

The Insolvency Act 1986

Administrator's progress report

2.24B

Name of Company Groundwork South West
--

Company Number 02632905

In the The High Court of Justice, Chancery Division Birmingham District Registry [full name of court]
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Court case number (For court use only) 8242 of 2012
--

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

We^(a)

Ian J Gould and Jim Stewart-Koster of BDO LLP, 123 Colmore Row, Birmingham, B3 3SD


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

(b) Insert dates

(b) From 11 April 2013

(b) To 10 October 2013

Signed


For the Joint Administrators

Dated

22/10/13

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.

Ian J Gould

123 Colmore Row, Birmingham, B3 3SD

Tel 0121 352 6200

DX Number

DX Exchange

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COMPANIES HOUSE

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Companies House, Crown Way, Cardiff, CF14 3UZ

DX 33050 Cardiff



TO ALL KNOWN CREDITORS AND MEMBERS
THE HIGH COURT
THE REGISTRAR OF COMPANIES

Our ref: 4022052/IJG/SDK/RDT/IM/ADME2404

22 October 2013

Dear Sirs

Groundwork South West In Administration ("the Company")

Report to creditors on the progress of the administration pursuant to Rules 2.47 of the Insolvency Rules 1986

We refer to our appointment on 28 May 2012 as Joint Administrators of the Company.

The following schedules are attached to this report:

- 1 Statutory information
- 2 Form 2 24B Administrators' progress report.
- 3 A summary of the Joint Administrators' receipts and payments account for the period from 11 April 2013 to 10 October 2013
- 4 An analysis of the Joint Administrators' time charged to the Administration from 11 April 2013 to 10 October 2013.
- 5 An analysis of the Joint Administrators' time charged to the Administration from 28 May 2012, being the date of appointment to 10 October 2013
- 6 A creditors guide to administrators' fees

1. General overview

- 1.1 This is our third progress report on the Administration of the Company, prepared and distributed in accordance with Rules 2.47 of The Insolvency Rules 1986 (the "Rules")
- 1.2 This report covers the period from 11 April 2013 (being the day after the period covered by our second progress report) to 10 October 2013 ("the Period").
- 1.3 This report should be read in conjunction with the Administrators' Proposals ("the Proposals") issued in July 2012, our first progress report issued in December 2012 and our second progress report issued in April 2013.

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Details of the authorising bodies of the insolvency appointment takers of BDO LLP are available at www.bdo.co.uk/services/advisory/business_restructuring/authorising_bodies_insolvency_appointment_takers

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2. The Administrators Proposals

2.1 Under paragraph 52(1) (b) of Schedule B1 of the Insolvency Act 1986 (the "Act"), a meeting of creditors was not convened due to there being insufficient property to enable a distribution to unsecured creditors

2.2 The Administrators' Proposals were deemed to have been approved without modification on 27 July 2012 as no creditor(s) by value of more than 10% of the Company's total creditors requested a meeting (of creditors) The Administrators' Proposals were.

- (i) the Joint Administrators do all such things and generally exercise all of their powers as administrators contained in Schedule 1 of the Act, as they in their discretion consider desirable or expedient in order to achieve the purposes of the administration, to protect and preserve the assets of the Company or maximise the realisation of those assets or for any purpose incidental to these proposals
- (ii) if thought appropriate, a creditors' committee be formed. (No committee was formed.)
- (iii) the Joint Administrators be discharged from liability in accordance with Paragraph 98 of Schedule B1 of the Act, 28 days after filing their final progress report in the Administration.
- (iv) the Joint Administrators at their sole discretion and at a time they feel is appropriate, either:
- (v) File the necessary returns at Court and with the Registrar of Companies to place the Company into creditors' voluntary liquidation pursuant to Paragraph 83 of Schedule B1 of the Act 1986 and that Ian James Gould and Jim Stewart-Koster of PKF (UK) LLP (the Joint Administrators) be appointed Joint Liquidators, or any other person(s) be appointed liquidator(s) of the Company in accordance with Paragraph 83(7) of the same,

OR

- make application to Court to end the Administration pursuant to Paragraph 79 of Schedule B1 of the Act, following which, the Joint Administrators request that the Company be compulsorily wound-up and Ian James Gould and Jim Stewart-Koster (the Joint Administrators) may be appointed Joint Liquidators, if they so desire,

OR

- file the necessary return at Court and with the Registrar of Companies to dissolve the Company pursuant to Paragraph 84 of Schedule B1 of the Act

3. Statutory objectives

3.1 Pursuant to Paragraph 3(1) of Schedule B1 of the Act, the Joint Administrators are required to perform our functions with the objective of.

