

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

For Official Use

To the Registrar of Companies

--	--	--

Company Number

02845008

Name of Company

Sensotec Europe Limited

I / We  
Gary Edgar Blackburn  
8 Park Place  
Leeds  
LS1 2RU

Paul Andrew Whitwam  
8 Park Place  
Leeds  
LS1 2RU

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

Signed

GEB

Date

14.10.11

BWC Business Solutions Limited  
8 Park Place  
Leeds  
LS1 2RU

Ref S097/GEB/PAW/SLB/MM

Insolvency

SATURDAY



\*AZ7DEYEJ\*

A11

15/10/2011

292

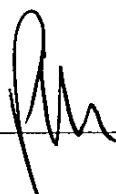

COMPANIES HOUSE

**Sensotec Europe Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs		From 15/10/2010 To 14/10/2011
	<b>SECURED ASSETS</b>	
228,170 00	Book Debts	NIL
		NIL
	<b>SECURED CREDITORS</b>	
(228,170 00)	HSBC Invoice Finance (UK) Ltd	NIL
		NIL
	<b>HIRE PURCHASE</b>	
8,000 00	Motor Vehicle	NIL
(9,858 00)	Northridge Finance Limited	NIL
		NIL
	<b>ASSET REALISATIONS</b>	
1,650 00	Plant, Machinery, Fixtures & Fittings	15 62
	Equity in Vehicle Subject to Finance	3,084 97
10,000 00	Stock	7,000 00
	Postage Refund	36 00
	Water Refund	25 76
	Cash at Bank	64 99
	Rates Refund	364 99
NIL	Leasehold Improvements	NIL
	Bank Interest Gross	3 52
NIL	White Rock Security (Europe) Limited	1,400 00
NIL	Ensco 593 Limited	NIL
NIL	Sensotec Holdings Limited	NIL
NIL	Sensotec 4-Warn Limited	NIL
NIL	Sensotec Fire Systems Limited	NIL
NIL	Sensotec Europe BV Limited	NIL
		11,995 85
	<b>COST OF REALISATIONS</b>	
NIL	Connected Company	NIL
	Specific Bond	(126 00)
	Preparation of S of A	(2,500 00)
	Office Holders Fees	(5,090 90)
	Creditors' Meeting Costs	(2,500 00)
	Agents/Valuers Fees	(1,000 00)
	Agents/Valuers Disbursements	(80 00)
	Accountancy Fees	(380 00)
	Re-Direction of Mail	(26 00)
	Statutory Advertising	(292 95)
		(11,995 85)
	<b>PREFERENTIAL CREDITORS</b>	
(10,177 00)	Employee - Holiday Pay	NIL
		NIL
	<b>FLOATING CHARGE CREDITORS</b>	
(217,214 00)	JBR Ventures Limited	NIL
		NIL
	<b>UNSECURED CREDITORS</b>	
(702,150 00)	Trade & Expense Creditors	NIL

**Sensotec Europe Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

<b>Statement of Affairs</b>		<b>From 15/10/2010 To 14/10/2011</b>
(160,990 00)	Employees	NIL
(9,591 00)	Directors Loan Account - Mr P Ball	NIL
(4,125 00)	Directors Loan Account - Mr P Lines	NIL
(44,483 00)	HSBC Bank Plc	NIL
(24,600 00)	HM Revenue & Customs - PAYE/NIC	NIL
		<hr/> NIL
	DISTRIBUTIONS	
(38,344 00)	Ordinary Shareholders	<hr/> NIL
		<hr/> NIL
<hr/> (1,201,882.00)		<hr/> <b>0.00</b> <hr/>
	REPRESENTED BY	
		<hr/> <b>NIL</b> <hr/>


  
 Gary Edgar Blackburn  
 Joint Liquidator

Our Ref GEB/SLB/S097/89/31  
Your Ref  
When Calling Please Ask For Sue Bell

Registrar of Companies  
Companies House  
Crown Way  
Mandy  
Cardiff  
CF14 3UZ

14 October 2011

Dear Sirs

**SENSOTEC EUROPE LIMITED ("the Company") – IN LIQUIDATION**  
**Company Registration Number 02845008**

**INTRODUCTION**

I refer to the appointment of Paul A Whitwam and I as Joint Liquidators of the Company on 15 October 2010 and have pleasure in submitting a copy of my first progress report

The registered office of the Company was changed to 8 Park Place, Leeds, LS1 2RU following the appointment of the Liquidators

**RECEIPTS AND PAYMENTS ACCOUNT**

A copy of the Liquidators' Receipts and Payments Account for the period 15 October 2010 to 14 October 2011 is attached at Appendix I.

