

# Statement of administrator's proposals

Pursuant to paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 2.25 of the Insolvency (Scotland) Rules 1986

Name of Company

Hymore Limited

Company number

SC271129

(a) Insert full name(s) and address(es) of administrator(s)

(a) Colin Peter Dempster and Thomas Merchant Burton

of Ernst & Young LLP, Ten George Street, Edinburgh EH2 2DZ

\*Delete as applicable

Attach a copy of ~~my~~ our proposals in respect of the administration of the above company.

A copy of these proposals was sent to all known creditors on

(b) Insert date

(b) 5 February 2009

Signed

  
Joint / Administrator(s)

Dated

5 February 2009

## Contact Details:

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

Jennifer Thorpe

Ernst & Young LLP, Ten George Street, Edinburgh EH2 2DZ

Tel: 0131 777 2289

DX Number:

DX Exchange:



\*SOF5M76Z\*

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07/02/2009

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COMPANIES HOUSE

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Companies House, 37 Castle Terrace, Edinburgh, EH1 2EB

DX 235 Edinburgh / LP 4 Edinburgh-2

**Hymore Limited**

**Administrators' statement of proposals**

**Pursuant to paragraph 49 of schedule B1 to the  
Insolvency Act 1986**

**3 February 2009**

## Abbreviations

**The following abbreviations are used in this report:**

**the Company**  
**the Group**

**Hymore Limited**

**Highmore Homes Limited and its subsidiaries**

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# 1. Introduction, background and circumstances giving rise to the appointment

## Introduction

On 12 December 2008 the Company entered administration and C P Dempster and T M Burton were appointed to act as Joint Administrators. This document, including its appendices, constitutes the Joint Administrators' statement of proposals to creditors pursuant to paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 2.25 of the Insolvency (Scotland) Rules 1986.

Certain statutory information relating to the Company and the appointment of the Joint Administrators is provided at Appendix A.

## Background

The Company was incorporated in July 2004 as DMWS 683 Limited, changing its name to Kenmore Hydon One Limited in 2005, prior to becoming Hymore Limited in 2008. The Kenmore Property Group purchased a controlling interest in the Group in March 2007. The Group was sold to the private property fund management group Highcross, in September 2007.

The principal activity of the Group is residential property development, achieved either through direct development or joint venture developments. The Group has an interest in over 100 sites across the United Kingdom. The Company's principal assets are development sites at Wellington and Crewekerne.

The recent financial results of Hymore Limited can be summarised as follows:

	Type	Turnover	Gross Profit	Gross Profit	Directors'	Net Profit	Accumulated
Period ended	Audited / Draft	£000	£000	%	Remuneration £000	after Tax £000	Reserves £000
31/12/2007	Audited	3,964	183	4.6	NIL	0	0
31/12/2008	Audited	3,861	169	4.3	NIL	0	0

## Circumstances Giving Rise to the Appointment of the Administrators

A general downturn in the residential housing market in the UK was having a significant impact on sales of the Group's properties. This in turn was having a negative effect on the Group's working capital and resulted in an increased funding requirement.

The Group directors were in discussions with their funders regarding a possible refinancing but when it became clear that this would not be possible, the directors resolved to appoint administrators to six companies in the Group, including one of the Company's significant shareholders. As a result of these insolvencies, and in an effort to protect the value of the assets of the Company, the Bank of Scotland plc took the decision to appoint administrators. Accordingly C P Dempster and T M Burton were appointed Joint Administrators of the Company on 12 December 2008.

## **2. Purpose, conduct and end of administration**

### **Purpose of the Administration**

Following our appointment, we immediately took control of the business and assets of the Company with a view to considering the prioritised objectives of the Administration process, being:

- (a) Rescue of the Company as a going concern; or
- (b) Achieving a better result for the Company's creditors as a whole than would be likely if the Company was wound up (without first being in Administration); or
- (c) Realising property in order to make a distribution to one or more secured or preferential creditors.

The focus of the Administration to date has been investigating the possibility of selling the business and assets as a going concern, with a view to achieving objective (b) above.

### **Conduct of the Administration**

#### ***Asset Realisations***

The Company's main assets are development sites at Crewkerne and Wellington and steps are currently being taken to realise any value in the sites.

#### ***Future Conduct of the Administration***

If the Administrators' proposals are approved, it is proposed that the Administrators will continue to manage the affairs, business and property of the Company in the manner outlined above in order to achieve the purpose of the Administration.

#### ***The End of the Administration***

It is proposed that if at the end of the Administration the Company has no property which might permit a distribution to its creditors, the Joint Administrators will send a notice to that effect to the Registrar of Companies. On registration of the notice the Joint Administrators' appointment will come to an end. In accordance with the provisions of paragraph 84(6) of Schedule B1 to the Insolvency Act 1986 the Company will be deemed to be dissolved three months after the registration of the notice.

In the unlikely event that there are funds available that would enable a distribution to be made to creditors, it is proposed that, at the end of the Administration, the Company will move straight into Creditors' Voluntary Liquidation upon the filing with the Registrar of Companies of a notice pursuant to paragraph 83 of Schedule B1 to the Insolvency Act 1986. It is proposed that the Liquidators will be C P Dempster and T M Burton of Ernst & Young LLP. In accordance with paragraph 83(7) of Schedule B1 to the Insolvency Act 1986 and Rule 2.47(3) of the Insolvency (Scotland) Rules 1986, creditors may nominate a different person as the proposed liquidator, provided that the nomination is made after the receipt of these proposals and before the proposals are approved. It should be noted in this regard that a person must be authorised to act as an insolvency practitioner in order to be appointed as liquidator.

### **3. Statement of affairs**

The Directors have submitted a Statement of Affairs as at 12 December 2008. A summary is attached at Appendix B.

The values included in the statement have been estimated by the Directors and will differ from actual asset realisations. In particular, we believe the realisable values shown for Debtors is ambitious. Similarly, a number of creditor claims have yet to be quantified and may be higher than indicated. Additionally, the values are shown before applicable costs of realisation.

We provide below, for information, an indication of the current position with regard to creditors' claims. The figures have been compiled by Company management and have not been subject to independent review or statutory audit.

#### **Secured Creditors**

Bank of Scotland plc, the Company's principle secured lender, has indebtedness at the 12 December 2008 of £13,241,313. The lending is secured over the Company's property assets.

#### **Preferential Creditors**

As the Company had no employees we do not expect there to be any preferential creditors.

#### **Non-preferential Creditors**

It is estimated that total non-preferential claims will be in the region of £3,822,584.

## **4. Prescribed part**

The prescribed part is a proportion of floating charge assets set aside for unsecured creditors pursuant to section 176A of the Insolvency Act 1986. The prescribed part applies to floating charges created on or after 15 September 2003.

The Bank of Scotland plc hold floating charges created on 30 October 2006 and 11 March 2005.

The Joint Administrators estimate, to the best of their knowledge and belief, that

- ▶ the value of the prescribed part is £48,513 and
- ▶ the value of the Company's net property is £227,567

The figures above have been taken from the Directors' Statement of Affairs and, as already detailed in these proposals, take no account of the costs of realisation. It is therefore likely that the Joint Administrators will make an application to the court under section 176A(5) of the Insolvency Act 1986 for an order not to distribute the prescribed part as the costs of making a distribution would be disproportionate to the benefits.

A decision on the prescribed part will be taken when realisations of the floating charge assets and the associated costs have been finally determined.



## **5. Administrators' remuneration and disbursements**

### **Remuneration**

The statutory provisions relating to remuneration are set out in Rule 2.39 of The Insolvency (Scotland) Rules 1986. Further information is given in the Association of Business Recovery Professionals' publication A Creditors' Guide to Administrators' Fees, a copy of which is enclosed as Appendix E to this statement of proposals.

The Joint Administrators propose that their remuneration be fixed on the basis of time properly given by them and their staff in dealing with matters arising in the Administration. Attached as Appendix C is a detailed analysis of time spent, and charge out rates, for each grade of staff for the various areas of work carried out to 23 January 2009 as required by the Association of Business Recovery Professionals' Statement of Insolvency Practice No. 9.

**Following a review of the statement of affairs, the Administrators believe that there will be no funds available to ordinary unsecured creditors other than by virtue of section 176A(2)(a). Accordingly, in terms of Rule 2.39(9)(a) of the Insolvency (Scotland) Rules 1986 the Administrators' remuneration shall be agreed by the Secured Creditors.**

### **Disbursements**

Appendix C also includes a statement of the Joint Administrators' policy for charging disbursements. In the event that a Creditors' Committee is not formed, the Joint Administrators propose that they be permitted to charge disbursements in accordance with the charging policy set out in Appendix C.

