

## 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 Administrators Fees", 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.

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## A CREDITORS' GUIDE TO ADMINISTRATORS' FEES

(where petition presented or appointment made on or after 15 Sept 2003)

### ENGLAND AND WALES

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#### 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 and explains the basis on which fees are fixed.

#### 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 fees

- 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 either:

- as a percentage of the value of the property which the administrator has to deal with, or
- by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration.

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed, and if it is fixed as a percentage fix the percentage to be applied. 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, the administrator's remuneration may be fixed by a resolution of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator.
- 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 What information should be provided by the administrator?**

### **5.1 When seeking fee approval**

- 5.1.1 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.

- 5.1.2 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.

- 5.1.3 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:

