

LIQ03

Notice of progress report in voluntary winding up



Companies House

For further information, please
refer to our guidance at
www.gov.uk/companieshouse

1 Company details

Company number 0 1 2 9 4 1 7 0

Company name in full Walnut Healthcare Trust Limited

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

2 Liquidator's name

Full forename(s) Gavin

Surname Bates

3 Liquidator's address

Building name/number The Old Rectory

Street Main Street

Post town Glenfield

County/Region Leicester

Postcode L E 3 8 D G

Country

4 Liquidator's name ①

Full forename(s)

Surname

① Other liquidator
Use this section to tell us about
another liquidator.

5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

Postcode

Country

② Other liquidator
Use this section to tell us about
another liquidator.

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6 Period of progress report

From date	^d 1	^d 0	^m 0	^m 9	^y 2	^y 0	^y 2	^y 1
To date	^d 0	^d 9	^m 0	^m 9	^y 2	^y 0	^y 2	^y 2

7 Progress report☒ The progress report is attached**8** Sign and date

Liquidator's signature

Signature

X

L G Bate

X

Signature date

^d 0	^d 1	^m 1	^m 1	^y 2	^y 0	^y 2	^y 2
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**Presenter information**

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 Sharon Hill

Company name Smart Business Recovery Limited

Address
The Old Rectory
Main Street

Post town Glenfield

County/Region Leicester

Postcode L E 3 8 D G

Country

DX

Telephone 0116 2325117

**Checklist**

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.

**Important information**

All information on this form will appear on the public record.

**Where to send**

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.

**Further information**

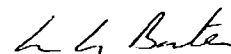
For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk

This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse

Walnut Healthcare Trust Limited
(In Liquidation)
Liquidator's Summary of Receipts & Payments

Declaration of Solvency £		From 10/09/2021 To 09/09/2022 £	From 10/09/2021 To 09/09/2022 £
	ASSET REALISATIONS		
5,142.00	Book Debts & Prepayments	NIL	NIL
58,578.40	Cash at Bank	49,722.55	49,722.55
8.37	Cash at bank - reserve	NIL	NIL
		<u>49,722.55</u>	<u>49,722.55</u>
	COST OF REALISATIONS		
	Bordereau Premium	167.50	167.50
	Liquidator's remuneration	5,000.00	5,000.00
	Motor expenses	68.60	68.60
	Postage	5.95	5.95
	Statutory Advertising	397.31	397.31
	Storage Costs	25.43	25.43
	VAT - Irrecoverable	1,099.47	1,099.47
		<u>(6,764.26)</u>	<u>(6,764.26)</u>
	UNSECURED CREDITORS		
(3,310.00)	Trade & Expense Creditors	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
60,418.77		<u>42,958.29</u>	<u>42,958.29</u>
	REPRESENTED BY		
	Bank 1 Current		42,958.29
			<u>42,958.29</u>

Note:



Gavin Bates
Liquidator

LIQUIDATOR'S PROGRESS REPORT TO MEMBERS

FOR THE YEAR ENDING 9 SEPTEMBER 2022

WALNUT HEALTHCARE TRUST LIMITED ("THE COMPANY") – IN MEMBERS' VOLUNTARY LIQUIDATION

EXECUTIVE SUMMARY

I was appointed as Liquidator of the Company to assist the directors with the structured wind down of the Company's affairs and distribution of the Company's surplus assets, less the liabilities and costs of the winding up process. The only assets to be realised and distributed in this matter were the cash held at the Company's bank and a number of book debts.

As a private company limited by guarantee without share capital, it is my intention to distribute the surplus assets to a charity or charities with similar objectives, decided upon in conjunction with the directors of the Company.

STATUTORY INFORMATION

Company name:	Walnut Healthcare Trust Limited
Registration number:	01294170
Principal Trading Address:	2 Foscoote Rise, Banbury, OX16 9XP
Registered Office:	The Old Rectory, Main Street, Glenfield, Leicester, LE3 8DG
Former Registered Office:	Orchard Cottage, Mount Pleasant, Lower Wardington, Banbury, OX17 1SL
Principal trading activity:	Healthcare
Liquidator's names:	Gavin Bates
Liquidator's address:	The Old Rectory, Main Street, Glenfield, Leicester, LE3 8DG
Liquidator's contact details:	gavin@smartbusinessrecovery.co.uk and 0116 2325117
Date of appointment:	10 September 2021

LIQUIDATOR'S ACTIONS SINCE COMMENCEMENT OF THE LIQUIDATION

As per my statutory obligations, immediately following my appointment, I contacted all stakeholders to order to advise of my appointment as Liquidator. This included, but was not limited to, writing to the Company's bank, to various departments of HM Revenue & Customs ("HMRC"), the Charities Commission and the directors. I advertised details of my appointment in the London Gazette and requested creditor claims to be lodged.

