

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

To the Registrar of Companies

For Official Use

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Company Number

03378391

Name of Company

Mechanical &amp; Electrical Supplies Limited

~~17~~ We  
Paul Bates  
1 Bridgewater Place  
Water Lane  
Leeds  
LS11 5RU

Francis Graham Newton  
1 Bridgewater Place  
Water Lane  
Leeds  
LS11 5RU

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

Signed



Date

23.10.2012

BDO LLP  
1 Bridgewater Place  
Water Lane  
Leeds  
LS11 5RU

Ref 00174608/PJB/FGN/KNB/DAB/DEW

For Official Use

Insolvency Sect

Post Room

THURSDAY



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A31

25/10/2012

#11

COMPANIES HOUSE

**Mechanical & Electrical Supplies Limited**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 19/10/2011 To 18/10/2012
FIXED CHARGE ASSETS	
Fixed Charge Cash at Bank	54,137 00
	<u>54,137 00</u>
FIXED CHARGE CREDITORS	
Royal Bank of Scotland	54,137 00
	<u>(54,137 00)</u>
ASSET REALISATIONS	
Motor Vehicles	2,500 00
60,831 00 Book Debts	56,961 98
Cash at Bank	11,988 00
Bank Interest Gross	80 07
Sundry Refunds	<u>1,708 78</u>
	<u>73,238 83</u>
COST OF REALISATIONS	
Preparation of S of A	7,000 00
Liquidator's Fees	11,500 00
Liquidators Disbursements	658 89
Agents Fees	2,950 00
Agents Disbursements	160 00
Stationery & Postage	73 79
Bank Charges	<u>326 98</u>
	<u>(22,669 66)</u>
PREFERENTIAL CREDITORS	
(2,500 00) Preferential Hol Pay	<u>NIL</u>
	<u>NIL</u>
FLOATING CHARGE CREDTS	
(877,554 00) The Royal Bank of Scotland Plc	35,027 37
	<u>(35,027 37)</u>
UNSECURED CREDITORS	
(176,766 00) Trade & Expense Creditors	NIL
(500 00) Unsecured Employees	NIL
(43,959 00) HM Revenue & Customs	<u>NIL</u>
	<u>NIL</u>
<u>(1,040,448.00)</u>	<u><u>15,541.80</u></u>
REPRESENTED BY	
VAT Receivable	622 00
Current Account	<u>14,919 80</u>
	<u><u>15,541 80</u></u>

**Mechanical & Electrical Supplies Limited**  
(In Liquidation)

**JOINT LIQUIDATORS' RECEIPTS AND PAYMENTS ACCOUNT**

	Statement of affairs £	From 19/10/2011 To 18/10/2012 £	From 19/10/2011 To 18/10/2012 £
<b>RECEIPTS</b>			
Fixed Charge Cash at Bank		54,137 00	54,137 00
Motor Vehicles		2,500 00	2,500 00
Book Debts	60,831 00	56,961 98	56,961 98
Cash at Bank		11,988 00	11,988 00
Bank Interest Gross		80 07	80.07
Sundry Refunds		1,708 78	1,708 78
Bank Charges		20.00	20 00
		<u>127,395 83</u>	<u>127,395 83</u>
<b>PAYMENTS</b>			
Royal Bank of Scotland		54,137 00	54,137.00
Preparation of S.of A.		7,000 00	7,000 00
Liquidator's Fees		11,500 00	11,500.00
Liquidators Disbursements		658 89	658.89
Agents Fees		2,950 00	2,950 00
Agents Disbursements		160 00	160.00
Stationery & Postage		73 79	73.79
Bank Charges		346.98	346.98
The Royal Bank of Scotland Plc		35,027.37	35,027 37
		<u>111,854.03</u>	<u>111,854 03</u>
Net Receipts/(Payments)		<u>15,541.80</u>	<u>15,541 80</u>
<b>MADE UP AS FOLLOWS</b>			
VAT Receivable		4,468 54	4,468 54
Current Account		14,919 80	14,919 80
Vat Control Account		(3,846 54)	(3,846.54)
		<u>15,541 80</u>	<u>15,541 80</u>

