

**2.24B (CH)**

The Insolvency Act 1986

**Administrator's progress report**

Name of Company
Karden Pipework Limited

Company number
02962152

In the Birmingham District Registry
(full name of court)

Court case number
8064 of 2015

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

I  
Tyrone Shaun Courtman  
PKF Cooper Parry Group Limited  
Sky View  
Argosy Road  
East Midlands Airport  
Castle Donington  
Derby  
DE74 2SA

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

From

To

(b) Insert date

(b) 3 March 2015

(b) 2 September 2015

Signed

*Tyrone Courtman*  
Administrator

Dated

*25 September 2015*

**Contact Details:**

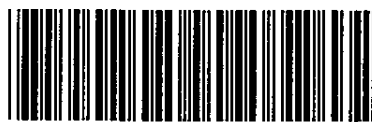
You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Tyrone Shaun Courtman PKF Cooper Parry Group Limited Sky View Argosy Road East Midlands Airport Castle Donington Derby DE74 2SA	
DX Number E-Mail thought@cooperparry.com	Telephone 01332 411163 DX Exchange

When you have completed and signed this form, please send it to the Registrar of Companies at -  
**Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff**

by Limited, Glasgow, Scotland

THURSDAY



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01/10/2015

#475

COMPANIES HOUSE

2000 1000 500 0



# PKF | Cooper Parry

Sky View, Argosy Road  
East Midlands Airport, Castle Donington  
Derby, DE74 2SA  
T 01332 411 163  
F 01332 418 074  
E [julieh@pkfcooperparry.com](mailto:julieh@pkfcooperparry.com)  
W [www.pkfcooperparry.com](http://www.pkfcooperparry.com)

## TO ALL KNOWN CREDITORS

Your ref

Our ref: TSC/JLH/ZK250/ADM2010-B8 7

25 September 2015

When telephoning please ask for  
Julie Hefter

Dear Sirs

**Karden Pipework Limited - In Administration**  
**Registered in England No. 02962152 at Sky View Argosy Road East Midlands Airport Castle**  
**Donington Derby DE74 2SA**  
**Birmingham District Registry No 8064 of 2015**  
**Report to creditors pursuant to Rule 2.47 of the Insolvency (Amendment) Rules 2003**

### 1 Introduction

As previously reported I was appointed Administrator of the above company on 3 March, 2015 by the Director, of the company which traded from Unit 21a, Hebden Road, Scunthorpe, Lincolnshire, DN15 8DT. All functions are to be exercised by any or all of the persons appointed.

This report has been prepared pursuant to Rule 2.47 of the Insolvency (Amendment) Rules 2003, for the 6 month period from 3 March 2015 to 2 September 2015 and should be read in conjunction with the Joint Administrators' previous report to creditors dated 24 April 2015 and 18 May 2015 and the abstract of receipts and payments enclosed.

Cont'd

The firm's insolvency practitioners are licensed in the UK as follows  
N J Edwards by the Institute of Chartered Accountants in England and Wales  
T S Courtman by the Institute of Chartered Accountants in England and Wales  
and when acting as Receivers, Administrative Receivers or Administrators act as agents only without personal liability and  
when acting as Administrators the affairs, business and property of the company are being managed by them  
PKF Cooper Parry Group Limited is a company registered in England No 07795137 Registered Office  
Sky View, Argosy Road, East Midlands Airport, Castle Donington, Derby DE74 2SA  
PKF Cooper Parry Group Limited is a member firm of the PKF International Limited network of legally independent firms and does not accept any  
responsibility or liability for the actions or inactions on the part of any other individual member firm or firms

## **2 Enclosures**

Creditors are being sent with this report -

### **Appendix**

Form 2 24b Administrators Progress Report	I
Administrators' combined receipts and payments & estimated account statement to 2 September 2015	II
Joint Administrators' remuneration notification	III
Creditors' guide to Administrators' fees	IV
Copy of rule 2 48A and rule 2 109, which sets out creditors' rights to request further information and to challenge remuneration and expenses	V

## **3 Administrators' combined abstract of receipts and payments & estimated outcome statement to 2 September 2015.**

Attached at Appendix II is a copy of the Joint Administrators' combined abstract of receipts and payments and estimated outcome statement to 2 September 2015, showing a balance in hand of £102,853 including VAT receivable of £24

The principal items of income received and expenditure incurred to date are discussed in more detail below

## **4 Estimated outcome of the Administration**

I comment on the realisations made to date, future anticipated asset realisations and associated costs, as detailed on the attached estimated outcome statement at Appendix II as follows

## **5. Assets Subject to a Fixed Charge**

### **5.1 Books Debts**

As you are aware the company's book debts were subject to a fixed and floating charge in favour of Bibby Financial Services Limited ("Bibby") dated 26 January 2011.

