

**Liquidator's Progress Report****Pursuant to Sections 92A, 104A and 192 of the  
Insolvency Act 1986****S.192**

To the Registrar of Companies

Company Number

**05936260**(a) Insert full name of  
company

Name of Company

(a)

**Alice Gibbons Limited**(b) Insert full name(s) and  
address(es)

I,  
Anthony David Kent  
Verulam House  
110 Luton Road  
Harpenden  
Hertfordshire  
AL5 3BL

the liquidator of the company attach a copy of my Progress Report under section  
192 of the Insolvency Act 1986

The Progress Report covers the period from

11<sup>th</sup> April 2012to 10<sup>th</sup> April 2013Presenter's name, address  
and reference (if any)

Signed



Date

30/5/13



A21 04/06/2013 #95  
COMPANIES HOUSE

**ALICE GIBBONS LIMITED – IN LIQUIDATION**  
**PROGRESS REPORT OF THE LIQUIDATOR FOR**  
**THE YEAR ENDED 10<sup>TH</sup> APRIL 2013**

**GENERAL MATTERS**

Alice Gibbons Limited was placed into creditors' voluntary liquidation on the 11<sup>th</sup> April 2012 and I was appointed liquidator

Following my appointment, the registered office of the company was moved to Verulam House, 110 Luton Road, Harpenden, Hertfordshire, AL5 3BL. The company's registered number is 05936260

**PROGRESS OF LIQUIDATION**

**Asset Realisations**

The following realisations were made in respect of the assets of the company,

	<b><u>Estimated to realise as per the Statement of Affairs £</u></b>	<b><u>Actual Realisations £</u></b>
<b><u>Assets specifically pledged</u></b>		
Book Debts	578	Nil
	<u>578</u>	<u>Nil</u>
<b><u>Assets not specifically pledged</u></b>		
Plant & Equipment	Nil	600
Stock	500	1,950
Directors' Loans	15,000	Nil
	<u>15,500</u>	<u>2,550</u>

**Notes and explanations**

**Book Debts**

Book debts amounting to £7,424 were factored through Bibby Financial Services Limited and were written down by 15% as a provision for bad or doubtful debts. The book debts had been estimated to realise £6,156, less the amount owed to Bibby Financial Services of

£5,578 This amount excluded termination costs Bibby Financial Services Limited closed their account on the 30<sup>th</sup> May 2012 with no outstanding debtors and no surplus amount after termination costs

#### Plant & Equipment

The plant and equipment was formerly subject to distraint by a creditor which was subsequently released by the creditor due to the cost of removal outweighing any realisable value These assets were sold to the company's landlord, Heathpatch Limited on the 12<sup>th</sup> June 2012 for the nominal sum of £500 plus VAT

#### Stock

The company's remaining assets, which consisted only of stock, were valued by independent agents, W & H Peacock Limited of Bedford An agreement was reached with the directors, Alice Gibbons and Ian Harper, on 2<sup>nd</sup> May 2012 to purchase the business and assets for £2,600 for use with their new company, Vintage Age Limited This is a connected company by virtue of common directors and shareholders It was agreed that this amount be paid over 4 months at £650 per month £1,950 has been received to date and I am pursuing the directors for the remaining balance of £650

#### Directors' Loans

For the purpose of the Statement of Affairs the directors estimated that approximately £15,000 was outstanding in respect of the directors' overdrawn loan accounts This amount was subject to verification following my appointment as liquidator

The company's bank statements have been reviewed to ascertain the directors' drawings since the preparation of the last set of accounts to 30<sup>th</sup> September 2010 The total drawings, including the outstanding amount detailed in the last accounts, amounts to a sum considerably higher than estimated in the Statement of Affairs.

The directors were written to requesting an explanation of the payments from the company's bank account since the last accounts The majority of the payments appeared to relate to the personal expenditure of the directors and therefore I believe this should be added to their loan account, however no response was received

In January 2013 I instructed solicitors to write to the directors A response was subsequently received acknowledging that some of the drawings relate to personal expenditure but also that both directors lack sufficient means and assets to repay these sums

My solicitors are currently awaiting further details from the directors on these drawings In addition to this, a personal statement of affairs in respect of both directors has been requested, together with any settlement proposals to repay the overdrawn directors' loan accounts

#### Other Receipts

VAT on the expenses of liquidation of £1,086 11 was recovered

The funds held earned interest, the amount received being £4 07 Cash at bank of £62.28 was also received

### **Payments**

#### **Expenses of Liquidation**

The expenses incurred are set out in the enclosed receipts and payments account

All amounts shown on the attached statement are shown gross of VAT VAT is then recovered, where possible, at the conclusion of the case

### **Investigation of the Company's Affairs**

I have carried out an investigation into the affairs of the company, conduct of the directors and reasons for failure

