

The Insolvency Act 1986

**Notice of move from  
administration to dissolution****2.35B**

Name of Company

Mattucci Limited

Company number

03196090

In the  
Leeds District Registry

(full name of court)

Court case number  
3242 of 2009(a) Insert full  
name(s) andaddress(es) of  
administrator(s)I/We (a) P R Boyle  
Harrisons Business Recovery and Insolvency  
Limited  
2nd Floor  
33 Blagrove Street  
Reading  
RG1 1PWDavid Clements  
Harrisons Business Recovery and Insolvency  
Limited  
2nd Floor  
33 Blagrove Street  
Reading  
RG1 1PW(b) Insert name and  
address of the  
registered office of  
companyhaving been appointed administrator(s) of (b) Mattucci Limited  
2nd Floor 33 Blagrove Street Reading(c) Insert date of  
appointmenton (c) 4 December, 2009  
by (d) Court(d) insert name of  
applicant/  
appointerhereby give notice that the provisions of paragraph 84(1) of Schedule B1 to the Insolvency Act 1986  
apply

I/We attach a copy of the final progress report

Signed

Dated

Joint / Administrator(s)

3 June 2014

**Contact Details**You do not have to give any contact  
information in the box opposite but if  
you do, it will help Companies House to  
contact you if there is a query on the  
formThe contact information that you give  
will be visible to searchers of the  
pD M Clements  
Harrisons Business Recovery and Insolvency Limited  
2nd Floor  
33 Blagrove Street  
Reading  
RG1 1PW

DX Number

0118 951 0798  
DX ExchangeWhen you have completed and signed this form, please send it to the  
Registrar of Companies at -  
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

THURSDAY



A10

\*A39FFZX4\*

05/06/2014

#156

COMPANIES HOUSE

**Joint Administrators' Final Progress Report**  
**For the Period 4 December 2009 to 3 June 2014**  
**Mattucci Limited - In Administration**

**3 June 2014**

## **CONTENTS**

- 1 Statutory Information
- 2 Joint Administrators' Proposals
- 3 Progress of the Administration
- 4 Joint Administrators' Remuneration
- 5 Joint Administrators' Expenses
- 6 Investigations
- 7 Unrealised Assets
- 8 Outcome for Creditors
- 9 Ending the Administration

## **APPENDICES**

- A Receipts and Payments Account from 4 December 2013 to 3 June 2014 and Cumulative Receipts and Payments Account for Period from 4 December 2009 to 3 June 2014
- B Time Analysis for the period from 4 December 2013 to 3 June 2014
- C Cumulative Time Analysis for the Period from 4 December 2009 to 3 June 2014
- D Additional Information in Relation to Joint Administrators' Fees Pursuant to Statement of Insolvency Practice 9
- E Statutory Forms

## **1 Statutory Information**

- 1.1 Paul Boyle and John Sallabank of Harrison's Business Recovery and Insolvency Limited ("Harrison's") were appointed as Joint Administrators of the Company on 4 December 2009 upon the making of an order by the High Court of Justice, Leeds District Registry following an application made by the director of the Company in accordance with Paragraph 12 of Schedule B1 of the Insolvency Act 1986. The Administration is registered in the Leeds District Registry, under reference number 3242 of 2009.
- 1.2 Following a Block Transfer Order dated 12 September 2013, John Sallabank was replaced as Joint Administrator of the Company by David Clements, an Insolvency Practitioner, based in our Reading office.
- 1.3 We can advise that pursuant to Paragraph 100(2) of Schedule B1 Insolvency Act 1986 the functions of the Joint Administrators are being exercised by either or both of the Administrators
- 1.4 The original end date of the Administration was 3 December 2010. This was extended by six months to 3 June 2011 with the consent of HSBC Bank plc, the secured creditor. After this time, we applied and were granted court orders to extend the Administration. The second and third extensions were for six months each, the latter ending on 3 June 2012. The fourth extension was granted by court to extend to 3 June 2013. The fifth extension was granted by court to extend to 3 June 2014.
- 1.5 This report is our final report in this matter and should be read in conjunction with our previous reports.
- 1.6 The former registered office and trading address of the Company was Eagle Way, 1 Stonebridge Road, Northfleet, Kent, DA11 9BJ. On our appointment, the Company's registered office was amended to Harrison's' address and is currently 2nd Floor, 33 Blagrove Street, Reading, RG1 1PW.
- 1.7 The Company's registered number is 03196090 and it was incorporated on 9 May 1996 to carry on business as a furniture retailer.

