

**2.24B**

The Insolvency Act 1986

**Administrator's progress report**

Name of Company LPW Truckwash (MSA) Limited	Company number 04257749
In the High Court of Justice (full name of court)	Court case number 21630 of 2009

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

I/We (a)  
P R Boyle  
Harrisons  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL


John C Sallabank  
Harrisons  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

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

(b) Insert date

From (b) 7 June 2010	To (b) 6 December 2010
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Signed

  
Joint / Administrator(s)

Dated

4/1/11**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

P R Boyle  
Harrisons  
4 St Giles Court  
Southampton Street  
Reading  
RG1 2QL

DX Number

0118 951 0798  
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**



A39  
11/01/2011  
COMPANIES HOUSE

**LPW Group Limited  
LPW Fleetcare Limited  
LPW Truckwash Limited  
LPW Truckwash (MSA) Limited  
- All In Administration**

**Progress Report to Creditors Pursuant to  
Rule 2.47 of the Insolvency Rules 1986**

**LPW Group Limited, LPW Fleetcare Limited, LPW Truckwash Limited, LPW Truckwash (MSA) Limited  
– All In Administration**

**Progress Report to Creditors**

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**LPW Group Limited, LPW Fleetcare Limited, LPW Truckwash Limited, LPW Truckwash (MSA) Limited  
– All In Administration**

**Progress Report to Creditors**

**1. GLOSSARY**

Administrators	P R Boyle and J C Sallabank of Harrisons Business Recovery and Insolvency Limited ('Harrisons'), 4 St Giles Court, Southampton Street, Reading, RG1 2QL.	
Appointor	Eurofactor (UK) Limited trading as Credit Agricole Commercial Finance ('CAC'), Bellerve House, 3 Muirfield Crescent, Docklands, London E14 9SZ	
Administration Application	The Administration documentation was filed at the High Court of Justice on 7 December 2009 and allocated the following Court Numbers: -  LPW Group Limited ('LPWGP') 21633 of 2009 LPW Fleetcare Limited ('LPWFC') 21637 of 2009 LPW Truckwash Limited ('LPWTW') 21632 of 2009 LPW Truckwash (MSA) Limited ('LPWMSA') 21630 of 2009	
Company	LPWGP (Company Registered Number 06557826) LPWFC (Company Registered Number 06558536) LPWTW (Company Registered Number 06554952) LPWMSA (Company Registered Number 04257749) (the Companies)  - whose registered offices are at 4 St Giles Court, Southampton Street, Reading, RG1 2QL	

The references in this report to sections, paragraphs or rules are to the Insolvency Act 1986, Schedule B1 of the Insolvency Act 1986 and the Insolvency (Amendment) Rules 2003

**2. INTRODUCTION**

P R Boyle and J C Sallabank of Harrisons were appointed as Joint Administrators of the Companies on 7 December 2009 upon CAC filing a Notice of Appointment of an Administrator at the High Court of Justice in accordance with Paragraph 14 of Schedule B1 of the Insolvency Act 1986.

In accordance with Paragraph 100(2) of Schedule B1 Insolvency Act 1986 the functions of the Administrators are being exercised by either or both of us

In accordance with Rule 2.47 of the Insolvency Rules 1986 we now report to creditors on the progress of the Administrations. A combined report has been prepared as they are a group of companies and the administrations are being conducted on this basis. This should be read in conjunction with our previous reports

**3. PURPOSE AND PROGRESS OF THE ADMINISTRATION**

**3.1 Purpose of the Administration**

The Companies could not be saved as a going concern in accordance with Paragraph 3(1)(a), since there were insufficient funds available to finance trading the Companies or to enable contribution based voluntary arrangements. Paragraph 3(1)(b) does not apply since there are insufficient funds to enable a distribution to unsecured creditors

The purpose of the Administrations, in accordance with Paragraph 3(1)(c) is to realise property in order to make a distribution to one or more secured or preferential creditor.

**LPW Group Limited, LPW Fleetcare Limited, LPW Truckwash Limited, LPW Truckwash (MSA) Limited  
– All In Administration**

**Progress Report to Creditors**

**3. PURPOSE AND PROGRESS OF THE ADMINISTRATION CONTINUED**

**3.2 Progress of the Administration**

*3.2.1 Receipts and Payments Account*

Attached at Appendix I for your reference is a summary of our receipts and payments for each Company since the commencement of the proceedings on 7 December 2009 to 6 December 2010.