The Liquidator banked Company funds with an authorised clearing bank and therefore on this occasion there is no account held by the Secretary of State to reconcile his account with

**ASSET REALISATIONS**

Following their appointment, the Joint Liquidators instructed Michael Steel & Co (Plant & Machinery) Limited, Chartered Surveyors based in Leeds ("the Agents") to value and realise the Company's assets.

The Company's assets have been realised as set out in the table overleaf

*8 Park Place, Leeds, LS1 2RU*

*t 0113 243 3434 f 0113 243 5049 [www.bwc-solutions.com](http://www.bwc-solutions.com) e [bwc@bwc-solutions.com](mailto:bwc@bwc-solutions.com)*

BWC is the trading name of BWC Business Solutions Limited (the Company). The Company is registered in England and Wales and the registered number is 5007904. The registered office of the Company is 8 Park Place, Leeds, LS1 2RU. The VAT Registration Number of the Company is GB 836 5118 25. The Directors of the Company are licensed as Insolvency Practitioners by the Insolvency Practitioners Association. Directors acting as Administrators contract as agents of the Company over which they are appointed and without personal liability.  
Office also at Dakota House, 25 Falcon Court, Preston Farm Business Park, Stockton on Tees, TS18 3TX t 01642 608588 f 01642 688063

<b>Asset Realisations</b>	<b>Estimated to Realise</b>	<b>Realised</b>
	<b>£</b>	<b>£</b>
Equity in Motor Vehicle Subject to Finance	-	3,085
Equipment, Fixtures, Office Furniture & Equipment	1,650	16
Stock	10,000	7,000
White Rock Security (Europe) Limited	-	1,400
Refund of Rates	-	365
Cash at Bank	-	65
Sundry Refunds	-	62
Bank Interest	-	4
<b>Totals</b>	<b>11,650</b>	<b>11,997</b>

### **Equipment, Fixtures, Office Furniture & Equipment**

The Director's Statement of Affairs estimated that the realisations in respect of the Company's equipment, fixtures, office furniture and equipment would be £1,650. However, following the Joint Liquidators appointment, documentation was provided that confirmed that the majority of these assets had been sold on 2 July 2010 for £8,000 to JBR Ventures Limited ("JBR"). Following the sale, JBR allowed the Company the continued use of the assets. JBR are connected to the Company, they were an investor in the business and they hold a secured charge over the Company's assets.

The unsold office furniture has been left in the property occupied by the Company in Wales. Given the age and condition of these assets, it was not considered cost effective to instruct agents to sell the remaining office furniture, as the costs of realisation would exceed the sale value.

The property in Wales is an asset of Sensotec Holdings Limited – In Liquidation, a connected company, and has been marketed for sale since the appointment of the Joint Liquidators on 15 October 2010.

The £15.62 received is for the sale of the Company mobile phones, which were sent to be recycled.

### **Equity in the Motor Vehicle Subject to Finance**

The Company's motor vehicle was subject to a finance agreement held by Northridge Finance Limited ("Northridge"). The vehicle was sold by Northridge and the surplus funds of £3,084.97 was received by the Joint Liquidator on 21 January 2011.

### **Stock**

Some of the stock was subject to valid reservation of title claims. An offer of £7,000 was received for the remaining unencumbered stock. The Agents agreed that the offer should be accepted and on 29 December 2010, Firebliz Extinguisher Limited were invoiced for the sale of all of the remaining stock. Payment was received from the Agent on 4 February 2011.

## **White Rock Security (Europe) Limited**

Repayment of the inter-company loan of £1,400 was received in full on 20 October 2010

### **Rates Refund**

Refunds in respect of the pre paid rates on the properties in both Wales and Roberttown, Liversedge were received for £198.02 and £26 03 respectively

### **Sundry Refunds**

A refund of pre-paid postage of £36 00 was received from Royal Mail and a refund of pre paid water rates of £25 76 was received in respect of the property in Wales.

The remaining asset realisations disclosed in the receipts and payments account are self explanatory

## **INVESTIGATIONS**

The Liquidators' investigations into the Company's affairs have not revealed any potential recoveries that would be of benefit to creditors.

The Liquidators are required to submit a 'Report on the Conduct of Directors' to the Department of Trade and Industry covering all directors who have served in the three years prior to their appointment. This report has been duly submitted. The contents of the report cannot be disclosed to creditors.

## **SHARE OF ASSETS FOR UNSECURED CREDITORS ("PRESCRIBED PART")**

In accordance with Section 176A of the Insolvency Act 1986, where a Company has granted a floating charge after 15 September 2003, a proportion of the funds subject to the floating charge are set aside for the benefit of the Company's unsecured creditors.

