

**The Insolvency Act 1986****Return of Final Meeting in a  
Creditors' Voluntary Winding Up  
Pursuant to Section 106 of the  
Insolvency Act 1986****S. 106**

To the Registrar of Companies

For Official Use

Company Number

07595468

Name of Company

(a) Insert full name of  
company

(a) Northern Trade Polymers Limited

(b) Insert full name(s) and  
address(es)

I/We (b)

Antony Denham

DLP House

46 Prescott Street

Halifax

HX1 2QW

Sarah Long

DLP House

46 Prescott Street

Halifax

HX1 2QW

give notice

(c) Delete as applicable  
(d) Insert date

1 that a general meeting of the company was ~~held on~~/summoned for 2 December 2014 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached) laid before it showing how the winding up of the company has been conducted, and the property of the company has been disposed of and that ~~the same was done accordingly~~/ no quorum was present at the meeting

(e) The copy account must  
be authenticated by the  
written signature(s) of the  
liquidator(s)

2 that a meeting of the creditors of the company was duly ~~held on~~/summoned for 2 December 2014 pursuant to section 106 of the Insolvency Act 1986 for the purpose of having the said account laid before it showing how the winding up of the company has been conducted and the property of the company disposed of and that ~~the same was done accordingly~~ / no quorum was present at the meeting

(f) Insert venue of the  
meeting

The Meeting was held at the offices of DL Partnership (UK) Limited, DLP House, 46 Prescott Street, Halifax, HX1 2QW

The report covers the period from 18 October 2012 (opening of winding up) to 2 December 2014 (close of winding up)

The outcome of any meeting (including any resolutions passed) was as follows

- 1 That the Joint Liquidators' final receipts and payments account be approved
- 2 That the Joint Liquidators obtain their release under section 173 of the Insolvency Act 1986
- 3 That the books and records may be destroyed, 12 months after the dissolution of the company

Signed



Date

02/12/2014

DL Partnership (UK) Limited  
DLP House  
46 Prescott Street  
Halifax  
HX1 2QW

Ref AD/SL/NTP

Insolvency Sect

For Official Use

Post Room

COMPANIES HOUSE

FRIDAY



\*A3M3IBXF\*

A04

05/12/2014

#101

COMPANIES HOUSE

Liquidator's statement of account Creditors Voluntary Winding Up

Northern Trade Polymers Limited

From 18 October 2012 to 2 December 2014

S of A			
SECURED ASSETS			
0 00	None	<u>0 00</u>	0 00
SECURED CREDITORS			
0 00	None	<u>0 00</u>	0 00
ASSET REALISATION			
3,000 00	Cash at Bank & in hand	3,484 66	
	Recovery of Assets	1,500 00	
	Gross Bank Interest	<u>5 43</u>	
			4,990 09
COST OF REALISATIONS			
	Joint Liquidators' Remuneration	3,608 70	
	Joint Liquidators' Disbursements	380 59	
	Statement of Affairs Fee	1,000 00	
	Corporation Tax	<u>0 80</u>	
			(4,990 09)
PREFERENTIAL CREDITORS			
0 00	Employee Arrears/Holiday Pay	<u>0 00</u>	0 00
UNSECURED CREDITORS			
(2,559 00)	Trade & Expense Creditors	0 00	
(3,000 00)	Directors' Loan Accounts	0 00	
(1 00)	HM Revenue & Customs (CT)	0 00	
(1 00)	HM Revenue & Customs (PAYE/NIC)	0 00	
(1 00)	HM Revenue & Customs (VAT)	<u>0 00</u>	
			0 00
DISTRIBUTIONS			
(100 00)	Ordinary Shareholders	<u>0 00</u>	
			0 00
(2,662 00)			<u>0 00</u>

Dividend Information

Preferential debts - N/A

Unsecured debts -N/A

Returns to contributories - N/A

Fee information

Fees fixed by creditors on a time cost basis

- (1) All assets detailed in the statement of assets and liabilities have been realised

