

The Insolvency Act 1986

Notice of move from administration to dissolution

2.35B

Name of Company
Mimosa Healthcare Limited

Company number
03788573

In the High Court of Justice, Chancery Division, Companies Court, London (full name of court)
--

Court case number 2185 of 2014

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

I/We (a) Kerry Bailey
BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3AT

Sarah M Rayment
BDO LLP
3 Hardman Street
Manchester
M3 3AT

(b) Insert name and
address of
registered office of
company

having been appointed administrator(s) of (b) Mimosa Healthcare Limited, 3 Hardman Street
Spinningfields Manchester

(c) Insert date of
appointment

on (c) 24 March 2014 by (d) the Directors

(d) Insert name of
applicant/appointor

hereby give notice that the provisions of paragraph 84(1) of Schedule B1 to the Insolvency Act 1986
apply

We attach a copy of the final progress report

Signed

Joint / Administrator(s)

Dated

21.12.15

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

Kerry Bailey
BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3AT

DX Number

01618 177 500
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



A4MY1229

A38

24/12/2015

#23

COMPANIES HOUSE



Tel: +44 (0)161 817 7500
Fax: +44 (0)161 817 7683
www.bdo.co.uk

3 Hardman Street
Spinningfields
Manchester
M3 3AT

TO ALL KNOWN MEMBERS & CREDITORS

18 December 2015

Our Ref KB/CS/AW/C2

Please ask for Anne Williams

Direct line 0161 833 8332

Dear Sirs

Mimosa Healthcare Limited (In Administration) ("the Company")

In accordance with Rules 2.47 and 2.110 of the Insolvency Rules 1986, I am now making my final report to creditors reporting the progress made in implementing the Administrators' approved proposals and achieving the statutory purpose of the Administration.

On 16 September 2015, the administration was extended to allow the Administrator's to finalise the tax position with HM Revenue and Customs and make a distribution to the secured creditor.

This progress report should be read in conjunction with the proposals circulated on 14 May 2014, which detailed the group structure, Company's position and the background to the Administration and my previous progress reports, the most recent of which was dated August 2015.

1. Statutory Information

- 1.1. The Joint Administrators are Kerry Bailey and Sarah M Rayment of BDO LLP and they were appointed on 24 March 2014. Under the provisions of Paragraph 100(2) of Schedule B1 to the Insolvency Act 1986 ("the Schedule") the Administrators carry out their functions jointly and severally and neither Administrator has exclusive power to exercise any function.
- 1.2. The Administrators were appointed by the Directors, pursuant to Paragraph 22 of the Schedule. The Administration proceedings are dealt with in the High Court of Justice, Chancery Division, Companies Court, London and the court case number is 2185 of 2014.
- 1.3. The Company's registered office is situated at 3 Hardman Street, Spinningfields, Manchester M3 3AT and the registered number is 03788573.
- 1.4. I enclose, for your information, a copy of my abstract account covering the period from 7 August 2015 (being the date of the last account) to 16 December 2015.

2.1 Trading and Sale of Business

- 2.1 The Company is one of several insolvent entities which formed part of a wider group of companies operating care homes across England and Wales. At the date of our appointment, the Company owned and operated a freehold 50 bed care home, known as Dean Wood Manor in Orrell, Wigan ("the Home"). The Administrators' proposals for achieving the statutory purpose of the Administration were to trade the business until a new owner could be found. The Bank of Scotland ("BOS") provided overdraft facilities to fund trading.



- 2 2 The Administrators instructed Healthcare Management Solutions to manage the Home whilst the business was being marketed for sale. Knight Frank were instructed to value and market for sale the business and freehold property while ES Group were retained to provide valuations in respect of the chattel assets, which would be incorporated into a proposed sale of the business
- 2 3 On 9 January 2015, contracts were exchanged to sell the business and assets of the Company for a total consideration of £921,000. As the operation of the Home was a regulated business (by the Care Quality Commission ("CQC") in England), the completion was subject to the Buyer having CQC registration in place. This was anticipated to take approximately 3 months from the date of exchange. The sale completed on 6 March 2015.
- 2 4 During the trading period following appointment, there was an overall loss of £55,856. The loss was justified due to the significantly higher value attributed to achieving a sale of the business and assets as a going concern than if the business was closed and the property sold on a vacant possession basis.
- 2 5 The Administrators' operations ceased to have effect on completion of the sale on 6 March 2015. All trading costs have been settled.