This is calculated as being 50% of the first £10,000 of net property and 20% of net property thereafter subject to a maximum fund of £600,000. Net property is defined as being the realisations from assets subject to the floating charge after costs and after settlement of the preferential creditors' claims.

There is no "Prescribed Part" available to unsecured creditors pursuant to Section 176A (2) Insolvency Act 1986 after deducting costs of realisation.

## **DIVIDEND DISTRIBUTION**

### **Summary**

A summary of creditors' claims received in this matter is set out in the table overleaf.

<b><i>Creditor Claims</i></b>	<b><i>Per Statement Of Affairs</i></b>	<b><i>Claims Received</i></b>
	<b>£</b>	<b>£</b>
Employee Claims - Preferential	10,177	8,249
Employee Claims - Unsecured	160,990	69,387
H M Revenue & Customs - VAT	-	22,949
H M Revenue & Customs - PAYE/NIC	24,600	38,089
JBR Ventures Limited	217,214	217,214
Director's Loan Account	13,716	No claims received
HSBC Bank Plc	44,483	45,362
Trade Creditors	702,150	609,924
<b>Total</b>	<b>1,173,330</b>	<b>1,011,174</b>

### **Preferential Creditors**

Preferential claims against the Company were agreed at £8,249 but there were insufficient funds available to make a dividend distribution.

### **Unsecured Creditors**

Formal notice that no dividend would be declared to the unsecured creditors was given on 12 September 2011

No time costs have been incurred by the Joint Liquidators in agreeing the unsecured creditors' claims as it was uncertain whether sufficient funds would be generated to make a dividend distribution to the unsecured creditors.

## **LIQUIDATION COSTS**

### **Basis of Liquidators' Remuneration**

A Creditors' Guide to Liquidator's remuneration, together with a Statement of Creditors Rights, was sent to all creditors with the papers giving notice of the meetings to place the Company into liquidation

The first meeting of creditors held on 15 October 2010 resolved that the Joint Liquidators be authorised to draw fees on account on a time cost basis according to the complexity of the work undertaken, at BWC's standard charging rates, in accordance with Statement of Insolvency Practice No 9

In common with all professional firms, our scale rates increase from time to time over the period of the administration of each insolvency case. Since our appointment no changes have been made to our scale rates as circulated to creditors at the commencement of the engagement

A further copy of the Creditors Guide to Fees, together with a Statement of Creditors Rights is attached at Appendix III of this report

The Liquidators' total time costs to 30 September 2011 in dealing with the liquidation amount to £25,137 50, which equates to 150 hours at an average charge out rate of £167 58.

Liquidators' fees of £5,090 90 have been drawn in respect of time spent in accordance with the resolution passed at the first meeting of creditors. The average recovery rate to 30 September 2011 has been £33 93. The Joint Liquidators have unbilled work in progress of £20,046 60 which has been written off.

A detailed time summary is attached at Appendix II to this report.

#### **Statement of Expenses Incurred by the Convening Accountant**

Set fees of £2,500 and £2,500 were drawn in respect of assisting the directors in the preparation of the Statement of Affairs and the report presented to the first meeting of creditors, and in convening the meeting of members and creditors respectively following approval of the same by the first meeting of creditors also on 20 October 2010.

#### **Statement of Expenses Incurred by the Liquidator**

Liquidators' disbursements in respect of statutory advertising and insurance have been paid and are reflected in the Receipts & Payments Account attached at Appendix I.

No 'Category 2' disbursements have been drawn by the Joint Liquidator.

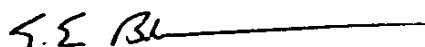
The Liquidators have been assisted in their duties by Michael Steel & Co (Plant & Machinery) Limited, Chartered Surveyors, who have been paid an agreed fixed fee of £1,000 for valuing the assets and assisting with the disposal of the assets. In addition, Michael Steel & Co (Plant & Machinery) Limited were paid disbursements and expenses of £80.

Driver Business Services Limited has been paid the sum of £380 for the completion and filing of returns required by HM Revenue & Customs.

#### **CONCLUSION**

I trust this is sufficient for your present purposes, however should you require any further information, please do not hesitate to contact Sue Bell.

