

LIQ03

# Notice of progress report in voluntary winding up



Companies House

For further information, please  
refer to our guidance at  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

## 1 Company details

Company number 08086051

Company name in full The Miracle Chair Company Limited

→ Filling in this form  
Please complete in typescript or in  
bold black capitals.

## 2 Liquidator's name

Full forename(s) David Frederick

Surname Wilson

## 3 Liquidator's address

Building name/number 29 Park Square West

Street Leeds

Post town LS1 2PQ

County/Region

Postcode

Country

## 4 Liquidator's name Ⓢ

Full forename(s)

Surname

Ⓢ Other liquidator  
Use this section to tell us about  
another liquidator.

## 5 Liquidator's address Ⓢ

Building name/number

Street

Post town

County/Region

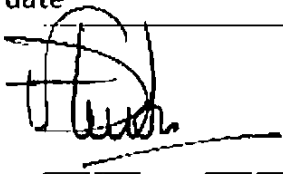
Postcode


Country




Ⓢ Other liquidator  
Use this section to tell us about  
another liquidator.

# LIQ03

## Notice of progress report in voluntary winding up

<b>6</b>	<b>Period of progress report</b>											
From date	e	d	m	m	y	y	y	y				
	2	6	0	5	2	0	2	1				
To date	e	d	m	m	y	y	y	y				
	2	5	0	5	2	0	2	2				
<b>7</b>	<b>Progress report</b>											
	<input type="checkbox"/> The progress report is attached											
<b>8</b>	<b>Sign and date</b>											
Liquidator's signature	<div style="display: flex; align-items: center;"> <div style="margin-right: 10px;"> <small>Signature</small>  <input checked="" type="checkbox"/> </div> <div style="text-align: center;">  </div> <div style="margin-left: 10px;"> <input checked="" type="checkbox"/> </div> </div>											
Signature date	d	d	m	m	y	y	y	y				
	1	2	0	7	2	0	2	2				

 <b>Presenter information</b>									
You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.									
Contact name									
Company name	DFW Associates								
Address	29 Park Square West								
	Leeds								
Postcode	LS1 2PQ								
County/Region									
Postcode	<table border="1"><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr></table>								
Country									
DX									
Telephone	01133907940								
 <b>Checklist</b>									
We may return forms completed incorrectly or with information missing.									
Please make sure you have remembered the following:									
<input type="checkbox"/> The company name and number match the information held on the public Register. <input type="checkbox"/> You have attached the required documents. <input type="checkbox"/> You have signed the form.									

 <b>Important information</b>
All information on this form will appear on the public record.
 <b>Where to send</b>
You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:
The Registrar of Companies, Companies House, Crown Way, Cardiff, Wales, CF14 3UZ. DX 33050 Cardiff.
 <b>Further information</b>
For further information please see the guidance notes on the website at <a href="http://www.gov.uk/companieshouse">www.gov.uk/companieshouse</a> or email <a href="mailto:enquiries@companieshouse.gov.uk">enquiries@companieshouse.gov.uk</a>
This form is available in an alternative format. Please visit the forms page on the website at <a href="http://www.gov.uk/companieshouse">www.gov.uk/companieshouse</a>

**The affairs, business and property of the company are being dealt with by the Liquidator, who acts as the Company's agent and without personal liability.**

Liquidator's Annual Report to Members and Creditors

## **The Miracle Chair Company Limited – In Liquidation (“The Company”)**

For the period to 26<sup>th</sup> May 2021 to 25<sup>th</sup> May 2022

This report has been produced by the Liquidator solely to comply with His statutory duty to report to creditors on the progress of the Liquidation. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever.

