

Section 106

Return of Final Meeting in a
Creditors' Voluntary Winding UpPursuant to Section 106 of the
Insolvency Act 1986

To the Registrar of Companies

S.106

Company Number

05111196

Name of Company

AAConsole Limited formerly Mercury Security Limited

I/We Paul Boyle
35 Waters Edge Business Park
Modwen Road
Manchester
M5 3EZJohn Sallabank
4 St Giles Court
Southampton Street
Reading
RG1 2QLNote: The copy account must be
authenticated by the written
signature(s) of the Liquidator(s)

1 give notice that a general meeting of the company was duly ~~held on~~ summoned for 03 January 2013 pursuant to section 106 of the Insolvency Act 1986, for the purpose of having an account (of which a copy is attached) laid before it showing how the winding up of the company has been disposed of, ~~and that the same was done accordingly~~ / no quorum was present at the meeting,

2 give notice that a meeting of the creditors of the company was duly ~~held on~~ summoned for 03 January 2013 pursuant to Section 106 of the Insolvency Act 1986, for the purpose of having the said account laid before it showing how the winding up the company has been conducted and the property of the company has been disposed of ~~and that the same was done accordingly~~ / no quorum was present at the meeting

The meeting was held at 4 St Giles Court, Southampton Street,, Reading RG1 2QL

The winding up covers the period from 23 November 2010 (opening of winding up) to the final meeting (close of winding up)

The outcome of any meeting (including any resolutions passed) was as follows

- 1 To approve the Joint Liquidators' Receipts & Payments Account for the period of the Liquidation
- 2 To authorise the release from office of John Sallabank and Paul Boyle as Joint Liquidators of the company
- 3 To authorise the destruction of the books and records of the company twelve months after dissolution

Signed



Date 4 Jan 13

Harrisons Business Recovery and Insolvency Limited
35 Waters Edge Business Park
Modwen Road
Manchester
M5 3EZ

Ref MERCU2/PRB/JCS/MM/TW

SATURDAY



A31


A1ZEND8Y

05/01/2013

#147

COMPANIES HOUSE

AAConsole Limited formerly Mercury Security Limited
(In Liquidation)
Joint Liquidators' Abstract of Receipts & Payments
From 23 November 2010 To 3 January 2013

S of A £	£	£
ASSET REALISATIONS		
Motor Vehicles	5,000 00	
Cash at Bank	10,261 53	
Funds from ADM	26,055 14	
		41,316 67
COST OF REALISATIONS		
Liquidator's Fees	21,119 93	
Administrators' Fees	4,933 50	
Agents/Valuers Fees (1)	2,500 00	
Funds to SGC Facilities	4,616 97	
Legal Fees (1)	2,500 00	
Registered Office fee	180 00	
Stationery & Postage	136 70	
Storage Costs	189 00	
Statutory Advertising	140 57	
		(36,316 67)
PREFERENTIAL CREDITORS		
HMRC Distant Settlement	5,000 00	
		(5,000 00)
		<u>(0.00)</u>
REPRESENTED BY		
		<u>NIL</u>
		
		Paul Boyle Joint Liquidator

**AAConsole Limited formerly Mercury
Security Limited
In Liquidation**

**Final Report to the Members and
Creditors Pursuant to Section 106 of
the Insolvency Act 1986**

AAConsole Limited formerly Mercury Security Limited – In Liquidation

Final Progress Report to Members and Creditors

CONTENTS

- 1 Introduction
- 2 Statutory Information
- 3 Receipts and Payments Account
- 4 Asset Realisation
- 5 Expenditure
 - 5.1 Remuneration
 - 5.2 Disbursements
 - 5.3 H M Revenue & Customs
 - 5.4 Legal Fees
- 6 Creditor Claims
 - 6.1 Secured Creditor
 - 6.2 Unsecured Creditors
 - 6.3 Dividends
- 7 Investigation Matters
- 8 Conclusion of the Liquidation
- 9 Schedule of Resolutions at the Final Meetings

Appendices

- I Receipts and Payments Account
- II Schedule of Joint Liquidators' Time Costs and Guide to Liquidators' Fees

AAConsole Limited formerly Mercury Security Limited – In Liquidation

Final Progress Report to Members and Creditors

1. INTRODUCTION

We, John Sallabank and Paul Boyle of Harrisons Business Recovery and Insolvency Limited, 4 St Giles Court, Southampton Street, Reading, RG1 2QL were appointed to act as Joint Liquidators of AAConsole Limited formerly Mercury Security Limited ('the Company') following the filing of Form 2.34B at Companies House on 23 November 2010. We now report pursuant to Rule 4.49D the Insolvency Rules 1986 and provide our Final progress report on the administration of this matter. This should be read in conjunction with our previous report and the reports circulated during the course of the Administration. This report was finalised at the final meetings of members and creditors on the 3 January 2013.

