

LIQ03

Notice of progress report in voluntary winding up



Companies House

THURSDAY



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20/07/2017

#185

COMPANIES HOUSE

1 Company details

Company number 0 2 5 6 7 0 6 6

Company name in full Leeds Bearings Limited

→ Filling in this form

Please complete in typescript or in
bold black capitals.

2 Liquidator's name

Full forename(s) Raymond Stuart

Surname Claughton

3 Liquidator's address

Building name/number 3 Merchant's Quay

Street Ashley Lane

Post town Shipley

County/Region West Yorkshire

Postcode B D 1 7 7 D B

Country

4 Liquidator's name ①

Full forename(s)

Surname

① Other liquidator

Use this section to tell us about
another liquidator.

5 Liquidator's address ②

Building name/number

Street

Post town

County/Region

Postcode


Country

② Other liquidator

Use this section to tell us about
another liquidator.

LIQ03

Notice of progress report in voluntary winding up

6	Period of progress report															
From date	d	0	d	4	m	0	m	5	y	2	y	0	y	1	y	6
To date	d	0	d	3	m	0	m	5	y	2	y	0	y	1	y	7
7	Progress report															
<input checked="" type="checkbox"/> The progress report is attached																
8	Sign and date															
Liquidator's signature	Signature <div style="display: flex; justify-content: space-between; align-items: center;"> X  X </div>															
Signature date	d	1	d	4	m	0	m	7	y	2	y	0	y	1	y	7

LIQ03

Notice of progress report in voluntary winding up



Presenter information

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

Contact name Ian Hawksworth

Company name Rushtons Insolvency Limited

Address 3 Merchant's Quay

Ashley Lane

Post town Shipley

County/Region West Yorkshire

Postcode B D 1 7 7 D B

Country

DX

Telephone 01274 598585



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

Our Ref: RSC/IPH/AJT

Your Ref:

E: ihawksworth@rushtonsifs.co.uk

Date: 29th June 2017

Dear Sir/Madam

Leeds Bearings Limited ("the Company") Creditors' Voluntary Liquidation ("CVL")
Registered number: 02567066

As you are aware, Raymond Stuart Cloughton was appointed as Liquidator of the Company on 4th May 2012.

To clarify this is an insolvent liquidation. More information on the difference between a solvent and insolvent liquidation can be found at the following link: <http://www.creditorinsolvencyguide.co.uk/>.

Progress Report

The above case has now passed its fifth anniversary and as such a progress report is available as follows:

Costs

Costs were agreed in principle by the board at the outset and then decided upon by the requisite majority of creditors.

Information about the basis of charging fees on an CVL is available from the R3 website as follows: <https://www.r3.org.uk/what-we-do/publications/professional/statements-of-insolvency-practice/e-and-w/sip-9-list>. Please make sure that you download the policy that relates to the relevant date of appointment.

Costs to date are fully disclosed in the report.

Communication

For administrative ease, you are able to receive statutory correspondence by email if you would prefer. Where this is the case, kindly inform this office in writing.

Kindly keep me informed of any changes to address or other contact details during my administration of the Company's affairs.

Opt Out

If you are a creditor, you can choose to opt out of receiving information regarding the liquidation, but this does not preclude correspondence in regard to your claim, or dividend rights. You can opt back into receiving correspondence by giving notice in writing.

continued

Distributions

As detailed in the receipts and payments account, all estate funds have, or will be utilised towards the costs and expenses of the Liquidation.

Ethical Issues and Complaints

Rushtons Insolvency Limited give high priority to client service and are keen to ensure that the quality of this is maintained.

If at any time you would like to discuss how the firm's service to you could be improved, or if you are dissatisfied with any element of the service you are receiving, please contact me as soon as possible so that I may discuss our complaints policy with you.

I undertake to look into any complaint carefully and promptly and to do all I can to explain the position to you.

If I do not answer your complaint to your satisfaction, you may, of course, take up the matter with the Insolvency Complaints Gateway, ("ICG"), Leeds via <https://www.gov.uk/complain-about-insolvency-practitioner> who shall assess whether the matter needs referring to the respective licencing body for further investigation.

Should you require further assistance, please contact Ian Hawksworth on 01274 598585 or via email at ihawksworth@rushtonsifs.co.uk.

