

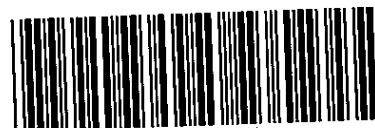
# LIQ14

## Notice of final account prior to dissolution in CVL



Companies House

WEDNESDAY



\*A6CY3P41\*

A08

16/08/2017

#173

COMPANIES HOUSE

### 1 Company details

Company number 5 8 8 2 6 7 3

Company name in full MIDLAND LABOUR SUPPLIES LIMITED

→ Filling in this form

Please complete in typescript or in  
bold black capitals.

### 2 Liquidator's name

Full forename(s) EILEEN THERESA FRANCES

Surname SALE

### 3 Liquidator's address

Building name/number INDUCTA HOUSE

Street FRYERS ROAD

BLOXWICH

Post town WALSALL

County/Region WEST MIDLANDS

Postcode W S 2 7 L Z

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

Glen M. Sale

X

Signature date

d

1

d

5

m

0

m

8

y

2

y

0

y

1

y

7

# LIQ14

## Notice of final account prior to dissolution in CVL



### 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

Company name

Address

Post town

County/Region

Postcode

Country

DX

Telephone



### 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](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto: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](http://www.gov.uk/companieshouse)

Business Recovery and Insolvency  
**TO ALL MEMBERS AND CREDITORS**

Our Ref: SS1164.ETFS.AB.SA.LTRCRS.0617

16th June 2017

Dear Sirs,

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

I refer to my appointment as Liquidator of the above named company on 21st September 2012 and write to advise you that there remain no matters outstanding to justify the continuation of my administration of the winding up proceedings and, therefore, I intend to conclude my administration of the company's affairs.

Accordingly, I enclose the following documents for your information: -


- Notice of no dividend
- Notice that the Company's affairs are fully wound up and;
- My final account of the liquidation proceedings

I regret to advise that there are insufficient funds to enable a distribution to be made to any class of creditor in this matter.

Should you require further clarification upon any matter contained within the report, please do not hesitate to contact me.

Yours faithfully,

For and on behalf of Midland Labour Supplies Limited  
(In Creditors Voluntary Liquidation)

  
Eileen T F Sale FIPA  
Liquidator

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**NOTICE OF NO DIVIDEND**

RE: Company Number: 5882673

Date of Liquidation: 21st September 2012

**NOTICE IS HEREBY GIVEN**, pursuant to Rule 14.36 of the Insolvency (England & Wales) Rules 2016 ("the Rules"), that the Liquidator of the above named company has realised all the above named Company's assets or so much of them as can be realised without needlessly protracting the liquidation and gives notice confirming that no dividend to any class of creditors will be declared in the Liquidation of the Company.

Dated 16th June 2017

Signed.....

  
E T F SALE FIPA  
LIQUIDATOR

Mrs E T F Sale FIPA  
Liquidator  
Sale Smith & Co. Limited,  
Inducta House, Fryers Road,  
Bloxwich, Walsall,  
West Midlands, WS2 LZ

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**NOTICE THAT THE COMPANY'S AFFAIRS ARE FULLY WOUND UP**

RE: Company Number: 5882673

Date of Liquidation: 21st September 2012

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, 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:

Mrs E T F Sale FIPA  
Liquidator  
Sale Smith & Co. Limited,  
Inducta House, Fryers Road,  
Bloxwich, Walsall,  
West Midlands, WS2 7LZ

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.

Dated 16th June 2017

Signed.....  
E T F SALE FIPA  
LIQUIDATOR

**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.

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**SUMMARY OF THE LIQUIDATOR'S RECEIPTS AND PAYMENTS ACCOUNT**  
**FOR THE PERIOD 21ST SEPTEMBER 2012 TO 11TH AUGUST 2017**

As per Statement of Affairs £	<u>RECEIPTS</u>	<u>See Note</u>	£
40,790	Book Debts	(2)	40,000.00
196	Cash at Bank	(3)	214.90
	VAT Refund		7,931.11
<hr/>			
£40,896			£48,146.01
<hr/>			
<u>PAYMENTS</u>			
	Statutory Advertising		359.28
	Company Search Fee		54.00
	Insolvency Bond		343.00
	Oath Fee		18.00
	Meeting Room Hire (External)		74.17
	Liquidator's Disbursements	(9)	408.21
	Liquidator's Remuneration	(10)	38,958.24
	Input VAT		7,931.11
<hr/>			
			£48,146.01
<hr/>			