## **2 Joint Administrators' Proposals**

2.1 As previously advised, the Joint Administrators must perform their functions with the purpose of achieving one of the following objectives:

- rescuing the Company as a going concern;
- achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration); or
- realising property in order to make a distribution to one or more secured or preferential creditors.

2.2 The Company could not be saved as a going concern in accordance with Paragraph 3(1)(a), since there were insufficient funds available to finance the continued trading of the Company or to enable a contribution based voluntary arrangement. Therefore, the purpose of the Administration, in accordance with Paragraph 3(1)(b) is achieving a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration).

2.3 Whilst a sale of the Company's assets was achieved on the date of appointment, the consideration remained outstanding and it is not deemed commercially viable to pursue this matter further on the basis that the costs of extending the administration would outweigh any potential realisations. Therefore, since it was not deemed that further extensions would be in the creditors' interest, we are now concluding the Administration and we have filed the necessary forms to the Registrar of Companies to dissolve the Company. This has been detailed further in section 3.

## **3 Progress of the Administration**

3.1 Please find attached at Appendix A our Receipts and Payments Account for the period from 4 December 2013 to 3 June 2014 as well as our cumulative Receipts and Payments Account for the period from 4 December 2009 to 3 June 2014.

### **3.2 *Sale of Business***

3.2.1. As previously reported, the Company's assets were sold subject to the terms of a Sale and Purchase Agreement ("SPA") on 4 December 2009 to Sapphire Furnishing Corporation Limited ("Sapphire") for the total sum of £93,540, which was payable in monthly instalments

with full payment due by the 30 April 2010. We have received £26,128 in this regard and there were outstanding payments due of £67,412.

- 3.2.2. The SPA was secured by way of a debenture over the assets which were sold to Sapphire and a personal guarantee given by the Company's director, Baljinder Mattu ("BM"). As a result of non-payment of the sale consideration a Statutory Demand was issued against BM, who filed an application to set aside the Statutory Demand. This application was dismissed and we were granted leave to issue a bankruptcy petition. On 19 March 2012 BM was adjudged bankrupt. A Trustee in Bankruptcy was appointed to oversee the realisations of the assets in BM's bankruptcy estate.
- 3.2.3. We have received an update from the BM's Trustee who advised that the likelihood of a dividend is currently uncertain and the estimated dividend payable to the creditors in the bankruptcy is 4 pence in the £. Since the Company's claim stands at £67,412, this would result in an estimated £2,696.48 being paid into the Administration from the bankruptcy.
- 3.2.4. It is not certain whether these funds will be received. The level of the estimated distributions from BM's bankruptcy estate is lower than the expected costs that would be incurred in extending the Administration by another court order. Therefore, there was no expected benefit to creditor to keep the Administration open.
- 3.2.5. Given the outstanding costs in this matter, it is not believed that creditors would benefit from a further extension of the proceedings as any distributions received would be minimal and the cost incurred to date far outweigh the expected realisations. There are significant outstanding Joint Administrator's time costs and disbursements as outlined in section 4 and, therefore, the interest in future realisations under the SPA have been assigned to Harrisons in settlement of these costs. As stated, there is uncertainty as to whether any future realisations would even be made in this regard and the Trustee's estimate is £2,696.48. Therefore, it is highly likely that Harrisons will have to write of a significant portion of not all of these costs incurred.

#### **4 Joint Administrators' Remuneration**

- 4.1 In accordance with Rule 2.106(5A) our remuneration has been agreed with the fixed and floating chargeholder by reference to the time properly spent by the Joint Administrators and their staff in managing the Administration.

