

Rule 2 47  
2 24B(CH)

Form

The Insolvency Act 1986

## Administrator's progress report

Name of Company  
Car Medic International Limited

Company number  
05444058

In the High Court

[full name of court]

Court case number  
10186

(a) Insert full name(s) and  
address(es) of  
administrator(s)

We (a) Gary Steven Pettit of Marshman Price, 9-10 Scirocco Close, Moulton Park, Northampton, NN3 6AP and Alan R Price of Marshman Price, PO Box 5895, Wellingborough, Northants, NN8 5ZD

administrator(s) of the above company attach a progress report for the period

from

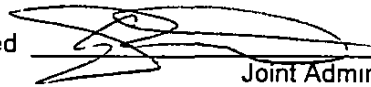
to

(b) 24 May 2012

(b) 05 September 2012

(b) Insert dates

Signed



Joint Administrators

Dated

6/9/12

### Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Marshman Price

Jamie Michael Robert Cochrane

Tel 01604 926070

DX Number

DX Exchange

When you have completed and signed this form please send it to the Registrar of Companies at  
Companies House, Crown Way, Cardiff, CF14 3UZ  
DX 33050 Cardiff

SATURDAY



\*A1H2B11U\*

A13

08/09/2012

#229

COMPANIES HOUSE

**Car Medic International Limited**  
**Administrator's Progress Report to Creditors**  
**For the period ending 5 September 2012**

**STATUTORY INFORMATION**

Company name.	Car Medic International Limited
Previous company name	None
Registered office	9/10, Scirocco Close, Moulton Park, Northampton, NN3 6AP
Former registered office	12 Church Square, Leighton Buzzard, Bedfordshire, LU7 1AE
Registered number	05444058
Date of incorporation	5 May 2005
Trading address:	Unit 14, Firbank Court, Firbank Way, Leighton Buzzard, LU7 8YP
Principal trading activity	Repair and maintenance of motor vehicles
Joint Administrators	Gary S Pettit & Alan R Price
Joint Administrators' address	9/10, Scirocco Close, Moulton Park, Northampton, NN3 6AP
Date of appointment	24 November 2011
Court name and reference	In the High Court No 10186 of 2011
Appointment made by	The directors
Joint administrators' actions	Any act required or authorised under any enactment to be done by an administrator may be done by either or both of the administrators acting jointly or alone

**SUMMARY OF ADMINISTRATORS' PROPOSALS**

The following is a summary of the administrators' proposals which were approved at a meeting of creditors held on 21 December 2011

- The sale to Vehicle Medic Limited be approved.
- The joint administrators' fees be based on a time costs basis and be authorised to draw their case 2 disbursements in accordance with their stated office practice
- The joint administrators' exit route via creditors voluntary liquidation pursuant to Paragraph 83 of Schedule B1 to the Insolvency Act 1986 be approved

## **RECEIPTS AND PAYMENTS ACCOUNT**

My Receipts & Payments Account for the period from 24 May 2012 to 5 September 2012 is attached

Creditors should be aware that the figures brought forward from the last account issued to creditors have altered as a result of bank charges of £5 68 which I was not aware of at the time of my last report

## **ASSETS**

### **Sale of Business**

As previously reported, the business was sold to Vehicle Medic Limited for £50,000 I confirm that the consideration has been received in full

Shortly after circulating my proposals notifying creditors of the sale, I received a claim from a third party that title of the assets sold was not with the company Based upon legal advice, I am satisfied this claim has no substance

### **Debtors**

I have received book debts totaling £311 68 Collections are still ongoing but as previously reported it is unlikely that I will receive significant further realisations

### **Cash at Bank**

I have received £24,825 02 in respect of the closing balance held by the company's bank As previously reported, I am seeking recovery of post administration payments out of the account

## **LIABILITIES**

### **Secured Liabilities**

An examination of the company's mortgage register held by the Registrar of Companies showed that the company had not granted any debentures Accordingly the prescribed part provisions in accordance with Section 176A of the Insolvency Act 1986 do not apply

### **Preferential Creditors**

There are no preferential creditors

### **Crown Creditors**

The statement of affairs included £5,106 53 owed to HMRC HMRC's final claim of £14,399 28 has been received, albeit not admitted

## **Unsecured Creditors**

The statement of affairs included 44 unsecured creditors with an estimated total liability of £82,779. I have received claims from 17 creditors at a total of £85,587. To date I have not received claims from 27 creditors with original estimated claims in the statement of affairs of £32,277.

## **INVESTIGATION INTO THE AFFAIRS OF THE COMPANY**

Within six months of my appointment as joint administrator, I am required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present director would make him unfit to be concerned with the management of the company. I would confirm that my report has been submitted.

