

Liquidator's Progress Report

S.192

Pursuant to Sections 92A and 104A and 192
of the Insolvency Act 1986

To the Registrar of Companies

Company Number

05918197

Name of Company

Eykona Medical Limited

I / We

Peter Hart, 1 Westferry Circus, Canary Wharf, London, E14 4HD

the liquidator(s) of the company attach a copy of my/our Progress Report
under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 05/12/2015 to 04/12/2016

Signed



Date

24/1/17

Geoffrey Martin & Co
1 Westferry Circus
Canary Wharf
London
E14 4HD

Ref EYK0401/PH/JG/CK

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COMPANIES HOUSE

Eykona Medical Limited
(In Liquidation)
Liquidator's Abstract of Receipts & Payments

Statement of Affairs		From 05/12/2015 To 04/12/2016	From 05/12/2013 To 04/12/2016
	ASSET REALISATIONS		
2,300 00	Office Furniture & IT Equipment	NIL	6,000 00
29,156 00	Cash at Bank	NIL	28,616 51
	Bank Interest Gross	11 13	102 69
	Sundry Receipts	NIL	840 00
	Business Rates Refund	NIL	585 24
		<u>11 13</u>	<u>36,144 44</u>
	COST OF REALISATIONS		
	Specific Bond	NIL	50 00
	Preparation of S of A	NIL	7,500 00
	Liquidator's Remuneration	5,000 00	12,500 00
	Disbursements	1 00	5 00
	Agents/Valuers Fees	NIL	1,200 00
	Corporation Tax	7 73	19 41
	Storage Costs	292 33	1,195 89
	Statutory Advertising	NIL	302 83
	Insurance of Assets	NIL	330 19
		<u>(5,301 06)</u>	<u>(23,103 32)</u>
	PREFERENTIAL CREDITORS		
(6,000 00)	Pension Contributions	NIL	1,057 23
		<u>NIL</u>	<u>(1,057 23)</u>
	FLOATING CHARGE CREDITORS		
Uncertain	Loan Note Holders	NIL	NIL
(474,693 00)	Eykona Limited	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
	UNSECURED CREDITORS		
(15,760 00)	Trade Creditors	NIL	9,996 54
(22,753 00)	HM Revenue & Customs - VAT	NIL	NIL
(40,572 00)	HM Revenue & Customs - PAYE/NIC	NIL	NIL
Uncertain	Employees - Contractual Claims	NIL	NIL
(1,038,142 00)	Eykona Limited (Pre-Debenture Fundin	NIL	NIL
		<u>NIL</u>	<u>(9,996 54)</u>
	DISTRIBUTIONS		
(649 00)	Ordinary Shareholders	NIL	NIL
		<u>NIL</u>	<u>NIL</u>
<u>(1,567,113.00)</u>		<u>(5,289 93)</u>	<u>1,987 35</u>
	REPRESENTED BY		
	VAT Receivable		1,044 05
	Floating Current A/c		943 30
			<u>1,987 35</u>

24 January 2017

To all known creditors and contributories

Dear Sirs

Eykona Medical Limited - In Liquidation ("the Company")

I refer to my appointment as Liquidator by the members and creditors of the Company on 5 December 2013. I am writing to provide my third annual progress report on the Liquidation following the anniversary of my appointment.

This report should be read in conjunction with my previous progress reports dated 11 January 2016 and 30 January 2015.

Receipts and payments account

I enclose a summary of Receipts and Payments at Appendix A.

Asset realisation

The estimated realisable value of the Company's assets, as disclosed in the directors' Statement of Affairs dated 5 December 2013, together with the amounts realised in the period covered by this report and cumulatively are detailed as follows:

Assets	Statement of Affairs Estimated to Realise	Realised 05/12/2015 – 04/12/2016 £	Total Realised 05/12/2013- 04/12/2016 £
	£		
Office furniture & IT equipment	2,300	-	6,000
Book Debts	Uncertain	-	-
Cash at bank	29,156	-	28,617
Bank Interest	-	11	103
Sundry Receipts	-	-	840
Business Rates Refund	-	-	585

Bank Interest

Bank interest of £11 has accrued on the balance held in the Company's Liquidation account during the period covered by this report. A total of £103 has accrued throughout the Liquidation.