## MATTUCCI LIMITED - IN ADMINISTRATION

- 4.2 The Joint Administrators' time costs at 3 June 2014 are £113,648.33. This represents 646.72 hours at an average rate of £175.73 per hour. Attached as Appendix B is a Time Analysis which provides details of the activity costs incurred by staff grade during this final period in respect of the costs fixed by reference to time properly spent by us in managing the Administration.
- 4.3 Also attached as Appendix C is a cumulative Time Analysis for the period from 4 December 2009 to 3 June 2014, which provides details of my time costs since appointment.
- 4.4 The total fees drawn since my appointment are £10,685.74 plus disbursements of £8,463.39 and I can confirm no further amounts will be drawn. We will take steps to write off any outstanding Joint Administrators' fees incurred and that will remain unbilled if future realisations are made in respect of the assignment detailed in section 3.
- 4.5 A copy of 'A Creditors' Guide to Administrators' Fees' is available on request or can be downloaded from [www.harrisons.uk.com/creditors-guide-fees](http://www.harrisons.uk.com/creditors-guide-fees).

## 5 Joint Administrators' Expenses

- 5.1 Details of expenses incurred by the Joint Administrators during the period since the last progress report to creditors are outlined below together with an explanation, where applicable, as to why any of these expenses remain unpaid:

Supplier/ Service Provider	Nature of expense incurred	Amount incurred to date £	Paid to date £	Amount Outstanding £
Ashwells Nationwide Services Ltd	Valuation and sale of company's assets	7,000	7,000	Nil
AUA Insolvency Risk Services	Bond insurance premiums	252.00	252.00	Nil
Harrisons Business Recovery & Insolvency Limited	External copying charges settled by Harrisons	2,476.81	654.50	1,822.31
Companies House	Search costs	20.00	20.00	Nil
Harrisons Business Recovery & Insolvency Limited	Registered Office fee	60.00	60.00	Nil
Harrisons Business Recovery & Insolvency Limited	Travel expenses	483.80	483.80	Nil

London Gazette	Statutory Advertising	173 52	173 52	Nil
Harrisons Business Recovery & Insolvency Limited	Stationery & Printing	8,451 62	6,819 57	1,632 05

- 5.2 Since there have been insufficient realisations in this matter; we will now take steps to write off the disbursements outstanding in the table above.

## **6 Investigations**

- 6.1 In accordance with the Company Directors Disqualification Act 1986 I have submitted a report on the conduct of the Directors of the Company to the Department for Business Innovation & Skills (**BIS**). As this is a confidential report, I am not able to disclose the contents.
- 6.2 Shortly after appointment, I made an initial assessment of whether there could be any matters that might lead to recoveries for the estate and what further investigations may be appropriate. This assessment took into account information provided by creditors either at the initial meeting or as a response to my request to complete an investigation questionnaire. My investigations have not revealed any issues requiring further report.

## **7 Unrealised Assets**

- 7.1 I would confirm that all assets have now been dealt with and the cumulative Receipts and Payments Account at Appendix B reflects the final position on both realisations achieved and payments discharged during the course of the Administration. Appendix A reflects the receipts and payments made during the period since my last progress report dated 4 December 2013 to 3 June 2014.
- 7.2 As detailed in section 3 and 4, the remaining consideration from the SPA and the right to claim under the Director's personal guarantee in his bankruptcy estate has been assigned to Harrisons in respect of outstanding costs in this matter. As mentioned, the realisations from the bankruptcy estate are uncertain and it is not estimated that the full consideration will be received. Therefore, it is likely that significant costs will be written off by the Joint Administrators.

## **8 Outcome for Creditors**

### **8.1 Secured Creditor**

8.1.1 HSBC Bank plc ("the Bank") holds a fixed and floating charge over the Company's assets. At the date of the Administration the indebtedness to the secured creditor was estimated at £89,000.

8.1.2 No payments have been made to the Bank.

### **8.2 Preferential Creditors**

8.2.1. There are no preferential creditors in this matter.

### **8.3 Unsecured Creditors**

8.3.1. I have received claims totalling £697,343.84 from 18 creditors. I have yet to receive claims from 45 creditors whose debts total £2,018,146.59 as per the Company's statement of affairs.

