

WU07

Notice of progress report in a winding-up by the court



Companies House

FRIDAY



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A14

12/08/2022

#71

COMPANIES HOUSE

1 Company details

Company number 07281560
Company name in full Greenway Waste Recycling Limited

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

2 Liquidator's name

Full forename(s) Michael
Surname Jennings

3 Liquidator's address

Building name/number BDO Northern Ireland
Street Lindsay House
10 Callender Street
Post town Belfast
County/Region Northern Ireland
Postcode BT15BN
Country United Kingdom

4 Liquidator's name ①

Full forename(s) Brian
Surname Murphy

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

5 Liquidator's address ②

Building name/number BDO Northern Ireland
Street Lindsay House
10 Callender Street
Post town Belfast
County/Region Northern Ireland
Postcode BT15BN
Country United Kingdom

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

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6 Period of progress report

From date	^d 1	^d 3	^m 0	^m 6	^y 2	^y 0	^y 2	^y 1
To date	^d 1	^d 2	^m 0	^m 6	^y 2	^y 0	^y 2	^y 2

7 Progress report

☒ The progress report is attached

8 Sign and date

Liquidator's signature

Signature

X

[Handwritten signature]

X

Signature date

^d1 ^d0 ^m0 ^m8 ^y2 ^y0 ^y2 ^y2

WU07

Notice of progress report in a winding-up by the court

**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	Michael Jennings
Company name	BDO Northern Ireland
Address	Lindsay House
10 Callender Street	
Post town	Belfast
County/Region	Northern Ireland
Postcode	B T 1 5 B N
Country	United Kingdom
DX	
Telephone	028 9043 9009

**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 or email 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

To All Known Creditors10 August 2022
MJ/DR/NH

Dear Sirs,

Greenway Waste Recycling Limited - In Compulsory Liquidation
Registered in England & Wales Registered No: 07281560
The High Court of Justice Chancery Division No 6062 of 2018

I refer to the above and to previous correspondence regarding same.

Within my initial notice to creditors, dated 14 June 2018, and the notice of the previous decision procedure for creditors by correspondence, dated 11 March 2019, I notified creditors that they could establish a liquidation committee if over 10% of creditors by value wished to appoint a committee. I would advise that no creditors subsequently expressed an interest in establishing a creditors committee.

I would now take this chance to offer another opportunity for creditors to establish a liquidation committee should over 10% of creditors by value wish to appoint a committee.

To establish a committee there must be between 3 and 5 members. The Decision by correspondence form invites creditors to consent to be a member of the committee. I attach a further copy of a creditors' guide to committees, so that creditors are aware of what is involved. If more than 5 creditors consent, I will arrange a ballot so that creditors may nominate their preferred members.

In the event that a liquidation committee is not formed, I invite the creditors to consider additional resolutions regarding my proposed remuneration and expenses. If a committee is appointed, it will be responsible for considering these resolutions.

I would add that should the minimum number of creditors write to me requesting a physical meeting, within five days of the attached notice, I will convene a physical meeting of creditors to consider the resolution. Section 246ZE The Insolvency Act 1986 sets the 'minimum number' of creditors for requisitioning a meeting at any of the following:

- (a) 10% in value of the creditors or contributories;
- (b) 10% in number of the creditors or contributories;
- (c) 10 creditors or contributories.

Liquidators' Remuneration

Pursuant to the Insolvency (England and Wales) Rules 2016, the Joint Liquidators are obliged to fix their remuneration in accordance with Rule 18.16 of the Rules. This permits remuneration to be fixed either:



- (1) as a percentage of the assets realised and distributed; and/or
- (2) by reference to the time the Joint Liquidators and their staff have spent attending to matters in the liquidation as set out in the fees estimate; and/or
- (3) as a set amount; and/or
- (4) as a combination of the above.

In respect of this Liquidation, creditors approved our remuneration on a time cost basis on 28 March 2019 in accordance with a fee estimate totalling £48,000. We now wish to ask creditors to approve a £7,000 increase of our remuneration on a time cost basis. Further detail is included within the fees estimate, appended to the enclosed annual report, that sets out what we anticipate will be the time spent in liquidating the company, analysed in respect of various activities and the relevant cost.

For your guidance, a creditors' guide to liquidators' fees is also appended to the enclosed report, along with a copy of the Liquidation Receipts and Payments account, reflecting the case progress made to date, for your information.

Disbursements

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. I therefore report that since my appointment the sum of £634.00 has been incurred and drawn in respect of statutory advertising and statutory bonding.

Some Liquidators recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO Northern Ireland is not to charge any category 2 disbursements.

The Insolvency Service has established a central gateway for considering complaints in respect of Insolvency practitioners. In the event that you make a complaint to me but are not satisfied with the response from me then you should visit <https://www.gov.uk/complain-about-insolvency-practitioner> where you will find further information on how you may pursue the complaint.

If you require any further information, please do not hesitate to contact my colleague Norman Hegan (norman.hegan@bdoni.com).

Yours faithfully
for and on behalf of
Greenway Waste Recycling Limited
In Liquidation



Michael Jennings FCA
Joint Liquidator

Michael Jennings is authorised by Chartered Accountants Ireland to act as an Insolvency Practitioner.

Enc

NOTICE OF ARRANGING A DECISION PROCEDURE FOR CREDITORS BY CORRESPONDENCE
SECTION 246ZE OF THE INSOLVENCY ACT 1986
Approval of Officeholders remuneration

NOTICE that the Creditors of the above-named Company are invited to make decisions as to whether to approve or reject the resolutions below.

Decision Procedure: The creditors are invited to indicate by correspondence whether they approve or reject the resolutions. A Decision by Correspondence form is attached to record your vote. The completed form, together with details of your claim, if not already provided, must be sent to the Joint Liquidators either by post or email, whose details are below. Your response must be delivered to me before the Decision date listed below otherwise it cannot be counted.

Decision date: 31 August 2022 (21 days)

Creditors may within five business days of this notice require a physical meeting be held to consider the matter. This is explained in more detail overleaf.

Any response may be sent by correspondence, using the attached form. To be valid your response must be received by the Joint Liquidator by no later than the Decision date which is 31 August 2022.

RESOLUTION

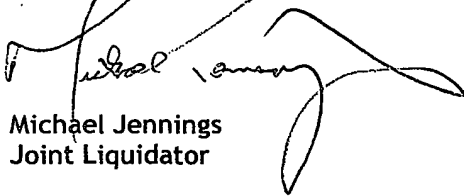
That:

- 1 That a liquidation committee be established if sufficient creditors are willing to be members.

In the event that a Liquidation Committee is not established to RESOLVE THAT

- 2 An increase of £7k to the Joint Liquidators' remuneration be approved on a time costs basis in accordance with the Fees Estimate circulated to creditors.

Date: 10 August 2022



Michael Jennings
Joint Liquidator

The Joint Liquidators are Michael Jennings (Officeholder No: GBNI068) and Brian Murphy (Officeholder No: GBNI069) of BDO Northern Ireland, Lindsay House, 10 Callender Street, Belfast, BT1 5BN. The Joint Liquidators may also be contacted via Norman Hegan at norman.hegan@bdoni.com

Certain Rules apply to decision procedures. The full text of the Rules is attached but the effect of those Rules is summarised here:

Creditor Voting rights (R.15.28): Every creditor who has this notice is entitled to vote in respect of the debt due to the creditor. Where there is a physical meeting the creditor must submit a proxy form (not relevant at this stage). Creditors, including creditors whose debt is treated as a 'small debt' (£1,000 or less) must still deliver a proof for voting purposes, if they have not already done so, otherwise their vote will be disregarded.

Calculation of creditors voting rights (R.15.31): In respect of this liquidation creditors' claims will be calculated as at the date of the winding up order, being: 30 April 2018. Claims that have an uncertain value will be subject to £1, or a higher value if the Chair allows.

Requisite majority of creditors for making a decision (15.34): A liquidation decision is approved if a majority of creditors, by value, vote in favour by the Decision date.

Appeals against decisions (R.15.35): Decisions of the Joint Liquidator in convening the Decision Procedure and dealing with voting are subject to appeal to the court by a creditor. Any appeal must be made within 21 days of the Decision date.