- 
- (2) Amount paid into the Insolvency Services account in respect of

- (a) Unclaimed dividends payable to creditors in the winding up  
N/A
- (b) Other unclaimed dividends  
N/A
- (c) Moneys held by the company in trust in respect of dividends or other sums due before the commencement of the winding up to any person as a member of the company  
N/A

- (3) Other Comments

None

Dated 02/12/2014

Signed by Liquidator 

Name & Address Antony Denham & Sarah Long  
DL Partnership (UK) Limited  
DLP House  
46 Prescott Street  
Halifax  
HX1 2QW

**Northern Trade Polymers Limited – In Liquidation (“the Company”)  
Joint Liquidators’ Final Progress Report presented to a meeting of Creditors  
held on 2 December 2014  
In Accordance with Section 106 of the Insolvency Act 1986**

**1 Introduction**

- 1.1 At a meeting of members held on 18 October 2012, a resolution was passed that the Company be wound-up and that we Sarah Long and Antony Denham of DL Partnership LLP, 90 New North Road, Huddersfield, HD1 5NE be appointed as Joint Liquidators. Our appointment was subsequently confirmed later that day at a meeting of creditors.
- 1.2 With effect from 1 June 2014 the business and assets of DL Partnership LLP (“DLP”) were transferred to DL Partnership (UK) Limited (“DLP”) of DLP House, 46 Prescott Street, Halifax, HX1 2QW. There have been no changes in the office holders.
- 1.3 The Company carried on business in recycling of scrap plastics for re-sale from rented premises situated at 12 Hollins Mill Lane, Sowerby Bridge, HX6 2QG.
- 1.4 The Company is registered at Companies House under the number 07595468 and its current registered office is c/o DLP House, 46 Prescott Street, Halifax, HX1 2QW.
- 1.5 This is our final progress report to creditors in accordance with Section 106 of the Insolvency Act 1986.

**2 Receipts and Payments**

- 2.1 Please find enclosed at Appendix A, a copy of our receipts and payments account for the period covering our appointment.

**3 Asset Realisations**

- 3.1 As disclosed in our previous report to creditors, the Company’s principle asset was cash in hand of £3,000 which was held in the client account of DLP and subsequently transferred into the Liquidation estate account upon our appointment.
- 3.2 We also forwarded instructions to the Company’s former bankers to close the Company’s trading bank and as previously advised the bank account was found to be holding a small cash balance on account. As such, the sum of £485 was received in respect of the cash at bank balance.
- 3.3 Since our last report, we have received gross bank interest of £2 on the funds held in the Liquidation estate account making total interest received during the period of the Liquidation of £5. At all material times funds have been held on an interest bearing designated estate account.

**Recovery of Assets**

- 3.4 As detailed in our last report to creditors, the Joint Liquidators had identified several transactions which required further explanation and our investigations were therefore still ongoing.

- 3 5 Following further investigation and discussions with the directors, we came to the conclusion that our main focus should be directed towards a potential preference payment to the director(s) of c£29,500. The directors did not accept that the transfer of funds amounted to a preference payment, nevertheless, we pursued them for full repayment of the monies.
- 3 6 As part of the negotiation process the directors attended our office and presented detailed information on their current financial status. It was clear from the information presented that neither director had sufficient income to make a monthly repayment proposal and that their assets were minimal.
- 3.7 In order to settle any potential claims against them the directors offered a lump sum payment of £1,500. On the basis of the information we had received there was no other option than to accept the offer and conclude matters.
- 3 8 All VAT incurred during the Liquidation has been recoverable.

#### **4 Payments**

- 4 1 We have paid corporation tax of £0.80 to HM Revenue & Customs in respect of tax incurred on the gross bank interest received during the period of the liquidation.

