

The Insolvency Act 1986

Administrator's progress report**R2.38**

Pursuant to Rule 2.38 of the Insolvency (Scotland) Rules 1986

Name of Company

Durham & Edinburgh Properties Limited

Company number

SC112246

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

I/We (a)
Stewart MacDonald
Scott-Moncrieff Chartered Accountants
Allan House
25 Bothwell Street
Glasgow
G2 6NL

administrator(s) of the above company attach a progress report for the period

from

to

(b) Insert date(s)

(b) 11 September 2016

(b) 10 March 2017

Signed

Joint Administrator(s)

Dated

31 March 2017

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form.

The contact information that you give will be visible to searchers of the public record

Stewart MacDonald
Scott-Moncrieff Chartered Accountants
25 Bothwell Street
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Companies House, 37 Castle Terrace, Edinburgh EH1 2EB
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Durham & Edinburgh Properties Limited (In Administration)

**Administrator's Progress Report for the
period 11 September 2016 to 10 March
2017 pursuant to Rule 2.38 of the
Insolvency (Scotland) Rules 1986**

24 March 2017



Scott-Moncrieff
business advisers and accountants

Durham & Edinburgh Properties Limited (In Administration)

Administrator's Progress Report for the period 11 September 2016 to 10 March 2017 pursuant to Rule 2.38 of the Insolvency (Scotland) Rules 1986

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Abbreviations

For the purpose of this report the following abbreviations shall be used:-

"the Act"	Insolvency Act 1986 (as amended)
"the Rules"	Insolvency (Scotland) Rules 1986 and the Insolvency (Scotland) Amendment Rules 2010
"the Administrator"	Stewart MacDonald of Scott-Moncrieff
"the Company"	Durham & Edinburgh Properties Limited (In Administration)
"the Building Society"	Dunfermline Building Society (In Building Society Special Administration)
"the Court"	Court of Session, Edinburgh
"Directors"	Derek Lawrence Dickerson and Norma Walker

1. Background

1.1 Introduction

This report has been prepared in accordance with Rule 2.38 of the Rules to provide creditors with an update on the progress of the Administration of the Company since our last progress report to creditors on 21 September 2016.

I have not included detailed background information in respect of the Company given the content in my earlier proposals and progress reports to creditors and have focussed on the progress of the Administration subsequent to those reports.

The Administrator's proposals as deemed approved following the issue of a notice under Paragraph 52(1) of Schedule B1 of the Act on 4 November 2013 and the expiry of 8 business days thereafter are detailed in section 2.1 below.

A schedule of statutory information in relation to the Company is attached at Appendix 1.

1.2 Details of the Appointment of the Administrator

I was appointed Administrator of the Company at the Court of Session on 11 September 2013 following the filing of a Notice of Appointment of Administrator by the Building Society in terms of Paragraph 14 of Schedule B1 of the Act.

The case number at the Court of Session, Edinburgh is P925/13.

The Administrator acts as officer of the Court and as agent of the Company without personal liability.

2. Administrator's Proposals

2.1 Introduction

As previously reported to creditors, I concluded ~~that~~ as the Company had significant secured and unsecured creditor liabilities, a restructuring of these creditors would have been required to meet the first objective, which was to rescue the Company as a going concern. It was determined ~~that~~ the first objective was not achievable and therefore the purpose of Administration is to achieve a better result for the Company's creditors than would be obtained through the liquidation of the Company. This will be achieved through the sale of the Company's portfolio of properties.

My proposals in order to achieve this objective were deemed approved following the issue of a notice under Paragraph 52(1) of Schedule B1 of the Act on 4 November 2013 and the expiry of 8 business days thereafter are as follows:-

