

PRACTICE FEE RECOVERY POLICY FOR JANES

Introduction

The insolvency legislation was changed in October 2015, with one or two exceptions, for insolvency appointments made from that time. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments. The legislation allows different fee bases to be used for different tasks within the same appointment. The fee basis, or combination of bases, set for a particular appointment is/are subject to approval, generally by a committee if one is appointed by the creditors, failing which the creditors in general, or the Court.

Further information about creditors rights can be obtained by visiting the creditors information micro-site published by the Association of Business Recovery Professionals (R3) at <http://www.creditorinsolvencyguide.co.uk/>. Details about how an office holder's fees may be approved for each case type are available in a series of guides issued with Statement of Insolvency Practice 9 (SIP 9) and can be access at A hard copy may be requested from Janes, Priory Lodge, London Road, Cheltenham, Gloucestershire GL52 6HH.

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. If approval has been obtained for remuneration on a time cost basis, ie by reference to time properly spent by members of staff of the practice at our standard charge out rates, the time incurred will also be disclosed, whether drawn or not, together with the average, or blended, rates of such costs. Under the 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 challenged.

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

Time cost basis

When charging fees on a time cost basis we use charge out rates appropriate to the skills and experience of a member of staff and the work 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.

Charge out Rates

Grade	£
Principal	200
Administrators	75

These charge out rates charged are reviewed on 1st January every year.

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. The work is generally recorded under the following categories:

- Administration & planning
- Investigations
- Asset Realisation
- Creditors
- Trading
- Case specific matters

- Employee matters

In cases where we were appointed prior to 1st October 2015, most of our fees were recovered on a time costs basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1st October 2015 and on new appointments we now only seek time costs for the following categories:

- Investigations
- Case specific matters

When we seek time costs approval we have to set out a fees estimate. This estimate acts as a cap on our time costs so that we cannot draw fees of more than the estimated time costs without further approval from those who approved our fees. When seeking approval for our fees, we will disclose work that we intend to undertake, the hourly rates we intend to charge for each part of the work and the time we think each part of the work will take. We will summarise that information in an average or “blended” rate for all work being carried out within the estimate. We will also say whether we anticipate needing to seek approval to exceed the estimate and, if so, the reasons that we think that may be necessary.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and nature of the property with which the office holder has to deal.

If we subsequently need to seek authority to draw fees in excess of the estimate, we will say why we have exceeded, or are likely to exceed the estimate; any additional work undertaken, or proposed to be undertaken; the hourly rates proposed for each part of the work; and the time that the additional work is expected to take. As with the original estimate, we will say whether we anticipate needing further approval and, if so, why we think it may be necessary to seek further approval.

Percentage basis

The legislation allows fees to be charged on a percentage of the value of the property with which the office holder has to deal (realisations and/or distributions). Different percentages can be used for different assets and types of assets. In cases where we were appointed prior to 1st October 2015, most of our fees were recovered on a time cost basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1st October 2015 and we now seek remuneration on a percentage basis more often. A report accompanying any fee request will set out potential assets in the case, the remuneration percentage proposed for any realisations and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred without approval, but must be disclosed to help put the remuneration request into context.

The percentage approved in respect of realisations will be charged against the assets realised, and where approval is gained on a mixture of bases, any fixed fee and time costs will then be charged against the funds remaining in the liquidation after the realisation percentage has been deducted.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity or otherwise of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions, and the value and

nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a percentage basis then an increase in the amount of the percentage applied can only be approved by the committee or creditors (depending upon who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the percentage applied. If there has not been a material and substantial change in the circumstances that were taken into account when fixing the original level of the percentage applied. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the court.

Fixed Fee

The legislation allows fees to be charged at a set amount. Different set amounts can be used for different tasks. In cases where we were appointed prior to 1st October 2015, most of our fees were recovered on a time cost basis and appropriate authority was obtained from the creditors or the committee as set down in the legislation. The legislation changed on 1st October 2015 and we now seek remuneration on a fixed fee basis more often. A report accompanying any fee request will set out the set fee that we proposed to charge and the work covered by that remuneration, as well as the expenses that will be, or are likely to be, incurred. Expenses can be incurred without approval, but must be disclosed to help put the remuneration request into context.

The disclosure that we make should include sufficient information about the insolvency appointment to enable you to understand how the proposed fee reflects the complexity (or otherwise) of the case, any responsibility of an exceptional kind falling on the office holder, the effectiveness with which the office holder has carried out their functions and the value and nature of the property with which the office holder has to deal.

If the basis of remuneration has been approved on a fixed fee basis then an increase in the amount of the fixed fee can only be approved by the committee or creditors (depending who approved the basis of remuneration) in cases where there has been a material and substantial change in the circumstances that were taken into account when fixing the original level of the fixed fee. If there has not been a material and substantial change in the circumstances then an increase can only be approved by the Court.

Members' voluntary liquidations & voluntary arrangement

The legislation changes that took effect from 1st October 2015 did not apply to Members' voluntary liquidations (MVL), Company Voluntary Arrangements (CVA) or Individual Voluntary Arrangements (IVA). In MVL's, the company's members set the fee basis, often as a fixed fee. In CVA's and IVA's, the fee basis is set out in the proposals and creditors approve the fee basis when they approve the arrangement.

All bases

With the exception of IVAs and CVAs which are VAT exempt, the office holder's remuneration invoiced to the insolvent estate will be subject to the VAT at the prevailing rate.

Agent's Costs

Charged at cost based upon the charge made by the Agent instructed. The term 'Agent' includes:

- Solicitors/Legal Advisors
- Auctioneers/Valuers
- Accountants
- Quantity surveyors
- Estate Agents
- Other specialist advisors

In new appointment made after 1st October 2015, the office holder will provide details of expenses to be incurred, or likely to be incurred, when seeking fee approval. When reporting to the committee and creditors during the course of the insolvency appointment the actual expenses incurred will be compared to the original estimate provided.

Disbursements

In accordance with 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.

Category 1 disbursements are directly referable to an invoice from a third party, which is either in the name of the estate or Janes 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 prior approval of the creditors either by a direct payment from the estate, or, where the firm has made a payment on behalf of the estate, by a recharge of the amount invoiced by the third party. Examples of category 1 disbursements are statutory advertising, external meeting room hire, external storage, specific bond insurance and company search fees.

Category 2 disbursements are not charged by Janes.