

In accordance with
Rule 18.7 of the
Insolvency (England &
Wales) Rules 2016 and
Sections 92A, 104A and
192 of the Insolvency
Act 1986.

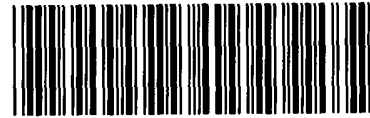
LIQ03

Notice of progress report in voluntary winding up



Companies House

TUESDAY



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18/08/2020

#11

COMPANIES HOUSE

1 Company details

Company number 0 4 8 7 2 2 2 0

Company name in full ER Training and Development Limited

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

2 Liquidator's name

Full forename(s) Mark Elijah Thomas

Surname Bowen

3 Liquidator's address

Building name/number 11 Roman Way Business Centre

Street Berry Hill

Post town Droitwich

County/Region Worcestershire

Postcode W R 9 9 A J

Country

4 Liquidator's name ①

Full forename(s)

Surname

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

5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

Postcode

Country

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

LIQ03

Notice of progress report in voluntary winding up

6 Period of progress report

From date	d	1	d	6	m	0	m	8	y	2	y	0	y	1	y	9
To date	d	1	d	5	m	0	m	8	y	2	y	0	y	2	y	0

7 Progress report

☒ The progress report is attached

8 Sign and date

Liquidator's signature

Signature

X



X

Signature date

d	1	d	7	m	0	m	8	y	2	y	0	y	2	y	0
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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	Mark Hunt
Company name	MB Insolvency
Address	11 Roman Way Berry Hill
Post town	Droitwich Spa
County/Region	Worcestershire
Postcode	WR9 9AJ
Country	
DX	information@mb-i.co.uk
Telephone	01905 776771

**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

ANNUAL PROGRESS REPORT

ER TRAINING AND DEVELOPMENT LIMITED - IN CREDITORS' VOLUNTARY LIQUIDATION

**ANNUAL PROGRESS REPORT OF ER TRAINING AND DEVELOPMENT LIMITED - IN CREDITORS'
VOLUNTARY LIQUIDATION
FOR THE PERIOD FROM 16 AUGUST 2019 to 15 AUGUST 2020**

Content

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- Realisation of Assets
- Trading
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- Creditors' Rights
- EC Regulations
- Conclusion

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- Appendix III - Estimated Outcome Statement
- Appendix IV - Detailed list of work undertaken in the period
- Appendix V - Time cost information for period 16/08/2019 to 15/08/2020
- Appendix VI - Expenses summary for period, cumulative & comparison with estimate

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FOR THE PERIOD FROM 16 AUGUST 2019 to 15 AUGUST 2020

EXECUTIVE SUMMARY

A summary of key information in this report is detailed below.

Assets

Asset	Estimated to realise per Statement of Affairs	Realisations to date	Anticipated future realisations	Total anticipated realisations
Computer & office equipment	3,200.00	4,000.00	0.00	4,000.00
Sundry refund	0.00	20.00	0.00	20.00
Cash at bank	6,643.00	31,912.58	0.00	31,912.58
Trust account	10,410.00	10,410.47	0.00	10,410.47
Bank interest	0.00	195.60	TBC	TBC
NNDR refund	0.00	1,488.12	0.00	1,488.12
VAT refund	0.00	2,065.01	0.00	2,065.01
Utility refund	0.00	570.50	0.00	570.50
Directors' settlement	0.00	191,424.00	8,576.00	200,000.00

Expenses

Expense	Amount per fees and expenses estimates	Expense incurred to date	Anticipated further expense to closure	Total anticipated expense
Liquidator's fees	125,743.00	143,465.00	Uncertain	125,743.00
Solicitor's fees	50,700.00	44,125.00	0.00	44,125.00
Records storage	1,400.00	950.00	0.00	950.00
All other expenses	1,351.86	4,510.09	500.00	5,010.09

Dividend prospects

Creditor class	Distribution / dividend paid to date	Anticipated distribution / dividend, based upon the above
Secured creditor – Barclays	Paid in full	N/A
Secured creditor – Eresponse Recruitment Limited	Op in the £	Op in the £
Preferential creditors	100p in the £	N/A
Unsecured creditors	Op in the £	0.73p in the £

Dividend prospects are wholly dependent upon receipt of the deferred payments in line with the deed of settlement.

Summary of key issues outstanding

- Collection of deferred consideration under the terms of the Deed of Settlement.
- Consider distribution to unsecured creditors.

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Closure

It is anticipated that the matter will be concluded within the next year providing the payments are made as per the Deed of Settlement.

ADMINISTRATION AND PLANNING

Statutory information

Statutory information may be found at Appendix I.

The Liquidator is required to meet a considerable number of statutory and regulatory obligations. Whilst many of these tasks do not have a direct benefit in enhancing realisations for the insolvent estate, they assist in the efficient and compliant progressing of the administration of the case, which ensures that work is carried out to high professional standards. A detailed list of these tasks may be found in Appendix IV.

