

**Liquidator's Progress  
Report****S.192****Pursuant to Sections 92A and 104A and 192  
of the Insolvency Act 1986**

To the Registrar of Companies

Company Number

03591991

Name of Company

Crown Structural Engineering Limited

I,

Ian J Gould, Regent House, Clinton Avenue, Nottingham, NG5 1AZ

the liquidator(s) of the company attach a copy of my/our Progress Report  
under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 14/06/2012 to 13/06/2014

Signed



Date

7/8/14

BDO LLP  
Regent House  
Clinton Avenue  
Nottingham  
NG5 1AZ

Ref 04022086/IJG/BKP/HJ

SATURDAY



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COMPANIES HOUSE

**Crown Structural Engineering Limited**  
**(In Liquidation)**  
**Liquidator's Abstract of Receipts & Payments**

**Statement  
of Affairs**

**From 14/06/2012  
To 13/06/2014**

**GENERAL FIXED CHARGE**

National Westminster Bank plc	3,680 20
Corporation Tax - Administration	919 80
Fixed Charge Administration Surplus	(4,600 00)
	<u>NIL</u>

**ASSET REALISATIONS**

Book Debts	5,283 74
Bank Interest Net of Tax	111 45
Floating Charge Administration Surplus	74,037 94
	<u>79,433 13</u>

**COST OF REALISATIONS**

Office Holders Fees	10,000 00
Debtor Recovery Fees	802 00
Printing & Postage	385 27
Statutory Advertising	139 50
Bank Charges	0 74
	<u>(11,327 51)</u>


**PREFERENTIAL CREDITORS**

Employees Wage Arrears	9 97
	<u>(9 97)</u>

**68,095.65**

**REPRESENTED BY**

Bank 1 - Current	68,095 65
	<u><b>68,095.65</b></u>

  
\_\_\_\_\_  
Ian J Gould  
Liquidator

TO ALL KNOWN CREDITORS

8 August 2014

Our ref  
4022086/IJG/BKP/HJPlease ask for Helen Jones  
Ext 7145248  
Email helen.a.jones@bdo.co.uk

Dear Sirs

**Crown Structural Engineering Limited - In Liquidation ("the Company")  
Report to creditors on the progress of the Liquidation pursuant to Rule 4.49C of the Insolvency  
Rules 1986**

I write to give you a progress report on the conduct of the Liquidation for the period 14 June 2013 to 13 June 2014

The following schedules are attached to this report.

1. Statutory information
2. An abstract of the Liquidator's receipts and payments account for the period of the whole Liquidation containing a breakdown of the receipts and payments specifically in the period covered by this report.
3. An analysis of time charged in the Liquidation for the period 14 June 2013 to 13 June 2014
4. An analysis of the total time charged in the Liquidation since the 14 June 2012 to 13 June 2014

**General overview**

Ian James Gould was appointed Liquidator of the Company on 14 June 2012, following the move from Administration to Creditors' Voluntary Liquidation

The Company moved from Administration to Creditors' Voluntary Liquidation to enable a distribution to be made to the unsecured, non-preferential creditors from the Prescribed Part funds

This report and should be read in conjunction with previous reports issued to creditors

**Progress of the Liquidation**

Realisations for the period of this report total £924 and are discussed in further detail below

At the commencement of the Liquidation, the agreement of claims and distribution to the unsecured, non-preferential creditors' matters was outstanding.

This matter is discussed in further detail later in this report

Details of the authorising bodies of the insolvency appointment takers at BDO LLP are available at [www.bdo.co.uk/services/advisory/business\\_restructuring/authorising\\_bodies\\_insolvency\\_appointments\\_takers](http://www.bdo.co.uk/services/advisory/business_restructuring/authorising_bodies_insolvency_appointments_takers)

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## **Asset Realisation**

### **Administration Surplus**

The sum of £78,638 was transferred into the Liquidation bank account following completion of the Administration, of which £4,600 related to fixed charge surplus funds and £74,038 to floating charge surplus funds

### **Book Debts**

During the period, a dividend of £868 has been received from the Liquidator of one of the company's debtors. Total debts received in the Liquidation are £5,284

The Liquidator's solicitor and quantity surveyor, confirm no further realisations are expected

### **Bank Interest**

Bank interest of £55 for the period 14 June 2013 to 13 June 2014 has been received and is disclosed on the abstract of receipts and payments

### **Other Assets**

All assets of the Company have been realised and there are no other assets in the Liquidation estate that the Liquidator is aware of.

