

LIQ14

Notice of final account prior to dissolution in CVL



Companies House

SATURDAY



A04 02/12/2017 #241
COMPANIES HOUSE

ase
use

1 Company details

Company number 0 4 5 1 1 6 7 8

Company name in full H M E F Limited

Formerly known as English Mutual Holdings Ltd

→ Filling in this form

Please complete in typescript or in
bold black capitals.

2 Liquidator's name

Full forename(s) Mark Elijah Thomas

Surname Bowen

3 Liquidator's address

Building name/number 11 Roman Way Business Centre

Street Berry Hill

Post town Droitwich

County/Region Worcestershire

Postcode W R 9 9 A J

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.

LIQ14

Notice of final account prior to dissolution in CVL

6 Liquidator's release

☐ Tick if one or more creditors objected to liquidator's release.

7 Final account

☒ I attach a copy of the final account.

8 Sign and date

Liquidator's signature

Signature

X



X

Signature date

^d3^d0

^m1^m1

^y2^y0^y1^y7

**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

Sophie Murcott

Company name

MB Insolvency

Address

11 Roman Way Business Centre

Berry Hill

Post town

Droitwich

County/Region

Worcestershire

Postcode

W R 9 9 A J

Country

DX

Telephone

01905 776771

**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

NOTICE THAT THE COMPANY'S AFFAIRS ARE FULLY WOUND UP

Company Name: HMEF LIMITED (In Liquidation) ("the Company")
Company Number: 04511678

This Notice is given under Rule 6.28 of the Insolvency (England & Wales) Rules 2016 ("the Rules"). It is delivered by the Liquidator of the Company, Mark Bowen, of MB Insolvency, 11 Roman Way, Berry Hill, Droitwich, WR9 9AJ (telephone number: 01905 776 771), who was appointed by the members and creditors.

The Liquidator gives notice that the Company's affairs are fully wound up.

Creditors have the right:

- (i) to request information from the Liquidator under Rule 18.9 of the Rules;
- (ii) to challenge the Liquidator's remuneration and expenses under Rule 18.34 of the Rules; and
- (iii) to object to the release of the Liquidator by giving notice in writing below before the end of the prescribed period to:

Mark Bowen
MB Insolvency
11 Roman Way, Berry Hill, Droitwich, Worcestershire, WR9 9AJ
mark@mb-i.co.uk
01905 776 771

The prescribed period ends at the later of: (i) eight weeks after delivery of this notice, or (ii) if any request for information under Rule 18.9 of the Rules or any application to court under that Rule or Rule 18.34 of the Rules is made, when that request or application is finally determined.

The Liquidator will vacate office under Section 171 of the Insolvency Act 1986 ("the Act") on delivering to the Registrar of Companies the final account and notice saying whether any creditor has objected to release.

The Liquidator will be released under Section 173 of the Act at the same time as vacating office unless any of the Company's creditors objected to release.

Relevant extracts of the Rules referred to above are provided overleaf.

Signed: 
Mark Bowen - Liquidator

Dated: 2/10/2017

**RELEVANT EXTRACTS OF RULES 18.9 AND 18.34 OF
THE INSOLVENCY (ENGLAND & WALES) RULES 2016**

Rule 18.9

- (1) The following may make a written request to the office-holder for further information about remuneration or expenses set out in a final report under rule 18.14:
- a secured creditor;
 - an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question); or
 - any unsecured creditor 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 creditor.*

Rule 18.34

- (1) This rule applies to an application in a winding-up made by a person mentioned in paragraph (2) on the grounds that:
- the remuneration charged by the office-holder is in all the circumstances excessive;
 - 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
 - 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 secured creditor; or
 - 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.
- (3) *The application by a creditor must be made no later than eight weeks after receipt by the applicant of the final report or account under rule 18.14 which first reports the charging of the remuneration or the incurring of the expenses in question.*