Reporting

The Liquidator has met his statutory and regulatory duties to report to creditors, as listed below. In consideration of the need for transparency and engagement with creditors, care has been taken to ensure that reports and other communications with creditors have provided useful details of the strategies pursued and the outcomes anticipated.

During the Review Period, the following key documents have been issued:

- This progress report;

Other administration tasks

During the Review Period, the following material tasks in this category were carried out:

- Case reviews etc.

ENQUIRES AND INVESTIGATIONS

Further detailed investigations

Statutory investigations

During the period the Liquidator has responded to questions raised by the Insolvency Service relating to the Directors Conduct Report previously submitted to them. The Liquidator has also provided the Insolvency Service with copy documents relevant to their enquiries.

Liquidator's investigation

Overview

The initial assessment revealed matters that the Liquidator considered merited further investigation.

The company's Statement of Affairs disclosed a deficiency of some £2.7 million compared to net assets of some £2.2 million as stated by the Company's draft audited accounts for the year ended 30 September 2015. The following detailed investigations have been carried out in order to reconcile the movements in the company's assets:

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- A review of the agreements relating to the sale of the recruitment business to ERR on 25 May 2016.
- A reconciliation of the distributable reserves available to pay the dividends declared on 25 May 2016 in relation to the sale of the recruitment business to ERR.
- Meeting with the valuer to obtain a copy of the valuation of the recruitment business carried out for the purpose of the sale to ERR on 25 May 2016.
- A review of the Company's draft audited accounts for the year ended 30 September 2015 which had not been finalised prior to the liquidation.
- A review of the monthly management accounts from October 2015 to 25 May 2016.
- A review of the Company's trading in the period from 26 May 2016 to 16 August 2016, being the date of the liquidation ("the post-sale period").
- A review of the transactions on the factoring account with Barclays Sales Finance in the post-sale period.
- A review of the transactions between the Company and ERR and other associated companies in the post-sale period.
- A review of the Company's balance sheet as disclosed by the management accounts as at 25 May 2016 following the sale of the recruitment business to ERR.
- A review of the email correspondence obtained from the company's auditors KPMG in relation to their audit of the Company's accounts for the year ended 30 September 2015.
- A review of the files of the Company's solicitors Thomas Horton relating to:
 - The sale of the recruitment business to ERR on 25 May 2016.
 - A claim from a former director.
 - A dispute with a training sub-contractor.
- The claim received from HM Revenue & Customs ("HMRC") included certain liabilities which had not been disclosed in the Company's Statement of Affairs. Further enquiries were made with the Company's accountants and other specialist tax advisers for the purpose of obtaining assessments and correspondence relating to these additional tax liabilities.
- A detailed investigation report was prepared for the purpose of briefing solicitors and Counsel in respect of the findings of our investigation work and the potential claims against parties either connected to or who have past dealings with the Company.

Legal advice

Although for obvious reasons I cannot disclose in full the advice, we have received preliminary legal advice in relation to the documentation obtained to date. The solicitor's initial areas of focus in relation to the sale of the Recruitment business have been:

- Whether or not the distributions in specie on 25 May 2016 were unlawful distributions.
- Misfeasance, and whether there has been a breach of fiduciary duties by the office holders.
- Whether the sale of the recruitment business constituted a transaction at an undervalue.
- Whether the transaction has been one which has defrauded creditors.

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A copy of the detailed investigation report referred to above has been provided to the Liquidator's solicitors Cameron Legal Limited who have instructed Counsel to advise on the potential claims against parties either connected to or who have past dealings with the Company identified from our investigations. As this is an ongoing matter which may become part of a future legal dispute it is not appropriate to comment much further in this report.

The Liquidator's solicitor has consulted Counsel in respect of the claims set out in the Letters Before Action sent to the directors and to request an estimate for the legal costs in the event that it is necessary to enter into court proceedings and also the chances of success.

Following dialogue between the respective solicitors a without prejudice offer was made by the directors and their respective corporate entities in order to settle all and any claims the Liquidator may have against those parties. After consideration of the offer with the solicitors and counsel engaged it was considered to be the most appropriate outcome in the circumstances and this offer was subsequently accepted. A Deed of Agreement was drafted and subsequently executed between the parties.

Whilst the agreement itself remains confidential between the parties I can confirm that the nature of the agreement is £200,000.00 to be paid to the liquidation plus a waiver by Workforce Staffing Limited (formerly Eresponse Recruitment Limited) of any entitlement it may have to a dividend or distribution under the terms of the debenture dated 13th July 2016 (claim submitted £1,477,076.68). The consideration is payable in instalments and £40,000.00 was received on completion and a further £65,000.00 on 1 August 2019. The agreement allows for a maximum period of 2 years for the payments to be made.