Where a liquidator's investigations disclose any matters relating to directors conduct, he is required to make a report to the Department for Business, Innovation and Skills (formerly known as the Department of Trade & Industry), who consider whether or not to take proceedings Such reports are confidential, and a liquidator is not permitted to disclose to creditors or any other party the contents of such report

I can confirm however that my investigation took account of all matters brought to my attention by creditors

Investigations are ongoing in respect of the overdrawn directors' loan accounts

### **Creditors' Claims**

All creditors claims received have been processed and you should have received my confirmation if you have lodged a claim If you have not received confirmation, or have yet to lodge a claim and wish to do so, please contact me as soon as possible I attach a list of creditors' claims received in the liquidation to date

It is not possible to pay a dividend to any class of creditor at the present time as there have not been sufficient realisations I am unable to advise whether a dividend to any class of creditor will be made in the future

### **Liquidator's Remuneration**

The attached schedule details the time costs exclusive of VAT that has been incurred during the administration of this case This time has been broken down for ease of reference in separate administrative categories

My fee quoted for preparing the necessary documentation to convene a meeting of creditors was £5,000 plus VAT plus disbursements, of which £6,000 inclusive of VAT was paid personally by the directors

Liquidator's remuneration is based by reference to the time properly given by me and my staff in attending to matters arising in the liquidation in accordance with the resolution of creditors on the 11<sup>th</sup> April 2012. A copy of this resolution is attached

A total of 350.27 hours has been spent on the administration of the liquidation and these time costs amount to £23,659.90 including VAT. Liquidator's fees drawn for this period are £1,200 including VAT

The time incurred has been larger than expected as a result of my investigations in respect of the overdrawn directors' loan accounts

Attached is a copy of this firm's charging policy on the drawing of expenses and disbursements

### **Creditor's Rights.**

A creditor may, within 21 days of receipt of this progress report, request that I provide further information about the remuneration and expenses set out in this report. Such request must be made in writing and may be made by a secured creditor or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including himself) or he has the permission of the court

If a creditor believes that my remuneration is too high or the basis inappropriate or the expenses incurred by me, are in all the circumstances excessive, he may, provided certain conditions are met, apply to the Court. Such application must be made to the court within 8 weeks of receipt of this progress report and may be made by any secured creditor, or by an unsecured creditor provided at least 10% in value of the unsecured creditors (including himself) agree, or he has the permission of the court

### **Conclusion of the Liquidation and Dividend Prospects**

I am unable to conclude this liquidation until such time as my investigations in respect of the overdrawn directors' loan accounts are complete

From information presently available, it appears that no dividend is anticipated to be paid to any class of creditor

Dated: 29<sup>th</sup> May 2013

A D Kent MIPA, FABRP  
Liquidator

**Alice Gibbons Limited**  
**Creditor Claims Summary Report**

Key	Name	Rep. By	S of A £	Claim £	Agreed Claim £
CA00	Anglian Water		229 64	229 64	0 00
CA01	Archant Regional Limited		1,120 47	804 38	0 00
CA02	ATC Colours		4,717 39	0 00	0 00
CB00	HSBC Plc		36,287 22	0 00	0 00
CB01	Babergh District Council		36 26	0 00	0 00
CB02	Bacton Transport Ltd		3,273 01	3,273 01	0 00
CB03	Helen Ball		1,432 30	0 00	0 00
CC00	Contributions Agency		1,050 46	12,457 08	0 00
CD00	DHL Express Ltd		1,022 94	0 00	0 00
CE00	E-ON		8,461 00	0 00	0 00
CF01	Bibby Factors Northwest Ltd		5,578 00	0 00	0 00
CF02	Fed Express Europe Ltd		15 57	0 00	0 00
CH00	H M Revenue & Customs		31,540 31	29,301 37	0 00
CH01	Heathpatch Limited		5,061 24	5,661 24	0 00
CI00	HM Revenue & Customs		0 00	0 00	0 00
CJ00	John Phillips & Co Ltd		13,788 72	0 00	0 00
CL01	Lex Vehicle Leasing Ltd t/a Business Partner		578 42	578 42	0 00
CL02	Lombard Vehicle Management Ltd		1,058 46	0 00	0 00
CN00	NPower		10,293 87	12,890 49	0 00
CT00	Today Magazines Ltd		211 06	0 00	0 00
CT01	TNT Limited		1,857 13	1,011 17	0 00
RG00	Ms Alice Louise Gibbons		0 00	0 00	0 00
RH00	Mr Ian Christopher Harper		0 00	0 00	0 00
<b>23 Entries Totalling</b>			<b>127,613.47</b>	<b>66,206 80</b>	<b>0.00</b>

