

The Insolvency Act 1986

**Administrator's Progress Report**

|   |
|---|
| <b>Name of Company</b><br>NORTHERN PLASTICS LIMITED |
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|                                   |
|-----------------------------------|
| <b>Company number</b><br>05523001 |
|-----------------------------------|

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|---|
| <b>In the</b> High Court of Justice Chancery<br>Division and Liverpool District<br>Registry<br><div style="text-align: right;">[full name of court]</div> |
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|   |
|---|
| <b>Court case number</b><br>128 OF 2014 |
|---|

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

~~[[Name]]~~ (1) DAVID SIMON MATTHEW EDWARDS  
 OF AARON & PARTNERS LLP  
 GROSVENOR COURT, FOREGATE STREET, CHESTER CH1 1HG

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

(2) Insert dates

|                                  |
|----------------------------------|
| <b>from</b><br>(2) 3 AUGUST 2014 |
|----------------------------------|

|                                   |
|-----------------------------------|
| <b>to</b><br>(2) 17 DECEMBER 2014 |
|-----------------------------------|

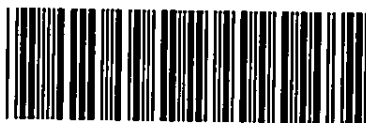
Signed *Edwards*  
~~[[Name]]~~ [Administrator(s)]

Dated *19 12 - 2014.*

**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  
 be visible to

|   |                     |
|---|---------------------|
| Aaron & Partners LLP (Ref SE JLC NOR81 1)     |                     |
| 5-7 Grosvenor Court, Foregate Street, Chester |                     |
| CH1 1HG                                       | Tel 01244 405 555   |
| DX Number 19990                               | DX Exchange Chester |



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 COMPANIES HOUSE

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

IN THE HIGH COURT OF JUSTICE

CASE NO: 128 of 2014

IN INSOLVENCY

IN THE MATTER OF NORTHERN PLASTICS LIMITED (Co. No. 05523001)

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

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**ADMINISTRATOR'S REPORT**

**UNDER RULE 2.110 OF THE INSOLVENCY RULES 1986**

**UPON THE END OF THE ADMINISTRATION**

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- 1 This Administration commenced on 3 February 2014 and ended on 17 December 2014 with the Company moving into Creditors Voluntary Liquidation pursuant to paragraph 83 of Schedule B1 to the Insolvency Act 1986 ("the Act")
- 2 The Company is Northern Plastics Limited registered at Companies House with number 05523001
- 3 The Company's registered office was formerly at Perseverance Works, Dewsbury Road, Elland, West Yorkshire, HX5 9AZ and is now at 5-7 Grosvenor Court, Foregate Street, Chester, Cheshire, CH1 1HG
- 4 David Simon Matthew Edwards of Aaron & Partners LLP, 5-7 Grosvenor Court, Foregate Street, Chester CH1 1HG was appointed sole Administrator of the Company on 3 February 2014. There has been no change in office-holder
- 5 The Administrator was appointed by 1878 Workshops LLP ("1878") of Dee House, Hampton Court, Tudor Road, Runcorn, Cheshire WA7 1TT, as holder of a qualifying floating charge
- 6 The Administrator was appointed Liquidator pursuant to section 83 of Schedule B1 to the Act with effect from 17 December 2014 following the registration of Form 2 34B at Companies House. The office-holder shall be referred to as the Administrator throughout this report
- 7 The Company traded under no other name so far as the Administrator is aware
- 8 The sole director of the Company is Leslie Arthur O'Hare. There is no company secretary
- 9 All issued shares in the Company are held by Ardeth Group Ltd ("AGL") (company number 06489427) which entered administration on the same day. The Administrator is also administrator of AGL. All issued shares in AGL are held by 1878. Mr O'Hare is a Member of 1878. The second Member of 1878 is 1878 Investments Ltd of which Mr O'Hare is sole director and shareholder
- 10 No extension to the initial period of the appointment has been sought

