

## **Practice fee and disbursement recovery policy**

### Introduction

The insolveny legislation was changed in April 2010 for insolveny appointments commenced from that time in order to allow more flexibility on how an office holder's fees are charged to a case. This sheet explains how we may apply the alternative fee bases. The new legislation allows different fee bases to be used for different tasks within the same appointment. The basis or combination of bases set for a particular appointment are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general meeting, or the court. Further detail about how an office holder's fees are approved for each case type are available in a series of guides issued with Statement of Insolveny Practice 9 (SIP9). A copy of the relevant circulation listed in reports to creditors and is also available upon request.

Once the basis of the office holder's remuneration has been approved, a periodic report will be provided to any committee and also to each creditor. The report will provide a breakdown of the remuneration drawn and time costs incurred and will also enable the recipients to see the average rates of such costs. Under the new legislation, any such report must disclose how creditors can seek further information and challenge the basis on which the fees are calculated and the level of fees drawn in the period of the report. Once the time to challenge the office holder's remuneration for the period reported on has elapsed, then that remuneration cannot subsequently be challenged.

Under the old legislation, which still applies for insolveny appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

Further changes were made to insolveny law from 1 October 2015 which affect the way in which a Liquidator appointed on or after that date obtains authority for the basis or bases of his remuneration from the creditors of a Company.

The Liquidator now has to provide a written estimate and justification of his proposed fees and, if approved by creditors, that estimate then serves as a cap on the remuneration he can draw without first providing creditors with a written request and justification for an increase.

Where it is too early to say whether certain tasks will be required (for example the payment of a dividend, or an annual progress report) the Liquidator is allowed to take what is described as a 'milestone' approach and flag that these are areas where he may need to revert to creditors for further fee authority if those circumstances transpire.

The format of the estimate that will be provided is likely to be very similar to the estimate provided for the pre-appointment costs that have been incurred leading up to this appointment and was circulated to creditors in advance of it.

The key changes are the introduction of the fee cap and the provision of estimates in advance so that creditors have time to consider them.

The Liquidator also now has to give an estimate of the likely level of expenses to be incurred in the performance of his duties. Apart from Category 2 expenses, this estimate does not have to be approved by creditors but is an important part of their understanding of the likely costs of the procedure.

More information is provided in the Fees' Guide.

### **Time cost basis**

When charging fees on a time cost basis we use charge out rates appropriate to the skills and experience of each member of staff and the work that they perform. This is combined with the amount of time that they work on each case, recorded in 6 minute units with supporting narrative to explain the work undertaken. Cashiers, secretarial and support staff charge all the time they work as such work has not been allowed for in calculating the hourly rates charged by the partners and other staff. If such time were not charged our charge out rates for Partners and other staff would be approximately 20% higher. Time billed is subject to Value Added Tax (VAT) at the applicable rate.

### **Staff allocation and the use of sub-contractors**

The liquidator's general approach to resourcing assignments is to allocate staff with the skills and experience to meet the specific requirements of the case.

The case team will usually consist of partner, senior manager/manager and administrator. The exact case team will depend on the anticipated size and complexity of the assignment. On larger, more complex cases, several staff at all grades may be allocated to meet the demands of the case. The Liquidator's charge out rate schedule below provides details of all grades of staff.

With regard to support staff, the Liquidator advises that time spent by our Treasury department in relation to specific tasks on an assignment is charged.

The following services are being provided on this assignment by external sub-contractors:

Service Type	Service Provider	Basis of fee arrangement	Cost to date£
<i>Specific to each case</i>	<i>Specific to each case</i>	<i>Specific to each case</i>	<i>Specific to each case</i>

## Charge out rates

Our charge out rates are reviewed periodically, our charge out rates are summarised below.

Charge out rates per hour effective from January 2024		Charge out rates per hour effective from February 2013	
Grade	Hourly Rate (£)	Grade	Hourly Rate (£)
Directors	500	Partner	300
Insolvency practitioners	450	Managers	225-250
Senior Managers	400	Assistant Manager	200
Managers	350	Senior Administrator	175
Senior Administrators	300	Administrator	150
Administrators	250	Senior Assistant/Cashier	150
Support Staff/Cashiers	200	Support Staff/Secretary	90

Time spent on casework is recorded directly to the relevant case using a computerised time recording system and the nature of the work undertaken is recorded at that time. Each unit of time is 6 minutes. The work is recorded under the following categories:

Administration and planning - which includes work such as planning how the case will be administered and progressed; the administrative set up of the case; notifying creditors and others of the appointment; keeping the records relating to the case up to date; case review; case progression meetings; and reporting on progress of the case to creditors and others.

Investigations - which includes work such as undertaking an initial review of the financial affairs of the company and bankrupt; undertaking a detailed investigation with a view to making recoveries for the benefit of creditors where matters such as preferences or wrongful trading come to light as a result of the initial review; and reporting to the Insolvency Service on the conduct of the directors.

Realisation of assets - which includes work such as identifying, securing and insuring assets; dealing with retention of title claims; collecting debts ; and selling assets.

Employee matters - which includes work such as dealing with employees; and liaising with the redundancy payments office.

Creditors - which includes work such as communicating with creditors; dealing with creditors' claims; and where funds permit, paying dividends to creditors.

Trading - which includes work such as managing and controlling all aspects of the business; and maintaining financial records and information relating to that trading.

### **Percentage basis**

The new legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal. Different percentages can be used for different assets or types of assets. Where we would like to realise any asset or type of assets on a percentage basis we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

### **Fixed fee**

The new legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. Where we would like to charge a set amount for a task or different set amounts for different tasks we will provide further information explaining why we think that this basis is appropriate and ask creditors to approve the basis.

### **Value Added Tax**

The officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate.

Agent's costs are charged at cost based on the amount billed by the Agent instructed, the term Agent includes:

Solicitors, Legal Advisors, Debtor recovery specialists, Auctioneers, Valuers, Accountants, Quantity Surveyors, Estate Agents, Document Storage Agents and Other Specialist Advisors

### **Disbursements**

In accordance with Statement of Insolveny Practice 9 (SIP9) the basis of disbursement allocation in respect of disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.

**Category 1** expenses are directly referable to an invoice or charge from a third party, which is either in the name of the estate or MB Insolveny; in the case of the latter, the invoice makes reference to, and therefore can be directly attributed to, the estate. These disbursements are recoverable in full from the estate without the prior approval of creditors either by a direct payment from the estate or, where the firm has made payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are postage, mail redirection, travel, swear fee, company searches, land registry searches, statutory advertising, external meeting room hire, external storage, specific bond insurance and subsistence.

**Category 2** expenses are incurred by the firm and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable in full from the estate, subject to the basis of the disbursement charge being approved by

creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage. MB Insolvency no longer apply any category 2 disbursements.

### **Professional advisors**

On this assignment the Liquidator has used the professional advisers listed below. The Liquidator has also indicated the basis of their fee arrangement with them, which is subject to review on a regular basis.

Name of professional advisor	Basis of fee arrangement
<i>Specific to each case</i>	<i>Specific to each case</i>

The Liquidator's choice was based on his perception of the professional adviser's experience and ability to perform this type of work, the complexity and nature of the assignment and the basis of his fee arrangement with them.