Case name	Alice Gibbons Limited
Appointed by	Members & Creditors
Office Holder	A D Kent MIPA FABRP
Firm	Maidment Judd
Address	Verulam House 110 Luton Road Harpenden Hertfordshire AL5 3BL
Telephone	01582 469700
Reference	AL4224
Type of Appointment	Creditors' Voluntary Liquidation
Date of Appointment	11 <sup>th</sup> April 2012

### Category 2 Disbursements

In accordance with the Statement of Insolvency Practice 9, the amounts paid or payable to the office holder's firm or to any other party in which the office holder or his firm or any associate has an interest in the administration to date (inclusive of VAT) are as follows,

Type & purpose	<u>£</u>
Stationery and postage	36 66
Total	<u>36 66</u>

**Alice Gibbons Limited**  
**(In Liquidation)**  
**Liquidator's Abstract of Receipts & Payments**  
**To 10/04/2013**

<b>S of A £</b>		<b>£</b>	<b>£</b>
	<b>SECURED ASSETS</b>		
6,156 00	Book Debts	NIL	NIL
	<b>SECURED CREDITORS</b>		
(5,578 00)	Bibby Financial Services	NIL	NIL
	<b>ASSET REALISATIONS</b>		
	Plant & Equipment	600 00	
500 00	Stock	1,950 00	
	VAT Refund	1,086 11	
	Cash at Bank	62 28	
	Bank Interest Gross	4 07	
15,000 00	Directors' Loans	NIL	3,702 46
	<b>COST OF REALISATIONS</b>		
	Office Holders Fees	1,200 00	
	Agents/Valuers Fees	390 00	
	Tax Deducted at Source	0 82	
	Stationery & Postage	36 66	
	Storage Costs	9 55	(1,637 03)
	<b>FLOATING CHARGE CREDITORS</b>		
(36,287 00)	HSBC Bank Plc	NIL	NIL
	<b>UNSECURED CREDITORS</b>		
(51,725 00)	Trade & Expense Creditors	NIL	
(1,432 00)	Employee Claim	NIL	
(32,591 00)	HM Revenue & Customs	NIL	NIL
	<b>DISTRIBUTIONS</b>		
(77 00)	Ordinary Shareholders	NIL	NIL
<b>(106,034.00)</b>			<b>2,065.43</b>
	<b>REPRESENTED BY</b>		
	Vat Receivable		78 00
	Bank 1 Current		1,987 43
			<b>2,065.43</b>

INSOLVENCY OFFICE-HOLDER'S  
REMUNERATION APPLICATION  
NUMERICAL SUMMARY  
(EXCLUSIVE OF VAT)  
AS AT 10TH APRIL 2013

CASE NAME  
ALICE GIBBONS LIMITED

	HOURS SPENT						
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours	Time Cost £	Average hourly rate
Meeting, correspondence etc with Directors	~	~	1 00	1 50	2 50	508 34	203 34
Immediate Post Appointment Work	1 17	~	0 34	5 75	7 26	1,491 24	205 40
Realisation of Assets	~	~	1 00	0 75	1 75	382 10	218 34
Dealing with Creditors	0 33	~	0 50	1 17	2 00	448 34	224 17
Dealing with Debtors	~	~	~	1 42	259 58	5,659 12	21 80
Employee Claims	~	~	0 08	2 50	2 58	462 49	179 26
Investigations	0 75	~	1 34	23 50	25 59	6,477 49	253 13
Legal Action	~	~	0 75	~	0 75	187 50	250 00
Insolvency Administration & Planning	~	~	2 08	8 92	11 00	2,139 57	194 51
Tax Returns	~	~	0 17	1 08	1 25	184 58	147 66
Case Review	1 17	~	1 42	0 58	3 17	873 74	275 63
Archiving	~	~	~	0 17	29 17	191 67	6 57
Book keeping and statutory returns	0 58	0 42	0 17	2 50	3 67	710 40	193 57
<b>Total hours, fees, average hourly rate</b>	<b>4 00</b>	<b>0 42</b>	<b>8 85</b>	<b>49 84</b>	<b>350 27</b>	<b>19,716 58</b>	<b>56 29</b>

**ALICE GIBBONS LIMITED**

**SCHEDULE OF RESOLUTIONS**

**PASSED ON 11<sup>TH</sup> APRIL 2012**

The following resolutions were considered at the creditors meeting held on 11<sup>th</sup> April 2012 at Verulam House, 110 Luton Road, Harpenden, Hertfordshire, AL5 3BL at 11 00 a m

- 1      That the liquidator's remuneration was approved by reference to the time properly given by the liquidator and his staff in attending to the matters arising in the liquidation

This resolution was approved unanimously

- 2      That the liquidator's charging policy, as circulated to creditors, in relation to expenses and disbursements were approved

This resolution was approved unanimously

- 3      That the liquidator be authorised to pay preferential creditors in full if funds permit

This resolution was approved unanimously

- 4      That the statement of affairs fee of £6,000 inclusive of VAT be approved