Physical Meeting: If creditors want to consider the resolutions at a physical meeting they must notify in writing the Joint Liquidator, whose details are above, within five business days of delivery of this notice. A meeting will be convened if sufficient creditors notify the nominee within the timeframe. Section 246ZE The insolvency Act sets the 'minimum number' of creditors for requisitioning a meeting at any of the following:—

- (a) 10% in value of the creditors or contributories;
- (b) 10% in number of the creditors or contributories;
- (c) 10 creditors or contributories.

**SECTION 246ZE OF THE INSOLVENCY ACT 1986
DECISION BY CORRESPONDENCE**

Greenway Waste Recycling limited - In Liquidation
Registered Number: 07281560

Approval of Officeholders remuneration

RESOLUTION

(* Please indicate voting preference)

That:

- 1 That a liquidation committee be established if sufficient creditors are willing to be members.

*Approved/Rejected

Do you consent to be a member of the liquidation committee?

*Yes/No

In the event that a Liquidation Committee is not established to RESOLVE THAT

- 2 An increase of £7k to the Joint Liquidators' remuneration be approved on a time costs basis in accordance with the Fees Estimate circulated to creditors.

*Approved/Rejected

TO BE COMPLETED BY THE CREDITOR WHEN RETURNING FORM

Name of Creditor

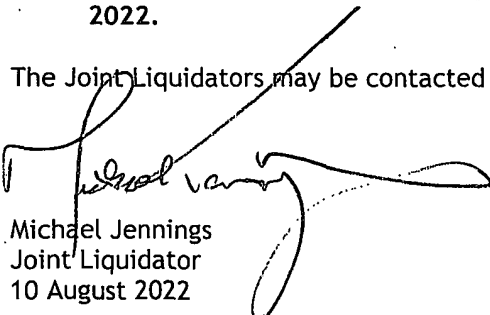
Signature of Creditor

(If signing on behalf of creditor, state capacity e.g. director/solicitor etc)

NOTE: This form must be accompanied by a proof of the amount due to the creditor, unless a proof of debt/claim form has already been delivered. Creditors whose debt is treated as a 'small debt' (£1,000 or less) must still deliver a proof for voting purposes.

This form must be returned to Michael Jennings (Officeholder No GBNI068) of BDO Northern Ireland, Lindsay House, 10 Callender Street, Belfast, BT1 5BN or by email to norman.hegan@bdoni.com by no later than the Decision date, being 31 August 2022.

The Joint Liquidators may be contacted via Norman Hegan at norman.hegan@bdoni.com


Michael Jennings
Joint Liquidator
10 August 2022

MJ/DR/NH

Creditors' voting rights

15.28.—(1) In an administration, an administrative receivership, a creditors' voluntary winding up, a winding up by the court and a bankruptcy, a creditor is entitled to vote in a decision procedure or to object to a decision proposed using the deemed consent procedure only if—

- (a) the creditor has, subject to 15.29, delivered to the convener a proof of the debt claimed in accordance with paragraph (3), including any calculation for the purposes of rule 15.31 or 15.32, and
 - (b) the proof was received by the convener—
 - (i) not later than the decision date, or in the case of a meeting, 4pm on the business day before the meeting, or
 - (ii) in the case of a meeting, later than the time given in sub-paragraph (i) where the chair is content to accept the proof; and
 - (c) the proof has been admitted for the purposes of entitlement to vote.
- (2) In the case of a meeting, a proxy-holder is not entitled to vote on behalf of a creditor unless the convener or chair has received the proxy intended to be used on behalf of that creditor.
- (3) A debt is claimed in accordance with this paragraph if it is—
- (a) claimed as due from the company or bankrupt to the person seeking to be entitled to vote; or
 - (b) in relation to a member State liquidator, claimed to be due to creditors in proceedings in relation to which that liquidator holds office.
- (4) The convener or chair may call for any document or other evidence to be produced if the convener or chair thinks it necessary for the purpose of substantiating the whole or any part of a claim.
- (5) In a decision relating to a proposed CVA or IVA every creditor, secured or unsecured, who has notice of the decision procedure is entitled to vote in respect of that creditor's debt.
- (6) Where a decision is sought in an administration under sub-paragraph 3.52(3)(b) (pre administration costs), paragraph 18.18(4) (remuneration: procedure for initial determination in an administration) or paragraph 18.26(2) (first exception: administrator has made statement under paragraph 52(1)(b) of Schedule B1), creditors are entitled to participate to the extent stated in those paragraphs.

Calculation of voting rights

15.31.—(1) Votes are calculated according to the amount of each creditor's claim—

- (a) in an administration, as at the date on which the company entered administration, less—
 - (i) any payments that have been made to the creditor after that date in respect of the claim, and
 - (ii) any adjustment by way of set-off which has been made in accordance with rule 14.24 or would have been made if that rule were applied on the date on which the votes are counted;
 - (b) in an administrative receivership, as at the date of the appointment of the receiver, less any payments that have been made to the creditor after that date in respect of the claim;
 - (c) in a creditors' voluntary winding up, a winding up by the court or a bankruptcy, as set out in the creditor's proof to the extent that it has been admitted;
 - (d) in a proposed CVA—
 - (i) at the date the company went into liquidation where the company is being wound up,
 - (ii) at the date the company entered into administration (less any payments made to the creditor after that date in respect of the claim) where it is in administration,
 - (iii) at the beginning of the moratorium where a moratorium has been obtained (less any payments made to the creditor after that date in respect of the claim), or
 - (iv) where (i) to (iii) do not apply, at the decision date;
 - (e) in a proposed IVA—
 - (i) where the debtor is not an undischarged bankrupt—
 - (aa) at the date of the interim order, where there is an interim order in force,
 - (bb) otherwise, at the decision date,
 - (ii) where the debtor is an undischarged bankrupt, at the date of the bankruptcy order.
- (2) A creditor may vote in respect of a debt of an unliquidated or unascertained amount if the convener or chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose.
- (3) But in relation to a proposed CVA or IVA, a debt of an unliquidated or unascertained amount is to be valued at £1 for the purposes of voting unless the convener or chair or an appointed person decides to put a higher value on it.
- (4) Where a debt is wholly secured its value for voting purposes is nil.
- (5) Where a debt is partly secured its value for voting purposes is the value of the unsecured part.
- (6) However, the value of the debt for voting purposes is its full value without deduction of the value of the security in the following cases—
- (a) where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 and the administrator has been requested to seek a decision under paragraph 52(2); and
 - (b) where, in a proposed CVA, there is a decision on whether to extend or further extend a moratorium or to bring a moratorium to an end before the end of the period of any extension.
- (7) No vote may be cast in respect of a claim more than once on any resolution put to the meeting; and for this purpose (where relevant), the claim of a creditor and of any member State liquidator in relation to the same debt are a single claim.
- (8) A vote cast in a decision procedure which is not a meeting may not be changed.

- (9) Paragraph (7) does not prevent a creditor or member State liquidator from—
- (a) voting in respect of less than the full value of an entitlement to vote; or
 - (b) casting a vote one way in respect of part of the value of an entitlement and another way in respect of some or all of the balance of that value.

Requisite majorities

15.34.—(1) A decision is made by creditors when a majority (in value) of those voting have voted in favour of the proposed decision, except where this rule provides otherwise.

- (2) In the case of an administration, a decision is not made if those voting against it—
- (a) include more than half in value of the creditors to whom notice of the decision procedure was delivered; and
 - (b) are not, to the best of the convener or chair's belief, persons connected with the company.
- (3) Each of the following decisions in a proposed CVA is made when three-quarters or more (in value) of those responding vote in favour of it—
- (a) a decision approving a proposal or a modification;
 - (b) a decision extending or further extending a moratorium; or
 - (c) a decision bringing a moratorium to an end before the end of the period of any extension.
- (4) In a proposed CVA a decision is not made if more than half of the total value of the unconnected creditors vote against it.
- (5) For the purposes of paragraph (4)—
- (a) a creditor is unconnected unless the convener or chair decides that the creditor is connected with the company;
 - (b) in deciding whether a creditor is connected reliance may be placed on the information provided by the company's statement of affairs or otherwise in accordance with these Rules; and
 - (c) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting.
- (6) In a case relating to a proposed IVA—
- (a) a decision approving a proposal or a modification is made when three-quarters or more (in value) of those responding vote in favour of it;
 - (b) a decision is not made if more than half of the total value of creditors who are not associates of the debtor vote against it.
- (7) For the purposes of paragraph (6)—
- (a) a creditor is not an associate of the debtor unless the convener or chair decides that the creditor is an associate of the debtor;
 - (b) in deciding whether a creditor is an associate of the debtor, reliance may be placed on the information provided by the debtor's statement of affairs or otherwise in accordance with these Rules; and
 - (c) the total value of the creditors who are not associates of the debtor is the total value of the creditors who are not associates of the debtor whose claims have been admitted for voting.