- a) rescuing the Company as a going concern, or
- b) achieving 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), or
- c) realising property in order to make a distribution to one or more secured or preferential creditors.

3.2 The first statutory objective, 3(1) (a) of Schedule B1 of the Act, cannot be achieved as the level of creditors liabilities meant that it would not be possible to rescue the Company as a going concern

3.3 The amounts realised from the Company's assets have been substantially less than anticipated at the commencement of the Administration and therefore it is unlikely that the second statutory objective, 3(1) (b) of Schedule B1 of the Act, will be achieved.

3.4 We consider that the third statutory objective, 3(1) (c) of Schedule B1 of the Act, will be accomplished in that property will be realised in order to make a distribution to the secured and preferential creditors

4. Exit from Administration

4.1 Based on present information, there will be insufficient funds available to enable a distribution to the Company's preferential and unsecured creditors.

4.2 As advised in our previous report, we are seeking to dispose of the Company's long leasehold property known as Sandon Court. This matter is ongoing.

4.3 The Administration period was previously extended for a period of twelve months by Order of the Court from 28 May 2013 to 27 May 2014. If we are unable to conclude the sale of the property by 27 May 2014, the date on which the Administration will automatically terminate, we will seek to extend the Administration for a further 12 Months. Alternatively, we may wish to place the Company into Compulsory Liquidation

4.4 On the basis that we are successful in completing a sale of the property prior to 27 May 2014, we anticipate that the Company will exit the Administration via dissolution

5. Asset realisations

5.1 The following assets were realised in the Period or have otherwise yet to be realised. We have not made reference to assets realised prior to the Period as these matters have been referred to in our previous reports to creditors

Long leasehold property known as Sandon Court

5.2 As advised above, this property is being jointly marketed by our agents. We are not at liberty to disclose any further detail in this regard as doing so could possibly prejudice the sale of the property.

5.3 Since the date of our appointment, the sum of £28,135 has been received from the tenant in respect of rent.

Book debts and on-going contracts

- 5.4 As discussed in previous reports, at the date of our appointment, the Company's accounting records indicated amounts due to the Company totalling £224,116. Of this sum, an amount of £68,988 was shown as being due from Prospects Services Limited, for which £50,000 was accepted in full and final settlement. This is discussed in detail in the Administrators' Proposals. Excluding the Prospects debt, this leaves debts due to the Company of some £150,000.
- 5.5 Since the date of our appointment, amounts totalling £97,142 have been received from debtors (including the £50,000 received from Prospects) of which £1,353 has been realised during the Period.
- 5.6 We are continuing to pursue the amounts shown in the Company's books and records as being due to the Company.
- 5.7 In our previous report, we estimated future receipts of approximately £55,000. However, the vast majority of the remaining debts are subject to various disputes such as contractual set-offs for breach of contract. Based on the responses received from the Company's debtors to date, we estimate that further receipts totalling some £13,000 will be received.
- 5.8 There is a possibility that we may require legal assistance to pursue the remaining debtors.

Post administration trading

- 5.9 During the Period, a post appointment sales receipt of £2,500 and a rates payment of £1,712 have been posted to the trading account. As a result of this, the overall trading surplus has increased to £24,389.

Other realisations

- 5.10 During the Period, the following sundry assets were received:
- bank interest of £38
 - Royal mail refund of £20

6. Outstanding matters

- 6.1 As discussed earlier in this report, we are seeking to realise the Company's leasehold property. Our agents are in the process of compiling a new marketing campaign in order to try and secure a sale of the property.
- 6.2 In addition to the above, we are continuing to pursue amounts that are due from various debtors of the Company.