I arranged for a Liquidation bank account to be set up and wrote to the Company's bank in order to request that the balance of funds held be transferred to the Liquidation account. These funds were received in November 2021.

I liaised with the Company's secretary, who prepared the Company's final closing accounts.

I was made aware that there were outstanding debts and I liaised with the Company secretary, who was dealing with the collection of these debts prior to my appointment. No progress has been made in this matter.

In December 2021, I received a pre-action protocol letter from solicitors acting for a former patient of the Company. Accordingly, this was forwarded to the Company's insurers and directors for consideration. The directors advised that all consultants at the Company were employed as independent contractors with their own professional indemnity cover in place and, therefore, they did not consider that this would be a viable claim against the Company.

I liaised with the Company's insurers and it was confirmed that the retroactive date on the Company's policy was 22 June 2015. This meant, even if the policy was in force, which it was not, having expired on 30 September 2021, cover would not have been in place as the claim, being 7 April 2015, was prior to the retroactive date. Accordingly, I advised the solicitors acting for the claimant of the position.

I continued to liaise with the solicitors acting for the claimant and in September 2022, it was confirmed that they had identified an alternative "indemnifier" and action was no longer being taken against the Company.

As I did not hold any indemnities due to the nature of the Company, I took the decision to take legal advice on the potential claim and I have been advised that I am able to rely on the email from the solicitors confirming the withdrawal of the claim against the Company.

Furthermore, I am advised that the Limitation Act 1980 ("the 1980 Act") Section 11 refers to claims for personal injuries and the limitation for bringing such a claim is 3 years from:

1. The date on which the cause of action accrued;
2. The date of knowledge.

In this case, the pre-action protocol letter sets out the later of these as being 20 February 2019 and although it says "approximately" this is normally the earliest date so that a claimant can be sure they do not fall foul of the limitation period.

Accordingly, the claimant would have had to issue a claim against the Company on or by 19 February 2022. Even if they had issued by this date, they would then have four months to serve the claim form taking the date to June 2022 when I would have been made aware of a claim. However, the email from the solicitor makes it clear the claimant is not pursuing a claim against the Company and even if he now decided to, he would be out of time and statute barred.

However, I have also been advised that another "indemnifier" has been found and that the claim is continuing. It is, therefore, necessary to consider Section 10 of the 1980 Act in respect of "a claim for contribution". Under Section 1 of the Civil Liability (Contribution) Act 1978 ("1978 Act") any person becomes entitled to a right to recover a contribution in respect of any damages but no action for a contribution can be brought after the expiration of two years from the date on which the right accrued. For the purposes of this section the relevant date from which the two years runs is (in this case) from any judgment given or award made in any civil proceedings.

Accordingly, it is feasible that one of the other "indemnifiers" could bring a claim against the Company for a contribution under the 1978 Act and such an indemnifier would have two years to do so. The biggest issue is that from the information provided it would appear that that two years has not yet started to run given that the email states "the claim is continuing".

However, my solicitors advise that the likelihood of such a claim is minimal and the following points should be noted:

1. It is normal in medical/clinical negligence claims for the claimant to go against the surgeon not the hospital. claims against the hospital happen very rarely as the most that any claim can amount to in respect of the hospital is a breach of contract claim for putting forward that surgeon.
2. If a claim was going to be brought against the Company under the 1978 Act, then it would be more normal for the defendant in any proceedings to bring the Company into any proceedings

rather than wait to bring their own claim, which is more expensive. This does not appear to have happened because the Company would have been served.

3. The defendant to the claim would have to be able to show that the Company was in some way liable for the claim, and this is rarely the case other than recommending the surgeon in the first place.