As at the date of our appointment the value of the debts was £242,971 and an amount of £76,092 was due to Bibby in respect of their invoice discounting facility including their termination costs and charges

Following Bibby being repaid in full it was agreed that they would be engaged to collect the remaining book debt collections on behalf of the Administrators and a further amount of £166,879 has been collected in this regard This concludes the book debt collection

Cont/d

**6. Assets Subject to a Floating Charge**

**6.1 Office Equipment, Plant & Machinery**

As previously reported our agents ESG had sold the office equipment, plant & machinery and were holding the sales proceeds. I can confirm that an amount of £4,000 plus VAT has now been received.

**6.2 Motor Vehicles**

The sales proceeds of £6,500 plus being held by our agents in respect of the five motor vehicles amount of £6,500 plus VAT has now been received.

**6.3 Work in Progress**

The work in progress relates to two invoices which totalled £7.5k including VAT and an amount of £6,366.45 plus VAT has been received in this regard. The VAT will be accounted for to HM Revenue & Customs.

**6.4 Cash at Bank**

An amount of £3,040 has been received in respect of the balance held in the company's bank account at the date of appointment.

**6.5 Bank Interest**

An amount of £73 has been received in respect of bank interest.

**7. Costs and Expenses**

The costs of realisations on the attached Receipt and Payments account are largely self-explanatory, however, the most pertinent points are summarised below -

**7.1 Joint Administrators' Fees and Disbursements**

The basis of Joint Administrators' fees was set out in the proposals circulated to creditors on 24 April 2015 and this was subsequently approved at the meeting held on 12 May 2015.

Time costs to 2 September 2015 total £63,648 and £42,750 fees on account have been drawn leaving £20,898 outstanding.

Further costs have been incurred after the period of this report in dealing with the pension scheme matters, and further costs are anticipated agreeing the preferential claims, preparing the final report to creditors and moving the Administration to Creditors' Voluntary Liquidation.

Our times costs are higher than originally anticipated due to queries raised at the creditors meeting, ongoing queries from employees in respect of their claims and creditors queries raised in respect of the value of the book debts, including a reconciliation of the book debt position, and the collection process by Bibby

Additional time costs have also been incurred in dealing with the resignation of Paul Addison and notifying the creditors and Registrar of Companies

Enclosed at Appendix III is the Joint Administrators' remuneration notification which provides an explanation of my firm's charging and disbursement policies, a description of the work conducted, and a summary of the time spent in the period to 2 September 2015. Expenses have been incurred in relation to travel expenses, company searches, advertising, mail redirection and specific bond in the sums of £ 729 respectively, which have not been paid to date

The current average hourly charge for dealing with this case is £186

It is my firm's policy to revise its hourly rates for the provision of professional services on an annual basis. Details of any specific increases relating to this case are stated at Appendix III

#### **Pre-appointment costs**

Costs and expenses incurred prior to my appointment, totalling £21,863 and £116.1 respectively were approved on 12 May 2015. These have been paid.

Fees and expenses attributable to the administration are both subject to approval as an expense pursuant to Rule 2.67A of the Insolvency Rules 1986

#### **7.2 Professional Fees**

2020 Trustee Services Limited have been paid £300 plus VAT in respect of the pension brief report. I have a statutory obligation to review any company pension schemes in respect of any outstanding pension contributions. Any outstanding pension contributions will need to be bought up to date by the duly appointed Liquidator.

#### **7.3 Utilities**

An amount of £79 has been paid to E-On Plc in respect of electricity charges for the period of our occupation of the company's former premises.