## **6. Other matters**

### **Administrators' receipts and payments**

A summary of the Administrators' receipts and payments for the period from 12 December 2008 to 23 January 2009 is attached at Appendix 4.

An overdraft facility has been arranged in Highmore Residential Limited (In Administration) ("Residential"), which is being used to fund the various administrations across the Group. Each Group company therefore has an intercompany account with Residential to account for payments made on their behalf.

## Appendix A Statutory information

### Company Information

Company Name: Hymore Limited  
 Registered Office Address: Ernst & Young LLP  
 Ten George Street  
 Edinburgh  
 EH2 2DZ  
 Registered Number: SC271129  
 Trading Name(s): N/A  
 Trading Address(es): 28 Stafford Street  
 Edinburgh  
 EH3 7BD

### Details of the Administrators and of their appointment

Administrators: CP Dempster and TM Burton  
 Date of Appointment: 12 December 2008  
 By Whom Appointed: The appointment was made by Bank of Scotland plc  
 Court Reference: N/A

The functions which require to be exercised by the Joint Administrators in relation to their appointment will be exercised by whichever Joint Administrator is more available and better qualified to exercise such function, and in certain cases may be exercised by both at their discretion.

### Statement concerning the EC regulation

The EC Council Regulation on Insolvency Proceedings does apply to this administration and the proceedings are main proceedings. This means that this Administration is conducted according to UK insolvency legislation and is not governed by the insolvency law of any other European Union Member State.

### Share Capital

Class	Authorised		Issued & Fully paid	
	Number	£	Number	£
'A' Ordinary	50	1	50	1
'B' Ordinary	50	1	50	1

### Directors and secretary and their shareholdings

Name	Director or Secretary	Date Appointed	Date Resigned	Current Shareholding
Anne Elizabeth Taylor	Secretary	1 March 2005	N/A	N/A
Michael Francis Megan	Director	15 August 2008	N/A	N/A
Andrew Richard Reid	Director	28 September 2006	N/A	N/A

## Appendix B Directors' Statement of Affairs

### Hymore Limited

	Book Value £	Directors Estimated to Realise £
<b>Assets specifically secured</b>		
Estimated realisable value		7,962,000
Less amount due to secured creditors		<u>(13,241,313)</u>
Estimated surplus/ (deficiency)		<u>(5,279,313)</u>
 <b>Assets not specifically secured</b>		
Debtors	259,504	227,567
		<u>227,567</u>
 <b>Available to preferential creditors</b>		 227,567
 <b>Preferential creditors</b>		
Employee wages and holiday pay		<u>0</u>
 <b>Available to Floating Charge Holder</b>		 227,567
Floating Charge Holders		
Bank of Scotland plc		<u>(5,279,313)</u>
 <b>Available to ordinary creditors</b>		 (5,051,746)
 <b>Ordinary Creditors</b>		
Trade accounts	(279,869)	
Contingent or Other Liabilities	(3,542,715)	
		<u>(3,822,584)</u>
 <b>Surplus/(deficiency) as regards non-preferential creditors</b>		 (8,874,330)
 Issued and called up share capital		<u>(100)</u>
<b>Deficiency as regards members</b>		<u>(8,874,430)</u>