Appeals against decisions under this Chapter

- 15.35.—(1) A decision of the convener or chair under this Chapter is subject to appeal to the court by a creditor, by a contributory, or by the bankrupt or debtor (as applicable).
- (2) In a proposed CVA, an appeal against a decision under this Chapter may also be made by a member of the company.
- (3) If the decision is reversed or varied, or votes are declared invalid, the court may order another decision procedure to be initiated or make such order as it thinks just but, in a CVA or IVA, the court may only make an order if it considers that the circumstances which led to the appeal give rise to unfair prejudice or material irregularity.
- (4) An appeal under this rule may not be made later than 21 days after the decision date.
- (5) However, the previous paragraph does not apply in a proposed CVA or IVA, where an appeal may not be made after the end of the period of 28 days beginning with the day—
- (a) in a proposed CVA, on which the first of the reports required by section 4(6) or paragraph 30(3) of Schedule A1 was filed with the court(a); or
 - (b) in a proposed IVA—
 - (i) where an interim order has not been obtained, on which the notice of the result of the consideration of the proposal required by section 259(1)(a) has been given, or
 - (ii) otherwise, on which the report required by section 259(1)(b)(b) is made to the court.
- (6) The person who made the decision is not personally liable for costs incurred by any person in relation to an appeal under this rule unless the court makes an order to that effect.
- (7) The court may not make an order under paragraph (6) if the person who made the decision in a winding up by the court or a bankruptcy is the official receiver or a person nominated by the official receiver.

Extract from the Insolvency Act 1986 (as amended)

Section 246ZE Decisions by creditors and contributories: general

(1) This section applies where, for the purposes of this Group of Parts, a person ("P") seeks a decision about any matter from a company's creditors or contributories.

(2) The decision may be made by any qualifying decision procedure P thinks fit, except that it may not be made by a creditors' meeting or (as the case may be) a contributories' meeting unless subsection (3) applies.

(3) This subsection applies if at least the minimum number of creditors or (as the case may be) contributories make a request to P in writing that the decision be made by a creditors' meeting or (as the case may be) a contributories' meeting.

(4) If subsection (3) applies P must summon a creditors' meeting or (as the case may be) a contributories' meeting.

(5) Subsection (2) is subject to any provision of this Act, the rules or any other legislation, or any order of the court—

(a) requiring a decision to be made, or prohibiting a decision from being made, by a particular qualifying decision procedure (other than a creditors' meeting or a contributories' meeting);

(b) permitting or requiring a decision to be made by a creditors' meeting or a contributories' meeting.

(6) Section 246ZF provides that in certain cases the deemed consent procedure may be used instead of a qualifying decision procedure.

(7) For the purposes of subsection (3) the "minimum number" of creditors or contributories is any of the following—

(a) 10% in value of the creditors or contributories;

(b) 10% in number of the creditors or contributories;

(c) 10 creditors or contributories.

(8) The references in subsection (7) to creditors are to creditors of any class, even where a decision is sought only from creditors of a particular class.

(9) In this section references to a meeting are to a meeting where the creditors or (as the case may be) contributories are invited to be present together at the same place (whether or not it is possible to attend the meeting without being present at that place).

(10) Except as provided by subsection (8), references in this section to creditors include creditors of a particular class.

(11) In this Group of Parts "qualifying decision procedure" means a procedure prescribed or authorised under paragraph 8A of Schedule 8.

MJ/DR/NH

TO ALL KNOWN CREDITORS

10 August 2022
MJ/DR/NH/KM

Dear Sirs,

Greenway Waste Recycling Limited - In Compulsory Liquidation
Registered number: 07281560
In the High Court of Justice Chancery Division Birmingham District No 6062 of 2018

As the Liquidation of Greenway Waste Recycling Limited has now reached its 4 year anniversary, I am writing to the Company's creditors to provide a progress update in accordance with Rule 18.3 of the Insolvency Rules 2016. This report covers the period from 13 June 2021 to 12 June 2022 ("the Period").

I also write to advise you that a decision procedure for creditors by correspondence, in relation to the establishment of a creditors committee and the approval of an increase in the Joint Liquidator's remuneration, has been arranged. Formal notice of which is given in the letter attached herewith.

1. Professional information regarding the Liquidators

The Joint Liquidators are Michael Jennings FCA (officeholder No: GBNI068) and Brian Murphy FCA (officeholder No: GBNI069) of BDO Northern Ireland, Lindsay House, 10 Callender Street, Belfast, BT1 5BN and were appointed on 13 June 2018 by the Secretary of State, following a winding up order made on 30 April 2018. The Joint Liquidators may also be contacted via Norman Hegan at norman.hegan@bdoni.com.

2. Receipts and Payments Account

I enclose for your information, a summary of my receipts and payments from the date of the making of the Winding Up Order to 12 June 2021 showing a net balance of £48,173.46.

2.1 Receipts

The receipts shown are largely self-explanatory, although I would comment specifically on the following:

2.1.1 Bank Interest

Gross bank interest totalling £101.92 was received during the period, in relation to the funds held within the Liquidation account.

2.2 Payments

2.2.1 Liquidators Fees

Liquidators Fees of £10,000 plus VAT were paid within the period. Please see Section 9 of this report for more detail.



2.2.2 Bank Fees

Bank charges of £88.15 were incurred within the period, in relation to the Company's Liquidation banking facilities.

2.2.3 Tax on Bank Interest

Tax of £20.38 was paid in respect of gross bank interest received within the period.

3 Costs in the Liquidation

I have attached a summary of the professional fees and other expenses which have accrued within the period, but not yet been paid, together with details of the professional costs incurred compared to the original Fee Estimate provided to creditors.

3.1 Agent/Valuer Costs

No agent costs were incurred within the period. I would advise that the total estimate of agent/valuer costs remains at £1,750 in accordance with the Fees Estimate Dated 11 March 2019.

3.2 Solicitor Costs

No solicitor costs were incurred within the period. I would advise that the estimate of these fees remains at £3,000 in accordance with the Fees Estimate Dated 11 March 2019.

4 Assets

I can confirm that there are no assets of a peculiar or special nature which cannot be sold. Consequently, there has been no distribution of unsold assets to creditors, as mentioned in 18.10/14.13 of the Insolvency (England & Wales) Rules 2016.

The majority of the Company's plant and machinery were leased and, following forfeiture of the leases, were collected from the Company's head office by the asset finance company. The plant and machinery were subsequently sold at auction with no surplus available for the Liquidation.

Agents were instructed to provide a valuation report in respect of the office equipment and other miscellaneous assets present at the Company's head office following my appointment. The agents subsequently advised that the estimated realisation and removal costs outweighed the value of same and it was deemed uneconomical to pursue these assets any further.

The sole remaining asset within the Liquidation is the Company's debtor book, which was passed to the Joint Liquidators by Bibby Financial Services, after the collection of its secured debt in full.

There was a delay, with respect to the deliverance of the Company's records to the Joint Liquidators from the Company's directors, which hindered the collection process. Additionally, this process was further delayed by the onset of the COVID-19 pandemic and the moratorium which restricted debt recovery options.

However, the Joint liquidators were able to secure the release of additional company records from Bibby Financial Services within the period. This documentation assisted the Joint Liquidators with the collection of a further £8,000 of debtor funds in the period subsequent to this report. The debtor collection process remains ongoing.