Eileen T F Sale FIPA  
 Liquidator  
16th June 2017



**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

**NOTES TO BE READ IN CONJUNCTION WITH THE LIQUIDATOR'S  
RECEIPTS AND PAYMENTS ACCOUNT FOR THE PERIOD  
21ST SEPTEMBER 2012 TO 11TH AUGUST 2017**

1. Receipts & Payments Account: I enclose my final account to creditors together with a summary of my Receipts & Payments Account in this matter for the period 21st September 2012 to 11th August 2017.
2. Book Debts: This represented one outstanding debt which had been recovered.
3. Cash at Bank: This represents the balance held in the company's bank account at cessation of trading.
4. SIP 13 Disclosure: In accordance with Statement of Insolvency Practice 13 ("SIP 13"), the Office Holder is required to disclose to creditors the details of any asset sold by the Liquidator to connected parties.

I can confirm that there have been no such sales to connected parties during the course of my administration of the company's affairs.

5. Preferential Creditors: Crown Preference in relation to VAT and PAYE was abolished in 2003 and consequently, in the majority of cases, preferential creditors relate to certain liabilities in respect of unpaid wages, holiday pay and pension contributions: -

<u>Creditor</u>	<u>Per Statement of Affairs</u>	<u>Final Claims Received</u>
	£	£
Wages & Holiday Pay	Nil	11,044.13
	£Nil	£11,044.13

6. Floating Charge Creditors: There are no floating charge creditors in this case.
7. Non-Preferential Creditors: Certain creditors' claims remain outstanding, however, the following claims have been received to date: -

<u>Creditor</u>	<u>Per Statement of Affairs</u>	<u>Claim Received</u>
	£	£
Trade and Expense	10,093	8,942.56
Shortfall to Finance Companies	17,504	19,753.20
HM Revenue & Customs (PAYE/ NIC/ CT)	473,712	2,040,393.10
HM Revenue & Customs (VAT)	378,905	389,929.63
Director's Loan Account	4,540	-
	£884,754	£2,459,018.49

8. Prescribed Part: The 'Prescribed Part' is a statutory amount, calculated as a percentage of net floating charge realisations, which entitles unsecured creditors to a share of realisations. This is calculated on a sliding scale up to maximum of £600,000 before costs.

The company has not granted a floating charge to any creditor after 15th September 2003 and consequently there will be no prescribed part in this Liquidation.

9. Expenses and Disbursements: The disbursements that have been incurred and not yet paid during the period are detailed on the attached schedule.

Creditors' approval is not required for necessary external disbursements paid to independent third parties as disclosed. Payments made in respect of the above are defined as "Category 1 disbursements". Category 1 disbursements incurred in this case total £848.45, of which £848.45 has been paid since the date of my appointment, as disclosed on the attached schedule.

With effect from 1st January 2003, a Liquidator must obtain creditors' approval to draw her firm's internal disbursements, costs and expenses in dealing with an estate, including, as appropriate, printing, photocopying, facsimile, document storage, registered office fee and telephone charges. Payments in respect of this type of expense are referred to as "Category 2 disbursements". Category 2 disbursements incurred in this case total £941.03, of which £408.21 has been paid since the date of my appointment, as disclosed on the attached schedule.

10. Liquidator's Remuneration: At the first meeting of creditors it was resolved that my remuneration as Liquidator should be based on my firm's time costs and be drawn on account as and when required.

The time costs for the year under review are £1,220.30, representing 156.45 hours at an average hourly rate of £7.80. The total time costs during the period of my appointment amount to £62,720.91 representing 210.40 hours at an average hourly rate of £298.10. To date my firm has been paid on account of these time costs the sum of £38,958.24, in connection with the statutory administrative and investigative duties undertaken to date. In the event any further nominal funds are received, they will be discharged as unbilled time costs

I am required to provide creditors with details relating to those time costs incurred during the period 21st September 2016 to 11th August 2017 and cumulative time costs analysis for the period 21st September 2012 to 11th August 2017. These are analysed on the attached schedules, together with a breakdown of my current charge-out rates. There has been no increase in the charge out rates during the Liquidation.