Accordingly, I believe that any risk to the Company is minimal. However, I deemed it prudent to take advice before distributing any funds as it should be noted that the legislation states that if during an Members' Voluntary Liquidation, the liquidator decides that a company will not be able to pay its debts in full, the liquidation must become a Creditors' Voluntary Liquidation. As directors should appreciate, had I distributed the funds in the knowledge that the Company had a claim against it, however spurious, then I would be personally liable for any funds distributed.

I have written to HMRC to confirm that all pre and post appointment tax matters had been dealt with and that there was no objection to me obtaining my release as Liquidator, which I have now received. Accordingly, I will now take steps to distribute the funds to suitable charities.

There is certain work that I am required by the insolvency legislation to undertake in connection with the liquidation that provides no financial benefit for the creditors. A description of the routine work undertaken since the commencement of the liquidation is contained in Appendix 1.

RECEIPTS AND PAYMENTS ACCOUNT

My receipts and payments account for the period from 10 September 2021 to 9 September 2022 is attached at Appendix 2. All amounts are shown net of VAT. I have reconciled the account against the financial records that I am required to maintain.

The balance of funds is held in a non-interest bearing estate bank account.

ASSETS

Cash at Bank

I have received £49,723 in respect of the cash at bank. The account is now closed and no further monies will be received.

LIABILITIES

Summary

I have provided details above regarding the claim that I received and my decision in respect of it.

LIQUIDATOR'S REMUNERATION

My remuneration was previously authorised by Members at a meeting held on 10 September 2021 to be drawn on a time cost basis, capped at £5,000. My total time costs to 9 September 2022 amount to £5,569, representing 18.4 hours of work at a blended charge out rate of £302.66 per hour. I have drawn £5,000 to 9 September 2022.

A detailed schedule of my time costs incurred to date is attached at Appendix 3

A copy of 'A Members' Guide to Liquidators' Fees', together with an explanatory note that shows Smart Business Recovery Limited's fee policy are available at the link www.smartbusinessrecovery.co.uk/site/main-menu/useful-reference/creditors-guide-to-fees-2.

LIQUIDATOR'S EXPENSES

Expenses are any payments from the estate which are neither an office holder's remuneration nor a distribution to a creditor or a member. Expenses also includes disbursements. Disbursements are payments which are first met by the office holder and then reimbursed to the office holder from the estate. Expenses are split into:

- category 1 expenses, which are payments to persons providing the service to which the expense relates who are not an associate of the office holder; and
- category 2 expenses, which are payments to associates or which have an element of shared costs. Before being paid category 2 expenses require approval in the same manner as an office holder's remuneration.

I have incurred total expenses of £1,664.79, all of which I have drawn to 9 September 2022

I have used the following professional advisors in the reporting period:

Professional Advisor	Nature of Work	Basis of Fees
Sydney Mitchell LLP	Solicitors	Fixed fee

The choice of professionals used was based on my perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of my fee arrangement with them. I also confirmed that they hold appropriate regulatory authorisations. I have reviewed the fees they have charged and am satisfied that they are reasonable in the circumstances of this case.

I have incurred the following expenses in the period since the commencement of the Liquidation:

Type of category 1 expense	Amount incurred/ accrued in the reporting period (£)
Bond	167.50
Statutory advertising	397.31
Postage	5.95
Storage	25.43
Legal fees	1,000.00
Total	1,596.19

Details of the category 1 expenses that I have paid to date are included in the receipts and payments account attached.

I am required to seek approval before I can pay any expenses to associates, or pay expenses where there is an element of shared costs, which are known as category 2 expenses. I have obtained approval to pay the category 2 expenses and I have incurred the following category 2 expenses in the period since the commencement of the Liquidation:

Type of category 2 expense	Amount incurred/ accrued in the reporting period (£)
Motor expenses	68.60
Total	68.60

Details of the category 2 expenses that I have paid to date are included in the receipts and payments account attached.

FURTHER INFORMATION

A Member may, with the permission of the court or with at least 5% of the total voting rights of all the Members having the right to vote at general meetings of the Company request further details of the Liquidator's remuneration and expenses, within 21 days of receipt of this report.

A Member may, with the permission of the court or with at least 10% of the total voting rights of all the Members having the right to vote at general meetings of the Company, apply to Court to challenge the amount of remuneration charged by the Liquidator's as being excessive, and/or the basis of the Liquidator's remuneration, and/or the amount of the expenses incurred as being excessive, within 8 weeks of their receipt of this report.