Investigations

On 23 April 2014 I submitted a confidential report to the Department of Business, Innovation and Skills on the conduct of the directors in accordance with the Insolvent Companies (Report on Conduct of Directors) Rules 1996 and the Company Directors Disqualification Act 1986

My first annual report dated 30 January 2015 provides details of the investigations I have carried out in the Liquidation

My investigations did not reveal any issues which may lead to further recoveries for the Liquidation in addition to the asset realisations shown in the Directors' Statement of Affairs. Accordingly, I am not currently conducting further investigations. However, I will of course continue to monitor the Company's situation.

Secured creditors

The records held at Companies House show that the Company granted the following charges

Charge holder	Charge type	Date created	Date registered
Eykona Limited	Debenture	2 July 2013	17 July 2013
Mti Partners Limited	Debenture	3 August 2012	7 August 2012

Following commencement of the Liquidation procedure, Eykona Limited assigned the entirety of its debt to Chimera Partners Trading Limited and UMIP Premier Fund Limited Partnership. The security relating to this debt was not assigned and therefore this debt is now an unsecured claim in the Liquidation under the above names. No amounts are therefore due to Eykona Limited under its floating charge.

MTI Partners Limited submitted a nil claim in the Liquidation and accordingly no amounts are due to them under their floating charge.

Preferential creditors

On adjudication of the Company's preferential claims it transpired that the Company only had one preferential creditor, Aviva Plc, with the liability relating to outstanding pension contributions. This liability was initially estimated to be in the region of £6,000 however subsequent to the adjudication process was agreed at £1,057.

Accordingly, on 23 March 2015 I declared and paid a distribution of 100 pence in the pound to the Company's sole preferential creditor, Aviva Plc. The total dividend therefore being £1,057.

Prescribed Part

I am obliged to consider setting aside a proportion of the Company's net property, which would otherwise be available to the holder of floating charge security over the Company's assets, for the benefit of unsecured creditors (known as "the Prescribed Part").

The Prescribed Part is calculated as a percentage of net property, as follows:

Net property up to £10,000	50%
Remaining Net property greater than £10,000	20% up to a maximum of £600,000

As detailed above, the floating charge holders have no further amounts due to them and therefore the prescribed part provisions do not apply.

Unsecured creditors

The directors' Statement of Affairs showed four unsecured creditors with a total value of £1,117,227. Unsecured claims totalling £2,836,079 have been received in the Liquidation, from seven creditors, which have been adjudicated on accordingly.

A first and final dividend was declared to unsecured creditors whose claims had been agreed at a total of £1,797,937, on 17 September 2015, being 0.556 pence in the pound. A total of £9,996.54 was distributed to creditors at this time.

I hereby give notice to creditors, in accordance with Rules 4.186(1) and 11.7 of the Insolvency Rules 1986 that I am unable to declare any dividend as the funds realised have been used to cover costs of the Liquidation.

Funds remaining from asset realisations were utilised fully in defraying the costs of the Liquidation.

Liquidators' fees, disbursements and expensesBasis of remuneration and disbursements

At the initial meeting of creditors held pursuant to Section 98 of the Act on 5 December 2013 it was resolved that the Liquidator would be remunerated by reference to the time properly spent in dealing with this matter at Geoffrey Martin & Co's standard charging rates, and that his disbursements would be drawn in accordance with my firm's standard tariff (see Appendix B).

In common with other professional firms, our standard charging rates are reviewed periodically to take account of inflation and other matters affecting costs. Since the original approval of the basis of my remuneration on 5 December 2013 there have been slight increases to our charge out rates and no increases to the disbursement tariff.

Remuneration and disbursements charged and drawn

My time costs to the anniversary date total £25,441, of which £4,147 has been incurred in the period covered by this report.

The Liquidator's disbursements incurred total £1,817 with £293 being incurred in the period covered by this report.

I have attached a more detailed breakdown of costs at Appendix C. I am required to provide the information in this format by Statement of Insolvency Practice 9.

In summary, during the period covered by this report, I have drawn £5,000 in respect of my post appointment time costs and £293 (plus VAT) for disbursements has been paid.

Expenses charged and drawn

Details of the costs incurred and paid by the Liquidators in relation to Liquidation expenses are also attached at Appendix C.

In addition, at the first meeting of creditors held on 5 December 2013 it was resolved that the fees and disbursements of Geoffrey Martin & Co for assisting the directors in convening the statutory meetings to place the Company into Liquidation, and for assistance in preparing the Statement of Affairs and other information presented to the meetings, would be a set fee of £7,500 be paid out of the assets of the Company.