MET Bowen appointed liquidator on 9 April 2013

HMEF LIMITED (FORMERLY KNOWN AS ENGLISH MUTUAL HOLDINGS LIMITED) (IN LIQUIDATION)

LIQUIDATOR'S FINAL ACCOUNT

Period: 9 April 2013 (commencement of liquidation) to 30 November 2017 (conclusion of winding up)

Contents

- ❑ Company and Liquidator's details
- ❑ Case Strategy
- ❑ Receipts and payments account
- ❑ Creditor claims
- ❑ Dividends
- ❑ Investigations & Other relevant information
- ❑ Creditors' right to challenge
- ❑ Key outcomes for creditors
- ❑ Matters outstanding
- ❑ Appendices
 - 1. Liquidator's final account of receipts and payments for the period of the liquidation.
 - 2. Liquidator's time costs
 - 3. Liquidator's expenses

1. Company and Liquidator's Details

Company registered number:	04511678
Nature of business:	Financial Advisers
Former trading address:	22 The Tything, Worcester, WR1 1HD
Date winding up commenced:	9 April 2013
Names of Liquidator:	Mark Bowen
Date of liquidators' appointment:	9 April 2013
Changes in office holder (if any):	None
Registered office address:	11 Roman Way Business Centre, Berry Hill, Droitwich, Worcestershire, WR9 9AJ

This report should be read in conjunction with my last report to creditors dated 5 June 2017 and earlier reports; I am obliged by Statute to deliver this final account to all known creditors of the Company and following the date of this final account I will be obliged to file it as a final account with the Registrar of Companies.

Case Strategy

My overall strategy for the liquidation has been and remained throughout to realise the Company's assets as expeditiously as possible (which work also includes carrying out investigations to ensure that all valuable assets have been identified). This work is concluded.

Sufficient assets were realised (after providing for liquidation costs) to make a distribution to creditors and creditors' claims were agreed to enable me to distribute the net liquidation funds. This work is now also concluded.

In this case my investigations did not identify any matters that it was in the interests of the creditors of the Company to pursue. Accordingly my investigations are concluded.

Having realised and distributed all of the Company's assets and concluded my investigations it is now incumbent on me to draw the liquidation to a prompt conclusion.

I have been supported in the performance of my duties by a Case Manager, a Case Administrator and by Support Staff, who had and have the day to day conduct of it and who help me to ensure that work done was and is carried out at the appropriate grade, having regard to its complexity. This core team is supported by the practice Cashier. I have not used and do not envisage using any sub-contractors on this case.

Harrison Clark Rickerbys Ltd provided legal advice in the matter. They were selected because of their specialist knowledge and experience in their field and their geographic proximity to both the Company and my office. Harrison Clark Rickerbys Ltd hold appropriate professional indemnity insurance for the services they have provided. Their work is concluded.

Liquidator's actions

The liquidator has completed the following tasks during the liquidation period:

- Requested and examined all relevant books and records
- Arranged a specific bond commensurate with the asset level.
- Opened a liquidation bank account.
- Issued statutory notices to The Registrar of Companies, creditors, shareholders, & H M Revenue & Customs
- Changed the registered office to Aston House, 5 Aston Road North, Birmingham, B6 4DS & subsequently Hillcainie House, St Andrews Road, Droitwich, Droitwich, WR9 8DJ and latterly 11 Roman Way, Berry Hill, Droitwich, Worcestershire, WR9 9AJ

- Circulated the report prepared for the Creditors meeting on 9 April 2013 to all creditors and contributories
- Advertised the appointment in the London Gazette with confirmation of Resolutions passed at the creditors' meeting on 9 April 2013 and requested information from Creditors and proofs of debt.
- Written to Directors informing of cessation of powers, duty to co-operate, completion of questionnaire and the restriction on re-use of Company name
- Collated information received from Creditors/answered on-going enquiries
- Investigated asset levels and reconciled with position detailed within the Company records
- Agreed unsecured claims and paid a dividend; advertising notice for all creditors to prove in the London Gazette
- Submitted report to The Department of Business Innovation & Skills
- Reconciled bank account at monthly intervals
- Reconciled Corporation Tax liabilities
- Paid VAT as applicable
- Paid a first and final dividend to the unsecured creditors
- Prepared and circulated to all known creditors reports annually
- Issued this final account

2. Receipts and Payments Account

Attached at Appendix 1 is my account of receipts and payments from the commencement of the winding-up to 30 November 2017, showing asset realisations in the Liquidation and how they have been disbursed. My comments on items appearing in the account are as follows.

RECEIPTS

The amount of £43,668 has been received from HM Revenue & Customs in respect of a terminal loss claim. Nicklins accountants were engaged in order to calculate the claims and liaise with HM Revenue & Customs on the company's behalf.

The amount of £5,047.49 has been received from NatWest in respect of monies received into the account post appointment.

Interest has accrued on funds held totalling £75.21.

All of the above relate to previous reporting periods; there have been no receipts since the date of my last progress report.

PAYMENTS

Nicklins accountants have been paid £3,750 in respect of their assistance in realising the terminal loss claim.

Harrison Clark Rickerbys Ltd have been paid £2,090 in respect of legal advice.

All other payments relate to my remuneration and disbursements and are further detailed below.

Transactions with connected parties

Since my appointment there have been no transactions with connected parties.

Liquidators' Remuneration

Basis of remuneration and disbursements

At the initial meeting of creditors held pursuant to Section 98 of The Insolvency Act 1986 on 9 April 2013 the following resolution was passed by the creditors:

"That the Liquidator's fees and disbursements be fixed on the basis of the time necessarily spent by him and his staff in the discharge of their duties at MB Insolvency's standard charging and disbursement rates, together with any out of pocket expenses incurred, and may be drawn on account"

Since the date of my appointment, the total time spent on this assignment, amounts to 156.6 hours at an average composite rate of £192.62 per hour resulting in total time costs of £30,164. This does not include a provision for closing as there are no further funds to be drawn. The amount of the composite rate reflects the complexity of the matters dealt with and the expertise of the staff required.

Following the date of my last progress report my time records show that time spent on this assignment amounts to 9.5 hours at an average rate of £173.68 resulting in time costs of £1,650.

Total fees drawn are £12,500.58, the amount of £3,505.58 having been drawn since my last progress report.

Expenses and disbursements total £6,864.32; the amount of £6,782.50 has been drawn. The amount of £46.55 has been incurred since the date of my last progress report.

Further information as regards time costs and expenses is set out at Appendix 2.

I have attached a breakdown of time costs and expenses at Appendix 2. I am required to provide the information in this format by Statement of Insolvency Practice 9.

The following further information as regards time costs is also set out at Appendix 2:

- ☐ MB INSOLVENCY policy for re-charging expenses
- ☐ MB Insolvency charge-out rates

Expenses charged and drawn

At the meeting of creditors held on 9 April 2013 it was resolved that the fees and disbursements of MB Insolvency for assisting the directors in convening the statutory meetings to place the company into liquidation, and for assistance in preparing the Statement of Affairs, would be a set fee of £5,000 be paid out of the assets of the company. These fees have been paid in full as an expense of the liquidation in accordance with the Rules.

Creditors' Guide to Fees and statement of creditors' rights

If you require further information relating to Liquidator's remuneration, expenses and disbursements please see Appendix 3. This also gives details of your rights as a creditor in this regard.

The payments have been made in accordance with the Rules and Regulations generally as to the payment of costs and expenses in the liquidation.

Further information as regards time costs and expenses is set out at Appendix 2 and Appendix 3.

3. Creditor Claims

Secured creditors

The Company has not granted any charges over its assets.

Preferential Creditors

There are no preferential claims in this matter.