3 Statement of Affairs

- 3 1 The directors prepared an estimated statement of affairs of the Company as at the date of our appointment. This statement was appended to the Administrators' proposals circulated in May 2014.
- 3.2 The directors estimated that the property and chattel assets would realise approximately £1,000,000. Knight Frank advised that the business and assets sold on an existing going concern basis could realise £900,000. If trading ceased and the property sold on a closed down, vacant possession basis, the value would be in the region of £480,000.
- 3 3 The total sale consideration was for £921,000, £25,000 for goodwill, £96,000 for the chattel assets and £800,000 for the freehold property. This is in line with the directors' estimated to realise figure in the statement of affairs.
- 3 4 The directors estimated that the overall debtors totalled £61,146 with £58,000 being realisable. The Company's sales ledger at the date of appointment indicated that the Company had book debts of £28,026. In addition, there were intercompany debtors from other insolvent group companies included in the £61,146.
- 3.5 The Administrators consider that the intercompany debtors are irrecoverable due to the insolvent position of various group entities. Final book debt realisations total £22,965.

4 Receipts and Payments

- 4.1 A copy of my abstract account covering the period from 7 August 2015 (being the date of the last account) to 16 December 2015 is attached to this report.
- 4 2 There have been no receipts in this period.
- 4 3 We have made a distribution of £712,000 to the secured creditor, detailed later in the report.

4 4 In addition, we have paid legal fees and disbursements in the period of £3,530 to Gateley LLP in respect of work carried out in extending the Administration.

4 5 Bank charges in the period were £100

5 Prospects for Creditors

5 1 Secured Creditors

5 1 1 The Company has one secured creditor, being BOS. BOS created a fixed and floating charge debenture on 3 April 2011. The Company was party to group banking facilities with BOS that were secured over multiple Mimosa group entities and assets. As at the date of appointment, BOS were owed £5,595,048 made up of a group overdraft facility and a term loan.

5 1 2 BOS have received a total of £712,000. BOS is expected to suffer a shortfall on its lending across the group facility.

5 2 Preferential Creditors

5.2 1 There were no preferential claims in this matter. All staff contracts within the Home were held by a group company, Mimosa Healthcare Holdings Limited. However following the completion of the sale of the business on 6 March 2015, all employees employed at the time were transferred to the purchaser and that the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended ("TUPE") applies to this situation.

5 3 Prescribed Part

5.3.1 Prescribed Part provisions apply where a company has granted a floating charge to a creditor after 15 September 2003. The Company has granted a floating charge after this date therefore the Prescribed Part will apply.

5 3 2 The Prescribed Part is a proportion of the Company's net property made available for the satisfaction of unsecured debt. The net property is the amount that would otherwise be available to a floating chargeholder.

5.3 3 The value of the Company's net property was nil and therefore a prescribed part distribution will not be possible.

5.4 Unsecured Creditors

5.4 1 To date we have received unsecured creditor claims totalling £44,614.

5.4 2 There is no prospect of an unsecured distribution in this case.

6 Extension of the Administration

6 1 Pursuant to Paragraph 76(2)(b) of the Schedule, the Administration was previously extended to 23 September 2015, consent having been obtained from BOS as the only secured creditor in this matter.

6 2 In August 2015, the Administrators made an application to court under Paragraph 76(2)(a) of the Schedule to extend the administration for a further period of three months to enable the tax position to be finalised and a distribution made to the secured creditor

6 3 On 19 September 2015, an order was made in the High Court of Justice extending the administration to 23 December 2015

7 Statutory Purpose of the Administration

7 1 The Administrators carried out their duties in order to achieve the objective set out in Paragraph 3(1)(b) of Schedule B1 of the Insolvency Act 1986, namely a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration).