Yours faithfully

A handwritten signature in black ink, appearing to read 'R. S. Cloughton', with a long horizontal flourish underneath.

R. S. Cloughton
Liquidator

Raymond Stuart Cloughton is authorised to act as insolvency practitioners in the UK by the Insolvency Practitioners Association under office holder number 119.

Leeds Bearings Limited ("the Company") Creditors' Voluntary Liquidation ("CVL")
Registered number: 02567066
Liquidator's Progress Report for the period from 4th May 2016 to 3rd May 2017

Raymond Stuart Claughton of Rushtons Insolvency Limited, is the Liquidator of the Company and this is his fifth progress report concerning the liquidation of the Company.

Key highlights of this report

A summary of the key information contained within this report is as follows:

- Assets realised total £1,764.46
- Creditors claim paid in full total nil
- Distributions in Specie to member's total nil
- Cash distributions to member's total nil
- Liquidator's remuneration was approved by creditors on a time costs basis at the initial meeting of creditors which took place on 4th May 2012. To date, no remuneration has been drawn.

Appendices

The following appendices are attached which should be read in conjunction with this report:

Appendix 1	Statutory Information
Appendix 2	Receipts and Payment Account (Receipts and Payments are shown net of VAT)
Appendix 3	Summary of Liquidator's Activities
Appendix 4	Category 1 Disbursements
Appendix 5	Time & Charge Out Summary
Appendix 6	Creditors Guide to Fees Charged by Liquidators

Liquidator's actions during the period

During the liquidation, I have realised the following Company assets:

PPI Refund

Prior to Liquidation, the Company's Director had made a claim against the Company's Bankers in respect of the miss-selling of Payment Protection Insurance. A repayment in the sum of £1,764.46 was received.

Bank Interest

A nominal amount of bank interest has been received on the funds held.

Unrealisable Assets

Director's Loan Account

After a review and reconciliation of the Director's Loan Account, I was of the opinion that an amount of circa £8,000 was due to the Company. Various discussions and meetings had been held with the Company's Director to enable the outstanding Loan Account figure to be agreed. No agreement could be reached and Solicitors were instructed to pursue recovery of the sum of £8,112.00 in respect of the overdrawn Loan Account. However, due to the Director having serious health issues and being unable to work and having no means to repay the outstanding sum, no further action will be taken.

Trade Debtors

The Company's Trade Debtors were assigned to Lloyds TSB Commercial Finance Limited under the terms of an Invoice Discounting Agreement, it was envisaged that no surplus would be available. Although various Debtors were assigned to me, these Debtors were of no value.

Stock

The Company only retained a negligible amount of stock, most of which was dated. The cost of removal would have exceeded its value, in addition, rent in the region of £500 was outstanding.

Motor Vehicle

The Company owned a Citroen Berlingo Panel Van (53 plate), which had been valued by Michael Steel & Co (Plant & Machinery) Limited in the sum of £300. In view of its negligible value, a sale was agreed with Mr. P. Singh, the Company's former Director. However, these funds were not received and the matter was put in the hands of my Solicitors for recovery together with the outstanding Director's Loan Account as detailed.

Case Progress

During the period of appointment, the Liquidator has achieved the following:

Whilst the Company had no scheduled assets, after carrying out detailed investigation into the Company's affairs, it was possible to recover the PPI claim detailed above.

Payments to Creditors

Secured Creditors

Lloyds TSB Commercial Finance had an assignment over the Company's Debtors and it was anticipated that the Debtors would extinguish any outstanding liability, however, Lloyds TSB Commercial finance have suffered a shortfall in the region of £5,000. Although they assigned various Debtors to me, these were of no value and as such, a payment will not be made to the Secured Creditors.

Preferential Creditors

The Company did not have any Preferential Creditors.

Unsecured Creditors

The Statement of Affairs estimated unsecured creditor claims of £77,692. To date, claims totalling £58,156.85 have been received.

It is not anticipated that there shall be sufficient realisations to enable a distribution to the unsecured creditors in this matter.

Distributions to Members

It is not anticipated that there shall be sufficient realisations to enable a distribution to the members in this matter.

Distribution Prospects

According to the respective Insolvency Rules I can confirm that as a consequence of the monies available in the Company's estate, there shall be no distribution to creditors in this matter.

Liquidation Costs

Unless stated otherwise, the basis of the Liquidator's remuneration was considered and approved by creditors on 4th May 2012.

Pre-Appointment Costs

My fee in relation to assistance provided with the preparation of the director's Statement of Affairs, and placing the Company in liquidation, was fixed at £3,500.00 plus VAT and disbursements.

A payment on account in the sum of £1,366.67 plus VAT has been drawn as detailed within the receipts and payments account. The balance in hand will be utilised in part settlement of the outstanding Pre-Appointment costs.

I can confirm that no payment was made to another party for their assistance in preparing the Statement of Affairs, or in regard to the liquidation generally.

Liquidators' Remuneration

Numerous activities have been undertaken by ourselves and our staff in dealing with the liquidation. *A number of tasks are generic to every liquidation and a summarised list of these activities is attached in the Appendices for your information.*

Details of my remuneration are set out below. You may also find it useful to read "A guide to Liquidators' fees", a copy of which is set out in the Appendices.

With regard to the Liquidator's remuneration, I can advise you that during the course of my administration members of this firm have incurred 39 hours and 12 minutes time costs, which is categorised on the attached schedule at Appendix 5. The total average hourly charge-out rate equates to approximately £194.08, therefore the Liquidator's remuneration amounts to £7,608.00 plus VAT.

In accordance with a resolution passed at the initial meeting of creditors held on Friday 4th May 2012, the Liquidator's remuneration be fixed by the time properly spent by the Liquidator and his staff in attending to matters arising during the course of the Winding-Up, Insolvency Rules 2006 4.127(2)(b), with the authority to draw fees on account. To date no remuneration has been drawn.

Future Remuneration

It is anticipated that future fees shall accrue during the course of the liquidation as follows:-

As asset realisation and investigations are now complete, I anticipate concluding my Administration within the next 2-3 months with an anticipated additional fee of approximately £1,000.

There are insufficient funds available to pay the Liquidator's remuneration.

Disbursements

A detailed explanation of category 1 and category 2 disbursements, together with the approved rates for category 2 disbursements, is set out in the Appendices.

Category 1 disbursements are those that are directly attributable to a third party invoice. The category 1 disbursements incurred are paid are set out in the table below.

Category 2 disbursements are those that are based upon an estimate, or an internally set rate in accordance with the schedule previously provided.

No charge has been made for category 2 disbursements.

Professional Advisors

Following advisors have been engaged by us during the course of the liquidation to provide the appropriate assistance.

Firm	Description of Assignment	Fee Basis
Michael Steel & Co	Valuation of Company Assets	None
Milners Solicitors	Recovery of Directors Loan Account	None

Creditors Further Information

If you require any further information with regard to any aspect of this report, or my fees and expenses, please do not hesitate to contact me and I shall do my best to assist you.

Any request must be made in writing within 21 days of receipt of the report (or 7 business days where the report has been prepared for the purposes of a meeting to receive my resignation).

I must provide this information within 14 days of the request, unless it is considered that:

- the time cost involved in preparing the information would be excessive;
- disclosure would be prejudicial to the conduct of the liquidation, or might be expected to lead to violence against any person; or
- I am subject to an obligation of confidentiality in relation to the information requested, in which case, I must give the reasons for not providing the information.
- an application granting permission by the court; or
- *by any secured creditor, or by any unsecured creditor provided at least 10% in value of unsecured creditors agree, (or they have the permission of the court).*

Any such application to court must be made within 8 weeks of the applicant receiving the progress report in which the charging of the remuneration, or incurring of the expenses in question is first reported.

If the court does not dismiss the application (which it may if it considers that insufficient cause is shown), the applicant must give me a copy of the application and supporting evidence at least 14 days before the hearing.

Conclusion

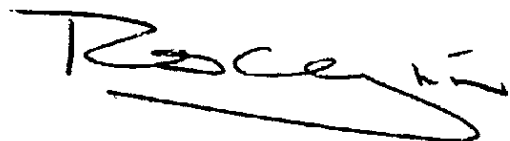
The case is now in a position to be closed and notification of which will be issued within the next 2-3 months.