The Liquidator has not utilised the services of any sub-contractors on the administration of this case.

A copy of the R3 guidelines in respect of Insolvency Practitioners' fees relating to creditors' voluntary liquidations is enclosed. Further information about this insolvency process may be found on the R3 website at <http://www.Creditorinsolvencyguide.co.uk/>.

11. Creditors Rights: 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.

12. Dividend Prospects: I regret to advise that there are insufficient funds to enable a distribution to be made to any class of creditor in these proceedings.
13. Conclusion: There are no other matters outstanding and the affairs of the company have been fully wound up.

Eileen T F Sale FIPA  
Liquidator  
16th June 2017

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of category 2 disbursements incurred to 11th August 2017

Type and purpose	Amount incurred in reporting period (£)	Amount drawn in reporting period (£)	Total Disbursements Incurred to date (£)	Total Disbursements Drawn to date (£)
Storage of Company Records (2 boxes)	80.00		480.00	
Travel Expenses			6.40	6.40
Postage, Stationery & Printing	52.82	20.36	454.63	401.81
<b>Total</b>	<b>£132.82</b>	<b>£20.36</b>	<b>£941.03</b>	<b>£408.21</b>

The storage of company's books and records are at the Insolvency Practitioner's own storage facility. The books and records will be stored in banker's boxes and a storage fee will be charged at the rate of £10 per box per quarter (13 weeks). This charge covers the transportation of records from the company's premises, storage retrieval of books and records in storage for administration purposes and the destruction of such books and records on the first anniversary of completion of the Insolvency administration.

Travelling by motor vehicle on business for the administration of the Insolvency will be charged to the estate per mile at the appropriate rate currently published by the "AA" for the type of vehicle and engine size used.

All circulars will be sent out by second class post and the actual postage cost will be charged as an expense to the estate. In respect of circulars, stationery is charged at 10p per copy paper or facsimile.

Summary of category 1 disbursements incurred to 11th August 2017

Type and purpose	Amount incurred in reporting period (£)	Amount drawn in reporting period (£)	Total Disbursements Incurred to date (£)	Total Disbursements Drawn to date (£)
Statutory Advertising			359.28	359.28
Insolvency Bond			343.00	343.00
Company Search Fee			54.00	54.00
Oath Fee			18.00	18.00
Meeting Room Hire (External)			74.17	74.17
<b>Total</b>	<b>£Nil</b>	<b>£Nil</b>	<b>£848.45</b>	<b>£848.45</b>

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of time spent for period 21st September 2012 to 11th August 2017

Classification Of work	Partner	Case Manager	Senior Admin	Support Staff	Total Hours	Time Cost £	Average Rate £/h £
Administration And planning	9.20	12.00	8.10	6.20	35.50	7,998.76	225.32
Investigations	14.50	79.70	4.70		98.90	26,466.64	267.61
Realisation Of Assets	6.70		10.20		16.90	3,762.32	222.62
Trading							
Creditors	26.60	1.00	81.50	11.90	121.00	21,868.26	180.73
Case specific matters	11.10	4.00	33.10	13.10	61.30	10,623.69	175.95
Total hours	58.90	84.70	129.50	25.00	298.10	62,720.91	210.40
Total fees claimed						£38,958.24	134.19

**Chargeout rates: -**

Partner	£351.45
Case Manager	£260.00
Senior Administrators	£138.00
Support Staff/ Clerical	£85.10

**Classification of Duties**

Administration and planning

Investigations

Realisation of assets

Trading

Creditors

Case Specific

**Brief Summary**

Pre-appointment – initial advice on an informal basis, Interviews with directors/debtors in connection with instructions. Assistance with the preparation of the Statement of Affairs, preparation for first creditors' meetings

Post-appointment – interviews with directors/debtors, disqualification and investigation matters.  
Legal matters/meetings

Realisation of assets. Instructions in connection with the disposal of tangible assets. Book and other debt collection matters, debtors' correspondence and schedules. Bank reconciliation/receipts and payments account.

Operations Management, operating, employee issues

Creditors correspondence and schedules, ERA matters, Inland Revenue and HMCE correspondence/ enquires.

Attendance at creditors/directors meetings, preparation of creditors' meeting reports, statutory reporting/ returns. General case administration (filing, recording of records etc.) Archiving.