7.2 By continuing to trade and by selling the business and assets as a going concern, the Administrators have increased the recovery for the secured creditor then if the business had been closed and the property sold on a vacant possession basis

8 Administrators' Remuneration

8 1 Under the terms of the Insolvency Rules 1986, the Joint Administrators are obliged to fix their remuneration in accordance with Rule 2 106(2). This permits remuneration to be fixed as a percentage of the property with which the Administrators have to deal, by reference to the time the Joint Administrators and their staff have spent in attending to matters, or a fixed amount. Remuneration may be fixed on one or a combination of any of the foregoing bases

8 2 In respect of this Administration, the approval of the remuneration is a matter for the secured and preferential creditors of the Company. In the absence of preferential creditors, the secured creditor has previously approved our remuneration on a time cost basis

8 3 I attach a schedule summarising the time costs incurred in the period from 7 August 2015 to 18 December 2015. This shows a total of £6,348, being 29 95 hours at an average charge out rate of approximately £211 per hour.

8.4 A further schedule is attached summarising the time costs incurred since the date of my appointment to 18 December 2015. This shows a total of £125,329, being 627 hours at an average charge out rate of approximately £199 per hour.

8.5 The Joint Administrators have drawn fees of £86,000 plus VAT in relation to this matter.

8.6 Creditors should refer to BDO LLP's attached policy on fees and disbursements for further information in relation to BDO LLP's charge out rates and the charging of disbursements.

8 7 A creditors' guide to fees in Administrations can be downloaded from our website, www.bdo.co.uk/cgtf. A hard copy of the guide will be provided to any creditor who requests one

9 Disbursements

- 9.1 Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. Category 1 disbursements incurred to date total £260.77.
- 9.2 No further Category 1 disbursements were incurred in the period 7 August 2015 to 18 December 2015.
- 9.3 Some administrators recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements except for mileage charges. Mileage is currently charged at 45 pence per mile with an additional surcharge of 5 pence per mile if there is a passenger(s). The secured creditor previously approved category 2 mileage disbursements of £415.68.
- 9.4 No further Category 2 disbursements were incurred in the period 7 August 2015 to 18 December 2015.

10 Creditors' Rights

- 10.1 I attach an extract from the Insolvency Rules 1986 that sets out the rights of creditors to request further information and/or challenge the remuneration or fees within the Administration.

11 Complaints

- 11.1 The Insolvency Services 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.

12 Administrators' discharge

- 12.1 Pursuant to Paragraph 98(3)(a) of the Schedule, as the Administrators' made a statement under Paragraph 52 (1)(b) of the Schedule, stating that the Company has insufficient property to enable a distribution to be made to unsecured creditors other than by virtue of the Prescribed Part, it is our intention to seek our discharge from the secured creditor in this matter.

13 Additional Information

13.1 I trust this report provides you with sufficient information, but if you require more information or have any questions please contact Anne Williams of this office using one of the contact methods below:

- By email Anne.williams@bdo.co.uk
- By telephone 0161 833 8332 or
- By fax 0161 817 7683

Yours faithfully
for and on behalf of
Mimosa Healthcare Limited



Kerry Bailey
Joint Administrator
Authorised by the Institute of Chartered Accountants in England & Wales in the UK

Statement from the Insolvency Rules 1986 (as amended) regarding the rights of creditors in respect of the Joint Administrators' fees and expenses:-**Rule 2 48A Creditors' request for further information****(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, makes a request in writing to 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 reasonably 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 reasons 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 further period as the court thinks just.**Rule 2 109 Creditors' claim that remuneration is or other expenses are excessive****(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) 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, or
 - (c) expenses incurred by the administrator,
- is or are, in all 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**

Statement from the Insolvency Rules 1986 (as amended) regarding the rights of creditors in respect of the Joint Administrators' fees and expenses (continued):-**Rule 2.109 (continued)**

(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 of 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



The Insolvency Act 1986

**Notice of move from
administration to dissolution****2.35B**

Name of Company

Mimosa Healthcare Limited

Company number

03788573

In the
High Court of Justice, Chancery Division,
Companies Court, London

(full name of court)

Court case number
2185 of 2014(a) Insert full
name(s) and
address(es) of
administrator(s)I/We (a) Kerry Bailey
BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3ATSarah M Rayment
BDO LLP
3 Hardman Street
Manchester
M3 3AT(b) Insert name and
address of
registered office of
companyhaving been appointed administrator(s) of (b) Mimosa Healthcare Limited, 3 Hardman Street
Spinningfields Manchester(c) Insert date of
appointment

on (c) 24 March 2014 by (d) the Directors

(d) Insert name of
applicant/appointorhereby give notice that the provisions of paragraph 84(1) of Schedule B1 to the Insolvency Act 1986
apply

