

## Practice Recovery

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### 1. Introduction

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration either as a combination of, or on one of the following basis of the time properly spent in dealing with the case, on a fixed fee basis, or as a percentage of realisations or on the estimate provided to the creditors. It also applies where further information is to be provided to creditors regarding the office holder's fees following the passing of a resolution for the office holder to be remunerated on the above basis. Best practice guidance requires that such information should be disclosed to those who are responsible for approving remuneration.

### 2. Office Holder's fees in respect of the administration of insolvent estates

The office holder has overall responsibility for the administration of the estate. He will delegate tasks to the appropriate members of staff. Such delegation assists the office holder as it allows him to deal with the more complex aspects of the case and ensures that work is being carried out at the appropriate level. There are various levels of staff that are employed by the office holder and these appear below.

If remuneration is to be charged on the basis of time properly spent in dealing with the case, the firm operates a time recording system which allows staff working on the case along with the office holder to allocate their time to the case. This time is recorded in not more than six minute intervals at the individual's hourly rate in force at that time which is detailed below. If a time cost basis is sought creditors will be provided with a fee estimate. The Officeholder is unable to draw fees in excess of any approved fee estimate without seeking further authority from the creditors or creditors committee.

Should remuneration be charged on a fixed fee basis, this fee is fixed having taken into account the complexity of the case and those tasks that would be necessary to conclude the case. A proposed fixed fee gives certainty with regard to costs.

Should remuneration be charged as a percentage of net realisations, this is based on an estimate of the percentage that the office holder believes reflects the risk that he is taking of not achieving any realisations, the nature of the assets involved, the complexity of the case and the anticipated benefit for the creditors. If assets are recovered, we first recover our costs and then distribute any balance. We consider that the proposed percentage reflects the risk that there will be no realisation, whilst sharing the benefit our work will produce to creditors. For clarity, a proposed percentage fee is not only to cover costs of asset recovery but also to contribute to the costs of the proceedings generally. As this fee is conditional upon recoveries from this particular source, a proposed percentage fee protects the estate from exposure to costs, which would apply in respect of a higher general fixed fee or time cost basis.

### Expenses incurred by Office Holders in respect of the administration of Insolvent estates

Best practice guidance classifies expenses into two broad categories:

- Category 1 expenses (approval not required) – specific expenditure that is directly related to the case usually referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- Category 2 expenses (approval required) – items of incidental expenditure directly incurred on the case which include an element of shared or allocated cost and which are based on a reasonable method of calculation.

**(A)** The following items of expenditure are charged to the case as category 2 expenses (subject to approval):

- Internal meeting room usage for the purpose of creditors is charged at the rate of £100
- Car Mileage is charged at the rate of 45 pence per mile
- Storage of books & records (when not chargeable as a Category 1 expense) is charged on the basis that the number of standard archive boxes for all such cases in respect of the period for which the storage charge relates.

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(B) The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a Category 1 Expense: Telephone & Facsimile, Printing & Photocopying, Stationery.

### **Bhardwaj Limited charge-out rates**

Current charge out rates are provided below and may be subject to change periodically.

|               |               |
|---------------|---------------|
| Office Holder | £450 per hour |
| Managers      | £320 per hour |
| Administrator | £225 per hour |

Time is recorded in units of 6 minutes.