Yours faithfully



**GARY E BLACKBURN**

Joint Liquidator

Enc

**Sensotec Europe Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs		From 15/10/2010 To 14/10/2011	From 15/10/2010 To 14/10/2011
228,170 00	SECURED ASSETS Book Debts	<u>NIL</u> NIL	<u>NIL</u> NIL
(228,170 00)	SECURED CREDITORS HSBC Invoice Finance (UK) Ltd	<u>NIL</u> NIL	<u>NIL</u> NIL
8,000 00 (9,858 00)	HIRE PURCHASE Motor Vehicle Northridge Finance Limited	<u>NIL</u> <u>NIL</u> NIL	<u>NIL</u> <u>NIL</u> NIL
1,650 00	ASSET REALISATIONS Plant, Machinery, Fixtures & Fittings	15 62	15 62
	Equity in Vehicle Subject to Finance	3,084 97	3,084 97
10,000 00	Stock	7,000 00	7,000 00
	Postage Refund	36 00	36 00
	Water Refund	25 76	25 76
	Cash at Bank	64 99	64 99
	Rates Refund	364 99	364 99
NIL	Leasehold Improvements	NIL	NIL
	Bank Interest Gross	3 52	3 52
NIL	White Rock Security (Europe) Limited	1,400 00	1,400 00
NIL	Ensco 593 Limited	NIL	NIL
NIL	Sensotec Holdings Limited	NIL	NIL
NIL	Sensotec 4-Warn Limited	NIL	NIL
NIL	Sensotec Fire Systems Limited	NIL	NIL
NIL	Sensotec Europe BV Limited	<u>NIL</u>	<u>NIL</u>
		11,995 85	11,995 85
NIL	COST OF REALISATIONS Connected Company	NIL	NIL
	Specific Bond	(126 00)	(126 00)
	Preparation of S of A	(2,500 00)	(2,500 00)
	Office Holders Fees	(5,090 90)	(5,090 90)
	Creditors' Meeting Costs	(2,500 00)	(2,500 00)
	Agents/Valuers Fees	(1,000 00)	(1,000 00)
	Agents/Valuers Disbursements	(80 00)	(80 00)
	Accountancy Fees	(380 00)	(380 00)
	Re-Direction of Mail	(26 00)	(26 00)
	Statutory Advertising	<u>(292 95)</u>	<u>(292 95)</u>
		(11,995 85)	(11,995 85)
(10,177 00)	PREFERENTIAL CREDITORS Employee - Holiday Pay	<u>NIL</u> NIL	<u>NIL</u> NIL
(217,214 00)	FLOATING CHARGE CREDITORS JBR Ventures Limited	<u>NIL</u> NIL	<u>NIL</u> NIL
(702,150 00)	UNSECURED CREDITORS Trade & Expense Creditors	NIL	NIL

**Sensotec Europe Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs		From 15/10/2010 To 14/10/2011	From 15/10/2010 To 14/10/2011
(160,990 00)	Employees	NIL	NIL
(9,591 00)	Directors Loan Account - Mr P Ball	NIL	NIL
(4,125 00)	Directors Loan Account - Mr P Lines	NIL	NIL
(44,483 00)	HSBC Bank Plc	NIL	NIL
(24,600 00)	HM Revenue & Customs - PAYE/NIC	NIL	NIL
		NIL	NIL
	DISTRIBUTIONS		
(38,344 00)	Ordinary Shareholders	NIL	NIL
		NIL	NIL
<b>(1,201,882.00)</b>		<b>0.00</b>	<b>0.00</b>
	REPRESENTED BY		
			NIL

APPENDIX II

SENSOTEC EUROPE LIMITED - IN LIQUIDATION

Timecosts 15 October 2010 to 30 September 2011

Notes		Partner Hours £310	Senior Manager / Manager Hours £200-£250	Admin & Clerical Hours £75-£150	Total Hours	Average Cost Per Hour	Total Cost
						£	£
1	Admin & Compliance	9 00	9 50	62 75	81 25	160 18	13,015 00
2	Planning & Control	6 00			6 00	310 00	1,860 00
3	Fixed Charge Assets			1 25	1 25	150 00	187 50
4	Floating Charge Assets						
5	Trading						
6	Debt Collection			0 50	0 50	150 00	75 00
7	Creditors		2 75	20 50	23 25	156 99	3,650 00
8	Employees			25 25	25 25	142 57	3,600 00
9	Meetings & Statutory Duties	3 00	1 00	2 25	6 25	234 80	1,467 50
10	Reports & Statutory Returns	2 00		0 75	2 75	266 36	732 50
11	Investigations		0 50	3 00	3 50	157 14	550 00
	<b>Total</b>	<b>20.00</b>	<b>13.75</b>	<b>116.25</b>	<b>150.00</b>	<b>167.58</b>	<b>25,137.50</b>