#### **7.4 Agent's Fees**

Fees and expenses of £5,077 plus VAT have been paid to my agent ESG in relation to the valuation and realisation of the office equipment, plant, machinery and motor vehicles. There are no further costs in this regard.

**7.5 Legal Fees**

An amount of £2,550 plus VAT has been paid to Browne Jacobson who have provided legal advice in respect of the company entering into Administration

**7.6 Debt Collection Fees**

As previously reported Bibby were engaged to collect the remaining book debts on behalf of the Administrators and an amount of £10,471 plus VAT has been paid in this regard

**7.7 Consultancy Fees**

Mr P Hosking a former employee of the company was retained to bring the company's accounting records up to date and an amount of £383 has been paid in this regard.

**7.8 Statutory Advertising**

Courts Advertising Limited have been paid £67 plus VAT in respect of advertising

**7.9 Insurance of Assets**

An amount of £325 has been paid to AUA Insolvency Risk Services Limited in respect of costs incurred in insuring the Company's assets prior to their disposal

**8. Preferential Creditors**

The preferential claims for employee's holiday pay and overtime total £24,507 Based on current information preferential creditors will be paid a dividend of circa 100p in the £ It is anticipated this will be done when the company enters Liquidation shortly

**9. Unsecured creditors**

Based on current information it is anticipated that there will be a distribution to unsecured creditors of circa 9p in £

**10. Investigations**

The investigation that has been carried out by the Joint Administrators has been conducted in order to report on the conduct of the directors in accordance with the Company Directors Disqualification Act 1986 As the content of the report is confidential, I am not empowered to release any further information with regard to this aspect of my work

Cont'd

Page 6  
Karden Pipework Limited  
To All Known Creditors  
25 September 2015

**11. Pension Scheme**


As you are aware our pension advisors have provided us with a pension brief report in respect of a pension scheme operated by the company and we are currently reviewing the company's books and records to establish the position regarding any outstanding pension contributions which may be due to the scheme

**12. Conclusion**

Steps will now be taken to move the Administration to Creditors' Voluntary Liquidation as soon as practicably possible

If you have any points to raise please contact Julie Hefter

Yours faithfully  
For and on behalf of  
Karden Pipework Limited - In Administration



Tyrone Courtman  
Administrator  
Enclosures



# 2.24B

The Insolvency Act 1986

## Administrator's progress report

Name of Company
Karden Pipework Limited

Company number
02962152

In the Birmingham District Registry (full name of court)
--

Court case number 8064 of 2015
-----------------------------------

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

I (a)  
Tyrone Shaun Courtman  
PKF Cooper Parry Group Limited  
Sky View  
Argosy Road  
East Midlands Airport  
Castle Donington  
Derby  
DE74 2SA

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

(b) Insert date

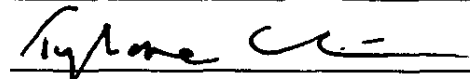
From
(b) 3 March 2015

To
(b) 2 September 2015

Signed

  
Administrator

Dated

  
25 September 2015

**Karden Pipework Limited**  
**Estimated Outcome Statement**  
**as at 2 September 2015**

	Note	Realised to Date	Estimated Future Movements	Estimated Final Position
£		£	£	£
<b>Assets specifically pledged.</b>				
Trade debtors	5 1	242,971	-	242,971
Bibby Financial Services		(76,092)	-	(76,092)
Surplus/(Shortfall)		166,879	0	166,879
Chattels		-	-	-
Trustees of the Karden Pipework Limited Pension Scheme		-	-	-
Surplus/(Shortfall)		-	-	-
<b>Assets not specifically pledged</b>				
Surplus from assets specifically pledged		166,879	-	166,879
Office Equipment, Plant & Machinery	6 1	4,000	-	4,000
Vehicles	6 2	6,500	-	6,500
Stock		-	-	-
Work in Progress	6 3	6,366	-	6,366
Cash at Bank	6 4	3,040	-	3,040
Bank Interest	6 5	73	-	73
Prepayments		-	-	-
VAT on receipts		3,373	-	3,373
VAT Control		13,235	-	13,235
		203,466	-	203,466
<b>Costs of Administration</b>				
Pre Appointment Administrators fees & disbursements		(21,979)	-	(21,979)
Administrators' fees	7 1	(42,750)	(25,235)	(67,985)
Administrators' Disbursements		-	(426)	(426)
Liquidators Fees & Disbursements		-	(15,000)	(15,000)
Pensionscheme Review	7 2	(300)	-	(300)
Utilities	7 3	(79)	-	(79)
Agents Fees	7 4	(5,077)	-	(5,077)
Legal Fees	7 5	(2,550)	-	(2,550)
Debt Collection fees	7 6	(10,471)	-	(10,471)
Consultancy fees	7 7	(383)	-	(383)
Statutory Advertising	7 8	(67)	-	(67)
Insurance	7 9	(325)	-	(325)
Bond		-	(303)	(303)
VAT on payments		(16,632)	24	(16,608)
<b>Surplus available to preferential creditors</b>		102,853	(40,940)	61,913
Employees		-	(24,507)	(24,507)
Prescribed part c/f		-	-	-
<b>Surplus available to floating chargeholders</b>		102,853	(65,447)	37,406
Floating chargeholders		-	-	-
		102,853	(65,447)	37,406
Prescribed part b/f		-	-	-
<b>Surplus available to unsecured creditors</b>		102,853	-	37,406
Shortfall from assets specifically pledged		-	-	-
Trade Creditors		-	(71,356)	(71,356)
Trustees of the Karden Pipework Limited Pension Scheme		-	(4,283)	(4,283)
Deferred Tax		-	(3,140)	(3,140)
VAT		-	(120,244)	(120,244)
PAYE/NI		-	(42,617)	(42,617)
Accruals		-	(21,862)	(21,862)
Employee claims - redundancy & pay in lieu		-	(132,865)	(132,865)
Pension contributions		-	(1,200)	(1,200)
		102,853	(397,567)	(360,161)
Shortfall to floating chargeholders		-	-	-
<b>Overall surplus/(shortfall) to unsecured creditors</b>		102,853	(397,567)	(360,161)

Estimated dividend to unsecured creditors - p in £

**REMUNERATION NOTIFICATION  
FOR THE PERIOD 3 MARCH 2015 TO 2 SEPTEMBER 2015**

Case Name	Karden Pipework Limited
Office Holder(s)	Tyrone Shaun Courtman
Firm	PKF Cooper Parry Group Limited
Address	Sky View Argosy Road East Midlands Airport Castle Donington Derby DE74 2SA
Telephone	01332 411 163
Reference	ZK250
Type of Appointment	Administration
Date of Appointment	3 March, 2015

**CONTENTS**

Case overview

Description of work carried out

Summary of time costs incurred for the period 3 March 2015 to 2 September 2015

Summary of category 2 Disbursements paid

## **CASE OVERVIEW**

At the meeting of creditors on 12 May 2015 it was resolved that the office holders' remuneration be based on time costs incurred in dealing with the case

The office holders' report dated 17 September 2015 outlines the case strategy and conduct of the case. In particular, the following matters have had an impact on the time spent -

## **DESCRIPTION OF WORK CARRIED OUT**

### **Statutory**

- Setting initial case strategy other than trading strategy
- Periodic review and update of case strategy
- Conducting file reviews to ensure compliance and identify any other matters requiring attention
- Considering requirement for solicitors and assessing the appropriate firm to be instructed and giving instructions for legal advice to be sought
- Dealing with accounting set up and case set up to ensure ability to comply with statutory reporting requirements
- Obtaining specific penalty for the appropriate sum and reviewing
- Prepare inventory of company books and records for storage
- Posting of initial appointment letters including to the Registrar of Companies and to creditors
- Advertise the appointment in the appropriate papers
- Post appointment VAT return completion
- Post appointment Corporation Tax completion
- Statutory reporting including reports to creditors and convening and holding any meetings required
- Preparing and submitting statutory receipts and payments accounts including compliance with SIP 11
- Dealing with statutory requirements under the appropriate Statements of Insolvency Practice
- Seeking validity of appointment if appropriate
- Reporting to creditors in accordance with any agreement or legislation including compliance with SIPs 7 and 9
- Cashiering including processing receipts & payments
- Dealing with statutory obligations regarding pensions