5 Investigations

Although there is no formal requirement for the Liquidators to report to the Directors Disqualification Unit within a compulsory liquidation, I have been made aware of a number of issues by key creditors that I will be required to explore.

In this regard, I will forward any information/ findings which are relevant to the Official Receiver's Investigation regarding the conduct of the directors and reporting thereon and investigations into the affairs and transactions of the Company.

Should any creditor wish to forward information and or queries directly to the Official Receiver, they should write to the Official Receiver at 4th Floor, Cannon House, 18 Priory Queensway, Birmingham, B4 6FD.

6 Progress of the Liquidation

The Liquidation is continuing whilst the Joint Liquidators attempt to collect the remaining Company's debtor book and adjudicate on the claims of unsecured creditors in order to declare a dividend payment.

This process was delayed by the Directors' failing to promptly deliver up the records of the Company in a timely manner and the onset of the COVID-19 pandemic.

7 Prescribed Part

Under Section 176A of the Insolvency Act 1986 where after 15 September 2003 the company has granted to a floating charge to a secured creditor, a proportion of the net property of the company must be made available purely for the unsecured creditors.

As well as holding a fixed charge over the Company's debtor book, Bibby Financial Services Ltd also held a floating charge over the Company. As the liability to Bibby Financial Services Ltd has now been cleared in full following a number of fixed charge realisations, there is no necessity to apply the prescribed part in this Liquidation as all realisations after costs will be available for distribution to the unsecured creditors.

8 Future Prospects

I would advise that there is no preferential claim in this matter and all secured creditors have been paid in full.

It is estimated that there will be sufficient funds generated from the realisation of the Company's assets to pay a dividend to unsecured creditors. Please note the quantum and timing of same is uncertain at present.

9 Liquidators' Remuneration

Pursuant to the Rules, the Joint Liquidators are obliged to fix their remuneration in accordance with Rule 18.16. This permits remuneration to be fixed either:

- 1) As a percentage of the assets realised and distributed; and/or
- 2) By reference to the time the Joint Liquidators and the staff have spent attending to matters in the liquidation as set out in the fees estimate; and/or
- 3) As a set amount; and/or
- 4) As a combination of the above.

The Joint Liquidators remuneration has been approved by the Company's creditors on the basis of time properly spent attending to matters in this Liquidation, in accordance with the Fees Estimate dated 11 March 2019.

To date, the Joint Liquidators have drawn £41,000.00 in respect of remuneration as shown on the enclosed Receipts and Payments account.

I have attached a schedule detailing the time costs incurred to date. The schedule covers the period and records time costs of £64,437.00 which represents 427.12 hours spent at an average charge out rate of £150.86 per hour.

Please note a decision procedure for creditors by correspondence has been arranged to approve an increase in the Joint Liquidator's remuneration. Further information in this regard is provided in the noticed attached to this report.

For your guidance, I have also enclosed 'A Creditors' Guide to Liquidators' Fees'.

10 Disbursements

Where disbursements are recovered in respect of precise sums expended to third parties there is no necessity for these costs to be authorised. These are known as category 1 disbursements. I would report that the sum of £634.00 has been incurred, and drawn down, to date in respect of statutory advertising and statutory bonding.

Some Insolvency Practitioners recharge expenses for example postage, stationery, photocopying charges, telephone and fax costs, which cannot economically be recorded in respect of each specific case. Such expenses, which are apportioned to cases, require the approval of the creditors, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO Northern Ireland is not to charge any category 2 disbursements.

11 GDPR

This report is addressed to 'all known creditors'. Some of the creditors receiving this report may be personal creditors. Pursuant to the provision of the Data Protection Act 2018 and General Data Protection Regulation we are providing any such personal creditors with the following required information. During the course of this Liquidation we may have requested information from you so that we may carry out our statutory duties under the Insolvency Act 1986. The data you provide us with may be shared with third parties, including but not limited to, other creditors of the Company, the Insolvency Service, the Registrar of Companies, the Royal Courts of Justice and our legal advisors.

The BDO Northern Ireland Privacy Officer is Catherine Roy and she is contactable at Lindsay House, 10 Callender Street, Belfast, BT1 5BN. We are acting as the data controller. We will store the data requested for a period of 6 years after our appointment ceases. You have the right to access and rectify the data which we hold. You have the right to lodge a complaint with the Data Protection Commissioner. Full details of our privacy policy may be viewed on our website at <https://www.bdoni.com/en-gb/legal-privacy/privacy-statement>

BDO Northern Ireland use personal information in order to fulfil the legal obligations of our Insolvency Practitioners under the Insolvency Act 1986 (as Amended) and other relevant legislation, and also to fulfil the legitimate interests of keeping creditors and other stakeholders informed about the insolvency proceedings. You can find more information on how BDO Northern Ireland use your personal information on our website at <https://www.bdoni.com/en-gb/home>.

12 Creditors' rights

I provide at the end of this report an extract from the Rules setting out the rights of creditors to request further information and/or challenge the remuneration or expenses within the Liquidation. Creditors may access information setting out creditors' rights in respect of the approval of Liquidator's remuneration at <https://www.r3.org.uk/what-we-do/publications/professional/fees>.

13. Complaints Procedure

At BDO Northern Ireland we seek to ensure that all insolvency appointments are conducted with the highest standard of professionalism, integrity, objectivity, professional competence and confidentiality. We do understand however, especially given the nature of insolvency proceedings, that disputes, complaints or matters of dissatisfaction may arise. Complaints can very often arise out of a misunderstanding or miscommunication and therefore should you have any matters of concern or complaint we would encourage you to contact this office where your complaint can be addressed and hopefully fully resolved.

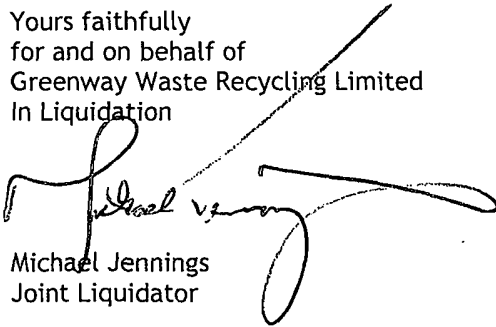
Should any complaint subsequently remain unaddressed or inadequately resolved, we would direct you to the Complaints Gateway either by post at 'The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds LS11 9DA; by email at: ip.complaints@insolvency.gsi.gov.uk; or by telephone on: 0845 602 9848.

The Gateway is run by the Insolvency Service and is a single-entry point for complaints made about Insolvency Practitioners. Should the Gateway staff consider that a complaint merits further consideration, they will pass it to the Chartered Accountants Ireland, being the authorising body of the Joint Liquidators.

The Joint Liquidators are bound by the Insolvency Practitioner Code of Ethics when carrying out all professional work relating to this appointment. A copy of the code is at: [Insolvency practitioner code of ethics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61221/insolvency_practitioner_code_of_ethics.pdf)

I trust that you will find this to be in order. Should you require any further information, please do not hesitate to contact Norman Hegan of my office.

Yours faithfully
for and on behalf of
Greenway Waste Recycling Limited
In Liquidation



Michael Jennings
Joint Liquidator

Enc

Michael Jennings is authorised by Chartered Accountants Ireland to act as an Insolvency Practitioner.

The officeholder is bound by the Insolvency Practitioner Code of Ethics when carrying out all professional work relating to this appointment. A copy of the code is at: [Insolvency practitioner code of ethics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61221/insolvency_practitioner_code_of_ethics.pdf).