# THE MIRACLE CHAIR COMPANY LIMITED

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## ABBREVIATIONS

"The Act"	Insolvency Act 1986 (as amended)
"The Rules"	Insolvency (England & Wales) Rules 2016
"The Liquidator"	David Frederick Wilson
"Date of Appointment"	26 <sup>th</sup> May 2016
"Period of this Report"	26 <sup>th</sup> May 2019 to 25 <sup>th</sup> May 2020
"Office"	29 Park Square West, Leeds, LS1 2PQ

## 1. STATUTORY INFORMATION

Company Number:	08086051
Date of Incorporation:	28 <sup>th</sup> May 2012
Principal Activity:	32990 – Other Manufacturing not elsewhere classified 74100 – Specialised Design Activities
Previous Name:	None
Trading Name:	The Miracle Chair Company
Registered Office:	29 Park Square West, Leeds, LS1 2PQ

Previous Registered Office:	8 St John Street, Manchester, M3 4DU
Trading Address:	8 St John Street, Manchester, M3 4DU
Mortgage & Charges:	Hugh Alexander Briggs held security by way of a Debenture dated 4 <sup>th</sup> July 2014 (filed on 23 <sup>rd</sup> July 2014)

		<i>Appointed</i>	<i>Resigned</i>
Directors:	Hugh Alexander Briggs	3 <sup>rd</sup> May 2013	-
	Simon Freedman	3 <sup>rd</sup> May 2013	-
	Emma Freedman	28 <sup>th</sup> May 2012	-

## 2. INTRODUCTION

In accordance with the Proposals approved by creditors in the prior administration I was appointed as Liquidator of the Company on 26<sup>th</sup> May 2016. My appointment took effect upon the cessation of my appointment as Administrator and the registration of Form 2.34B – Notice of Move from Administration to Creditors' Voluntary Liquidation at Companies House. I confirm that I am licensed to act as an insolvency practitioner in the UK by the Institute of Chartered Accountants in England and Wales. There has been no change in office-holder, or my contact details, since the date of Liquidation.

This report has been prepared in accordance with the requirements of Section 104a of the Insolvency Act 1986 and Rule 18.7 of the Insolvency (England & Wales) Rules 2016 to provide members and creditors with a report on the progress of the of the Liquidation and I am obliged to deliver a copy of this report to them. A copy of this report will also be filed with the Registrar of Companies.

This account includes details of matters arising in the Liquidation for the period 26<sup>th</sup> May 2019 to 25<sup>th</sup> May 2020 and summarises the key issues that arose during the period.

### Case Strategy

My overall strategy for the Liquidation was and remains to realise the Company's assets as expeditiously as possible. As explained below, recoveries are continuing however they are finite in quantum.

It is now clear, all assets having been realised or quantified, that there will be no dividend for non-preferential creditors. However, I expect there to be sufficient to pay a dividend to the secured creditor, further details can be found in section 4 of this report.

I have been assisted in the performance of my duties by a Case Administrator who have the day to day conduct of the Liquidation and who helped me to ensure that work done was carried out at the appropriate grade, having regard to its complexity. I have not used any sub-contractors or professional advisers during this Liquidation. There has been no change to my strategy for the conduct of this case since my appointment.

## 3. PROGRESS DURING THE PERIOD

### Receipts and Payments during the Period

#### Receipts

##### *Bank Interest Gross*

Bank interest of £0.38 has been received in the period of this report and represents the interest paid on the funds held in the Liquidator's account.

## **Payments**

No payments were made during the period of this report.

## **4. OUTCOME FOR CREDITORS**

### **Secured Creditors**

As detailed in the Administration, Mr Hugh Alexander Briggs held security by way of a Debenture dated 4<sup>th</sup> July 2014 (filed on 23<sup>rd</sup> July 2014), granting a fixed and floating charge over the undertaking and all property and assets, present and future, including goodwill, book debts, uncalled capital, buildings, fixtures and fixed plant and machinery. The amount outstanding at the date of Administration was approximately £250,000.00.

The sum of £12,000.00 has been paid to Mr Hugh Alexander Briggs under the debenture.

I anticipate that there will be a further distribution to the secured creditor, however they will suffer a substantial shortfall under the terms of their security. The quantum and timing of this distribution is yet to be confirmed.

### **Preferential Creditors**

There are no creditors of this classification.