The Director of the Company, Mr. P. Singh, gave this firm an Undertaking to discharge the fees and expenses we incur in the event the asset realisation was insufficient to settle the costs in full. Had the recovery of the Director's Loan Account been successful then there would have been sufficient funds available however, it will now be necessary to call in the Undertaking to settle the costs of the Liquidation, which include the following:-

Preparation of the Company's Statement of Affairs and Report for presentation at the Meeting of Creditors held on Friday 4th May 2012. In accordance with a Resolution passed at this meeting, the Statement of Affairs Fee was agreed at £3,500 plus VAT, Liquidator's Remuneration at Appendix 5, Gazetting Charges and Company Search's. The Undertaking was restricted to £6,500 plus VAT and Disbursements and the balance of this sum will be requested from Mr. Singh imminently.

Should you require any further information regarding the liquidation, please contact my office and I will be happy to assist as appropriate.

Raymond Stuart Claughton
Liquidator

A handwritten signature in black ink, appearing to read 'R. Claughton', with a long horizontal stroke underneath.

29th June 2017

Leeds Bearings Limited - Statutory Information**Company Details**

Company Name:	Leeds Bearings Limited
Previous Name:	Mergekeen Limited
Company Number:	02567066
Date of Incorporation:	10 th December 1990
Principal Trading Activity:	Retailers and Wholesalers of Bearings and Transmissions
Trading Address:	Greengates House, 830 Harrogate Road, Bradford, West Yorkshire, BD10 9TQ
Current Registered Office:	3 Merchant's Quay, Ashley Lane, Shipley, West Yorkshire, BD17 7DB
Former Registered Office:	Albions Mills, Greengates, Bradford, West Yorkshire, BD10 9TQ

Appointment Details

Liquidator:	Raymond Stuart Claughton
Address:	3 Merchant's Quay, Ashley Lane, Shipley, West Yorkshire, BD17 7DB
Date of Appointment:	4 th May 2012
Appointment made by:	Creditors and contributories
Actions of Liquidator:	Any act required or authorised under any enactment to be done by a Liquidator may be done by acting alone
Former Liquidator:	(N/A)

THE INSOLVENCY ACT 1986
LEEDS BEARINGS LIMITED
IN VOLUNTARY LIQUIDATION

**Estimated to
realise per
Statement of
Affairs**

**From: 04/05/2016
To: 03/05/2017**

**From: 04/05/2015
To: 03/05/2017**

RECEIPTS

--	Trade Debtors	--	--
300.00	Motor Vehicles	--	--
500.00	Stock	--	--
--	PPI Refund	--	1,746.44
--	Bank Interest	0.12	1.48
<hr/>		<hr/>	<hr/>
800.00		0.12	1,765.94
=====			

PAYMENTS

Statement of Affairs Fee	--	1,366.67
Gazetting Charges	--	255.00
	<hr/>	<hr/>
	--	(1,621.67)
	<hr/>	<hr/>
	0.12	144.27
	=====	=====

BALANCE IN HAND REPRESENTED BY:

Cash at Bank	144.27
	=====

Summary of Liquidators' Activities

There are a number of activities that are generic to every Creditors' Voluntary Liquidation and a summarised list of these activities is detailed below.

Staff of different levels were involved in these activities dependent upon the level of experience required in order to keep costs to an appropriate level.

Administration

- Filing the relevant notices upon appointment
- Circulating notices to creditors, members, employees and other stakeholders advising of the appointment
- Regular case reviews
- Reviewing the circumstances of the case to determine the appropriate strategy

Realisation of assets

- Instruction of, and correspondence with, agents and lawyers with regarding to the valuation and disposal of assets
- Safeguarding assets
- Uplifting of company documents
- Obtaining adequate insurance
- Liaising with, and providing information to, potential purchasers of assets
- Registering relevant notices with Land Registry as appropriate
- Dealing with outstanding pre-appointment HMRC returns

Creditors

- Maintaining a list of creditors claims
- Dealing with Retention of Title claims
- Advertising for claims
- Agreement of claims

Cashiering

- Opening an appropriate bank account
- Obtaining a specific bond
- Monthly bank statement reconciliations
- Dealing with receipts into the account
- Dealing with payments out of the account
- Post appointment Corporation Tax returns
- Post appointment VAT returns

Future costs

Category 1 and 2 Disbursements

Disbursements are categorised as either Category 1 or Category 2.