## **Costs incurred other than Liquidator's Expenses**

Costs incurred during the period total £175 42 This relates to printing and postage of £177.05 and bank charges of 37p.

All costs previously charged to the case have been detailed in prior reports to creditors and are summarised on the attached abstract of receipts and payments.

Future statutory advertising costs of £180, legal fees of £1,000 and printing & postage of £279 are expected

## **Creditor Claims**

### **Secured Creditor**

National Westminster Bank plc ("the Bank") holds a valid debenture conferring fixed and floating charges over the assets of the Company. The debenture was created on 23 September 2008 and registered at Companies House on 26 September 2008.

The indebtedness to the Bank at the date of commencement of the Administration, 21 June 2011, was £311,000. During the course of the Administration, distributions of £245,000 were made to the Bank.

A further distribution from the Liquidation of £3,680 was made to the Bank under its fixed charge, making total distributions of £248,680 There are no further funds available to the Bank from the Liquidation.

### **Preferential Creditors**

Preferential creditors totalling £32,140 have been paid in full

### **Unsecured, Non-preferential Creditors**

Claims received from non-preferential creditors awaiting adjudication by the Liquidator, amount to £827,879 Included in this figure is HM Revenue Customs & Exercise for VAT and PAYE/NIC of £154,827 and the DTI's claim for redundancy and notice pay of £92,312

Ten creditors have submitted proof of debt form but without evidence to substantiate their claim These creditors have all been contacted and advised documentary confirmation is required.

In Addition to the above, 19 creditors have outstanding proof of debt forms Where possible these creditors have been individually contacted

Attached is a formal Notice To Claim which states creditors who have not submitted their claims, are required to do so, on or before 8 September 2014 or they will be excluded from the benefit of any distribution

### **Prescribed Part**

Section 176A of the Insolvency Act 1986 requires Liquidators to set aside a prescribed proportion of the Company's 'net property' towards the satisfaction of unsecured, non-preferential claims. Net property is the amount of property that would otherwise be available to holders of debentures secured by, or holders of, any floating charge created by the Company after 15 September 2003

As previously advised, the Bank has a debenture created on 23 September 2008, and as such the Prescribed Part calculation will apply.

Currently the estimated net property stands at £310,880 and the Prescribed Part at £65,176, as calculated below It should be noted, however, that the Prescribed Part distribution has to bear its own costs and, as such, the final sum available for distribution may be less than that shown.

	£
Net Property	310,887
50% of first £10,000	5,000
20% on the balance	<u>60,177</u>
	<u>65,177</u>

### **Liquidators' Fees and Disbursements**

During the Administration, a meeting of creditors was held on 26 August 2011 At this meeting, it was resolved that the Administrators' remuneration be fixed by reference to the time properly given in attending to matters arising in the Administration at BDO LLP's usual charge out rates

Under Rule 4 127(5A) of the Insolvency Rules 1986, the basis of the remuneration fixed in the Administration will apply in the Liquidation.

The time costs incurred in the period 14 June 2013 to 13 June 2014 amounts to £11,683 which represents hours, at an average hourly rate of £208 During this period, Liquidators' fees have been drawn of £10,000

Overall, total time costs incurred in respect of this case since the appointment as Liquidator on 14 June 2012 amount to £41,735 and represent 201 hours at an average hourly rate of £208 per hour. Total fees drawn for the period of the Liquidation amount to £10,000.

These time costs are shown in the appendices to this report as two separate breakdowns. This is as a result of a change in our time recording systems.

These amounts are derived from BDO LLP's normal rates for time properly spent by the Liquidators and their staff in attending to matters arising in the Liquidation. Where members of staff have been employed on this case they have been so based on their experience and abilities in dealing with a case of this nature. Where appropriate certain staff have dealt with a specific area of the Liquidation due to their specialist skills in that area. BDO LLP's scale rates may increase from time to time over the period of an assignment.

All staff who have worked on this matter, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the enclosed analysis. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.

A creditors' guide to Liquidators' fees and a schedule of our current charge-out rates are enclosed.

#### **Creditors' Rights**

In accordance with Rule 4.49E of the Insolvency Rules 1986 any non-preferential creditor with the concurrence of at least 5% in value of the total non-preferential creditors (including the value of their own claim) or with the permission of the court, may make a formal request in writing to the Liquidators for further information about the remuneration or expenses set out in this report. Such a request must be made within 21 days from the date of receipt of this progress report.

Additionally, creditors who believe that the Liquidators' remuneration is, in the circumstances, excessive or inappropriate may apply to the court under the provisions of Rule 4.131 of the Insolvency Rules 1986. Such application may be made by any non-preferential creditor, requiring the concurrence of 10% of the total non-preferential creditors (including their own claim) or the permission of the court.

#### **Complaints**

The Insolvency Service has established a central gateway for considering complaints in respect of Insolvency Practitioners. In the event that you make a complaint to me but are not satisfied with the response from me, then you should visit <http://www.bis.gov.uk/insolvency/contact-us/IP-Complaints-Gateway> where you will find further information on how you may pursue the complaint.

#### **Concluding Comments**

I trust this report provides you with sufficient information to update you on the position of the liquidation, but if you require more information or have any questions then please contact Helen Jones on 0115 962 9248.

Yours faithfully

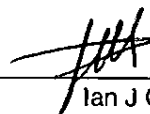
  
Ian J Gould  
Liquidator

## **STATUTORY INFORMATION**

<b>Company name</b>	Crown Structural Engineering Limited
<b>Registration number</b>	03591991
<b>Registered office</b>	Regent House, Clinton Avenue, Nottingham NG5 1AZ
<b>Liquidators' details</b>	<p>Ian James Gould</p> <p>BDO LLP Regent House, Clinton Avenue, Nottingham NG5 1AZ</p> <p>Appointed: 14 June 2012</p>

**Crown Structural Engineering Limited**  
**(In Liquidation)**  
**Liquidator's Abstract of Receipts & Payments**

Statement of Affairs	From 14/06/2013 To 13/06/2014	From 14/06/2012 To 13/06/2014
<b>GENERAL FIXED CHARGE</b>		
Chargeholder	3,680 20	3,680 20
Corporation Tax - Administration	919 80	919 80
Fixed Charge Administration Surplus	<u>(4,600 00)</u>	<u>(4,600 00)</u>
	NIL	NIL
<b>ASSET REALISATIONS</b>		
Book Debts	868 40	5,283 74
Bank Interest Net of Tax	55 32	111 45
Floating Charge Administration Surplus	<u>(4,600 00)</u>	<u>74,037 94</u>
	(3,676 28)	79,433 13
<b>COST OF REALISATIONS</b>		
Office Holders Fees	10,000 00	10,000 00
Debtor Recovery Fees	NIL	802 00
Corporation Tax - Administration	(919 80)	NIL
Printing & Postage	177 05	385 27
Statutory Advertising	NIL	139 50
Bank Charges	<u>0 37</u>	<u>0 74</u>
	(9,257 62)	(11,327 51)
<b>PREFERENTIAL CREDITORS</b>		
Employees Wage Arrears	<u>NIL</u>	<u>9 97</u>
	NIL	(9 97)
	<u>(12,933.90)</u>	<u>68,095 65</u>
<b>REPRESENTED BY</b>		
Bank 1 - Current		68,095 65
		<u>68,095 65</u>



