

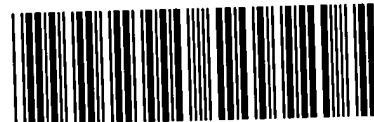
WU07

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



Companies House

FRIDAY



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09/07/2021

#171

COMPANIES HOUSE

1 Company details

Company number 0 7 2 8 1 5 6 0
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 B T 1 5 B N
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 B T 1 5 B N
Country United Kingdom

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

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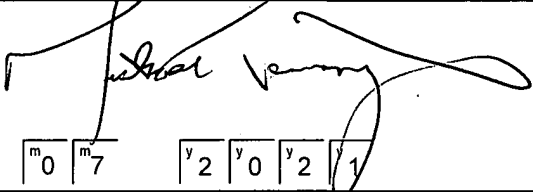
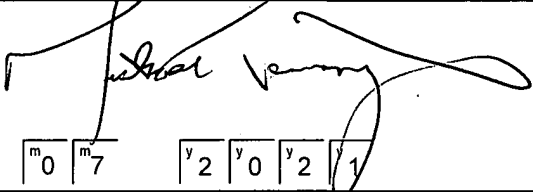
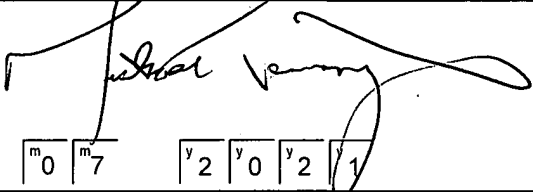
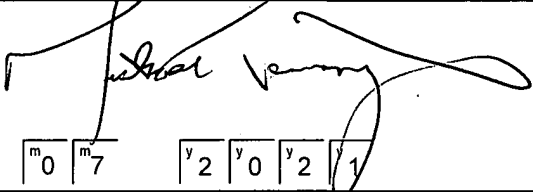
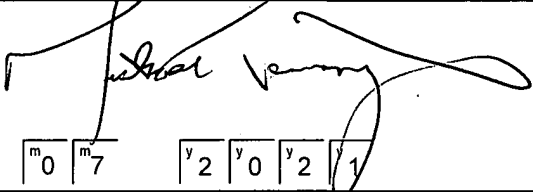
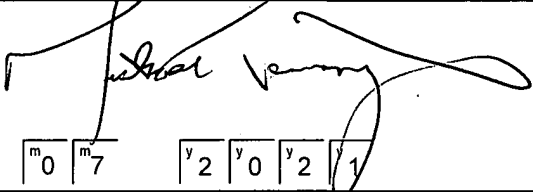
6 Period of progress report

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7 Progress report

☒ The progress report is attached

8 Sign and date

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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 CREDITORS

8 July 2021
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 3 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 2020 to 12 June 2021 ("the Period").

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 £60,180.07

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 £59.16 was received during the period, in relation to the funds held within the Liquidation account.

2.2 Payments

2.2.1 Bank Fees

Bank charges of £88.00 were incurred within the period, in relation to the Company's Liquidation banking facilities.

2.2.2 Tax on Bank Interest

Tax of £11.83 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 also 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.

The Joint Liquidators have continued to pursue the outstanding debts within the period, however, this process has been delayed by the onset of the COVID-19 pandemic and the moratorium which restricted debt recovery options. This 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 £31,000.00 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 £45,049.75 which represents 312.77 hours spent at an average charge out rate of £144.03 per hour.

Also attached is the original Fees estimate annotated with a column showing the time costs accrued in respect of each activity. The fees that have accrued are within the level of the approved fees estimate and I do not anticipate exceeding the estimate in this liquidation.

For your guidance, I have 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 Bankruptcy we may have requested information from you so that we may carry out our statutory duties under the Insolvency Order (Northern Ireland) 1989. 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 Order (Northern Ireland) 1989 (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.