Greenway Waste Recycling Limited - In Liquidation

Receipts & Payments Account from the making of the Winding Up Order to 12 June 2022

	Amount Received In Period £	Amounts Received To Date £
RECEIPTS		
Opening Balance Brought Forward as at 13 June 2021	109,718.46	-
Ulster Bank Cash Security	-	98,892.04
Trade Debtors	-	4,858.56
Electricity Refund	-	3,710.08
Rates Refund	-	1,381.40
Company Funds Upon Appointment	-	221.92
Bank Interest	101.92	756.38
VAT on Receipts	-	-
Total Receipts within the period	101.92	
Closing Balance as at 12 June 2022	109,820.38	109,820.38
	Amount Paid in Period £	Amounts Paid To Date £
PAYMENTS		
Opening Balance Brought Forward as at 13 June 2021	49,538.39	-
Liquidators' Fees	10,000.00	41,000.00
Insolvency Service Fees	-	11,014.10
Liquidators Disbursements	-	634.00
Bank Fees	88.15	352.75
Insurance	-	168.00
Tax on Bank Interest	20.38	151.27
VAT on Payments	2,000.00	8,326.80
Total Payments within the period	12,108.53	
Closing Balance as at 12 June 2022	61,646.92	61,646.92
Balance as at 12 June 2022	48,173.46	48,173.46

Summary of Time Spent for the Period 13 June 2018 to 12 June 2022

DESCRIPTION	Partner		Director		Manager / Senior Manager		Assistant Manager		Senior Executive		Executive		Grand Total		Average Rate
	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	Hours	Total £	
A. Steps On Appointment															
02 Statutory Documentation	2.50	750.00	-	-	2.00	340.00	0.45	54.00	4.25	238.00	-	-	9.20	1,382.00	150.22
08 Detail Documentation Review	2.00	600.00	-	-	3.75	637.50	-	-	10.75	602.00	13.92	278.50	30.42	2,118.00	69.63
Subtotal	4.50	1,350.00	-	-	5.75	977.50	0.45	54.00	15.00	840.00	13.92	278.50	39.62	3,500.00	88.34
B. Planning & Strategy															
05 Review Options Available	1.25	375.00	-	-	2.50	425.00	0.50	60.00	-	-	-	-	4.25	860.00	202.35
07 Strategy Planning	2.25	675.00	0.30	63.00	5.90	983.00	0.50	60.00	1.00	60.00	6.00	402.50	15.95	2,243.50	140.66
Subtotal	3.50	1,050.00	0.30	63.00	8.40	1,408.00	1.00	120.00	1.00	60.00	6.00	402.50	20.20	3,103.50	153.64
C. General Administration															
01 Insurance Matters	-	-	-	-	-	-	0.50	60.00	1.75	103.65	-	-	2.25	163.65	72.73
02 VAT	-	-	-	-	-	-	1.00	120.00	1.50	88.85	-	-	2.50	208.85	83.54
03 Taxation	0.75	225.00	-	-	1.00	150.00	1.50	180.00	2.25	133.27	1.25	101.25	6.75	789.52	116.97
07 Receipts & Payments Accounts	-	-	-	-	4.10	728.50	3.10	387.00	-	-	3.45	125.32	10.65	1,240.82	116.51
08 Remuneration Issues	2.00	600.00	-	-	2.50	425.00	3.50	420.00	-	-	-	-	8.00	1,445.00	180.63
09 Statutory Matters	3.00	900.00	-	-	10.65	1,840.25	8.00	980.00	4.00	236.92	4.75	347.66	30.40	4,304.83	141.61
15 Gen Admin Correspondence	1.00	300.00	-	-	12.90	2,258.25	4.00	490.00	5.60	331.69	8.40	530.97	31.90	3,910.91	122.60
16 Maintain Internal Files	-	-	-	-	1.80	318.00	3.75	460.00	3.50	207.31	3.95	192.30	13.00	1,177.61	90.59
99 Other Matters	4.25	1,275.00	-	-	13.85	2,408.25	4.75	570.00	0.90	53.31	-	-	23.75	4,306.56	181.33
Subtotal	11.00	3,300.00	-	-	46.80	8,128.25	30.10	3,667.00	19.50	1,155.00	21.80	1,297.50	129.20	17,547.75	135.82
D. Assets Realisation/Dealing															
07 Debt Collection	25.50	7,985.00	-	-	35.60	5,973.50	8.00	970.00	3.45	196.48	4.50	90.00	77.05	15,214.98	197.47
08 Dealing with Chattel Assets	4.75	1,425.00	-	-	1.00	170.00	2.75	330.00	3.75	213.56	-	-	12.25	2,138.56	174.58
09 Dealing with other Assets	7.25	2,175.00	-	-	2.75	467.50	6.50	780.00	3.25	185.08	-	-	19.75	3,607.58	182.66
99 Other Matters	9.50	2,910.00	-	-	13.05	2,364.75	2.75	330.00	4.30	244.88	-	-	29.60	5,849.63	197.62
Subtotal	47.00	14,495.00	-	-	52.40	8,975.75	20.00	2,410.00	14.75	840.00	4.50	90.00	138.65	26,810.75	193.37
E. Employee Matters															
02 Dealing with Employees	-	-	-	-	1.25	212.50	-	-	1.50	77.50	-	-	2.75	290.00	105.45
99 Other Matters	-	-	-	-	2.80	476.00	0.25	30.00	4.50	232.50	-	-	7.55	738.50	97.81
Subtotal	-	-	-	-	4.05	688.50	0.25	30.00	6.00	310.00	-	-	10.30	1,028.50	99.85
F. Creditor Claims															
04 Non-Preferential Creditors	2.50	750.00	-	-	23.60	3,962.75	4.25	510.00	7.50	410.00	0.60	12.00	38.45	5,444.75	146.81
06 Other Creditors	1.00	300.00	-	-	2.00	340.00	-	-	-	-	-	-	3.00	640.00	213.33
Subtotal	3.50	1,050.00	-	-	25.60	4,302.75	4.25	510.00	7.50	410.00	0.60	12.00	41.45	6,084.75	151.62
G. Reporting															
01 Statutory Reporting	3.00	935.00	-	-	6.20	1,047.00	5.75	690.00	2.00	104.70	7.75	431.25	24.70	3,207.95	129.88
02 Reporting to Appointor	-	-	-	-	0.50	85.00	1.00	120.00	0.75	39.25	-	-	2.25	244.25	108.56
04 Reporting to Creditors	2.00	617.50	-	-	4.20	704.00	6.25	750.00	1.30	68.05	4.00	210.00	17.75	2,349.55	132.37
06 Reporting to Other Bodies	-	-	-	-	-	-	1.50	180.00	-	-	-	-	1.50	180.00	120.00
99 Other Matters	-	-	-	-	-	-	1.50	180.00	-	-	-	-	1.50	180.00	120.00
Subtotal	5.00	1,552.50	-	-	10.90	1,836.00	16.00	1,920.00	4.05	212.00	11.75	641.25	47.70	6,161.75	129.18
H. Distribution & Closure															
Subtotal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
TOTAL	74.50	22,797.50	0.30	63.00	153.90	26,316.75	72.05	8,711.00	67.80	3,827.00	58.57	2,721.75	427.12	64,437.00	150.86

Greenway Waste Recycling Limited - In Compulsory Liquidation

Michael Jennings and Brian Murphy of BDO Northern Ireland, Lindsay House, 10 Callender Street, Belfast, BT1 5BN.

Fees Estimate as at 10 August 2022				
Liquidators' Fees				
Summary Activity	Fee Approval 28/03/19	Proposed Increase 10/8/22	Estimated Total	Accrued to Date
	£	£	£	£
A. Pre Appointment Matters	0	0	0	0
Total	0	0	0	0
A. Steps on Appointment	3,500	0	3,500	3,500.00
B. Planning and Strategy	2,500	0	2,500	3,103.50
C. General Administration	12,500	0	12,500	17,547.75
D. Assets Realisation/Dealing	14,000	7,000	21,000	26,810.75
E. Employee Matters	1,000	0	1,000	1,028.50
F. Creditor Claims	5,000	0	5,000	6,284.75
G. Reporting	3,500	0	3,500	6,161.75
H. Distribution & Closure	6,000	0	6,000	0.00
TOTAL	48,000	7,000	55,000	64,437
Expenses Estimate				
Officeholder CAT 1 Disbursements	1,000	0	1,000	634 2.1
Officeholder CAT 2 Disbursements	0	0	0	0 2.2
Other Expenses				
Agents Costs	1,000	0	1,000	0 2.3
Valuers Costs	750	0	750	484 2.4
Solicitors costs	3,000	0	3,000	0 2.5

The table above is our estimate of the fees on a time costs basis for this appointment and the anticipated expenses. This estimate and the expenses are prepared on the basis of the information available to us at the date of this estimate. In the following pages we provide a summary of the work we believe is necessary. Where applicable, all fees and disbursements will be subject to VAT at the prevailing rate.

