

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

# LIQ03

## Notice of progress report in voluntary winding up



Companies House



### 1 Company details

Company number 0 6 5 9 5 3 5 6

Company name in full C & L GROUNDWORK & BRICKWORK LTD

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

### 2 Liquidator's name

Full forename(s) EILEEN THERESA FRANCES

Surname SALE

### 3 Liquidator's address

Building name/number SALE SMITH & CO LIMITED

Street INDUCTA HOUSE

FRYERS ROAD

Post town BLOXWICH, WALSALL

County/Region WEST MIDLANDS

Postcode W S 2 7 L Z

Country

### 4 Liquidator's name

Full forename(s)

Surname

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

### 5 Liquidator's address

Building name/number

Street

Post town

County/Region

Postcode

Country

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

LIQ03

Notice of progress report in voluntary winding up

**6** Period of progress report

From date	d	0	d	4	m	0	m	4	y	2	y	0	y	1	y	7
To date	d	0	d	3	m	0	m	4	y	2	y	0	y	1	y	8

**7** Progress report☒ The progress report is attached**8** Sign and date

Liquidator's signature

Signature

X



X

Signature date

d	0	d	1	m	0	m	6	y	2	y	0	y	1	y	8
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LIQ03

Notice of progress report in voluntary winding up



**Presenter information**

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

Contact name

Company name

Address

Post town

County/Region

Postcode

Country

DX

Telephone



**Checklist**

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed the form.



**Important information**

**All information on this form will appear on the public record.**



**Where to send**

**You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.



**Further information**

For further information please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**

# Sale Smith & Co. Ltd.

New Address: Inducta House, Fryers Road, Bloxwich, Walsall, West Midlands, WS2 7LZ  
~~Carmella House, 3 & 4 Grove Terrace, Walsall, West Midlands, WS1 2NE.~~  
Tel: 01922 624777 Fax: 01922 720528 admin@salesmith.demon.co.uk

Business Recovery and Insolvency

TO ALL MEMBERS AND CREDITORS

PRIVATE AND CONFIDENTIAL

Our Ref: SS1354.ETFS.AB.SA.LTRCRS.0618

1st June 2018

Dear Sirs,


**C & L GROUNDWORK & BRICKWORK LTD**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

I refer to my appointment as Liquidator of the above named company and enclose my annual progress report in accordance with Rule 18.7 of the Insolvency (England & Wales) Rules 2016 together with a copy of my Receipts and Payments Account.

If there are any matters contained within the report upon which you require clarification, please do not hesitate to contact me.

Yours faithfully,

For and on behalf of C & L Groundwork & Brickwork Ltd  
(In Creditors Voluntary Liquidation)

  
Eileen T F Sale FIPA  
Liquidator

COMPANY NUMBER: 6595356

**C & L GROUNDWORK & BRICKWORK LTD**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**SUMMARY OF THE LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT**  
**FOR THE PERIOD 4TH APRIL 2017 TO 3RD APRIL 2018**

As per Statement of Affairs £	RECEIPTS	See Note	£
3,665	Other Debtors		-
	Sundry DVLA Refund		134.16
<hr/>			
£3,665			£134.16
<hr/>			
	<u>PAYMENTS</u>		
	Company Search Fee		1.00
	Liquidator's Disbursements	(10)	75.13
	Liquidator's Remuneration	(11)	42.02
	Input VAT		16.01
<hr/>			
			£134.16
<hr/>			

Eileen T F Sale FIPA  
Liquidator  
1st June 2018

**C & L GROUNDWORK & BRICKWORK LTD**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**NOTES TO BE READ IN CONJUNCTION WITH THE LIQUIDATOR'S**  
**RECEIPTS AND PAYMENTS ACCOUNT FOR THE PERIOD**  
**4TH APRIL 2017 TO 3RD APRIL 2018**

1. Receipts & Payments Account: I enclose my first annual progress report to creditors together with a summary of my Receipts & Payments Account in this matter for the period 4th April 2017 to 3rd April 2018. There have been very little realisations in the winding up proceedings and all the statutory costs have been borne by this firm.
2. Other Debtors: This represents the balance of funds owed to the company by the former director, Mr C Mills in respect of overpaid drawings which can be evidenced from the company's books and records. On the 9th January 2018, Mr Mills entered into an Individual Voluntary Arrangement with his creditors. It is anticipated all unsecured creditors will be paid in full and the matter is currently ongoing.
3. SIP 13 Disclosure: In accordance with Statement of Insolvency Practice 13 ("SIP 13"), the Office Holder is required to disclose to creditors the details of any asset sold by the Liquidator to connected parties.

