

The Insolvency Act 1986

Notice of move from administration to dissolution

2.35B

Name of Company
E & L Engineering (Southern) Limited

Company number
03336505

In the High Court of Justice
(full name of court)

Court case number
4695 of 2011

(a) Insert full
name(s) and

address(es) of
administrator(s)

We (a) Jonathan Law
Harrisons Business Recovery and Insolvency
Limited
Waters Edge Business Park,
Modwen Road,
Manchester, M5 3EZ

Paul Boyle
Harrisons Business Recovery and Insolvency
Limited
Waters Edge Business Park,
Modwen Road,
Manchester, M5 3EZ

(b) Insert name and
address of
registered office of
company

having been appointed administrator(s) of (b) E & L Engineering (Southern) Limited, Third Floor,
Goldsmiths House, Broad Plain, Bristol BS2 0JP

(c) Insert date of
appointment
(d) Insert name of
applicant/appointor

on (c) 6 June, 2011 by (d) the director

hereby give notice that the provisions of paragraph 84(1) of Schedule B1 to the Insolvency Act 1986
apply

attach a copy of the final progress report

Signed

Dated

Joint / Administrator(s)

31/5/12

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

Jonathan Law
Harrisons Business Recovery and Insolvency Limited
Waters Edge Business Park,
Modwen Road,
Manchester, M5 3EZ

DX Number

0117 9115011
DX Exchange

FRIDAY



A33 01/06/2012 #123
COMPANIES HOUSE

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When you have completed and signed this form, please send it to the
Registrar of Companies at -
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

**E & L Engineering (Southern) Limited
In Administration**

**Final Progress Report to Creditors
pursuant to Rule 2.110
of the Insolvency Act 1986**

E & L Engineering (Southern) Limited – In Administration
Final Progress Report to Creditors

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E & L Engineering (Southern) Limited – In Administration

Final Progress Report to Creditors

1. GLOSSARY

Administrators	Jonathan Law and Paul Boyle of Harrisons Business Recovery and Insolvency Limited ('Harrisons'), registered office, Waters Edge Business Park, Modwen Road, Manchester, M5 3EZ
Appointor	The sole director, John Freeman (the 'director')
Administration Appointment	The Administration documentation was filed at the High Court of Justice on 6 June 2011 and allocated Court Number 4695 of 2011
Company	E & L Engineering (Southern) Limited (Company Registered Number 03336505) whose registered office is at Third Floor, Goldsmiths House, Broad Plain, Bristol, BS2 0JP ('the Company')

The references in this report to 'Sections', 'Paragraphs' or 'Rules' are to the Insolvency Act 1986, paragraphs of Schedule B1 to the Insolvency Act 1986 and the rules set out in the Insolvency Rules 1986 (all as amended or superceded) respectively

2. INTRODUCTION

We Jonathan Law and Paul Boyle of Harrisons were appointed as Joint Administrators of the Company on 6 June 2011 upon the director filing a Notice of Appointment of an Administrator at the High Court of Justice in accordance with Paragraph 22

We can advise that pursuant to Paragraph 100(2) our functions as Joint Administrators are being exercised by either or both of us

In accordance with Rules 2.110 of the Insolvency Act 1986 we now provide our final report to creditors on the progress of the administration. This should be read in conjunction with our previous reports

3. PURPOSE AND PROGRESS OF THE ADMINISTRATION

3.1 Purpose of the Administration

The purpose of the Administration, in accordance with Paragraph 3(1), is to rescue the Company as a going concern or, if that did not prove possible, to achieve a better result for the Company's creditors as a whole than would be likely if the Company were wound up (without first being in Administration)

3.2 Progress of the Administration

3.2.1 Receipts and Payments Account

Attached at Appendix I is a summary of our receipts and payments since the commencement of the Administration on 6 June 2011 to 31 May 2012. The balance in the account has been prorated to pay additional fees to the agent and solicitor as detailed in paragraph 3.3.2 and 3.3.3 respectively

E & L Engineering (Southern) Limited – In Administration

Final Progress Report to Creditors

3.2.2 Asset Realisations

We report only on matters that have progressed since our last report

3.2.2.1 Factored Book Debts

As you are aware the book debts of the Company were factored to Team Factors Limited ('TFL') under the terms of a factoring agreement. As detailed in our previous report, TFL advised that they had been paid in full including termination charges and reassigned the remaining disputed book debt ledger to us totaling £79,828. We immediately passed this ledger to debt collection agency Credebt who only managed to collect £986. They confirmed that no further recoveries could be made from the remaining disputed ledger.

TFL also advised that they were holding surplus funds of £18,000. We confirm that on 5 January 2012, the sum of £18,084 was passed to us.

3.2.2.2 Secured Creditors

The Chattel Mortgage over all present and future equipment, owing by the Company or the director in favour of Michael John Lee ('MJL') and Barry James Evans ('BJE') under or in connection with the share purchase agreement dated 24 September 2010 was created on 24 September 2010 and registered at Companies House on 9 October 2010. We confirm that MJL and BJE have been paid the sum of £25,000 under the terms of settlement.

A fixed and floating charge over all monies due or to become due from the Company to TFL was created on 14 October 2010 and registered on 16 October 2010. We confirm that TFL have been paid in full under the terms of their factoring agreement.

3.3 Other Matters

3.3.1 Joint Administrators' Remuneration & Disbursements

On 12 August 2011 we obtained approval from creditors by Notice of Conduct by Business Correspondence that our remuneration be agreed by reference to time properly given to us and our staff in attending to matters arising in the Administration. At the same time approval was granted to us to recover the costs of all disbursements extending to Category 2 disbursements as defined by Statement of Insolvency Practice Number 9 ('SIP 9'). These are detailed on the receipts and payments account attached at Appendix I.

Attached at Appendix II for your information is a schedule of our time costs in accordance with SIP 9. To date we have incurred time costs totalling £49,613. Our time costs to deal with the closure of this case will be £5,000 plus VAT. Due to insufficient realisations we have drawn the sum of £20,207 plus VAT and the outstanding balance of £34,406 plus VAT will be written off.

3.3.2 Agent's fee

Following our appointment, we instructed GoIndustry Dovebid, agents and valuers (the 'Agent') to deal with the valuation of the business. Their fee for assisting us in the matter was £1,700 plus VAT of which they have been paid £657 plus VAT. We will pay a further fee of £272 plus VAT to the Agent from the balance held in the account. Due to insufficient realisations the Agent has agreed to write off the remaining balance.

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3.3.3 Solicitor's fee

Following our appointment, we instructed Pitmans solicitors ('Pitmans') to deal with preparing the sale contract for the sale of the business to Centristic Limited as detailed in our previous report. Their fee for assisting us in the matter was £31,788 plus VAT of which they have been paid £6,702 plus VAT. We will pay a further fee of £5,070 plus VAT to Pitmans from the balance in the account. Due to insufficient realisations Pitmans have agreed to write off the remaining balance.

3.3.4 Statement of Affairs

The director has not provided us with a Statement of Affairs in this matter. We do not intend incurring more time pursuing this matter.

3.3.5 Dividend Prospects

Due to poor realisations in this matter, there will be no distribution to any class of creditors.

3.3.6 Investigations

Following our appointment a thorough investigation of the Company and its director was undertaken which revealed the following transactions:

Transfer of £15,000 to Mrs Freeman, the wife of the director

On 25 May 2011, the sum of £15,000 was transferred by BACS payment from the Company's bank account to Mrs Freeman. Mrs Freeman is the wife of the director and she assisted the director with the general administration of the Company. The director has stated that this sum was transferred to his wife whilst he was in hospital so that she could discharge payments such as wages and supplies relating to the Company as they fell due.

Unfortunately, Mrs Freeman is not in position to provide us with evidence of this as she is currently recovering from a major operation.

Purchase of the Company's shares by the director

Prior to the Administration of the Company, a share purchase agreement and chattel mortgage was entered into on 24 September 2010 between MJL and BJE (1) the Company (2) and the director (3) (collectively 'the Sale Documents'). Under the terms of the Sale Documents the Company guaranteed (and secured) as primary obligor the director's obligations to pay the consideration due to MJL and BJE in respect of the director's purchase of their shares in the Company. The Company also agreed, under the Sale Documents, to indemnify MJL and BJE in respect of any default occasioned as a result of the director's failure to pay the consideration due.

The Company, as guarantor, therefore has a right to be indemnified by the director, as the principal debtor, in respect of any losses suffered by it in relation to payments demanded or liabilities incurred under the terms of the Guarantee Documents. The Company has in this case suffered losses of £43,000.

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Purchase of the Company's shares by the director continued

On 23 February 2012, we wrote to the director requesting his proposal for repayment of this amount. The director has stated that he is obtaining his own legal opinion on this matter and to date we have not received a response in this matter.

We are uncertain how successful we would be in recovering any sums relating to these transactions as the director is currently residing abroad, which would make matters extremely costly and difficult to pursue. Also, since we are unable to stipulate how long it would take to deal with these matters, an application would most certainly have to be made to Court to extend the Administration which would incur more time costs. We therefore have concluded that the cost of pursuing these transactions would outweigh any benefit to creditors and therefore will not incur any further time dealing with these matters.

4. JOINT ADMINISTRATORS' PROPOSALS

The following proposals were approved by postal resolution on 12 August 2011.

1. If there are insufficient assets available to enable a distribution to the unsecured creditors, the Joint Administrators will conclude the Administration by application to Court under Paragraph 79 of Schedule B1 of the Insolvency Act 1986. The Company shall then either be wound up compulsorily or dissolved.
2. If it is likely that there will be sufficient assets available to enable a distribution to the unsecured creditors then it is proposed that the Joint Administrators be permitted to conclude the Administration and place the Company into Creditors' Voluntary Liquidation in accordance with Paragraph 83(1) of Schedule B1 of the Insolvency Act 1986 and that Jonathan Law and John Sallabank be appointed Joint Liquidators. On appointment, any act required or authorised to be done by the Liquidators can be done by either one of the proposed Joint Liquidators. In accordance with Paragraph 83(7)(a) and Rule 2.117A(2)(b), creditors may nominate a different person as the proposed Liquidator, provided that the nomination is made after the receipt of the proposals and before the proposals are accepted.
3. If the Joint Administrators consider it appropriate, once realisations have been made they may, in the interests of creditors, consider an alternative process for distribution such as an application to Court for permission to make a distribution to unsecured creditors within the Administration pursuant to Paragraph 65 of Schedule B1 of the Insolvency Act 1986. Should this course of action be considered appropriate, the Joint Administrators may conclude the Administration in accordance with Paragraph 80 of Schedule B1 of the Insolvency Act 1986.
4. If there are insufficient assets available to enable a distribution to the unsecured creditors the Joint Administrators shall conclude the Administration pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986, moving from Administration to dissolution. This will be carried out once all matters have been finalised.
5. If there are insufficient funds available to make a distribution to unsecured creditors and a creditor indicates its written intention to petition for the winding up of the Company or provides a written request that the Company be placed into compulsory winding up for the purpose of the Official Receiver conducting an investigation, the Joint Administrators are granted authority to exit the Administration under Paragraph 80 of Schedule B1 of the Insolvency Act 1986 thereby creating the opportunity for a creditor to petition for a compulsory winding up order.
6. In accordance with Paragraph 98 of Schedule B1 of the Insolvency Act 1986 the Joint Administrators are discharged from any liability with regards to the Company and granted their release from office when the proceedings come to an end and upon the filing of the appropriate documentation at Companies House.

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5. CONCLUSION OF ADMINISTRATION

The administration of this matter is now complete and we intend to conclude the Administration pursuant to Paragraph 84 of Schedule B1 of the Insolvency Act 1986 by moving from Administration to Dissolution Form 2 35B, Notice of Move from Administration to Dissolution, has been filed at Companies House

If you have any questions in relation to this report please do not hesitate to contact our Bristol office



Jonathan Law
Joint Administrator

31 May 2012

E & L Engineering (Southern) Limited
(In Administration)
Joint Administrators' Abstract of Receipts & Payments
To 31/05/2012