Unsecured creditors

The unsecured creditors as per the statement of affairs totalled £59,358. I received unsecured claims totalling £767,687, this included a claim from the Financial Services Compensation Scheme for £363,478. Claims were significantly larger than estimated in the directors' statement of affairs as a number of claims were received in respect of losses on individuals' investments.

An unsecured dividend of 1.23 pence in the pound was declared on 11 August 2016 on agreed claims totalling £767,787. The total amount distributed was £9,430.75.

There is no further dividend to be paid to unsecured creditors.

4. Dividends

The Prescribed Part provisions of S176A of the Insolvency Act 1986 do not apply to this company as there was not a qualifying charge.

Notice was given pursuant to 14.36 of The Insolvency (England & Wales Rules) 2016 on 5 June 2017 that no further dividend would be declared in respect of non-preferential creditors in this matter for the reason that the funds realised had already been distributed and that the balance of funds would be used or allocated for defraying the expenses of the liquidation.

5. Investigations & Other Relevant Information

As part of my investigations I have undertaken the following:

- Reconciled all asset movements for the period from the last set of accounts to cessation of trade.
- Issued questionnaires to the Company's office holders and reviewed their responses.
- Carried out a detailed analysis of the Company's bank account including a review of all transactions entered into in the two years prior to the Company's demise.
- Requested information from the Company's creditors and reviewed their responses.

I have submitted my statutory report to the Department of Business, Innovation and Skills on the conduct of the directors in accordance with the Insolvent Companies (Report on Conduct of Directors) Rules 1996 and the Company Directors Disqualification Act 1986. The content of this report is, however, strictly private and confidential.

My initial investigations did not give rise to any transactions that required any further investigation.

6. Creditors' Rights to Challenge

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

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

Further information or a full copy of the relevant rules is available on receipt of a written request.

7. Key outcomes for creditors

A dividend of 1.3p/£ was paid to all creditors who had satisfactorily proved their debts. This work was in the direct financial interests of creditors.

My letter dated 5 June 2017 advised that there would be no further dividend payable to creditors; it also advised that I intended to take steps to close the liquidation. I have not received any correspondence from creditors requesting that the Liquidation be kept open following delivery of my last letter therefore I am now proceeding to close the liquidation.

Comprehensive investigations were conducted into the conduct of the Company's affairs by its Directors prior to the liquidation. Whilst those investigations did not reveal any matters that it was in the interests of creditors for me to pursue, creditors can be assured that they have been conducted.

Creditors can also be assured that at all times the liquidation has been and is being performed in accordance with Statutory and Regulatory requirements.

9. Matters outstanding

The only matters outstanding are to deliver this final account to the members and creditors of the Company and the administrative and documentary formalities of concluding these proceedings.

The Liquidator will vacate office under Section 71 of The Insolvency Act 1986 ("the Act") on delivering to the Registrar of Companies the final account and notice saying whether any creditor has objected to the Liquidator's release.

The Liquidator will be released under Section 173 of The Act at the same time as vacating office unless any of the Company's creditors objected to release.

My proposal is that the Liquidation will conclude, and that I will obtain my release as Liquidator, on 30 November 2017.



MET Bowen
Liquidator

Dated: 2 October 2017

**H M E F Limited Formerly known as English Mutual Holdings Ltd
(In Liquidation)**

Liquidator's Summary of Receipts and Payments

RECEIPTS	Statement of Affairs (£)	From 09/04/2013 To 08/04/2017 (£)	From 09/04/2017 To 30/11/2017 (£)	Total (£)
Cash at Bank - Post Appointment Credits		5,047.59	0.00	5,047.59
Bank Interest Gross		75.21	0.00	75.21
HMRC Refund		43,667.68	0.00	43,667.68
		48,790.48	0.00	48,790.48
PAYMENTS				
Specific Bond		296.00	0.00	296.00
Pre appointment fees		5,000.00	0.00	5,000.00
Office Holders fees		17,500.00	3,505.58	21,005.58
Accountants Fees		3,750.00	0.00	3,750.00
Legal Fees (1)		2,090.00	0.00	2,090.00
Corporation Tax		14.03	0.00	14.03
VAT		5,856.50	701.12	6,557.62
Storage Costs		350.00	0.00	350.00
Statutory Advertising		296.50	0.00	296.50
Unsecured Creditor Distribution		9,430.75	0.00	9,430.75
		44,583.78	4,206.70	48,790.48
Net Receipts/(Payments)		4,206.70	-4,206.70	0.00
MADE UP AS FOLLOWS				
Bank 2 Current		4,206.70	-4,206.70	0.00
		4,206.70	-4,206.70	0.00