I can confirm that there have been no such sales to connected parties during the course of my administration of the company's affairs.

4. Preferential Creditors: Crown Preference in relation to VAT and PAYE was abolished in 2003 and consequently, in the majority of cases, preferential creditors relate to certain liabilities in respect of unpaid wages, holiday pay and pension contributions.

<u>Creditor</u>	<u>Per Statement of Affairs</u> £	<u>Claim Received</u> £
Wages & Holiday Pay	4,061	-
	<u>£4,061</u>	<u>£Nil</u>

5. Floating Charge Creditors: There are no floating charge creditors in this case.
6. Non-Preferential Creditors: Certain creditors' claims remain outstanding, however, the following claims have been received to date: -

<u>Creditor</u>	<u>Per Statement of Affairs</u> £	<u>Claim Received</u> £
Trade & Expense	111,718	43,813.76
HM Revenue & Customs (PAYE/NIC/CIS/VAT)	130,000	55,364.04
Barclays Bank Plc	19,929	20,872.29
Wages, Redundancy & Payments in Lieu	11,248	-
Additional Claims	-	16,761.27
	<u>£272,895</u>	<u>£136,811.36</u>

Please note that these figures are indicative only and should not be used as the sole or principal basis for any bad debt provision or other purposes. Further non-preferential creditors' received claims may subsequently cause revision, increase and/or additional costs.

7. Prescribed Part: The 'Prescribed Part' is a statutory amount, calculated as a percentage of net floating charge realisations, which entitles unsecured creditors to a share of realisations. This is calculated on a sliding scale up to maximum of £600,000 before costs.

The Company has not granted a floating charge to any creditor after 15 September 2003 and consequently there will be no prescribed part in this Liquidation.

8. Company Directors' Disqualification Act: In accordance with my statutory duty, appropriate Conduct Reports have been forwarded to the appropriate Government Department in respect of the directors' handling of the affairs of the company.

The content of my report is confidential and may not be disclosed but I can confirm, following my initial assessment, no further investigations were considered necessary. However, the Department can always reconsider this matter if any additional information comes to light before the end of the statutory two years limit.

9. Investigations: In accordance with the best practice directives of SIP 2 "Investigations by Office Holders in Administrations and Insolvent Liquidations" I have undertaken assessments to ascertain whether there are potential areas of recoveries for the estate or matters of public interest requiring further more detailed investigation. My assessments also took into account information provided by creditors and I can report my investigations have not revealed any issues requiring any further report.

10. Expenses and Disbursements: The disbursements that have been incurred and not yet paid during the period are detailed on the attached schedule.

Creditors' approval is not required for necessary external disbursements paid to independent third parties as disclosed. Payments made in respect of the above are defined as "Category 1 disbursements". Category 1 disbursements incurred in this case total £603.11, of which £23.73 has been paid since the date of my appointment, as disclosed on the attached schedule.

With effect from 1st January 2003, a Liquidator must obtain creditors' approval to draw her firm's internal disbursements, costs and expenses in dealing with an estate, including, as appropriate, printing, photocopying, facsimile, document storage, registered office fee and telephone charges. Payments in respect of this type of expense are referred to as "Category 2 disbursements". Category 2 disbursements incurred in this case total £241.40, of which £52.40 has been paid since the date of my appointment, as disclosed on the attached schedule.

11. Liquidator's Remuneration: At the first meeting of creditors a resolution was passed approving that my remuneration as Liquidator should be on a mixture of a percentage of realisations and my firm's time costs, and may be drawn on account as and when required.

