

MCR

PROFESSIONAL FEES - SIP 9

MCR's mission statement is "to provide clients with an outstanding service based on technical excellence, effective problem solving and the highest level of client care". It provides a quality, partner led service and takes compliance with insolvency legislation and best practice guidance seriously.

This guide to our fees has been produced to provide creditors with information required by best practice guidance. We recommend that this guidance is read in conjunction with the note entitled "A Creditors Guide to Fees charged by Trustees", which is attached.

At MCR we seek to recover fees on time cost basis. Set out below are our firm's hourly rates, with effect from 1 January 2010, excluding VAT:

	£
Partners	435 - 495
Managers/Directors	275 - 435
Seniors	170 - 280
Assistants/Support staff	30 - 155

We occasionally use an associated business, MCR Receivables Management Limited to assist with the collection of book debts and other matters that the officeholders deem necessary. Depending upon the complexity and difficulties with the debtor records, work is undertaken on a basis of a percentage of realisations. The rate usually applied is 10% plus VAT and expenses.

As previously stated, MCR prides itself on the quality of work undertaken. With that in mind, we would invite creditors to consider the following points:

1. Our own standards mean that we undertake an investigation into the affairs of all companies in liquidation irrespective of the level of realisations that will be achieved.
2. The practice has to meet its own overheads and those associated with an insolvent state irrespective of when fees are available from a particular case. We endeavour to allocate tasks to staff with the appropriate skills and at an appropriate charge-out rate.
3. Expenses and disbursements incurred by MCR in dealing with the administration of insolvent estates are discharged as a practice overhead out of fee income. This means that there are no hidden costs for recharging the use of internal meeting rooms, document storage and other services provided by the firm.
4. For the avoidance of doubt, direct costs relating to the administration of an estate are recovered if funds permit. These include, where applicable, advertising, travel expenses and expense claims by MCR staff where they are obliged to work away from the office. MCR only seeks to recover the costs of printing, room hire and document storage provided by external suppliers.

A CREDITORS' GUIDE TO FEES CHARGED BY TRUSTEES IN BANKRUPTCY

ENGLAND AND WALES

1 Introduction

- 1.1 When an individual becomes bankrupt the costs of the bankruptcy proceedings are paid out of his or her assets. The creditors, who hope to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as trustee. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the trustee's fees. This guide is intended to help creditors be aware of their rights to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the trustee and challenge those they consider to be excessive.

2 Bankruptcy procedure

- 2.1 Bankruptcy is the administration of the affairs of an insolvent individual by a trustee in the interests of his creditors generally. The trustee's function is to realise the assets and distribute them among the creditors in a prescribed order of priority. Bankruptcy proceedings commence with the making of a bankruptcy order by the court. Immediately on the making of the order an official called the official receiver becomes receiver and manager of the bankrupt's estate pending the appointment of a trustee. The official receiver is an officer of the court and an official belonging to The Insolvency Service. Where there are significant assets an insolvency practitioner will usually be appointed to act as trustee, either by a meeting of creditors or by The Insolvency Service on behalf of the Secretary of State. Where no insolvency practitioner is appointed, or where there is a vacancy in the office of trustee, the official receiver acts as trustee.

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, to monitor the conduct of the bankruptcy and approve the trustee's fees. The committee may be established at the creditors' meeting which appoints the trustee or at a meeting convened for the purpose by the trustee after his appointment.
- 3.2 The trustee must call the first meeting of the committee within 6 weeks of its establishment (or his appointment if that is later), and subsequent meetings must be held either at dates agreed by the committee, or when a member of the committee asks for one, or when the trustee decides he needs to hold one. The trustee is required to report to the committee at least every 6 months on the progress of the bankruptcy, unless the committee directs otherwise. This provides an opportunity for the committee to monitor and discuss the progress of the insolvency and the level of the trustee's fees.

4 Fixing the trustee's remuneration

- 4.1 The basis for fixing the trustee's remuneration is set out in Rules 6.138 - 6.139 of the Insolvency Rules 1986. The Rule states that the remuneration shall be fixed:
- as a percentage of the value of the assets which are realised or distributed or both,
 - by reference to the time properly given by the trustee and his staff in attending to matters arising in the bankruptcy, 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 trustee. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the trustee.

It is for the committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the committee to determine the percentage or percentages to be applied. Rule 6.138 says that in arriving at its decision the committee shall have regard to:

- the complexity (or otherwise) of the case;
- any responsibility of an exceptional kind or degree which falls on the trustee in connection with the bankruptcy;
- the effectiveness with which the trustee appears to be carrying out, or to have carried out, his duties;
- the value and nature of the assets which the trustee has to deal with.

- 4.2 If there is no committee, or the committee does not make the requisite determination, the trustee's remuneration may be fixed by a resolution of a meeting of creditors. The creditors must take account of the same matters as apply in the case of the committee. A resolution specifying the basis on which the trustee is to be remunerated may be taken at the meeting which appoints the trustee. If the remuneration is not fixed in any of these ways within 18 months of the trustee's appointment, it will be fixed in accordance with a scale set out in the Rules.

5 Review of remuneration

Where there has been a material and substantial change in circumstances since the basis of the trustee's remuneration was fixed, the trustee may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6 What information should be provided by the trustee?

6.1 When seeking remuneration approval

- 6.1.1 When seeking agreement to his fees the trustee 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.

- 6.1.2 Where, at any creditors' or committee meeting, the trustee 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.

- 6.1.3 Where the trustee seeks agreement to his fees during the course of the bankruptcy, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the trustee 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 trustee has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the trustee 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 trustee 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:

