

CVA3

Notice of supervisor's progress report in voluntary arrangement



Companies House

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

1 Company details

Company number 0 3 6 1 6 0 6 8

Company name in full Premier Waste Management Limited

→ Filling in this form

Please complete in typescript or in
bold black capitals.

2 Supervisor's name

Full forename(s) Howard

Surname Smith

3 Supervisor's address

Building name/number Interpath Advisory, 4th Floor, Tailors Corner

Street Thirsk Row

Post town Leeds

County/Region

Postcode L S 1 4 D P

Country

4 Supervisor's name^①

Full forename(s) James Ronald Alexander

Surname Lumb

① Other supervisor

Use this section to tell us about
another supervisor.

5 Supervisor's address^②

Building name/number Interpath Advisory, 4th Floor, Tailors Corner

Street Thirsk Row

Post town Leeds

County/Region

Postcode L S 1 4 D P


Country

② Other supervisor

Use this section to tell us about
another supervisor.

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6	Date of voluntary arrangement																
Date	^d	1	^d	2	^m	0	^m	2	^y	2	^y	0	^y	1	^y	3	
7	Period of progress report																
Date from	^d	1	^d	2	^m	0	^m	2	^y	2	^y	0	^y	2	^y	1	
Date to	^d	1	^d	1	^m	0	^m	2	^y	2	^y	0	^y	2	^y	2	
8	Progress report																
<input checked="" type="checkbox"/> I attach a copy of the progress report																	
9	Sign and date																
Supervisor's signature	Signature																
																	
Signature date	^d	0	^d	6	^m	0	^m	4	^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 **Rose Bevan**

Company name **Interpath Ltd**

Address **5th Floor, 130 St Vincent Street**

Post town **Glasgow**

County/Region

Postcode **G 2 5 H F**

Country

DX

Telephone **Tel +44 (0) 191 933 4549**



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 and dated 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

Supervisors' Annual Progress Report 12 February 2021 to 11 February 2022

Premier Waste Management Limited
– under a Voluntary Arrangement
and in Liquidation

6 April 2022

Glossary

The Company and/or PWM	Premier Waste Management Limited under a Company Voluntary Arrangement and in Liquidation (registered number 03616068)
CVA	Company Voluntary Arrangement
CVL	Creditors Voluntary Liquidation
The Proposal	The CVA Proposal approved by creditors on 12 February 2013
The Joint Supervisors/Supervisors/we/our/us	Howard Smith and James Ronald Alexander Lumb of Interpath Advisory, 4th Floor, Tailors Corner, Thirsk Row, LS1 4DP
The Period	12 February 2021 to 11 February 2022
HMRC	HM Revenue and Customs
FTT	First Tier Tribunal (Tax)
UT	Upper Tribunal (Tax)
CoA	Court of Appeal

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In the High Court of Justice

Case No. 71 of 2013

Chancery Division

High Court of Justice Newcastle upon Tyne

District Registry

In the matter of Premier Waste Management
Limited (the 'Company')

and in the matter of the Insolvency Act 1986

We attach as Appendix 1 a copy of the Supervisors' annual summary of receipts and payments in the above Voluntary Arrangement for the period 12 February 2021 to 11 February 2022 (the 'Period') and we report as follows:

1 Receipts

1.1 Bank interest

Bank interest of £118 was received during the Period.

No other funds were received during the Period.

2 Payments

2.1 Legal fees

Legal fees of £600 have been paid during the Period in relation to the extension of the CVA.

No other payments were made during the Period.

3 Progress of the Arrangement

3.1 Unsecured Creditors

As you are aware, the Proposals stated that the expected distribution to creditors, would be in full and final settlement of 80% of each CVA creditor's claim (i.e. 80% of its debt) allowing those CVA creditors to vote and prove for the remaining 20% in the subsequent liquidation.

As you are aware, an interim dividend of 64.4 pence in the pound was previously declared and paid in February 2015 on the claims of unsecured creditors admitted in the CVA of the Company, totalling £15,733,163.

The total amount distributed to unsecured creditors to date is £10,128,224. A further dividend will be declared in due course. The quantum of any further dividend is dependent on a landfill tax claim made against HMRC; see below for further details. The outcome of this claim, and any future dividends, is uncertain as we are awaiting a response to our application to appeal submitted to the Supreme Court. We will update creditors on progress in our next report.

3.2 Landfill tax claim and extension to the period of the CVA

As previously reported, Premier Waste has an ongoing landfill tax claim against HMRC. The claim is valued at approximately £4.5 million and returns to the creditors of PWM would increase if it is successful. As previously reported, the Company has joined an appeal against HMRC's decision on its treatment of landfill tax, together with a number of other parties, behind a lead appellant.

The claim is progressing but has not been resolved and, accordingly, the Joint Supervisors received approval during the Period to extend the period of the CVA by a further two years, to 1 June 2023, to allow them to continue to pursue this claim. Please see the progress of the claim below.

- As creditors are aware, a hearing was held before the First Tier Tribunal (Tax). The FTT found in favour of HMRC in May 2018, however, permission was granted to appeal the FTT's decision to the Upper Tribunal. As required by the Upper Tribunal rules, a Notice of Appeal was served on 27 July 2018, which was formally acknowledged by the UT. Permission was granted to appeal to the UT.
- Permission was granted by the UT; an appeal hearing took place in November 2019.
- In January 2020, the UT issued its decision which overturned the decision of the FTT, finding in favour of the appellants (which includes the Company).
- Following this, HMRC applied for permission to appeal the decision of the UT. The UT granted HMRC leave to appeal on two of the eight grounds for appeal it had raised. The remaining six grounds for appeal were dismissed.
- HMRC has since applied to the Court of Appeal ('CoA') in respect of the grounds on which it was refused permission. The CoA has allowed HMRC's application which means it can bring forward all of its arguments in the appeal.
- A hearing at the CoA took place in March 2021, and in April 2021, the CoA found in favour of HMRC.
- The CoA refused permission for the appellants to appeal to the Supreme Court, which is in line with the CoA's usual practice, therefore an application for permission to appeal was submitted directly to the Supreme Court in May 2021. We are currently awaiting the outcome of the Supreme Court's decision and have been advised that this could take several months. We will update creditors in the next progress report.

This extension was considered to be a material variation to the CVA Proposal and as such a decision procedure was convened on 17 May 2021 whereby creditors considered and granted the extension.

Given the interlocking nature of the CVAs the Joint Supervisors also extended the period of the DCWM CVA to 1 June 2023.

4 Office Holders' Remuneration

In accordance with the terms of the Proposal the Joint Supervisors' remuneration is fixed on the basis of time properly given by them and their staff in dealing with matters arising in the Arrangement.

Attached at Appendix 2 is a detailed analysis of time spent and charge out rates for each grade of staff for the various areas of work carried out in the Period (as required by the Association of Business Recovery Professionals' Statement of Insolvency Practice No.9) together with details of expenses incurred to date.

In the Period the Joint Supervisors incurred time costs of £35,476, representing 84 hours at an average rate of £423 per hour. This includes tax, VAT and pensions advice from Interpath Advisory in-house specialists. Expenses of £37 were incurred, as shown at Appendix 3.

The Joint Supervisors have not drawn any fees during the Period. Fees drawn to date are £357,000.

The Proposal estimated that the total fees to be paid to the Supervisors would be £200,000 plus outlays and VAT thereon. The Joint Supervisors' time costs for the CVA to date are £539,345 and it is anticipated that these costs will increase to £600,000 by the time the CVA is concluded. These costs are higher than anticipated as a result of increased time required in pursuing the landfill tax claim and joining the subsequent appeal as outlined in section 3.2, as well as additional time spent agreeing creditor claims. The appeal has also meant additional time costs in ongoing case administration and reporting.

The estimated future costs relate to progressing the landfill tax claim appeal process, making a further distribution to creditors and dealing with statutory obligations, including corporation tax, and management of the case up until 1 June 2023.

Please note that all staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent. However, the cost of staff employed in central administration functions is not charged directly to this assignment but is reflected in the general level of charge out rates.

A creditors' guide to fees can be found at:

<https://www.r3.org.uk/media/documents/publications/professional/Voluntary%20Arrangement%20Creditor%20Fee%20Guide%20April%202017.pdf>

However, if you are unable to access this guide and would like a copy then please contact Clare McCain on 0191 933 4543.

5 Future Conduct of the Arrangement

The CVA cannot be concluded at present. The Joint Supervisors will continue to perform their duties as set out in the Proposal. This will include, but is not limited to:

- resolution of the ongoing landfill tax claim;
- the agreement of remaining creditors' claims;
- a further distribution to unsecured creditors, if applicable; and
- any other functions which it may be necessary or expedient for the Supervisor to undertake in connection with the implementation of the Arrangement.

Signed



Dated

6 April 2022

Howard Smith

Joint Supervisor

Appendix 1

Receipts and payments account for the Period

Premier Waste Management Limited - under a Voluntary Arrangement			
Abstract of receipts & payments			
Statement of affairs (£)	From 12/02/2021 To 11/02/2022 (£)	From 12/02/2013 To 11/02/2022 (£)	
ASSET REALISATIONS			
297,650.00 Plant & machinery	NIL	385,486.00	
267,833.00 Other debtors	NIL	NIL	
1,007,756.00 Book debts	NIL	1,665,730.46	
460,580.00 Inter company debtors	NIL	404,454.00	
CVA contributions	NIL	1,676,189.34	
5,601,422.00 Cash at bank	NIL	3,992,902.94	
Bond release	NIL	2,760,790.73	
Return of Barclays retained cash	NIL	825,000.00	
	NIL	11,710,553.47	
OTHER REALISATIONS			
Bank interest, gross	117.81	114,420.46	
Bank interest, net of tax	NIL	236.23	
Accrued income	NIL	156,765.03	
Sundry refunds	NIL	49,320.53	
Funds received in error	NIL	36,407.95	
Funds held for employee compromise	NIL	50,000.00	
	117.81	407,150.20	
COST OF REALISATIONS			
Employee compromise - payment	NIL	(50,000.00)	
Management team bonus	NIL	(167,508.63)	
Costs of bond release	NIL	(45,971.48)	
Repayment of funds rec'd in error	NIL	(36,407.95)	
Supervisors' fees	NIL	(357,000.00)	
Agents'/Valuers' fees	NIL	(5,836.50)	
Agents'/Valuers' disbursements	NIL	(15,187.33)	
Legal fees	(600.00)	(40,780.50)	
Legal disbursements	NIL	(150.00)	
Corporation tax	NIL	(15,428.65)	
VAT interest	NIL	(245.29)	
Sundry expenses	NIL	(119.07)	
Insurance of assets	NIL	(464.28)	
Bank charges	NIL	(290.00)	

Premier Waste Management Limited - under a Voluntary Arrangement

Abstract of receipts & payments

Statement of affairs (£)		From 12/02/2021 To 11/02/2022 (£)	From 12/02/2013 To 11/02/2022 (£)
		(600.00)	(735,389.68)
	UNSECURED CREDITORS		
(3,876,626.00)	Trade & expense	NIL	(914,328.25)
(797,230.00)	Employees	NIL	(47,168.25)
(1,484,440.00)	Barclays Mercantile	NIL	(530,236.79)
(4,149,113.00)	Restoration & aftercare provision	NIL	NIL
(1,602,699.00)	Landfill tax	NIL	NIL
(957,834.00)	Connected companies	NIL	(381,202.49)
(5,872.00)	Finance lease	NIL	(296,479.07)
(12,500,000.00)	Pension scheme	NIL	(7,884,650.00)
(828,420.00)	Operating lease	NIL	NIL
	National Insurance Fund	NIL	(74,158.89)
		NIL	(10,128,223.74)
	DISTRIBUTIONS		
(500,000.00)	Ordinary shareholders	NIL	NIL
		NIL	NIL
(19,066,993.00)		(482.19)	1,254,090.25
	REPRESENTED BY		
	Floating ch. VAT rec'able		12,360.87
	Supervisors trust account		1,253,970.25
	Floating charge mon. mar.3 Months		NIL
	Floating ch. VAT payable		(54,318.20)
	Floating ch. VAT control		42,077.33
			1,254,090.25

Appendix 2 Time cost analysis for the Period

SIP 9 –Time costs analysis (12/02/2021 to 11/02/2022)

	Hours	Time Cost (£)	Average Hourly Rate (£)
Administration & planning			
Cashiering			
General (Cashiering)	1.70	520.30	306.06
Reconciliations (& IPS accounting reviews)	1.30	728.00	560.00
General			
Fees and WIP	3.70	1,266.20	342.22
Statutory and compliance			
Appointment and related formalities	2.20	1,245.60	566.18
Checklist & reviews	17.50	6,824.95	390.00
Statutory receipts and payments accounts	0.20	47.20	236.00
Strategy documents	4.90	2,704.30	551.90
Tax			
Post appointment corporation tax	4.05	1,891.35	467.00
Creditors			
Creditors and claims			
General correspondence	7.05	2,253.45	319.64
Legal claims	2.00	1,120.00	560.00
Statutory reports	37.80	16,197.60	428.51
Realisation of assets			
Asset Realisation			
Other assets	1.45	677.15	467.00
Total in period	83.85	35,476.10	423.09

Brought forward time (appointment date to SIP 9 period start date)	1,571.25	503,868.65
SIP 9 period time (SIP 9 period start date to SIP 9 period end date)	83.85	35,476.10
Carry forward time (appointment date to SIP 9 period end date)	1,655.10	539,344.75

All staff who have worked on this assignment, including cashiers and secretarial staff, have charged time directly to the assignment and are included in the analysis of time spent. The cost of staff employed in central administration functions is not charged directly to the assignment but is reflected in the general level of charge out rates.

All time shown in the above analysis is charged in units of six minutes.

Charge-out rates

Charge-out rates (£) for: Restructuring		
Grade	From 01 Jan 2021 £/hr	From 01 Jan 2022 £/hr
Partner / Managing Director	690	725
Director	620	675
Senior Manager	560	590
Manager	467	495
Senior Administrator	325	345
Administrator	236	245
Support	147	245

Appendix 3 Expenses for the Period

Stationery	NIL	NIL	NIL	36.89	36.89
Total	NIL	NIL	NIL	36.89	36.89

Policy for the recovery of expenses

Where funds permit the officeholders will seek to recover both Category 1 and Category 2 expenses from the estate. For the avoidance of doubt, such expenses are defined within SIP 9 as follows:

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

Category 1 expenses: These are payments to persons providing the service to which the expense relates who are not an associate of the office holder. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the officeholder or his or her staff.

Category 2 expenses: These are payments to associates or which have an element of shared costs. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.

The above stationery costs are for costs incurred by KPMG, we have therefore classified as Category 2 expenses. These will require specific approval from creditors, however, we do not intend to recover these costs.

Associates: are defined in the insolvency legislation but also extends to parties where a reasonable and informed third party might consider there would be an association between the third party and the office holder or their firm.

Category 2 expenses charged by Interpath Restructuring include mileage. This is calculated as follows:

Mileage claims fall into three categories:

- Use of privately-owned vehicle or car cash alternative – 45p per mile.
- Use of company car – 60p per mile.
- Use of partner's car – 60p per mile.

For all of the above car types, when carrying Interpath passengers an additional 5p per mile per passenger will also be charged where appropriate.

www.interpathadvisory.com

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