### **Unsecured Creditors**

The estimated statement of affairs in the Administration, estimated total unsecured debts of £860,473.24. To date, unsecured claims of £77,172.59 have been received.

A claim form is attached at Appendix 4, for creditors who have not yet submitted a claim to complete and return with supporting evidence.

Any surplus funds will be used to distribute to the Charge holder as detailed above and the balance of funds will be utilised to defray the expenses of the Liquidation. As a result, there will be no distribution to unsecured creditors in this instance. This notice was given in my last progress report pursuant to Rule 14.37 of the Insolvency (England & Wales) Rules 2016.

### **Prescribed part for unsecured creditors pursuant to Section 176a of the Act**

Section 176a of the Insolvency Act 1986 provides that, where the company has created a floating charge on or after 15 September 2003, the Liquidator must make a prescribed part of the Company's net property available for the unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured debts. The prescribed part disappplies in this instance as there are insufficient realisations.

## **5. THE LIQUIDATOR'S REMUNERATION, DISBURSEMENTS & EXPENSES**

### **Remuneration**

Rule 18.20(5a) of the Insolvency (England & Wales) Rules 2016 states that where a Company which is in Administration moves into Liquidation and the former Administrators become the Liquidator, the basis of the office holders' remuneration fixed in the Administration also applies in the subsequent Liquidation. Accordingly, the basis of the Liquidator's remuneration (as approved the charge holder in the Administration) will be payable by reference to time properly given by the Liquidator and his staff in attending to matters arising in the Liquidation. The charge holder has also confirmed that he is authorised to draw disbursements, including disbursements for services provided by his firm (defined as Category 2 disbursements in Statement of Insolvency Practice 9) in accordance with his firm's charging policy (attached at Appendix 3 of this report).

DFW Associates standard charging rates have changed during the conduct of the Liquidation, as follows:-

Briefly:-

- Work done in realising the assets of the Company was in the direct financial interests of the creditors
- Work done in performing investigations was a statutory requirement but would also have been in the direct financial interests of creditors had it led to additional asset realisations
- All other work is required by statute or professional regulations

Time costs amounting to £340.00 have been incurred in the period of this report made up of 1.65 hours at an average charge out rate of £206.06 across all grades of staff. More detailed information is provided in the Appendix 2. Time is charged in 6 minute increments.

No Liquidator's fees have been drawn in the period of this report as detailed in the receipts and payments account attached at Appendix 1.

Time costs amounting to £10,952.56 have been incurred in the full period of this Liquidation made up of 45.52 hours at an average charge out rate of £220.85 across all grades of staff. More detailed information is provided in the Appendix 2. Time is charged in 6 minute increments.

The following further information in relation to the Liquidator's time costs is enclosed with this report:

- Table of time spend and charge-out value for the period 26<sup>th</sup> May 2021 to 25<sup>th</sup> May 2022;
- Table of time spend and charge-out value for the period 26<sup>th</sup> May 2016 to 25<sup>th</sup> May 2022
- DFW Associates charging policy for disbursements; and
- Details of creditors' rights: (Creditors' and members' requests for further information and details of remuneration and expenses; application to court by a creditor or members on grounds that remuneration or expenses are excessive in accordance with Rule 18.9 and 18.34 of the Insolvency (England & Wales) Rules 2016).

Please note an explanatory leaflet "A Creditor's Guide to Liquidator's Remuneration", is also available on request from my office or on my website at [www.dfwassociates.co.uk](http://www.dfwassociates.co.uk).

#### **Disbursements & Expenses**

There have been no category 1 or category 2 disbursements paid during the period. No further professional expenses or disbursements have been incurred during the period of this report.

### **6. INVESTIGATIONS INTO THE AFFAIRS OF THE COMPANY**

The Liquidator has a statutory duty to investigate the conduct of the Directors and any person he considers to be or have been a shadow or de facto Director during the period of three years before the date of his appointment, in relation to their management of the affairs of the company and the causes of its failure.