This resolution was approved unanimously

**IAN CHRISTOPHER HARPER**

**CHAIRMAN**

**MAIDMENT JUDD CHARGING POLICY**

**FOR DISBURSEMENTS AND EXPENSES**

**EFFECTIVE FROM 1<sup>ST</sup> JUNE 2012**

It is this firm's policy to make the following charges for disbursements and expenses in relation to all formal appointments

**CIRCULARS TO CREDITORS**

**PHOTOCOPYING**      2p per sheet to cover toner and paper at cost

**STATIONERY**

- Labels at cost of 1p each
- Headed paper at cost of 7p per sheet
- Envelopes at cost of 4p each
- Postage actual cost for relevant postal class used

**ROOM HIRE**      If the initial meeting of creditors is held at our offices a one off charge of £100 plus VAT is made at the commencement of the case. All subsequent meetings held at our offices during the course of the administration of the case are then not charged.

If the initial meeting of creditors, or any other meeting of creditors, is not held at our office, the cost of the room used will be charged at actual cost, with no uplift being charged. No further charges are made during the course of the administration in respect of any other subsequent meetings held at our offices.

**TRAVEL**

- Motor travel – as per the Inland Revenues' Fixed profit Car Scheme rate applicable at the time of travel
- Rail travel – standard class at actual cost
- Taxi fares – at actual cost
- Car parking – at actual cost

**SPECIFIC PENALTY BOND**      At cost to arrange the mandatory insurance cover required under the Insolvency Act 1986 for each appointment

**INSURANCE OF ASSETS**      At cost, in relation to specific cover arranged

**SUBSISTENCE:**      No charge is made by the firm

**TELEPHONE/FAX**      No charge is made by the firm

<b>COMPANY SEARCHES</b>	At cost incurred
<b>BANK CHARGES</b>	At cost incurred
<b>STORAGE CHARGES:</b>	At cost, based upon charges incurred on each specific case
<b>SOLICITORS/AGENTS INSTRUCTED</b>	At cost based on charge made by solicitors and agents instructed during administration

The firm has no arrangements with outside providers of services such as storage companies, agents or solicitors

Agents and subcontractors of the office holder's choosing are engaged on a case subject to the office holder being satisfied that they are competent in dealing with the specific matter and that the charges to be levied by them are fair and reasonable.

All the above costs are subject to amendment by the firm at any time, and if amended will be notified to creditors with the next circular sent to all creditors

Funds held in an estate will be deposited in accordance with Insolvency Act and Rules or at the discretion of the office holder in either the Insolvency Services account at the Bank of England or at a local bank account specifically opened for each case. Interest earned on the funds held at the rate applicable to an instant access savings account will be paid into each estate

If the firm's fees are agreed to be paid on a time cost basis, the charge out rates applicable to this type of appointment, per hour, effective from 1<sup>st</sup> June 2012 exclusive of VAT, are as follows,

	<u>£</u>
Partner	365 00
Senior Manager	290 00
Manager	250 00
Senior Administrator	240 00
Junior Administrator	185 00
Account Administrator	135 00
Assistants & Support Staff	135 00

It is this firm's policy to only charge for the time of the assistants and support staff where they do a substantial amount of work on a particular case i.e. for the preparation of reports to the court and creditors.

All grades of staff are used on all appointments, with technical and complicated matters being dealt with by partners and managers

Time spent by assistants and support staff on general correspondence is not charged

A summary of time spent on a case, will be provided in accordance with the Statement of Insolvency Practice 9 The activities summarised in such a report includes such items as follows,

<b>Standard Activity</b>	<b>Examples of work</b>
Administration and Planning	Case planning Administrative set-up Appointment notification Maintenance of records Statutory reporting
Investigations	SIP 2 review CDDA reports Investigating antecedent transactions
Realisation of Assets	Identifying, securing, insuring assets Retention of title Debt collection Property, business and asset sales
Trading	Management of operations Accounting for trading On-going employee issues
Creditors	Communication with creditors Creditors' claims (including employees' and other preferential creditors')

If you have any queries on any of the above, then please do not hesitate to contact  
Anthony Kent MIPA, FABRP at Verulam House, 110 Luton Road, Harpenden,  
Hertfordshire, AL5 3BL  
Tel 01582 469700  
or e-mail [akent@maidmentjudd.co.uk](mailto:akent@maidmentjudd.co.uk)

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# **A CREDITORS' GUIDE TO LIQUIDATOR'S 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 expense 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 required 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 Fees**

- 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, or
  - 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 basis, 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**

5.1 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 Where 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 details 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 that 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 sub-contractors, where 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 expense 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 these 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 as 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 6 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 2 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 10 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 percent 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 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<sup>th</sup> April 2010,
- goes into voluntary liquidation immediately following an administration on or after 6<sup>th</sup> 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<sup>th</sup> 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