1	Admin and Compliance	Maintenance of cash and estate records, general correspondence, compliance and case reviews, filing, etc
2	Planning and Control	Case planning, strategy, trading strategy
3	Fixed Charge Assets	Dealing with various actions affecting the disposal of fixed charged assets (properties and goodwill) including sales pack and meetings with potential purchasers This excludes book debt collection which should be coded as 6
4	Floating Charge Assets	Dealing with various actions affecting the disposal of floating charged assets (motor vehicles, plant, machinery, office equipment, stock etc) including all correspondence, etc issued in respect of realising such assets, but excluding book debt collection which should be coded as 6
5	Trading	Disposal of work in progress, stock and general continuation of the business
6	Debt Collection	Correspondence with debtors, lawyers, instructing lawyers, collection of outstanding debts, maintaining debtor records
7	Creditors	Dealing with preferential and unsecured creditor claims
8	Employees	Dealing with employee claims (preferential and unsecured) and pension matters
9	Meetings and Statutory Duties	Post appointment formalities Annual and final meeting of members and creditors
10	Reports and Statutory Returns	Preparation of annual reports, director conduct reports and statutory returns submitted to Companies House
11	Investigations	Investigation of malpractice by directors before and during liquidation, penalisation of companies and company officers, investigations and prosecutions, investigation into preferences and transactions at an undervalue, wrongful trading etc

## APPENDIX III

### A CREDITORS' GUIDE TO LIQUIDATORS' FEES AND STATEMENT OF CREDITORS' RIGHTS

#### 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 and 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 a member of The Insolvency Service, an executive agency within the Department of Trade and Industry. 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 for Trade and Industry. 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 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 six 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 Rule 4.127 - 4.127B of the Insolvency Rules 1986. The Rule states that the remuneration shall be fixed either:
- as a percentage of the value of the assets which are realised or distributed or both, or
  - by reference to the time properly given by the liquidator and his staff in attending to matters arising in the insolvency, or
  - as a set amount.

Any combination of these bases may be used to fix remuneration, and different bases may be used for different things done by the liquidator. Where 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 the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the percentage 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 the committee would. 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 seeking remuneration approval

6.1.1 When seeking agreement to his fees the liquidator 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

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

6.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator 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 liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator 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 liquidator 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.

- |           |                                |
|-----------|--------------------------------|
| • Partner | • Other senior professionals   |
| • Manager | • 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 liquidator'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 liquidator 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.

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

6.1.5 Details of the charge out rates of staff employed by BWC Business Solutions Limited with effect from 1 April 2009 are as follows

STAFF GRADE	CHARGE OUT RATE £ PER HOUR
Partner	310
Senior Manager	250
Manager	200
Assistant Manager	175
Senior	150
Case Administrator	150
Cashiering	150
Clerical	75

## 6.2 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 liquidator should notify the creditors of the details of the resolution in his next report or circular to them

When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work which has been sub-contracted out.

## 6.3 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 a provision for creditors to challenge them, as described below.

Professional guidance issued to insolvency practitioners requires that, where the liquidator 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 liquidator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

## 6.4 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), and 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 Pursuant to Rule 4.49E Insolvency Rules 1986, 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 expense 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 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 Pursuant to Rule 4.131 Insolvency Rules 1986, application may be made to the court by any secured creditor, or by any unsecured creditors, provided at least 10% 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 application 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 committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors or in accordance with the official receiver's scale is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court he must give at least 14 days' notice to the members of the 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 the scale laid down for the official receivers. 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 or 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 Policy for Re-Charging Disbursements**

12.1 This note applies where the Liquidator seeks creditor approval to make a separate charge by way of disbursements to recover the cost of facilities provided by the firm. Best practice guidance requires that such charges should be disclosed to those who are responsible for approving his remuneration, together with an explanation of how those charges are made up and the basis on which they are arrived at.

12.2 Best practice guidance classifies disbursements into two broad categories:

- Category 1 disbursements (approval not required) – specific expenditure that is directly related to a particular insolvency case, where the cost of the expense incurred is referable against an independent external supplier's invoice or published tariff of charges,
- Category 2 disbursements (approval required) – all other items of expenditure which cannot, or cannot easily be directly related to a particular insolvency case because there is an element of shared or allocated cost, and/or where the cost of the expense incurred is an estimated, unincurred cost with the estimate based on external costs or opportunity cost.

12.3 Category 1 disbursements (approval not required) - All such items are re-charged to the case as they are incurred. The Firm's policy is to disclose such disbursements but not to seek approval for their payment.

12.4 Category 2 disbursements (approval required) - It is not the Firm's current practice to charge Category 2 disbursements.

#### **13 Effective Date**

This guide applies where a company

- goes into liquidation on a winding up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
  - An administration which began before that date
  - A voluntary liquidation in which the winding-up resolution was passed before that date