Category 1

Category 1 disbursements are clearly identifiable third party costs that are directly attributable to the case. Occasionally these disbursements are paid by Rushtons Insolvency Limited and then recharged to the case, usually when there are insufficient funds within the case to pay the disbursement at the time it falls due. Specific approval from creditors is not required for Category 1 disbursements.

Typical examples of Category 1 disbursements are:

- Postage
- Advertising
- Insurance
- Travel costs
- External room hire
- Document storage

Category 2

Category 2 disbursements are estimated or shared costs which may include some internal recharges from Rushtons Insolvency Limited. It is likely that it is not possible, or too costly, to calculate the exact cost and an estimate is therefore used. These disbursements can be paid from the case if the basis of the charge has been approved by creditors.

Typical examples of Category 2 disbursements are:

- Photocopying
- Internal room hire
- Stationery

The current levels of Category 2 disbursements recovered by Rushtons Insolvency Limited are nil.

CASE NAME: LEEDS BEARINGS LIMITED – IN VOLUNTARY LIQUIDATION
TIME AND CHARGE OUT SUMMARY FOR THE PERIOD FROM 4TH MAY 2012 TO 3RD MAY 2017

Hours (h) & Minutes (m)

Classification of Work	Director/ Partner	Manager	Administrator and Support Staff	Total Hours	Time Cost £	Average Hourly Rate £
Administration and planning	4h 54m	10h 54m	36m	16h 24m	3286.00	200.37
Realisation of assets	2h 18m	3h 48m		6h 6m	1236.00	202.62
Trading						
Investigations	1h	2h 30m		3h 30m	690.00	197.14
Creditors		1h 12m	2h	3h 12m	416.00	130.00
Reporting to Creditors	3h	7h		10h	1980.00	198.00
Unanalysed Time						
Total Hours	11h 12m	25h 24m	2h 36m	39h 12m	7608.00	194.08

I am required to provide a breakdown of my time costs by activity and grade of staff under guidelines as a result of revision of Statement of Insolvency Practice 9.

In accordance with a Resolution passed at the initial Meeting of Creditors held on Friday 4th May 2012 the Liquidator's Remuneration be fixed by the time properly spent by the Liquidator and his staff in attending to matters arising during the course of the Winding-Up, Insolvency Rules 4.127(2)(b) with the authority to draw fees on account.

Rushtons Insolvency Limited hourly charge out rates with effect from 6th April 2014 are as follows:-

Director £200-£280 Manager £180 Support Staff £100

Rushtons Insolvency Limited hourly charge out rates with effect from 1st November 2010 were as follows:-

Partner £280 Senior Manager £180 Support Staff £100

STATEMENT OF INSOLVENCY PRACTICE 9 (E & W)**A CREDITORS' GUIDE TO LIQUIDATORS' FEES****ENGLAND AND WALES****1. Introduction**

- 1.1 When a company goes into liquidation the costs of the proceedings are paid out of its assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs and in particular the remuneration of the insolvency practitioner appointed to act as liquidator. The insolvency legislation recognises this interest by providing mechanisms for creditors to fix the basis of the liquidator's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about 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 appointment of the liquidator at the first meeting of creditors.
- 2.3 In a compulsory liquidation on the other hand, the function of liquidator is, in most cases, initially performed not by an insolvency practitioner but by an official called the official receiver. The official receiver is an officer of the court and an official belonging to the Insolvency Service. In most compulsory liquidations, the official receiver becomes liquidator immediately on the making of the winding-up order. Where there are significant assets an insolvency practitioner will usually be appointed to act as liquidator in place of the official receiver, either at a meeting of creditors convened for the purpose or directly by The Insolvency Service on behalf of the Secretary of State. Where an insolvency practitioner is not appointed the official receiver remains liquidator.
- 2.4 Where a compulsory liquidation follows immediately on an administration the court may appoint the former administrator to act as liquidator. In such cases the official receiver does not become liquidator. An administrator may also subsequently act as liquidator in a CVL.