I undertook an initial investigation into the company's affairs to establish whether there were any potential asset recoveries or conduct matters that justified further investigation, taking account of the public interest, potential recoveries, the funds likely to be available to fund an investigation and the costs involved.

I took the following action where I considered that further investigation was justified:

- I undertook a review into payments made out of the company's bank account after the date of the administration and this has led to the potential recovery of funds as mentioned above.
- A review of transactions with a connected company was undertaken and investigations will be continued as part of my duties as joint liquidator. Creditors will appreciate I am unable to report on this matter in any detail as it may prejudice my arguments.

## **PRE-ADMINISTRATION COSTS**

On 21 December 2011 the following pre-appointment costs were approved by creditors which have been drawn in full:

Pre-appointment fees charged by the joint administrators	£3,258 20
--	-----------

Pre-appointment expenses incurred by the joint administrators	£35 20
---	--------

## **ADMINISTRATOR'S REMUNERATION**

My remuneration was previously authorised by creditors at a meeting held on 21 December 2011 to be drawn on a time cost basis. My total time costs to date, excluding the costs of preparing this report, amount to £26,631 00.

The above is inclusive of an amount of £3,539 10 that was charged in the period between 24 May 2012 and 5 September 2012.

I have drawn £24,562 80 to date, inclusive of an amount of £8,062 80 in the period between 24 May 2012 and 5 September 2012. A schedule of my time costs incurred to date is attached to this report.

I will provide creditors with a final amount of my time costs in my first report as liquidator

A description of the routine work undertaken in the administration to date is as follows

1 Administration and Planning

- Preparing the documentation and dealing with the formalities of appointment.
- Statutory notifications and advertising
- Preparing documentation required
- Dealing with all routine correspondence
- Maintaining physical case files and electronic case details on case management software
- Review and storage
- Case bordereau
- Case planning and administration
- Preparing reports to members and creditors
- Convening and holding meetings of members and creditors

2 Case estate accounting

- Maintaining and managing the administrator's cashbook and bank account
- Ensuring statutory lodgments and tax lodgment obligations are met

3 Creditors

- Dealing with creditor correspondence and telephone conversations
- Preparing reports to creditors
- Maintaining creditor information on case management software
- Reviewing, and adjudicating on if necessary, proofs of debt received from creditors

4 Investigations

- Review and storage of books and records
- Prepare a return pursuant to the Company Directors Disqualification Act
- Conduct investigations into suspicious transactions
- Review books and records to identify any transactions or actions an administrator may take against a third party in order to recover funds for the benefit of creditors

5 Realisation of Assets

- Corresponding with debtors and attempting to collect outstanding book debts
- Liaising with the company's bank regarding the closure of the account
- Liaising with solicitors in respect of the sale agreement

In addition to the routine work above, I have spent significant additional time dealing with a claim over the joint administrators' right to sell the assets that was not envisaged during the administrators' proposals

A copy of 'A Creditors Guide to Administrators' Fees' published by the Association of Business Recovery Professionals and an explanatory note which shows the Marshman Price fee policy are enclosed Further copies are available upon request

## **ADMINISTRATOR'S EXPENSES**

My expenses to date amount to £450 84 No expenses were incurred in the period between 24 May 2012 and 5 September 2012

I have drawn the expenses in full

The following agents or professional advisors have been utilised in this matter

Professional Advisor	Nature of Work	Fee Arrangement
Philip Davies & Sons	Valuer/Auctioneer	Percentage of realisations
MAB Law	Solicitors	Time costs
Alexander Forbes	Pension advice	Fixed fee

The choice of professionals was based on my perception of their experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of my fee arrangement with them The fees charged have been reviewed and I am satisfied that they are reasonable in the circumstances of this case

## **FURTHER INFORMATION**

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 administrator'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 unsecured creditors (including the creditor in question), apply to court to challenge the amount and/or basis of the administrator'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

## **DIVIDEND PROSPECTS**

It appears likely that a dividend will be payable to unsecured creditors although until both my investigations are complete and asset realisations are concluded I am unable to comment with any certainty on the timing or amount of any dividend to unsecured creditors

## **CLOSURE**

As already reported to creditors, I have implemented the provisions of Paragraph 83 of Schedule B1 to the Insolvency Act 1986 and thus the company was placed into creditors' voluntary liquidation with effect from 5

September 2012. The joint administrators, namely Gary Pettit and Alan Price, have now been appointed joint liquidators

During the course of the liquidation, I will conclude my investigations and asset realisations before paying a dividend to unsecured creditors as mentioned above

Should you have any queries regarding this matter please contact Jamie Cochrane at the office for which the details are on the front page of this report

A handwritten signature in black ink, appearing to read 'GARY S PETTIT', with a large, stylized loop at the end.

