

# Liquidator's Progress Report

# S.192

Pursuant to Sections 92A and 104A and 192 of the Insolvency Act 1986

To the Registrar of Companies

Company Number

06880449

Name of Company

AAG SITE SERVICES LIMITED

I / We

Gareth David Peckett, 2 Rutland Park, Sheffield, S10 2PD

Graham Leslie Stuart-Harris, 2 Rutland Park, Sheffield, S10 2PD

the liquidator(s) of the company attach a copy of my/our Progress Report under section 192 of the Insolvency Act 1986

The Progress Report covers the period from 07/02/2013 to 06/02/2014

Signed

Date

26 MAR 2014

Barber Harrison & Platt  
2 Rutland Park  
Sheffield  
S10 2PD

Ref. INA006/GDP/OA

SA FRIDAY



A23 04/04/2014 #212  
COMPANIES HOUSE  
\*A340BD0Z\*  
A20 29/03/2014 #247  
COMPANIES HOUSE

**AAG SITE SERVICES LIMITED**  
**(In Liquidation)**  
**Joint Liquidators' Abstract of Receipts & Payments**

Statement of Affairs	From 07/02/2013 To 06/02/2014	From 07/02/2012 To 06/02/2014
	<b>ASSET REALISATIONS</b>	
2,000 00	NIL	1,130 00
11,500 00	NIL	NIL
6,025 47	5,056 66	5,056 66
837 60	NIL	837 60
	0 89	1 73
	<u>5,057 55</u>	<u>7,025 99</u>
	<b>COST OF REALISATIONS</b>	
	3,833 33	5,000 00
	1,000 00	1,000 00
	NIL	NIL
	NIL	500.00
	<u>(4,833 33)</u>	<u>(6,500 00)</u>
	<b>UNSECURED CREDITORS</b>	
(75,317 85)	NIL	NIL
(1,766 98)	NIL	NIL
(175 00)	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
	<b>DISTRIBUTIONS</b>	
(1,000 00)	NIL	NIL
	<u>NIL</u>	<u>NIL</u>
<b>(57,896.76)</b>	<b><u>224.22</u></b>	<b><u>525.99</u></b>
	<b>REPRESENTED BY</b>	
		166 67
		359 32
		<u>525.99</u>

Gareth David Peckett  
Joint Liquidator

**A.A.G. Site Services Limited**  
**Creditors Voluntary Liquidation**

**Strictly Private & Confidential**

**Joint Liquidators Report to Members & Creditors**  
**Pursuant to the Insolvency Rules 1986**  
**For the period 7 February 2013 to 6 February 2014**

**Barber Harrison & Platt**  
**Corporate Recovery & Insolvency**  
**2 Rutland Park Sheffield**  
**S10 2PD**  
**Tel: 0114 266 7171 Fax: 0114 266 9846**  
**[www.bhp.co.uk](http://www.bhp.co.uk)**

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## **A.A.G. Site Services Limited – Creditors Voluntary Liquidation**

**The Joint Liquidators report to Members & Creditors pursuant to the Insolvency Rules 1986 from 7 February 2013 to 6 February 2014.**

### **1. Introduction**

I, Gareth David Peckett and Graham Leslie Stuart-Harris of Barber Harrison & Platt, Chartered Accountants were appointed Joint Liquidators of AAG Site Services Limited on 7 February 2012 and now present our 2<sup>nd</sup> progress report to members & creditors pursuant to the Insolvency Rules 1986

### **2. Statutory Information**

Company Name:	A.A.G. Site Services Limited
Registered office:	2 Rutland Park, Sheffield, S10 2PD
Former registered office	Westthorpe Innovation Centre, Block B Suite 22, Killamarsh, S21 1TZ
Registered number:	06880449
Liquidator's details:	Gareth David Peckett and Graham Leslie Stuart-Harris of Barber Harrison & Platt, Chartered Accountants, 2 Rutland Park, Sheffield, S10 2PD

### **3. Receipts and Payments Account**

I attach for your information at appendix 1 a copy of our summarised receipts and payments account for the period of this report. The figures under "S of A" are taken from the Company's statement of affairs.