[Section 2: Purpose, conduct and end of administration

**Creditors List (As per Directors' Statement of Affairs)**

Name	Line 1	Line 2	Line 3	Line 4	Post Code	Amount £
1ST PROPERTY DEVELOPMENTS	1ST FLOOR OFFICES	TONE DALE BUSINESS PARK	WELLINGTON	SOMERSET	TA21 0AW	38,904
AB DESIGN GROUP	9 RICHMOND ROAD	EXETER		DEVON	EX4 4JA	2,470
BOON BROWN ARCHITECTS	MOTIVO	ALVINGSTON	YEOVIL	SOMERSET	BA20 2FG	1,777
DYNE DREWETT SOLICITORS	11 CHEAP STREET	SHERBORNE		DORSET	DT9 3PU	1,116
EDF ENERGY	PAYMENT PROCESS CENTRE	PO BOX 61		PLYMOUTH	PL3 5YL	1,312
EMPIRE SIGNS LIMITED	UNIT B1 MONUMENT VIEW	CHELSTON BUSINESS PARK	WELLINGTON	SOMERSET	TA21 9JF	632
FORDE GEORGE LIMITED	20 SOUTHERNHAY WEST	EXETER			EX1 1PR	1,664
FORM MANAGEMENT LIMITED	ROSLYN	CHEESE LANE	SIDMOUTH	DEVON	EX10 V8RA	26,110
HINDSITE CONSTRUCTION LTD	UNIT 4 HARRIER COURT	WESCOTT LANE	EXETER AIRPORT	EXETER	EX5 2DR	12,325
LEWIS BROWN	CASTLE ROAD	CHELSTON BUSINESS PARK	WELLINGTON	SOMERSET	TA21 9JQ	411
MICHELMORES LLP	WOODWATER HOUSE	PYNES HILL	EXETER		EX2 5WR	10,021
MIKE WHALE CARPETS	THE ROOST	MINESTY	MALMESBURY	WILTSHIRE	SN16 9RJ	1,652
SERVICE DESIGN SOLUTION LIMITED	21 MARY SEACOLE ROAD	THE MIDDFIELDS		PLYMOUTH	PL1 3JY	3,513
SMITH GAS ENGINEER	UNIT 15 YEOVIL BUSINESS CENTRE	HOUNDSTONE BUSINESS PARK	YEOVIL	SOMERSET	BA22 8WA	41
THE STOKES PARTNERSHIP	KINGFISHER HOUSE	MARKET SQUARE	CREWKERNE	SOMERSET	TA18 7LH	705
TESSAS TEAM CLEAN	35 SHREWSBURY ROAD	YEOVIL		SOMERSET	BA21 3UY	440
TMS LIMITED	1 MONTPELLIER TERRACE		TORQUAY	DEVON	TQ1 1BJ	15,643
VINESIDE PROPERTIES LIMITED	1ST FLOOR OFFICES	TONE DALE BUSINESS PARK	WELLINGTON	SOMERSET	TA21 0AW	20,170
WALKER MORRIS	KINGS COURT	12 KINGS STREET		LEEDS	LS1 2HL	396
WESSEX WATER	1 CLEVEDON WALK	NAILSEA		BRISTOL	BS48 1WA	400
WSP UK LIMITED	MOUNTBATTEN HOUSE	BASING VIEW	BASINGSTOKE	HAMPSHIRE	RG21 4HJ	7,467
Rock Building Limited	c/o Osborne Clarke	2 Temple Back East	Temple Key	BRISTOL	BS1 6EG	132,500
HIGHMORE RESIDENTIAL LIMITED	28 STAFFORD STREET			EDINBURGH	EH3 7BD	3,539,656
Deposits received from various Tenants						3,057
					Total	3,822,584

## Appendix C Statement on administrators' remuneration pursuant to statement of insolvency practice No. 9

### Charging and disbursement policy

#### Administrator's charging policy for fees

The Administrators have engaged a manager and other staff to work on the Administration. The work required is delegated to the most appropriate level of staff taking account of the nature of the work and the individual's experience. Additional assistance is provided by accounting and treasury executives dealing with the Company's bank accounts and statutory compliance diaries. Work carried out by all staff is subject to the overall supervision of the Administrators.

All time spent by staff working directly on case-related matters is charged to a time code established for the case. Each member of staff has a specific hourly rate, which is subject to change over time. The average hourly rate for each category of staff over the period is shown below, as are the current hourly rates used.

### 1. Analysis of Time Spent to 23 January 2009

#### Hymore Limited (In Administration)

#### Summary of Time and Time Costs from 12 December 2008 - 23 January 2009

Grade	PARTNER/ DIRECTOR	ASSISTANT DIRECTOR	MANAGER	EXECUTIVE	OTHER STAFF	TOTAL HOURS	AVERAGE HOURLY RATE £
Accounting & Administration	0.00	0.00	0.60	0.10	4.00	4.70	141
Bank & Statutory Reporting	0.00	0.00	0.00	0.00	0.00	0.00	0
Creditors	0.00	0.00	0.00	0.00	4.00	4.00	98
Debtors	0.00	0.00	0.00	0.00	0.00	0.00	0
Employee Matters	0.00	0.00	0.00	0.00	0.00	0.00	0
Immediate Tasks	0.00	4.00	0.00	0.00	0.00	4.00	475
Investigations & CDDA	0.00	0.00	0.00	2.50	0.00	2.50	0
Legal Issues	0.00	0.00	0.00	0.00	0.00	0.00	0
Other Assets	0.00	0.00	0.00	0.00	0.00	0.00	0
Other Matters	0.00	0.00	0.00	0.00	0.00	0.00	0
Property	1.50	7.00	0.00	1.00	0.00	9.50	0
Retention of Title	0.00	0.00	0.00	0.00	0.00	0.00	0
Statutory Duties	0.40	0.00	0.00	0.00	11.50	11.90	105
Trading	0.00	0.00	0.00	0.00	0.00	0.00	0
VAT & Taxation	0.00	2.50	0.00	0.00	0.00	2.50	0
Total Hours	1.90	13.50	0.60	3.60	19.50	39.10	217
Total Fees £	940.50	4750.00	165.00	720.00	1920.00	8495.50	
Average Hourly Rate £	495.00	351.85	275.00	200.00	98.46	217.28	