8.3.2. The Company granted a floating charge to the Bank on 8 January 2009. The prescribed part did not apply in this matter since the net property was below £10,000 in accordance with Section 176A (3) of the Insolvency Act 1986.

## **9 Ending the Administration**

9.1 The administration of this matter is now complete and we intend to conclude the Administration proceedings pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986 by moving from Administration to Dissolution. Form 2.35B, Notice of Move from Administration to Dissolution, has been filed at Companies House.

9.2 The Joint Administrators will be discharged from liability under Paragraph 98(3) of Schedule B1 to the Insolvency Act 1986 immediately upon their appointment as Joint Administrators ceasing to have effect.

For and on behalf of

Mattucci Limited

  
**David Clements**

Joint Administrator

**Receipts and Payments Account from 4 December 2013 to 3 June  
2014 and Cumulative Receipts and Payments Account from 4  
December 2009 to 3 June 2014**

**Appendix A**

**Mattucci Limited**  
**(In Administration)**  
**Joint Administrators' Abstract of Receipts & Payments**

Statement of Affairs		From 04/12/2013 To 03/06/2014	From 04/12/2009 To 03/06/2014
5,000 00	SECURED ASSETS		
	Intellectual Property	NIL	5,000 00
		NIL	5,000 00
(89,000 00)	SECURED CREDITORS		
	HSBC Bank Plc	NIL	NIL
		NIL	NIL
26,500 00	HIRE PURCHASE		
(26,500 00)	Rent Deposit Deed	NIL	NIL
	Black and Decker International	NIL	NIL
		NIL	NIL
1 00	ASSET REALISATIONS		
1 00	Contracts	NIL	1 00
538 00	Leases	NIL	1 00
88,000 00	Chattel Assets	NIL	538 00
	Stock	NIL	20,588 00
	Bank Interest Gross	0 05	21 13
		0 05	21,149 13
	COST OF REALISATIONS		
	Bordereaux	72 00	252 00
	Administrators Fees	NIL	10,685 74
	Copying costs	NIL	654 50
	Search costs	12 00	20 00
	Agents Fees	NIL	7,000 00
	Registered Office fee	NIL	60 00
	Stationery & Postage	16 07	6,819 57
	Travel Expenses	NIL	483 80
	Statutory Advertising	NIL	173 52
		(100 07)	(26,149 13)
(850,000 00)	UNSECURED CREDITORS		
(1,200,000 00)	Deposit Creditors	NIL	NIL
(1,109,000 00)	JP (chinese Supplier)	NIL	NIL
(957,000 00)	Trade & Expense creditors	NIL	NIL
(434,000 00)	Directors	NIL	NIL
	HM Revenue & Customs	NIL	NIL
		NIL	NIL
(2 00)	DISTRIBUTIONS		
	Ordinary Shareholders	NIL	NIL
		NIL	NIL
(4,545,462 00)		(100 02)	NIL
	REPRESENTED BY		
	Bank 2 - Current		NIL