### **4. Assets**

#### **4.1 Plant and Equipment**

The Plant & Machinery consisted of 27 Bespoke Wheel Pallets for transporting used wheel pans and 8 Stillages. These items were on site at a customer's premises. Our agents recovered and sold the items realising £1,130 plus VAT less costs for the benefit of the liquidation.

#### **4.2 Cash in client account**

An amount of £837.60 from a customer of the Company was realised pre appointment and was paid in a Barber Harrison and Platt client account. This has now been transferred into the liquidation bank account

#### **4.3 VAT refund**

From reviewing the books and records it would appear that the Company is due a refund in respect of VAT payable from HM Revenue and Customs for the quarter ended 31 December 2011. Correspondence was entered into with HM Revenue & Customs made enquiries with other Government Departments in relation to potential Crown Set off claims against the VAT. I can confirm that a refund of £5,056.66 has now been received.

#### **4.4 Book debts**

Upon appointment the company records showed debtors with a book value of £11,500 which related to one disputed debt. Correspondence has been entered into with the debtor however we have not received any payment. The joint liquidators will review the debt and make a decision regarding whether it is commercially viable to instruct solicitors to pursue the debt.

#### **4.5 Miscellaneous Receipts**

An amount of £1.73 has been received in respect of Gross Bank interest.

### **5. Investigations**

Within six months of my appointment as liquidator, I am required to submit a confidential report to the Secretary of State to include any matters which have come to my attention during the course of my work which may indicate that the conduct of any past or present director would make him unfit to be concerned with the management of the company. I would confirm that my report has been submitted

### **6. Creditors**

#### **6.1 Secured Creditors**

There are no secured creditors.

#### **6.2 Preferential Creditors**

The joint liquidators are not aware of any preferential creditors.

#### **6.3 Unsecured Creditor**

Unsecured creditors, as estimated in the director's statement of affairs, totalled £77,259.83 To date we have received claims of £79,597.54 in respect of unsecured creditors.

#### **6.4 Section 176A (2)a of the Insolvency Act 1986**

Section 176A(2)a of the Insolvency Act 1986 provides that where a qualifying floating charge has been created on or after 15 September 2003, the Liquidator must make a prescribed part of the company's net property available for the satisfaction of the unsecured debt.

There is no floating charge so the prescribed part does not apply.

#### **7. Dividend Prospects**

It is currently unlikely that a dividend will be paid to any class of creditor. Any dividend payable will be dependent upon the realisation of assets which are not currently known to the Joint liquidator.

#### **8. E.C. Regulations**

The E.C. Regulations applies to this case, and these proceedings are main proceedings as defined in Article 3 of the E.C. Regulations

#### **9. Bordereau**

The case was bonded for £25,000 on 7 March 2012

#### **10. Payments & Expenses**

Details of payments made during the period of this report as shown on the enclosed receipts and payment abstract and detailed Time charge-out and disbursement summary. Should you require any explanations over and above those given below, please contact my colleague, Oliver Adams in the first instance

##### **10.1 Joint Liquidators Remuneration**

At the meeting of creditors held on 7 February 2012, it was agreed that the Statement of Affairs fee of £5,000, plus VAT and disbursements in respect of work undertaken up to and including the Section 98 meeting be approved by the creditors and that the Joint Liquidators remuneration will be fixed by reference to the time properly given by them and their staff in attending to matters arising in the winding up. The statement of affairs fee has now been discharged in full

It was resolved that in respect of disbursements, the joint liquidators be authorised to draw disbursements, including disbursements for services provided by their firm (defined as Category 2 disbursements in Statement of Insolvency Practice 9), in accordance with their firms' policies, details of which accompanied the information presented to the creditors meeting.

Time charged by Barber Harrison & Platt for the period of this report amounts to 11 90 hours totalling £1,637.50 which is an average hourly rate of £137.61 per hour. I have drawn liquidator's fees totalling £1,000 plus VAT during the period of this report.

