected substantial deposits that had been paid by members of the public in advance bookings yet to be held Ultimately this expected to enhance the prospects of the business being preserved as a going concern

- 5 3 Initial trading was funded by a short term loan from the Council to pay the monthly salaries which was redeemed within the agreed time period. In addition, cash held in the merchant services and bank accounts, together with direct ticket sales enabled the administrators to trade in the short term.
- 5 4 After some negotiation funds held by Barclays Merchant Services were released and assisted trading. The bank withheld release of the funds pending confirmation of internal set offs (which amounted to some £25,000) together with potential future refund claims.
- 5 5 The company had a trade agreement with a third party to operate a restaurant in the premises. The agreement provides for the company to receive a percentage of sales together with a fixed occupational rent. I have received £3,625.65 to date, although further funds are expected for the period from April to cessation of trading.
- 5 6 The administrators engaged Mr Barrie Egan to review the trading accounts for the purpose of improving trade results and to act as an agent to the administrators for the short term trading. As previously reported, Mr Egan has been engaged by the administrators over the past 18 months on a number of trading insolvencies where the business has successfully returned to profitability.
- 5 7 Trading required a series of negotiations with performers, agencies and other members of the performing arts who have (or have held) performances/shows at the theatre since administration. In some instances, commercial compromises were necessary to ensure performances continued.
- 5 8 With effect from 3 May 2016 five employees were made redundant. On the basis of combining the minimal disruption to the on-going trading operations and maximising salary savings.
- 5 9 The administrators received seven expressions of interest for taking over the business operations and two others interested in the acquisition of the freehold. On 23 May 2016 a non-disclosure agreement was sent to all interested parties with a view to issuing a sales pack containing core financial details of the business together with an inventory of assets for sale.
- 5 10 However, as previously advised the sales pack could not be issued until the administrators received clear and unequivocal information on a number of issues that directly involved the Council.
- 5 11 Unfortunately, the issues involving the Council could not be resolved and the Council rejected the proposals for the administrator to secure a purchaser. As a direct consequence the administrators recognised they were unable to meet any of the statutory purposes of administration and had no option but to make the decision to cease trading with effect from 23 June 2016.
- 5 12 Consequently, all remaining employees were made redundant and the property was handed back to the Council. All scheduled performances/showings were cancelled and an effort was made to contact members of the public that had paid deposits for shows due to be held immediately after the company ceased to trade.
- 5 13 The administrators considered whether court directions would be appropriate but, given the stance taken and proposals being rejected by the same party they were advised directions were not appropriate.
- 5 14 Since the company ceased to trade the main priority has been to issue refunds to all those that had paid deposits during the period of administration, for cancelled performances/shows. While this effectively

suspended other activities, the administrators were of the opinion it was a necessary duty in order to protect public interest

6 Assets

6 1 The following table details the current asset position

Asset Type	Estimated to realise (£)	Realisations to date (£)
Steinway grand piano	20,000	Nil
Office equipment furniture & fittings	3,120	Nil
Book debts	Nil	665
Cash at bank	Nil	22,699
Bank interest gross	Nil	12
Refund to debtor	Nil	145
Cash balances	Nil	1,695
Donations	Nil	58
Arts Council grant	Unknown	10,561
Room hire	Nil	142
Loans & advances	Nil	25,450
Ticket sales – cash takings	Nil	20,995
Tom Hewer Enterprise Ltd – Franks	2,794	3,626
Ticket sales	Nil	54,518
Funds held at Barclaycard Merchant Services	Nil	72,220
West Midlands Creative	Nil	3,000
Total	25,914	215,786

6 2 I would comment further as follows

6 3 **Chattel Assets.** The joint administrators instructed Messrs BRV (UK) Ltd, experienced insolvency valuers and auctioneers who work with a number of different insolvency practices to value and sell the chattel assets of the company

6 4 As previously reported, the chattel assets comprised a Steinway grand piano, two old upright pianos, various computers, domestic white goods, crockery, a stage set and costumes. These have been realised but after the period covered by this report