3. The liquidation committee

- 3.1 In a liquidation (whether voluntary or compulsory) the creditors have the right to appoint a committee called the liquidation committee, with a minimum of 3 and a maximum of 5 members, to monitor the conduct of the liquidation and approve the liquidator's fees. The committee is usually established at the creditors' meeting which appoints the liquidator, but in cases where a liquidation follows immediately on an administration any committee established for the purposes of the administration will continue in being as the liquidation committee.
- 3.2 The liquidator must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later) and subsequent meetings must be held either at specified dates agreed by the committee, or when 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 Rule 18.4 of the Insolvency 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 18.4 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case;
- any responsibility of an exceptional kind or degree which falls on the liquidator in connection with the insolvency;
- the effectiveness with which the liquidator appears to be carrying out, or to have carried out, his duties;
- the value and nature of the assets which the liquidator has to deal with.

- 4.2 If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed by a resolution of a meeting of creditors. The creditors take account of the same matters as apply in the case of the committee. A resolution specifying the terms on which the liquidator is to be remunerated may be taken at the meeting, which appoints the liquidator.
- 4.3 If the remuneration is not fixed as above, it will be fixed in one of the following ways. In a CVL, it will be fixed by the court on application by the liquidator, but the liquidator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above and in any case not later than 18 months after his appointment. In a compulsory liquidation, it will be in accordance with a scale set out in the Rules.
- 4.4 Where the liquidation follows directly on from an administration in which the liquidator had acted as administrator, the basis of remuneration fixed in the administration continues to apply in the liquidation (subject to paragraph 8 below).

5. Review of remuneration

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

6. What information should be provided by the liquidator?

6.1 When seeking remuneration approval

- 6.1.1 When seeking agreement to his fees the liquidator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on:

- the nature of the approval being sought;
- the stage during the administration of the case at which it is being sought and
- the size and complexity of the case.

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

- 6.1.3 Where the liquidator seeks agreement to his fees during the course of the liquidation, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the liquidator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the liquidator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the liquidator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of 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/Director
- Manager
- Other senior professionals
- Assistants and support staff

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

- Any significant aspects of the case, particularly those that affect the amount of time spent.
- The reasons for subsequent changes in strategy.
- Any comments on any figures in the summary of time spent accompanying the request the liquidator wishes to make.
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement.
- Any existing agreement about fees.
- Details of how other professionals, including 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 always be relevant, whilst further analysis may be necessary in larger cases.

- 6.1.4 Where the fee is charged on a percentage basis the liquidator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by a liquidator or his staff.

6.2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the liquidator should notify the creditors of the details of the resolution in his next report or circular to them. When subsequently reporting to creditors on the progress of the liquidation, or submitting his final report, he should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 7.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 6.1.3. Where the fee is charged on a percentage basis the liquidator should provide the details set out in paragraph 6.1.4 above regarding work, which has been sub-contracted out.

6.3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the liquidator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the liquidator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

- 6.3.1 Approval is not required for the drawing of necessary disbursements. However, not all costs properly charged in connection with insolvency assignments may necessarily be regarded as disbursements. The precise demarcation line between disbursements and remuneration is not defined by statute and has not been specifically determined by the courts. Particular difficulties arise in connection with charges that involve calculations of shared and overhead costs, as these may include an element of remuneration.
- 6.3.2 In the absence of a clear statutory definition only those costs that clearly meets the definition of disbursements, where there is specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party, are treated as disbursements recoverable without approval. In this statement these are referred to as 'category 1 disbursements' (approval not required). Category 1 disbursements will generally comprise external supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses incurred by personnel in connection with the case. Also included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage. Practitioners should be prepared to disclose information about specific category 1 disbursements where reasonably requested in all cases.
- 6.3.3 Where it is proposed to recover costs which, whilst being in the nature of expenses or disbursements, include elements of shared or allocated costs, they should be identified and subject to approval by those responsible for approving remuneration. If the office holder wishes to make a separate charge for expenses in this second category, he may do so provided that:
- such expenses are of an incidental nature and are directly incurred on the case and there is a reasonable method of calculation and allocation; it will be persuasive evidence of reasonableness, if the resultant charge to creditors is in line with the cost of external provision;
- and
- the basis of the proposed charge is disclosed and is authorised by those responsible for approving his remuneration.