REALISATION OF ASSETS

Detailed below is key information about asset realisation and strategy, however, more details about the work undertaken may be found at Appendix IV. The Liquidator formulated and worked through a realisation strategy that sought to maximise realisations net of costs. The financial benefit of those efforts is described further below.

Transactions with connected parties

As previously reported to creditors since my appointment a sale to a connected party has occurred.

The Liquidator instructed MGR Appraisals, who are professional independent agents with adequate professional indemnity insurance, to dispose of the Company's assets using the most advantageous method available.

The former directors of the company expressed an interest in purchasing the Company's remaining assets at the S98 meeting. The purchaser is connected with the Company because they were directors and shareholders of the Company.

Therefore, the purchaser was invited to contact MGR Appraisals direct to progress their interest. MGR Appraisals weighed up the advantages of a swift sale, which would avoid the ongoing costs of storing and marketing the assets, against the potential of attracting a better offer albeit that this would involve incurring more costs. MGR Appraisals concluded that the purchaser's offer was very likely to represent the best net realisation for the assets and they recommended to the Liquidator that the offer be accepted.

Consequently, the Company's computers and office equipment were sold to the former directors for £4,000.00 (exclusive of any VAT), which was received in full on 22 September 2016.

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Book debts

The company factored its book debts, and as a result they were held as security by Barclays Invoice Finance (Barclays). Barclays were collecting the book debts and have since been repaid in full. The remaining book debts remain outstanding but are subject to disputes.

Computers & Office Equipment

As previously advised above the directors expressed an interest in purchasing the above assets and a sale was duly completed for £4,000.00 plus VAT on the recommendation of my agent.

Cash at bank

Cash held at the company's bank account totalling £31,912.58 has been received.

Cash in client account

There are cleared funds which were received into in my firm's client account of £10,410.47 which has been transferred into the Company's liquidation bank account. These funds represent book debts recovered by the Company in the Notice period leading up to the creditors' meeting.

Sundry Credit

An amount of £20.00 has been received from the company's former solicitors which represents a refund of funds held by them in their client account.

NNDR Refund

A refund of £1,488.12 was received in respect of business rates from Rugby Borough Council.

VAT Refund

A VAT refund of £2,065.01 has been received in respect of input tax charged on factoring costs incurred.

Bank Interest

Bank interest of £195.60 has been received and this will continue to accrue on all funds received into the estate.

Utility Refund

A refund was received in respect of the company's previous occupation of trading premises.

CREDITORS

Irrespective of whether sufficient realisations are achieved to pay a dividend to creditors, the Liquidator has had to carry out key tasks which are detailed in the list at Appendix IV. The following sections explain the anticipated outcomes to creditors and any distributions paid.

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Secured creditors

The Company had granted the following security: -

Type of charge	Date created	Beneficiary
Fixed and Floating charge	22 May 2014	Barclays Bank Plc
Debenture	12 September 2014	Barclays Bank Plc
Debenture	28 June 2016	Eresponse Recruitment Limited

The debt due to Barclays Bank Plc (the Bank) at the date of appointment was made up of invoice discounting, the total quantum of which was approximately £300,000.00 excluding charges and accruing interest. The bank has been paid in full following collection of the company book debts and proposals with the guarantors on the account.

The liability due to Eresponse Recruitment Limited ("ERR") was estimated to be approximately £700,000.00 although a proof of debt has been received for £1,477,076. The liability is in relation to transactions the majority of which were dated after the sale of the recruitment business to ERR on 25 May 2016 and those transactions and the creation of the charge forms part of the detailed investigations.

As detailed earlier in this report as part of the Deed of Settlement ERR's claim against the company was waived; this has had the effect of increasing the net funds available to the unsecured creditors of the company as there are now no known liabilities to floating charge creditors.

Preferential creditors

Employee claims

11 employees were made redundant on 31 July 2016. The relevant information for employees to submit claims has been made to the Redundancy Payments Office (RPO) and information and help has been given to employees to enable them to submit their claims online. Additionally, an ex-employee has received an award against the company following an employment tribunal.

Employees were shown to be owed £39,107. Claims of £39,827 have been received of which £1,929 is claimed preferentially.

A claim has also been made to the RPO by INSOL Group on behalf of the Liquidator in respect of outstanding pension contributions. The claim in respect of this element of the RPO's claim remains outstanding.

Preferential creditors have been paid in full during this period, claims totalled £7,988.29.

Unsecured creditors

HMRC was shown to be owed £614,861.00. A claim of £2,028,396.55 has been received. The trade and expense creditors as per the statement of affairs totalled £532,947. Please be advised that proofs of debt are still being received and therefore the total value of unsecured claims is not known at present.

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As detailed earlier in this report as part of the Deed of Settlement the directors' claims against the company were waived; this has had the effect of increasing the net funds available to the unconnected unsecured creditors of the company.