6 5 Following cessation of trade, the Borough Council of Wellingborough were given first refusal in respect of purchasing the assets. The offer received did not meet the minimum value suggested by my agents and accordingly, I could not accept it

6 6 The cost and removal of the office equipment furniture & fittings and old pianos outweighed the value of these assets. Therefore, those assets were left at the premises and informally surrendered

6 7 The remaining computer equipment and the Steinway piano were auctioned

- 6 8 There are several paintings by a local artist, however from the enquiries made by my agent it is unlikely they have any value
- 6 9 **Cash at Bank:** At the date of administration, the company had an estimated £44,400 in its bank account held with Barclays Bank Plc. I have received a balance of £19,543.36 as a result of the outstanding balance of the company's Barclaycard being offset against it in accordance with the bank's legal charge. The additional funds received relate to a refund from the merchant services account.
- 6 10 **Cash Balances:** The company also held bank accounts with Santander Bank and NatWest Bank Plc comprising of cash totalling £2,119 as at the date of administration. To date I have received £2,702 in respect of the funds held in these accounts. I have also received £165 in respect of a further refund from Barclays Bank Plc.
- 6 11 **Cash held at Merchant Services:** As previously reported, as at the date of administration the company held £54,000 in its Barclaycard Merchant Services account in respect of credit card sales. Funds amounting to £72,220 were not received until 17 May 2016 following my threat of taking further action.
- 6 12 **Ticket sales (including cash takings):** These relate to funds received via cash and cards in respect of tickets sold during the trading period.
- 6 13 **Debtors:** I have received £665 in respect of a debt owed to the company. No further realisations are expected.
- 6 14 **Franks agreement:** As previously reported, the company had an ongoing agreement with Franks for occupying the space at the premises. To date I have received £3,626 and there is an amount due for the period from April 2016 up to the date of cessation of trade. I am currently liaising with Franks in this respect.
- 6 15 **Arts Council Grant.** I received £10,561 in respect of the grant due from the Arts Council, after providing confirmation that the shows funded by this grant would continue and meeting other requirements including submitting a cash flow to the end of June.
- 6 16 **West Midlands Creative:** I received £3,000 in respect of employee grants.
- 6 17 **Property:** The company traded from the property at 10 Castle Way, Wellingborough, Northants NN8 1XA, which is owned by the Borough Council of Wellingborough.
- 6 18 **Other Assets:** The following assets were also realised in the period
- i A small amount of bank interest gross,
 - ii A refund of £145 in respect of the TV licence,
 - iii Donations totalling £58, and
 - iv Amounts totalling £142 in respect of room hire at the trading premises.

7 Investigation into the affairs of the company

- 7 1 I undertook an initial investigation into the company's affairs to establish whether there were any potential asset recoveries or conduct matters that justified further investigation, taking account of the public interest, potential recoveries, the funds likely to be available to fund an investigation and the costs involved
- 7 2 In particular, I recovered, listed and reviewed the company's accounting records, obtained and reviewed copy bank statements for the two years prior to the company ceasing to trade from the company's bankers, and compared the information in the company's last set of accounts with that contained in the statement of affairs lodged in the administration and made enquiries about the reasons for the changes
- 7 3 There were no matters that justified further investigation in the circumstances of this appointment
- 7 4 Within three months of my appointment as administrator, I am required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present director would make them unfit to be concerned with the management of the company I would confirm that my report has been submitted

8 Liabilities

- 8 1 **Secured Creditors:** An examination of the company's mortgage register held by the Registrar of Companies, showed that the company has granted the following charges

Name of Chargeholder	Barclays Bank Plc
Date Charge Registered	17 December 2015
Type of Security	Fixed charge and floating charge (Debenture)
Claim on estimated outcome statement	£0