- 11 All documentation referred to in this report including the Statement of Affairs, SIP16 Report and Statement of Proposals can be downloaded using case sensitive password 3N68o4R2 from [www.aaronandpartners.com/nor001](http://www.aaronandpartners.com/nor001). Alternatively, copies can be posted or emailed upon request to [jan.chillery@aaronandpartnes.com](mailto:jan.chillery@aaronandpartnes.com) or by telephoning 01244 405555 and asking for Jan Chillery or by writing to the Administrator at Aaron & Partners LLP, 5-7 Grosvenor Court, Foregate Street, Chester CH1 1HG

Circumstances giving rise to the appointment of the Administrator

- 12 These are described within the Administrator's Statement of Proposals

Purpose of Administration

- 13 In his Statement of Proposals, deemed approved on 10 April 2014, the Administrator stated that his statutory purposes in this Administration are (1) to realise property in order to make a distribution to a secured creditor, namely 1878 and (2) to effect a more advantageous realisation of assets than in a liquidation

- 14 The Administrator believes these purposes have been achieved

Summary of Administrator's Proposals

- 15 The Administrator proposed to

- a obtain approval of fees and expenses of the Administration from 1878 as secured creditor and not to convene a general meeting of creditors for that purpose,
- b investigate the conduct of management of the Company, as required under statute,
- c enquire as to whether there may be claims for transactions at an undervalue, preferences, extortionate credit transactions or the invalidity of floating charges,
- d conclude his other statutory tasks as Administrator,
- e make appropriate distribution to unsecured creditors and secured creditor, once expenses and Prescribed Part were known,

- 16 There were no major amendments or deviations from the above

- 17 The Administrator considered it appropriate to move the Company into Creditors Voluntary Liquidation in order to make the distribution to unsecured creditors. Further detail is below

Summary of the Administration

- 18 During the Administration the Administrator has performed the work described in paragraph 41 below, including realisation of assets, investigation into the conduct of the Company, and his statutory tasks as Administrator
- 19 The Company's assets at commencement of the Administration were goodwill, trade debtors, stock/work in progress, computing equipment / fixtures and fittings, and a 100% shareholding in a dormant subsidiary company with no assets called Engenda Manufacturing (Plastics) Ltd ("**EMPL**")

- 20 The Administrator transferred the Company's assets to EMPL via a hive down at a price of £178,000 plus 25% of recoveries from a disputed debt (see below) £178,000 was paid by EMPL by the issue to the Company of 178,000 ordinary shares in EMPL on 4 February 2014 The Administrator immediately sold all EMPL shares to Engenda Group Ltd of Dee House, Hampton Court, Manor Park, Runcorn, Cheshire, WA7 1TT for £178,000 which sum was paid immediately in full in cash on 4 February 2014
- 21 The disputed debt appears to be unrecoverable The Administrator will seek recovery of VAT paid
- 22 Of the £178,000 paid, £34,000 related to assets subject to 1878's fixed charge and £144,000 to assets subject to its floating charge The proceeds were considerably less than the amount owing to 1878 and secured by the charges
- 23 The proceeds subject to the fixed charge held by 1878 were due to 1878 and £34,000 was paid by the Administrator on 6 February 2014
- 24 An interim payment on account of £83,000 was made on 17 February 2014 by the Administrator to 1878 as floating charge holder A sufficient sum was retained to cover the Prescribed Part expected to be payable to unsecured creditors
- 25 The Company did not own or lease its trading premises but occupied the premises of its sister company Ardeth Engineering Ltd ("AEL") which was also placed in administration on 3 February 2014 (with the Administrator also administrator of AEL)
- 26 The Administrator has also received £11,355 40 from Company bank accounts Deposit interest has been accrued in the sum of £23 27 during the Administration This means floating charge asset realisations are £155,378 67 during the Administration
- 27 Further detail about the above transactions is contained in the Administrator's SIP16 report and Statement of Proposals
- 28 VAT charged on administration fees will be recovered prior to conclusion of the liquidation
- 29 An abstract receipts and payments account for the Administration is attached to this report