**Time Analysis for the period from 4 December 2013 to 3 June  
2014**

**Appendix B**

# Time Entry - Detailed SIP9 Time & Cost Summary

MATTU001 - Mattucci Limited  
From 04/12/2013 To 03/06/2014  
Project Code POST

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
100 Administration & Planning	0.00	0.00	2.00	0.30	2.30	430.00	186.96
101 Case planning	0.00	0.20	0.60	0.00	0.80	175.00	218.75
104 Maintenance of records	0.00	0.00	0.00	0.10	0.10	14.00	140.00
105 Statutory reporting	0.00	0.00	13.50	0.00	13.50	2,150.00	159.26
106 Cashiering	0.00	0.00	0.50	2.10	2.60	394.00	151.54
107 Bordereau	0.00	0.00	0.00	0.20	0.20	100.00	100.00
108 Case Review / Diary	0.30	0.00	1.70	0.00	2.00	452.50	226.25
119 Final Meeting	0.00	0.00	3.90	0.00	3.90	780.00	200.00
120 General Correspondence	0.00	0.00	2.70	0.00	2.70	540.00	200.00
122 Ptnr Review and Signing	0.60	0.00	0.00	0.00	0.60	225.00	375.00
123 Appt Holder VAT and Tax Returns	0.00	0.00	0.00	1.00	1.00	140.00	140.00
<b>Administration &amp; Planning</b>	<b>0.90</b>	<b>0.20</b>	<b>24.90</b>	<b>3.70</b>	<b>29.70</b>	<b>5,320.50</b>	<b>179.14</b>
500 Creditors	0.00	0.70	0.10	0.00	0.80	212.50	265.63
501 Communication with creditors	0.00	0.00	8.10	0.00	8.10	1,585.00	195.68
513 Client Communications	0.00	0.00	0.00	12.00	12.00	1,200.00	100.00
<b>Creditors</b>	<b>0.00</b>	<b>0.70</b>	<b>8.20</b>	<b>12.00</b>	<b>20.90</b>	<b>2,997.50</b>	<b>143.42</b>
300 Realisation of assets	0.00	0.00	0.40	0.00	0.40	80.00	200.00
<b>Realisations of Assets</b>	<b>0.00</b>	<b>0.00</b>	<b>0.40</b>	<b>0.00</b>	<b>0.40</b>	<b>80.00</b>	<b>200.00</b>
<b>Total Hours</b>	<b>0.90</b>	<b>0.90</b>	<b>33.50</b>	<b>15.70</b>	<b>51.00</b>	<b>8,398.00</b>	<b>164.67</b>
<b>Total Fees Claimed</b>						<b>10,685.74</b>	

**Cumulative Time Analysis for the Period from 4 December 2009  
to 3 June 2014**

**Appendix C**

# Time Entry - Detailed SIP9 Time & Cost Summary

MATTU001 - Mattucci Limited  
From 04/12/2009 To 03/06/2014  
Project Code POST

Classification of Work Function	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost (£)	Average Hourly Rate (£)
100 Administration & Planning	4 70	0 40	36 40	85 65	127 15	17,845 00	140 35
101 Case planning	22 50	0 80	0 70	0 00	24 00	7 097 50	295 73
103 Appointment notification	0 00	0 80	0 00	0 00	0 80	202 50	253 13
104 Maintenance of records	0 00	0 00	0 00	5 90	5 90	659 75	111 82
105 Statutory reporting	6 00	6 90	94 10	28 10	135 10	23 920 00	177 05
106 Cashiering	0 00	0 00	0 50	3 70	4 20	618 00	147 14
107 Bordereau	0 00	0 00	0 00	1 70	1 70	132 50	77 94
108 Case Review / Diary	0 40	18 90	5 17	0 00	24 47	6 280 83	256 71
109 Dealing with Debtor / Directors	0 40	0 00	2 90	0 00	3 30	700 00	212 12
119 Final Meeting	0 00	0 00	3 90	0 00	3 90	700 00	200 00
120 General Correspondence	0 10	1 20	2 90	4 35	8 55	1 387 25	162 25
122 Print Review and Signing	11 65	0 00	0 00	0 00	11 65	4,575 00	392 70
123 Appt Holder VAT and Tax Returns	0 00	0 00	0 00	3 00	3 00	394 00	131 33
Administration & Planning	45 75	29 00	145 57	132 40	353 72	64,592 33	182 61
600 Case Specific	0 00	0 00	2 50	0 00	2 50	400 00	160 00
Case specific matters	0 00	0 00	2 50	0 00	2 50	400 00	160 00
500 Creditors	0 20	1 50	0 10	0 90	2 70	572 50	212 04
501 Communication with creditors	0 60	2 10	160 80	86 50	250 00	41 658 00	166 63
502 Employee Claims	0 00	0 00	1 50	0 00	1 50	300 00	200 00
504 Claims Trade and Expense	0 00	0 00	3 40	1 70	5 10	852 50	167 16
505 Claims HP and Leasing	0 00	0 50	0 00	0 00	0 50	125 00	250 00
508 Secured Creditors	0 00	1 70	2 80	0 00	4 50	985 00	218 89
509 Preferential Creditors	0 30	0 00	0 00	0 00	0 30	90 00	300 00
513 Client Communications	0 00	0 00	0 00	12 00	12 00	1 200 00	100 00
Creditors	1 10	5 80	168 60	101 10	276 60	45,783 00	165 52
200 Investigations	0 00	0 00	7 00	0 00	7 00	1,400 00	200 00
202 CDDA reports	0 00	0 60	0 00	0 00	0 60	150 00	250 00
Investigations	0 00	0 60	7 00	0 00	7 60	1,550 00	203 95
300 Realisation of assets	0 00	1 10	4 90	0 00	6 00	1,248 00	208 00
304 Sale of business and assets	0 00	0 30	0 00	0 00	0 30	75 00	250 00
Realisations of Assets	0 00	1 40	4 90	0 00	6 30	1,323 00	210 00
Total Hours	46 85	36 80	329 57	233 50	646 72	113,648 33	175 73
Total Fees Claimed						10,655 74	