**MIDLAND LABOUR SUPPLIES LIMITED**  
**(IN CREDITORS VOLUNTARY LIQUIDATION)**

Summary of time spent for period 21st September 2016 to 11th August 2017

Classification Of work	Partner	Case Manager	Senior Admin	Support Staff	Total Hours	Time Cost £	Average Rate £/h £
Administration And planning							
Investigations							
Realisation Of Assets							
Trading							
Creditors	0.20	1.00		1.20	2.40	432.41	180.17
Case specific matters	0.20		5.20		5.40	787.89	145.91
Total hours	0.40	1.00	5.20	1.20	7.80	1,220.30	156.45
Total fees claimed						£Nil	-

**Chargeout rates: -**

Partner	£351.45
Case Manager	£260.00
Senior Administrators	£138.00
Support Staff/ Clerical	£85.10

**Classification of Duties**

Administration and planning

Investigations

Realisation of assets

Trading

Creditors

Case Specific

**Brief Summary**

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Attendance at creditors/directors meetings, preparation of creditors' meeting reports, statutory reporting/ returns. General case administration (filing, recording of records etc.) Archiving.

## **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 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.

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.

4.2 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 fixing bases of remuneration**

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

### **6.2 After the bases of remuneration have been fixed**

The liquidator is required to send progress reports to creditors at specified intervals (see paragraph 7.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 71, the liquidator should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the liquidator must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate). Where any remuneration is on a time costs basis, the liquidator should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable. The liquidator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the liquidator or his or her staff.

### **6.3 Disbursements and other expenses**

- 6.3.1 Costs met by and reimbursed to the liquidator in connection with the liquidation should be appropriate and reasonable. Such costs will fall into two categories:
  - Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the liquidation and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the liquidator or his or her staff.

- Category 2 disbursements: These are costs that are directly referable to the liquidation but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the liquidation on a proper and reasonable basis, for example, business mileage.

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

6.3.2 The following are not permissible:

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

#### **6.4 Realisations for secured creditors**

Where the liquidator realises an asset on behalf of a secured creditor and receives remuneration out of the proceeds (see paragraph 11.1 below), he should disclose the amount of that remuneration to the committee (if there is one), to any 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 liquidation committee, or in the preceding administration, is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the liquidation committee, the creditors, in the preceding administration or in accordance with the statutory scale is insufficient, or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the committee and the committee may nominate one or more of its members to appear or be represented at the court hearing. If there is no committee, the liquidator's notice of his application must be sent to such of the creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid out of the assets.

**11 Other matters relating to remuneration**

- 11.1 Where the liquidator realises assets on behalf of a secured creditor he is entitled to be remunerated out of the proceeds of sale in accordance with a scale set out in the Rules. Usually, however, the liquidator will agree the basis of his fee for dealing with charged assets with the secured creditor concerned.
- 11.2 Where two (or more) joint liquidators are appointed it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute between them may be referred to the court, the committee or a 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 creditors or the court.
- 11.4 If a new liquidator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new liquidator until a further determination, resolution or court order is made.
- 11.5 Where the basis of the remuneration is a set amount, and the liquidator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing liquidator. The application must be made to the same body as approved the remuneration. Where the outgoing liquidator and the incoming liquidator are from the same firm, they will usually agree the apportionment between them.
- 11.6 There may also be occasions when creditors will agree to make funds available themselves to pay for the liquidator to carry out tasks which cannot be paid for out of the assets, either because they are deficient or because it is uncertain whether the work undertaken will result in any benefit to creditors. Arrangements of this kind are sometimes made to fund litigation or investigations into the affairs of the insolvent company. Any arrangements of this nature will be a matter for agreement between the liquidator and the creditors concerned and will not be subject to the statutory rules relating to remuneration.

**12. Effective date**

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

## **Appendix**

### **Suggested format for the provision of information**

Professional guidance issued to insolvency practitioners sets out the following suggested format for the provision of information when seeking approval of remuneration. However, the level of disclosure suggested below may not be appropriate in all cases, and will be subject to considerations of proportionality. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.

#### **Narrative overview of the case**

In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:

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

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

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

#### **Time cost basis**

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

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

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

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

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

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

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

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

- where cumulative time costs are, and are expected to be, less than £10,000 the liquidator should, as a minimum, state the number of hours and average rate per hour and 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.