S of A £		£	£
	SECURED ASSETS		
	Plant & Machinery	39,000 00	
2,500 00	Goodwill	2,500 00	
74,481 00	Factored Book Debts	NIL	
(24,000 00)	Less Amount due to Team Factors Ltd	NIL	
39,000 00	Equipment	NIL	
(130,000 00)	Less amount due to B Evans & M Lee	<u>NIL</u>	41,500 00
		-	
	SECURED CREDITORS		
	B Evans/M Lee - Chattel Mortgage	<u>25,000 00</u>	-25,000 00
	ASSET REALISATIONS		
	Book Debts	986 40	
18,000 00	Corporation tax refund	NIL	
	Surplus from Team Factors Limited	18,084 41	
	Bank Interest Gross	10 20	
	Sundry Refunds	<u>736 55</u>	19,817 56
	COST OF REALISATIONS		
	Bordereaux	330 00	
	Sundry Expenses	21 75	
	Administrators Fees	20,207 61	
	Carriage Costs	85 36	
	Search costs	28 00	
	Agents/Valuers Fees (1)	657 00	
	Debt Collection fees	59 18	
	Pitmans solicitors - fees	6,702 58	
	Pitmans solicitors disbursements	294 00	
	Stationery & Postage	1,684 23	
	Travel costs	282 25	
	Storage Costs	6 00	
	Statutory Advertising	63 18	
	Insurance of Assets	<u>551 20</u>	-30,975 34
	PREFERENTIAL CREDITORS		
Uncertain	RPO - employee's claims	NIL	
Uncertain	Employee's claims	<u>NIL</u>	NIL
	UNSECURED CREDITORS		
(150,347 00)	Trade & Expense Creditors	NIL	
Uncertain	RPO - employee's claims	NIL	
Uncertain	Employee's claims	NIL	
(15,259 00)	HMRC - PAYE/VAT	<u>NIL</u>	NIL
	DISTRIBUTIONS		
(2 00)	Ordinary Shareholders	<u>NIL</u>	NIL
(185,627.00)			<u><u>5,342 22</u></u>

Jonathan Law
Joint Administrator

EANDL

E & L Engineering

SIP 9 - Time & Cost Summary

Period 06/06/11 31/05/12

Time Summary

Classification of work function	Hours					Time Cost (£)	Average hourly rate (£)
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & planning	3 00	38 10	10 85	40 25	92 45	15,566 00	168 37
Investigations	1 00	0 60	0 00	0 00	1 60	485 00	303 13
Realisations of assets	0 00	23 90	0 40	0 50	24 80	5 487 50	221 27
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Creditors	0 00	22 60	12 75	21 00	56 35	9 172 50	162 78
Case specific matters	0 00	10 10	0 00	0 00	10 10	2,272 50	225 00
Brought forward time	0 00	0 00	0 00	0 00	0 00	0 00	0 00
In House Legal	45 50	0 00	4 70	0 00	50 20	16,630 00	331 27
Total Hours	49 50	95 30	28 70	61 75	235 50	49 613 50	210 67
Total Fees Claimed						20,297 61	

1. Harrisons Business Recovery and Insolvency Limited fee policy

Charge out rates and policy regarding staff allocation, support staff, the use of subcontractors and the recharge of disbursements

The following information relating to the policy of Harrisons Business Recovery and Insolvency Limited is considered to be relevant -

2. Charge out rates

With effect from 1 April 2011 the following hourly charge out rates apply to all assignments undertaken by Harrisons Business Recovery and Insolvency Limited -

	£
Directors	300-400
Managers	200-275
Senior Case Supervisors	175-200
Case Supervisors	100-160
Assistants	75-140

3. Staff allocation, support staff & the use of subcontractors

We take an objective and practical approach to each assignment which includes active director involvement from the outset. Other members of staff will be assigned on the basis of experience and specific skills to match the needs of the case. Time spent by secretarial and other support staff on specific case related matters, e.g. report despatching, is charged. Details of any subcontractor(s) used are given in the attached report.

4 Professional advisors

Details of any professional advisor(s) used are given in the attached report. Unless otherwise indicated the fee arrangement for each will be based on hourly charge out rates, which are reviewed on a regular basis, together with the recovery of relevant disbursements.

The choice of professional advisors will be based around a number of factors including, but not restricted to, their expertise in a particular field, the complexity or otherwise of the assignment and their geographical location.

5. Disbursements

Specific expenditure relating to the administration of a particular case is recoverable without approval and is referred to as "category 1 disbursements". Category 1 disbursements will generally comprise supplies of incidental services specifically identifiable to the case, typically for items such as identifiable telephone calls, postage, case advertising, invoiced travel and properly reimbursed expenses. Included will be services specific to the case where these cannot practically be provided internally such as printing, room hire and document storage.