- 8 2 **Preferential Creditors:** The estimated outcome statement anticipated £2,852 in preferential creditors No preferential claims have been received to date, however a claim is anticipated from the National Insurance Fund
- 8 3 At the time of writing, I have not investigated the reasons for the difference in the level of claims received
- 8 4 **Crown Creditors:** The estimated outcome statement included £106,243 owed to HMRC HMRC's provisional claim of £118,508 has been received
- 8 5 At the time of writing, I have not investigated the reasons for the difference in the level of claim received
- 8 6 **Non-preferential unsecured Creditors:** The estimated outcome statement included 369 non-preferential unsecured creditors with an estimated total liability of £1,329,182 I have received claims from 198 creditors at

a total of £966,208 I have not received claims from 136 creditors with original estimated claims in the statement of affairs of £158,334

8 7 At the time of writing, I have not investigated the reasons for the difference in the level of claims received

9 Dividends

9 1 I confirm no dividend will be paid to creditors

9 2 The legislation requires that if the company has created a floating charge after 15 September 2003, a prescribed part of the company's net property (i.e. the money that would otherwise be available to the charge holder) should be ring-fenced for distribution to unsecured creditors

9 3 As previously advised, the company gave a floating charge to Barclays Bank Plc on 17 December 2015 and the prescribed part provisions will apply. On the basis of realisations to date, together with estimated future realisations, and after taking into account the costs of the administration to date, the net property of the company is nil, and I estimate there will be no prescribed part of the net property available for unsecured creditors. These estimates do not take into account the future costs of the administration, which will reduce the amount of the company's net property

9 4 Since the company's net property is less than £10,000, the insolvency legislation does not require me to distribute the prescribed part of the net property to creditors if I think that the costs of distributing the prescribed part would be disproportionate to the benefits to creditors. I am of the view that the costs of distribution would be disproportionate and so will not be making a distribution of the prescribed part of the net property to non-preferential unsecured creditors

10 Pre-Appointment Remuneration

10 1 On 23 June 2016 pre-appointment costs and expenses fixed at £1,500 were approved by the creditors

10 2 I have not received payment in respect of this fee

11 Administrators' Remuneration

11 1 My remuneration was previously authorised by the creditors on 23 June 2016. My remuneration was authorised on a time cost basis

11 2 **Time Costs:** I was authorised to draw time costs for the time properly spent by me and members of staff of the practice. This approval was based on my fees estimate of £128,093. The fees estimate acts as a cap and I cannot draw remuneration in excess of that estimate without first seeking approval from the creditors

11 3 My total time costs for such work to 12 October 2016 amount to £176,173, at an average charge out rate of £154.25 per hour

11 4 The actual average charge out rate incurred compares with the estimated average charge out rate of £186.18 in my fees estimate

11 5 I have not been able to draw any remuneration in respect of work done for which my fees were approved on a time cost basis

11 6 A detailed schedule of my time costs incurred to date on the above categories compared with my original fees estimate is attached

11 7 As you can see from the information provided in this report, the total time costs I have incurred in this matter, in respect of the categories of work for which I am being remunerated on a time cost basis, have exceeded the total estimated remuneration I set out in my fees estimate when my remuneration was authorised by the creditors. Currently I do not intend to draw remuneration in excess of the fees estimate and so will not be seeking a resolution from the creditors to increase my fees estimate

11 8 As stated above, I have incurred time costs in excess of my fees estimate previously provided to creditors. This is because I did not envisage the company ceasing to trade in my initial estimate however, following its closure a considerable amount of time was spent by myself and my staff in dealing with the refunds due to customers for shows cancelled and various other matters following the cessation of trading

12 Administrators' Expenses

12 1 I have incurred total expenses of £1,452 since my appointment as administrator

12 2 I have not been able to draw any expenses in this matter

12 3 I have used the following agents or professional advisors in the reporting period

Professional Advisor	Nature of Work	Basis of Fees
BRV (UK) Ltd	Valuer/Auctioneer	Percentage of realisations estimated at £600 plus disbursements
EMW Law LLP	Solicitors	Time costs estimated at £7,500 plus VAT and disbursements