*3.2.2 Book Debts*

The book debts due to the Companies are subject to a fixed charge in favour of CAC in accordance with its debenture and invoice discounting agreement dated 11 April 2008. Inksmoor Trade Credit Management Limited ('Inksmoor') has been assisting CAC in the collection of the outstanding book debts. At the time of the Administrations debts were only due to LPWFC and LPWTW.

At the date of appointment book debts outstanding in LPWFC totalled £551,488 of which the Director estimated that approximately £248,170 was realisable. To date, £214,476 has been collected. Although a further £51,337 is outstanding it is uncertain how much of this is realisable.

At the date of appointment book debts outstanding in LPWTW totalled £576,082 of which the Director estimated that approximately £345,649 was realisable. To date £297,279, has been collected. Although a further £193,685 is outstanding it is uncertain how much of this is realisable.

Inksmoor are still in the process of collecting the outstanding debts. No surplus is estimated to become available to these proceedings.

*3.2.4 Dividend*

A dividend of £5 was received into the estate of LPWFC in respect of the insolvency of a debtor.

*3.2.5 Bank Interest*

A small amount of bank interest has been received in respect of the monies held in the Administration accounts.

*3.2.6 Secured Creditor*

In respect of each Company a first legal charge was granted to CAC on 11 April 2008 which was registered on 15 April 2008 and provided fixed and floating charges over all tangible and intangible assets of the Companies.

At the commencement of the proceedings the combined total indebtedness to CAC, including estimated provisions for costs, was approximately £1.3 million. As stated earlier the book debt collections are still ongoing although it is evident from the information available that there will be a shortfall to CAC.

**3.3 Other Matters**

*3.3.1 Joint Administrators' Remuneration*

In accordance with Rule 2.106(5A) our remuneration has been agreed with the fixed and floating chargeholder. However, schedules in each matter of our time costs to date and a guide to Administrators' remuneration is attached at Appendix IV, for your information.

**LPW Group Limited, LPW Fleetcare Limited, LPW Truckwash Limited, LPW Truckwash (MSA) Limited  
– All In Administration**

**Progress Report to Creditors**

**3.3 Other Matters Cont...**

*3.3.2 Dividend Prospects*

It is apparent from the information available to date that there is no possibility of there being sufficient funds available to enable a distribution to the unsecured creditors of either of the Companies

**4. JOINT ADMINISTRATORS' PROPOSALS**

The following proposals were approved by creditors in respect of each of the Companies' -

1. Should the Joint Administrators believe that it is appropriate to do so and or beneficial to realisations and or in satisfaction of the sums due to the secured creditor, they be authorised to extend the term of office for 6 months from the automatic end date of 6 December 2010, in accordance with Paragraph 76(2) of Schedule B1 of the Insolvency Act 1986.
2. Since there are insufficient assets available to enable a distribution to the unsecured creditors the Joint Administrators shall conclude the Administration pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986, moving from Administration to dissolution. This will be carried out once all matters have been finalised.
3. Since there are insufficient funds available to make a distribution to unsecured creditors and a creditor indicates his written intention to petition for the compulsory winding up of the Company or provides a written request that the company be placed into compulsory winding up, for the purpose of the Official Receiver conducting an investigation, the Administrator is granted authority to exit the Administration under Paragraph 80 of Schedule B1 of the Insolvency Act 1986 thereby creating the vehicle for a creditor to petition for a compulsory winding up order
4. In accordance with Paragraph 98 of Schedule B1 of the Insolvency Act 1986 the Joint Administrators are discharged from any liability with regards to the Company and granted their release from office when the proceedings come to an end and upon the filing of the appropriate documentation at Companies House.

No committee was formed

**5. CONCLUSION OF ADMINISTRATION**

In accordance with the first proposal, we have extended the term of the Administration until 6 June 2011 in order to assist with the collection of the outstanding book debts. It is anticipated that the Companies will move to Dissolution within the next six months, in accordance with the second proposal. We will contact creditors further once matters have been concluded.