#### **5 Basis of the Joint Liquidators' Remuneration**

- 5.1 At the meeting of creditors held on 18 October 2012 the following resolutions were passed by creditors
- *"DL Partnership LLP draw a fee of £1,000 plus disbursements and VAT for professional costs associated with convening the meetings of members and creditors "*
  - *"The Joint Liquidators' fees to be charged on a time basis and the Joint Liquidators be authorised to draw fees on account "*
  - *"The Joint Liquidators are authorised to charge disbursements to the case which include elements of shared or allocated costs. Such disbursements to be charged from time to time "*
- 5 2 We have received the sum of £1,000 for assisting the directors in convening the meetings of members and creditors and preparing the Company's Statement of Affairs, this amount having been agreed by creditors at the meeting.
- 5 3 Our firm's time costs in relation to the administration of the Liquidation for the period 18 October 2013 to 03 October 2014 amount to £3,640 making total time costs of £7,808 for the full duration of the Liquidation. The sum of £3,609 has been recharged to the estate during the period 18 October 2013 to 03 October 2014 this being the full amount of the Joint Liquidators' Remuneration recharged for the full duration of the Liquidation. The balance of time charged of £4,199 has been written off.

- 5 4 Please note that 5 hours of Associates time had been included in the last annual report but actually related to the final reporting period. This error has been corrected in this final report.
- 5 5 Detailed below is a summary of time charged by each member of our staff. Please note that no further time has been charged to the Liquidation since our draft final report was forwarded to all members and creditors.

Hours					Time Cost £	Average hourly rate £
Classification of work function	Partner	Associate	Cashier	Total Hours		
Administration and planning	3 00	5 10	-	8 10	1,035 00	127 78
Investigations	8 50	13 20	-	21 70	2,807 50	129 38
Creditors	1 00	0 50	-	1 50	225 00	150 00
Realisation of Assets	-	1 00	-	1 00	100 00	100 00
Total Hours/ Fees claimed to 17 October 2013	<b>12.50</b>	<b>19.80</b>	-	<b>32 30</b>	<b>4,167.50</b>	<b>129.02</b>
Administration and planning	2 50	5 70	3 60	11 80	1,665 00	141 10
Investigation	-	3 50	-	3 50	350 00	100 00
Creditors	3 00	6 50	-	9 50	1,625 00	171 05
Total Hours/ Fees claimed to 03 October 2014	<b>18 00</b>	<b>35.50</b>	<b>3.60</b>	<b>57.10</b>	<b>7,807.50</b>	<b>136.73</b>

- 5 6 To reduce the level of professional costs incurred, some of the work has been conducted by staff under our supervision. The hourly charge-out rates for each level of our staff applicable for the period of the liquidation are detailed at Appendix B.
- 5 6 The work undertaken by this firm is briefly detailed below.

**Case Administration and Planning** – This includes dealing with all statutory matters required by legislation and professional guidelines including periodic returns and reports, all internal case review and case progression matters including planning, set-up and maintenance of records, together with cashing and general secretarial work.

**Investigations** – This specifically relates to the submission of returns pursuant to the Company Directors' Disqualification Act 1986 and the identification of any antecedent transactions (where applicable) along with the recovery of the transactions as detailed at Section 3 above.

**Creditors** – This includes general communication with creditors, the receipt and agreement of claims, the completion of pre-insolvency tax returns dealing with all employee related issues and the payment of dividends.