12 4 The choice of professionals was based on my perception of their experience and ability to perform this type of work and the complexity and nature of the assignment. I also considered that the basis on which they will charge their fees represented value for money. I have reviewed the charges they have made and am satisfied that they are reasonable in the circumstances of this case

13 Creditors' Rights

13 1 An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question), request further details of the Joint administrators' remuneration and expenses within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit

13 2 An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the Joint administrators' fees and the amount of any proposed expenses or expenses already incurred within 8 weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

13 3 Further information about creditors' rights can be obtained by visiting the creditors' information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. A copy of 'A Creditors Guide to Administrators' Fees' also published by R3 is available at http://www.pbcbusinessrecovery.co.uk/wp-content/uploads/2014/06/Guide_to_Administrators_Fees_Oct_2015.pdf. Please note that there are different versions of the guidance notes and in this case you should refer to October 2015 version. Please note we have provided further details in the attached practice fee recovery sheet.

14 Provision of Services Regulations

14 1 To comply with the Provision of Services Regulations, some general information about PBC can be found at <http://www.pbcbusinessrecovery.co.uk/wp-content/uploads/2016/03/Provision-Of-Services-Regulations-Summary-v4.pdf>.

15 Summary

15 1 The administration will remain open until the following matters have been fully resolved:

- i All remaining assets have been realised,
- ii Directions are received from the court regarding how to distribute available funds in respect of the trading expenses.

15 2 I estimate that this will take approximately six months and once resolved the administration will be finalised and exit via a compulsory winding up or creditors' voluntary liquidation.

15 3 If creditors have any queries regarding the conduct of the administration, or if they want hard copies of any of the documents made available on-line, they should contact Natasha Pink or Jenny Gent on the above telephone number, or by email at natashapink@pbcbusinessrecovery.co.uk or jennygent@pbcbusinessrecovery.co.uk.



GARY S PETTIT
Joint Administrator

ADDITIONAL NOTES ON REMUNERATION

CASE NAME	The Castle (Wellingborough) Limited
INSOLVENCY TYPE	Administration
DATE OF APPOINTMENT	13 April 2016
APPOINTEE(S)	Gary Steven Pettit and Gavin Geoffrey Bates
FIRM	PBC Business Recovery and Insolvency

Introduction

- 1 The purpose of this document is to provide additional information as required by Appendix D to the Statement of Insolvency Practice No 9
- 2 Complexity of the case
 - 2 1 Around the time of appointment the appointees were confronted with various issues, including
 - 2 1 1 Securing and preserving the assets made known to them at the time of appointment
 - 2 1 2 Ensure appropriate communications are made with the 369 creditors
 - 2 1 3 Trading the business with a view to selling as a going concern, securing the employees jobs and honouring future performances
 - 2 1 4 Communications both verbally and in writing with creditors in relation to the theatre
- 3 Exceptional responsibilities
 - 3 1 1 Dealing with all matters following cessation of trading and communicating with suppliers, performers and customers in relation to the theatre's closure
 - 3 1 2 Dealing with a large volume of refunds to the general public following the cessation of trading
- 4 Effectiveness of Appointees

The administrators have sold the Steinway Piano for £23,000 which is a significantly better realisation than originally anticipated
- 5 Estimated return to creditors
 - 5 1 A distribution will not be available to creditors
- 6 Analysis of time costs
 - 6 1 A schedule is enclosed with these notes showing a breakdown of the number of hours spent by each grade of staff under the separate headings of work type (e g "Creditors") together with the average charge out rate on the assignment

7 Approval of remuneration

- 7 1 The remuneration was fixed on a time costs basis on my fees estimate of £128,093. The fees estimate acts as a cap and I cannot draw remuneration in excess of that estimate without first seeking approval from the creditors.

This basis of charging was approved by creditors at a meeting held by correspondence on 23 June 2016.

8 Category 2 disbursements

- 8 1 Details of the charging policy for these expenses are in the accompanying PBC guide to re-charging expenses such as photocopying etc.