In any work of this nature, we may have recourse to engage specialists to assist us. For example, in ensuring that we obtain best value for the estate assets and also to protect the legal interests of the estate including, where necessary, taking action to recover sums due to the estate. The specialists we engage will invoice us and that will be an expense of the estate. Such expenses are not subject to creditor approval but nevertheless have an effect on the funds available for creditors in the estate.

1. Liquidators' Fees

Fees (remuneration) may be sought on four different bases and a guide for creditors is attached. The four bases are, a time costs basis; a percentage of the assets realised; fixed amount; or a combination of the first three bases. Further to the £48,000 fee approved on a time cost basis on 28 March 2019, we are seeking an increase of £7,000 on a time cost basis, with a total estimated fee of £55,000 within this Liquidation.

Where possible we will delegate work to our staff and by this ensure the work is conducted by suitably qualified and experienced members of staff at different hourly costs. The current charge out rates per hour of staff within BDO Northern Ireland are detailed below:

Grade	£
Partner	350
Director/Principal	230
Senior Manager	190
Manager	170
Assistant Manager	135
Executives	50-100

We have estimated the time we will spend in the following areas of work in respect of this insolvency. Below we provide the primary work that will be undertaken by us.

A Steps upon Appointment

Steps upon appointment are the tasks that were completed immediately upon my appointment as Joint Liquidator. These tasks included reviewing appointment and statutory documents, preliminary organisation review of Greenway Waste Recycling Limited and all associated companies, issuing notice of our appointment to key stakeholders, initial discussions with key stakeholders including third parties and establishing internal responsibilities regarding staffing of elements of the work. I would note that this work is essential, however, it will not be of financial benefit to the creditors. Additionally, with the assistance of the Official Receivers office in Birmingham, we engaged with the Environmental Agency and a disclaimer was issued in respect of the Company's environmental permit and the unprocessed waste located at the Company's head office. My team also ensured that there was adequate insurance cover in place. This work was primarily led by a senior manager with the majority of work delegated to staff below manager.

B Planning and Strategy

Tasks within this category include reviewing documents provided by the Birmingham Official Receiver's office, reviewing the Company's historic trading performance, correspondence requesting that the Company directors, being Mr Mark Nicholson and Mr John Nicholson, deliver up Company records, establishing the current financial position of the Company and reviewing the business processes and systems. This work will also entail liaising with key stakeholders, planning an overarching strategy, and engaging with specialists. This area of work is ongoing and is led by me as partner in conjunction with a director or senior manager, with some support below manager level in documenting and recording proposed strategy. I would note that this work is essential however it will be unlikely to provide a financial benefit to creditors.

C General Administration

The general administration category covers a broad range of tasks including reviewing and regularising affairs regarding Insurance, VAT, and Taxation. Although there is no formal requirement to report to the DDU within a compulsory liquidation, we were made aware of several issues by key creditors that were investigated, with relevant information/findings forwarded to the Official Receiver's Office to assist with their investigations. This work also included recovery and storage of the Company's books and records, engaging and liaising with solicitors, ensuring appropriate approval of all costs including approval of remuneration and matching costs of specialists against their expense estimates, dealing with statutory, regulatory and licensing matters, managing the formal contractual matters regarding the Company, including property leases and equipment hire, dealing with court hearings regarding the insolvency (excluding third party litigation), dealing with Press enquiries and PR matters and managing general administrative matters, basic enquiries and meetings. I would advise that whilst these matters are essential, they

are unlikely to be of financial benefit to the creditors. The majority of this work requires a range of insolvency knowledge and experience, balanced with good accounting and administrative skills and is delegated largely to executives with suitable levels of experience, supervised by directors or managers.

D Asset Realisation/Management

Through my preliminary investigations, I became aware of a cash security given by the Company and held by Ulster Bank. Following engagement with Ulster Bank, I was able to secure the release of the cash security, in the sum of £98,892.04, into the Liquidation. I also secured the transfer of funds within the Company's bank accounts in the sum of £221.92. Agents were instructed to provide a valuation report in respect of the office equipment and other miscellaneous assets present at the Company's head office following my appointment.

The majority of the Company's plant and machinery were leased, with no surplus available to the Liquidation following the uplift of same. I would also note that several pieces of leased machinery were stolen from the Company's head office prior to our appointment. The floating charge over the Company's debtor book was cleared in full following the collection of the majority of the Company's outstanding debts by Bibby Financial Services. The remainder of the Company's book debts were transferred to the Liquidation.

There was a delay, with respect to the deliverance of the Company's records to the Joint Liquidators from the Company's directors, which hindered the collection process. Additionally, this process was further delayed by the onset of the COVID-19 pandemic and the moratorium which restricted debt recovery options. However, the Joint liquidators were able to secure the release of additional company records from Bibby Financial Services within the period. This documentation assisted the Joint Liquidators with the collection of a further £8,000 of debtor funds in the period subsequent to this report. The debtor collection process remains ongoing.

Tasks within this category also included identifying and controlling recorded assets, evaluating strategy on realising assets and reconciling recoveries and asset tracing of assets revealed through investigation of third party information and where appropriate engaging and monitoring specialist agents and disclaiming onerous property and contracts. This area of work requires a greater level of commercial experience and insolvency knowledge, than the general administration category of work. The work is led at director or senior manager level supported by executives with suitable competencies and almost equal numbers of hours are spent by the two groups. My managers liaise with me as the partner and escalate major decisions to me.

E Employee Matters

I would note that all of the Greenway Waste Recycling Limited employees were made redundant prior to my appointment and the relevant redundancy claims had already been submitted. However, we were required to liaise with the Redundancy Payments Service, both in England and Northern Ireland, in respect of the employee redundancy claims and the subsequent Redundancy Payment Service claims within the Liquidation process. One factor not provided for, which may increase costs, is where employees submit claims to the Industrial Tribunal, especially where it is necessary to arrange representation at the Tribunal and engage with a solicitor. I would note that I am not aware of any such claims at present. Whilst this work is essential, it will not provide a financial benefit to the Company's creditors.

F Creditor Claims

Tasks within this category include general correspondence with creditors, discussions with the landlord of the Company's head office in Telford, receiving and recording all creditor claims and where a dividend is likely, identifying whether additional supporting evidence is necessary from creditors, reviewing the validity of all claims submitted by creditors and considering and checking and recording all preferential claims. It may be necessary to take legal advice where a creditor maintains a secured claim which is not supported by unequivocal evidence or where an unsecured claim is made which is significantly in excess of any value recorded by the insolvent entity and the claim is inadequately evidenced. No provision has been made for dealing with any creditor claims where the matter is referred to Court. To estimate costs in respect of administering creditor claims we consider the volume of known creditors and the nature of the insolvent entities business. We understand from available records that there are 118 creditors.

G Reporting

Reporting tasks include preparing periodic progress reports to creditors regarding the progress achieved, including the preparation of Receipts & Payments Accounts, a suitable analysis of time costs accrued and a review of actual costs and accrued costs as against this fees and expense estimate. The Director or Senior Manager is responsible for leading the reporting and delegating the production of the accounts, fee analysis and comparison with estimates to suitably experienced executives. The ratio of time spent on reporting is generally that executive hours are twice as many as those of the Director or Senior Manager. Much of the basic accounting and analysis is conducted by various grades of Executives. In estimating costs in respect of reporting we have formed a view of the duration on the insolvency and estimated how many reports will be required. These tasks are statutorily required and will have no financial benefit for the Liquidation creditors.

H Distribution and Closure

Tasks within this category will include giving notice to relevant creditors to prove their claims, adjudicating upon the claims, issuing formal rejection of any relevant claims, dealing with any appeal to court concerning a rejected claim, establishing the distributable funds in the estate, calculating the dividend, issuing payment with suitable notification to creditors, reconciling payments and accounting for unclaimed dividends. No provision is made for additional time costs for dealing with an appeal concerning a rejected claim. Whilst the likelihood of such an eventuality is small, the costs could be significant. It also includes preparing a final report to creditors together with a Receipts & Payments Account, an analysis of time costs accrued and a review of actual costs compared to the fee and expense estimate. In the lead up to the closure of the case tasks will include completing all administrative arrangements including storage of any records for statutory periods, creation of a skeleton file and filing final statutory documentation. The work is supervised by directors and Senior Managers and final decisions and release of funds is authorised by the partner. I would advise that the case closure procedures will not provide a financial benefit to creditors.