These fees have been paid as an expense of the Liquidation in accordance with the Rules.

Creditors' Guide to Fees and statement of creditors' rights

Further information relating to Liquidators' remuneration, expenses and disbursements, together with details of your rights as a creditor in this regard can be found at Appendix D

Matters outstanding

There are no further matters outstanding in the Liquidation and I will soon take steps to close the Liquidation and convene the final meetings of shareholders and creditors

If you require any further information, please do not hesitate to contact Claire Kennedy at this office

Yours faithfully



Peter Hart
Liquidator

Eykona Medical Limited
(In Liquidation)

Liquidator's Abstract Of Receipts And Payments

	Statement of affairs £	From 05/12/2015 To 04/12/2016 £	From 05/12/2013 To 04/12/2016 £
RECEIPTS			
Office Furniture & IT Equipment	2,300 00	-	6,000 00
Cash at Bank	29,156 00	-	28,616 51
Bank Interest Gross		11 13	102 69
Sundry Receipts		-	840 00
Business Rates Refund		-	585 24
		11 13	36,144 44
PAYMENTS			
Preparation of Statement of Affairs		-	7,500 00
Liquidator's Remuneration		5,000 00	12,500 00
Category 1 Disbursements		293 33	1,553 72
Agent's Fees		-	1,200 00
Post Appointment Corporation Tax		7 73	19 41
Insurance of Assets		-	330 19
<u>Preferential Creditor Distribution</u>			
Pension Contributions - Aviva Plc		-	1,057 23
<u>Unsecured Creditor Distribution</u>			
Trade Creditors		-	9,812 98
HM Revenue & Customs - VAT/PAYE/NIC		-	183 56
		5,301 06	34,157 09
BALANCE - 04 December 2016			1,987.35
MADE UP AS FOLLOWS			
Floating Current A/c			943 30
VAT Receivable			1,044 05
			1,987.35



Peter Hart
Liquidator

Case Name	Eykona Medical Limited
Registered Number	05918197
Registered Office	Geoffrey Martin & Co 1 Westferry Circus Canary Wharf London E14 4HD
Office Holder	Peter Hart
Firm	Geoffrey Martin & Co
Address	1 Westferry Circus, Canary Wharf, London, E14 4HD
Telephone	020 7495 1100
Reference	EYKO401/PH/JG/CK
Type of Appointment	Creditors' Voluntary Liquidation
Date of Appointment	5 December 2013

CHARGING AND DISBURSEMENTS POLICY (Combined London & Leeds Offices)

Time Costs

The firm's hourly charge out rates are revised annually from 1 July. The rates currently in use are within the following bands

	£
Appointment Taker	325 – 450
Associate	285
Manager	265 – 295
Senior Administrator	160 – 225
Junior Administrator and Support Staff	100 – 175

Secretarial and cashiers time is charged to the case and their rates are included within the above hourly rates identified above as appropriate. Time is charged in units of 6 minutes.

Disbursements

A disbursement charge relating to the recovery of overhead costs is levied at the rate of £3.60 per shareholder and creditor. This sum is drawn at the outset of the case and on each anniversary thereafter and covers printing, postage, stationery, photocopying, telephone and fax usage. Company Searches and Identity Verifications are charged at cost.

Outsourced printing and/or photocopying will be charged at cost in addition to the above.

Travelling expenses are charged at the rate of 45p per mile.

EYKO401

Eykona Medical Limited

SIP 9 - Time & Cost Summary

Period 05/12/13 04/12/16

Time Summary

Classification of work function	Hours					Time Cost (£)	Average hourly rate (£)
	Appointment Taker	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & Planning	7 60	4 00	2 90	75 40	89 90	12,233 50	136 08
Investigations	0 80	0 00	0 00	10 30	11 10	1,219 00	109 82
Realisations of assets	2 50	0 00	0 00	5 40	7 90	1,434 50	181 58
Creditors	4 80	8 90	14 80	35 80	61 90	10,554 00	170 50
Total Hours	15 70	10 90	17 50	126 70	170 80	25,441 00	148 95
Total Fees Claimed						12,500 00	