2. STATUTORY INFORMATION

Registration Number	05111196
Registered Office	4 St Giles Court Southampton Street Reading RG1 2QL
Former Registered Office	2 Ramillies House Ramillies Road London W1F 7AZ
Principal Trading Address	Derwar House Central Road Harlow Essex CM20 2ST

3. RECEIPTS AND PAYMENTS ACCOUNT

A summary of our receipts and payments from the date of liquidation on 23 November 2010 to date, with a breakdown of those sums transacted since our last progress report is attached at Appendix I. This schedules the asset realisations along with the costs incurred in realising such assets. As at 3 January 2013 a nil balance is shown. This account has been reconciled to the bank statements.

4. ASSET REALISATION

Other than bank interest received in respect on funds held within the liquidation bank account there have been no asset realisations since our last report.

We do not anticipate any realisations in this matter.

5. EXPENDITURE

5.1 Remuneration

Our remuneration has been drawn on a time cost basis as agreed at the original meeting of creditors held on 16 June 2010 when the Company was in Administration pursuant to Rule 4.127(5A). Under Appendix II we attach a schedule of our time costs to date and time costs incurred since our last progress report.

AAConsole Limited formerly Mercury Security Limited – In Liquidation

Final Progress Report to Members and Creditors

5. EXPENDITURE CONTINUED

5.2 Disbursements

We have incurred various costs as a direct result of the liquidation, those reimbursed are detailed on the receipts and payments account attached at Appendix I.

5.3 H M Revenue & Customs ('HMRC') – Distraint Settlement

On the 23 April 2010 HMRC entered the premises to carry out a distraint over the Company's assets for liabilities due of £135,639. The following assets were covered by the distraint; partial office equipment, furniture, computers and two vehicles. HMRC were unable to complete the distraint as on 6 May 2010 a Notice of Intention to Appoint an Administrator was filed in order to preserve the Company's goodwill. On 20 May 2010 a Notice of Appointment of Administrator was sworn and filed and we were duly appointed on the same day. On the 20 May 2010 the business and assets of the Company were sold subject to a Sale and Purchase Agreement to Global World Services Limited for the total sum of £50,000.

We were informed that HMRC considered its distress to be a security for the debt and any money obtained from the sale of the Company's business and assets to be due and payable to HMRC as an expense of the Administration. HMRC stance has been previously upheld by the House of Lords case 'Herbert Berry Associates Limited v Commissioners of Inland Revenue', however, this case refers to the company entering into Liquidation not Administration, although HMRC argued that this was a technicality.

We instructed Walker Morris solicitors to review and negotiate our position with HMRC. We were subsequently advised that HMRC had a strong case and the next stage would be to seek counsel's advice, which would be costly and would exceed the available funds in the Liquidation. A commercial decision was reached to settle with HMRC and a sum of £5,000 was paid in full and final settlement of the distraint.

5.4 Legal Fees

Legal fees represent costs incurred for advice provided in the liquidation.

6. CREDITOR CLAIMS

6.1 Secured Creditor

A first legal charge was granted to Bibby on 7 July 2008, which was registered on 8 July 2008 and provided fixed and floating charges over all tangible and intangible assets of the Company.

We confirm that the secured creditor has been paid in full.

6.2 Unsecured Creditors

We have received four claims totalling £1,104,681.30 compared to £997,597.19 on the estimated Statement of Affairs.

After the settlement to HMRC, we have not agreed the unsecured creditors in this instance since there are insufficient funds available to enable a distribution to this class of creditor.

AAConsole Limited formerly Mercury Security Limited – In Liquidation

Final Progress Report to Members and Creditors

6. CREDITOR CLAIMS

6.3 Dividends

Pursuant to the notice to creditors dated 17 September 2012 giving notice of our intention not to declare a dividend to the unsecured creditors, we confirm that after allowing for the costs of winding up there are insufficient funds available to enable a dividend to be declared to any class creditors in this matter

7. INVESTIGATION MATTERS

A thorough investigation of the affairs of the Company prior to our appointment has been undertaken and previously reported.

An appropriate report has been submitted to the Department of Business Innovations and Skills and this is confidential and its contents cannot therefore be disclosed.

8. CONCLUSION OF THE LIQUIDATION

The liquidation has now been concluded and the resolutions listed below were obtained at the final meeting held on the 3 January 2013

9. SCHEDULE OF RESOLUTIONS AT THE FINAL MEETINGS

1. To approve the Joint Liquidators' Receipts & Payments Account for the period of the Liquidation.
2. To authorise the release from office of John Sallabank and Paul Boyle as Joint Liquidators of the company.
- 3 To authorise the destruction of the books and records of the company twelve months after dissolution



Paul Boyle
Joint Liquidator

3 January 2013

**AAConsole Limited formerly Mercury Security Limited
(In Liquidation)**

**Income and Expenditure Account
23 November 2010 to 03 January 2013**

INCOME	Total (£)
Motor Vehicles	5,000.00
Cash at Bank	10,261.53
Funds from ADM	26,055.14
	<hr/>
	41,316.67
	<hr/>
EXPENDITURE	
Liquidator's Fees	21,119.93
Administrators' Fees	4,933.50
Agents/Valuers Fees (1)	2,500.00
Funds to SGC Facilities	4,616.97
Legal Fees (1)	2,500.00
Registered Office fee	180.00
Stationery & Postage	136.70
Storage Costs	189.00
Statutory Advertising	140.57
HMRC Distraint Settlement	5,000.00
	<hr/>
	41,316.67
	<hr/>
Balance	0.00
	<hr/>
MADE UP AS FOLLOWS	
	<hr/>
	0.00
	<hr/>

APPENDIX II

SCHEDULE OF JOINT LIQUIDATORS' TIME COSTS

AND

GUIDE TO LIQUIDATORS' FEES

MERCU2 AAConsole Limited formerly Mercury

SIP 9 - Time & Cost Summary

Period 23/11/10 03/01/13

Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	18 60	21 00	13 70	15 15	68 45	16,040 75	234 34
Investigations	0 90	0 00	0 00	2 10	3 00	532 50	177 50
Realisations of assets	4 00	0 70	4 30	0 00	9 00	2,635 00	292 78
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	7 00	1 50	1 20	0 00	9 70	3,377 50	348 20
Case specific matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Brought forward time	0 00	0 00	0 00	0 00	0 00	0 00	0 00
In House Legal	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Total Hours	30 50	23 20	19 20	17 25	90 15	22,585 75	250 54
Total Fees Claimed						21,119 93	

Harrisons Business Recovery and Insolvency Limited Fee Policy

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

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

2. Charge out rates

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

	2011/2012	2012/2013
	£	£
Directors	300 – 400	300 – 500
Managers	200 – 275	250 – 350
Senior Case Supervisors	175 – 200	175 – 250
Case Supervisors	100 – 160	100 – 200
Assistants/Trainee Case Supervisors	75 - 140	75 - 150

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

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

4. Professional advisors

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

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

5. Disbursements

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

Where we propose to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision. -

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

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 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. 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.

4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as 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.

4.3 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.

4.4 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 When fixing bases of remuneration

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

6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.

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

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

6.2 After the bases of remuneration have been fixed

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 7.1, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable.

The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff

6 3 Disbursements and other expenses

6 3 1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories

- Category 1 disbursements. These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff
- 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 can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage

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 may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made

6 3 2 The following are not permissible

- 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 4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 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 Progress reports and requests for further information

7 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,
- a statement of the creditors' rights to request further information, as explained in paragraph 7 2, and their right to challenge the liquidator's remuneration and expenses

7 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

7 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

8 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

9 What if a creditor is dissatisfied?

9 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

9 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

9 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 7 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

9 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

10 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

11 Other matters relating to remuneration

11 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

11 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

11 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

11.4 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.

11.5 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.

11.6 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.

12 Effective date

This guide applies where a company goes into liquidation on or after 1 November 2011.

Appendix

Suggested format for the provision of information

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

Narrative overview of the case

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

- the complexity of the case,
- any exceptional responsibility falling on the 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 subdivided) in a way relevant to the circumstances of the case.

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

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

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

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

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

- where cumulative time costs are, and are expected to be, less than £10,000 the 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.