Ian J Gould  
Liquidator



# SIP9 Timecosts Summary 14 June 2012 to 13 June 2013

Client: 4022086 Crown Structural Engineering Ltd - CVL

Grade	Partner / Director	Manager	Supervisor / Senior Administrator	Administrator / Assistant	Total					
Average Cost per hour:	£432.00	£294.00	£179.00	£111.00	£207.00					
Tasks	Amount (£)	Hours	Amount (£)	Hours	Amount (£)	Hours				
Partner/Senior Manager Review	0 00	0 00	889 50	3 00	0 00	0 00	889 50	3 00		
Case Completion	0 00	0 00	0 00	0 00	122 50	0 70	0 00	0 00	122 50	0 70
Planning & Monitoring	0 00	0 00	1,688 50	5 70	3,512 05	19 70	0 00	0 00	5,200 55	25 40
Time Summaries & Billing	0 00	0 00	240 00	0 80	307 70	1 70	0 00	0 00	547 70	2 50
Cashiering Function Generally	213 30	0 50	262 30	0 95	623 60	3 50	802 56	7 36	1,901 76	12 31
Dividends & Distributions	0 00	0 00	180 00	0 60	398 20	2 20	0 00	0 00	578 20	2 80
Office Holders Tax Liabilities	0 00	0 00	1,131 80	4 25	1,137 30	6 30	0 00	0 00	2,269 10	10 55
CDDA 1986 Work	0 00	0 00	60 00	0 20	434 40	2 40	0 00	0 00	494 40	2 60
Partly Secured Creditors (including of lease and HP)	0 00	0 00	0 00	0 00	108 60	0 60	0 00	0 00	108 60	0 60
Preferential Creditors	0 00	0 00	0 00	0 00	54 30	0 30	0 00	0 00	54 30	0 30
Non Preferential Creditors	0 00	0 00	1,824 20	6 10	7,050 80	39 00	0 00	0 00	8,875 00	45 10
Employee Claims	0 00	0 00	0 00	0 00	89 30	0 50	68 00	0 50	157 30	1 00
Fixed Asset Realisation	0 00	0 00	0 00	0 00	54 30	0 30	0 00	0 00	54 30	0 30
Book Debt Realisations	0 00	0 00	4,413 90	14 80	905 00	5 00	0 00	0 00	5,318 90	19 80
Other Asset Realisations	0 00	0 00	0 00	0 00	45 25	0 25	0 00	0 00	45 25	0 25
Insurance & Bonding	0 00	0 00	0 00	0 00	108 60	0 60	0 00	0 00	108 60	0 60
General Administration	0 00	0 00	0 00	0 00	310 70	1 75	0 00	0 00	310 70	1 75
Statutory Compliance (including CRO returns and lodger	46 10	0 10	382 80	1 30	1,838 60	10 55	0 00	0 00	2,267 50	11 95
Computerisation/IPS	0 00	0 00	0 00	0 00	167 50	1 00	0 00	0 00	167 50	1 00
Liasing with Agents/Solicitors/Other Professionals	0 00	0 00	90 00	0 30	0 00	0 00	0 00	0 00	90 00	0 30
Annual/Periodic Reporting/Meeting (ie S48 or S105)	0 00	0 00	291 00	1 00	0 00	0 00	0 00	0 00	291 00	1 00
ROT Claims	0 00	0 00	0 00	0 00	199 10	1 10	0 00	0 00	199 10	1 10
	259 40	0 60	11,454 00	39 00	17,467 80	97 45	870 56	7 86	30,051 76	144 91

Crown Structural Engineering Limited In Liquidation

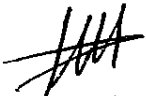
Summary of time charged and rates applicable for the period from 14 June 2013 to 13 June 2014

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		TOTAL		AVERAGE HOURLY RATE £ P/H
	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	Hours	Value £	
A Pre appointment matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
B Steps on appointment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
C Planning and Strategy	-	-	1 10	314 90	0 20	36 60	0 40	62 80	0 70	96 60	-	-	2 40	510 90	212 88
D General administration	0 60	276 60	6 10	1,560 20	12 85	2,351 55	2 40	388 80	0 45	64 70	1 75	108 15	24 15	4,750 00	196 69
E Asset and realisations/dealing	-	-	4 40	1,226 00	1 70	311 10	-	-	-	-	-	-	6 10	1,537 10	251 98
F Trading related matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
G Employee matters	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
H Creditor claims	-	-	3 90	1,002 30	3 65	667 95	0 25	39 25	-	-	-	-	7 80	1,709 50	219 17
I Reporting	-	-	3 30	908 70	10 90	1,994 70	-	-	-	-	-	-	14 20	2,903 40	204 46
J Distribution and closure	-	-	-	-	0 80	146 40	-	-	-	-	-	-	0 80	146 40	183 00
K Other work	-	-	0 40	91 40	-	-	0 20	34 40	-	-	-	-	0 60	125 80	209 67
TOTAL	0 60	276 60	19 20	5,103 50	30 10	5,508 30	3 25	525 25	1 15	161 30	1 75	108 15	56 05	11,683 10	208 44

**In the Matter of**  
**Crown Structural Engineering Limited**  
**And in the Matter of the Insolvency Act and Rules 1986**

In accordance with Rule 4.106, I, Ian J Gould of BDO LLP, Regent House, Clinton Avenue, Nottingham, NG5 1AZ, give notice that on 14 June 2012 I was appointed Liquidator of Crown Structural Engineering Limited pursuant to Schedule B1 Para 83

Notice is hereby given that the creditors of the above named company, which is being voluntarily wound up, are required, on or before 8 September 2014 to send in their full Christian and Surnames, their addresses and descriptions, full particulars of their debts or claims, and the names and addresses of their solicitors (if any), to the undersigned Ian J Gould of Regent House, Clinton Avenue, Nottingham, NG5 1AZ, the Liquidator of the said company, and, if so required by notice in writing from the said Liquidator, are, personally or by their solicitors, to come in and prove their debts or claims at such time and place as shall be specified in such notice, or in default thereof they will be excluded from the benefit of any distribution



**I J Gould**  
Liquidator

Date. 8 August 2014



## **Crown Structural Engineering Limited - In Liquidation**

In accordance with best practice I provide below details of policies of BDO LLP in respect of fees for work in relation to the above insolvency.