Time charged by Barber Harrison & Platt for the period of this report amounts to 70.70 hours totalling £10,304 which is an average hourly rate of £145.74 per hour. I have drawn liquidator's fees totalling £1,000 plus VAT during the liquidation.

Attached to this report at appendix 2 is a charge out summary detailing the time charged in the period.

### **Explanatory notes to the summary of time costs**

#### **Administration and Planning**

Work performed includes: Preparing the documentation and dealing with the formalities of appointment, statutory notifications and advertising, preparing documentation required, dealing with all routine correspondence, maintaining physical case files and electronic case details on IPS, review and storage, case bordereau, case planning and administration, preparing reports to members and creditors, convening and holding meetings of members and creditors.

#### **Realisation of Assets**

Work performed includes identifying, securing and insuring the assets, dealing with any sale of the business, dealing with any retention of title claims over the assets, transition of contracts, property issues, collecting the debts and disposal of the stock and other assets.

#### **Investigations**

Work performed includes investigation of the company's affairs in accordance with Statement of Insolvency Practice 2 and the submission of a report to the Insolvency Service in accordance with the Company Directors Disqualification Act 1986

#### **Creditors**

Work Performed includes setting up of our creditor records for secured, preferential and non-preferential creditors and for the employees, communication with the creditors/employees after our appointment by telephone, e-mail and letter, as required, dealing with creditors/employee correspondence and telephone calls and, where appropriate, agreeing creditors/employees claims in the insolvency proceedings and distribution of funds. Work also includes providing reports to Banks/secured creditors as necessary.

A copy of 'A Creditors Guide to Liquidators' Fees' published by the Association of Business Recovery Professionals and 'A Statement of Insolvency Practice 9 (Revised)' together with an explanatory note which shows Barber Harrison & Platt's fee policy are attached to this report at appendix 3.



## **10.2 Liquidators Disbursements**

Liquidators' disbursements of £352 have been incurred in respect of disbursements relating to the Creditors Voluntary Liquidation. A breakdown of the disbursements incurred can be seen on the attached charge out schedule at appendix 2.

## **10.3 Solicitors Fees**

No solicitors have been instructed in relation to the liquidation.

## **10.4 Agents Fees**

Commercial Vehicle Auctions Limited of Doncaster were instructed with regards to the valuation and sale of the Plant & Machinery. They have been instructed based upon their normal charge out rates and have received £500 plus VAT to date which is detailed on the attached receipts and payments account

It is not expected that any further fees will be paid to Commercial Vehicle Auctions Limited.

## **10.5 Request for further Information & Creditors Right of 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.

## **11. Conclusion**

I can advise that the liquidation cannot yet be brought to a close as collection of the book debt ledger is still ongoing. A further report will be sent to all known creditors at the second anniversary of my appointment, or upon completion of the liquidation.

I hope that the above information is of value to you as members & creditors. Should you require any further information or explanation regarding this report then please do not hesitate to contact me in writing.



**G D Peckett**  
**Joint Liquidator**

**26 March 2014**

**APPENDIX 1**

**JOINT LIQUIDATORS' RECEIPTS AND PAYMENTS ACCOUNT  
FOR THE PERIOD 7 FEBRUARY 2013 TO 6 FEBRUARY 2014**

**AAG SITE SERVICES LIMITED**  
(In Liquidation)

**JOINT LIQUIDATORS' RECEIPTS AND PAYMENTS ACCOUNT**

	Statement of affairs £	From 07/02/2013 To 06/02/2014 £	From 07/02/2012 To 06/02/2014 £
<b>RECEIPTS</b>			
Plant & Machinery	2,000 00	0 00	1,130.00
Book Debts	11,500 00	0 00	0 00
VAT Refund	6,025 47	5,056 66	5,056.66
Cash at Bank	837 60	0 00	837.60
Bank Interest Gross		0.89	2 58
Vat Payable		0 00	226.00
Vat Control Account		1,033 33	907.33
		<u>6,090 88</u>	<u>8,160.17</u>
<b>PAYMENTS</b>			
Bank Interest Gross		0 00	0.85
Preparation of S of A.		400 00	1,566.67
Office Holders Fees		1,833 33	1,833.33
Office Holders Expenses		2,600 00	2,600.00
Agents/Valuers Fees		0 00	500.00
Trade & Expense Creditors	(75,317.85)	0 00	0 00
A.A.G. Finance Limited	(1,766.98)	0.00	0.00
AAG Systems Limited	(175.00)	0 00	0.00
Ordinary Shareholders	(1,000.00)	0 00	0 00
Vat Receivable		966 67	1,300 00
		<u>5,800 00</u>	<u>7,800 85</u>
<b>BALANCE - 06 February 2014</b>			<b>359.32</b>