These are defined as category 2 disbursements (approving required). Category 2 disbursements will comprise cost allocations, which may arise on some of the category 1 expense where supplied internally: typically, items such as room hire and document storage. Also typically included will be routine or more specialist copying and printing and allocated communication costs provided by the practitioner or his firm.

- 6.3.4 A charge for disbursements calculated as a percentage of the amount charged remuneration is not permissible.
- 6.3.5 Basic non-incidental costs, including such items as time costs, office and equipment rental, depreciation, standing charges, finance charges, accounting and administration costs, may not be the subject of separate charges.
- 6.3.6 Payments to outside parties in which the office holder or his firm or any associate (as defined by section 435 of the Insolvency Act 1986) has an interest should be treated as category 2 disbursements.
- 6.3.7 Where, in a liquidation or a bankruptcy, remuneration is being taken on the statutory scale and there is no committee and it has not been possible to obtain a resolution of the creditors, category 2 disbursements may only be recovered if authorised by the creditors.
- 6.3.8 It is the office holder's obligation to satisfy himself of the appropriateness of disbursements and the office holder should bear in mind the matters referred to in paragraph 4.2 above.

6.4 Realisations for secured creditors

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any meeting of creditors convened for the purpose of determining his fees and in any reports he sends to creditors.

7 Progress reports and requests for further information

- 7.1 The liquidator is required to send annual progress reports to creditors. The reports must include:
- details of the basis fixed for the remuneration of the liquidator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it);
 - if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report);
 - if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done during 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 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 the scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 11.3 If the appointed liquidator is a solicitor and employs his own firm to act in the insolvency, profit costs may not be paid unless authorised by the committee, the creditor or the court.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

12. Effective Date

This guide applies where a company –

- goes into liquidation on a winding-up resolution passed on or after 6 April 2010;
- goes into voluntary liquidation immediately following an administration on or after 6 April 2010, except where the preceding administration began before that date;
- goes into compulsory liquidation as the result of a petition presented on or after 6 April 2010, except where the liquidation was preceded by:
 - an administration which began before that date;
 - a voluntary liquidation in which the winding-up resolution was passed before that date.

13. Summary of Charge Out Rates and Disbursement Charges with Effect from 6th April 2014

• Rushtons Insolvency Limited Current Hourly Charge Out Rates

Director	200-280
Manager	180
Support Staff	100

Time cost analysis & explanation of work undertaken with effect from 6th April 2014

<u>Category</u>	<u>Examples of Work</u>
Administration & Planning	Case planning, reviewing, administrative set up, appointment notification, maintenance of statutory records, statutory reporting and compliance
Realisation of Assets	Identify, locating, realising and insuring Company assets. Dealing with charged and past secured assets and verifying security documentation
Trading	Employee issues, instructing experts and agents, accounting, management operations
Investigations	Statutory duties, SIP 2 review, SIP 4 & CDDA reports, antecedent transactions and viable matters brought to our attention
Creditors	Communicating with creditors, (secured, preferential and unsecured) creditor claims, adjudication on claims, dealing with preferential creditors (employees) and dividends
Reporting	Reports and circulars to Creditors
Case specific matters	The nature of insolvency work means not every case is the same and may produce unique work requirements not covered above

Rushtons Insolvency Limited – Disbursements recovery policy – SIP 9

Category 1 disbursements

Bordereau/insurance	Charged at cost
Case advertising	As per advertisers/agents invoice
Courier	Charged at cost
DTI IVA registration fee	Charged at cost (in relevant cases)
Land Registry/Searches	As per Land Registry, agents or Companies House invoice
Post re-direction	Charged at cost
Subsistence	Charged at cost

Category 2 disbursements

Travel	Charged at cost for public transport and taxis Mileage is recharged at 45p per mile
Postage	Communication costs based on a charge of £6.25 per creditor/debtor/shareholder/employee/company officer. Communication costs includes postage, photocopying/printing and fax
Room Hire	£100 room hire made available in-house for case specific meetings. Charges only to be made when attendance of debtor/director and/or creditors is likely and a meeting room has been set aside. Where appropriate, external room hire at cost (Category 1)
Storage	Document storage at a rate of £7.50 per box per year