1. To do all such things and generally exercise all powers as Administrator contained in Schedule B1 of the Act as he, in his discretion considers desirable or expedient in order to achieve the purpose of the Administration, to protect and preserve the assets of the Company or maximise realisation of those assets;
2. That the Administrator continues with his enquiries into the conduct of the Directors of the Company and assist any regulatory authorities with their investigation into the affairs of the Company;
3. To agree the claims of the secured, preferential and unsecured creditors of the Company unless the Administrator concludes, in his reasonable opinion, the Company will have no assets available for distribution;
4. To distribute funds to the secured and preferential creditors as and when claims are agreed and funds permit;
5. That, in the event the creditors of the Company so determine, at meetings of creditors, a Creditors' Committee be appointed in respect of the Company comprising of not less than three and not more than five creditors of the Company;
6. That, the Creditors' Committee, if one is appointed, be asked to agree that the basis of the Administrator's remuneration be fixed by reference to the time properly given by the Administrator and his staff in attending to matters arising in the Administration, calculated at the prevailing standard hourly charge out rate used by Scott-Moncrieff at the time when the work is performed, plus VAT, and asked to agree the Administrator's expenses;
7. That, if a Creditors' Committee is not appointed, the secured creditors of the Company shall be asked to fix the basis of the Administrator's remuneration in accordance with Rule 2.39 of the Rules, be fixed by reference to the time properly given by the Administrator and his staff in attending to matters arising in the Administration, calculated at the prevailing standard hourly rates used by Scott-Moncrieff at the time when the work is performed, plus VAT;
8. To seek an extension of the Administration period if deemed necessary by the Administrator.

2.1 Introduction (Cont'd)

9. That, following the realisation of assets and resolution of all matters in the Administration, and as quickly and efficiently as is reasonably practicable, the Administrator implement the most cost effective steps to formally conclude the Administration. This may include the distribution of funds to unsecured creditors (provided Court permission is obtained) and then the dissolution of the Company or alternatively, seeking to put the Company into Creditors Voluntary Liquidation ("CVL") or Compulsory Liquidation, depending on which option will result in a better realisation for creditors.
10. That, if the Company were to be placed into CVL, the Administrator proposes to be appointed Liquidator and any Creditor's Committee appointed will become the Liquidation Committee pursuant to Rule 2.47(3) of the Rules. As per Paragraph 83(7) of Schedule B1 of the Act and Rule 2.47(3) of the Rules, the creditors may nominate a different person to be Liquidator provided the nomination is made before the proposals are approved by creditors.
11. That, if there are insufficient funds with which to make a distribution to unsecured creditors, once all of the assets have been realised and the Administrator has concluded all work within the Administration, the Administrator will file a notice under Paragraph 84(1) of Schedule B1 of the Act with the Registrar of Companies, following registration of which the Company will be dissolved three months later;
12. That in the absence of a Creditors' Committee, the secured and preferential creditors of the Company agree that the Administrator be discharged from liability per Paragraphs 98 and 99 of Schedule B1 to the Act immediately upon the Administrator filing his final report to creditors and vacating office.

2.2 Progress on approved proposals

I have summarised below the progress and current status in respect of each of the approved proposals:-

Proposal	Current Status
1	Ongoing
2	Completed. Report sent to The Insolvency Service on 19 February 2014.
3	Ongoing
4	To date, £2,865,000 has been distributed to the secured creditor.
5	Not applicable. No Creditors Committee appointed.
6	Not applicable. No Creditors Committee appointed.
7	The Building Society has agreed the remuneration for the periods 11/09/13 to 10/03/14, 11/03/14 to 10/09/14, 11/09/14 to 10/03/15, 11/03/15 to 10/09/15, 11/09/15 to 10/05/16 and 11/05/16 to 10/09/16.
8	On 6 February 2015 the Court granted a 12 month extension of the Administration until 10 March 2016. On 2 March 2016 the Court granted a further extension until 10 March 2017. On 1 March 2017 the Court granted a further extension until 10 September 2017.
9	Ongoing
10	Ongoing
11	Ongoing
12	Ongoing

3. Administrator's Receipts and Payments Account

3.1 Introduction

I have attached at Appendix 2 my Receipts and Payments account covering the period from 11 September 2016 to 10 March 2017 in accordance with SIP 7 (Scotland).

3.2 Asset realisations

As stated in my first report we instructed Graham & Sibbald, Chartered Surveyors to perform a review of the portfolio and to identify the best marketing strategy for each property. All commercial properties are being marketed for sale on the open market.