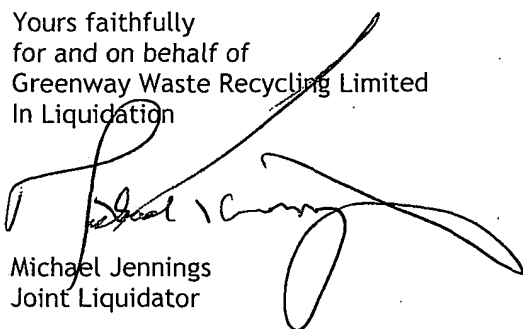
Should any complaint subsequently remain unaddressed or inadequately resolved, we would direct you to the Complaints Gateway either by post at 'The Insolvency Service, IP Complaints, 3rd Floor, 1 City Walk, Leeds LS11 9DA; by email at: ip.complaints@insolvency.gsi.gov.uk; or by telephone on: 0845 602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

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.

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 11 March 2019			
Liquidators' Fees			
Summary Activity	Estimated Fee	Accrued To Date	
	£	£	
A. Pre Appointment Matters	0.00	0.00	
Total	0.00	0.00	
A. Steps on Appointment	3,500.00	3,500.00	
B. Planning and Strategy	2,500.00	2,866.00	
C. General Administration	12,500.00	13,050.25	
D. Assets Realisation/Dealing	14,000.00	16,126.00	
E. Employee Matters	1,000.00	1,028.50	
F. Creditor Claims	5,000.00	4,215.50	
G. Reporting	3,500.00	4,263.50	
H. Distribution & Closure	6,000.00	0.00	
TOTAL	48,000.00	45,049.75	
Expenses Estimate			
Officeholder CAT 1 Disbursements	1,000.00	634.00	
Officeholder CAT 2 Disbursements	0.00	0.00	
Other Expenses			
Agents/Valuers Costs	1,750.00	483.49	
Solicitors costs	3,000.00	0.00	

Greenway Waste Recycling Limited - In Compulsory Liquidation

In accordance with best practise I provide below details of BDO Northern Ireland in respect of fees and expenses for work in relation to the above insolvency.

The current charge out rates per hour of staff within my firm who may be involved in working on the insolvency are as follows:

Grade	£
Partner	330
Director	225
Senior Manager	185
Manager	160
Assistant Manager	130
Senior Executive	95
Executive	40

This in no way implies that staff at all such grades will work on the case. The rates charged by BDO Northern Ireland are reviewed in December and July each year and are adjusted to take account of inflation and the firm's overheads.

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Units of time can be as small as 3 minutes. BDO Northern Ireland records work in respect of insolvency work under the following categories:

- Pre Appointment
- Steps Upon Appointment
- Planning and Strategy
- General Administration
- Asset Realisation/Dealing
- Trading Related Matters
- Employee Matters
- Creditor Claim
- Reporting
- Distribution and Closure

Under each of the above categories the work is recorded in greater detail in sub categories. Please note that the 10 categories provide greater detail than the six categories recommended by the Recognised Professional Bodies who are responsible for licensing and monitoring Insolvency Practitioners.

Where an officeholder's remuneration is approved on a time cost basis, the time invoiced to the case will be subject to VAT at the prevailing rate.

Where remuneration has been approved on a time cost basis, a periodic report will be provided to any committee appointed by the creditors or in the absence of a committee to the creditors. The report will provide a breakdown of the remuneration drawn and will enable the recipients to see the average rates of such costs.

Other Costs

Where expenses are incurred in respect of the insolvent estate they will be recharge. Such expenses can be divided into two categories:

Category 1

This heading covers expenses where BDO Northern Ireland 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, land registry searches, fees in respect swearing legal documents etc. In each case the recharge will be a reimbursement of a specific expense incurred.

Where applicable, all disbursements will be subject to VAT at the prevailing rate.

Category 2

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.

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.

Greenway Waste Recycling Limited - In Liquidation

Receipts & Payments Account from the making of the Winding Up Order to 12 June 2021

	Amount Received In Period £	Amounts Received To Date £
<u>RECEIPTS</u>		
Opening Balance Brought Forward as at 13 June 2020	109,659.30	-
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	59.16	654.46
VAT on Receipts	-	-
Total Receipts within the period	59.16	
Closing Balance as at 12 June 2021	109,718.46	109,718.46
	Amount Paid in Period £	Amounts Paid To Date £
<u>PAYMENTS</u>		
Opening Balance Brought Forward as at 13 June 2020	49,438.56	-
Liquidators' Fees	-	31,000.00
Insolvency Service Fees	-	11,014.10
Liquidators Disbursements	-	634.00
Bank Fees	88.00	264.60
Insurance	-	168.00
Tax on Bank Interest	11.83	130.89
VAT on Payments	-	6,326.80
Total Payments within the period	99.83	
Closing Balance as at 12 June 2021	49,538.39	49,538.39
Balance as at 12 June 2021	60,180.07	60,180.07