We attach a copy of the final progress report

Signed

Joint / Administrator(s)

Dated

21.12.15

Contact Details:

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Kerry Bailey
BDO LLP
3 Hardman Street
Spinningfields
Manchester
M3 3AT

DX Number

01618 177 500
DX Exchange

Companies House receipt date barcode

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

Mimosa Healthcare Limited
(In Administration)

Summary of Receipts & Payments

RECEIPTS	Statement of Affairs (£)	From 24/03/2014 To 06/08/2015 (£)	From 07/08/2015 To 16/12/2015 (£)	Total (£)
Sales		1,025,347 12	2,898 43	1,028,245 55
Freehold Land & Property	1,000,000 00	800,000 00	0 00	800,000 00
Goodwill		25,000 00	0 00	25,000 00
Interest Gross		104 60	0 00	104 60
Furniture & Equipment		96,000 00	0 00	96,000 00
Book debts	58,000 00	27,500 82	0 00	27,500 82
Interest Gross		444 47	0 00	444 47
Sundry Refunds		1,186 59	0 00	1,186 59
		1,975,583 60	2,898 43	1,978,482 03
PAYMENTS				
Professional Fees		88,500 00	0 00	88,500 00
Wages		708,671 20	0 00	708,671 20
Insurance		9,238 53	0 00	9,238 53
Trading Expenses		286,930 73	0 00	286,930 73
Legal Fees & Disbursements		17,445 00	0 00	17,445 00
Agents Fees & Disbursements		19,341 00	0 00	19,341 00
Secured Creditor		0 00	712,000 00	712,000 00
Book debts	58,000 00	4,534 98	0 00	4,534 98
Data Protection Registration		35 00	0 00	35 00
Joint Administrators Fees & Disbursements		0 00	104011 70	104011 70
Agents' Fees & Disbursements		2,628 00	0 00	2,628 00
Legal Fees & Disbursements		16,885 18	3,530 96	20,416 14
Bank Charges		4,629 70	100 05	4,729 75
		1,158,839 32	819,642 71	1,978,482 03
Net Receipts/(Payments)		816,744 28	-816,744 28	0 00
MADE UP AS FOLLOWS				
		0 00	0 00	0 00
Note				

Name of Assignment Mimosa Healthcare Limited - AD 00240660
Summary of Time Charged and Rates Applicable for the Period From 07/08/2015 to 18/12/2015

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AVERT
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
B Steps on Appointment	0.70	338.80	3.05	1,072.80	6.00	1,135.75	1.45	278.40	3.50	364.00	0.20	11.40	3.50	364.00	104.00
D General Administration					0.70	131.15			7.10	677.25			18.50	3,514.40	189.97
F Trading Related Matters									1.50	156.00			2.20	287.15	130.52
I Reporting			2.00	570.00									2.00	570.00	285.00
K Work			3.75	1,612.50									3.75	1,612.50	430.00
	0.70	338.80	8.80	3,255.30	6.70	1,266.90	1.45	278.40	12.10	1,197.25	0.20	11.40	29.95	6,348.05	
														6,348.05	
														0.00	
														0.00	
														0.00	
														6,348.05	

Name of Assignment Mimosa Healthcare Limited - AD 00240660
Summary of Time Charged and Rates Applicable for the Period From 15/03/2014 to 18/12/2015