Dividend prospects

Dividend prospects to non-preferential unsecured creditors remain dependent upon the receipt of the funds due under the Deed of Settlement although if received it is anticipated that a dividend will be available to unsecured creditors.

Where a floating charge is created after 15 September 2003 a prescribed part of the company's net property shall be made available to unsecured creditors. There are no known qualifying charge holders with a liability.

FEES AND EXPENSES

Pre-Appointment Costs

Fixed fee agreed with the Directors and ratified by members and creditors.

The creditors authorised the fee of £6,000 for assisting the directors in calling the relevant meetings and with preparing the Statement of Affairs on 16 August 2016.

The fee for assisting with the Statement of Affairs and meetings was paid from first realisations and is shown in the enclosed receipts and payments account.

The Liquidator's fees

It is the firm's practice to ensure that work is conducted by the appropriate staff member at the appropriate level of experience. Junior members of staff deal with the day to day administration on cases and a manager and (director/partner) then oversees the work undertaken. Where the issues are complex and litigious, the work will be closely supervised or undertaken by a (senior) manager or (director/partner).

The basis of the Liquidators' fees was approved by creditors on 6 February 2017 in accordance with the following resolutions:

1. The Liquidator be remunerated on the basis of a set fee in the amount of £125,743.00 as set out in his statutory Fees Estimate sent to creditors on 6 January 2017, such fees to be drawn on account as described therein.
2. The Liquidator is authorised to recover category 2 disbursements out of the assets of the Company as an expense of the liquidation on the following basis:

Room hire	£60/hour
Photocopying	17p/sheet
Travel	60p per mile

The time costs for the period 16 August 2019 to 15 August 2020 total £8,917.50, representing 32.85 hours at an average hourly rate of £271.46. Time costs for the period are detailed at Appendix V. The time costs for the period 16 August 2016 to 15 August 2020 total £153,402.50, representing

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630.30 hours at an average hourly rate of £243.38. Time costs for the period are detailed at Appendix V.

Having regard for the costs that are likely to be incurred in bringing this Liquidation to a close, the Liquidator considers that:

- the original fees estimate has been exceeded; and
- the original expenses estimate has already been exceeded due to the pension costs not having been anticipated at that time.

The main reason why the fees estimate has been exceeded is due to the on-going detailed investigations as detailed previously in this report. However, given the limited realisations in this case to date, the Liquidator does not propose to draw fees in excess of the fees estimate at present. The Liquidator will review the position as regards fees when the prospects of realising the remaining assets becomes clearer and if applicable intends to seek creditors' approval to fees in addition to that previously estimated and the relevant creditors will be invited to consider the Liquidator's proposal in this regard under separate cover.

The Liquidator has drawn £105,743 in respect of his fees agreed on a fixed basis.

Disbursements

The disbursements that have been incurred and not yet paid during the period are detailed on Appendix VI. Also included in Appendix VI is a comparison of the expenses likely to be incurred in the Liquidation as a whole with the original expenses estimate, together with reasons where any expenses are likely to exceed that estimate.

The category 1 disbursements for the period 16 August 2019 to 15 August 2020 total £113.76 are detailed at Appendix II and represent the simple reimbursement of actual out of pocket payments made in relation to the assignment.

The category 2 disbursements for the period 16 August 2019 to 15 August 2020 total £19.89 and these may include an element of overhead charges in accordance with the resolution passed by creditors at a meeting held on 6 February 2017. The basis of calculation of this category of disbursement was disclosed to creditors prior to the resolution being passed and is also detailed at appendix IIV.

Information about this insolvency process may be found on the R3 website at <http://www.creditorinsolvencyguide.co.uk/>. A copy of 'A Creditors' Guide to Fees' together with the firm's charge-out rate and disbursement policy may be found at www.mb-i.co.uk. A hard copy of both the Creditors' Guide and the firm's charge-out rate and disbursement policy may be obtained on request.

Other professional costs

Solicitors

Cameron Legal Solicitors were instructed as legal advisors in relation to ongoing investigations. Their costs have been agreed on the basis of their standard hourly charge out rates, plus disbursements and VAT. The solicitors' fees for the period 16 August 2016 to 15 August 2020 total £44,125.00 including disbursements in the form of Counsel's fees. To date the sum of £44,125.00 has been paid.

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Pension Agents

Following appointment, it became apparent that the company had a pension scheme which required the Liquidator to take steps to windup the scheme. Accordingly, INSOL Group were instructed to undertake this task on the liquidator's behalf.

Despite the company only having 11 employees at the time of liquidation there were outstanding pension contributions for approximately 100 current and former employees of the company. Therefore, claims for all members with outstanding contributions were necessary and subsequently made to the RPO.