9 Other professional costs and expenses

- 9 1 The choice and reasons for instruction of professional bodies such as solicitors are detailed in the body of the progress report or, where this is a subsequent report, in the earlier report submitted to creditors.
- 9 2 The decision to use these external advisors was due to their expertise in the specified areas where assistance was required to ensure the assignment progressed in the appropriate manner. Their costs were charged as detailed in the main body of the report.

10 Explanation of the PBC charging and disbursement recovery policy

- 10 1 The policy for re-charging expenses incurred is set out in the separate PBC guide to fees and expenses.
- 10 2 The charge out rate of each grade of staff is shown in the separate PBC guide to fees and expenses.

11 Summary of work carried out

- 11 1 Details of the work undertaken is shown in the main body of progress reports. However, a summary of work undertaken since our last report is as follows:
- Trading the business and dealing with the cessation of trade
 - Dealing with refunds
 - Realising the assets of the company
 - Preparing/sending progress report
 - Dealing with creditor claims and issues arising

The Castle (Wellingborough) Limited - In Administration
Joint Administrators' Abstract of Receipts & Payments
Pettit & Bates - The Castle (W'boro) Ltd
From 13 April 2016 To 12 October 2016

S of A	As Previously Reported	13/04/16 to 12/10/16	Total
RECEIPTS			
NIL Book Debts	NIL	664 60	664 60
NIL Cash at Bank	NIL	22,698 87	22,698 87
NIL Bank Interest Gross	NIL	3 03	3 03
NIL Refund to Debtor	NIL	145 50	145 50
NIL Cash Balances	NIL	1,695 05	1,695 05
NIL Bank Transfer	NIL	109,946 77	109,946 77
NIL Ticket Sales - Cash Takings	NIL	2,048 50	2,048 50
NIL Donations	NIL	58 50	58 50
NIL Arts Council Grant	NIL	10,561 00	10,561 00
NIL	NIL	147,821 82	147,821 82
PAYMENTS			
Freelancers	NIL	4,375 52	4,375 52
Wages & Salaries	NIL	46,462 68	46,462 68
NFT Logistics	NIL	636 49	636 49
Utility Payments	NIL	1,514 55	1,514 55
Telephone	NIL	346 66	346 66
Repairs & Maintenance	NIL	569 75	569 75
TV Licence	NIL	145 50	145 50
Production Costs	NIL	44,493 08	44,493 08
Childcare Vouchers	NIL	1,458 00	1,458 00
Bond Payments	NIL	265 54	265 54
Repayment of Loan	NIL	25,991 18	25,991 18
Transfer of Funds to Cover Weekly Wages Payment Made	NIL	1,594 58	1,594 58
Ticket Refunds	NIL	1,194 30	1,194 30
Craft Sales	NIL	13 60	13 60
Legal Fees	NIL	1,810 15	1,810 15
Statutory Advertising	NIL	75 00	75 00
Wages & Salaries	NIL	183 70	183 70
PAYE & NI	NIL	6,881 94	6,881 94
Vat Receivable	NIL	4,344 93	4,344 93
Specific Bond	NIL	420 00	420 00
	NIL	142,777 15	142,777 15
CASH IN HAND	NIL	5,044 67	5,044 67

The Castle (Wellingborough) Limited - In Administration
Joint Administrators' Abstract of Receipts & Payments
Pettit & Bates - The Castle (W'boro) Ltd No 2
From 13 April 2016 To 12 October 2016