My preliminary investigations revealed no matters that it was in the interests of creditors for me to investigate in depth and no matters came to light subsequently during the Liquidation.

The Liquidator is also obliged to submit confidential reports to the Department for Business Innovation and Skills. I can confirm that I have discharged my duties in this regard.

### **7. BENEFITS FOR CREDITORS**

I expect there to be a dividend distribution to the secured creditor, the quantum and timing of this distribution is yet to be confirmed.

Whilst there has been and will be no distribution available for any other class of creditor, creditors can be assured that the conduct of the Directors has been investigated.



## **8. MATTERS OUTSTANDING**

I am yet to make a final distribution to the secured creditor. Once I have made this payment, I will be in a position to close the Liquidation.

## **9. CONCLUSION**

The Liquidator is required to provide a progress report within two months of the end of the next anniversary of the Liquidation or at the conclusion of the Liquidation, whichever is sooner.

Should you have any further queries please contact my office in writing or by telephone to 0113 390 7940, alternatively direct any emails to [info@dfwassociates.co.uk](mailto:info@dfwassociates.co.uk).




Dated: 12<sup>th</sup> July 2022

**David Frederick Wilson**  
**Liquidator of The Miracle Chair Company Limited**

The Miracle Chair Company Limited  
(In Liquidation)

**LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT**

	Statement of affairs £	From 26/05/2021 To 25/05/2022 £	From 26/05/2016 To 25/05/2022 £
<b>RECEIPTS</b>			
Surplus from Administration		0.00	13,363.42
Book Debts		0.00	16,750.75
Bank Interest Gross		0.38	51.96
Vat Receivable		0.00	2,863.56
Vat Control Account		0.00	517.40
		<u>0.38</u>	<u>33,547.09</u>
<b>PAYMENTS</b>			
Hugh Briggs		0.00	12,000.00
Administrators Fees		0.00	5,450.78
Office Holders Fees		0.00	8,730.00
Office Holders Expenses		0.00	137.00
Vat Receivable		0.00	2,863.56
Vat Control Account		0.00	517.40
		<u>0.00</u>	<u>29,698.74</u>
<b>BALANCE - 25 May 2022</b>			<u><u>3,848.35</u></u>
			 _____ David Frederick Wilson Liquidator

Time Entry - SIP9 Time & Cost Summary

CYL0080 - The Miracle Chair Company Limited  
Term: 26/05/2021 To: 26/05/2022

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Contract Planning	0.20	0.01	0.00	0.00	0.21	75.00	357.14
Pre-Sales Materials	0.00	0.01	0.00	0.00	0.01	0.00	0.00
Quotations	0.02	0.00	0.00	1.45	1.47	251.00	170.75
Investigation	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Preparation of Assets	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Other	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	0.20	0.01	0.00	1.45	1.66	343.00	206.63
Total Fees Claimed						0.00	
Total Expenditure Claimed						0.00	

# Time Entry - SIP9 Time & Cost Summary

00000000 - The Miracle Char Company Limited  
From: 25/05/2016 To: 25/05/2022

Breakdown of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Admin & Printing	2.30	10.25	0.00	10.87	24.67	5,735.50	231.22
Case Specific Matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Education	1.20	0.00	0.00	19.45	19.25	3,846.00	199.78
Marketing	0.20	0.00	0.00	1.10	1.10	186.00	170.00
Recruitment Affairs	0.20	0.00	0.00	0.00	0.40	300.00	375.00
Training	0.00	0.00	0.00	0.00	0.00	0.00	0.00
<b>Total Hours</b>	<b>5.10</b>	<b>10.00</b>	<b>0.00</b>	<b>27.42</b>	<b>45.52</b>	<b>10,052.50</b>	<b>220.85</b>
<b>Total Fees Claimed</b>						<b>0.00</b>	
<b>Total Disbursements Claimed</b>						<b>0.00</b>	

## **DFW Associates**

### **Privacy Statement for Data Subjects who are Individuals**

#### **Introduction**

A Privacy Statement is a document explaining to you, if you are an individual, how your personal data will be used by us and what your rights are.