2. Expense Estimate**2.1 Category 1 Disbursements**

Our estimate in respect of this heading covers expenses where the officeholders firm has met a specific cost in respect of the insolvent estate where payment has been made to a third party. Such expenses may include items such as advertising, couriers, travel (by public transport), land registry searches, fees in respect of swearing legal documents, storage of original records of the insolvent estate. In each case the recharge will be reimbursement of a specific expense incurred.

2.2 Category 2 Disbursements

Costs in respect of this heading will be subject to creditor approval because it concerns expenses where there will not always be an invoice for the cost. Insolvency practice additionally provides for the recharge of expenses such as postage, stationery, photocopying charges, telephone, fax and other electronic communications, which cannot be economically recorded in respect of each specific case. Such expenses, which are apportioned to cases, must be approved by the creditors in accordance with the Insolvency Rules 1986, before they can be drawn, and these are known as category 2 disbursements. The policy of BDO Northern Ireland is not to charge any category 2 disbursements.

2.3 Agents' Costs

Attendance at the Company's previous trading premises, review of plant and machinery and fixtures and fittings present at the premises. Issuing a report to the Joint Liquidators.

2.4 Valuers' Costs

Valuation of Company assets at the Company's previous trading premises and providing a breakdown of associated removal and realisation costs.

2.5 Solicitors' costs

Once our attempts at collecting in the Company's debtor book have been exhausted we will evaluate if there is a benefit to instructing a solicitor to progress the debtor collections further. This cost is an estimate for the issuing of two debtor letters and the provision of advice. No provision has been made for dealing with debtors where the matter is referred to Court.

BDO Northern Ireland
10 August 2022

Statement from the Insolvency (England and Wales) Rules 2016 regarding the rights of creditors in respect of the Joint Liquidators' fees and expenses:**Creditors' and members' requests for further information in administration, winding up and bankruptcy****18.9.**

- (1) The following may make a written request to the office-holder for further information about remuneration or expenses (other than pre-administration costs in an administration) set out in a progress report under rule 18.4(1)(b), (c) or (d) or a final report under rule 18.14—
 - (a) a secured creditor;
 - (b) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question);
 - (c) members of the company in a members' voluntary winding up with at least 5% of the total voting rights of all the members having the right to vote at general meetings of the company;
 - (d) any unsecured creditor with the permission of the court; or
 - (e) any member of the company in a members' voluntary winding up with the permission of the court.
- (2) A request, or an application to the court for permission, by such a person or persons must be made or filed with the court (as applicable) within 21 days of receipt of the report by the person, or by the last of them in the case of an application by more than one member or creditor.
- (3) The office-holder must, within 14 days of receipt of such a request respond to the person or persons who requested the information by—
 - (a) providing all of the information requested;
 - (b) providing some of the information requested; or
 - (c) declining to provide the information requested.
- (4) The office-holder may respond by providing only some of the information requested or decline to provide the information if—
 - (a) the time or cost of preparation of the information would be excessive; or
 - (b) disclosure of the information would be prejudicial to the conduct of the proceedings;
 - (c) disclosure of the information might reasonably be expected to lead to violence against any person; or
 - (d) the office-holder is subject to an obligation of confidentiality in relation to the information.
- (5) An office-holder who does not provide all the information or declines to provide the information must inform the person or persons who requested the information of the reasons for so doing.
- (6) A creditor, and a member of the company in a members' voluntary winding up, who need not be the same as the creditor or members who requested the information, may apply to the court within 21 days of—
 - (a) the office-holder giving reasons for not providing all of the information requested; or
 - (b) the expiry of the 14 days within which an office-holder must respond to a request.
- (7) The court may make such order as it thinks just on an application under paragraph (6).

Remuneration and expenses: application to court by a creditor or member on grounds that remuneration or expenses are excessive**18.34.**

- (1) This rule applies to an application in an administration, a winding-up or a bankruptcy made by a person mentioned in paragraph (2) on the grounds that—
 - (a) the remuneration charged by the office-holder is in all the circumstances excessive;
 - (b) the basis fixed for the office-holder's remuneration under rules 18.16, 18.18, 18.19, 18.20 and 18.21 (as applicable) is inappropriate; or
 - (c) the expenses incurred by the office-holder are in all the circumstances excessive.
- (2) The following may make such an application for one or more of the orders set out in rule 18.36 or 18.37 as applicable—
 - (a) a secured creditor,
 - (b) an unsecured creditor with either—
 - (i) the concurrence of at least 10% in value of the unsecured creditors (including that creditor), or
 - (ii) the permission of the court, or
 - (c) in a members' voluntary winding up—
 - (i) members of the company with at least 10% of the total voting rights of all the members having the right to vote at general meetings of the company, or
 - (ii) a member of the company with the permission of the court.
- (3) The application by a creditor or member must be made no later than eight weeks after receipt by the applicant of the progress report under rule 18.3, or final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report").

Applications under rules 18.34 and 18.35 where the court has given permission for the application**18.36.**

- (1) This rule applies to applications made with permission under rules 18.34 and 18.35.
- (2) Where the court has given permission, it must fix a venue for the application to be heard.
- (3) The applicant must, at least 14 days before the hearing, deliver to the office-holder a notice stating the venue and accompanied by a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
 - (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question is not to be treated as expenses of the administration, winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or liquidator or the administrator's or liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration, winding up or bankruptcy.

Applications under rule 18.34 where the court's permission is not required for the application**18.37.**

- (1) On receipt of an application under rule 18.34 for which the court's permission is not required, the court may, if it is satisfied that no sufficient cause is shown for the application, dismiss it without giving notice to any party other than the applicant.
- (2) Unless the application is dismissed, the court must fix a venue for it to be heard.
- (3) The applicant must, at least 14 days before any hearing, deliver to the office-holder a notice stating the venue with a copy of the application and of any evidence on which the applicant intends to rely.
- (4) If the court considers the application to be well-founded, it must make one or more of the following orders—
 - (a) an order reducing the amount of remuneration which the office-holder is entitled to charge;
 - (b) an order reducing any fixed rate or amount;
 - (c) an order changing the basis of remuneration;
 - (d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration or winding up or bankruptcy;
 - (e) an order for the payment of the amount of the excess of remuneration or expenses or such part of the excess as the court may specify by —
 - (i) the administrator or liquidator or the administrator's or liquidator's personal representative to the company, or
 - (ii) the trustee or the trustee's personal representative to such person as the court may specify as property comprised in the bankrupt's estate;
 - (f) any other order that it thinks just.
- (5) An order under paragraph (4)(b) or (c) may only be made in respect of periods after the period covered by the relevant report.
- (6) Unless the court orders otherwise the costs of the application must be paid by the applicant, and are not payable as an expense of the administration or as winding up or bankruptcy.

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 nomination of the liquidator at via the deemed consent procedure, a virtual meeting or a requisitioned physical 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 by the creditors via a Qualifying Decision Procedure (Correspondence [written resolution]; electronic voting; Virtual meeting; Physical meeting.). 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 18.16-18.38 of the Insolvency (England and Wales) Rules 2016.

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 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 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 the creditors through a Qualifying Decision Procedure (Correspondence [written resolution]; electronic voting; Virtual meeting; Physical meeting.). The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting which appoints the liquidator.

4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.

4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5 Review of remuneration

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

6 What information should be provided by the liquidator?

6.1 When fixing bases of remuneration

- 6.1.1 When seeking agreement for the basis or bases of remuneration, the liquidator should provide sufficient supporting information to enable the committee or the creditors to make an informed judgement as to whether the basis sought is appropriate having regard to all the circumstances of the case. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought. The appendix to this guide sets out a suggested format for the provision of information.
- 6.1.2 If any part of the remuneration is sought on a time costs basis, the liquidator should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
- 6.1.3 The liquidator should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.
- 6.1.4 If work has already been carried out, the liquidator should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the liquidator should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

6.2 After the bases of remuneration have been fixed

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

6.3 Disbursements and other expenses

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

- Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.
- Category 2 disbursements: These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the liquidator should be prepared to disclose information about them in the same way as any other expenses. Category 2 disbursements may be drawn if they have been approved in the same manner as the liquidator's remuneration. When seeking approval, the liquidator should explain, for each category of expense, the basis on which the charge is being made.