To All Known Creditors and Shareholders

22 October 2012

Our Ref 014829/DB/00174608/A6

Please ask for Donna Berriman  
Direct Line 0113 204 1295  
Email donna.berriman@bdo.co.uk

Dear Sirs

**Mechanical & Electrical Supplies Limited - Creditors' Voluntary Liquidation  
("the Company")****Registered number: 03378391****Joint Liquidators: Paul James Bates and Francis Graham Newton****Joint Liquidators' Address: BDO LLP, 1 Bridgewater Place, Water Lane, Leeds, LS11 5RU****Date of Appointment: 19 October 2011**

We enclose for your information our annual progress report in accordance with Section 104A of the Insolvency Act 1986 and Rule 4.49C of the Insolvency Rules 1986

We also enclose a receipts and payments account showing a balance in hand of £14,920 for your information

**1 Receipts****1.1 Book debts**

The Directors sworn statement of affairs showed that book debt collections were expected to realise £51,197. To date £56,962 has been collected. No further realisations will be made

**1.2 Cash at Bank**

On our appointment as Joint Liquidators, The Royal Bank of Scotland Plc ("the Bank") held £54,137 in the Company bank account. This was distributed to the Bank following our appointment under its fixed charge security.

The Company sold some of its equipment and stock prior to our appointment which was independently valued. The proceeds of this sale were held by the Company's solicitors and totalled £11,988. These funds were remitted to us following our appointment as Liquidators

**1.3 Motor Vehicles**

The Company owned two motor vehicles which were independently valued by Fox Lloyd Jones and auctioned, realising £2,500 collectively



## **2. Prescribed Part**

Under the provisions of section 176A of the Insolvency Act 1986 the Liquidator must estimate the amount of funds available to unsecured creditors in respect of the prescribed part. This provision only applies where a company has granted a floating charge to a creditor after 15 September 2003.

We estimate that after allowing for costs the value of the Company's net property will be £49,911 and this means the prescribed part should be £12,982.

In our letter dated 19 October 2011 we stated that we would propose to apply to the court under Section 176A of the Insolvency Act 1986 for an order to dispense with the provision of the prescribed part in respect of the Company. However, due to the higher level of realisations, this is not appropriate and we will distribute the prescribed part funds as mentioned above.

## **3. Creditor Claims**

### **3.1 Secured Creditor Claims**

The Company granted a debenture in favour of the Bank on 28 May 2004 affording a fixed and floating charge over the assets of the Company.

To date, the Bank has received £54,137 and £30,000 in respect of its fixed and floating charges respectively. Further distributions to the Bank will be dependent on future realisations.

There are global cross guarantees across the JPB Group ("the Group") in favour of the Bank. At the date of our appointment Bank lending totalled approximately £2m. At this stage it is uncertain whether the Bank will suffer a shortfall in respect of its lending to the Group.

### **3.2 Preferential Creditor Claims**

No preferential claims are expected as it is understood the Company did not employ any staff.

### **3.3 Non-Preferential Creditor Claims**

The Statement of Affairs showed that the amount due to non-preferential creditors was £220,350. Non-preferential creditor claims received to date total £169,954.

The only funds available to non-preferential creditors are those mentioned above from the prescribed part. We are now in a position to distribute these funds.

A notice of intended dividend is enclosed for your information together with a proof of debt form which should be completed and returned, with supporting documentation, to this office if you have not already done so.

## **4. Liquidators' Remuneration**

The Joint Liquidators are obliged to fix their remuneration in accordance with Rule 4.127(2) of the Insolvency Rules 1986. Creditors have already approved the Joint Liquidators' remuneration on a time costs basis at the meeting of creditors held on 19 October 2011.

A schedule analysing the time costs which records the work undertaken is attached. Time costs of £14,679 have been incurred which relates to 71.20 hours at an average of £206.16 per hour.

For guidance, we enclose "A creditors' guide to liquidators' fees", together with a document which outlines the policy of BDO LLP in respect of fees and disbursements.

## 5. Disbursements

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. We therefore report that the sum of £659 has been drawn in respect of category 1 disbursements as follows

	£
Statutory Bonding	120
Statutory Advertising	539

Liquidators often charge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of a specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn and these are known as category 2 disbursements. The policy of BDO LLP is not to charge any category 2 disbursements.

## Creditors' rights

We provide at the end of this report an extract from the Insolvency Rules 1986 setting out the rights of creditors to request further information and/or challenge the remuneration or expenses within the Liquidation.

If you require any further information please do not hesitate to contact Donna Berriman on 0113 204 1295.

Yours faithfully  
For and on behalf of  
Mechanical & Electrical Supplies Limited



Paul Bates  
Joint Liquidator

PJ Bates and FG Newton are authorised by the Insolvency Practitioners Association  
The Joint Liquidators act as agents of the Company and without personal liability

**Statement from the Insolvency Rules 1986 (as amended) regarding the rights of creditors in respect of the Joint Liquidators' fees and expenses:**

**Rule 4.49E Creditors' and members' request for further information**

**(1) If-**

- (a) within the period mentioned in paragraph (2)—
    - (i) a secured creditor, or
    - (ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or
    - (iii) 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, or
  - (b) with the permission of the court upon an application made within the period mentioned in paragraph (2)-
    - (i) any unsecured creditor, or
    - (ii) any member of the company in a members voluntary winding up,
- makes a request in writing to the liquidator for further information about remuneration or expenses set out in a progress report in accordance with Rule 4.49B(1)(e) or (f) (including by virtue of Rule 4.49C(5)) or in a draft report under Rule 4.49D, the liquidator must, within 14 days of receipt of the request, comply with paragraph (3) except to the extent that the request is in respect of matter[s] in a draft report under Rule 4.49D or a progress report required by Rule 4.108 which (in either case) was previously included in a progress report not required by Rule 4.108

**(2) The period referred to in paragraph (1)(a) and (b) is-**

- (a) 7 business days of receipt (by the last of them in the case of an application by more than one member) of the progress report where it is required by Rule 4.108, and
- (b) 21 days of receipt (by the last of them in the case of an application by more than one member) of the report or draft report in any other case

**(3) The liquidator complies with this paragraph by either-**

- (a) providing all of the information asked for, or
- (b) so far as the liquidator considers that-
  - (i) the time or cost of preparation of the information would be excessive, or
  - (ii) disclosure of the information would be prejudicial to the conduct of the liquidation or might reasonably be expected to lead to violence against any person, or
  - (iii) the liquidator is subject to an obligation of confidentiality in respect of the information, giving reasons for not providing all of the information

**Rule 4.131 Creditors' claim that remuneration is or other expenses are excessive**

- (1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4)

**(1A) Application may be made on the grounds that-**

- (a) the remuneration charged by the liquidator,

- (b) the basis fixed for the liquidator's remuneration under Rule 4 127, or
- (c) expenses incurred by the liquidator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate

- (1B) The application must, subject to any order of the court under Rule 4 49E(5), be made no later than 8 weeks (or, in a case falling within Rule 4 108, 4 weeks) after receipt by the applicant of the progress report, or the draft report under Rule 4 49D, which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")
- (2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss the application, but it shall not do so unless the applicant has had an opportunity to attend the court for a hearing, of which he has been given at least 5 business days notice but which is without notice to any other party  
  
If the application is not dismissed under this paragraph, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly
- (3) The applicant shall, at least 14 days before the hearing, send to the liquidator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders-
  - (a) an order reducing the amount of remuneration which the liquidator was entitled to charge,
  - (b) an order fixing the basis of remuneration at a reduced rate or amount,
  - (c) an order changing the basis of remuneration,
  - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the liquidation,
  - (e) an order that the liquidator or the liquidator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

- (5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the liquidation



**Mechanical & Electrical Supplies Limited**  
(In Liquidation)

**JOINT LIQUIDATORS' RECEIPTS AND PAYMENTS ACCOUNT**

	Statement of affairs £	From 19/10/2011 To 22/10/2012 £	From 19/10/2011 To 22/10/2012 £
<b>RECEIPTS</b>			
Fixed Charge Cash at Bank		54,137 00	54,137.00
Motor Vehicles		2,500 00	2,500 00
Book Debts	60,831 00	56,961 98	56,961 98
Cash at Bank		11,988 00	11,988 00
Bank Interest Gross		80 07	80 07
Sundry Refunds		1,708.78	1,708 78
Bank Charges		20.00	20 00
Vat Control Account		3,846 54	3,846 54
		<u>131,242.37</u>	<u>131,242 37</u>
<b>PAYMENTS</b>			
Royal Bank of Scotland		54,137.00	54,137 00
Preparation of S of A		7,000 00	7,000 00
Liquidator's Fees		11,500 00	11,500 00
Liquidators Disbursements		658 89	658 89
Agents Fees		2,950 00	2,950.00
Agents Disbursements		160.00	160 00
Stationery & Postage		73.79	73.79
Bank Charges		346.98	346 98
The Royal Bank of Scotland Plc		35,027.37	35,027 37
VAT Receivable		4,468 54	4,468 54
		<u>116,322 57</u>	<u>116,322 57</u>
<b>BALANCE - 22 October 2012</b>			<u><u>14,919.80</u></u>

Paul Bates  
Joint Liquidator



Tel +44 (0)113 244 3839  
Fax +44 (0)113 204 1200  
www.bdo.co.uk

1 Bridgewater Place  
Water Lane  
Leeds LS11 5RU

To All Known Creditors

22 October 2012

Our Ref 014829/DB/00174608/J6

Please ask for Donna Berriman  
Direct Line 0113 204 1295  
Email donna.berriman@bdo.co.uk

**Notice to Creditors of Intention to Declare Dividend (Rule 11.2)**

**In the Matter of  
Mechanical & Electrical Supplies Limited  
In Creditors' Voluntary Liquidation**

**and**

**In the Matter of The Insolvency Act, 1986**

A first and final dividend is intended to be declared in the above matter.

If you do not prove your debt and submit your claim by 28 November 2012 to BDO LLP, 1 Bridgewater Place, Water Lane, Leeds, LS11 5RU you will be excluded from this dividend which is to be declared within two months from the last date for proving

Dated: 22 October 2012

.....  
Paul Bates  
Joint Liquidator

Authorised by the Insolvency Practitioners Association

014829/DB/00174608  
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**Proof of Debt - General Form**

**Mechanical & Electrical Supplies Limited  
- In Creditors' Voluntary Liquidation**

**Date of Resolution for voluntary winding-up: 19 October 2011**

1	Name of creditor (If a company please also give company registration number)	
2	Address of creditor for correspondence.	
3	Total amount of claim, including any Value Added Tax and outstanding uncapitalised interest as at the date the company went into liquidation	
4	Details of any documents by reference to which the debt can be substantiated (Note There is no need to attach them now but the liquidator may call for any document or evidence to substantiate the claim at his discretion as may the chairman or convener of any meeting)	
5	If amount in 3 above includes outstanding uncapitalised interest please state amount	£
6	Particulars of how and when debt incurred (If you need more space append a continuation sheet to this form)	
7	Particulars of any security held, the value of the security, and the date it was given.	
8	Particulars of any reservation of title claimed in respect of goods supplied to which the claim relates	
9	Signature of creditor or person authorised to act on his behalf  _____	
	Name in BLOCK LETTERS  _____	
	Position with or in relation to creditor  _____	
	Address of person signing (if different from 2 above)  _____	
Admitted to vote for		Admitted for dividend for
£		£
Date		Date
Liquidator		Liquidator