CREDITORS' RIGHTS

An unsecured creditor may, with the permission of the court or with the concurrence of 5% in value of the unsecured creditors (including the creditor in question) request further details of the liquidator's remuneration and expenses, within 21 days of receipt of this report. Any secured creditor may request the same details in the same time limit.

An unsecured creditor may, with the permission of the court or with the concurrence of 10% in value of the creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the liquidator's fees and the amount of any proposed expenses or expenses already incurred, within 8 weeks of receipt of this report. Any secured creditor may make a similar application to court within the same time limit.

EC REGULATIONS (WHETHER PROCEEDINGS ARE MAIN PROCEEDINGS OR TERRITORIAL)

The Company's centre of main interest was in the UK and therefore it is considered that the EC Regulations will apply. These proceedings are main proceedings as defined in Article 3 of the EC Regulation.

CONCLUSION

The administration of the case will be continuing to finalise the following outstanding matters that are preventing this case from being closed as detailed above.

- Collection of deferred consideration under the terms of the Deed of Settlement.
- Consider distribution to unsecured creditors.

If you require any further information, please contact this office.

Signed



M E T Bowen

Liquidator

17 August 2020

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Appendix I

Statutory Information

Company Name	ER Training and Development Limited
Former Company Names	EResponse Training Limited 11.6.16 – 6.7.16 EResponse Recruitment Limited 29.8.03 – 11.6.16
Company Number	04872220
Registered Office	11 Roman Way Business Centre, Berry Hill, Droitwich, WR9 9AJ
Former Registered Office	County House, 9 Church Green West, Redditch, B97 5QL
Officeholder	Mark Bowen
Officeholder's address	11 Roman Way Business Centre, Berry Hill, Droitwich, WR9 9AJ
Date of appointment	16 August 2016

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Appendix II

Receipts and Payments account for the period 16/08/2016 to 15/08/2020

	Statement of affairs £	From 16/08/2019 To 15/08/2020 £	From 16/08/2016 To 15/08/2020 £
RECEIPTS			
Book Debts	317,666.00	0.00	0.00
Computers and Office Equipment	3,200.00	0.00	4,000.00
Improvements to Property	NIL	0.00	0.00
Sundry Refund		0.00	20.00
Cash at Bank	6,643.00	0.00	31,912.58
Trust Account	10,410.00	0.00	10,410.47
Bank Interest Gross		139.40	195.60
NNDR refund		0.00	1,488.12
Vat recovered re factoring		0.00	2,065.01
Utility Refund		0.00	570.50
Directors' settlement		86,424.00	191,424.00
		86,563.40	242,086.28
PAYMENTS			
Barclays Sales Finance	(294,694.00)	0.00	0.00
Improvements to Property		0.00	0.00
Specific Bond		124.00	420.00
Postage - Pre		0.00	24.96
Pre appointment Fees		0.00	6,000.00
Office Holders Fees		90,743.00	105,743.00
Office holders expenses		47.08	107.08
Statutory Advertising - Pre		0.00	67.00
Agents/Valuers Fees (1)		0.00	500.00
Agents/Valuers Fees (2)		0.00	2,835.00
Legal Fees (1)		9,791.67	44,125.00
Corporation Tax		7.60	7.60
Photocopying - Pre		0.00	86.70
Postage		83.96	141.56
Photocopying		113.66	260.14
Storage Costs		0.00	950.00
Statutory Advertising		0.00	134.00
DE Arrears & Holiday Pay	(6,543.00)	6,388.29	6,388.29
Employee Arrears/Hol Pay	(403.00)	1,600.00	1,600.00
Due to Eresponse Recruitment Ltd	(711,482.00)	0.00	0.00
Trade & Expense Creditors	(532,947.00)	0.00	0.00
Employees	(1,397.00)	0.00	0.00
Department of Employment	(30,764.00)	0.00	0.00
Directors Loan Accounts P & J Alekna	(9,948.00)	0.00	0.00
David Alekna	(13,252.00)	0.00	0.00
HMRC-PAYE/NIC	(167,301.00)	0.00	0.00
HMRC-VAT	(447,560.00)	0.00	0.00
Landlord	(6,968.00)	0.00	0.00
Associated Companies	(898,613.00)	0.00	0.00
Ordinary Shareholders	(1,320.00)	0.00	0.00
		108,899.26	169,390.33
BALANCE - 15 August 2020			72,695.95