This Statement describes in general terms how we collect and use personal data about you. It has been prepared to meet the requirements of the General Data Protection Regulation (GDPR), the Data Protection Act and any other national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK ('Data Protection Legislation').

Please read the following carefully to understand our practices regarding your personal data.

#### **Data Controller**

DFW Associates is a Firm ('the Firm') of Insolvency Practitioners whose sole Principal is David Frederick Wilson ('Mr Wilson'). His and the Firm's contact details are given below. Mr Wilson is licensed to act as an insolvency practitioner in the United Kingdom by the Institute of Chartered Accountants in England and Wales.

Mr Wilson trading as DFW Associates is a Data Controller within the meaning of the Data Protection Legislation when the Firm is engaged to provide a service under the terms of a contract which requires it to process personal data. (The client in respect of whom personal data is being processed is also a Data Controller).

Where Mr Wilson is acting as an Officeholder (Administrative Receiver, Administrator, Liquidator, Nominee or Supervisor of a Voluntary Arrangement or a Trustee in Bankruptcy) under insolvency legislation he is the Data Controller for data processed by him as part of his statutory duties.

In this situation the Company or other legal entity over which he has been appointed as Officeholder will remain the Data Controller in respect of personal data collected and processed by it prior to his appointment (albeit it should now be contacted via the Officeholder).

For all purposes in relation to this Privacy Statement Mr Wilson can be contacted at:

DFW Associates  
29 Park Square West  
Leeds  
LS1 2PQ

E: [david.wilson@dfwassociates.co.uk](mailto:david.wilson@dfwassociates.co.uk)  
T: 0113 390 7940

#### **Personal Data**

Personal data means any information about an individual from which that person can be identified.

We may collect, use, store and transfer different kinds of personal data about you as follows:

- Identity Data – the information we use to identify you, which may include data contained in photographs.
- Contact Data – the information we use to contact you.
- Financial Data – details of your income and expenditure, assets and liabilities and ancillary data such as your bank account details
- Transaction Data - includes details about payments to and from you
- Communications Data - your communication preferences, for example any opt out exercised by you under Insolvency legislation.

We may collect some 'special category' personal data from you including (but not restricted to) details of your health, or whether you are a member of a Trade Union, where this is necessary to meet our legal or regulatory obligations. We may also collect information about criminal convictions and offences and whether you have been previously involved in any personal or corporate insolvency proceedings.

## **How we collect Personal Data**

The personal data we initially used to contact you was provided by the Company or Individual on whose instructions DFW Associates is acting or in relation to which Mr Wilson has been appointed as Officeholder. Your personal data may also be collected from the following sources:

- Records that our client or the insolvent Company or individual already holds about you.
- Questionnaires and Forms completed and submitted by you, for example to the Redundancy Payments Service or to us.
- Correspondence and other communications or meetings between you and the Firm.
- Information provided to the Firm by third parties in relation to an appointment, for example your bank, your professional advisers or the Insolvency Service.
- Information held in the public domain (for example, at Companies House and the Land Registry).

Other data controllers (including clients) may also provide your personal data to us.

## **How we use Personal Data**

Most processing is carried out to comply with the Officeholder's legal and regulatory obligations or to enable DFW Associates to provide a service in accordance with its contractual terms. Personal data will be used to verify identity (where this is required), for communications, to maintain records and process transactions. It may also be used to facilitate the performance of investigations (including the prevention of fraud), the realisation of assets and the agreement and settlement of financial claims. Your personal data may therefore be used for more than one purpose.

## **Disclosure of your personal data**

Mr Wilson and the Firm have a legal obligation, in certain circumstances, to disclose personal data to:

- Mr Wilson's regulatory body, the Institute of Chartered Accountants in England and Wales.
- The Secretary of State (including, but not restricted to, the Official Receiver).