7. Investigations

- 7.1 As Joint Administrators, we have a statutory duty to undertake an investigation into the financial affairs of the Company and the conduct of any person we believe to have been a director or shadow director of the Company in the three years prior to the commencement of the Administration. Our findings have been submitted in a confidential report to the Department for Business Innovation and Skills.
- 7.2 Creditors are invited to advise us of any matters relating to the Company's affairs which they have not already brought to our attention.

8. Secured Creditors

- 8.1 According to the records maintained by the Registrar of Companies, the Company's bankers, National Westminster Bank Plc ("NatWest"), has the benefit of a debenture conferring fixed and floating charges over the whole of the Company and its undertaking, created on 11 August 2011 and registered at Companies House on 13 August 2011.
- 8.2 Our legal advisors have confirmed that NatWest hold a valid debenture against the Company.
- 8.3 According to Company records, NatWest are owed the sum of approximately £840,000. Daily interest continues to accrue against this sum.
- 8.4 During the Period, a payment of £75,000 has been made to NatWest under its fixed charge debenture.
- 8.5 Based on current information, it is anticipated that there will be a shortfall to NatWest.

9. Preferential Creditors

- 9.1 As advised in the Proposals, the majority of the Company's employees were made redundant on 16 May 2012. Further redundancies were made on the day of our appointment and during the trading period. The claims of the Company's employees are estimated as follows:

	£
Preferential creditor claims	
Employees	11,164
Redundancy Payments Office	96,737
	<u>107,901</u>

- 9.2 Based on current information, we anticipate that there will not be distribution to preferential creditors of the Company. This is largely due to the anticipated reduction in the amounts due from the Company's book debts.

10. Unsecured Creditors

- 10.1 According to the directors' statement of affairs the Company's liabilities to non preferential creditors as at the date of appointment totalled £715,103. Claims received to date equate to £494,664.
- 10.2 Based on present information, it appears unlikely that there will be sufficient funds available to enable a distribution to unsecured creditors of the Company.

11. Prescribed Part

- 11.1 Section 176A of the Act requires administrators to set aside a prescribed amount of the Company's "net property" towards the satisfaction of unsecured debts. Net property is the amount of property that would otherwise be available for satisfaction of holders of debentures secured by, or holders of, any floating charge created by the Company on or after 15 September 2003.
- 11.2 Based on current information, a prescribed part calculation will not be required as the amount of net property will be £nil. However, in the event that the level of realisations exceeds those suggested in this report, a prescribed part calculation may be required.

12. Administrator's Remuneration and disbursements

Pre-appointment costs

- 12.1 As advised in the Proposals, our time costs up to the date of our appointment on 28 May 2012 amount to £31,430 which represents 101 hours at an average hourly rate of £311. To date, no fees have been charged in respect of our pre-appointment costs
- 12.2 The payment of unpaid pre-administration costs as an expense of the administration is subject to approval in accordance with Rule 2 67(A) of the Rules. A request was put to the relevant creditors with a proposal to cap our pre-appointment fees to the sum of £25,000 as opposed to the value of our time costs. However, this proposal was rejected.
- 12.3 As a result of the aforementioned rejection, we will not be drawing any pre-appointment costs.

Post Appointment Time costs

- 12.4 In our first progress report, we advised that there would be insufficient funds available to enable a distribution to the unsecured non-preferential creditors of the Company. Therefore, our remuneration has been approved in accordance with Rule 2 106(5A) of the Rules.
- 12.5 Total post appointment time costs incurred from the date of Administration to 10 October 2013 amounts to £122,124 which represents 711 hours at an average hourly rate of £172
- 12.6 Post appointment time costs incurred in the period from 11 April 2013 to 10 October 2013 amount to £17,042 which represents 107 hours at an average hourly rate of £159
- 12.7 Overall, we would advise that the sum of £77,406 has been charged and paid in respect of these time costs. However, during the Period we have not drawn any fees.
- 12.8 A detailed analysis of the time costs incurred is enclosed and the charge-out rates for the period are summarised as follows

Staff grade	Average rate (£ per hour)
Partner / Director	460 - 319
Senior Manager / Manager	295 - 232
Supervisor	185
Administrator / Support Staff	156 - 62