EYKO401

Eykona Medical Limited

SIP 9 - Time & Cost Summary

Period 05/12/15 04/12/16

Time Summary

Hours						Time Cost (£)	Average hourly rate (£)
Classification of work function	Appointment Taker	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & Planning	0 00	1 60	0 00	16 00	17 60	2,384 50	135 48
Creditors	0 00	2 50	0 00	8 80	11 30	1,762 50	155 97
Total Hours	0 00	4 10	0 00	24 80	28 90	4,147 00	143 49
Total Fees Claimed						5,000 00	

Eykona Medical Limited - In Liquidation ("the Company")

Overview of Liquidator's time spent

I detail below the key areas of work undertaken by the Liquidator and his staff in respect of this matter

Administration and planning

- Liaising with the directors (non-investigative)
- Dealing with the statutory requirements imposed by the Insolvency Act and Rules 1986 and Insolvency Regulatory Bodies
- Administrative setup and filing of all statutory paperwork
- Maintenance of case files and details on IPS
- Dealing with all routine correspondence
- Accounting for receipts and payments in the Liquidation
- Monitoring the progress of the Liquidation
- Collection of the Company books and records

Investigations

- Statutory investigations into the affairs of the Company and its officers and in accordance with Statement of Insolvency Practice 2
- Completion of Directors' Conduct Report in accordance with the Company Directors Disqualification Act 1986
- Dealing with enquires and information provided by creditors
- Investigating the accuracy of the directors' Statement of Affairs and comparing with the Company's pre-appointment financial statements
- Reviewing the Company's records in order to identify unusual or exceptional items
- Documenting all investigations for the file

Realisation of assets

- Communications with the Company's pre-appointment bank regarding recovery of cash balances held
- Liaising with Company debtors in respect of amounts due
- Liaising with Agents regarding valuation of the Company's assets
- Liaising with Agents regarding a sale of the Company's assets
- Settling amounts due to the Agents as a result of work carried out by them
- Accounting for realisations in the Liquidation
- Recovery of sundry receipt payable to the Company
- Liaising with the Company's local council regarding business rates refunds

Creditors

- Providing periodic reports to the Company's creditors
- Correspondence with all classes of creditors, both oral and written
- Dealing with creditor queries and claims, both oral and written
- Statutory reporting to creditors
- Adjudicating on preferential creditor claims
- Adjudicating on unsecured creditor claims
- Declaring and paying preferential creditors in full
- Declaring and paying dividend to unsecured creditors

Other professional costs of the Liquidation

The Liquidator has incurred Liquidation expenses in connection with the instruction of the following parties

Expense/Activity	Service Provider	Basis of selection	Basis of charging
Agents Fees	Winterhill Largo Plc	Insolvency Experience	Time Costs

Details of expenses incurred and paid during the period of this report are as follows

Expense	Incurring 05.12.2015 – 04 12.2016	Total Incurred	Paid 05.12.2015 – 04.12.2016	Total Paid	Outstanding
	£	£	£	£	£
Agent's fees	1,200	1,200	-	1,200	-

Category 1 disbursements

Category 1 disbursements comprise specific expenditure which relates to the administration of the Liquidation and which are paid to an independent third party

	Incurring 05.12.2015 – 04.12.2016	Total Incurred	Paid 05.12.2015 – 04.12.2016	Total Paid	Outstanding
	£	£	£	£	£
Specific Bond	-	50	-	50	-
Search Fees	1	5	1	5	-
Statutory Advertising	-	303	-	303	-
Storage	293	1,196	293	1,196	-
Total	294	1,554	294	1,554	-

Category 2 disbursements

Details of Category 2 disbursements incurred and paid during the period of this report are as follows

	Incurring 05.12.2015 – 04 12 2016	Total Incurred	Paid 05.12.2015 – 04.12.2016	Total Paid	Outstanding
	£		£		£
Postage, Stationery & Telephone	-	263	-	-	263
Total	-	263	-	-	263

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 seeking remuneration approval

6.1.1 When seeking agreement to his fees the liquidator 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

6 1 2 Where, at any creditors' or committee meeting, the liquidator 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

6 1 3 the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator 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 liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator 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 liquidator 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 liquidator'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 liquidator 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

6 1 4 Where the fee is charged on a percentage basis the liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a liquidator or his staff

6.2 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 liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 7.1 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 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work which has been sub-contracted out.

6.3 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 liquidator 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 liquidator'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.

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 a winding-up resolution passed on or after 6 April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date,
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by
 - an administration which began before that date,
 - a voluntary liquidation in which the winding-up resolution was passed before that date