Where we propose to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by us) they must be disclosed and be authorised by those responsible for approving the insolvency practitioners' remuneration. Such expenditure is referred to as a "category 2 disbursement". The following items of expenditure are recharged on this basis and are believed to be in line with the cost of external provision -

Photocopying	15p a sheet
Letterhead	12p a sheet
Fax	40p a sheet
Mileage	65p per mile
Meeting Room	£50
Registered Office Fee	£60 per annum
Document Storage	Storage charge of £3 per box per quarter

A CREDITORS' GUIDE TO ADMINISTRATORS' FEES ENGLAND AND WALES

1 Introduction

1.1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually 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 administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explain the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

2 The nature of administration

2.1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective:

- rescuing the company as a going concern, or
- achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration, or
- if the administrator thinks neither of these objectives is reasonably practicable, realising property in order to make a distribution to secured or preferential creditors.

3 The creditors' committee

3.1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

4 Fixing the administrator's remuneration

4.1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed:

- as a percentage of the value of the property which the administrator has to deal with,
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, 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 administrator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the administrator. It is for the creditors' 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, and where it is a set amount, to determine that amount. Rule 2.106 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 administrator,
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the property which the administrator has to deal with.

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator 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.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets. In this case, if there is no creditors' committee, or the committee does not make the requisite determination, the remuneration may be fixed by the approval of –

- each secured creditor of the company, or
- if the administrator has made or intends to make a distribution to preferential creditors –
 - each secured creditor of the company, and
 - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval, having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

5 Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator 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 Approval of pre-administration costs

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Disclosure of such costs must be included in the administrator's proposals and should follow the principles and standards set out in section 7.

6.2 Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in paragraph 4.3 apply, the determination may be made by the same creditors as approve the administrator's remuneration.

6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

7 What information should be provided by the administrator?

7.1 When fixing bases of remuneration

7.1.1 When seeking agreement for the basis or bases of remuneration, the administrator 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.

7.1.2 If any part of the remuneration is sought on a time costs basis, the administrator 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.

7.1.3 The administrator 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 administrator or his or her staff.

7.1.4 If work has already been carried out, the administrator 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 administrator 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 administrator should also provide details and the cost of any work that has been subcontracted out that could otherwise be carried out by the administrator or his or her staff.

7.2 After the bases of remuneration have been fixed

The administrator is required to send progress reports to creditors at specified intervals (see paragraph 8.1 below). When reporting periodically to creditors, in addition to the matters specified in paragraph 8.1, the administrator 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 administrator 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 administrator 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 administrator should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the administrator or his or her staff.

7.3 Disbursements and other expenses

7.3.1 Costs met by and reimbursed to the administrator in connection with the administration 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 administration 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 administrator or his or her staff.
- Category 2 disbursements. These are costs that are directly referable to the administration but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the administration on a proper and reasonable basis, for example, business mileage.

Category 1 disbursements can be drawn without prior approval, although the administrator 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 administrator's remuneration. When seeking approval, the administrator should explain, for each category of expense, the basis on which the charge is being made.

7.3.2 The following are not permissible:

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

8 Progress reports and requests for further information

8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include:

- details of the basis fixed for the remuneration of the administrator (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 administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the administrator's remuneration and expenses.

8.2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court.

8.3 The administrator 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 administration or might be expected to lead to violence against any person, or
- the administrator 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 administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information.

9 Provision of information – additional requirements

The administrator must provide certain information about time spent on a 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 administrator 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 administrator'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 administrator, and requests must be made within two years from vacation of office.

10 What if a creditor is dissatisfied?

10.1 If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the administrator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court

10.2 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 administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing

10.3 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 as an expense of the administration

11 What if the administrator is dissatisfied?

11.1 If the administrator considers that the remuneration fixed by the creditors' committee 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 committee or the creditors 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 creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's 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 as an expense of the administration

12 Other matters relating to remuneration

12.1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors

12.2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court

12.3 If a new administrator 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 administrator until a further determination, resolution or court order is made

12.4 Where the basis of the remuneration is a set amount, and the administrator 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 administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them

13. Effective date

This guide applies where a company enters administration 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 administrator,
- the administrator'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 administrator'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 administrator 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 administrator'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 administrator 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 subdivided) 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 administrator 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.