# A CREDITORS' GUIDE TO ADMINISTRATORS' FEES ENGLAND AND WALES

## 1 Introduction

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

## 2 The nature of administration

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

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration, or
- if the administrator thinks neither of these objectives is reasonably practicable, realising property in order to make a distribution to secured or preferential creditors.

## 3 The creditors' committee

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

## 4 Fixing the administrator's remuneration

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

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

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

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

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment.

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

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

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

4.4 A resolution of creditors may be obtained by correspondence.

## 5 Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator may request

that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

## 6 Approval of pre-administration costs

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

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

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

## 7 What information should be provided by the administrator?

### 7.1 When fixing bases of remuneration

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

7.1.2 If any part of the remuneration is sought on a time costs basis, the administrator should provide details of the minimum time units used and current charge-out rates,

split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.

7.1.3 The administrator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the administrator or his or her staff.

7 1 4 If work has already been carried out, the administrator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the administrator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The administrator should also provide details and the cost of any work that has been subcontracted out that could otherwise be carried out by the administrator or his or her staff.

## **7 2 After the bases of remuneration have been fixed**

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

## **7 3 Disbursements and other expenses**

7 3 1 Costs met by and reimbursed to the administrator in connection with the administration should be appropriate and reasonable. Such costs will fall into two categories:

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

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

7 3 2 The following are not permissible:

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

## **8 Progress reports and requests for further information**

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

- details of the basis fixed for the remuneration of the administrator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during those periods, irrespective of whether payment was actually made during the period of the report,
- a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8 2, and their right to challenge the administrator's remuneration and expenses.

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

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

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the administration or might be expected to lead to violence against any person, or
- the administrator is subject to an obligation of confidentiality in relation to the information requested, in which case he must give the reasons for not providing the information.

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

## **9 Provision of information – additional requirements**

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

The information which must be provided is –

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

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

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

## **10 What if a creditor is dissatisfied?**

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

10 2 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8 1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing.

10 3 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not as an expense of the administration.

### 11 What if the administrator is dissatisfied?

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

### 12 Other matters relating to remuneration

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

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

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

12.4 Where the basis of the remuneration is a set amount, and the administrator ceases to act before the time has elapsed or the work has been completed for which the

amount was set, application may be made for a determination of the amount that should be paid to the outgoing administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

### 13 Effective date

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

## Appendix

### Suggested format for the provision of information

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

#### Narrative overview of the case

- In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:
  - the complexity of the case,
  - any exceptional responsibility falling on the administrator,
  - the administrator's effectiveness,
  - the value and nature of the property in question.

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

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

#### Time cost basis

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

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

any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make.

- Time spent and charge-out summaries, in an appropriate format.