HMEF Limited (Formerly known as English Mutual Holdings Limited)

Summary of Remuneration for period 9 April 2013 - 30 November 2017

Classification of Work	Partner	Manager	Other Senior Professionals	Assistant & Support Staff	Total Units	Time Cost £	Average Rate £/Hr
Time previously reported to 08/04/2017	321.00	173.00		977.00	1,471.00	28,514.00	193.84
Stat Compliance / Admin & Planning	5.00			35.00	40.00	675.00	168.75
Investigations					-		
Realisation of Assets					-		
Creditors	10.00			45.00	55.00	975.00	177.27
Total 09/04/17 - 30/11/17	15.00	-	-	80.00	95.00	1,650.00	173.68
Total Cumulative	336.00	173.00		1,057.00	1,566.00	30,164.00	192.62
Fees Drawn					-	21,005.58	

All time is recorded in units of six minutes. Therefore 1 unit equates to six minutes of time recorded.

Charge out rates:

From 13 February 2013

Rates depend on the complexity of the case

Partner
Managers
Assistant Managers
Senior Administrator
Administrator
Senior Assistant / Cashier
Support Staff

£300
£225 - £250
£200
£175
£150
£150
£90

Standard Activity:

Administration & Planning

Statutory reporting and compliance
Compliance with other regulatory requirements
Case planning
Administrative set up
Appointment notification
Maintenance of records

Investigations

Statement of Insolvency Practise 2 review
CDDA Reporting
Investigating antecedent transactions

Realisation of Assets

Identifying, securing, insuring assets
Retention of title claims
Debt collection
Property, business and asset sales

Trading

Management of operations
Accounting for trading
On-going employees issues

Creditors

Communication with creditors
Creditors claims (including employees)
Other preferential creditors

HMEF Limited (In Liquidation)

Summary of Category 1 & 2 Disbursements for period 9 April 2013 - 30 November 2017

Category 1 Disbursements

	Incurred	Paid	Unpaid
	£	£	£
Bond	296.00	296.00	-
Advertising	296.50	296.50	-
Postage	43.40	-	43.40
Telephone			-
Car Mileage			-
Travel			-
Subsistence			-
External Room Hire			-
External Photocopying			-
External Records Removal			-
Mail Re-direction			-
Swear Fee			-
Company Search			-
Professional Fees			-
Other			

Category 2 Disbursements

	Incurred	Paid	Unpaid
	£	£	£
Photocopying / Printing	38.42	-	38.42
Registered Office Fee			-
IPS Charge			-
Mileage			-
Room Hire			-

Category 2 Disbursement Rates

Photocopying / Printing	£0.17 per sheet
Registered Office Fee	£125 per annum
IPS Charge	£125 per case
Mileage	£0.45 per mile
Room Hire	£60 per hour where held at MBI Offices

HMEF LIMITED (In Liquidation)

Summary of Liquidation Expenses for period 9 April 2013 - 30 November 2017

Nature of Expense

	Provider	Basis of Remuneration
Records Storage	Asset Storage Ltd	Fixed Fee
Accountants Fees	Nicklins LLP	Fixed Fee
Legal Fees	Harrison Clark Rickerbys Ltd	Time Costs plus Disbursements

Expenses Incurred and Paid

	Incurred	Paid	Unpaid
	£	£	£
Asset Storage	350.00	350.00	
Nicklins LLP	3,750.00	3,750.00	-
Harrison Clark Rickerbys Ltd	2,090.00	2,090.00	-