- 12.9 These amounts are derived by reference to BDO LLP's normal rates for time properly given by me and my staff in attending to matters arising in this insolvency. Where members of our staff have been employed on this insolvency they have been so based on their experience and abilities in dealing with a case of this nature. Where appropriate, certain staff dealt with a specific area of the Administration due to their specialist skills in that area. We should advise you that our scale rates increase from time to time over the period of the administration of each insolvency

- 12 10 All staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.
- 12 11 A creditors' guide to fees, which provides information regarding creditors' rights in relation to insolvency practitioners' fees, can be obtained by visiting our website. The relevant guide can be accessed through www.bdo.co.uk/cgtf. A copy of the guide can be provided upon request by contacting this office.
- 12 12 During the Period, the following costs were incurred (in relation to floating charge realisations unless otherwise stated):
- Fixed charge property Utility Bills of £2,776
 - Fixed charge property insurance and management costs of £3,663
 - Storage costs of £282
 - Key Holders Fees of £150
 - Bank Charges of £6
- 12 13 For the avoidance of doubt, we do not propose to charge internal disbursements, known as Category 2 disbursements to the Administration estate.
- 12 14 Any secured creditor or unsecured creditor with the concurrence of at least 5% in value of the total unsecured creditors, including the value of their own claim, or with the permission of the Court, may make a formal request in writing to the Administrators for further information about the remuneration or expenses (other than pre-administration costs) set out in this report, pursuant to Rule 2.48A of the Rules as amended. Such request must be made within 21 days of receipt of the progress report.
- 12 15 Any secured creditor, or unsecured creditor with either the concurrence of at least 10% in value of the total unsecured creditors, including the value of their own claim or the permission of the Court, may make an application to the Court to challenge the Administrators' remuneration or other expenses pursuant to Rule 2.109 of the Rules as amended. Such an application must be made within 8 weeks of receipt of the progress report which first reports the charging of remuneration or the incurring of expenses in question. Formal notification of the application must be sent to the Administrators at least 14 days before the hearing.
- 13. Final remarks**
- 13.1 We trust the above provides you with sufficient information, but if you require more or have any questions please contact Ilyas Multani on 0121 265 7220.

Yours faithfully



Ian J Gould and Jim Stewart-Koster
Joint Administrators

APPENDIX A - STATUTORY INFORMATION

Company name	Groundwork South West
Registration number	02632905
Registered office address	125 Colmore Row, Birmingham, B3 3SD
Court details	High Court of Justice, Chancery Division, Manchester District Registry No 8242 of 2012
Administrator(s) details	Ian J Gould and Jim Stewart-Koster BDO LLP 125 Colmore Row, Birmingham, B3 3SD IP numbers: 7866 and 9702 Appointed: 28/05/2012 Resigned: N/A
Function (Schedule B1 para 100(2))	The Joint Administrators are to act jointly and severally in all matters relating to the administration.
Details of administration extension	The Administration was extended for a period of twelve months from 28 May 2013 to 27 May 2014, via an Order granted by the High Court. As discussed in the body of this report, if the property matters have not been finalised prior to 27 May 2014, the Administrators may seek a further extension of the Administration. Alternatively, the Administrators may place the Company into Compulsory Liquidation.

**Groundwork South West
(In Administration)
Joint Administrators' Trading Account**

Statement of Affairs	From 11/04/2013 To 10/10/2013	From 28/05/2012 To 10/10/2013
POST APPOINTMENT SALES		
Sales	2,500 00	43,350 94
Other Income	<u>NIL</u>	<u>30,000 00</u>
	2,500 00	73,350 94
OTHER DIRECT COSTS		
Direct Labour	<u>NIL</u>	<u>41,404 04</u>
	NIL	(41,404 04)
TRADING EXPENDITURE		
Indirect Labour	NIL	5,769 24
Rates	1,712 08	1,712 08
Bank Charges	<u>NIL</u>	<u>78 89</u>
	(1,712 08)	(7,560 21)
TRADING SURPLUS/(DEFICIT)	<u><u>787.92</u></u>	<u><u>24,386 69</u></u>