The current charge out rates per hour of staff within BDO LLP who may be involved in working on the insolvency, follows: This in no way implies that staff at all such grades will work on the case

### **GRADE £**

Partner	356-461
Director	319
Senior Manager	271-295
Manager	203-230
Assistant Manager/Supervisor	183
Senior Administrator	172
Administrator	113-155
Junior Administrator	99
Cashier	172
Support staff/Secretary	63-78

The rates charged by BDO LLP, Regent House, Clinton Avenue, Nottingham NG5 1AZ are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO LLP records work in respect of insolvency work under the following categories -

Pre Appointment  
Steps upon Appointment  
Planning and Strategy  
General Administration  
Asset Realisation/Management  
Trading Related Matters  
Employee Matters  
Creditor Claims  
Reporting  
Distribution and Closure  
Other Issues.

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners

Where an officeholder's remuneration is approved on a time cost basis the time invoiced to the case will be subject to VAT at the prevailing rate.

**A Creditor's Guide to Liquidators' Fees****1 Introduction**

- 1 1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope 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 liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

**2 Liquidation procedure**

- 2 1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2 2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2 3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to The Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2 4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

**3 The liquidation committee**

- 3 1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3 2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

**4 Fixing the liquidator's remuneration**

- 4 1 The basis for fixing the liquidator's remuneration is set out in Rules 4.127 - 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed.
- as a percentage of the value of the assets which are realised or distributed or both,
  - by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, 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 liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

It is for the liquidation 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. Rule 4.127 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 liquidator in connection with the insolvency,
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the assets which the liquidator has to deal with.

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator 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. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

## **5. Review of remuneration**

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator 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 What information should be provided by the liquidator?**

### **6.1 When fixing bases of remuneration**

6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator 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.

6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator 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.

6.1.3 The liquidator 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 liquidator or his or her staff.

6.1.4 If work has already been carried out, the liquidator 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 liquidator 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 liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

**6.2 After the bases of remuneration have been fixed**

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator 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 liquidator 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 liquidator 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 liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

**6.3 Disbursements and other expenses****6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation 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 liquidation 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 liquidator or his or her staff.
- **Category 2 disbursements** These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator 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 liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

**6.3.2 The following are not permissible**

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

**6.4 Realisations for secured creditors**

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

**7. Progress reports and requests for further information****7.1 The liquidator is required to send annual progress reports to creditors. The reports must include**

- details of the basis fixed for the remuneration of the liquidator (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 liquidator during the period of the report, irrespective of whether payment was actually made during that period;
- a statement of the creditors' rights to request further information, as explained in paragraph 7.2, and their right to challenge the liquidator's remuneration and expenses.

7.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses 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.

7.3 The liquidator 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 liquidation or might be expected to lead to violence against any person, or
- the liquidator 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 liquidator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.

## **8. Provision of information - additional requirements**

The liquidator must provide certain information about the time spent on the 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 liquidator 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 liquidator'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 liquidator, and requests must be made within two years from vacation of office.

## **9 What if a creditor is dissatisfied?**

9.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing.

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

9.3 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 liquidator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 7.1 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 liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

9.4 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 out of the assets of the insolvent company.



**10. What if the liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, 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 liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale 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 committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the 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 out of the assets.

**11 Other matters relating to remuneration**

- 11 1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11 2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 11 3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.
- 11 4 If a new liquidator 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 liquidator until a further determination, resolution or court order is made.
- 11 5 Where the basis of the remuneration is a set amount, and the liquidator 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 liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11 6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

**12. Effective date**

This guide applies where a company goes into liquidation on or after 1 November 2011

**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 liquidator,
- the liquidator'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 liquidator'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 liquidator 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 liquidator'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 liquidator 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 liquidator should, as a minimum, state the number of hours and average rate per hour and explaining 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.