Mr Wilson and the Firm may also be under an obligation to provide your personal data to other third parties who have a statutory right to request it (for example, HMRC and Law Enforcement Agencies) or who have obtained an appropriate court order.

We may also share your personal data with:

- Our accountants, solicitors, insurers and sub-contractors
- Other Governmental or relevant regulatory bodies.
- Third parties who support us in providing our IT systems, including our website, e mails, data backup and storage.
- Third parties who archive our paper records
- Third party professional service providers instructed on a case by case basis by the Officeholder or the Firm, including (but not restricted to) accountants and tax advisers, solicitors, valuers, debt collection agencies and service providers who may assist with the calculation of employee claims or pension deficits and contributions. They will only process your data on our instructions and they are under a professional duty of confidentiality.

## **Protection of your personal data**

Policies and commercially reasonable and appropriate procedures are in place to safeguard your personal data from loss, misuse and improper disclosure.

- Staff training
- Digital personal data is held in secure data centres potentially located worldwide (and therefore potentially outside of the EEC).
- Paper personal data is held at the Firm's offices in Leeds, or, if the case has been closed, in a secure off-site third party storage facility.

We also have procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

All our third-party service providers are required to take appropriate security measures to protect your personal information. We only allow third-party service providers to process your personal information for specified purposes and in accordance with our instructions.

### **Retention of Personal Data**

We will only retain your personal data for as long as necessary. This necessity includes the purposes of satisfying any legal, accounting, regulatory or reporting requirements.

In line with these requirements personal data will generally be held for no longer than 6 years after the closure of an assignment or insolvency appointment.

If you have opted out of receiving future correspondence from us, your contact details will remain on our opt-out list to prevent you from receiving any further correspondence from us except where we are obliged to contact you by insolvency legislation.

### **Your rights**

We will maintain an accurate record of personal data submitted to us. Please inform us of any changes to your information.

You are entitled to:

- Be notified that we hold and may process your personal data. This Notice meets that requirement
- Request access to and correction of your personal data.
- Request erasure of your personal data (unless we hold it under a legal obligation)
- Object to the processing of your personal data or seek to restrict its scope (unless we hold it under a legal obligation).
- Request the transfer of your personal data to you or to a third party (unless we hold it under a legal obligation).
- Withdraw consent at any time, where we are relying on consent to process your personal data. (Where the data received was not based on obtaining consent the right to withdraw consent does not apply).

To exercise any relevant rights, or to update your personal data, please contact Mr Wilson at [david.wilson@dfwassociates.co.uk](mailto:david.wilson@dfwassociates.co.uk). We will seek to respond promptly and no later than 28 days.

We may need you to help us to confirm your identity or to ask you for further information to ensure that personal data is not disclosed to any person who has no right to receive it.

### **Complaints**

We trust that this will not be necessary, but if you are concerned about an alleged breach of data privacy law by us please contact Mr Wilson at [david.wilson@dfwassociates.co.uk](mailto:david.wilson@dfwassociates.co.uk) and he will ensure that your complaint is investigated.

You also have the right to complain to the Information Commissioner's Office, the UK supervisory authority for data protection issues. Further information about how to do this can be found on the ICO website [www.ico.org.uk](http://www.ico.org.uk)

## **General**

We may amplify this Privacy Statement at the point of data collection.

We may change the terms of this Privacy Statement from time to time and will place any updates on our website [www.dfwassociates.co.uk](http://www.dfwassociates.co.uk) . This version is dated 25 May 2018.

Paper copies of this Privacy Notice can be obtained free of charge by written request to our offices at the address given above.



## EXTRACT FROM THE INSOLVENCY RULES (ENGLAND AND WALES) 2016

### Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive

#### Rule 18.34

(1) This rule applies to an application in an administration, a winding-up or a bankruptcy made by a person mentioned in paragraph (2) on the grounds that

- (a) the remuneration charged by the office-holder is in all the circumstances excessive;
- (b) the basis fixed for the office-holder's remuneration under rules 18.16, 18.18, 18.19, 18.20 and 18.21 (as applicable) is inappropriate; or
- (c) the expenses incurred by the office-holder are in all the circumstances excessive.