**Realisation of Assets** – This specifically relates to the issues dealt with at Section 3 of this report (excluding the recovery of the antecedent transactions)

- 5 7 A creditors' guide to Liquidators' fees is attached at Appendix C for your information together with a statement of creditors' rights in this regard at Appendix D

## 6 Joint Liquidators' Disbursements

- 6 1 Disbursements of £102 representing statutory advertising fees of £84, storage charges of £1, postage of £5 and photocopying of £12 have been incurred for the period 18 October 2013 to 03 October 2014. Total disbursements of £381 have therefore been recharged to the estate with the sum of £102 being billed during the period 18 October 2013 to 03 October 2014. A breakdown of total disbursements is included below

Category 1 Disbursements:		£	Category 2 Disbursements:		£
Insurance Bond		30 00	Photocopying		23 70
Statutory Advertising		314.10			
Storage Charges		0 75			
Postage		10 04			
Company Search		2 00			
		<b>356.89</b>			<b>23.70</b>

- 6 2 Details of the rates at which these charges are made are shown at Appendix B. We would confirm that creditors approved our Category 2 disbursements at the meeting of creditors held on 18 October 2012.

## 7 Distributions to Creditors

- 7 1 There are no preferential creditors in this case
- 7 2 We have received unsecured creditors' claims totalling £18,351 compared with the statement of affairs figure of £5,562. A summary of unsecured creditors' claims received in this matter is detailed in the table below

Nature of Creditor	Statement of Affairs (£)	Claims Received (£)
Trade & Expense Creditors	5,560	1,622
HM Revenue & Customs (VAT)	1	16,729
HM Revenue & Customs (CT)	1	
<b>Total</b>	<b>5,562</b>	<b>18,351</b>

- 7 3 There have been insufficient funds to pay a dividend to any class of creditors in this case and in accordance with Rule 11.7 of the Insolvency Rules 1986, we would be grateful if you could accept this report as confirmation that no dividend will be payable.

## **8 Investigations**

- 8.1 We have carried out our investigation into the affairs of the Company in accordance with Statement of Insolvency Practice 2 and have submitted our final report on the conduct of the directors prior to our appointment, to the Department of Business, Innovation & Skills ("DBIS")
- 8.2 As you can appreciate the content of this report is a confidential document between DBIS and our firm. We can however state that our investigations into the Company's affairs revealed the recoveries detailed at Section 3 of this report. No further potential recoveries have been identified that would be of benefit to creditors.

## **9 General**

- 9.1 If you require any further information, please do not hesitate to contact this office

Signed   
**Antony Denham (9613)**  
**Joint Liquidator**

Date 2 December 2014



**Northern Trade Polymers Limited - in Liquidation**  
**APPENDIX A - Joint Liquidators' Receipts and Payments Account**

<u>Estimated to Realise as per Statement of Affairs</u>	<u>Period 18 10 2012 to 17.10.2014</u>	<u>Period 18 10 2014 to 02 12 2014</u>	<u>Cumulative Total</u>
	£	£	£
<u>Receipts</u>			
0 00 Cash at Bank	484 66	0 00	484 66
3,000 00 Cash in Hand	3,000 00	0 00	3,000 00
Gross Bank Interest	5 43	0 00	5 43
Recovery of Assets	1,500 00	0 00	1,500 00
<u>3,000 00</u> <u>Total</u>	<u>4,990.09</u>	<u>0 00</u>	<u>4,990 09</u>
<u>Payments</u>			
Statement of Affairs Fee	1,000 00	0 00	1,000 00
Joint Liquidators' Remuneration	3,608 70	0 00	3,608 70
Joint Liquidators' Disbursements	380 59	0 00	380 59
Corporation Tax	0 80	0 00	0 80
<u>Total</u>	<u>4,990.09</u>	<u>0 00</u>	<u>4,990 09</u>
<u>Balance</u>	<u>0 00</u>	<u>0 00</u>	<u>0.00</u>
<u>Made Up as Follows</u>			
Output VAT			0 00
Cash at Bank			0 00
Input VAT			0 00
			<u>0 00</u>

## **APPENDIX B - DL PARTNERSHIP PUBLISHED TARIFF OF CHARGE-OUT RATES & DISBURSEMENTS**

### **1. Basis of the Joint Liquidators' Remuneration**

The hourly charge-out rates for each level of our staff applicable for the period 1 January 2010 to 31 March 2014 are detailed below:

<b>Grade</b>	<b>Rate per hour</b>
	<b>£</b>
Partners	150 - 250
Associates	75 - 150

The hourly charge-out rates for each level of our staff applicable for the period from 1 April 2014 are detailed below:

<b>Grade</b>	<b>Rate per hour</b>
	<b>£</b>
Partners	250
Associates	150
Cashier	75

The level of staff has been selected based upon the nature and complexity of the assignment. All staff involved in the assignment have been charged directly to the case in units of six minutes in line with the time-cost resolution approved by creditors.