If you have any questions in relation to this report please do not hesitate to contact our Reading office



P R Boyle and J C Sallabank  
Joint Administrators

4 January 2011

**LPW Fleetcare Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 07/06/2010 To 06/12/2010	From 07/12/2009 To 06/12/2010
	<b>SECURED ASSETS</b>		
14,999 00	Goodwill	NIL	14,999 00
1 00	Intellectual Property Rights	NIL	1 00
248,170 00	Book Debts	NIL	NIL
		NIL	15,000 00
	<b>SECURED CREDITORS</b>		
(454,931 00)	CAC (UK) Limited	NIL	NIL
		NIL	NIL
	<b>ASSET REALISATIONS</b>		
3,500 00	Stock & Equipment	NIL	3,500 00
	Dividend Payment	4 87	4 87
	Rates Refund	NIL	689 42
	Bank Interest Gross	2 64	8 53
		7 51	4,202 82
	<b>COST OF REALISATIONS</b>		
	Bordereaux	50 00	50 00
	Administrators' Fees	15,000 00	15,000 00
	Search costs	4 00	4 00
	Agents/Valuers Fees (1)	NIL	1,500 00
	Legal Fees (1)	NIL	1,500 00
	Stationery & Postage	41 50	41 50
	Travel Expenses	33 45	33 45
	Statutory Advertising	137 48	137 48
		(15,266 43)	(18,266 43)
	<b>UNSECURED CREDITORS</b>		
(80,077 00)	Trade & Expense Creditors	NIL	NIL
(5,000 00)	Directors	NIL	NIL
(56,000 00)	HM Revenue & Customs - PAYE	NIL	NIL
(59,000 00)	HM Revenue & Customs - VAT	NIL	NIL
		NIL	NIL
	<b>DISTRIBUTIONS</b>		
(100 00)	Ordinary Shareholders	NIL	NIL
		NIL	NIL
<b>(388,438.00)</b>		<b>(15,258.92)</b>	<b>936.39</b>
	<b>REPRESENTED BY</b>		
	VAT Receivable		3,159 12
	Bank 2 - Current		402 27
	Trade Creditors		(2,625 00)
			<b>936.39</b>

**LPW Group Limited  
(In Administration)  
Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 07/06/2010 To 06/12/2010	From 07/12/2009 To 06/12/2010
	<b>ASSET REALISATIONS</b>		
1 00	Goodwill	NIL	1 00
1 00	Intellectual Property Rights	NIL	1 00
	Sundry Refunds	NIL	795 72
	Bank Interest Gross	0 18	0 23
		0 18	797 95
	<b>COST OF REALISATIONS</b>		
	Administrators's Fees	500 00	500 00
		(500 00)	(500 00)
	<b>UNSECURED CREDITORS</b>		
(34,051 00)	Trade & Expense Creditors	NIL	NIL
(9,755 00)	Directors	NIL	NIL
(53,000 00)	HM Revenue & Customs - PAYE	NIL	NIL
(24,000 00)	HM Revenue & Customs - VAT	NIL	NIL
		NIL	NIL
	<b>DISTRIBUTIONS</b>		
(100 00)	Ordinary Shareholders	NIL	NIL
		NIL	NIL
<b>(120,904.00)</b>		<b>(499.82)</b>	<b>297.95</b>
	<b>REPRESENTED BY</b>		
	VAT Receivable		87 50
	Bank 2 - Current		210 45
			<b>297.95</b>

P R Boyle  
Joint Administrator



**LPW Truckwash Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 07/06/2010 To 06/12/2010	From 07/12/2009 To 06/12/2010
	<b>SECURED ASSETS</b>		
34,990 00	Goodwill	34,999 00	34,999 00
1 00	Intellectual Property Rights	1 00	1 00
345,649 00	Book Debts	NIL	NIL
		<u>35,000 00</u>	<u>35,000 00</u>
	<b>SECURED CREDITORS</b>		
(536,340 00)	CAC (UK) Limited	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	<b>ASSET REALISATIONS</b>		
	Goodwill	(34,999 00)	NIL
	Intellectual Property Rights	(1 00)	NIL
500 00	Stock & Equipment	NIL	500 00
8,496 00	Work In Progress	NIL	8,496 00
	Rates Refund	NIL	1,692 37
	Bank Interest Gross	10 53	26 61
		<u>(34,989 47)</u>	<u>10,714 98</u>
	<b>COST OF REALISATIONS</b>		
	Bordereaux	120 00	120 00
	Administrators Fees	22,000 00	22,000 00
	Search costs	4 00	4 00
	Agents/Valuers Fees (1)	NIL	678 00
	Legal Fees (1)	NIL	1,500 00
	Legal fees (2)	NIL	493 60
	Stationery & Postage	95 53	95 53
	Travel Expenses	394 12	394 12
	Statutory Advertising	137 48	137 48
		<u>(22,751 13)</u>	<u>(25,422 73)</u>
	<b>UNSECURED CREDITORS</b>		
(99,723 00)	Trade & Expense Creditors	NIL	NIL
(73,332 00)	LPWGR Limited - In Administration	NIL	NIL
(12,015 00)	Directors	NIL	NIL
(1,341 00)	National Westminster Bank	NIL	NIL
(190,000 00)	HM Revenue & Customs - PAYE	NIL	NIL
(102,000 00)	HM Revenue & Customs - VAT	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	<b>DISTRIBUTIONS</b>		
(100 00)	Ordinary Shareholders	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
<b>(625,215.00)</b>		<b><u>(22,740 60)</u></b>	<b><u>20,292.25</u></b>
	<b>REPRESENTED BY</b>		
	VAT Receivable		4,349 15
	Bank 2 - Current		15,943 10
			<u><b>20,292.25</b></u>