6.3.2 The following are not permissible:

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

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any Qualifying Decision Procedure 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 Qualifying Decision Procedure of creditors.

11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditors or the court.

11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.

11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.

11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

12 Effective date

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

Appendix

Suggested format for the provision of information Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format. Narrative overview of the case In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

- the complexity of the case;
- any exceptional responsibility falling on the liquidator;
- the liquidator's effectiveness;
- the value and nature of the property in question.

The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:

- an explanation of the nature, and the liquidator's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known);
- initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
- any significant aspects of the case, particularly those that affect the remuneration and cost expended;
- the reasons for subsequent changes in strategy;
- the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
- any existing agreement about remuneration;
- details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees;
- in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed;
- details of work undertaken during the period;
- any additional value brought to the estate during the period, for which the liquidator wishes to claim increased remuneration.

Time cost basis

Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:

- An explanation of the liquidator's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
- A description of work carried out, which might include:
 - details of work undertaken during the period, related to the table of time spent for the period;
 - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used;
 - any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- Time spent and charge-out summaries, in an appropriate format.

It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and sub-divided) in a way relevant to the circumstances of the case

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

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

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

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

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

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and explaining unusual features of the case;
- where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features);
- where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.



**Liquidation / Creditors'
Committees and
Commissioners**

A Guide for Creditors

The Guide is intended to provide you with:

- an understanding of the role of the Committee in insolvency proceedings;
- information on how Committees are formed; and
- guidance on what might be expected of you should you choose to serve as a member of a Committee

to enable you to make an informed decision as to whether you wish to either seek to form a Committee or to nominate yourself to serve on a Committee.

The Guide provides only an overview. Detailed provisions regarding the membership, formation, functions and procedural operation of a Committee are set out in legislation.



Introduction

Most of us will be familiar with the term "committee" which is used to define a group of people appointed for a specific function by a larger group and typically consisting of members of that group.

In the context of an insolvency procedure, the office holder may invite creditors to form a committee either to assist generally in discharging his or her functions as an office holder or, more commonly, for a specific purpose, such as where litigation or investigation is anticipated. Such committees may be called "liquidation committee" or "creditors' committee", depending on the type of insolvency process, or, in sequestration in Scotland, "Commissioners". For purposes of this guidance note we will use the term "Committee".

Role of the Committee in Insolvency Proceedings

The primary purpose of a Committee is to assist the office holder in fulfilling his or her duties. This could involve helping them to make key decisions, for example to take legal action to recover assets, to represent the interests of the main body of unsecured creditors, or to provide the office holder with the benefit of specialist knowledge either about the company or the industry in which the company operates. The office holder should always take into account the views of the Committee but is not obliged to follow their wishes. The Committee cannot direct an office holder in relation to the conduct of the insolvency proceeding.

In any insolvency process there are a number of decisions that creditors may be asked to make, including how the office holder is to be paid out of the assets of the insolvent estate. Where there are large numbers of creditors or creditors are geographically remote, having a Committee would enable the office holder to seek approval from the Committee which is often a quicker and cheaper process than seeking a decision from the entire body of creditors.



How are Committees formed?

For a Committee to come into being, generally, there must be a minimum of three unsecured creditors who are willing to act. The maximum number of creditors who may sit on the Committee at any one time is five, so if more than five unsecured creditors express an interest in being on the Committee there must be a vote. This vote will be managed by the office holder, and other unsecured creditors will be given the opportunity of deciding which of the interested creditors get to form the Committee. You have to agree in writing to sit on the Committee so you will never be voted onto a Committee without your knowledge or agreement.

For sequestrations in Scotland, only a single unsecured creditor willing to act is required.

Who can sit on the Committee?

Any creditor of the insolvent company/individual with a debt at least part of which is unsecured may be put forward to sit on the Committee. If they cease to be an unsecured creditor for any reason they will automatically cease to be a member of the Committee.

You do not need to have any special qualifications or previous experience as a Committee member.

Where the creditor is a company, i.e. not a real person, it must be represented by an individual who will be given a letter of authority, by the company, enabling them to act on the company's behalf.

A member of the Committee may be represented by another person if they hold a letter of authority to act.

Exceptions

You cannot be on the Committee as a creditor in your own right and act for another creditor at the same time.

You cannot be represented by a body corporate, an undischarged bankrupt, a person whose estate has been sequestrated and who has not been discharged, a person to whom a moratorium period under a debt relief order applies, a disqualified director, a person subject to a bankruptcy restriction order or undertaking or a debt relief restrictions order or undertaking.



What will I have to do as a Committee member?

Business of the Committee is conducted through meetings (physical or by way of conference call or other remote attendance). Decisions may also be made by written correspondence and resolutions. For the purposes of this Guide, reference to meetings include all such forms.

The frequency of meetings and reporting by the office holder to the Committee will generally be agreed between the office holder and members at the first meeting of the Committee. The first meeting of the Committee must be held within six weeks of its formation – as indicated it is not uncommon for meetings to be held by conference call.

At the meetings the office holder will update the Committee on relevant matters and may seek guidance or formal approval for specific courses of action. In particular you will be asked to approve the basis of calculation of the remuneration of the office holder.

As a Committee member you would also be able to request additional information from the office holder, who will be required to provide the information unless the request is deemed to be unreasonable, frivolous or excessively costly to provide.

You should try and attend all meetings as if you fail to attend three consecutive meetings you will automatically cease to be a member (though the remaining members can decide to allow you to remain as a member). An office holder will only call a meeting when they think there is something important which requires the Committee's input. If you are unable to attend a meeting you could appoint someone to attend on your behalf.

A Committee may also be required to consider other matters appropriate to the insolvency proceeding. This may include matters in connection with the resignation of the office holder and any vacancy in office, or consideration of whether legal costs should be assessed by the court.



Can I cease to be a member of the Committee?

You can resign as a member at any time by giving the office holder written notice.

Will I get paid?

Committee members are not paid for their time acting on the Committee, this is a voluntary role. You will however be entitled to reclaim reasonable travelling expenses incurred in attending Committee meetings.

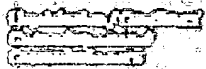
Why should I agree to be on a Committee?

As a Committee member you will be in a privileged position, assisting the office holder in his duties and being involved at each stage in the insolvency process. Serving on a Committee will give you the opportunity to have a positive impact on the insolvency process, assisting the office holder to maximise returns to creditors, providing essential information and knowledge which could assist in tracing company assets which have been misappropriated or identify conduct by the directors that could ultimately lead to their disqualification by the Insolvency Service.

It is important to consider that acting on the Committee is a responsible role and you would be required to act ethically and in good faith in all of your Committee dealings. You would be expected to avoid any situations where a conflict of interest might arise. You would also be unable to obtain any of the company or individual's assets without the prior agreement of the Committee.

Does a Committee always have to be appointed?

There is no requirement for there to be a Committee in every insolvency process. There may be insufficient creditors willing to form a Committee or in a straightforward insolvency process there may be no need for a Committee.



A Guide for Creditors



This booklet has been produced by R3, the Association of Business Recovery Professionals, in conjunction with the Association of Professional Bankers (APB). R3 is the leading professional association representing insolvency practitioners and professionals within the recovery, insolvency and turnaround professions in the UK.

Specialist Bankruptcy and Insolvency R3 is a charity, please visit www.r3uk.org for more information.

The Insolvency Service is a public body that provides information and advice on insolvency law and practice, and is responsible for the administration of the Insolvency Act 1986 and the Insolvency Act 2003.

Insolvency practitioners are professionals who are licensed to provide services to companies and individuals who are insolvent. We have many years of experience and the public can rely on R3 to provide expert advice and support in the insolvency process.

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