The time costs for the year under review are £5,196.12, representing 28.50 hours at an average hourly rate of £182.32. To date my firm has been paid on account of these time costs the sum of £1,031.32, in connection with the statutory administrative and investigative duties undertaken to date. The time costs incurred in these matters are significantly in excess of the remuneration taken, based upon the level of funds available in the winding up proceedings to discharge the actual costs. These duties include, but are not limited to, statutory and investigative matters, dealing with debtors, creditors and customers queries, Crown Department enquiries and returns, research and reporting etc. In this respect, it has not been necessary during the course of the liquidation to seek further approval to increase the estimates.

I am required to provide creditors with details relating to those time costs incurred during the period 4th April 2017 to 3rd April 2018. This is analysed on the attached schedule, together with a breakdown of my current charge-out rates. There has been no increase in the charge out rates during the Liquidation.

The Liquidator has not utilised the services of any sub-contractors on the administration of this case.

A copy of the R3 guidelines in respect of Insolvency Practitioners' fees relating to creditors' voluntary liquidations is enclosed. Further information about this insolvency process may be found on the R3 website at <http://www.Creditorinsolvencyguide.co.uk/>.

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

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

13. Dividend Prospects: Without prejudice to the final outcome of the matters relating to my administration of the winding up proceedings and, based on information to date, I regret to advise that there is no likelihood of a distribution to any class of creditor in this matter.

Eileen T F Sale FIPA  
Liquidator  
1st June 2018



**C & L GROUNDWORK & BRICKWORK LTD**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of category 2 disbursements incurred to 3rd April 2018

Type and purpose	Amount incurred in reporting period (£)	Amount drawn in reporting period (£)
Storage of Company Records (3 boxes)	120.00	
Storage of Administration Records	60.00	
Travel Expenses	14.40	14.40
Stationery & Printing	47.00	38.00
<b>Total</b>	<b>£241.40</b>	<b>£52.40</b>

The storage of company's books and records are at the Insolvency Practitioner's own storage facility. The books and records will be stored in banker's boxes and a storage fee will be charged at the rate of £10 per box per quarter (13 weeks). This charge covers the transportation of records from the company's premises, storage retrieval of books and records in storage for administration purposes and the destruction of such books and records on the first anniversary of completion of the Insolvency administration.

The storage of company's working papers is at the Insolvency Practitioner's own storage facility. The files will be stored in banker's boxes and a storage fee will be charged at the rate of £10 per annum. This charge covers the administration costs of archiving and retrieval of documents.

Travelling by motor vehicle on business for the administration of the Insolvency will be charged to the estate per mile at the appropriate rate currently published by the "AA" for the type of vehicle and engine size used.

All circulars will be sent out by second class post and the actual postage cost will be charged as an expense to the estate. In respect of circulars, stationery is charged at 10p per copy paper or facsimile.

Summary of category 1 disbursements incurred to 3rd April 2018

Type and purpose	Amount incurred in reporting period (£)	Amount drawn in reporting period (£)
Statutory Advertising	394.77	
Insolvency Bond	110.00	
Meeting Room Hire (External)	60.00	
Companies House Search Fee	1.00	1.00
Postage	37.34	22.73
<b>Total</b>	<b>£603.11</b>	<b>£23.73</b>

**C & L GROUNDWORK & BRICKWORK LTD**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of time spent for period 4th April 2017 to 3rd April 2018

Classification Of work	Partner	Case Manager	Senior Admin	Support Staff	Total Hours	Time Cost £	Average Rate £/h £
Administration And planning (Pre)	3.80	1.50	3.00	5.00	13.30	2,565.01	192.86
Investigations	0.80	3.00	1.70		5.50	1,295.76	235.59
Realisation Of Assets	1.00		0.90		1.90	475.65	250.34
Trading							
Creditors	2.00		6.20	7.50	15.70	2,196.75	139.92
Statutory compliance, administration and planning	1.90		1.50	2.00	5.40	1,227.96	227.40
Total hours	5.70	4.50	8.80	9.50	28.50	5,196.12	182.32
Total fees claimed						£42.02	1.47

**Chargeout rates: -**

Partner	£351.45
Case Manager	£260.00
Senior Administrators	£138.00
Support Staff/ Clerical	£85.10

**Classification of Duties**

**Brief Summary**

Administration and planning

Pre-appointment – initial advice on an informal basis, Interviews with director(s) in connection with instructions. Assistance with the preparation of the Statement of Affairs, preparation for first creditors' meetings

Investigations

Post-appointment – interviews with director(s). Reviewing books & records/ disqualification and investigation matters. Completing CDDA reports.