#### Outcome of the Administration

- 30 The Administration has been successfully concluded and the Company has moved into Creditors Voluntary Liquidation for the purpose of making distribution to creditors
- 31 At the end of the Administration the Administrator held £50,554 18 on behalf of the Company in a designated interest-bearing deposit account in accordance with best practice
- 32 No assets remain to be realised

#### Basis of Remuneration

- 33 Pursuant to the Administrator's Statement of Proposals and Rule 2 106 of the Insolvency Rules 1986 the basis of the Administrator's remuneration is by reference to the time properly given by the Administrator and his staff to matters arising in the Administration
- 34 Charge rates applicable during the period are stated at the end of this report
- 35 The Administrator proposes to make no charge for category 2 disbursements save in the case of postage which shall be re-charged at actual postage costs

36 No other insolvency practitioner has charged fees in respect of this administration

# Costs

37 The Administrator's estimate of pre-administration costs was £12,500 plus VAT and disbursements over the four group companies for which he was appointed (the Company, AGL, AEL and Gage Engineering Ltd) The Administrator's estimate of post-administration costs over the four group companies was £35,000 - £50,000 plus VAT and disbursements

38 Actual pre-administration costs in this Administration totalled £5,989 15 and comprise

- a Fees of £4,983 40 plus VAT of £996 68,
- b Travel expenses of £7 56 plus VAT of £1 51

39 Work done by the Administrator and his staff prior to commencement of the administration primarily related to the arrangements necessary for "pre-pack sale" of the group assets in order to preserve their value The Administrator believes that the sales thereby achieved were more advantageous to each company in administration than would have been achieved had the sales been effected post-administration and therefore furthered the objectives of the Administration

40 Actual post-administration costs incurred in this Administration are £16,465 31 including VAT Costs comprise

- a Remuneration charged by the Administrator during the Administration was £13,323 00 (excluding VAT) including £630 00 which was billed but pending payment as at 17 December 2014 Remuneration charged in the first six months of the Administration was £11,703 00 and remuneration charged in the period from 3 August 2014 to end of the Administration was £1,620,
- b Expenses totalling £447 26 (excluding VAT) being £442 26 incurred in the first six months of the Administration and £5 incurred in the period from 3 August 2014 to end of the Administration These comprise
  - i Advertisement £75 50
  - ii Court fee £35 00
  - iii Insolvency practitioner's bond £260 00
  - iv Travel costs £11 76
  - v Companies House search fees £5 00
  - vi Telegraphic transfer fee £60 00
- c VAT of £2,695 05 on fees and disbursements (recoverable)

41 These charges cover work done in the Administration including

- a Administration and planning, including filing of statutory documents with Companies House and the Court, handling receipts and payments and general correspondence,
- b Realisation of assets, including communications with banks, Engenda Group Ltd and other third parties, appropriate enquiry into whether there were claims for transactions at undervalue, preferences, extortionate credit transactions or invalid floating charges (none discovered),

- c Communications with creditors including verification of creditors' claims, dealing with creditors queries and reporting to creditors, including the SIP16 report and the Administrator's Statement of Proposals,
  - d Investigation into the conduct of the Company in the run up to the Administration, pursuant to the Administrator's statutory obligations under the Company Directors' Disqualification Act 1986, including preparation and filing of appropriate documentation with the Department of Business Innovation and Skills,
  - e Matters specific to this case including communications with the Supervisor of the Company's Voluntary Arrangement
- 42 The Administrator states that pursuant to Insolvency Rule 2 48A creditors have a right to request information, subject to conditions The Administrator states that pursuant to Insolvency Rule 2 109 creditors have a right to challenge the Administrator's remuneration, subject to conditions The text of Rules 2 48A and 2 109 is appended to this report
- 43 Tables pursuant to SIP9 Appendix D showing time spent in the Administration are appended to this report, together with guidance to creditors pursuant to SIP9 The tables show time spent in the periods 3 February 2014 to 2 August 2014, 3 August 2014 to 17 December 2014, and whole Administration (3 February 2014 to 17 December 2014)

Prescribed Part

- 44 A distribution to unsecured creditors is anticipated by virtue of the Prescribed Part under section 176A of the Insolvency Act 1986 only Further information as to the Prescribed Part is given within the Administrator's Statement of Proposals