### **Investigations**

- Sending questionnaires to apparent directors and shadow directors
- Reviewing the responses
- Consideration of investigation strategy
- Review of company records and requests to creditors for information to identify any matters requiring further detailed examination
- Completion of SIP 2 investigation work as appropriate
- Liaising with creditors including the Crown to obtain any supporting information required
- Completing report to the Insolvency Services

### **Asset Realisations**

- Identifying, securing and insuring assets
- Instructing and meeting agents and discussing strategy
- Reconciliation of asset proceeds

### **Debtor Realisations**

- Collating information and supporting documents regarding book debt collections
- Liaising with Bibby Financial Services Limited in relation to book debt collection
- Corresponding with Bibby Financial Services Limited in order to obtain updates on collections
- Monitoring and accounting for proceeds received and debt collection expenses

### **Creditors/Other Matters**

- Preparation and submission of pre-appointment tax returns for the purposes of the Crown claims to be agreed
- Corresponding with the HMRC with regard to pre-appointment taxation matters that may result in refunds
- Scheduling claims received from creditors if it appears that a dividend will be paid
- Corresponding with the Redundancy Payments Office with respect to its claim
- Liaising with landlords/hire purchase/lease companies etc
- General creditor liaison

### **Employment**

- Dealing with pensions
- Dealing with Health & Safety matters
- Submission of RP1 and RP14 forms to Redundancy Payments Office
- Other general employee liaison

### **Bank/Chargeholder Reporting**

- Discussing matters with any chargeholder including any factor or invoice discounter

**SUMMARY OF CATEGORY 2 DISBURSEMENTS PAID**

<b>Type and Purpose:</b>	<b>£:</b>
Photocopying	Nil
Telephone & Faxes	Nil
Mileage	Nil
Meeting Rooms	Nil
Total	£Nil

Karden Pipework Limited														
TIME COSTS ANALYSIS														
Time costs from 3 March 2015 to 2 September 2015														
Work Undertaken														
	Partner		Director		Senior Manager		Manager		Administrators		Assistants/Cashiers /Support/Trainees		Total	
	Hrs:	£:	Hrs:	£:	Hrs:	£:	Hrs:	£:	Hrs:	£:	Hrs:	£:		
Statutory	10.9	4,905	6.6	2,620	12.3	4,185	-	-	116.0	14,941	52.4	4,735	198.2	31,386
Investigations	0.7	315	-	-	1.0	350	-	-	5.9	1,180	-	-	7.6	1,845
Asset Realisation	0.3	135	8.1	3,220	0.6	207	-	-	7.7	1,156	-	-	16.7	4,718
Debtor Realisation	0.2	90	-	-	8.4	2,928	-	-	4.9	980	-	-	13.5	3,998
Other Matters/Creditors	1.9	855	5.0	2,000	11.5	4,024	-	-	21.6	4,152	10.7	856	50.7	11,887
Employment	0.5	225	6.8	2,700	1.1	381	-	-	22.0	3,836	25.1	2,674	55.5	9,816
Bank Reporting	-	-	1.3	500	-	-	-	-	-	-	-	-	-	-
Total	14.5	6,525.0	27.6	11,040.0	34.9	12,074.0	-	-	178.1	26,244.6	88.2	8,265.0	342.1	63,648.6
Average Hourly Rate														186.05
Expenses														
Statutory advertising		67												67
Lunches														0
Statutory Bond		131.25												131.25
Company searches		4												4
Mileage														0
Redirection of Mail		120												120
Agent's fees and expenses														0
Legal fees and expenses														0

**PKF COOPER PARRY GROUP LIMITED – BUSINESS RECOVERY AND INSOLVENCY  
CHARGING AND DISBURSEMENT RATES AND POLICIES**

**1.1 Standard Hourly Rates**

	<b>Rates effected from 1 May 2014</b>	<b>Rates effected from 1 May 2015</b>	<b>Rate effected from 1 August 2015</b>
Partners/ Directors	400-450	400-450	400-450
Senior Manager/Consultant	335-350	350	350
Manager/Assistant Manager	200-250	200-250	200-250
Insolvency Administrator	150	100-150	100-150
Cashier	90-110	110	110
Administrative and Support	65-80	80	45-80
Tax & Compliance	242-289	138-475	138-475

**1.2 Uplifts on Standard Hourly Rates**

In some instances where there is undue risk to the firm in recovering its standard hourly rates in full, typically as a consequence of the pursuit of causes of action where the outcomes are far from certain, or where there are considered to be undue risks associated with the conduct of an assignment, then approval for a % uplift on standard hourly rates may be sought. The % uplift sought will vary depending upon the circumstances of each case.