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Appendix III

Estimated Outcome Statement

Assets	Receipts	Projected	Total
	£	£	£
Book debts	0.00	0.00	0.00
Office furniture and equipment	4,000.00	0.00	4,000.00
Cash at bank	31,912.58	0.00	31,912.58
Cash in client account	10,410.47	0.00	10,410.47
Sundry refund	20.00	0.00	20.00
NNDR refund	1,488.12	0.00	1,488.12
VAT refund	2,065.01	0.00	2,065.01
Bank interest	195.60	TBC	195.60
Recovery action	191,424.00	8,576.00	200,000.00
Utility Refund	570.50	0.00	570.50
Total known assets	155,522.88	95,000.00	250,662.28
Costs	Incurred	Projected	Total
	£	£	£
Pre-appointment expenses and disbursements	6,142.00	0.00	6,142.00
Estimated expenses and disbursements	52,491.13	2,500.00	54,991.13
Liquidator's proposed remuneration	125,743.00	0.00	125,743.00
Total estimated costs (on assumptions stated)	184,376.13	2,500.00	186,876.13
Amount available for distribution			63,786.15
Preferential claims			(7,988.29)
Net Property			55,797.86
Estimated prescribed part			Nil
Amount available for floating charge creditors			Nil
Floating charge creditors			Nil
Surplus/(shortfall) to floating charge creditors			Nil
Prescribed part brought down			Nil
Unsecured creditors			7,576,225.17
Surplus/(shortfall) as regards unsecured creditors			(7,468,850.77)
Dividend in the £ - preferential			100p in the £
Dividend in the £ - floating charge			0p in the £
Dividend in the £ - unsecured			0.68p in the £

ANNUAL PROGRESS REPORT OF ER TRAINING AND DEVELOPMENT LIMITED - IN CREDITORS'
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FOR THE PERIOD FROM 16 AUGUST 2019 to 15 AUGUST 2020

Appendix IV

Detailed list of work undertaken for ER Training and Development Limited in Creditors' Voluntary Liquidation for the review period 16/08/2019 to 15/08/2020

Below is detailed information about the tasks undertaken by the Liquidator.

General Description	Includes
Statutory and General Administration	
Statutory/advertising	Filing of documents to meet statutory requirements including annual receipts and payments accounts Annual corporation tax returns Quarterly VAT returns Advertising in accordance with statutory requirements Bonding the case for the value of the assets
Document maintenance/file review/checklist	Filing of documents Periodic file reviews documenting strategy Periodic reviews of the application of ethical, anti-money laundering and anti-bribery safeguards Maintenance of statutory and case progression task lists/diaries Updating checklists
Bank account administration	Preparing correspondence opening and closing accounts Requesting bank statements Bank account reconciliations Correspondence with bank regarding specific transfers Maintenance of the estate cash book Banking remittances and issuing cheques/BACS payments
Planning / Review	Discussions regarding strategies to be pursued Meetings with team members and independent advisers to consider practical, technical and legal aspects of the case
Books and records / storage	Dealing with records in storage Sending job files to storage
Pension scheme	Identifying whether there is a pension scheme Submitting the relevant notices if a pension scheme is identified Instructing agents to wind up any pension scheme Liaising and providing information to be able to finalise winding up the pension scheme
Reports	Preparing annual progress report, investigation, meeting and general reports to creditors
Investigations	
Detailed investigation	A review of the agreements relating to the sale of the recruitment business to ERR on 25 May 2016 Meeting with the valuer to obtain a copy of the valuation of the recruitment business carried out for the purpose of the sale to ERR on 25 May 2016 A reconciliation of the distributable reserves available to pay the dividends declared on 25 May 2016 in relation to the sale of the recruitment business to ERR

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General Description	Includes
	<p>A review of the Company's draft audited accounts for the year ended 30 September 2015 which had not been finalised prior to the liquidation</p> <p>A review of the monthly management accounts from October 2015 to 25 May 2016</p> <p>A review of the Company's trading in the period from 26 May 2016 to 16 August 2016, being the date of the liquidation ("the post-sale period")</p> <p>A review of the transactions on the factoring account with Barclays Sales Finance in the post-sale period</p> <p>A review of the transactions between the Company and ERR and other associated companies in the post-sale period</p> <p>A review of the Company's balance sheet as disclosed by the management accounts as at 25 May 2016 following the sale of the recruitment business to ERR</p> <p>A review of the email correspondence obtained from the company's auditors KPMG in relation to their audit of the Company's accounts for the year ended 30 September 2015</p> <p>A review of the files of the Company's solicitors Thomas Horton relating to:</p> <ul style="list-style-type: none"> • The sale of the recruitment business to ERR on 25 May 2016 • A claim from a former director • A dispute with a training sub-contractor <p>The claim received from HM Revenue & Customs ("HMRC") included certain liabilities which had not been disclosed in the Company's Statement of Affairs. Further enquiries were made with the Company's accountants and other specialist tax advisers for the purpose of obtaining assessments and correspondence relating to these additional tax liabilities</p> <p>Preparation of a detailed investigation report for the purpose of briefing solicitors and Counsel in respect of the findings of our investigation work and the potential claims against third parties.</p> <p>Reaching settlement on the above matters as advised by Counsel based on merits of potential claims</p>
Legal advice	<p>Liaising with solicitors in respect of the potential claims against third parties</p> <p>Liaising with solicitors concerning requests for files from professional advisers including the company's accountants, the Company's solicitors, specialist taxation advisers and the company's auditors KPMG</p> <p>Liaising with solicitors to review the documentation obtained from the Company's professional advisers</p> <p>Providing copies of the detailed investigation report to the solicitors.</p> <p>Liaising with solicitors in relation to the instructions to Counsel to advise in respect of the potential claims against third parties</p> <p>Reaching settlement on the above matters as advised by Counsel based on merits of potential claims</p>
Realisation of Assets	
Computers & office equipment	<p>Liaising with valuers, auctioneers and interested parties</p> <p>Reviewing asset listings</p> <p>Liaising with secured creditors and landlords</p>
Freehold/Leasehold Property	<p>Liaising with secured creditors and landlords</p> <p>Agreeing assignment, surrender or disclaiming property</p>