DATED this 23 day of December 2014



D S M Edwards – Administrator and Authorised Insolvency Practitioner (IP No 8244)

Documents appended to this Report

- 1) Abstract receipts and payments account
- 2) Tables of Time and Charge Out Summaries (SIP9 Appendix D)
- 3) SIP9 Guidance to Creditors on Insolvency Costs including applicable charge rates
- 4) Rule 2 48A
- 5) Rule 2 109

**Applicable Charge-Out Rates (Aaron & Partners LLP) per hour excluding VAT**

|                                | <b>Applicable 1/7/13 to 31/7/14</b> | <b>Applicable from 1/8/14</b> |
|--------------------------------|-------------------------------------|-------------------------------|
| Administrator                  | £320                                | £330                          |
| Partners                       | £180 to £310                        | £185 to £310                  |
| Assistant/Associate Solicitors | £140 to £220                        | £140 to £220                  |
| Paralegals and Trainees        | £90 to £130                         | £105 to £130                  |

**ADMINISTRATOR'S ABSTRACT OF RECEIPTS AND PAYMENTS**  
**IN THE ADMINISTRATION**

|  | <u>Est SoA</u>   | <u>PAYMENTS</u>   | <u>RECEIPTS</u>   |
|--|------------------|-------------------|-------------------|
| <b><u>RECEIPTS</u></b>   |                  |                   |                   |
| Sale Goodwill  | 24,000 00        |                   | 24,000 00         |
| Sale Fixed assets (Plant, equipment, fixtures & fittings & associated items) | 10,000 00        |                   | 10,000 00         |
| Sale Stock & Work in Progress  | 24,000 00        |                   | 23,994 00         |
| Sale Book Debts  | 120,000 00       |                   | 120,001 00        |
| Sale Miscellaneous   |                  |                   | 5 00              |
| Funds from Company bank accounts   | 0 00             |                   | 11,355 37         |
| Deposit account interest   |                  |                   | 23 27             |
| <b>TOTAL RECEIPTS</b>  |                  |                   | <b>189,378 64</b> |
| <b><u>COSTS</u></b>  |                  |                   |                   |
| <b><u>Pre-administration costs (paid)</u></b>                                |                  |                   |                   |
| Administrator's fees   | 4,983 40         |                   |                   |
| Disbursements (travel costs and Companies House search fee)                  | 7 56             |                   |                   |
| VAT on fees & disbursements  | 998 19           |                   |                   |
| <b>Total</b>   | <b>5,989 15</b>  |                   |                   |
| <b><u>Post-appointment costs</u></b>   |                  |                   |                   |
| Administrator's fees (not yet paid as at 17 12 2014)                         | 630 00           |                   |                   |
| Administrator's fees (paid)  | 12,693 00        |                   |                   |
| Disbursements (paid) Court Fee   | 35 00            |                   |                   |
| Bonding - Specific Penalty Premium   | 260 00           |                   |                   |
| Advertising costs- Appointment   | 75 50            |                   |                   |
| Travel Expenses  | 11 76            |                   |                   |
| Companies House search fees  | 5 00             |                   |                   |
| Telegraphic transfer fees  | 60 00            |                   |                   |
| VAT on Administrator's Fees & Disbursements                                  | 2,695 05         |                   |                   |
| <b>Total</b>   | <b>16,465 31</b> |                   |                   |
| <i>(Total Administrator's fees billed as at 17 12 2014 £13,323 00)</i>       |                  |                   |                   |
| <b>TOTAL COSTS (incurred to date, including pre-appointment costs)</b>       | <b>22,454 46</b> |                   |                   |
| <b>TOTAL COSTS PAID TO DATE</b>  |                  | <b>21,824 46</b>  |                   |
| <b><u>OTHER PAYMENTS</u></b>   |                  |                   |                   |
| 06 02 2014 Payment to Fixed Charge Holder (1878 Workshops LLP)               |                  | 34,000 00         |                   |
| 17 02 2014 Interim payment to Floating Charge Holder (1878 Workshops LLP)    |                  | 83,000 00         |                   |
| <b>TOTAL PAYMENTS MADE</b>   |                  | <b>138,824 46</b> |                   |
| <b>BALANCE</b>   |                  |                   | <b>50,554 18</b>  |
| <b>FUNDS HELD AS AT 17 DECEMBER 2014 (END OF THE ADMINISTRATION)</b>         |                  |                   | <b>50,554 18</b>  |

I certify that this is an accurate summary of receipts and payments in the administration

Signed  .....