**GARY S PETTIT**

Joint Liquidator & Former Joint Administrator

**Car Medic International Limited - In Administration**  
**Joint Administrators' Abstract of Receipts & Payments**

**From 24 May 2012 To 5 September 2012**

<b>S of A £</b>	<b>As Previously Reported</b>	<b>24/05/12 to 05/09/12</b>	<b>Total £</b>
<b>RECEIPTS</b>			
NIL Book Debts	311 68	NIL	311 68
NIL Cash at Bank	24,825 02	NIL	24,825 02
NIL Rates Refund	1,616 97	NIL	1,616 97
NIL Refund to Debtor	18 85	NIL	18 85
50,000 Sale of Business	50,000 00	NIL	50,000 00
50,000	76,772 52	NIL	76,772 52
<b>PAYMENTS</b>			
Legal Fees	7,335 00	1,445 83	8,780 83
Agents/Valuers Fees	550 00	2,082 50	2,632 50
Statement of Affairs Fee	3,258 20	NIL	3,258 20
Office Holders Fees	16,500 00	8,062 80	24,562 80
Office Holders Expenses	485 49	0 55	486 04
Storage Costs	NIL	82 99	82 99
Statutory Advertising	141 73	NIL	141 73
Bank Charges	22 34	19 80	42 14
Vat Receivable	5,627 29	2,334 94	7,962 23
	33,920 05	14,029 41	47,949 46
<b>CASH IN HAND</b>	42,852 47	(14,029 41)	28,823 06



**Joint Administrator's Remuneration Schedule**  
**Car Medic International Limited**  
**Between 24 November 2011 and 05 September 2012**

Classification of work function	Partner/Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	15 80	0 20	2 10	66 90	85 00	11,297 30	132 91
Investigations	5 20	0 00	1 80	9 70	16 70	3,252 10	194 74
Realisations	8 20	0 10	1 50	1 40	11 20	3,256 40	290 75
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	1 60	0 50	0 90	17 50	20 50	2,329 90	113 65
Case Specific Matters	0 50	0 00	10 80	41 70	53 00	6,495 70	122 56
<b>Total hours</b>	<b>31 30</b>	<b>0 80</b>	<b>17 10</b>	<b>137 20</b>	<b>186 40</b>		
<b>Time costs</b>	<b>10,926 00</b>	<b>200 80</b>	<b>2,787 50</b>	<b>12,717 10</b>	<b>26,631 40</b>		
<b>Average hourly rate</b>	<b>349 07</b>	<b>251 00</b>	<b>163 01</b>	<b>92 69</b>	<b>142 87</b>		

Description	Total Incurred £	Total Recovered £
Mileage	1 65	1 65
Cheque fee	21 00	21 00
Postage/Stamps/Copying/Stationery	44 40	44 40
Companies House Services	4 00	4 00
Bordereau	136 00	136 00
Insolv Case Administration Fee	110 00	110 00
Agents Fees	133 79	133 79
<b>Totals</b>	<b>450.84</b>	<b>450 84</b>

Total time spent in administering the Assignment	<b>Hours</b>	186 40
Total value of time spent	<b>£</b>	26,631 40
Total Joint Administrator's fees charged to date	<b>£</b>	24,562 80

**Joint Administrator's Remuneration Schedule**  
**Car Medic International Limited**  
**Between 24 May 2012 and 05 September 2012**

Classification of work function	Partner/Director	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost	Average Hourly Rate
Administration & Planning	2 30	0 20	0 90	6.60	10 00	1,519 20	151 92
Investigations	0 00	0 00	0 20	1 80	2 00	239 00	119 50
Realisations	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	0 00	0 00	6 70	6 70	591 00	88 21
Case Specific Matters	0 00	0 00	1 30	8 70	10 00	1,189 90	118 99
<b>Total hours</b>	<b>2 30</b>	<b>0 20</b>	<b>2 40</b>	<b>23 80</b>	<b>28 70</b>		
<b>Time costs</b>	<b>832 60</b>	<b>52 00</b>	<b>405 60</b>	<b>2,248 90</b>	<b>3,539 10</b>		
<b>Average hourly rate</b>	<b>362 00</b>	<b>260 00</b>	<b>169 00</b>	<b>94 49</b>	<b>123 31</b>		

Description	Total Incurred £	Total Recovered £
	0 00	0 00
<b>Totals</b>	<b>0 00</b>	<b>0 00</b>

Total time spent in administering the Assignment	Hours	28 70
Total value of time spent	£	3,539 10
Total Joint Administrator's fees charged to date	£	24,562 80

## **PRACTICE FEE RECOVERY POLICY FOR MARSHMAN PRICE**

### **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 (SIP 9). A hard copy may be requested from Marshman Price, Suite 1, Meadow Court, 2-4, Meadow Close, Isle Valley Estate, Wellingborough, NN8 4BH or 9/10, Scirocco Close, Moulton Park, Northampton, NN3 6AP.