**Groundwork South West
(In Administration)
Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 11/04/2013 To 10/10/2013	From 28/05/2012 To 10/10/2013
GENERAL FIXED CHARGE			
350,000 00	Sandon Court	NIL	NIL
10,000 00	Saltash Parkway	NIL	105,995 00
	Rent from Sandon Court	NIL	28,135 34
	Rent Deposit Surplus	NIL	273 30
	Legal Fees and Disbursements	NIL	(7,500 00)
	Selling Agents and Valuers Fees	NIL	(5,529 71)
	Goodwill	NIL	2 00
	Insurance & Management Costs	(3,663 14)	(10,055 91)
	Other Property Expenses	NIL	(442 28)
	Office Holder's Fee	NIL	(3,344 00)
	Utility Bills - Sandon Court	(2,775 88)	(2,775 88)
(414,225 00)	Amounts due to National Westminster	(75,000 00)	(75,000 00)
		(81,439 02)	29,757 86
ASSET REALISATIONS			
	Royal Mail Refund	19 86	19 86
26,000 00	Computer Equipment	NIL	NIL
750 00	Tools & Equipment	NIL	NIL
18,000 00	Fixtures & Fittings	NIL	NIL
	Chattel Assets	NIL	46,006 70
5,250 00	Motor Vehicles	NIL	NIL
200,000 00	Book Debts	1,352 79	97,142 17
	Tax Refund	NIL	151 59
	Petty Cash	NIL	167 43
	Bank Interest Net of Tax	37 85	145 87
	Trading Surplus/(Deficit)	787 92	24,386 69
	Deposit refund	NIL	180 00
	South West Water Refund	NIL	192 10
		2,198 42	168,392 41
COST OF REALISATIONS			
	Specific Bond	NIL	120 00
	Preparation of S of A	NIL	5,187 70
	Office Holders Fees	NIL	74,061 54
	Key Holder Fee	150 00	150 00
	Payroll Fees	NIL	270 00
	Agents/Valuers Fees	NIL	5,000 00
	BT - Internet Services	(2 92)	1,735 92
	Legal Fees	NIL	26,511 97
	Utility Bills	NIL	1,449 74
	Non-Reclaimable VAT	NIL	65 00
	Stationery & Postage	NIL	10 00
	Motor & Travel	NIL	656 92
	Storage Costs	281 90	3,303 89
	Statutory Advertising	NIL	149 26
	Rents & Service Charges	NIL	2,957 00
	Other Property Expenses	NIL	95 00
	Wages & Salaries	NIL	32,633 26
	Bank Charges	6 37	21 95
		(435 35)	(154,379 15)
UNSECURED CREDITORS			
(612,329 00)	Trade & Expense Creditors	NIL	NIL

**Groundwork South West
(In Administration)
Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 11/04/2013 To 10/10/2013	From 28/05/2012 To 10/10/2013
(429 00)	Income Received in Advance	NIL	NIL
(528 00)	Credit Card	NIL	NIL
(5,171 00)	HM Revenue & Customs - PAYE/NIC	NIL	NIL
(13,273 00)	Landfill Tax Funds	NIL	NIL
(83,373 00)	HM Revenue & Customs - VAT	NIL	NIL
		NIL	NIL
(519,328.00)		(79,675.95)	43,771 12
REPRESENTED BY			
	Trade Debtors		3,365 20
	VAT Receivable		265 99
	Bank 2 - Current		30,873 75
	Bank 1 - Current		9,766 18
	VAT Payable		(500 00)
			43,771 12


 Ian J Gould
 Joint Administrator

SIP9 Analysis of OfficeHolders Timecosts for the period 11 April 2013 to 10/10/2013