Realisation of assets

Identifying any known assets. Bank reconciliation/ receipts and payments account. Debt collection

Trading

N/A

Creditors/ Employees

Trade creditors correspondence and schedules, HMRC correspondence/ enquires.

Statutory compliance, administration and planning

Attendance at creditors/director(s) meetings, preparation of creditors' meeting reports. Statutory reporting/ returns. General case administration and dealing with correspondence.



## Guidance Note

# LIQUIDATIONS A CREDITOR'S GUIDE TO INSOLVENCY PRACTITIONERS' FEES

Amended for changes introduced by  
The Insolvency (England and  
Wales) Rules 2016

6 April 2017

## LIQUIDATIONS - A CREDITORS' GUIDE TO INSOLVENCY PRACTITIONERS' 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 (also referred to in this guide as 'remuneration'). 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 participate in the appointment of the liquidator. A solvent liquidation is called a members' voluntary liquidation. It should be noted that this guide does not extend to members' voluntary liquidations as the fees in these cases are not determined by the creditors.
- 2.3 In a compulsory liquidation, the function of the 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 the specialist skills of an insolvency practitioner are required or the majority of creditors request the appointment of an insolvency practitioner, an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver. Where an insolvency practitioner is not appointed the official receiver remains as 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. An invitation to decide on whether a committee is to be established will be sent to creditors at the same time as a decision is sought on the appointment of a liquidator. 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 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 fees**

##### **4.1 Basis**

4.1.1 The basis for fixing the liquidator's fees is set out in Rules 18.16, 18.17, 18.19 and 18.20 of the Insolvency (England and Wales) Rules 2016. The Rules state that the basis of fees must be fixed:

- as a percentage of the value of the assets which are realised, distributed or both, by the liquidator
- 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.

4.1.2 Any combination of these bases may be used to fix the fees, and different bases may be used for different things done by the liquidator. Where the fee is fixed as a percentage, different percentages may be used for different things done by the liquidator.

##### **4.2 Advance information where fees are not based on time costs**

4.2.1 Prior to the determination of the basis of fees, the liquidator must give the creditors details of the work the liquidator proposes to undertake, and the expenses he considers will be, or are likely to be, incurred.

##### **4.3 Fees estimates where fees are to be based on time costs**

4.3.1 Where the liquidator proposes to take fees based on time costs, he must first provide the creditors with detailed information in the form of a 'fees estimate'. A fees estimate is a written estimate that specifies –

- details of the work the liquidator and his staff propose to undertake;
- the hourly rate or rates the liquidator and his staff propose to charge for each part of that work;
- the time the liquidator anticipates each part of that work will take; whether the liquidator anticipates it will be necessary to seek approval or further
- approval under the Rules; and
- the reasons it will be necessary to seek such approval.

4.3.2 In addition, the liquidator must give the creditors details of the expenses he considers will be, or are likely to be, incurred.

##### **4.4 Who fixes the fees?**

4.4.1 It is for the liquidation committee (if there is one) to determine on which of these bases, or combination of bases, the fees are to be fixed. Where it is fixed as a set amount or a percentage, it is for the committee to determine the amount, percentage or percentages to be applied. Rule 18.16 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 property with which the liquidator has to deal.

4.4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's fees may be fixed by a decision of the creditors by a decision procedure. The creditors take account of the same matters as apply in the case of the committee.

4.4.3 If the fees are 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 fees 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 calculated in accordance with a scale set out in the Rules.