(2) The following may make such an application for one or more of the orders set out in rule 18.36 or 18.37 as applicable

- (a) a secured creditor;
- (b) an unsecured creditor with either
  - (i) the concurrence of at least 10% in value of the unsecured creditors (including that creditor), or
  - (ii) the permission of the court; or
- (c) in a members' voluntary winding up—
  - (i) members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or
  - (ii) a member of the company with the permission of the court.

(3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report under rule 18.3, or final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

## EXTRACT FROM THE INSOLVENCY RULES (ENGLAND AND WALES) 2016

### Creditors' and members' requests for further information in administration, winding up and bankruptcy

#### Rule 18.9

(1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14

- (a) a secured creditor;
- (b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
- (c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
- (d) any unsecured creditor with the permission of the court; or
- (e) any member of the company in a members' voluntary winding up with the permission of the court.

(2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report by the person, or by the last of them in the case of an application by more than one member or creditor.

(3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—

- (a) providing all of the information requested;
- (b) providing some of the information requested; or
- (c) declining to provide the information requested.

(4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—

- (a) the time or cost of preparation of the information would be excessive; or
- (b) disclosure of the information would be prejudicial to the conduct of the proceedings;
- (c) disclosure of the information might reasonably be expected to lead to violence against any person; or
- (d) the office-holder is subject to an obligation of confidentiality in relation to the information.

(5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.

(6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of

- (a) the office-holder giving reasons for not providing all of the information requested; or
- (b) the expiry of the 14 days within which an office-holder must respond to a request.

(7) The court may make such order as it thinks just on an application under paragraph (6).

## **DFW Associates Charging Policy**

### **Introduction**

This note applies where a licenced insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration on the time properly spent in dealing with the case. It also applies where further information is to be provided to creditors regarding the office holder's fees. Following a passing of the resolution for the office holder to be remunerated on a time cost basis. Best practice guidance requires that such information should be disclosed to those who are responsible for approving remuneration.

In addition, this note applies where creditor approval is sought to make a separate charge by way of expenses or disbursements to recover the costs of facilities provided by the firm and where payments are to be made to outside parties in which the office holder or his firm or any associate has an interest. Best practice guidance requires that such charges should be disclosed to those who are responsible for approving the office holder's remuneration, together with an explanation of how those charges are calculated.

### **Office Holder's Fees in Respect of the Administration of the insolvent estate.**

The office holder will delegate tasks to colleagues. Such delegation assists the office holder as it allows him/her to deal with the more difficult aspects of the case and ensures that work is allocated and completed at the appropriate level. There are various staff that are employed by the office holder and these appear below.

The firm operates a time recording system which allows the staff working on the case with the office holder to allocate their time to the case. The time is recorded at the individual hourly rate in force at that time which is detailed below.

### **Expenses Incurred By Office Holder In Respect Of the Administration of Insolvent Estates**

Best practice guidance classifies expenses into two broad categories

- Category 1 disbursements (approval not required) – specific expenditure that is directly related to the case usually outsourced to a third party. Once these items of expenditure are incurred they are immediately charged to the case.
- Category 2 disbursements (approval required) – items of incidental expenditure directly incurred on the case which include an element of shared or allocated cost and which are based on a reasonable method of calculation.

(A) The following items of expenditure are charged to the case (subject to approval)

- Car Mileage is charged at a rate of 45p per mile
- Expenses which should be treated as Category 2 disbursements (approval required) – in addition to the 2 categories referred to above best practice guidance indicates that where payments are made to outside parties in which the office holder or his firm or any associate has an interest these should be treated as category 2 disbursements

(B) The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a category 1 disbursement.

- Telephone and facsimile
- Printing and photocopying
- Stationery

### **DFW Charge-out Rate – From 20<sup>th</sup> November 2018**

Time is recorded in 6 minute units.

Principal Associate	395
Associate	245
Junior	180