The Liquidation will remain open until I have distributed the funds to a charity with similar objectives. I estimate that this will take approximately six months and once resolved, the Liquidation will be finalised and our files will be closed.

If members have any queries regarding the conduct of the Liquidation, or if they want hard copies of any of the documents made available on-line, they should contact Sharon Hill on 0116 2325117, or by email at sharon@smartbusinessrecovery.co.uk.

A handwritten signature in black ink, appearing to read 'Gavin Bates', written in a cursive style.

Gavin Bates
Liquidator

Appendix 1 – Routine Work Undertaken In The Reporting Period

1. Administration

This represents the work involved in the routine administrative functions of the case by the office holder and their staff, together with the control and supervision of the work done on the case by the office holder and their managers. It does not give direct financial benefit to the members, but has to be undertaken by the office holder to meet their requirements under the insolvency legislation and the Statements of Insolvency Practice, which set out required practice that office holders must follow.

- Case planning - devising an appropriate strategy for dealing with the case and giving instructions to the staff to undertake the work on the case.
- Setting up physical/electronic case files.
- Setting up the case on the practice's electronic case management system and entering data.
- Issuing the statutory notifications to creditors and other required on appointment as office holder, including gazetting the office holder's appointment.
- Obtaining a specific penalty bond.
- Convening and holding a general meeting of Members.
- Dealing with all routine correspondence and emails relating to the case.
- Opening, maintaining and managing the office holder's estate bank account.
- Creating, maintaining and managing the office holder's cashbook.
- Undertaking regular bank reconciliations of the bank account containing estate funds.
- Reviewing the adequacy of the specific penalty bond on a quarterly basis.
- Undertaking periodic reviews of the progress of the case.
- Overseeing and controlling the work done on the case by case administrators.
- Preparing, reviewing and issuing annual progress reports to Members.
- Filing returns at Companies House.

2. Realisation of Assets

- Liaising with bank regarding cash at bank.
- Liaising with Company secretary regarding the book debts.

Walnut Healthcare Trust Limited
(In Liquidation)
Liquidator's Summary of Receipts & Payments
To 09/09/2022

Dec of Sol £		£	£
	ASSET REALISATIONS		
5,142.00	Book Debts & Prepayments	NIL	
58,578.40	Cash at Bank	49,722.55	
8.37	Cash at bank - reserve	NIL	
			49,722.55
	COST OF REALISATIONS		
	Bordereau Premium	167.50	
	Liquidator's remuneration	5,000.00	
	VAT - Irrecoverable	1,099.47	
	Motor expenses	68.60	
	Postage	5.95	
	Storage Costs	25.43	
	Statutory Advertising	397.31	
			(6,764.26)
	UNSECURED CREDITORS		
(3,310.00)	Trade & Expense Creditors	NIL	
			NIL
60,418.77			42,958.29
	REPRESENTED BY		
	Bank 1 Current		42,958.29
			42,958.29

Note:

Time Entry - SIP9 Time & Cost Summary

W003 - Walnut Healthcare Trust Limited
All Post Appointment Project Codes
From: 10/09/2021 To: 09/09/2022

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Senior Manager	Total Hours	Time Cost (£)	Average Hourly Rate (£)
Admin & Planning	9.50	6.40	0.00	0.00	0.00	15.90	4,733.00	297.67
Case Specific Matters	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Creditors	1.90	0.00	0.00	0.00	0.00	1.90	665.00	350.00
Investigations	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Realisation of Assets	0.30	0.30	0.00	0.00	0.00	0.60	171.00	285.00
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total Hours	11.70	6.70	0.00	0.00	0.00	18.40	5,569.00	302.66
Total Fees Claimed							4,000.00	
Total Disbursements Claimed							74.55	

Time Entry - SIP9 Time & Cost Summary

Category 2 Disbursements

W003 - Walnut Healthcare Trust Limited
From: 10/09/2021 To: 09/09/2022

Other amounts paid or payable to the office holders firm or to party in which the office holder or his firm or any associate has an interest.

Transaction Date	Type and Purpose	Disbursement Category	Amount
10/09/2021	Motor Expenses: travel to banbury	Category 2	19.35
10/09/2021	Motor Expenses: car park	Category 2	2.00
06/10/2021	Motor Expenses: travel to banbury	Category 2	37.80
11/10/2021	Motor Expenses: travel to lutterworth	Category 2	9.45
Total			68.60