

LIQ03

Notice of progress report in voluntary winding up



Companies House

WEDNESDAY



A717F2XU

A26

07/03/2018

#117

COMPANIES HOUSE

1 Company details

Company number 0 4 6 4 4 6 1 4

Company name in full Ruxley Communications Limited

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

2 Liquidator's name

Full forename(s) Robert

Surname Day

3 Liquidator's address

Building name/number Robert Day and Company Limited

Street The Old Library

The Walk

Post town Winslow

County/Region Buckingham

Postcode M K 1 8 3 A J

Country United Kingdom

4 Liquidator's name ①

Full forename(s)

Surname

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

5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

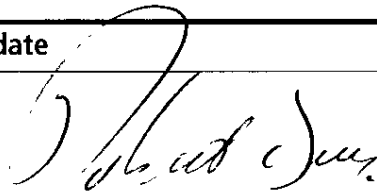
Postcode

Country

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

LIQ03

Notice of progress report in voluntary winding up

6	Period of progress report															
From date	d	0	d	2	m	0	m	3	y	2	y	0	y	1	y	7
To date	d	0	d	1	m	0	m	3	y	2	y	0	y	1	y	8
7	Progress report															
<input checked="" type="checkbox"/> The progress report is attached																
8	Sign and date															
Liquidator's signature	Signature X  X															
Signature date	d	0	d	5	m	0	m	3	y	2	y	0	y	1	y	8

LIQ03

Notice of progress report in voluntary winding up



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

Company name **Robert Day and Company Limited**

Address

Post town

County/Region

Postcode

Country

DX

Telephone **0845 226 7331**



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

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



Important information

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



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.



Further information

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

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

Ruxley Communications Limited – In Liquidation ('the company')

Company Number: 04644614

Current Registered Office: c/o Robert Day and Company Limited, The Old Library, The Walk, Winslow, Buckingham MK18 3AJ

Previous Registered Office: 81 High Street, Walton on Thames, Surrey KT12 1DN

Trading Address: 81 High Street, Walton on Thames, Surrey KT12 1DN

Basis of Remuneration: Fixed Fee

Office Holder Details: Robert Day of Robert Day and Company Limited, The Old Library, The Walk, Winslow, Buckingham MK18 3AJ

Date of Appointment: 2 March 2017

1. Introduction

This report provides members with an update on the progress made in the liquidation and an explanation of the work done by the liquidator and his staff during the period 2 March 2017 to 1 March 2018.

This report is intended for use by those parties entitled to a copy thereof under the Insolvency Rules (England and Wales) 2016. It may contain information that is privileged, confidential or exempt from disclosure and any dissemination, distribution or copying of it and its attachments is strictly prohibited. It is not suitable to be relied upon by any other person, or for any other purpose, or in any other context.

Robert Day is authorised in the UK to act as an Insolvency Practitioner by the Institute of Chartered Accountants in England and Wales. All work is conducted in accordance with the Insolvency Code of Ethics.

2. Receipts and Payments Account

A copy of my receipts and payments account for the period 2 March 2017 to 1 March 2018 is attached to this report.

3. Planning

I planned to discharge my obligations to members by seeking to maximise asset realisations, minimise the input required from me, compatible with complying with the various statutory and professional regulatory requirements which flowed from my appointment and consequently to maximise the return to members.

4. Administration

Details of my appointment were advertised, as required, in the London Gazette, and submitted to Companies House with accompanying documents. I also provided information on my appointment to the insurers who have given me a bond.

The necessary records have been maintained, on behalf of the company, to enable me to file the relevant returns at Companies House made necessary by Section 192 of the Insolvency Act 1986.

5. Asset Realisations

The declaration of solvency made by the company's director on 2 March 2017 detailed the company's only asset as being balance at bank with an estimated to realise value of £227,682.

The sum of £227,692.97 has been realised in respect of the closing balance on the company's bank account.

An additional realisation has occurred in the form of bank interest gross totalling £8.61.

I have also received a VAT reclaim of £820.00 from HM Revenue & Customs in respect of VAT receivable incurred on the costs of the liquidation.

6. Liabilities

The sum of £23,826.00 has been paid to the company's director in respect of the balance on his director's current account as of the date the company entered into liquidation.

The sum of £4,327.72 has been paid to HM Revenue & Customs in respect of corporation tax due for the period ended 31 October 2016.

The sum of £30.01 has been paid to HM Revenue & Customs in respect of VAT due for the period ended 1 March 2017.

Both of the above payments have included statutory interest where applicable.

No other amounts are due to HM Revenue & Customs. I have received corporation tax clearance to conclude my administration of the liquidation and am currently awaiting receipt of the same in respect of PAYE, NI and VAT.

The sum of £190,000.00 has been distributed to the company's ordinary shareholder.

This represents a distribution of £1.7025089 per ordinary share and £1.7025089 per redeemable preference share.

The remaining balance on the liquidation account will be distributed to the company's shareholder (less any sums due in respect of corporation tax incurred during the period of the liquidation) upon receipt of the clearance from HM Revenue & Customs referred to above.

7. Liquidator's Remuneration / Expenses / Other Payments

The time costs in dealing with the liquidation to 2 March 2018 amount to £2,002.00.

This represents 12.8 hours at an average charge out rate of £156.41 per hour.

A breakdown of the Liquidator's Time and Charge Out Rates is attached to this report.

At the meeting of the company's members held on 2 March 2017 it was agreed that liquidator's remuneration would be a set amount in accordance with Rule 4.148A(2)(c) of the Insolvency Rules 1986.

The set amount agreed was a fixed fee of £2,500 including disbursements plus VAT. This was considered an appropriate amount when taking into account the routine administrative, statutory and cashiering tasks (i.e. the work that must be undertaken to meet the legal requirements placed on the liquidator) required plus the work that must be undertaken in order to derive a benefit for members and any creditors (i.e. asset realisations). This fee was drawn on 6 April 2017.

The following category 1 disbursements have been incurred and re-charged to the estate as part of the agreed fixed fee:-

Statutory Advertising (London Gazette) - £244.77

Specific Penalty Bond Premium - £210.00

Statutory Advertising costs are re-charged at the actual cost incurred where possible.

I am required to purchase a bond on all formal appointments undertaken. The purpose of the bond is to indemnify the beneficiaries of the estate being administered against losses caused by dishonesty or fraud on the part of the insolvency practitioner. The bond must be for the level of assets potentially available to the beneficiaries. In this case I have purchased a £250,000 bond however there is scope to increase the level of bond should realisations exceed £250,000.

I attach a copy of Rule 18.34 of the Insolvency (England and Wales) Rules 2016 for your information.

I also attach a further copy of 'A Creditors' Guide to Liquidator's Fees' for your information.

The aggregate sum of £1,600.00 has been paid to the company's accountants in respect of work undertaken by them in finalising the company's tax affairs.

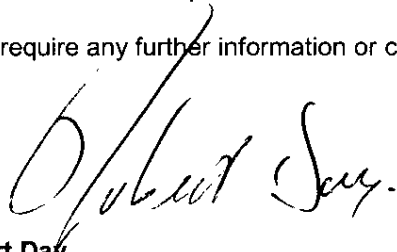
8. Matters Still To Be Dealt With / Conclusion

The following matters (all detailed elsewhere in this report) are still to be dealt with:-

1. Receipt of PAYE, NI and VAT clearance from HM Revenue & Customs;
2. Payment of the corporation tax incurred during the period of the liquidation and
3. Distribution of the residual funds held to the company's shareholder.

I am required to provide a further report on the progress of the liquidation within two months of the next anniversary of the liquidation, unless I have concluded matters prior to this, in which case I will write to all members with my final progress report whilst giving notice of my intention to finalise my administration of the liquidation at the same time.

If you require any further information or clarification on any matter please contact me.




Robert Day
Liquidator

Ruxley Communications Limited
(In Liquidation)
Liquidator's Abstract of Receipts & Payments

**Statement
of Affairs**

**From 02/03/17
To 01/03/18**

	SECURED ASSETS	
		0.00
	ASSET REALISATIONS	
	Bank Interest Gross	8.61
227,682	Balance at Bank	227,692.97
	VAT Reclaimed	820.00
		<hr/> 228,521.58
	COST OF REALISATIONS	
	Accountancy Fees	1,600.00
	Liquidator's Fixed Fee including Disbursements	2,500.00
	VAT Irrecoverable	820.00
		<hr/> 4,920.00
	PREFERENTIAL CREDITORS	
		0.00
	UNSECURED CREDITORS	
23,826	Director's Current Account	23,826.00
6,029	Taxation	4,357.73
	DISTRIBUTIONS	
193,327	Ordinary Shareholders	190,000.00
		<hr/> 5,417.85
	Balance in Hand	5,417.85
	REPRESENTED BY	
	Bank 1 Current	<hr/> 5,417.85
		5,417.85



 Robert Day
 Liquidator

Ruxley Communications Limited - In Liquidation**Liquidator's Time and Charge Out Summary from 2 March 2017 to 1 March 2018**

Classification of work function	Liquidator	Manager	Total Hours	Time Cost £	Average Hourly Rate £
Administration and Planning	0.2	10.8	11.0	1,723.00	156.64
Investigations	-	-	-	-	-
Realisation of Assets	-	-	-	-	-
Trading	-	-	-	-	-
Creditors	-	1.8	1.8	279.00	155.00
Case Specific Matters	-	-	-	-	-
Total Hours	0.2	12.6	12.8	2,002.00	156.41
Total Fees Claimed (£)	49.00	1,953.00	-	-	-

Charge Out Rate Summary

Description	Hourly Rate (£)	Dates
Liquidator	245	02/03/17 - 01/03/18
Manager	155	02/03/17 - 01/03/18

Note - Time costs are calculated at 6 minute units

Post Appointment Disbursements

Disbursements	Incurred	Paid (as part of fixed fee)
---------------	----------	--------------------------------

Category 1 -

Statutory Advertising	£244.77	£244.77
Specific Penalty Bond Premium	£210.00	£210.00

Category 1 Disbursements are external supplies specifically identifiable to the case

Where these disbursements have been initially paid by Robert Day and Company Limited and then recharged to the estate approval from members is not required

Category 2 Disbursements include elements of shared or allocated costs incurred by Robert Day and Company Limited and recharged to the estate. They are not attributable to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full, subject to the basis of the disbursement charged being approved by members in advance.

It is not the policy of Robert Day and Company Limited to charge Category 2 Disbursements.

Company Name	Meeting Date	Code	User	Start Date	End Date	Administration & Planning	Investigation	Realisation of Assets	Trading	Creditors	Case specific matters	Description	Hourly Charge Rate	Total
Ruxley Communications Limited	02-Mar-17	1060	21	02-Mar-17	21	0.8						Letter to Bank re Opening Estate Account	£124.00	£124.00
Ruxley Communications Limited	02-Mar-17	1060	21	02-Mar-17	21	1.4						Post Appointment Documents to Companies House	£155.00	£217.00
Ruxley Communications Limited	02-Mar-17	1060	21	02-Mar-17	21	1.1						Post Appointment Statutory Advertising	£155.00	£170.50
Ruxley Communications Limited	02-Mar-17	1060	21	03-Mar-17	21	0.8						\$120 Pension Searches	£155.00	£124.00
Ruxley Communications Limited	02-Mar-17	1060	21	03-Mar-17	21					0.5		Post Appointment Circular to Creditors	£155.00	£77.50
Ruxley Communications Limited	02-Mar-17	1060	21	03-Mar-17	21	0.4						VAT 769	£155.00	£62.00
Ruxley Communications Limited	02-Mar-17	1060	21	08-Mar-17	21	1.3						Pro-Forma Letters / Outward Payment Instructions to Bank	£155.00	£201.50
Ruxley Communications Limited	02-Mar-17	1060	21	21-Mar-17	21					0.5		VAT Return	£155.00	£77.50
Ruxley Communications Limited	02-Mar-17	1060	19	03-Apr-17	21	0.2						Cover Schedule	£245.00	£49.00
Ruxley Communications Limited	02-Mar-17	1060	21	25-Apr-17	21	0.4						Bank Reconciliation	£155.00	£62.00
Ruxley Communications Limited	02-Mar-17	1060	21	08-May-17	21	0.8						VAT Deregistration	£155.00	£124.00
Ruxley Communications Limited	02-Mar-17	1060	21	17-May-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	20-Jun-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	19-Jul-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	10-Aug-17	21	0.5						VAT Return	£155.00	£77.50
Ruxley Communications Limited	02-Mar-17	1060	21	17-Aug-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	19-Sep-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	21-Sep-17	21	0.3						Cheque to Bank	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	11-Oct-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	14-Nov-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	15-Dec-17	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	15-Jan-18	21	0.3						Bank Reconciliation	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	29-Jan-18	21					0.5		Letter / Cheque to HMRC	£155.00	£77.50
Ruxley Communications Limited	02-Mar-17	1060	21	29-Jan-18	21					0.3		Government Clearance Letters	£155.00	£46.50
Ruxley Communications Limited	02-Mar-17	1060	21	13-Feb-18	21	0.3						Bank Reconciliation	£155.00	£46.50

£2,002.00

STATUTORY INSTRUMENTS

2016 No. 1024

The Insolvency (England and Wales) Rules 2016

PART 18

REPORTING AND REMUNERATION OF OFFICE-HOLDERS

CHAPTER 4

Remuneration and expenses in administration, winding up and bankruptcy

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

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

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

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

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

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

A CREDITORS' GUIDE TO LIQUIDATORS' FEES

ENGLAND AND WALES

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, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the liquidator and challenge those they consider to be excessive.

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 an official belonging to The Insolvency Service. 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 Insolvency Service on behalf of the Secretary of State. 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. An administrator may also subsequently act as liquidator in a CVL.

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 6 weeks 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 remuneration

4.1 Basis

The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. The Rules state that the remuneration shall be fixed:

- as a percentage of the value of the assets which are realised or distributed or both,
- by reference to the time properly given by the liquidator and his staff in attending to matters arising in the liquidation, 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 liquidator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the liquidator.

4.2 Advance information where remuneration not based on time costs

Prior to the determination of the basis of remuneration, the liquidator must give the creditors details of the work the liquidator proposes to undertake, and the expenses he considers will be, or are likely to be, incurred. However, where the liquidator proposes to take any part or all of his remuneration on a time cost basis, he must provide more detailed information in the form of a 'fees estimate', as explained below.

4.3 Fees estimates where remuneration to be based on time costs

Where the liquidator proposes to take remuneration based on time costs, he must first provide the creditors with detailed information in the form of a 'fees estimate'. A fees estimate is a written estimate that specifies –

- details of the work the liquidator and his staff propose to undertake;
- the hourly rate or rates the liquidator and his staff propose to charge for each part of that work,
- the time the liquidator anticipates each part of that work will take;
- whether the liquidator anticipates it will be necessary to seek approval or further approval under the Rules, and
- the reasons it will be necessary to seek such approval.

In addition, the liquidator must give the creditors details of the expenses he considers will be, or are likely to be, incurred

4.4 Who fixes the remuneration

It is for the liquidation 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. 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.

4.5 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 the creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.6 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator 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. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules

4.7 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5. Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the liquidator's remuneration was fixed, the liquidator 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 What information should be provided by the liquidator?

6.1 General principles

6.1.1 The liquidator should provide those responsible for approving his remuneration with sufficient information to enable them to make an informed judgement about the reasonableness of the liquidator's request. The information should be presented in a manner which is transparent, consistent throughout the life of the case and useful to creditors, while being proportionate to the circumstances of the case.

6.1.2 The liquidator should disclose:

- payments, remuneration and expenses arising from the administration paid to the liquidator or his or her associates;
- any business or personal relationships with parties responsible for approving the liquidator's remuneration or who provide services to the liquidator in respect of the insolvency appointment where the relationship could give rise to a conflict of interest

The liquidator should inform creditors of their rights under insolvency legislation, and should advise them how they may access suitable information setting out their rights within the first communication with them and in each subsequent report.

6.1.3 Where the liquidator sub-contracts out work that could otherwise be carried out by the liquidator or his or her staff, this should be drawn to the attention of creditors with an explanation of why it is being done.