## 2. Current Charge Out Rates

Level	£
Partner	495
Director	405
Assistant Director	350
Manager	275
Executive	200
Analyst	120
Support Staff	100

### **Administrators' charging policy for disbursements**

***Statement of Insolvency practice No. 9 divides disbursements into two categories.***

Category 1 disbursements are defined as specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party. Such disbursements can be paid from the insolvent's assets without approval from the Creditors' Committee or the general body of creditors. In line with Statement of Insolvency Practice No. 9, it is our policy to disclose Category 1 disbursements drawn but not to seek approval for their payment. We are prepared to provide such additional information as may reasonably be required to support the disbursements drawn.

Category 2 disbursements are charges made by the office holder's firm that include elements of shared or overhead costs. Statement of Insolvency Practice No. 9 provides that such disbursements are subject to approval as if they were remuneration.

It is our policy, in line with the Statement, to seek approval for Category 2 disbursements before they are drawn. To date, the following Category 2 expenses have been incurred. It is proposed that Joint Administrators be permitted to draw these expenses.

## Appendix D Administrators' Receipts and Payments Account for the period from 12 December 2008 to 23 January 2009

Estimated to  
Realise as per  
Directors'  
Statement of  
Affairs

£

£

### RECEIPTS

Nil

0.00

### PAYMENTS

Service Charges

12,000.00

Security

3,546.00

Public Notices

134.19

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15,680.19

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(15,680.19)

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Represented by:

Intercompany Control Account

(16,232.27)

Net VAT receivable/payable

522.08

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(15,680.19)

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## **Appendix E A Creditors' Guide to Administrators' Fees**

### **A CREDITORS' GUIDE TO ADMINISTRATORS' REMUNERATION SCOTLAND**

**This guide applies to all appointments on or after 15 September 2003. Any creditor requiring guidance on a case where the Insolvency Practitioner was appointed prior to 15 September 2003 should refer to the previous guide, which should have been issued to all creditors at the time of appointment.**

#### **1 Introduction**

1.1 When a company goes into administration the costs of the proceedings are paid out of the company's assets in priority to creditors' claims. 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 administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's remuneration. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor remuneration and outlays and explain the basis on which remuneration and outlays are fixed.

#### **2 The Nature of Administration**

2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the objective of:

- (a) rescuing the company as a going concern, or
- (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration) , or
- (c) realising property in order to make a distribution to one or more secured or preferential creditors

Administration may be followed by a company voluntary arrangement or liquidation.

#### **3 The Creditors' Committee**

3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is established at the meeting of creditors which the administrator is required to hold within 10 weeks of the administration order (or longer with the consent of the court) to consider his proposals. The administrator must call the first meeting of the committee within 3 months of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide such information as it may require.

#### **4 Fixing the Administrator's Fees**

**4.1** The basis for fixing the administrator's remuneration is set out in Rule 2.39 of the Insolvency (Scotland) Rules 1986 which states that it may be a commission calculated by reference to the value of the company's property with which he has to deal.

It is for the creditors' committee (if there is one) to fix the remuneration and Rule 2.39 says that in arriving at its decision the committee shall take into account:

The work which, having regard to the value of the company's property, was reasonably undertaken by the administrator; and

The extent of his responsibilities in administering the company's assets

Although not specifically stated in the rules, the normal basis for determining the remuneration will be that of the time costs properly incurred by the administrator and his staff.

**4.2** If there is no creditors' committee, or the committee does not make the requisite determination, the administrator's remuneration will be fixed by the court on application by the administrator.