### **2. Joint Liquidators' Disbursements**

Category 1 disbursements relate to external services provided which are directly attributable to the case. Category 2 disbursements relate to shared or allocated costs which generally relate to internal charges made for items such as postage, faxes and internal room hire.

Details of the rates at which these charges are made are shown below. In our opinion the charges are in line with the cost of external provision of these charges and (where applicable) in accordance with Rule 13.11(b) of the Insolvency Rules 1986.

<b>Disbursement</b>	<b>Charge</b>
Postage – 1 <sup>st</sup> Class (circulars only, per copy and depending on size)	50p – £2 00
Postage – 2 <sup>nd</sup> Class (circulars only, per copy and depending on size)	40p – £1 75p
Photocopying (circulars only, per page)	15p
Faxes (incoming & outgoing, per page)	25p
Internal Room Hire (per hour, minimum charge £25)	£25.00
Mileage (per mile)	40p – 50p

In accordance with best practice guidelines as set out in Statement of Insolvency Practice 9, creditors' approval is required for Category 2 disbursements to be charged as an expense of the Liquidation.

## **APPENDIX C - A CREDITORS' GUIDE TO LIQUIDATORS' FEES ENGLAND AND WALES**

### **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 D – STATEMENT OF CREDITORS' RIGHTS**

### **1 Creditors' Right to Request Further Information**

- 1.1 Within twenty-one days of receipt of this progress report (or seven business days where the report has been prepared for the purposes of a meeting to receive the office holders' resignation), a creditor may request that the Joint Liquidators provide further information about their remuneration and expenses as set out in this report.
- 1.2 A request must be in writing and may be made either by a secured creditor; an unsecured creditor with the concurrence of at least five percent in value of the total unsecured creditors (including the creditor in question); or any unsecured creditor with the permission of the Court
- 1.3 The Joint Liquidators must provide the requested information within fourteen days unless they consider that.
- The time or cost involved in preparing the information would be excessive, or
  - Disclosure would be prejudicial to the conduct of the Liquidation or might reasonably be expected to lead to violence against any person, or
  - The Joint Liquidators are subject to an obligation of confidentiality in relation to the information requested.

In which case, the Joint Liquidators must give their reasons for not providing the information. Any creditor may apply to the Court within twenty-one days of the Joint Liquidators' refusal to provide the requested information, or the expiry of the fourteen day time limit for the provision of the information and the Court may then make such order as it thinks just

### **2 Creditors' Right to Challenge the Joint Liquidators' Remuneration and Expenses**

- 2.1 If a creditor believes that the Joint Liquidators' remuneration and/or expenses are, in all the circumstances excessive or the basis is inappropriate he may, provided certain conditions are met, apply to the Court to challenge the level of such remuneration and expenses
- 2.2 An application may be made to the Court by any secured creditor or any unsecured creditor with either the concurrence of at least ten percent in value of the creditors (including that creditor) or with the permission of the Court
- 2.3 Any such application must be made within eight weeks of the creditor receiving the Joint Liquidators' progress report in which the charging of the remuneration or the incurring of the expenses in question was first reported.
- 2.4 If the Court considers the application to be well founded, it may order that the remuneration be reduced, that the basis be fixed or changed, or that the expenses be disallowed or repaid. Unless the Court orders otherwise, the costs of the application must be paid by the applicant creditor and not out of the assets of the Company