**LPW Truckwash (MSA) Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 07/06/2010 To 06/12/2010	From 07/12/2009 To 06/12/2010
	SECURED ASSETS		
1 00	Goodwill	1 00	1 00
1 00	Intellectual Property Rights	1 00	1 00
Uncertain	Book Debts	<u>NIL</u>	<u>NIL</u>
		2 00	2 00
	SECURED CREDITORS		
(10,012 00)	CAC (UK) Limited	<u>NIL</u>	<u>NIL</u>
		NIL	NIL
	ASSET REALISATIONS		
	Goodwill	(1 00)	NIL
	Intellectual Property Rights	<u>(1 00)</u>	<u>NIL</u>
		(2 00)	NIL
	DISTRIBUTIONS		
(100 00)	Ordinary Shareholders	<u>NIL</u>	<u>NIL</u>
		NIL	NIL
<u>(10,110.00)</u>		<u><u>NIL</u></u>	<u><u>2.00</u></u>
	REPRESENTED BY		
	Bank 2 - Current		2 00
			<u>2.00</u>

P R Boyle  
Joint Administrator

LPWFC

LPW Fleetcare Limited

# **SIP 9 - Time & Cost Summary**

Period 07/12/09 06/12/10

## Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	21 50	0 30	24 53	14 75	61 08	14 993 25	245 49
Investigations	0 00	0 00	2 00	0 00	2 00	380 00	190 00
Realisations of assets	14 60	7 00	2 60	0 00	24 20	7,889 00	325 99
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	5 00	0 70	1 60	7 30	1,418 00	194 25
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Brought forward time	0 00	0 00	0 00	0 00	0 00	0 00	0 00
In House Legal	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total Hours	36 10	12 30	29 83	16 35	94 58	24,680 25	260 96
Total Fees Claimed						15 000 00	

LPWGP

LPW Group Limited

# **SIP 9 - Time & Cost Summary**

Period 07/12/09 06/12/10

## Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	1 70	0 90	20 53	19 75	42 88	6 774 25	158 00
Investigations	0 00	0 30	1 20	0 00	1 50	303 00	202 00
Realisations of assets	0 30	0 10	0 00	0 00	0 40	115 00	287 50
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 20	0 90	3 30	4 40	551 00	125 23
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Brought forward time	0 00	0 00	0 00	0 00	0 00	0 00	0 00
In House Legal	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total Hours</b>	<b>2 00</b>	<b>1 50</b>	<b>22 63</b>	<b>23 05</b>	<b>49 18</b>	<b>7,743 25</b>	<b>157 46</b>
<b>Total Fees Claimed</b>						<b>500 00</b>	

**LPW Truckwash Limited**

## Period 07/12/09 06/12/10

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	21.90	0.40	22.63	19.75	64.68	15,274.00	236.17
Investigations	2.50	0.00	1.90	0.00	4.40	1,361.00	309.32
Realisations of assets	14.40	7.00	0.30	0.00	21.70	7,392.00	340.65
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors	4.50	7.10	1.40	2.90	15.90	3,937.50	247.64
Case specific matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Brought forward time	0.00	0.00	0.00	0.00	0.00	0.00	0.00
In House Legal	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Hours</b>	<b>43.30</b>	<b>14.50</b>	<b>26.23</b>	<b>22.65</b>	<b>106.68</b>	<b>27,964.50</b>	<b>262.15</b>
<b>Total Fees Claimed</b>						<b>22,000.00</b>	