Client: 4022052 Groundwork South West

Grade	Partner / Director	Manager	Supervisor / Senior Administrator		Administrator / Assistant		Total
	Amount (£)	Hours	Amount (£)	Hours	Amount (£)	Hours	Amount (£)
Average Cost per hour:	£322.00	£253.00	£179.00	£128.00	£173.00		
Tasks							
Partner/Senior Manager Review		0 00	0 00	0 00	0 00	0 00	0 00
Planning & Monitoring	193 90	0 70	0 00	0 00	157 20	1 30	351 10
Time Summaries & Billing		0 00	0 00	0 00			0 00
Cashiering Function Generally	172 20	0 50	431 65	2 00	1,442 65	12 26	2,046 50
Dividends & Distributions	0 00	0 00	0 00	0 00	27 60	0 20	27 60
Office Holders Tax Liabilities		308 50	0 35	54 90	662 20	6 90	1,025 60
CDDA 1986 Work		0 00	0 00	0 00			0 00
Secured Creditors (reporting/accounting for funds, etc)	2,384 30	7 70	0 00	0 10	27 60	0 20	2,430 00
Partly Secured Creditors (including of lease and HP)		0 00	0 00	0 00			0 00
Preferential Creditors	0 00	0 00	18 10	0 10	0 00	0 00	18 10
Non Preferential Creditors	480 50	1 70	0 00	0 00	384 40	2 80	864 90
Employee Claims		0 00	0 00	0 00	148 45	1 35	148 45
Fixed Asset Realisation	1,622 90	5 90	0 00	0 00	3,725 80	28 00	5,348 70
Stock Realisations	0 00	0 00	0 00	0 00			0 00
Book Debt Realisations		0 00	0 00	0 00	1,410 10	11 50	1,410 10
Other Asset Realisations		0 00	0 00	0 00	110 40	0 80	110 40
Post Appointment Trading	118 00	0 40	0 00	0 00	1,098 60	8 00	1,216 60
Insurance & Bonding		0 00	0 00	0 00	55 20	0 40	55 20
Legal Correspondence/Litigation		0 00	0 00	0 00			0 00
General Administration			154 30	0 90	1,190 50	10 20	1,344 80
Statutory Compliance (including CRO returns and lodges)	570 60	1 80	0 00	0 40			643 80
	5,542 40	18 70	740 15	2 35	318 60	1 80	17,041 85
					10,440 70	83 91	106 76

SIP9 Analysis of OfficeHolders Timecosts for the period 28 May 2012 to 10/10/2013

Client: 4022052 Groundwork South West

Tasks	Grade	Partner / Director	Manager	Supervisor / Senior Administrator	Administrator / Assistant	Total
Average Cost per hour.	Amount (£)	Hours	Amount (£)	Hours	Amount (£)	Hours
Partner/Senior Manager Review	882 00	2 40	0 00	0 00	0 00	2 40
Planning & Monitoring	3,326 50	10 10	0 00	1 00	170 80	12 50
Time Summaries & Billing	602 30	1 90	0 00	0 00	639 20	4 70
Cashiering Function Generally	3,337 45	10 15	1,892 75	7 80	6,630 60	60 06
Dividends & Distributions	0 00	0 00	0 00	0 00	177 20	1 30
Office Holders Tax Liabilities	299 05	0 80	499 00	1 10	1,184 40	13 10
CDDA 1986 Work	2,100 30	5 80	0 00	0 00	1,128 80	8 30
Secured Creditors (reporting/accounting for funds, etc)	5,839 30	18 50	0 00	0 10	109 20	0 80
Partly Secured Creditors (including of lease and HP)	63 40	0 20	0 00	0 00	938 40	6 90
Preferential Creditors	0 00	0 00	60 00	0 20	0 00	0 20
Non Preferential Creditors	914 90	3 00	0 00	1 05	3,406 40	25 10
Employee Claims	3,175 30	10 10	0 00	0 00	8,156 45	62 05
Fixed Asset Realisation	7,427 20	24 60	0 00	0 00	16,485 40	122 20
Stock Realisations	0 00	0 00	0 00	0 30	693 60	5 10
Book Debt Realisations	2,278 80	7 40	0 00	0 00	2,267 70	17 90
Other Asset Realisations	126 80	0 40	0 00	0 00	219 20	1 60
Post Appointment Trading	2,822 60	9 20	0 00	0 00	9,155 00	68 20
Insurance & Bonding	216 90	0 70	0 00	0 70	1,181 60	8 80
Legal Correspondence/Litigation	1,486 60	4 80	0 00	0 00	367 20	2 70
General Administration	5,028 90	15 50	20 40	1 10	3,640 50	34 60
Statutory Compliance (including CRO returns and lodges)	3,374 60	10 30	0 00	2 40	5,664 00	42 00
	43,302 90	135 85	2,472 15	9 20	14,133 45	79 20
					62,215.65	486.81
					122,124.15	711.06

1 Introduction

1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

2 The nature of administration

2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or, if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors.