3.2.1 93 High Street, Edinburgh

This property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. All rental income due was received from the tenant.

3.2.2 15-23 Hardwell Close, Edinburgh

This property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. All rental income due was received from the tenant.

3.2.3 13-15 Morningside Drive, Edinburgh

The property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. All rental income due was received from the tenant.

3.2.4 61A Clerk Street, Loanhead

This property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. No rental income was received in respect of this property.

3.2.5 Thomson House, Pitreavie Business Park, Dunfermline

This property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. All rental income due was received from the tenant.

3.2.6 Units 1 & 2 Glenwood Centre, Glenrothes

This property has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments account. All rental income due was received from the tenant.

3.2.7 Firth Lodge and Nursery, Auchendinny

A commercial settlement was reached with the directors/directors' family. The funds received are detailed on the attached Receipts and Payments account.

3.2.8 Samoya, Queens Road, Dunbar

This residential development has now been sold and the proceeds from the sale are detailed on the attached Receipts and Payments Account.

3.2.9 6-8 Hill Street, Dunfermline

The residential development was completed and has now been sold with the sale proceeds detailed on the attached Receipts and Payments account.

4. Distribution to Creditors

4.1 Secured Creditors

The Building Society holds standard securities in relation to all of the properties as well as a qualifying floating charge, which was registered on 18 March 2005, over all the property and undertakings of the Company. The amount owed to the Building Society at the date of my appointment was £3.56m and post appointment interest will continue to accrue on the facility. The Building Society has received payments totalling £2,865,000 and will suffer a shortfall on its lending.

4.2 Preferential Creditors

The Company had no employees at the date of appointment and, as a result there will be no preferential claims.

4.3 The Prescribed Part

Section 176A of the Act provides that, where the Company has created a floating charge on or after 15 September 2003, the Administrator must set aside a percentage of the Company's assets for the benefit of unsecured creditors. This is known as the "prescribed part of the net property". It applies where there are floating charge realisations and the Company's net property is the amount remaining after paying the preferential creditors and costs and expenses of the Administration, but before paying the lender who holds a floating charge. An Administrator has to set aside:-

- 50% of the first £10,000 of net property;
- 20% of the remaining net property up to a maximum amount of £600,000

The Company granted a floating charge to the Building Society on 14 March 2005 and therefore the prescribed part provisions will apply. All realisations from the sale of the properties and development sites will fall under the Building Society's standard securities. The only floating charge realisations will be derived from rental income from the tenanted properties. There are insufficient floating charge realisations to enable a prescribed part to be made available for the unsecured creditors of the Company.

4.4 Unsecured Creditors

As there will be a shortfall to the secured creditor and the floating charge realisations will be insufficient to meet the costs of the Administration there will be no funds available to enable a dividend to unsecured creditors.

5. Other Matters and Information to Assist Creditors

5.1 Extension to the initial appointment period

In accordance with paragraph 76(2)(a) of Schedule B1 of the Act, a 6 month extension until 10 September 2017 was granted by the Court.

5.2 Investigations

As part of the Administrator's statutory duties, a report on the conduct of the Company Directors was submitted to the Insolvency Service. The contents of the report are confidential and may not be provided.

5.3 Exit route from Administration

Once all matters have been finalised it will be my intention to file a notice with the Registrar of Companies to arrange for the Company to exit the Administration by way of dissolution under paragraph 84 of Schedule B1 of the Act.

6. Administrator's Remuneration and Expenses

6.1 Administrator's Remuneration

As there will be insufficient funds to enable a distribution to unsecured creditors, fixing the basis of the Administrator's remuneration will be approved in accordance with Rule 2.39 of the Rules, which is outlined as follows:-

- Where the Administrator has made a statement under Paragraph 52(1)(c) of Schedule B1 of the Act the basis of the Administrator's remuneration may be fixed by approval of:
 - each secured creditor.
 - if the Administrator intends to make a distribution to preferential creditors, with the approval of each secured creditor and 50% of preferential creditors who respond to an invitation to consider approval.

In accordance with Rule 2.39 of the Rules, in the absence of a creditors committee, my remuneration has been approved by the Building Society, as secured creditor of the Company.

To date, remuneration of £271,280.24 has been approved and billed in the Administration. This is shown in the Receipts and Payments account at Appendix 2.

Time costs incurred during the period covered by this report, from 11 September 2016 to 10 March 2017, are £14,535.50, this represents 69.26 hours at an average hourly rate of £209.87. These time costs are detailed at Appendix 3.

The Administrator proposes that disbursements, including disbursements for services provided by their firm defined as Category 2 disbursements in Statement of Insolvency Practice 9 be charged in accordance with their firms policy.

In accordance with Statement of Insolvency Practice 9 (Scotland), "A Creditors' Guide to Administrators Remuneration" is available for download at:

<http://www.scott-moncrieff.com/news/publications/a-creditors-guide-to-administrators-remuneration-scotland>

6.1 Administrator's Remuneration (Cont'd)

Should you require a paper copy, please send your request in writing to the Administrator at 25 Bothwell Street, Glasgow, G2 6NL and this will be provided to you at no cost.

6.2 Expenses

My direct expenses for the period of this report are as follows:

Disbursements	Category 1	Category 2
Postages	-	8.16
Total	-	8.16

All Category 1 disbursements are charged at the actual cost incurred.

Category 1 disbursements will generally comprise external supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, advertising, invoiced travel and property reimbursed expenses incurred by personnel in connection with the case. Also included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

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

We will write to the secured creditor regarding their agreement to the basis and payment of the Administrator's remuneration and disbursements.

6.3 Charge out rates

The table detailed below sets out the current charge-out rates utilised by Scott-Moncrieff for charging staff time.

Grade	Hourly rate
Partner	£255 - £350
Director	£240 - £290
Manager	£150 - £200
Senior Professional	£110 - £180
Administrator	£80 - £105
Support staff	£80 - £105

In common with most professional services firms, Scott-Moncrieff's charge-out rates change from time to time, although each individual change is not material. The rates charged reflect various changes over the course of each assignment.

6.4 Disbursement rates

Type	Rate
Printing/ Photocopying	£0.15 per sheet
Fax	£0.40 per sheet
Colour photocopying	£2.50 per sheet
Storage	£3.90 per box per quarter (min. £30 per quarter)
Room hire	£100 per meeting when held in SM office
Registered office fee	£120 per annum
Mileage	45p per mile
Postage	As incurred



Stewart MacDonald
Administrator

24 March 2017

Appendix 1 - Statutory Information

Company Name:	Durham & Edinburgh Properties Limited
Proceedings:	In Administration
Court:	Court of Session
Court Reference:	P925/13
Administrator	Stewart MacDonald Scott-Moncrieff 25 Bothwell Street Glasgow G2 6NL
	The Administrator was appointed by Dunfermline Building Society (In Building Society Special Administration).
Date of Appointment:	11 September 2013
Company Number:	SC112246
Date of Incorporation:	13 July 1988
Previous Name(s):	Movend Limited
Registered Office:	25 Bothwell Street, Glasgow, G2 6NL
Former Registered Office:	6 School Brae Business Centre, Peebles, EH45 8AT
Trading Address:	N/A
Directors:	Derek Lawrence Dickerson Norma Walker
Company Secretary:	Derek Lawrence Dickerson
Authorised Share Capital:	100 Ordinary £1 Shares
Issued Share Capital:	100 Ordinary £1 Shares
Shareholders:	Derek Lawrence Dickerson – 70 shares D Lawrence Contractors Ltd – 30 shares
Bankers:	The Royal Bank of Scotland plc
Securities Granted:	Dunfermline Building Society has the benefit of the following securities:- Floating Charge created 14 March 2005 and registered 18 March 2005 Standard Security created 30 March 2005 and registered 1 April 2005

Appendix 2 - Receipts & Payments Account for the period 11 September 2016 to 10 March 2017

Durham & Edinburgh Properties Limited (In Administration) Administrator's Summary of Receipts & Payments