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 and we use charge out rates appropriate to the skills and experience of a 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.

### **Charge-out Rates**

<b>Grade of staff</b>	<b>Charge-out rates per hour, (w e.f 31 March 2012) £</b>	<b>Previous charge our rate per hour £</b>
Partner – appointment taker	250 - 362	250-345
Senior Manager	260	248
Manager	169	161
Supervisor/Senior Administrator	75 - 125	75-125
Case Administrator	55 - 120	55-120
Other clerical/administrative staff	42	40

These charge-out rates charged are reviewed on 31 March each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Each unit of time is 6 minutes. The work is recorded under the following categories:

- Administration and Planning
- Investigations
- Realisation of Assets

- Employee matters
- Creditors
- 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.

### **All bases**

The officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate. However, following the "Paymex" court decision, all fees charged on voluntary arrangements are zero-rated for VAT purposes.

### **Agents' Costs**

Charged at cost based upon the charge made by the Agent instructed, the term Agent includes

- Solicitors/Legal Advisors
- Auctioneers/Valuers
- Accountants
- Quantity Surveyors
- Estate 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 Marshman Price, 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 statutory advertising, external meeting room hire, external storage, specific bond insurance and company search fees.

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 and mileage.

We charge for the following Category 2 disbursements

Room Hire	40 00	Per formal meeting at firm's offices
Case File Storage & Destruction	20 00	Storage of case files for 6 years after case closure and final shredding – per case (Min up to 4 case files) Additional files charged at £5 each
Mileage	0 55	Per mile travelled
Cash usage fee	7 00/17 00	Use of office account funds to meet direct estate liability when estate funds not available, the higher amount will be charged if the cash paid is above £750
Card printing	0 17	Per sheet
Digital photographs	0 50	High Resolution digital photographs - each
Electoral Database Search	1 00	Use of commercial database of electoral rolls
Archive boxes	5 00	Per box
Files & dividers	3 50	Per file
Labels	0 50	Per sheet used
Photocopying	0 15	Per sheet used

## **A CREDITORS' GUIDE TO ADMINISTRATORS' FEES**

### **ENGLAND AND WALES**

#### **1 Introduction**

- 1 1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually 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 administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

#### **2 The nature of administration**

- 2 1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or, if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors

#### **3 The creditors' committee**

- 3 1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

#### **4 Fixing the administrator's remuneration**

- 4 1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed

- as a percentage of the value of the property which the administrator has to deal with,
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, 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 administrator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the administrator.

It is for the creditors' 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, and where it is a set amount, to determine that amount. Rule 2.106 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 administrator,
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the property which the administrator has to deal with.

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator 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.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets.

In this case, if there is no creditors' committee, or the committee does not make the requisite determination, the remuneration may be fixed by the approval of –

- each secured creditor of the company, or
- if the administrator has made or intends to make a distribution to preferential creditors –
  - each secured creditor of the company, and
  - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval,

having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

## **5. Review of remuneration**

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator 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. Approval of pre-administration costs**

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.

6.2 Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in paragraph 4.3 apply, the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

## **7. What information should be provided by the administrator?**

### **7.1 When seeking remuneration approval**

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

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

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

7.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an



analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity 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 explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

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

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

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

## **7.2 After remuneration approval**

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7.1.3. Where the fee is charged on a percentage

basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out

### **7.3 Disbursements and other expenses**

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

## **8 Progress reports and requests for further information**

**8.1** The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include

- details of the basis fixed for the remuneration of the administrator (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 administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the administrator's remuneration and expenses.

**8.2** Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) 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 administrator 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 administration or might be expected to lead to violence against any person, or
- the administrator 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 administrator'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 administrator must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company

The information which must be provided is –

- the total number of hours spent on the case by the administrator 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 administrator'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 administrator, and requests must be made within two years from vacation of office

## **10 What if a creditor is dissatisfied?**

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

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

103 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 as an expense of the administration.

## **11 What if the administrator is dissatisfied?**

111 If the administrator considers that the remuneration fixed by the creditors' committee 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 committee or the creditors 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 creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration.

## **12 Other matters relating to remuneration**

- 12 1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.
- 12 2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.
- 12 3 If a new administrator 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 administrator until a further determination, resolution or court order is made.
- 12 4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

## **13. Effective date**

This guide applies where a company enters administration on or after 6 April 2010, except where

- the application for an administration order was made before that date, or
- where the administration was preceded by a liquidation which commenced before that date