D S M Edwards - Administrator

23

December 2014

| Classification of work function | HOURS            |                   |  |  | Clerk ** | Total Hours | Time Cost | Average Hourly Rate |
|---------------------------------|------------------|-------------------|--|--|----------|-------------|-----------|---------------------|
|                                 | Partner          | Solicitor         |  |  |          |             |           |                     |
| Administration and Planning     | 2 7<br>£891 00   | 7 7<br>£1,617 00  |  |  | 0<br>0   | 10 4        | £2,508 00 | £241 15             |
| Investigations                  | 1 3<br>£429 00   | 21 2<br>£4,452 00 |  |  | 0<br>0   | 22 5        | £4,881 00 | £216 93             |
| Realisation of Assets           | 4 8<br>£1,584 00 | 2 1<br>£441 00    |  |  | 0<br>0   | 6 9         | £2,025 00 | £293 48             |
| Trading                         | 0<br>0           | 0<br>0            |  |  | 0<br>0   | 0           | 0         | 0                   |
| Creditors                       | 2 9<br>£957 00   | 15 7<br>£3,297 00 |  |  | 0<br>0   | 18 6        | £4,254 00 | £228 71             |
| Case Specific Matters           | 0 9<br>£297 00   | 0 4<br>£84 00     |  |  | 0<br>0   | 1 3         | £381 00   | £293 08             |
| Total Hours                     | 12 6             | 47 1              |  |  | 0        | 59 7        |           |                     |
| Total fees claimed £            | £4,158 00        | £9,891 00         |  |  | £0 00    | £14,049 00  |           |                     |
| Average Hourly Rate             | £330 00          | £210 00           |  |  | £0 00    | £235 33     |           |                     |

\*\* No charge is made for secretarial support



| Classification of work function | HOURS          |                |  |  | Clerk ** | Total Hours | Time Cost | Average Hourly Rate |
|---------------------------------|----------------|----------------|--|--|----------|-------------|-----------|---------------------|
|                                 | Partner        | Solicitor      |  |  |          |             |           |                     |
| Administration and Planning     | 0 4<br>£132 00 | 3 5<br>£735 00 |  |  | 0<br>0   | 3 9         | £867 00   | £222 31             |
| Investigations                  | 0<br>£0 00     | 0 2<br>£42 00  |  |  | 0<br>0   | 0 2         | £42 00    | £210 00             |
| Realisation of Assets           | 0<br>£0 00     | 1 4<br>£294 00 |  |  | 0<br>0   | 1 4         | £294 00   | £210 00             |
| Trading                         | 0<br>0         | 0<br>0         |  |  | 0<br>0   | 0           | 0         | 0                   |
| Creditors                       | 0<br>£0 00     | 3 4<br>£714 00 |  |  | 0<br>0   | 3 4         | £714 00   | £210 00             |
| Case Specific Matters           | 0 4<br>£132 00 | 0<br>£0 00     |  |  | 0<br>0   | 0 4         | £132 00   | £330 00             |
| Total Hours                     | 0 8            | 8 5            |  |  | 0        | 9 3         |           |                     |
| Total fees claimed £            | £264 00        | £1,785 00      |  |  | £0 00    | £2,049 00   |           |                     |
| Average Hourly Rate             | £330 00        | £210 00        |  |  | £0 00    | £220 32     |           |                     |

\*\* No charge is made for secretarial support

## **SIP 9 - 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. Details of such costs must be included in the administrator's proposals

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 preadministration 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 seeking remuneration approval**

7 1 1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and
- the size and complexity of the case