Statement of Affairs £		From 11/09/2016 To 11/03/2017 £	From 11/09/2013 To 11/03/2017 £
Uncertain	SECURED ASSETS		
	Property Portfolio	515,000.00	3,391,766.00
		<u>515,000.00</u>	<u>3,391,766.00</u>
	COSTS OF REALISATION		
	Administrator Fees	NIL	182,062.50
	Legal Fees	NIL	1,500.00
	Auctioneer Fees	NIL	4,940.00
	Insurance of Assets	1,144.96	13,887.48
	Quantity Surveyor's Fees	NIL	11,256.00
	Property Costs	NIL	37,705.70
	Development Costs- Hill Street	NIL	174,702.70
		<u>(1,144.96)</u>	<u>(426,054.38)</u>
(3,560,000.00)	SECURED CREDITORS		
	Dunfermline Building Society	515,000.00	2,865,000.00
		<u>(515,000.00)</u>	<u>(2,865,000.00)</u>
	ASSET REALISATIONS		
NIL	Corporation Tax Refund	21,484.02	21,484.02
	Cash at Bank	NIL	4,644.62
	Rent	NIL	130,329.26
	Insurance Refund	NIL	1,340.24
	Bank Interest Gross	2.68	4.53
	Bank Interest Net of Tax	NIL	23.05
		<u>21,486.70</u>	<u>157,825.72</u>
	COST OF REALISATIONS		
	Specific Bond	NIL	185.00
	Administrator's Fee	8,000.00	89,217.74
	Administrator's Outlays	6.00	6.00
	Legal Fees (1)	NIL	76,209.50
	Corporation Tax	NIL	21,341.40
	Telephone Costs	NIL	48.12
	Photocopies	NIL	209.80
	Travel Costs	NIL	100.45
	Postages	NIL	66.38
	Other Professional Fees	NIL	NIL
	Statutory Advertising	NIL	76.25
	Mileage	NIL	155.25
	Insurance of Assets	NIL	NIL
	Land Registry & Company Search Fee	NIL	54.00
	Bank Charges	10.01	795.14
	Company Search	NIL	3.00
		<u>(8,016.01)</u>	<u>(188,468.03)</u>
	UNSECURED CREDITORS		
(569,820.42)	Trade & Expense Creditors	NIL	NIL
(34,619.59)	HM Revenue & Customs - Corporation	NIL	NIL
(21,713.83)	HM Revenue & Customs - VAT	NIL	NIL
		<u>NIL</u>	<u>NIL</u>

Appendix 2 - Receipts & Payments Account for the period 11 September 2016 to 10 March 2017 (Cont'd)

(100.00)	DISTRIBUTIONS		
	Ordinary Shareholders	NIL	NIL
		NIL	NIL
<hr/>			
(4,186,253.84)		12,325.73	70,069.31
		<hr/>	<hr/>
	REPRESENTED BY		
	VAT Receivable		1,601.20
	Bank 1 - Current		68,474.11
	Office		(6.00)
			<hr/>
			70,069.31
			<hr/>

Appendix 3 – Administrator's Time Costs for the period 11 September 2016 to 10 March 2017

Durham & Edinburgh Properties Limited
11 September 2016 to 10 March 2017
Time and charge out summaries (Excluding VAT)

Classification of work function	Hours					Total hours	Time cost (£)	Average hourly rate (£)
	Partner	Director	Manager	Other Senior Professionals	Assistants & Support Staff			
Statutory	-	-	-	-	-	-	-	-
Admin/Planning	5.90	-	35.06	0.50	5.85	47.31	8,520.00	180.09
Investigations	-	-	-	-	-	-	-	-
Realisation of assets - Fixed	15.30	-	4.60	-	-	19.90	5,506.50	276.71
Trading	-	-	-	-	-	-	-	-
Creditors	1.00	-	0.65	0.40	-	2.05	509.00	248.29
Case Specific matters:	-	-	-	-	-	-	-	-
Total hours	22.20	-	40.31	0.90	5.85	69.26	14,535.50	209.87
Total Fees claimed (£)	6,879.00	-	6,945.75	96.50	614.25		14,535.50	
Hourly Rate	309.86	-	172.31	107.22	105.00			
						69.26	14,535.50	

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