Practice fee and disbursement recovery policy

Introduction

The insolvency legislation was changed in April 2010 for insolvency appointments commenced from that time in order to allow more flexibility on how an office holder's fees are charged to a case. This sheet explains how we may apply the alternative fee bases. The new legislation allows different fee bases to be used for different tasks within the same appointment. The basis or combination of bases set for a particular appointment are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general meeting, or the court. Further details about how an office holder's fees are approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP9). A copy of the relevant circulation listed in reports to creditors and is also available upon request.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The report will provide a breakdown of the remuneration drawn and time costs incurred and will also enable the recipients to see the average rates of such costs. Under the new legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.

Under the old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

Time cost basis

This is the basis that we use in the majority of cases using charge out rates appropriate to the skills and experience of each member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken. Cashiers, secretarial and support staff charge all the time they work as such work has not been allowed for in calculating the hourly rates charged by the partners and other staff. If such time were not charged our charge out rates for Partners and other staff would be approximately 20% higher. Time billed is normally subject to Value Added Tax (VAT) at the applicable rate (see below).

Staff allocation and the use of sub-contractors

The office holder's general approach to resourcing assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The case team will usually consist of partner, senior manager/manager and administrator. The exact case team will depend on the anticipated size and complexity of the assignment. On larger, more complex cases, several staff at all grades may be allocated to meet the demands of the case. The Office holder's charge out rate schedule below provides details of all grades of staff.

With regard to support staff, the Office Holder advises that time spent by our Treasury department in relation to specific tasks on an assignment is charged.

The following services are being provided on this assignment by external sub-contractors:

Service Type	Service Provider	Basis of fee arrangement	Cost to date£
n/a			

Charge out rates

Our charge out rates are reviewed periodically, our charge out rates are summarised below.

Charge out rates per hour effective from February 2013

Grade	Hourly Rate (£)
Insolvency Practitioner	300
Managers	225-250
Assistant Managers	200
Senior Administrator	175
Administrator	150
Senior Assistant/Cashier	150
Support Staff/Secretary	90

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. Each unit of time is 6 minutes. The work is recorded under the following categories:

Administration and planning - which includes work such as planning how the case will be administered and progressed; the administrative set up of the case; notifying creditors and others of the appointment; keeping the records relating to the case up to date; case review; case progression meetings; and reporting on progress of the case to creditors and others.

Investigations - which includes work such as undertaking an initial review of the financial affairs of the company and bankrupt; undertaking a detailed investigation with a view to making recoveries for the benefit of creditors where matters such as preferences or wrongful trading come to light as a result of the initial review; and reporting to the Insolvency Service on the conduct of the directors.

Realisation of assets - which includes work such as identifying, securing and insuring assets; dealing with retention of title claims; collecting debts; and selling assets.

Employee matters - which includes work such as dealing with employees; and liaising with the redundancy payments office.

Creditors - which includes work such as communicating with creditors; dealing with creditors' claims; and where funds permit, paying dividends to creditors.

Trading - which includes work such as managing and controlling all aspects of the business; and maintaining financial records and information relating to that trading.

Percentage basis

The new legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal. Different percentages can be used for different assets or types of assets. Where we would like to realise any asset or type of assets on a percentage basis we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

Fixed fee

The new legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. Where we would like to charge a set amount for a task or different set amounts for different tasks we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

Value Added Tax

The office holder's remuneration invoiced to the insolvent estate will normally be subject to VAT at the prevailing rate. The only exception to this is for services rendered in relation to Voluntary Arrangement assignments where a VAT Tribunal has ruled that such services are exempt supplies.

Agent's costs

Charged at cost based on the amount billed by the Agent instructed, the term Agent includes:

Solicitors, Legal Advisors, Debtor recovery specialists

Auctioneers, Valuers, Accountants

Quantity Surveyors

Estate Agents

Document Storage Agents

Other Specialist Advisors

Disbursements

In accordance with Statement of Insolvency Practice 9 (SIP9) the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.