Gareth David Peckett  
Joint Liquidator

**APPENDIX 2**

**SIP 9 TIME CHARGE OUT AND DISBURSEMENT SUMMARY  
FOR THE PERIOD 7 FEBRUARY 2013 TO 6 FEBRUARY 2014**

AAG Site Services Limited - In liquidation  
Joint Trustees - SIP 9 Time & charge-out summaries

Time analysis from 7 February 2012 to 6 February 2014

	Partner		Senior Manager		Manager		Other Senior Professionals		Assistance & Support Staff		Total		Av rate £/hr
	hrs	£	hrs	£	hrs	£	hrs	£	hrs	£	hrs	£	
Administration and Planning	-	-	9.10	1,820.00	5.25	543.75	40.10	5,358.50	0.30	25.50	54.75	7,747.75	141.51
Investigations	-	-	1.20	240.00	-	-	3.50	472.50	-	-	4.70	712.50	151.60
Realisation of Assets	-	-	4.60	920.00	-	-	5.50	742.50	-	-	10.10	1,662.50	164.60
Creditors	-	-	0.40	80.00	-	-	0.75	101.25	-	-	1.15	181.25	157.61
<b>Total</b>	-	-	<b>15.30</b>	<b>3,060.00</b>	<b>5.25</b>	<b>543.75</b>	<b>49.85</b>	<b>6,674.75</b>	<b>0.30</b>	<b>25.50</b>	<b>70.70</b>	<b>10,304.00</b>	<b>145.74</b>
<b>Av (£/hr)</b>		<b>0.00</b>		<b>200.00</b>		<b>103.57</b>		<b>133.90</b>		<b>85.00</b>		<b>145.74</b>	

Disbursements analysis (Including SIP 9 category 2 disbursements) from 7 February 2012 to 6 February 2014

Date	Description	Amount
31/01/2012	Statutory advertising	76.50
15/02/2012	Statutory advertising	76.50
15/02/2012	Statutory advertising	76.50
12/02/2012	Statutory advertising	76.50
07/03/2012	Bordereau	40.00
01/03/2013	Document upload fee	6.00
	<b>Total</b>	<b>352.00</b>

AAG Site Services Limited - In liquidation  
 Joint Trustees - SIP 9 Time & charge-out summaries

Time analysis from 7 February 2013 to 6 February 2014

	Partner		Senior Manager		Manager		Other Senior Professionals		Assistance & Support Staff		Total		Av rate £/hr
	hrs	£	hrs	£	hrs	£	hrs	£	hrs	£	hrs	£	
Administration and Planning	-	-	-	-	-	-	8.00	1,085.00	-	-	8.00	1,085.00	135.63
Investigations	-	-	0.10	20.00	-	-	3.50	472.50	-	-	3.60	492.50	136.81
Realisation of Assets	-	-	0.20	40.00	-	-	-	-	-	-	0.20	40.00	200.00
Creditors	-	-	0.10	20.00	-	-	-	-	-	-	0.10	20.00	200.00
<b>Total</b>	-	-	<b>0.40</b>	<b>80.00</b>	-	-	<b>11.50</b>	<b>1,557.50</b>	-	-	<b>11.90</b>	<b>1,637.50</b>	<b>137.61</b>
<b>Av (£/hr)</b>	<b>0.00</b>		<b>200.00</b>		<b>#DIV/0!</b>		<b>135.43</b>		<b>#DIV/0!</b>		<b>137.61</b>		