**1.3 Charging Policies**

Time is recorded and charged to the case in units of not less than 6 minutes.

Where possible work is delegated to staff with the appropriate experience and charge out rate.

Time spent by all grades of staff are charged to the case.

It is the firm's policy to revise its charge out rates periodically. Details of revised rates are available on request and will be circulated with statutory reports to creditors and to the Creditors' Committee (if constituted).

**2.1 Category One Disbursements (payable at cost)**

External record storage, retrieval, destruction and archive boxes

Postage, stationery and files

Advertising

Legal and professional fees

Specific penalty bond

Insurances

External room hire



## **2.2 Category Two Disbursements (rates chargeable)**

Photocopying	10p per sheet
Telephone and faxes	£1 per each debtor and creditor
Mileage	45p per mile
Use of small meeting room	£50 per half day
Use of large meeting room	£100 per half day

## **2.3 Disbursement policies**

Category one disbursements represent payments made to PKF Cooper Parry Group Limited in respect of the specific costs incurred attributable to the case

Category two disbursements are paid to PKF Cooper Parry Group Limited calculated on the rates set out above which are reviewed periodically. Details of revised rates are available on request and will be circulated with statutory reports to creditors and to the Creditors' Committee (if constituted)

## **3.0 Legal and professional fees**

Proposed fees are reviewed to consider work undertaken and its effectiveness

Where proposed fees are considered to be excessive, a reduction in the fee payable is negotiated

## **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 subcontracted 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**

2. 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.

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

## **10. What if a creditor is dissatisfied?**

10 1 If a creditor believes that the Administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the Administrator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

10 2 Application may be made to the court by any 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.

10 3 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not as an expense of the administration.

## **11. What if the Administrator is dissatisfied?**

11 1 If the Administrator considers that the remuneration fixed by the creditors' committee is insufficient 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.

## **13. Effective date**

This guide applies where a company enters administration on or after 1 November 2011.

### **Statement of the Provisions of Rules 2.48A and 2.109**

Pursuant to Rule 2 48A

- (1) If -
  - a) within 21 days of receipt of a progress report Under Rule 2 47 –
    - (i) a secured creditor, or
    - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
  - b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor, asks the administrator for further information about remuneration or expenses (other than pre-administration costs) set out in a statement required by Rule 2 47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2)
- (2) The administrator complies with this paragraph by either –
  - (a) providing all of the information asked for, or
  - (b) so far as the administrator considers that –
    - (i) the time or cost of preparation of the information would be excessive or,
    - (ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonable be expected to lead to violence against any person, or
    - (iii) the administrator is subject to an obligation of confidentiality in respect of the information,

Giving reasons for not providing all of the information

- (3) Any creditor, who need not be the same as the creditor who requested further information under paragraph  
(1), may apply to the court within 21 days of –
  - (a) the giving by the administrator of reason for not providing all of the information asked for, or
  - (b) the expiry of the 14 days provided for in paragraph (1), and the court may make such order as it thinks just
- (4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2 109(1B) by such period as the court thinks just

Pursuant to Rule 2 109 –

- (1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)
- (1A) An application may be made on the grounds that -



- (a) the remuneration charged by the administrator,
- (b) the basis fixed for the administrator's remuneration under Rule 2.106,
- (c) expenses incurred by the administrator

Is or are in the circumstances, excessive, or in the case of an application under sub-paragraph (b), inappropriate

- (1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")
- (2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least 5 business days notice, upon receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly
- (3) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and any evidence which the applicant intends to adduce in support of it
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders –
  - a) an order reducing the amount of remuneration which the administrator was entitled to charge,
  - b) an order fixing the basis of remuneration at a reduced rate or amount,
  - c) an order changing the basis of remuneration,
  - d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration,
  - e) an order that the administrator or the administrator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

And may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

- (5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the administration

(Note that if the basis of fees has not been fixed at the date of this report, details the steps taken in the period to do so)