Category 1 expenses are directly referable to an invoice from a third party, which is either in the name of the estate or MB Insolvency; in the case of the latter, the invoice makes reference to, and therefore can be directly attributed to, the estate. These disbursements are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where the firm has made payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are postage, mail redirection, travel, swear fee, company searches, land registry searches, statutory advertising, external meeting room hire, external storage, specific bond insurance and subsistence,.

Category 2 expenses are incurred by the firm and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage.

The category 2 disbursements that MB Insolvency apply, when seeking recovery, are as follows;

<u>Type</u>	<u>Rate</u>
Photocopying	17p per sheet
Room Hire (where MB insolvency room is used for formal meetings with external parties)	£60 per hour
Registered Office Fee	£125 per annum
Mileage	60p per mile
Insolvency Practitioners System	£125 per case

Professional advisors

On this assignment the office holder has used the professional advisers listed below. The Office holder has also indicated the basis of their fee arrangement with them, which is subject to review on a regular basis.

Name of professional advisor	Basis of fee arrangement
Harrison Clark Rickerbys Ltd	Time Costs plus Disbursements
Nicklins LLP	Fixed Fee

The office holder's choice was based on his perception of the professional adviser's experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of his fee arrangement with them.

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 Basis

The basis for fixing the liquidator's remuneration is set out in Rules 4.127 – 4.127B of the Insolvency Rules 1986. 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.

4.2 Advance information where remuneration not based on time costs

Prior to the determination of the basis of remuneration, the liquidator must give the creditors details of the work the liquidator proposes to undertake, and the expenses he considers will be, or are likely to be, incurred. However, where the liquidator proposes to take any part or all of his remuneration on a time cost basis, he must provide more detailed information in the form of a 'fees estimate', as explained below.

4.3 Fees estimates where remuneration to be based on time costs

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

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

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

4.4 Who fixes the remuneration

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 4.127 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.

4.5 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. 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.

4.6 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.

4.7 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 General principles

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

6.1.2 The liquidator should disclose:

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

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

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

6.2 Key issues

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

- the work the liquidator anticipates will be done, and why that work is necessary,

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

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

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

6.3 Fee estimates and subsequent reports

- 6.3.1 When providing a fee estimate, the liquidator should supply that information in sufficient time to facilitate that body making an informed judgement about the reasonableness of the liquidator's requests. The estimate should clearly describe what activities are anticipated to be conducted in respect of the estimated fee. When subsequently reporting to creditors, the actual hours and average rate (or rates) of the costs charged for each activity should be provided for comparison.

6.4 Disbursements

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

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

- 6.4.2 The following are not permissible as disbursements:

- 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.

6.5 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. Exceeding the amount set out in the fees estimate

Remuneration must not exceed the fees estimate without approval by the body which fixed the original basis of the remuneration. The request for approval must specify –

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

8. Progress reports and requests for further information

8.1 The liquidator is required to send annual progress reports to creditors. 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;
- where appropriate, a statement –
 - that the remuneration anticipated to be charged is likely to exceed the fees estimate or any approval given for remuneration exceeding the estimate;
 - that expenses incurred or anticipated to be incurred are likely to exceed, or have exceeded, the details given to the creditors prior to the determination of the basis of remuneration; and
 - the reason for that excess.
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the liquidator's remuneration and expenses.

8.2 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

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

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

in which case he must give the reasons for not providing 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.

9. 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.

10 What if a creditor is dissatisfied?

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

10.2 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.

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

- 10.4 If the court considers the application well founded, it may order that the 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.

11. 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.

12 Other matters relating to remuneration

- 12.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 12.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a meeting of creditors.
- 12.3 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.
- 12.4 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.
- 12.5 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.
- 12.6 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.

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 explain any 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.