#### **5 What information should be Provided by the Administrator?**

**5.1** Claims by the administrator for the outlays reasonably incurred by him and for his remuneration shall be made in accordance with section 53 of the Bankruptcy (Scotland) Act 1985 as applied by rule 4.68 which provides that within two weeks after the end of an accounting period, the administrator shall submit to the creditors' committee or if there is no creditors' committee, to the court:

his accounts of intromissions for audit;

a claim for the outlays reasonably incurred by him and for his remuneration, broken down into category 1 disbursements, being those costs where there is specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party, and category 2 disbursements, which are costs which include elements of shared or allocated costs, and are supplied internally by the administrator's own firm and

where the documents are submitted to the creditors' committee, he shall send a copy of them to the court.

**5.2** The administrator may at any time before the end of an accounting period submit to the creditors' committee (if any) an interim claim for category 1 and 2 disbursements reasonably incurred by him and for his remuneration.

**5.3** When seeking agreement to his fees and disbursements, the administrator should provide sufficient supporting information to enable the committee to form a judgement as to whether the proposed fee and disbursements are reasonable having regard to all circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

the nature of the approval being sought;

the stage during the administration of the case at which it is being sought; and

the size and complexity of the case

**5.4** Where, at any creditors' committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

**5.5** Where the administrator seeks agreement to his remuneration during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed remuneration is based on time costs the administrator should disclose to the committee or the court the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

**Administration and planning**

**Investigations**

**Realisation of assets**

**Trading**

**Creditors**

**Any other case specific matters**

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

**Partner**

**Manager**

**Other senior professionals**

**Assistants and support staff**

The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain:

**Any significant aspects of the case, particularly those that affect the amount of time spent**

**The reasons for subsequent changes in strategy**

**Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make**

**The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, or the drawing, or agreement of remuneration**

**Any existing agreement about remuneration**

**In cases where there are distributable funds available to unsecured creditors by means of the creditors' prescribed part, how the administrator has allocated remuneration and costs with regard to dealing with the administration of and agreeing of unsecured creditors' claims.**

Remuneration in respect of time spent dealing with issues specific to the funds for ordinary creditors will be applied against the creditors prescribed part, prior to the funds being distributed, and will not be applied against the total funds available to all creditors, including those available to the floating charge holder

Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will be relevant, whilst further analysis may be necessary in larger cases.

5.6 Where the remuneration is charged as a commission based on the value of the company's property with which the administrator has had to deal, the administrator should provide details of any work which has been or is intended to be contracted out which would normally be undertaken directly by the administrator or his staff.

5.7 As noted in 5.1, any claim for outlays must be approved in the same way as remuneration. Professional guidance issued to Insolvency Practitioners requires that where the administrator proposes to recover costs which, whilst being in the nature of expenses or disbursements may include an element of shared or allocated costs (such a room hire, document storage or communication facilities) they must be approved as if they were remuneration. Such disbursements must be directly incurred on the case and subject to a reasonable method of calculation and allocation. A charge for disbursements calculated as a percentage of the amount charged for remuneration is not allowed.

5.8 Payments to outside parties in which the office holder or his firm or any associate has an interest should be disclosed to the body approving remuneration and should be treated in the same way as payments to himself. They therefore require specific approval as remuneration prior to being paid.

## 6 What if a Creditor is Dissatisfied?

6.1 If a creditor believes that the administrator's remuneration is too high, he may appeal against the determination by virtue of Section 53(6) of the Bankruptcy Act, applied by Rule 4.32 of the Insolvency Rules, which is in turn applied by Rule 2.39. Creditors have a right of appeal against the determination of an administrator's remuneration by virtue of the application of Section 53(6) of the Bankruptcy (Scotland) Act.

6.2 The right of appeal is either to the court (if the determination is by the creditors committee) or to a higher court (if the determination is by a court). Notwithstanding the fact that the statutory time limit for appealing expires eight weeks from the end of the accounting period concerned, it is normal practice to advise the creditors that they may appeal within 14 days of being notified of the determination in cases where this extends beyond the statutory appeal period.

## 7 What if the Administrator is Dissatisfied?

7.1 If the administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for an order increasing its amount or rate. If he decides to apply to the court he must give at least 14 days' notice to the members of the creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration.

## 8 Other Matters Relating to Fees

**8.1** Where there are joint administrators it is for them to agree between themselves how remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.