

FEE RECOVERY POLICY

1. Introduction

- 1.1. 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, failing which the creditors in general meeting, or by the Court.
- 1.2. This sheet explains how we intend to apply the alternative fee bases allowed by the legislation when acting as office holder in insolvency appointments.
- 1.3. 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 accessed at www.icaew.com/en/technical/insolvency/creditors-guides. Alternatively a hard copy is available on request. Please note that we have provided further details in the practice fee recovery sheet.
- 1.4. An office holder is required to provide periodic reports to committees and to creditors generally after each anniversary of a case and that report will provide a breakdown of the remuneration drawn. If approval has been obtained for remuneration on a time costs basis, i.e. 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 be challenged.
- 1.5. Under some old legislation, which still applies for insolvency appointments commenced before 6 April 2010, there is no equivalent mechanism for fees to be challenged.

2. Time Cost Basis

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

- 2.2. The table below sets out charge out rates applicable to this assignment. 360 is currently operated by a sole practitioner which means that the Insolvency Practitioner engaged will be required to perform all work required under legislation and applicable to the case. In larger practices, many of these tasks would be delegated to more junior members of staff with lower charge out rates. 360 have decided that rather than having a range of charge out rates graded in the same way and applied to cases according to the type of work being undertaken, that a single blended charge out rate is more appropriate.
- 2.3. We consider that a single charge out rate enables us to budget more accurately than using a graded system, as we only have to estimate the number of hours to be applied, rather than applying a grade to that type of work. Charge out rates are reviewed periodically and where an assignment covers more than one period the rates for each period relevant to that assignment will be provided.

	Effective from 01/10/2019
Insolvency Practitioner	£270 per hour

- 2.4. These charge-out rates charged are reviewed each year and are adjusted to take account of inflation and the firm's overheads
- 2.5. Time is charged in 6 minute units and recorded using a time recording system which is integrated into our case management software (IPS).

2.6. The work is generally recorded under the following categories:

- Administration and Planning;
- Creditors;
- Realisation of Assets;
- Investigations; and
- Trading.

2.7. Where appropriate or necessary in the context of the circumstance of a case, we may propose a charge out rate that differs from the standard rate(s) set out herein. Where we do that, we will provide a full explanation and set out our standard rate(s) so that comparisons may be made.

2.8. When we seek time costs approval, we have to set out a fee estimate. That 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 them. When seeking approval for our fees, we will disclose the work that we have done to that point, the work we intend to undertake, the time that we think each part of the work will take and the charge out rates we intend to apply. We will summarise that information in an average or “blended” rate for all of the 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.

2.9. 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.

2.10. 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.

3. Percentage basis

3.1. Legislation changes in 2015 now allows fees to be charged as 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 or types of assets.

3.2. When seeking fee approval, a report will accompany any fee request setting out the potential assets in the case, the remuneration percentage proposed 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.

3.3. The percentage approved in respect of realisations will be charged against the assets realised, and where approval is obtained 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.

3.4. 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.

3.5. 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 not taken into account when fixing the 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.

4. Fixed fee

- 4.1. The legislation also allows fees to be charged at a set amount. Different set amounts can be used for different tasks. A report accompanying any fee approval request will set out the set fee that we propose to charge and the work covered within that fee, 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.
- 4.2. 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.
- 4.3. 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 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 fixed fee. If there has not been a material and substantial change in circumstance then an increase can only be approved by the Court.

5. Agent's Costs

- 5.1. An Agent's costs will be charged on the basis and/or value agreed with the Agent instructed. The term Agent includes solicitors/legal advisors, auctioneers/valuers, accountants, quantity surveyors, estate agents and other specialist advisors.
- 5.2. We 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 with the original estimate provided.

6. Disbursements

- 6.1. In accordance with SIP 9 disbursements incurred by the Office Holder in connection with the administration of the estate must be fully disclosed to creditors. Disbursements are categorised as either Category 1 or Category 2.
- 6.2. **Category 1** expenses are directly referable to an invoice from a third party, which is either in the name of the estate or 360; in the case of the latter, the invoice must make reference to, and be directly attributable to a specific case. These disbursements are recoverable in full from the estate 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. Examples of category 1 disbursements are statutory advertising, external meeting room hire, external storage, specific bond cover and company search fees. All Category 1 disbursements are charged at the actual cost incurred, with no mark up or handling charge applied.
- 6.3. **Category 2** expenses are incurred by the firm and recharged to the estate; they are not attributed to the estate by a third party invoice and/or they may include a profit element. These disbursements are recoverable from the estate, subject to the basis of the disbursement charge being approved by creditors in advance. Examples of category 2 disbursements are photocopying, internal room hire, internal storage and mileage.
- 6.4. Category 2 Disbursements are usually recharged by 360 are as follows

Expense	£
Postage 1 st Class – Standard / Large letter per item *	70p / £1.06p
Postage 2 nd Class – Standard / Large letter per item *	61p / 83p
Postage – oversized, parcel, courier	At cost
Printing & Copying *	5p per page
Stationery	10p per letter
Mileage	40p per mile

* Only charged when sending circulars to creditors – routine and ad hoc letters/communications are not charged and cost is absorbed by 360.