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General Description	Includes
Debtors	Collecting supporting documentation Correspondence with debtors Reviewing and assessing debtors' ledgers Receiving updates from factoring companies and liaising reassignment of ledger Agreeing debt collection agency agreements Dealing with disputes, including communicating with directors/former staff
Leasing	Reviewing leasing documents Liaising with owners/lessors Tasks associated with disclaiming leases
Creditors and Distributions	
Creditor Communication	Receive and follow up creditor enquiries via telephone Review and prepare correspondence to creditors and their representatives via facsimile, email and post
Dealing with proofs of debt	Receipting and filing POD Corresponding with RPO regarding POD

Current Charge-out Rates for the firm

Time charging policy

Support staff do charge their time to each case.

Support staff include cashier, secretarial and administration support.

The minimum unit of time recorded is 6 minutes.

Staff	Charge out rates £
Insolvency Practitioner/Partners	300
Senior Manager	250
Manager	200-225
Administrator	150
Junior Administrator	90
Secretarial/Administration support staff	90-150

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Appendix V

Time cost information for 16/08/2016 to 15/08/2020

Classification of work	Insolvency Practitioner	Senior Manager	Manager	Support	Total Units	Time Cost £	Average Rate £/h
Stat Compliance / Admin & Planning	474	71	118	696.5	1,359.5	28,742.50	211.42
Investigation	394	1,093	10	12	1,509	39,525.00	261.93
Realisation of Assets	142	1,869	519	98	2,628	62,835.00	239.10
Creditors	568.5	106	107	17	798.5	22,100.00	276.77
Total	1,578.5	3,147	754	823.5	6,303	153,402.50	243.38
Fees Drawn						105,743.00	

Time cost information for period 16/08/2019 to 15/08/2020

Classification of work	Insolvency Practitioner	Senior Manager	Manager	Support	Total Units	Time Cost £	Average Rate £/h
Stat Compliance / Admin & Planning	88			62.5	150.5	3,577.50	237.71
Investigation	3				3	90.00	300.00
Realisation of Assets	39				39	1,170.00	300.00
Creditors	136				136	4,080.00	300.00
Total	266			62.5	328.5	8,917.50	271.43

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Appendix VI

**Expenses summary for period, cumulative & comparison with estimate
for ER Training and Development Limited in Creditors' Voluntary Liquidation**

Below are details of the Liquidator's expenses for the period under review and the total to date.

Expenses	Original expenses estimate £	Actual expenses incurred in the Review Period £	Actual expenses incurred to date £	Reason for any excess (if the expenses are likely to, or have, exceeded the original estimate)
Category 1 Expenses				
Legal costs	62,361.43	1,000.00	44,125.00	
Pension costs	0.00	0.00	3,342.00	Not anticipated that such work would be required, RP15 in relation to outstanding contributions is majority of cost
Advertising	268.00	77.00	211.00	
Bonding	420.00	0.00	420.00	
Postage	128.16	36.76	151.36	More notices sent than had originally been anticipated.
Storage costs	1,400.00	0.00	950.00	
Category 2 Expenses				
Photocopying	187.00	19.89	210.96	More notices sent than had originally been anticipated.
Internal meeting room	0.00	0.00	60.00	Additional meeting not originally anticipated
Mileage	98.70	0.00	48.70	
Registered office fee	125.00	0.00	125.00	
IPS Charge	125.00	0.00	125.00	

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.

13. Effective date

This guide applies where a company goes into liquidation on or after 1 October 2015.

Appendix

Suggested format for the provision of information

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

Narrative overview of the case

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the liquidator;
- the liquidator's effectiveness;
- the value and nature of the property in question.

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

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

Time cost basis

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

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

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

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

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

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

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

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

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



Practice fee and disbursement recovery policy

Introduction

The insolvency legislation was changed in April 2010 for insolvency appointments commenced from that time in order to allow more flexibility on how an office holder's fees are charged to a case. This sheet explains how we may apply the alternative fee bases. The new legislation allows different fee bases to be used for different tasks within the same appointment. The basis or combination of bases set for a particular appointment are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general meeting, or the court. Further details about how an office holder's fees are approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP9). A copy of the relevant circulation listed in reports to creditors and is also available upon request.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The report will provide a breakdown of the remuneration drawn and time costs incurred and will also enable the recipients to see the average rates of such costs. Under the new legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.

