

Charging and expenses recovery policy for appointments up to 1 October 2015

Introduction

The insolvency legislation was changed in April 2010 for insolvency appointments commenced from that time in order to allow more flexibility on how an office holder's fees are charged to a case. 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 creditors' committee if one is appointed by the creditors, failing which the creditors at a 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 Insolvency Practice 9 (SIP 9) and can be accessed on our website www.mw-w.com by clicking on information hub and then key information for creditors. Alternatively, a hard copy may be requested from McTear Williams & Wood Limited, Prospect House, Rouen Road, Norwich, NR1 1RE.

Once the basis of the office holder's remuneration has been approved, annual and final progress report(s) will be provided to any committee members and each creditor. The report will provide a breakdown of the time costs incurred, the remuneration charged 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 without Court approval.

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

Time cost basis

This is the basis that we use in the majority of cases using the hours worked and charge out rates appropriate to the skills and experience of each member of staff and the work that they perform recorded in 6 minute units with supporting narrative to explain the work undertaken. Cashiers, secretarial and support staff charge their time directly attributable to each case as such work has not been allowed for in calculating the hourly rates charged by the directors and other staff, which would otherwise be approximately 15% higher. Time billed is subject to Value Added Tax (VAT) at the applicable rate.

Charge out rates

Our charge out rates are reviewed on 1 January each year. Our current and historic charge out rates for recent years are summarised below.

London rates

| Grade of staff | Charge out rates per hour effective from | | | | |
|---|--|--------------|--------------|-----------|--------------|
| | January 2022 | January 2021 | January 2020 | June 2019 | January 2019 |
| | £ | £ | £ | £ | £ |
| Director | 640 | 590 | 550 | 525 | 525 |
| Associate Director/Licensed Insolvency Practitioner | 590 | 540 | 515 | 485 | |
| Senior Associate/Associates | 540 | 500 | 470 | 445 | 445 |
| Senior Manager/Manager | 460-490 | 420-470 | 395-445 | 375-445 | 375-445 |
| Assistant Manager/Senior Professional | 380-410 | 350-380 | 335-360 | 315-335 | 315-335 |
| Assistant/Administrator | 170-290 | 155-190 | 155* | 155-180 | 155-180 |
| Assistant Administrator | 155 | 145 | 135 | 125 | 125 |
| Trainee | 85 | 85 | 85 | 85 | 85 |

Non London rates

| Grade of staff | Charge out rates per hour effective from | | | | |
|---|--|--------------|--------------|-----------|--------------|
| | January 2022 | January 2021 | January 2020 | June 2019 | January 2019 |
| | £ | £ | £ | £ | £ |
| Director | 490 | 470 | 440 | 415 | 415 |
| Associate Director/Licensed Insolvency Practitioner | 470 | 440 | 420 | 390 | |
| Senior Associate/Associates | 440 | 410 | 390 | 370 | 370 |
| Senior Manager/Manager | 340-380 | 310-350 | 295-330 | 280-315 | 280-315 |
| Assistant Manager/Senior Professional | 260-320 | 240-290 | 225-270 | 210-250 | 210-250 |
| Assistant/Administrator | 170-210 | 155-190 | 155* | 155-180 | 155-180 |
| Assistant Administrator | 155 | 145 | 135 | 125 | 125 |
| Trainee | 85 | 85 | 85 | 85 | 85 |

* Assistant only

When we seek fee approval creditors will be advised whether London or non London rates are being applied.

Time spent on casework is recorded using a computerised time recording system under the following categories:

- **Administration and planning** - includes work such as planning how the case will be staffed, administered and progressed; the administrative set up of the case including preparing the documentation to effect the formalities of appointment; notifying creditors and others of the appointment; formulating, monitoring and reviewing the case strategy; keeping the records relating to the case up to date including maintaining electronic case files and case details, updating checklists, regular case reviews and case progression meetings; and reporting on progress of the case to creditors and others.
- **Investigations** - includes work such as corresponding with the debtor or the directors and management, reviewing questionnaires and comments provided by third parties,

undertaking an initial review of the financial affairs of the company, partnership or bankrupt; establishing whether any lack of records has hindered the administration of the case and realisation of assets; whether any post-dated cheques were issued and any writs received; whether any payments had been made to associates, any directors loans reduced and evidence of excessive remuneration drawn by the director(s); whether any major items of assets have been disposed of since the last audited accounts and whether there has been any significant reduction in stock, debtors or other assets. Also 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** - includes work such as identifying, securing and insuring assets; liaising with agents and solicitors; dealing with sale of business, transition of contracts, property issues, disposal of stock, retention of title claims; collection of debts and realisation of other assets.
- **Employee matters** - includes work such as making redundancies, helping employees make claims on the National Insurance Fund, dealing with employees' queries; and liaising with the redundancy payments service.
- **Creditors** - includes work such as set up of creditor schedules, communicating with creditors; dealing with creditors' claims; and where funds realised allow admitting claims and paying dividends to creditors.
- **Trading** - which includes work such as planning, identifying strategy, preparation of trading forecasts, monitoring of performance against the forecasts, managing operations, dealing with supplier and landlord issues to ensure continuity of operations, accounting and employees (including pensions and other staff benefits) and approving and processing all purchase orders and related documents.

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 seek approval for remuneration on a percentage basis we will provide further information explaining the nature of those assets and why we think that this basis is appropriate. Any remuneration sought on a percentage basis relates to our time spent on the case only and any direct costs will be charged as expenses.

Fixed fee

The new legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. Whilst we have used this on rare occasions in the past from 1 January 2021 we no longer do so as experience tells us that it tends to produce unfair outcomes for creditors and ourselves alike. Where we do seek remuneration on a fixed fee basis this relates to our time spent on the case only and any direct costs will be charged as expenses.

All bases

The officeholder's remuneration invoiced to the insolvent estate will be subject to VAT at the prevailing rate other than on individual and company voluntary arrangements on which no VAT is charged.

Agent's costs

Agents costs are charged directly to cases at cost based upon the charge made by the Agent instructed.

Expenses

Expenses are any payments from the estate that are neither an office holder's remuneration nor a distribution to a creditor or a member. Expenses also include disbursements which are payments first met by the office holder and then reimbursed to the office holder from the estate. Expenses are divided into those that do not need approval before they are charged to the estate (Category 1) and those that do (Category 2).

Category 1 expenses are payments to persons providing the service to which the expense relates who are not an associate of the office holder. These expenses are recoverable in full from the estate and can be paid 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. Examples of category 1 expenses are professional advisors (who are not associates), statutory advertising, external meeting room hire (where the room is only hired for that meeting), external storage, specific bond insurance and company search fees.

Category 2 expenses are payments to associates or which have an element of shared costs. These expenses are recoverable in full from the estate but require approval in the same manner as an office holder's remuneration before they can be paid. It is our normal practice to charge the following category 2 expenses to cases where appropriate:

- Photocopying – to be charged for circulars to creditors and bulk copying of 10 pages or more at 5 pence per sheet (black and white) and 10 pence per sheet (colour).
- Mileage – to be charged at HM Revenue & Customs approved rate of 45 pence per mile.
- Storage* – to be charged for storage of company records where ten or more boxes are stored at £6 per box per year, a cost of £1.45 per storage box and a destruction cost of £2 per box.

* No longer charged effective from 1 April 2021.