4.4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of fees fixed in the administration continues to apply in the liquidation).

## **5. Review of fees**

5.1 Where there has been a material and substantial change in circumstances since the basis of the liquidator's fees were fixed, the liquidator may request that it be changed. The request must be made to the same body as initially approved the fees, and the same rules apply as to the original approval.

## **6 What information should be provided by the liquidator?**

### **6.1 General principles**

6.1.1 The liquidator should provide those responsible for approving his fees with sufficient information to enable them to make an informed judgement about the reasonableness of the liquidator's request. The information should be presented in a manner which is transparent, consistent throughout the life of the case and useful to creditors, while being proportionate to the circumstances of the case.

6.1.2 A proposed liquidator may issue a fees estimate to creditors prior to being appointed liquidator.

6.1.3 The liquidator should disclose:

- payments, fees and expenses arising from the administration paid to the liquidator or his or her associates;
- any business or personal relationships with parties responsible for approving the liquidator's fees or who provide services to the liquidator in respect of the insolvency appointment where the relationship could give rise to a conflict of interest.

6.1.4 The liquidator should inform creditors and other interested parties of their rights under insolvency legislation, and should advise them how they may access suitable information setting out their rights within the first communication with them and in each subsequent report.

6.1.5 Where the liquidator sub-contracts out work that could otherwise be carried out by the liquidator or his staff, this should be drawn to the attention of creditors with an explanation of why it is being done.

### **6.2 Key issues**

6.2.1 The key issues of concern to those with a financial interest in the level of payments from the insolvency estate will commonly be:

- the work the liquidator anticipates will be done, and why that work is necessary; and the anticipated cost of that work, including any expenses expected to be incurred in connection with it;
- whether it is anticipated that the work will provide a financial benefit to creditors, and if so what anticipated benefit (or if the work provided no direct financial benefit, but was required by statute);
- the work actually done and why that work was necessary;
- the actual costs of the work, including any expenses incurred in connection with it, as against any estimate provided;
- whether the work has provided a financial benefit to creditors, and if so what benefit (or if the work provided no direct financial benefit, but was required by statute).

6.2.2 When providing information about payments, fees and expenses, the liquidator should do so in a way which facilitates clarity of understanding of these key issues. Narrative explanations should be provided to support any numerical information supplied. Where it is practical to do so, the liquidator should provide an indication of the likely return to creditors when seeking approval for the basis of his fees.

6.2.3 When approval for a fixed amount or a percentage basis is sought, the liquidator should explain why the basis requested is expected to produce a fair and reasonable reflection of the work that the liquidator anticipates will be undertaken.

### **6.3 Fee estimates and subsequent reports**

6.3.1 When providing a fees estimate, the liquidator should supply that information in sufficient time to facilitate those with the authority to approve fees making an informed judgement about the reasonableness of the liquidator's requests. The estimate should clearly describe what activities are anticipated to be conducted in respect of the estimated fee.

6.3.2 When subsequently reporting to creditors, the actual hours and average rate (or rates) of the costs charged for each activity should be provided for comparison.

### **6.4 Disbursements**

6.4.1 Costs met by and reimbursed to the liquidator in connection with the liquidation will fall into two categories:

- Category 1 disbursements: These are payments to independent third parties where there is specific expenditure directly referable to the liquidation. Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses.
- Category 2 disbursements: These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that may be incurred by the liquidator or their firm, and that can be allocated to the liquidation on a proper and reasonable basis. Category 2 disbursements require approval in the same manner as a liquidator's fees.

6.4.2 When seeking approval, the liquidator should explain, for each category of cost, the basis on which the charge is being made. If the liquidator has obtained approval for the basis of Category 2 disbursements, that basis may continue to be used in a sequential appointment where further approval of the basis of remuneration is not required, or where the liquidator is replaced.

6.4.3 The following are not permissible as disbursements:

- a charge calculated as a percentage of fees;
- an administration fee or charge additional to the liquidator's fees; recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.