Disbursements analysis (Including SIP 9 category 2 disbursements) from 7 February 2013 to 6 February 2014

Date	Description	Amount
01/03/2013	Document upload fee	6.00
	<b>Total</b>	<b>6.00</b>

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**APPENDIX 3**

**BARBER HARRISON & PLATT CHARGE-OUT RATES AND DISBURSEMENTS  
CREDITORS GUIDE TO FEES**

## CHARGE-OUT RATES AND DISBURSEMENTS 2014

In accordance with the Joint Insolvency Committee Statement of Insolvency Practice Number 9 ("SIP 9") we would confirm that this firm's policy as regards charging for time costs and disbursements incurred is as follows.

### CHARGE-OUT RATES

<b>Grade</b>	<b>Standard Rate per hour</b>
Insolvency Consultant	£250
Insolvency Senior Manager	£200
Insolvency Manager	£145
Insolvency Case Manager	£135
Cashier / Other administrators	£85

In cases that require a significant amount of investigation or where the ability to pay fees is dependent on realising assets that are considered irrecoverable at the outset, an uplift of 50% may be applied to the above rates. This will be referred to as the Premium Rate and will be requested where our costs would otherwise be at risk. Creditors will be advised on a case by case basis when approval for these higher rates is being sought and such Premium Rates will only be payable out of the enhanced recovery. The department charges in minimum time units of 6 minutes.

In certain cases specialist in-house advice may be appropriate and the following hourly rates will apply:

Tax Partner	£250
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It is not this firm's policy to charge separately for secretarial or most administrative staff

We would point out that charge-out rates do change from time to time. We will advise any material changes to charge-out rates either when seeking approval of creditors or the creditors committee to draw fees, or with the next annual meeting report if a resolution based on time costs has already been passed.

### DISBURSEMENTS

This firm recharges Category 1 disbursements in accordance with SIP 9 as and when they are incurred. These charges do not require specific authorisation but details can be provided on request. However, other disbursements are classed as Category 2 and require specific approval by creditors or any creditors' committee. This firm does not attempt to recover all such disbursements from the individual case but does seek approval to the recharges on the following page



<b>Disbursement</b>	<b>Rate</b>	<b>Basis of charge</b>
<b>Staff Mileage</b>	£0 40 per mile	This is charged regardless of fuel type and engine size on journeys made outside of the boundaries of the City of Sheffield. Journeys within the city boundaries are not recharged.
<b>Room Hire</b>	£50	This charge is for the use of a meeting room and is levied per meeting. Where a room has to be hired elsewhere, this will be a Category 1 charge and is likely to be well in excess of the internal charge.
<b>Storage</b>	£4.00 per box plus £0.125 per box per wk	Books and records have to be stored for a certain period of time. Off site storage is recharged by an independent storage company and will be recovered under Category 1. A charge is however levied for internal storage and the provision of storage boxes at: <ul style="list-style-type: none"> <li>• Boxes - £4.00 per box;</li> <li>• Storage - £0.125 per box per week.</li> </ul>
<b>Company Searches</b>		
• Insolvency department standard pack.	£25	These charges are levied to all clients of the firm and are based on the direct cost plus an uplift to cover administration costs of collating the information. We believe the rates to be comparable to outside agencies.
• Company Report		
• Accounts		
• Annual Return		
• Accounts	£10	
• Annual Return	£5	
• Mortgage summary	£5	
• Company Report	£10	
• Memo and arts	£36	
• Insolvency Status	N/C	

**BHP Financial Planning Limited ("BHP FP")**

Insurance and pension costs would usually be referred to the Alexander Forbes Group, or another independent insurance company, and such costs would be chargeable under Category 1. However, very occasionally the firm's financial advisor company, BHP FP, is instructed to assist with, for example, disposing of endowment policies. BHP FS usually takes its fees from the commissions arising at market rates, as is normal practice in the insurance and pensions market.

This firm does not attempt to recover the cost of telephone calls/faxes or emails

## 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, explain 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 6 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 7.1, 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 involved 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 each 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-classified) 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.