Description	PARTNER		MANAGER		ASSISTANT MANAGER		SENIOR ADMINISTRATOR		ADMINISTRATOR		OTHER STAFF		GRAND TOTAL		AV RT
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A. Pre Appointment Matters															£
B Steps on Appointment	0 10	46 10	6 00	1,677 00	23 50	4,300 50			7 50	643 00	1 50	94 50	6 90	1,869 90	271 00
C Planning and Strategy									1 00	99 00			38 60	6,761 10	175 16
D General Administration	5 80	2,689 90	32 10	8,893 80	86 85	15,927 30	20 30	3,688 35	40 70	4,918 70	3 65	223 65	1 00	99 00	99 00
E Assets Realisation/Dealing	2 15	991 15	50 15	13 145 90	72 85	13,331 55			22 25	2,162 50	0 25	15 75	125 15	27,468 60	219 49
F Trading Related Matters	1 50	691 50	54 70	13,790 95	129 05	23,617 20			0 90	89 10	0 90	62 10	207 75	40,277 90	193 88
G Employee Matters			1 75	390 35	10 15	1,857 45			1 50	94 50	0 25	15 75	13 70	2,399 00	175 11
H Creditor Claims			0 50	101 50	2 75	403 25							5 00	715 00	143 00
L Reporting			12 00	3,343 60	23 75	4,332 25			0 70	108 50			36 45	7,784 35	213 56
K Work			3 75	1,612 50									3 75	1,612 50	430 00
	9 55	4,418 65	167 85	44,825 50	348 90	63,869 50	20 30	3,688 35	74 55	8,115 30	6 55	411 75	627 70	125,329 05	

Net Total	627 70	125,329 05
Secretarial Expense		0 00
Other Disbursements		676 45
Billed		0 00
Grand Total		126,005 50

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 and explains the basis on which fees are fixed.

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 fees

- 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 either:

- as a percentage of the value of the property which the administrator has to deal with, or
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed and, if it is fixed as a percentage fix the percentage to be applied. 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, the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator.

- 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 a resolution of the creditors shall be taken as passed if, and only if, passed with 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

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 What information should be provided by the administrator?

5.1 When seeking fee approval

- 5.1.1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information, which should be provided, will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought; and
- the size and complexity of the case

- 5.1.2 Where, at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

- 5.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO LLP operates a computerised time recording system which analyses work done under the following categories -

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

- Other Issues

Professional guidance suggests the following categories as a basis for analysis by grade of staff

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

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing agreement about fees
- Details of how other professionals, including sub-contractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases

- 5.1.4 Where the fee is charged on a percentage basis the administrator should provide details of any work which has been or is intended to be sub contracted out which would normally be undertaken directly by an administrator or his staff.

5.2 After fee approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 5.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.

5.3 Expenses and disbursements

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

6 What if a creditor is dissatisfied?

- 6.1** If a creditor believes that the administrator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. 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. Unless the court orders otherwise, the costs must be paid by the applicant and not as an expense of the administration.

7 What if the administrator is dissatisfied?

- 7.1** If the administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for it to be increased. 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.

8 Other matters relating to fees

- 8.1** 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.
- 8.2** 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.

9 Provision of information - additional requirements

In any case where the administrator is appointed on or after 1 April 2005 he 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.



Mimosa Healthcare Limited - In Administration

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

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency follows:

GRADE	£
Partner	461
Director	295-319
Senior Manager	271-295
Manager	203-230
Assistant Manager	183
Senior Executive	172
Support staff/Secretary	63-99

This in no way implies that staff at all such grades will work on the case.

The rates charged by BDO LLP, 3 Hardman Street, Manchester, M3 3AT 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

Where remuneration has been approved on a time costs basis a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.

1) Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into two categories.



2) Category 1

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents etc. In each case the recharge will be reimbursement of a specific expense incurred.

3) Category 2

Insolvency practice additionally provides for the recharge of expenses such as postage, stationery, photocopying charges, telephone, fax and other electronic communications, which cannot be economically recorded in respect of each specific case. Such expenses, which are apportioned to cases, must be approved by the creditors in accordance with the Insolvency Rules 1986, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP, in respect of this appointment is not to recharge any expense which is not a specific cost to the case, other than mileage as set out below.

A further disbursement under this heading is the cost of travel where staff use either their own vehicles or company cars in travelling connected with the insolvency. In these cases a charge of 45p per mile is raised which is in line with the Inland Revenue Approved Mileage Rates (median - less than 10,000 miles per annum) which is the amount the firm pays to staff. Where costs are incurred in respect of mileage, approval will be sought in accordance with the Insolvency Rules 1986 to recover this disbursement.

Where applicable, all disbursements will be subject to VAT at the prevailing rate.

BDO LLP
16 December 2015