6.2 Key issues

6.2.1 The key issues of concern to those with a financial interest in the level of payments from the insolvency estate will commonly be:

- the work the liquidator anticipates will be done, and why that work is necessary;

- the anticipated cost of that work, including any expenses expected to be incurred in connection with it;
- whether it is anticipated that the work will provide a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute),
- the work actually done and why that work was necessary;
- the actual costs of the work, including any expenses incurred in connection with it, as against any estimate provided;
- whether the work has provided a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute).

When providing information about payments, fees and expenses, the liquidator should do so in a way which facilitates clarity of understanding of these key issues. Narrative explanations should be provided to support any numerical information supplied. Where it is practical to do so, the liquidator should provide an indication of the likely return to creditors when seeking approval for the basis of his remuneration.

- 6.2 2 When approval for a fixed amount or a percentage basis is sought, the liquidator should explain why the basis requested is expected to produce a fair and reasonable reflection of the work that the liquidator anticipates will be undertaken.

6.3 Fee estimates and subsequent reports

- 6.3 1 When providing a fee estimate, the liquidator should supply that information in sufficient time to facilitate that body making an informed judgement about the reasonableness of the liquidator's requests. The estimate should clearly describe what activities are anticipated to be conducted in respect of the estimated fee. When subsequently reporting to creditors, the actual hours and average rate (or rates) of the costs charged for each activity should be provided for comparison.

6.4 Disbursements

- 6.4 1 Costs met by and reimbursed to the liquidator in connection with the liquidation will fall into two categories:

- Category 1 disbursements. These are payments to independent third parties where there is specific expenditure directly referable to the liquidation. Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements: These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that may be incurred by the liquidator or their firm, and that can be allocated to the liquidation on a proper and reasonable basis.

When seeking approval, the liquidator should explain, for each category of cost, the basis on which the charge is being made. If the liquidator has obtained approval for the basis of Category 2 disbursements, that basis may continue to be used in a sequential appointment where further approval of the basis of remuneration is not required, or where the liquidator is replaced.

- 6.4.2 The following are not permissible as disbursements:

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

6.5 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 11.1 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.

7. Exceeding the amount set out in the fees estimate

Remuneration must not exceed the fees estimate without approval by the body which fixed the original basis of the remuneration. The request for approval must specify –

- the reason why the liquidator has exceeded, or is likely to exceed, the fees estimate;
- the additional work the liquidator has undertaken or proposes to undertake;
- the hourly rate or rates the liquidator proposes to charge for each part of that additional work;
- the time that additional work has taken or the liquidator anticipates that work will take;
- whether the liquidator anticipates that it will be necessary to seek further approval; and
- the reasons it will be necessary to seek further approval.

8. Progress reports and requests for further information

8.1 The liquidator is required to send annual progress reports to creditors. The reports must include:

- details of the basis fixed for the remuneration of the liquidator (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 liquidator during the period of the report, irrespective of whether payment was actually made during that period;
- where appropriate, a statement –
 - that the remuneration anticipated to be charged is likely to exceed the fees estimate or any approval given for remuneration exceeding the estimate;
 - that expenses incurred or anticipated to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of remuneration; and
 - the reason for that excess.
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the liquidator's remuneration and expenses.

8.2 Within 21 days of receipt of a progress report (or 7 business days where the report has been prepared for the purposes of a meeting to receive the liquidator's resignation) a creditor may request the liquidator to provide further information about the remuneration and expenses 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 liquidator 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 liquidation or might be expected to lead to violence against any person, or
- the liquidator 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 liquidator'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 liquidator must provide certain information about the time spent on the 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.

10 What if a creditor is dissatisfied?

10.1 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

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

10.3 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 liquidator'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 liquidator a copy of the application and supporting evidence at least 14 days before the hearing.

- 10.4 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 out of the assets of the insolvent company.

11. What if the liquidator is dissatisfied?

If the liquidator considers that the remuneration fixed by the liquidation committee, or in the preceding administration, 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 liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale 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 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.

12 Other matters relating to remuneration

- 12.1 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 a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 12.2 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.
- 12.3 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.
- 12.4 If a new liquidator 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 liquidator until a further determination, resolution or court order is made.
- 12.5 Where the basis of the remuneration is a set amount, and the liquidator 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 liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 12.6 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.