## **6.5 Payment of pre-appointment expenses**

6.5.1 The following categories of expenses may be paid out of the company's assets, either before or after the commencement of the winding up, as an expense of the winding up:

- any reasonable and necessary expenses of preparing the statement of affairs
- any reasonable and necessary expenses of the decision procedure or deemed consent procedure to seek a decision from the creditors on the nomination of liquidator

6.5.2 If payment has not been made pre-commencement of the liquidation, payment may not be made to the liquidator or any associate of the liquidator, otherwise than with the approval if the liquidation committee, creditors or the court.

6.5.3 Disclosure should be made of amounts already paid to the liquidator in respect of pre-appointment costs, giving the amounts paid, the name of the payer, and its relationship to the estate and the nature of the payment.

6.5.4 Disclosure should follow the principles and standards as set out in this Guidance.

## **6.6 Realisations for secured creditors**

6.6.1 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 in any reports he sends to creditors.

## **7. Exceeding the amount set out in the fees estimate**

7.1 Fees cannot be drawn in excess of the fees estimate without approval by the body which fixed the original basis of the fee. The request for approval must specify –

- the reason why the liquidator has exceeded, or is likely to exceed, the fees estimate;
- the additional work the liquidator has undertaken or proposes to undertake;
- the hourly rate or rates the liquidator proposes to charge for each part of that additional work;
- the time that additional work has taken or the liquidator anticipates that work will take;
- whether the liquidator anticipates that it will be necessary to seek further approval; and
- the reasons it will be necessary to seek further approval.

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

8.1 The liquidator is required to send annual progress reports to creditors. In addition to the items described above and especially those in paragraph 6.2.1, the reports must include:

- details of the basis fixed for the fee 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 fee 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 fee charged during the periods covered by the previous reports, together with a description of the things 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;
- details of progress during the period of the report, including a summary of the



- receipts and payments during the period;
- details of what needs to be done;
- where appropriate, a statement setting out whether, at the date of the report –
  - the fee expected to be charged is likely to exceed the fees estimate or any approval given;
  - the expenses incurred or expected to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of fees; and
  - the reason for that excess.
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the liquidator's fees and expenses.

8.2 Within 21 days of receipt of a progress report a creditor may request the liquidator to provide further information about the fees and expenses set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

8.3 The liquidator must provide the requested information within 14 days, unless he considers that:

- the time and cost involved in preparing the information would be excessive, or
- disclosure would be prejudicial to the conduct of the liquidation or might be expected to lead to violence against any person, or
- the liquidator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing some or all of the information.

8.4 Any creditor may apply to the court within 21 days of the liquidator's refusal to provide the requested information, or the expiry of the 14 days' time limit for the provision of the information.

## 9. **Provision of information – additional requirements**

9.1 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.

9.2 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.

9.3 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.

9.4 The information must be provided within 28 days of receipt of the request by the liquidator, and requests must be made within two years from vacation of office.

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

10.1 Except in cases where there is a liquidation committee it is the creditors as a body who have authority to approve the liquidator's fees.

10.2 If a creditor believes that the liquidator's fees are excessive, the basis is inappropriate, or

the expenses incurred by the liquidator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court.

- 10.3 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the liquidator's progress report in which the charging of the fees or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the liquidator a copy of the application and supporting evidence at least 14 days before the hearing.
- 10.4 If the court considers the application well founded, it may order that the fees 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.
- 10.5 On receipt of the liquidator's final account creditors have 8 weeks in which they may challenge the liquidator's fees and expenses as set out above.

**11. What if the liquidator is dissatisfied?**

- 11.1 If the liquidator considers that the fees 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 decision of the creditors. If he considers that the fees fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

**12 Other matters relating to fees**

- 12.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 12.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the fee payable should be apportioned. Any dispute between them may be referred to the court, the committee or the creditors.
- 12.3 If a new liquidator is appointed in place of another, any determination, decision 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, decision or court order is made.
- 12.4 Where the basis of the fees 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 fees. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 12.5 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result

in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

**13. Effective date**

This guide applies where a liquidator is appointed on or after 1 October 2015, or where information is provided by the liquidator about fees, expenses or other payments after 6 April 2017.