**LPWMSA LPW Truckwash (MSA) Limited**

**SIP 9 - Time & Cost Summary**

Period 07/12/09 06/12/10

Time Summary

Classification of work function	Hours					Time Cost (£)	Average hourly rate (£)
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	0 50	0 30	20 63	8 20	29 63	5,020 00	169 45
Investigations	0 00	0 00	1 10	0 00	1 10	209 00	190 00
Realisations of assets	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	1 60	1 60	160 00	100 00
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Brought forward time	0 00	0 00	0 00	0 00	0 00	0 00	0 00
In House Legal	0 00	0 00	0 00	0 00	0 00	0 00	0 00
<b>Total Hours</b>	<b>0 50</b>	<b>0 30</b>	<b>21 73</b>	<b>9 80</b>	<b>32 33</b>	<b>5,389 00</b>	<b>166 71</b>
<b>Total Fees Claimed</b>						<b>0 00</b>	

## **1. HARRISONS BUSINESS RECOVERY AND INSOLVENCY LIMITED FEE POLICY**

Charge out rates and policy regarding staff allocation, support staff, the use of subcontractors and the recharge of disbursements

The following information relating to the policy of Harrisons is considered to be relevant:-

## **2. CHARGE OUT RATES**

With effect from 1 April 2009 the following hourly charge out rates apply to all assignments undertaken by Harrisons -

	<b>£</b>
Directors	300-400
Managers	200-275
Senior Case Supervisors	175-200
Case Supervisors	100-160
Assistants	75-100

## **3. STAFF ALLOCATION, SUPPORT STAFF & THE USE OF SUBCONTRACTORS**

We take an objective and practical approach to each assignment which includes active director involvement from the outset. Other members of staff will be assigned on the basis of experience and specific skills to match the needs of the case. Time spent by secretarial and other support staff on specific case related matters, e.g. report despatching, is charged. Details of any subcontractor(s) used are given in the attached report.

## **4. PROFESSIONAL ADVISORS**

Details of any professional advisor(s) used are given in the attached report. Unless otherwise indicated the fee arrangement for each will be based on hourly charge out rates, which are reviewed on a regular basis, together with the recovery of relevant disbursements.

The choice of professional advisors will be based around a number of factors including, but not restricted to, their expertise in a particular field, the complexity or otherwise of the assignment and their geographical location.

## **5. DISBURSEMENTS**

Specific expenditure relating to the administration of a particular case is recoverable without approval and is referred to as a "category 1 disbursements". Category 1 disbursements will generally comprise supplies of incidental services specifically identifiable to the case, typical for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses. Included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

Where we propose 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 us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision:-

Photocopying	15p a sheet
Letterhead	12p a sheet
Fax	40p a sheet
Mileage	60p per mile
Meeting Room	£50
Registered Office Fee	£60 per annum
Document Storage	Storage charge of £3 per box per quarter

## **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, explain 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. Details of such costs must be included in the administrator's proposals.

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 seeking remuneration approval**

7.1.1 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

7.1.2 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 principles, which are likely to be involved on the case.

7.1.3 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, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity 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:

- Manager
- 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 subcontractors, 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.

7.1.4 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.

### **7.2 After remuneration 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 (see further paragraph 8.1 below). 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 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.

### **7.3 Disbursements and other expenses**

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. 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.

## **8 Progress reports and requests for further information**

8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include -

- details of the basis fixed for the remuneration of the administrator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),

- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8 2, and their right to challenge the administrator's remuneration and expenses

8 2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court

8 3 The administrator must provide the requested information within 14 days, unless he considers that -

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the administration or might be expected to lead to violence against any person, or
- the administrator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information. Any creditor may apply to the court within 21 days of the administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information

## 9 Provision of information – additional requirements

The administrator must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company. The information which must be provided is -

- the total number of hours spent on the case by the administrator or staff assigned to the case,
- for each grade of staff, the average hourly rate at which they are charged out,
- the number of hours spent by each grade of staff in the relevant period

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the administrator's appointment, or where he has vacated office, the date that he vacated office. The information must be provided within 28 days of receipt of the request by the administrator, and requests must be made within two years from vacation of office

## 10 What if a creditor is dissatisfied?

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 him) 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 6 April 2010, except where

- the application for an administration order was made before that date, or
- where the administration was preceded by a liquidation which commenced before that date