Greenway Waste Recycling Limited - In Liquidation

Summary of Time Spent for the Period 13 June 2018 to 12 June 2021

DESCRIPTION	Partner		Director		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	3.50	165.00	13.45	2,006.00	149.14
Subtotal	3.50	1,050.00	0.30	63.00	8.40	1,408.00	1.00	120.00	1.00	60.00	3.50	165.00	17.70	2,866.00	161.92
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	0.50	30.00	6.00	718.27	119.71
07 Receipts & Payments Accounts	-	-	-	-	2.00	340.00	1.60	192.00	-	-	3.45	125.32	7.05	657.32	93.24
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	-	-	7.00	1,190.00	6.00	720.00	4.00	236.92	1.50	30.16	21.50	3,077.08	143.12
15 Gen Admin Correspondence	1.00	300.00	-	-	8.55	1,453.50	3.00	360.00	5.60	331.69	3.90	103.47	22.05	2,548.66	115.59
16 Maintain Internal Files	-	-	-	-	0.25	37.50	2.75	330.00	3.50	207.31	2.45	49.80	8.95	624.61	69.79
99 Other Matters	4.25	1,275.00	-	-	10.00	1,708.50	4.75	570.00	0.90	53.31	-	-	19.90	3,606.81	181.25
Subtotal	11.00	3,300.00	-	-	31.30	5,304.50	24.60	2,952.00	19.50	1,155.00	11.80	338.75	98.20	13,050.25	132.89
D. Assets Realisation/Dealing															
07 Debt Collection	17.00	5,160.00	-	-	4.75	797.50	7.00	840.00	3.45	196.48	-	-	32.20	6,993.98	217.20
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	7.50	2,250.00	-	-	3.30	561.00	2.75	330.00	4.30	244.88	-	-	17.85	3,385.88	189.69
Subtotal	36.50	11,010.00	-	-	11.80	1,996.00	19.00	2,280.00	14.75	840.00	-	-	82.05	16,126.00	196.54
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	-	-	11.30	1,893.50	4.25	510.00	7.50	410.00	0.60	12.00	26.15	3,575.50	136.73
06 Other Creditors	1.00	300.00	-	-	2.00	340.00	-	-	-	-	-	-	3.00	640.00	213.33
Subtotal	3.50	1,050.00	-	-	13.30	2,233.50	4.25	510.00	7.50	410.00	0.60	12.00	29.15	4,215.50	144.61
G. Reporting															
01 Statutory Reporting	2.00	605.00	-	-	2.50	425.00	5.75	690.00	2.00	104.70	4.50	122.50	16.75	1,947.20	116.25
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	1.50	452.50	-	-	2.20	374.00	6.25	750.00	1.30	68.05	2.50	67.50	13.75	1,712.05	124.51
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	3.50	1,057.50	-	-	5.20	884.00	16.00	1,920.00	4.05	212.00	7.00	190.00	35.75	4,263.50	119.26
H. Distribution & Closure															
Subtotal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	62.50	18,817.50	0.30	63.00	79.80	13,492.00	65.55	7,866.00	67.80	3,827.00	36.82	984.25	312.77	45,049.75	144.03

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:

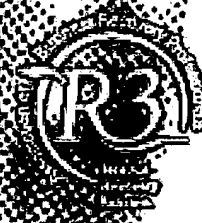
- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

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.

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This booklet has been produced by R3, the Association of Business Recovery Professionals, in conjunction with the Recognised Professional Bodies ("RPBs"). R3 is the leading professional association representing insolvency practitioners and professionals within the insolvency, restructuring and turnaround profession in the UK.

If you would like to find out more about the work of R3 or its members, please visit the R3 website at www.r3.org.uk.

The Insolvency Service also produces a number of useful guides about personal and corporate insolvency procedures and director duties which can be accessed at <http://gov.uk/government/collections/insolvency-service-guidance-publications>.

This booklet is not intended to be a statement of law or a substitute for specific professional or legal advice. We have made every effort to ensure that the guide is accurate but R3 cannot accept any responsibility for the consequences of any action taken in reliance of its contents.

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