Under the old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

Time cost basis

This is the basis that we use in the majority of cases using charge out rates appropriate to the skills and experience of each member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken. Cashiers, secretarial and support staff charge all the time they work as such work has not been allowed for in calculating the hourly rates charged by the partners and other staff. If such time were not charged our charge out rates for Partners and other staff would be approximately 20% higher. Time billed is normally subject to Value Added Tax (VAT) at the applicable rate (see below).

Staff allocation and the use of sub-contractors

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



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The case team will usually consist of partner, senior manager/manager and administrator. The exact case team will depend on the anticipated size and complexity of the assignment. On larger, more complex cases, several staff at all grades may be allocated to meet the demands of the case. The Office holder's charge out rate schedule below provides details of all grades of staff.

With regard to support staff, the Office Holder advises that time spent by our Treasury department in relation to specific tasks on an assignment is charged.

The following services are being provided on this assignment by external sub-contractors:

Service Type	Service Provider	Basis of fee arrangement	Cost to date
n/a			

Charge out rates

Our charge out rates are reviewed periodically, our charge out rates are summarised below.

Charge out rates per hour effective from February 2013

Grade	Hourly Rate (£)
Insolvency Practitioner	300
Managers	225-250
Assistant Managers	200
Senior Administrator	175
Administrator	150
Senior Assistant/Cashier	150
Support Staff/Secretary	90

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. Each unit of time is 6 minutes. The work is recorded under the following categories:

Administration and planning - which includes work such as planning how the case will be administered and progressed; the administrative set up of the case; notifying creditors and others of the appointment; keeping the records relating to the case up to date; case review; case progression meetings; and reporting on progress of the case to creditors and others.



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Investigations - which includes work such as undertaking an initial review of the financial affairs of the company and bankrupt; undertaking a detailed investigation with a view to making recoveries for the benefit of creditors where matters such as preferences or wrongful trading come to light as a result of the initial review; and reporting to the Insolvency Service on the conduct of the directors.

Realisation of assets - which includes work such as identifying, securing and insuring assets; dealing with retention of title claims; collecting debts; and selling assets.

Employee matters - which includes work such as dealing with employees; and liaising with the redundancy payments office.

Creditors - which includes work such as communicating with creditors; dealing with creditors' claims; and where funds permit, paying dividends to creditors.

Trading - which includes work such as managing and controlling all aspects of the business; and maintaining financial records and information relating to that trading.

Percentage basis

The new legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal. Different percentages can be used for different assets or types of assets. Where we would like to realise any asset or type of assets on a percentage basis we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

Fixed fee

The new legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. Where we would like to charge a set amount for a task or different set amounts for different tasks we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

Value Added Tax

The office holder's remuneration invoiced to the insolvent estate will normally be subject to VAT at the prevailing rate. The only exception to this is for services rendered in relation to Voluntary Arrangement assignments where a VAT Tribunal has ruled that such services are exempt supplies.

Agent's costs

Charged at cost based on the amount billed by the Agent instructed, the term Agent includes:

Solicitors, Legal Advisors, Debtor recovery specialists

Auctioneers, Valuers, Accountants



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Quantity Surveyors

Estate Agents

Document Storage Agents

Other Specialist Advisors

Disbursements

In accordance with Statement of Insolvency Practice 9 (SIP9) the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.

Category 1 expenses are directly referable to an invoice from a third party, which is either in the name of the estate or MB Insolvency; in the case of the latter, the invoice makes reference to, and therefore can be directly attributed to, the estate. These disbursements are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where the firm has made payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are postage, mail redirection, travel, swear fee, company searches, land registry searches, statutory advertising, external meeting room hire, external storage, specific bond insurance and subsistence.

Category 2 expenses are incurred by the firm and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage.

The category 2 disbursements that MB Insolvency apply, when seeking recovery, are as follows;

<u>Type</u>	<u>Rate</u>
Photocopying	17p per sheet
Room Hire (where MB insolvency room is used for formal meetings with external parties)	£60 per hour
Registered Office Fee	£125 per annum
Mileage	60p per mile
Insolvency Practitioners System	£125 per case



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Professional advisors

On this assignment the office holder has used the professional advisers listed below. The Office holder has also indicated the basis of their fee arrangement with them, which is subject to review on a regular basis.

Name of professional advisor	Basis of fee arrangement
MGR Appraisals	Time costs
INSOL Group	Fixed fee
Cameron Legal	Time costs
Asset Storage Limited	Fixed fee

The office holder's choice was based on his perception of the professional adviser's experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of his fee arrangement with them.