Mechanical & Electrical Suppliers Limited

Summary of Time Charged and Rates Applicable for the Period From 19 October 2011 to 19 October 2012

Description	Partner		Manager		Assistant Manager		Senior Administrator		Administrator		Grand total		Avg rate	
	Hours	Total (£)	Hours	Total (£)	Hours	Total (£)	Hours	Total (£)	Hours	Total (£)	Hours	Total (£)	Total (£)	Total (£)
B Steps on Appointment	3 00	1,113 00	1 25	368 75	6 00	1,110 00					10 25	2,591 75	252 85	
C Planning at Strategy	10 75	3,988 25									10 75	3,988 25	371 00	
D General Administration			0 15	34 80	14 80	2,738 00	0 25	34 75	17 50	1,444 20	32 70	4,251 75	130 02	
E Asset Realisation/Dealing	2 75	1,020 25	1 25	290 00	4 10	758 50					8 10	2,068 75	255 40	
G Employee Matters					2 30	425 50					2 30	425 50	185 00	
H Creditor Claims					2 60	481 00					2 60	481 00	185 00	
I Reporting			0 25	73 75	2 30	425 50					2 55	499 25	195 78	
J Distributions			0 25	58 00	1 70	314 50					1 95	372 50	191 03	
	16 50	6,121 50	3 15	825 30	33 80	6,253 00	0 25	34 75	17 50	1,444 20	71 20	14,678 75	206 16	
											Other Disbursements		748 89	
											Grand Total		15,427 64	

## **1 Introduction**

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees and explains the basis on which fees are fixed.

## **2 Liquidation Procedure**

- 2.1 Liquidation (or 'winding up') is the most common type of corporate insolvency procedure. Liquidation is the formal winding up of a company's affairs entailing the realisation of its assets and the distribution of the proceeds in a prescribed order of priority. Liquidation may be either voluntary, when it is instituted by resolution of the shareholders, or compulsory, when it is instituted by order of the court.
- 2.2 Voluntary liquidation is the more common of the two. An insolvent voluntary liquidation is called a creditors' voluntary liquidation (often abbreviated to 'CVL'). In this type of liquidation an insolvency practitioner acts as liquidator throughout and the creditors can vote on the appointment of the liquidator at the first meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and a member of The Insolvency Service, an executive agency within the Department of Business Innovation & Skills. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by the Secretary of State for Business Innovation & Skills. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator.

## **3 The Liquidation Committee**

- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 3 months of its establishment (or his appointment if that is later), and subsequent meetings must be held either at specified dates agreed by the committee, or when requested by a member of the committee, or when the liquidator decides he needs to hold one. The liquidator is required to report to the committee at least every 6 months on the progress of the liquidation, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the liquidator's fees.

## **4 Fixing the Liquidator's Fees**

- 4.1 The basis for fixing the liquidator's remuneration is set out in Rule 4.127 - 4.127B of the Insolvency Rules 1986. The Rule states that the remuneration shall be fixed either
- as a percentage of the value of the assets which are realised or distributed or both, or
  - by reference to the time properly given by the liquidator and his staff in attending to matters arising in the insolvency.

It is for the liquidation committee (if there is one) to determine on which of these bases the remuneration is to be fixed, and if it is to be fixed as a percentage, to fix the percentage to

be applied. Rule 4.127 says that in arriving at its decision the committee shall have regard to the following matters

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

4 2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as the committee would. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator. If the remuneration is not fixed in any of these ways, it will be in accordance with the scale laid down for official receivers

## **5 What Information should be Provided by the Liquidator?**

### **5 1 When seeking fee approval**

5 1 1 When seeking agreement to his fees the liquidator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and
- the size and complexity of the case

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

5 1 2 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4 1 above. To enable this assessment to be carried out it may be necessary for the liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, and professional guidance has been provided setting out a minimum of 6 category headings under which the work done by the officeholder and his staff should be analysed. As a firm BDO LLP operates a computerised time recording system which analyses work done under the following categories.-

- Pre Appointment Matters
- Steps upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Management
- Trading Related Matters
- Employee Matters
- Creditor Claims
- Reporting
- Distribution and Closure
- Other Issues

Professional guidance suggests the following categories as a basis for analysis by grade of staff, but this will be subject to whether each grade is engaged in working on the liquidation:

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

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the liquidator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases

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

## **5.2 After fee approval**

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 5.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 5.1.4 above regarding work which has been sub-contracted out.

## **5.3 Expenses and disbursements**

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, professional guidance issued to insolvency practitioners requires that, where the liquidator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the liquidator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

## **5.4 Realisations for secured creditors**

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 8.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees, and in any reports he sends to creditors.

**5.5 Reporting in compulsory liquidations**

It should be borne in mind that in compulsory liquidations there is no statutory requirement for the liquidator to report to creditors until the conclusion of the assignment. In most such cases, therefore, creditors will receive no information during the course of the liquidation unless they specifically request it.

**6 What if a creditor is dissatisfied?**

6.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees. To enable them to carry out this function they may require the liquidator to call a creditors' meeting. In order to do this at least ten per cent in value of the creditors must concur with the request, which must be made to the liquidator in writing.

6.2 If a creditor believes that the liquidator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing. Unless the court orders otherwise, the costs must be paid by the applicant and not out of the assets of the insolvent company.

**7 What if the Liquidator is dissatisfied?**

If the liquidator considers that the remuneration fixed by the committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors or in accordance with the official receiver's scale is insufficient, he may apply to the court for it to be increased. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

**8 Other matters relating to fees**

8.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with the scale laid down for the official receivers. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.

8.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.

8.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.

8.4 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

**9 Provision of information - additional requirements**

In any case where the liquidator is appointed on or after 1 April 2005 he 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 liquidator or staff assigned to the case;
- for each grade of staff, the average hourly rate at which they are charged out,



- the number of hours spent by each grade of staff in the relevant period.

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

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

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## Mechanical & Electrical Supplies Limited - In Liquidation

In accordance with best practice I provide below details of policies of BDO LLP in respect of fees and expenses for work in relation to the above insolvency

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency, follows: This in no way implies that staff at all such grades will work on the case.

### GRADE £

Partner1	451
Partner2	364
Director	313
Senior Manager	266
Manager	227
Assistant Manager	181
Senior Executive	167
Executive	136-153
Cashier	153
Trainee	61
Support staff/Secretary	61

The rates charged by BDO LLP, 1 Bridgewater Place, Water Lane, Leeds, LS11 5RU are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes BDO LLP records work in respect of insolvency work under the following categories:-

Pre Appointment  
Steps upon Appointment  
Planning and Strategy  
General Administration  
Asset Realisation/Management  
Trading Related Matters  
Employee Matters  
Creditor Claims  
Reporting  
Distribution and Closure  
Other Issues.

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 11 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring insolvency practitioners.

Where an officeholder's remuneration is approved on a time cost basis the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time costs basis a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs



### 1) Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharged. Such expenses can be divided into two categories.

### 2) Category 1

This heading covers expenses where BDO LLP has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), searches at Companies House, land registry searches, fees in respect of swearing legal documents, external printing costs etc. In each case the recharge will be a reimbursement of a specific expense incurred.

Where applicable, disbursements will be subject to VAT at the prevailing rate.

### 3) Category 2

Some firms recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO LLP, effective from 1 July 2003, is not to recharge any expense which is not a specific cost to the case, therefore there will be no category 2 disbursements charged. Category 2 disbursements, because they are imprecise, require approval by the creditors before they can be drawn.