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

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

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

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

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

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

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

## **Harrisons Business Recovery and Insolvency Limited Fee Policy**

- 1.** Charge out rates and policy regarding staff allocation, support staff, the use of subcontractors and the recharge of disbursements

The following information relating to the policy of Harrisons Business Recovery and Insolvency Limited is considered to be relevant -

- 2. Charge out rates**

The following hourly charge out rates apply to all assignments undertaken by Harrisons Business Recovery and Insolvency Limited -

	<b>2012/2013</b>	<b>2013/2014</b>
	<b>£</b>	<b>£</b>
Directors	300 – 500	305 – 550
Managers	250 – 350	250 – 350
Senior Case Supervisors	175 – 250	175 – 250
Case Supervisors	100 – 200	125 – 205
Assistants/Trainee Case Supervisors	75 – 150	100 – 150

- 3. Staff allocation, support staff & the use of subcontractors**

We take an objective and practical approach to each assignment which includes active director involvement from the outset. Other members of staff will be assigned on the basis of experience and specific skills to match the needs of the case. Time spent by secretarial and other support staff on specific case related matters, e.g. report despatching, is charged. Details of any subcontractor(s) used are given in the attached report.

- 4. Professional advisors**

Details of any professional advisor(s) used are given in the attached report. Unless otherwise indicated the fee arrangement for each will be based on hourly charge out rates, which are reviewed on a regular basis, together with the recovery of relevant disbursements.

The choice of professional advisors will be based around a number of factors including, but not restricted to, their expertise in a particular field, the complexity or otherwise of the assignment and their geographical location.

- 5. Disbursements**

Specific expenditure relating to the administration of a particular case is recoverable without approval and is referred to as "category 1 disbursements". Category 1 disbursements will generally comprise supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses. Included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

Where we propose 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 us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision. -

Photocopying	15p a sheet
Letterhead	12p a sheet
Fax	40p a sheet
Mileage	65p per mile
Meeting Room	£50
Registered Office Fee	£60 per annum
Document Storage	Storage charge of £3 per box per quarter

**Additional Information in Relation to Joint Administrator's Fees  
Pursuant to Statement of Insolvency Practice 9**

**Appendix D**

**1 Policy**

Detailed below is Harrison's Business Recovery and Insolvency Limited's policy in relation to:

- staff allocation and the use of sub-contractors;
- professional advisors, and
- disbursements.

**1.1 Staff Allocation and the use of Sub-contractors**

The general approach to resourcing our assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The constitution of the case team will usually consist of a Director, a Manager, and an Administrator or Assistant. The exact constitution of the case team will depend on the anticipated size and complexity of the assignment and the experience requirements of the assignment. The charge out rate schedule below provides details of all grades of staff and their experience level.

We have not utilised the services of any sub-contractors in this case.

**1.2 Professional Advisors**

On this assignment we have used the professional advisors listed below. We have also indicated alongside, the basis of our fee arrangement with them, which is subject to review on a regular basis

<b>Name of Professional Advisor</b>	<b>Basis of Fee Arrangement</b>
Walker Morris LLP (legal advice)	Hourly rate and disbursements
Ashwells Nationwide Services Ltd	Fixed fee basis

Our choice was based on our perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of our fee arrangement with them.

**1.3 Disbursements**

Category 1 disbursements do not require approval by creditors. The type of disbursements that may be charged as a Category 1 disbursement to a case generally comprise of external supplies of incidental services specifically identifiable to the case, such as postage, case advertising, invoiced travel and external printing, room hire and document storage. Also chargeable will be any properly reimbursed expenses incurred by personnel in connection with the case.

Category 2 disbursements do require approval from creditors. These are costs which are directly referable to the appointment in question but are not payments which are made to an independent third party and may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis such as internal room hire, document storage or business mileage.

We have not sought approval for Category 2 disbursements in this matter. Accordingly, no payments have been made in this regard

**2 Charge-out Rates**

A schedule of Harrison's Business Recovery and Insolvency Limited charge-out rates for this assignment effective from 1 July 2013 is detailed below.

	(Per hour) £
Directors	305 – 550
Managers	250 – 350
Senior Case Supervisors	175 – 250
Case Supervisors	125 – 205
Assistants/Trainee Case Supervisors	100 – 150

Please note that this firm records its time in minimum units of 6 minutes.

**Statutory Forms**

**Appendix E**