S of A	As Previously Reported	13/04/16 to 12/10/16	Total
RECEIPTS			
NIL Hire of Room	NIL	141 50	141 50
NIL Transfer of Funds to Cover Weekly Wages Payment Made	NIL	1,594 58	1,594 58
NIL Bank Interest Gross	NIL	8 85	8 85
NIL Loans & Advances	NIL	25,450 00	25,450 00
NIL Ticket Sales - Cash Takings	NIL	18,946 75	18,946 75
NIL Tom Hower Enterprise Ltd - Franks	NIL	3,625 65	3,625 65
NIL Ticket Sales	NIL	54,517 90	54,517 90
NIL Funds held at Barclaycard Merchant Services	NIL	72,220 18	72,220 18
NIL West Midlands Creative	NIL	3,000 00	3,000 00
NIL	NIL	179,505 41	179,505 41
PAYMENTS			
Wages & Salaries	NIL	25,197 66	25,197 66
Repairs & Maintenance	NIL	126 67	126 67
Production Costs	NIL	7,770 28	7,770 28
Bond Payments	NIL	2,000 00	2,000 00
Ticket Refunds	NIL	21,245 15	21,245 15
Bank Transfer	NIL	109,946 77	109,946 77
Vat Receivable	NIL	25 33	25 33
	NIL	166,311 86	166,311 86
CASH IN HAND			
	NIL	13,193 55	13,193 55

Joint Administrators' Remuneration Schedule
The Castle (Wellingborough) Limited
Between 13 April 2016 and 12 October 2016

Classification of work function	Partner/Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	36 90	3 30	176 40	47 00	263 60	42,308 36	160 50
Investigations	0 50	0 00	18 00	0 60	19 10	2,967 11	155 35
Realisations	5 20	1 00	21 50	0 00	27 70	5,862 03	211 63
Trading	44 60	76 30	482 50	54 20	657 60	100,251 24	152 45
Creditors	8 90	3 60	96 40	57 80	166 70	23,754 26	142 50
Case Specific Matters	0 30	0 00	7 10	0 00	7 40	1,030 35	139 24
Distributions	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total hours	96 40	84 20	801 90	159 60	1,142 10		
Time costs	36,292 67	22,767 68	105,915 24	11,197 76	176,173 35		
Average hourly rate	376 48	270 40	132 08	70 16	154 25		

Description	Total Incurred £	Total Recovered £
Mileage	3 15	0 00
Postage/Stamps/Copying/Stationery	1,024 07	0 00
Insolv Case Administration Fee	110 00	0 00
Agents Fees	315 00	0 00
Totals	1,452 22	0.00

Summary of Fees

Time spent in administering the Assignment	Hours	1,142 10
Total value of time spent to 12 October 2016	£	176,173 35
Total Joint Administrators' fees charged to 12 October 2016	£	0 00

A CREDITORS' GUIDE TO ADMINISTRATORS' FEES

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 the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, 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 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 remuneration

- 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
- as a percentage of the value of the property which the administrator has to deal with,
 - 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 the 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 fixed as a 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 per cent 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 basis 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. Disclosure of such costs must be included in the administrator's proposals and should follow the principles and standards set out in section 7.

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 fixing bases of remuneration

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

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

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

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

7 2 After the bases of remuneration have been fixed

The administrator is required to send progress reports to creditors at specified intervals (see paragraph 8 1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 8 1, the administrator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the administrator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the administrator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The administrator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the administrator or his or her staff.

7 3 Disbursements and other expenses

7 3 1 Costs met by and reimbursed to the administrator in connection with the administration should be appropriate and reasonable. Such costs will fall into two categories:

- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the administration 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 administrator or his or her staff.
- Category 2 disbursements. These are costs that are directly referable to the administration but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the administration on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the administrator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the administrator's remuneration. When seeking approval, the administrator should explain, for each category of expense, the basis on which the charge is being made.

7 3 2 The following are not permissible:

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

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, the steps taken during the period of the report to fix it),

- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the 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 creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court

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 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

10 What if a creditor is dissatisfied?

- 101 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
- 102 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the administrator's progress report in which the charging of the remuneration or incurring of the expenses 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.
- 103 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 or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the 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 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.
- 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, resolution or court order is made.
- 12.4 Where the basis of the 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.

Appendix

Suggested format for the provision of information

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

Narrative overview of the case

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

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

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

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

Time cost basis

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

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

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

The following areas of activity are suggested as a basis for the analysis of time spent

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff

- Partner
- Manager
- Other senior professionals
- Assistants and support staff

The level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply

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