7 1 2 Where, at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case

7 1 3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4 1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity 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 explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
- 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

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases

**7 1 4** Where the fee is charged on a percentage basis the administrator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by an administrator or his staff

**7 2 After remuneration approval**

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8 1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7 1 3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7 1 4 above regarding work which has been sub-contracted out

**7 3 Disbursements and other expenses**

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the administrator proposes 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 the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation

**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 preadministration 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 6 April 2010, except where

- the application for an administration order was made before that date, or
- where the administration was preceded by a liquidation which commenced before that date

## **Insolvency Rules 1986**

### **Rule 2.48A Creditors' request for further information**

(1) If—

(a) within 21 days of receipt of a progress report under Rule 2.47—

(i) a secured creditor, or

(ii) an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors (including the creditor in question), or

(b) with the permission of the court upon an application made within that period of 21 days, any unsecured creditor,

makes a request in writing to the administrator for further information about remuneration or expenses (other than pre-administration costs) set out in a statement required by Rule 2.47(1)(db) or (dc), the administrator must, within 14 days of receipt of the request, comply with paragraph (2)

(2) The administrator complies with this paragraph by either—

(a) providing all of the information asked for, or

(b) so far as the administrator considers that—

(i) the time or cost of preparation of the information would be excessive, or

(ii) disclosure of the information would be prejudicial to the conduct of the administration or might reasonably be expected to lead to violence against any person, or

(iii) the administrator is subject to an obligation of confidentiality in respect of the information,

giving reasons for not providing all of the information

(3) Any creditor, who need not be the same as the creditor who requested further information under paragraph (1), may apply to the court within 21 days of—

(a) the giving by the administrator of reasons for not providing all of the information asked for, or

(b) the expiry of the 14 days provided for in paragraph (1),

and the court may make such order as it thinks just

(4) Without prejudice to the generality of paragraph (3), the order of the court under that paragraph may extend the period of 8 weeks provided for in Rule 2.109(1B) by such further period as the court thinks just "

## **Insolvency Rules 1986**

### **Rule 2.109.— Creditors' claim that remuneration is [ or other expenses are] excessive**

(1) Any secured creditor, or any unsecured creditor with either the concurrence of at least 10% in value of the unsecured creditors (including that creditor) or the permission of the court, may apply to the court for one or more of the orders in paragraph (4).

(1A) Application may be made on the grounds that—

(a) the remuneration charged by the administrator,

(b) the basis fixed for the administrator's remuneration under Rule 2.106, or

(c) expenses incurred by the administrator,

is or are, in all the circumstances, excessive or, in the case of an application under sub-paragraph (b), inappropriate

(1B) The application must, subject to any order of the court under Rule 2.48A(4), be made no later than 8 weeks after receipt by the applicant of the progress report which first reports the charging of the remuneration or the incurring of the expenses in question ("the relevant report")

(2) The court may, if it thinks that no sufficient cause is shown for a reduction, dismiss it without a hearing but it shall not do so without giving the applicant at least [5 business] days' notice, upon receipt of which the applicant may require the court to list the application for a without notice hearing. If the application is not dismissed, the court shall fix a venue for it to be heard, and give notice to the applicant accordingly

(3) The applicant shall, at least 14 days before the hearing, send to the administrator a notice stating the venue and accompanied by a copy of the application, and of any evidence which the applicant intends to adduce in support of it

(4) If the court considers the application to be well-founded, it must make one or more of the following orders—

(a) an order reducing the amount of remuneration which the administrator was entitled to charge,

(b) an order fixing the basis of remuneration at a reduced rate or amount,

(c) an order changing the basis of remuneration,

(d) an order that some or all of the remuneration or expenses in question be treated as not being expenses of the administration,

(e) an order that the administrator or the administrator's personal representative pay to the company the amount of the excess of remuneration or expenses or such part of the excess as the court may specify,

and may make any other order that it thinks just, but an order under sub-paragraph (b) or (c) may be made only in respect of periods after the period covered by the relevant report

(5) Unless the court orders otherwise, the costs of the application shall be paid by the applicant, and are not payable as an expense of the administration