3 The creditors' committee

3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

4 Fixing the administrator's remuneration

4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed:

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

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the administrator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the administrator.

It is for the creditors' committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied, and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the administrator,
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the property which the administrator has to deal with.

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be

fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets. In this case, if there is no creditors' committee, or the committee does not make the requisite determination, the remuneration may be fixed by the approval of -

- each secured creditor of the company, or
- if the administrator has made or intends to make a distribution to preferential creditors -
 - each secured creditor of the company, and
 - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval,

having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

5. Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6. Approval of pre-administration costs

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Disclosure of such costs must be included in the administrator's proposals and should follow the principles and standards set out in section 7.

6.2 Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in paragraph 4.3 apply, the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

7 What information should be provided by the administrator?

7.1 When fixing bases of remuneration

7.1.1 When seeking agreement for the basis or bases of remuneration, the administrator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.

7.1 2 If any part of the remuneration is sought on a time costs basis, the administrator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case 7 1 3 The administrator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the administrator or his or her staff

7.1 4 If work has already been carried out, the administrator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case Where the proposed charge is calculated on a time costs basis, the administrator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The administrator should also provide details and the cost of any work that has been subcontracted out that could otherwise be carried out by the administrator or his or her staff

7.2 After the bases of remuneration have been fixed

The administrator is required to send progress reports to creditors at specified intervals (see paragraph 8 1 below) When reporting periodically to creditors, in addition to the matters specified in paragraph 8 1, the administrator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the administrator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate) Where any remuneration is on a time costs basis, the administrator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The administrator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the administrator or his or her staff

7.3 Disbursements and other expenses

7.3 1 Costs met by and reimbursed to the administrator in connection with the administration should be appropriate and reasonable Such costs will fall into two categories:

- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the administration and a payment to an independent third party These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the administrator or his or her staff
- Category 2 disbursements These are costs that are directly referable to the administration but not to a payment to an independent third party They may include shared or allocated costs that can be allocated to the administration on a proper and reasonable basis, for example, business mileage

Category 1 disbursements can be drawn without prior approval, although the administrator should be prepared to disclose information about them in the same way as any other expenses Category 2 disbursements may be drawn if they have been approved in the same manner as the administrator's remuneration When seeking approval, the administrator should explain, for each category of expense, the basis on which the charge is being made

7.3 2 The following are not permissible

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

8 Progress reports and requests for further information

8 1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include

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

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

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

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

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

in which case he must give the reasons for not providing the information

Any creditor may apply to the court within 21 days of the administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information - -

9. Provision of information - additional requirements

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

The information which must be provided is -

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

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the administrator's appointment, or where he has vacated office, the date that he vacated office

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

10 What if a creditor is dissatisfied?

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

10 2 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8 1 above). If the court does not dismiss the application (which it may if it considers

that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing

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

11 What if the administrator is dissatisfied?

11.1 If the administrator considers that the remuneration fixed by the creditors' committee is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the administration.

12 Other matters relating to remuneration

12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.

12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.

12.3 If a new administrator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new administrator until a further determination, resolution or court order is made.

12.4 Where the basis of the remuneration is a set amount, and the administrator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

13 Effective date

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

Appendix**Suggested format for the provision of information**

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

Narrative overview of the case

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the administrator,
- the administrator's effectiveness,
- the value and nature of the property in question

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the administrator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known),
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers,
- any significant aspects of the case, particularly those that affect the remuneration and cost expended,
- the reasons for subsequent changes in strategy,
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
- any existing agreement about remuneration;
- details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees,
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed,
- details of work undertaken during the period;
- any additional value brought to the estate during the period, for which the administrator wishes to claim increased remuneration

Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the administrator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes
- A description of work carried out, which might include
 - details of work undertaken during the period, related to the table of time spent for the period;
 - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used,
 - any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make
- Time spent and charge-out summaries, in an appropriate format

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case.

The following areas of activity are suggested as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff:

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

The level of disclosure suggested above will not be appropriate in all cases, and considerations of proportionality will apply

- where cumulative time costs are, and are expected to be, less than £10,000 the administrator should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case,
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features),
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted