

**GUIDE TO FEES AND INFORMATION**

**VOLUNTARY ARRANGEMENTS**

**Statement of Insolvency Practice 9 (England and Wales)  
Payments to Insolvency Office Holders and their Associates**

**Creditors' Guide to Supervisors' Fees**

**Insolvency Rules 1986 (as amended) - 1.3**

**Contents of proposal**

**(Company or Partnership Voluntary Arrangement)**

**Insolvency Rules 1986 (as amended) - 1.28**

**Fees, costs, charges and expenses**

**(Company or Partnership Voluntary Arrangement)**

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**(Individual Voluntary Arrangement)**

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**Fees, costs, charges and expenses**

**(Individual Voluntary Arrangement)**

**The Official Receiver's Scale Rate**

**(As Set Out In Schedule 6 To The Insolvency Rules 1986)**

**Carmichael & Co Complaints Policy**

**Carmichael & Co Specific Fees and Disbursements Charging Policy**

**Carmichael & Co Current Charging Rates and Disbursements Examples**

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This leaflet incorporates several documents that would usually be circulated at different times within the course of a Voluntary Arrangement. Unless there are significant changes, a paper copy will not be provided again. The charge out rates will be stated in reports where remuneration is charged upon a time costs basis.

A paper copy of the latest version of this leaflet is available on request or it may be downloaded from [www.carmichaelsinsolvency.co.uk](http://www.carmichaelsinsolvency.co.uk).

Other documents including case reports, leaflets, general guidance notes and questionnaires are also available from that site.

## **Authorship**

Statements of Insolvency Practice are a series of guidance notes issued to Licensed Insolvency Practitioners with a view to maintaining standards by setting out required practice and harmonising practitioners' approach to particular aspects of insolvency.

They are issued under procedures agreed between the insolvency regulatory authorities acting through the Joint Insolvency Committee. They are approved by the Committee and adopted by the regulatory bodies.

The Creditors' Guide to Supervisors' Fees was originally issued as part of the Statement of Insolvency Practice - Remuneration of Insolvency Office Holders until the Statement of Insolvency Practice was updated with effect from 1 November 2011.

The Insolvency Rules 1986 (as amended) is part of the current legislation dealing with insolvency.

The Carmichael & Co Fees and Disbursements Charging Policy is clearly prepared by this firm.

# **Statement of Insolvency Practice 9 (England and Wales) - Payments to Insolvency Office Holders and their Associates**

## **Introduction**

1. The particular nature of an insolvency office holder's position renders transparency and fairness in all dealings of primary importance. Creditors and other interested parties with a financial interest in the level of payments from an insolvent estate should be confident that the rules relating to charging have been properly complied with.

## **Principles**

2. Payments to an office holder or his or her associates should be appropriate, reasonable and commensurate reflections of the work necessarily and properly undertaken.
3. Those responsible for approving the basis or bases upon which payments to an office holder are to be calculated should be provided with sufficient information to make an informed judgement about the reasonableness of the office holder's requests.
4. Requests for additional information about payments to an office holder or his or her associates should be viewed upon their individual merits and treated by an office holder in a fair and reasonable way. The provision of additional information should be proportionate to the circumstances of the case.

## **Key Compliance Standards**

### **Provisions of General Application**

5. The information provided and the way in which the approval of payments to insolvency office holders and their associates for remuneration is sought should enable creditors and other interested parties to exercise properly their rights under the insolvency legislation.
6. An office holder should disclose:
  - a) payments, remuneration and expenses arising from an insolvency appointment to the office holder or his or her associates;
  - b) any business or personal relationships with parties responsible for approving his or her remuneration or who provide services to the office holder in respect of the insolvency appointment where the relationship could give rise to a conflict of interest.
7. An office holder should inform creditors and other interested parties of their rights under insolvency legislation. Information on how to find a suitable explanatory note setting out the rights of creditors should be given in the first communication with creditors following appointment and in each subsequent report to creditors.

## **Suggested Format**

8. A suggested format for the provision of information is in the Appendix, including the suggested levels at which the provision of further information may be appropriate.

## **Provision of Information When Fixing the Bases of Remuneration**

9. When seeking approval for the basis or bases of remuneration, an office holder should provide sufficient supporting information to enable the approving body, having regard to all the circumstances of the case, to make an informed judgement as to whether the basis or bases sought is/are appropriate. The nature and extent of the information provided will depend on the stage during the conduct of the case at which approval is being sought.
10. If any part of the remuneration is sought on a time costs basis, an office holder should provide details of the minimum time units used and current charge-out rates, split by grades of staff, of those people who have been or who are likely to be involved in the time costs aspects of the case.
11. An office holder should also provide details and the cost of any work that has been or is intended to be sub-contracted out that could otherwise be carried out by the office holder or his or her staff.
12. If work has already been carried out, an office holder should state the proposed charge for the period to date and provide an explanation of what has been achieved in the period and how it was achieved, sufficient to enable the progress of the case to be assessed and whether the proposed charge is reasonable in the circumstances of the case. Where the proposed charge is calculated on a time costs basis, the office holder should disclose the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity. An office holder should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the office holder or his or her staff.

## **Provision of Information After the Bases of Remuneration Have Been Fixed**

13. The requirements in this section are in addition to reporting requirements under insolvency legislation.
14. When reporting periodically to creditors, an office holder should provide an explanation of what has been achieved in the period under review and how it was achieved, sufficient to enable the progress of the case to be assessed. Creditors should be able to understand whether the remuneration charged is reasonable in the circumstances of the case (whilst recognising that the office holder must fulfil certain statutory obligations and regulatory requirements that might be perceived as bringing no added value for the estate).
15. Where any remuneration is on a time costs basis, an office holder should disclose the charge in respect of the period, the time spent and the average charge-out rates, in larger cases split by grades of staff and analysed by appropriate activity.
16. If there have been any changes to the charge-out rates during the period under review, rates should be disclosed by grades of staff, split by the periods applicable.
17. An office holder should also provide details and the cost of any work that has been sub-contracted out that could otherwise be carried out by the office holder or his or her staff.

## **Disbursements**

18. Costs met by and reimbursed to an office holder in connection with an insolvency appointment should be appropriate and reasonable. Such costs will fall into two categories:
  - a) Category 1 disbursements: These are costs where there is specific expenditure directly referable both to the appointment in question and a payment to an independent third party. These may include, for example, advertising, room hire, storage, postage, telephone charges, travel expenses, and equivalent costs reimbursed to the office holder or his or her staff.
  - b) Category 2 disbursements: These are costs that are directly referable to the appointment in question but not to a payment to an independent third party. They may include shared or allocated costs that can be allocated to the appointment on a proper and reasonable basis, for example, business mileage.
19. Category 1 disbursements can be drawn without prior approval, although an office holder should be prepared to disclose information about them in the same way as any other expenses.
20. Category 2 disbursements may be drawn if they have been approved in the same manner as an office holder's remuneration. When seeking approval, an office holder should explain, for each category of expense, the basis on which the charge is being made.
21. The following are not permissible:
  - a) a charge calculated as a percentage of remuneration;
  - b) an administration fee or charge additional to an office holder's remuneration;
  - c) recovery of basic overhead costs such as office and equipment rental, depreciation and finance charges.
22. If an office holder has obtained approval for the basis of category 2 disbursements, that basis may continue to be used in a sequential appointment where further approval of the basis of remuneration is not required, or where the office holder is replaced.

## **Pre-Appointment Costs**

23. When approval is sought for the payment of outstanding costs incurred prior to an office holder's appointment, disclosure should follow the principles and standards contained in this statement.

## **Payments to Associates**

24. Where services are provided from within the practice or by a party with whom the practice, or an individual within the practice, has a business or personal relationship, an office holder should take particular care to ensure that the best value and service is being provided. An office holder should also have regard to relationships where the practice is held out to be part of a national or international association.

25. Payments that could reasonably be perceived as presenting a threat to the office holder's objectivity by virtue of a professional or personal relationship should not be made unless approved in the same manner as an office holder's remuneration or category 2 disbursements.

### **Provision of Information to Successive Office Holders**

26. When an office holder's appointment is followed by the appointment of another insolvency practitioner, whether or not in the same proceedings, the prior office holder should provide the successor with information in accordance with the principles and standards contained in this statement.

### **Provision of Information to Interested Parties**

27. Where realisations are sufficient for payment of creditors in full with interest, the creditors will not have the principal financial interest in the level of remuneration. An office holder should provide the beneficiaries of the anticipated surplus, on request, with information in accordance with the principles and standards contained in this statement.

### **Effective Date**

This SIP applies to insolvency appointments starting on or after 1 November 2011. However, insolvency practitioners are encouraged to apply the SIP to all cases regardless of the starting date where to do so would not be onerous or give rise to excessive costs.

## **APPENDIX**

### **Suggested Format for Provision of Information**

#### **Introduction**

1. Information provided by an office holder should be presented in a manner that is transparent, consistent and useful to the recipient, whilst being proportionate to the circumstances of the case. The level of disclosure suggested below may not be appropriate in all instances and the office holder may take account of proportionality considerations. In larger or more complex cases the circumstances of each case may dictate the information provided and its format.
2. It is a matter for each office holder to decide what detailed information and explanations are required, having regard to the circumstances of the case. However, the importance of consistency and clarity should be recognised, and this Appendix sets out suggestions in relation to the presentation of information in a standard way. Those receiving the information ought to be able to make an informed judgement about the reasonableness of the office holder's request. The information provided should facilitate comparisons between cases.

#### **A Narrative Overview of the Case**

3. In all cases, reports on remuneration should provide a narrative overview of the case. Matters relevant to an overview are:
  - a) the complexity of the case;
  - b) any exceptional responsibility falling on the office-holder;
  - c) the office-holder's effectiveness;

- d) the value and nature of the property in question.
4. The information provided will depend upon the basis or bases being sought or reported upon, and the stage at which it is being provided. An overview might include:
- a) an explanation of the nature, and the office-holder's own initial assessment, of the assignment (including the anticipated return to creditors) and the outcome (if known);
  - b) initial views on how the assignment was to be handled, including decisions on staffing or subcontracting and the appointment of advisers;
  - c) any significant aspects of the case, particularly those that affect the remuneration and cost expended;
  - d) the reasons for subsequent changes in strategy;
  - e) the steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, and fee drawing;
  - f) any existing agreement about remuneration;
  - g) details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees;
  - h) in a larger case, particularly if it involved trading, considerations about staffing and managing the assignment and how strategy was set and reviewed;
  - i) details of work undertaken during the period;
  - j) any additional value brought to the estate during the period, for which the office holder wishes to claim increased remuneration.

### **Time Cost Basis**

5. Where any part of the remuneration is or is proposed to be calculated on a time costs basis, requests for and reports on remuneration should provide:
- a) An explanation of the office-holder's time charging policy, clearly stating the units of time that have been used, the grades of staff and rates that have been charged to the assignment, and the policy for recovering the cost of support staff. There is an expectation that time will be recorded in units of not greater than 6 minutes.
  - b) A description of work carried out, which might include:
    - details of work undertaken during the period, related to the table of time spent for the period;
    - an explanation of the grades of staff used to undertake the different tasks carried out and the reasons why it was appropriate for those grades to be used;
    - any comments on any figures in the summary of time spent accompanying the request the office-holder wishes to make.

c) Time spent and charge-out summaries, in an appropriate format.

6. It is useful to provide time spent and charge-out value information in a tabular form for each of the time periods reported upon, with work classified (and subdivided) in a way relevant to the circumstances of the case, in particular to facilitate comparisons between cases:

Classification of work function	Hours				Total Hours	Time Cost £	Average hourly rate £
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff			
Administration and planning							
Investigations							
Realisation of assets							
Trading							
Creditors							
Case specific matters (Specify)							

Fee Drawn

Hours spent \_\_\_\_\_

Average Hourly

Rate                     

7. The level of disclosure suggested by the standard format will not be appropriate in all instances and the office holder should take account of proportionality considerations:

- a) where the cumulative time costs are, and are expected to be, less than £10,000 the office holder should, as a minimum, state the number of hours and average rate per hour and explain any unusual features of the case;
- b) where cumulative time costs are, or are expected to be, between £10,000 and £50,000, a time and charge-out summary similar to that shown above will usually provide the appropriate level of detail (subject to the explanation of any unusual features);
- c) where cumulative time costs exceed, or are expected to exceed, £50,000, further and more detailed analysis or explanation will be warranted.



# **VOLUNTARY ARRANGEMENTS**

## **A CREDITORS' GUIDE TO INSOLVENCY PRACTITIONERS' FEES IN ENGLAND AND WALES**

### **1. Introduction**

1.1 In a voluntary arrangement, as in other types of insolvency, the amount of money available for creditors is likely to be affected by the level of costs, including the remuneration of the insolvency practitioner appointed to implement the arrangement. This guide explains how fees are fixed in voluntary arrangements, how the creditors can affect the level of fees, and the information which should be made available to them regarding fees.

### **2. The voluntary arrangement procedure**

2.1 Voluntary arrangements are available to both companies and individual debtors. Company voluntary arrangements are often referred to as CVAs, and individual voluntary arrangements as IVAs.

2.2 The procedure is similar for both CVAs and IVAs and enables the company or individual to put a proposal to their creditors for a composition in satisfaction of their debts or a scheme of arrangement of their affairs. A composition is an agreement under which creditors agree to accept a certain sum of money in settlement of the debts due to them. A CVA may be used as a stand-alone procedure or as an exit route from an administration. It may also be used where a company is in liquidation, but this is extremely rare. The proposal will be made by the directors, the administrator or the liquidator, depending on the circumstances. A proposal for an IVA may be made by a debtor whether or not he is already subject to bankruptcy proceedings. The proposal will be considered by creditors at a meeting convened for that purpose. The procedure is extremely flexible and the form which the voluntary arrangement takes will depend on the terms of the proposal agreed by the creditors. In both CVAs and IVAs the proposal must provide for an insolvency practitioner to supervise the implementation of the arrangement. Until the proposal is approved by the creditors, the practitioner is known as the nominee. If the proposal is approved, the nominee (or if the creditors choose to replace him, his replacement) becomes the supervisor.

### **3. Fees, costs and charges - statutory provisions**

3.1 The fees, costs, charges and expenses which may be incurred for the purposes of a voluntary arrangement are set out in the Insolvency Rules 1986 (rule 1.28 for CVAs and rule 5.33 (previously 5.28) for IVAs). They are:

- any disbursements made by the nominee prior to the arrangement coming into effect, and any remuneration for his services agreed between himself and the company (or the administrator or liquidator, as the case may be) or the debtor (or the official receiver or trustee, where the debtor is subject to bankruptcy proceedings);
- any fees, costs, charges or expenses which:

- are sanctioned by the terms of the arrangement (see below), or
- would be payable, or correspond to those which would be payable, in an administration, winding up or bankruptcy (as the case may be).

3.2 The rules also require the following matters to be stated or otherwise dealt with in the proposal (rule 1.3 for CVAs and rule 5.3 for IVAs):

- The amount proposed to be paid to the nominee (as such) by way of remuneration and expenses, and
- The manner in which it is proposed that the supervisor of the arrangement should be remunerated and his expenses defrayed.

#### **4. The role of the creditors**

4.1 It is for the creditors' meeting to decide whether to agree the terms relating to remuneration along with the other provisions of the proposal. The creditors' meeting has the power to modify any of the terms of the proposal (with the consent of the debtor in the case of an IVA), including those relating to the fixing of remuneration. The nominee should be prepared to disclose the basis of his fees to the meeting if called upon to do so. Although there are no further statutory provisions relating to remuneration in voluntary arrangements, the terms of the proposal may provide for the establishment of a committee of creditors and may include among its functions the fixing of the supervisor's remuneration.

#### **5. What information should the creditors receive?**

5.1 Whether the basis of the supervisor's remuneration is determined at the meeting which approves the arrangement or by a committee of creditors, the supervisor, or proposed supervisor should provide details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

5.2 Where the supervisors' fees are to be agreed by a committee of creditors during the course of the arrangement, the supervisor should provide sufficient supporting information to enable the committee to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case, and should always provide an up to date receipts and payments account. Where the fee is to be charged on a time basis the supervisor should disclose the amount of time spent on the case and the charge out value of the time spent, together with such additional information as may reasonably be required having regard to the size and complexity of the case and the functions conferred on the supervisor under the terms of the arrangement. The additional information should comprise a sufficient explanation of what the supervisor has achieved and how it was achieved to enable the value of the exercise to be assessed and to establish that the time has been properly spent on the case.

- 5.3 Where the basis of the remuneration of the supervisor as set out in the proposal does not require any further approvals by the creditors or any committee of creditors, the supervisor should specify the amount of remuneration he has drawn in accordance with the provisions of the proposal in his subsequent reports to creditors on the progress of the arrangement. Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the arrangement was approved. He should also provide such additional information as may be required in accordance with paragraph 5.2.
- 5.4 Where the supervisor proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the supervisor's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

## **6. Provision of information – additional requirements**

The nominee or supervisor is required to provide certain information about the time spent on the case, free of charge, upon request by specified persons. The persons entitled to ask for this information are –

- any creditor;
- where the arrangement relates to a company, any director or member of that company; and
- where the arrangement relates to an individual, that individual.

The information which must be provided is –

- the total number of hours spent on the case by the insolvency practitioner or staff assigned to the case;
- for each grade of staff, the average hourly rate at which they are charged out;
- the number of hours spent by each grade of staff in the relevant period.

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the nominee's or supervisor's appointment, or where he has vacated office, the date that he vacated office.

The information must be provided within 28 days of receipt of the request by the nominee or supervisor, and requests must be made within two years from vacation of office.

## **7. Effective date**

This guide applies where the nominee in relation to the arrangement agrees to act on or after 6 April 2010.

# EXTRACTS FROM THE INSOLVENCY RULES 1986 (AS AMENDED)

## Companies and Partnerships

### 1.3 Contents of proposal

- (1) The directors' proposal shall provide a short explanation why, in their opinion, a voluntary arrangement under Part I of the Act is desirable, and give reasons why the company's creditors may be expected to concur with such an arrangement.
- (2) The following matters shall be stated, or otherwise dealt with, in the directors' proposal—
  - (a) the following matters, so far as within the directors' immediate knowledge—
    - (i) the company's assets, with an estimate of their respective values,
    - (ii) the extent (if any) to which the assets are charged in favour of creditors,
    - (iii) the extent (if any) to which particular assets are to be excluded from the voluntary arrangement;
  - (b) particulars of any property, other than assets of the company itself, which is proposed to be included in the arrangement, the source of such property and the terms on which it is to be made available for inclusion;
  - (c) the nature and amount of the company's liabilities (so far as within the directors' immediate knowledge), the manner in which they are proposed to be met, modified, postponed or otherwise dealt with by means of the arrangement, and (in particular)—
    - (i) how it is proposed to deal with preferential creditors (defined in section 4(7)) and creditors who are, or claim to be, secured,
    - (ii) how persons connected with the company (being creditors) are proposed to be treated under the arrangement, and
    - (iii) whether there are, to the directors' knowledge, any circumstances giving rise to the possibility, in the event that the company should go into liquidation, of claims under—
      - section 238 (transactions at an undervalue),
      - section 239 (preferences),
      - section 244 (extortionate credit transactions), or
      - section 245 (floating charges invalid);and, where any such circumstances are present, whether, and if so how, it is proposed under the voluntary arrangement to make provision for wholly or partly indemnifying the company in respect of such claims;
- (ca) an estimate (to the best of the directors' knowledge and belief and subject to paragraph (4)) of—

- (i) the value of the prescribed part, should the company go into liquidation if the proposal for the voluntary arrangement is not accepted, whether or not section 176A is to be disapplied; and
  - (ii) the value of the company's net property on the date that the estimate is made.
- (d) whether any, and if so what, guarantees have been given of the company's debts by other persons, specifying which (if any) of the guarantors are persons connected with the company;
- (e) the proposed duration of the voluntary arrangement;
- (f) the proposed dates of distributions to creditors, with estimates of their amounts;
- (fa) how it is proposed to deal with the claim of any person who is bound by the arrangement by virtue of section 5(2)(b)(ii)3;
- (g) the amount proposed to be paid to the nominee (as such) by way of remuneration and expenses;
- (h) the manner in which it is proposed that the supervisor of the arrangement should be remunerated, and his expenses defrayed;
- (j) whether, for the purposes of the arrangement, any guarantees are to be offered by directors, or other persons, and whether (if so) any security is to be given or sought;
- (k) the manner in which funds held for the purposes of the arrangement are to be banked, invested or otherwise dealt with pending distribution to creditors;
- (l) the manner in which funds held for the purpose of payment to creditors, and not so paid on the termination of the arrangement, are to be dealt with;
- (m) the manner in which the business of the company is proposed to be conducted during the course of the arrangement;
- (n) details of any further credit facilities which it is intended to arrange for the company, and how the debts so arising are to be paid;
- (o) the functions which are to be undertaken by the supervisor of the arrangement
- (p) the name, address and qualification of the person proposed as supervisor of the voluntary arrangement, and confirmation that he is either qualified to act as an insolvency practitioner in relation to the company or is an authorised person in relation to the company;
- (q) whether the EC Regulation<sup>7</sup> will apply and, if so, whether the proceedings will be main proceedings, secondary proceedings or territorial proceedings ; and

- (r) such other matters (if any) as the directors consider appropriate for ensuring that members and creditors are enabled to reach an informed decision on the proposal.
- (3) With the agreement in writing of the nominee, the directors' proposal may be amended at any time up to delivery of the nominee's report to the court under section 2(2).
- (4) Nothing in paragraph (2)(ca) is to be taken as requiring the estimate referred to in that paragraph to include any information, the disclosure of which could seriously prejudice the commercial interests of the company. If such information is excluded from the calculation the estimate shall be accompanied by a statement to that effect.

### **1.28 Fees, costs, charges and expenses**

- (1) The fees, costs, charges and expenses that may be incurred for any of the purposes of the voluntary arrangement are—
  - (a) any disbursements made by the nominee prior to the decision approving the arrangement taking effect under section 4A , and any remuneration for his services as such agreed between himself and the company (or, as the case may be, the administrator or liquidator);
  - (b) any fees, costs, charges or expenses which—
    - (i) are sanctioned by the terms of the arrangement, or
    - (ii) would be payable, or correspond to those which would be payable, in an administration or winding up.

# EXTRACTS FROM THE INSOLVENCY RULES 1986 (AS AMENDED)

## Individuals

### 5.3 Contents of proposal

- (1) The debtor's proposal shall provide a short explanation why, in his opinion, a voluntary arrangement under Part VIII is desirable, and give reasons why his creditors may be expected to concur with such an arrangement.
- (2) The following matters shall be stated, or otherwise dealt with, in the proposal—
  - (a) the following matters, so far as within the debtor's immediate knowledge—
    - (i) his assets, with an estimate of their respective values,
    - (ii) the extent (if any) to which the assets are charged in favour of creditors,
    - (iii) the extent (if any) to which particular assets are to be excluded from the voluntary arrangement;
  - (b) particulars of any property, other than assets of the debtor himself, which is proposed to be included in the arrangement, the source of such property and the terms on which it is to be made available for inclusion;
  - (c) the nature and amount of the debtor's liabilities (so far as within his immediate knowledge), the manner in which they are proposed to be met, modified, postponed or otherwise dealt with by means of the arrangement and (in particular)—
    - (i) how it is proposed to deal with preferential creditors (defined in section 258(7)) and creditors who are, or claim to be, secured,
    - (ii) how associates of the debtor (being creditors of his) are proposed to be treated under the arrangement, and
    - (iii) in any case where the debtor is an undischarged bankrupt, whether, to the debtor's knowledge, claims have been made under section 339 (transactions at an undervalue), section 340 (preferences) or section 343 (extortionate credit transactions), or where the debtor is not an undischarged bankrupt, whether there are circumstances which would give rise to the possibility of such claims in the event that he should be adjudged bankrupt,  
  
and, where any such circumstances are present, whether, and if so how, it is proposed under the voluntary arrangement to make provision for wholly or partly indemnifying the insolvent estate in respect of such claims;
  - (d) whether any, and if so what, guarantees have been given of the debtor's debts by other persons, specifying which (if any) of the guarantors are associates of his;
  - (e) the proposed duration of the voluntary arrangement;

- (f) the proposed dates of distributions to creditors, with estimates of their amounts;
- (g) how it is proposed to deal with the claims of any person who is bound by the arrangement by virtue of section 260(2)(b)(ii);
- (h) the amount proposed to be paid to the nominee (as such) by way of remuneration and expenses;
- (j) the manner in which it is proposed that the supervisor of the arrangement should be remunerated, and his expenses defrayed;
- (k) whether, for the purposes of the arrangement, any guarantees are to be offered by any persons other than the debtor, and whether (if so) any security is to be given or sought;
- (l) the manner in which funds held for the purposes of the arrangement are to be banked, invested or otherwise dealt with pending distribution to creditors;
- (m) the manner in which funds held for the purpose of payment to creditors, and not so paid on the termination of the arrangement, are to be dealt with;
- (n) if the debtor has any business, the manner in which it is proposed to be conducted during the course of the arrangement;
- (o) details of any further credit facilities which it is intended to arrange for the debtor, and how the debts so arising are to be paid;
- (p) the functions which are to be undertaken by the supervisor of the arrangement;
- (q) the name, address and qualification of the person proposed as supervisor of the voluntary arrangement, and confirmation that he is, so far as the debtor is aware, qualified to act as an insolvency practitioner in relation to him or is an authorised person in relation to him;
- (r) whether the EC Regulation will apply and, if so, whether the proceedings will be main proceedings or territorial proceedings;
- (s) within the 24 months preceding the date on which the proposal is delivered to the nominee, whether a proposal for an individual voluntary arrangement in respect of the debtor was submitted—
  - (i) to a meeting of the debtor's creditors for approval and if so,
    - (aa) whether the proposal was approved and the arrangement completed, or
    - (bb) whether the proposal was rejected or the arrangement was terminated and if so, in what respects it differs from the proposal in this Rule;
  - (ii) to the court in connection with an application for an interim order under section 253 and if so, whether the interim order was made.



- (3) With the agreement in writing of the nominee, the debtor's proposal may be amended at any time up to the delivery of the nominee's report to the court under section 256 or to the debtor's creditors under section 256A.

### **5.33 Fees, costs, charges and expenses**

The fees, costs, charges and expenses that may be incurred for any purposes of the voluntary arrangement are—

- (a) any disbursements made by the nominee prior to the approval of the arrangement, and any remuneration for his services as such agreed between himself and the debtor, the official receiver or the trustee;
- (b) any fees, costs, charges or expenses which—
  - (i) are sanctioned by the terms of the arrangement, or
  - (ii) would be payable, or correspond to those which would be payable, in the debtor's bankruptcy.

### **CARMICHAEL & CO COMPLAINTS POLICY**

No matter how hard any firm tries, there can sometimes be misunderstandings and occasionally mistakes. If you believe you have cause for complaint, please first contact Marc Landsman, our Licensed Insolvency Practitioner and Director.

If he cannot sort out the problem, you can contact the 'Complaints Gateway' at:

Email: [ip.complaints@insolvency.gsi.gov.uk](mailto:ip.complaints@insolvency.gsi.gov.uk);

Post: The Insolvency Service, IP Complaints, 3rd Floor  
1 City Walk, Leeds LS11 9DA;

Telephone: 0300 6780015;

Website: <https://www.gov.uk/complain-about-insolvency-practitioner>

This is a government department which assesses complaints and then forwards them to the relevant regulator (in this instance the Institute of Chartered Accountants in England and Wales).

# **CARMICHAEL & CO FEES AND DISBURSEMENTS CHARGING POLICY**

## **General Policy**

The Licensed Insolvency Practitioner's fees are split between a Nominee's fee and Supervisor's fee. The first covers the preparation of the proposal and associated documents, negotiations with creditors and all the work until the proposal is either accepted or rejected. This is usually a fixed fee (though it may be changed by creditors). The Supervisor's fee covers all the work after the Voluntary Arrangement is accepted. This is normally a percentage of the realisations.

Where an alternative charging structure has been agreed with creditors that structure will take precedence.

Separate bank accounts are maintained for each formal insolvency estate into which accrued interest is paid, and charges made by the bank. Prior to insolvency, funds are maintained in this firm's general (non-interest bearing) Clients Account unless the estimated interest receivable would be more than £10.

All amounts charged by this firm are subject to VAT where applicable. At the time of writing, VAT is not chargeable on Voluntary Arrangements.

## **Charging Policy**

Office Holders and staff are allocated a charge out rate which is reviewed from time to time. All time spent in relation to the insolvency estate is charged to the estate unless an alternative fee structure (such as a fixed fee or percentage rate) has been agreed.

Sub contractors are allocated a charge out rate equivalent to that payable if they were employed by the firm.

Time is recorded in 1 minute units.

## **Disbursements Policy**

Disbursements (or out of pocket expenses of the firm) may include, but are not restricted to, professional fees of other firms; statutory advertising; Company/Land Registry/County Court Judgment searches; case-specific insurance and similar; travel; accommodation; room hire; postage and similar; stationery; telephone and storage.

Only the expenses and disbursements properly incurred in relation to an insolvency estate are re-charged to the estate.

Disbursements may originally be paid by Carmichael & Co and re-charged to the insolvency estate. Where this takes place (except where items are maintained in stock, so price averaging may take place), Carmichael & Co will not add any profit element.

Travel is charged at the cost incurred (if public transport) or at the statutory mileage rate as set down by HM Revenue and Customs. If it is possible to combine 2 or more meetings or visits, the costs incurred for the shared element of travel is apportioned equally. There are certain meetings at which the Licensed Insolvency Practitioner is required to be present. In such cases his mileage will be charged from the Manchester office even if another office is nearer.

Where it is considered appropriate by the Insolvency Practitioner, the maximum amount chargeable to the estate for any hotel stay per night (including subsistence)

will be equivalent to 1 hour at that person's chargeout rate. If more than one person is staying, the maximum amount for the team is 1 hour at the team's combined rate.

Storage is charged based on the number of boxes of records and files (including those of this firm) held off-site and/or transported between the office and storage facility during the month. Where a box contains records relating to more than one case, the cost will be apportioned. A final fee may be charged in relation to future storage and destruction costs at the rates in force at the date of closure of the case.

A charge may be made for disbursements involved in reporting to creditors when required to do so. This will relate to the costs of producing and sending the report and will not include any time element. Where the actual cost can be ascertained (ie postage or specially purchased items) this will be used. Where items are held in stock (ie paper, envelopes etc) they are charged at the list price, which is regularly reviewed. Since the cost of these items is minimal, it is not practical to allocate specific costs. Where an alternative to the Royal Mail is used if the delivery cost can be calculated that will be used, otherwise the Royal Mail rate will be used.

Telephone, fax and stationery/postage costs (apart from for reports) are not generally charged to the insolvency estate unless incurred in relation to a report or similar. A charge may therefore be made at the end of the proceedings as a 'round sum payment'. This will be equal to the interest which is credited to the bank account until the last cheque has cleared.

Where a member of this firm is not appointed in an insolvency procedure or the procedure does not take place, this policy shall be applied where possible, but the costs of the disbursements incurred shall be chargeable in full by reference to the file.

If the Voluntary Arrangement is not considered by creditors, the Nominee's fee will be calculated based upon whether the proposal has been prepared; the Nominee's Report has been prepared; whether it has been circulated to creditors and what negotiations have been undertaken. If the Voluntary Arrangement is rejected, the full Nominee's fee will be payable. In all cases, the Insolvency Practitioner may waive all or part of the fee dependent upon the circumstances.

Neither this firm, nor anyone associated with it holds any interest in any supplier of rechargeable items to Carmichael & Co, except when recharging for payments made to independent third parties or for mileage.

## OFFICE HOLDER'S REMUNERATION AND DISBURSEMENTS

### The scale per Insolvency Rules 1986 Schedule 6 (also known as Official Receiver's Scale Rate)

	Realisations	Distributions
(i) on the first £5000 or fraction thereof	20.0%	10.0%
(ii) on the next £5000 or fraction thereof	15.0%	7.5%
(iii) on the next £90000 or fraction thereof	10.0%	5.0%
(iv) on all further sums	5.0%	2.5%

These are modified by Carmichael & Co when seeking fees on this basis as follows:

	Realisations	Distributions
(i) on the first £3000 or fraction thereof	100.0%	10.0%
(ii) on the next £2000 or fraction thereof	0.0%	10.0%
(iii) on the next £5000 or fraction thereof	15.0%	7.5%
(iv) on the next £90000 or fraction thereof	10.0%	5.0%
(v) on all further sums	5.0%	2.5%

### Carmichael & Co Hourly Charging Rates

	1/10/02 to 31/8/09	1/9/09 to 31/10/11	1/11/11 to 30/11/13	From 1/12/2013
Insolvency Practitioner	£180-270	£295	£325	£350
Manager/Senior Consultant	£120-230	£150-250	£165-275	£180-295
Other Senior Professionals	£60-130	£75-140	£85-160	£95-175
Assistants (inc secretarial)	£30-85	£45-90	£50-100	£55-110

### Examples of Common Disbursement Costs

Travel by car	45p per mile
Photocopying	from 1.1p per single sided white A4 page to 17.4p per double sided coloured A3 sheet
Storage	up to 40p per box per month
Storage Movement	up to £1.25 per box
Company Searches	up to £1 per item, bulk discount usually received
Specific item costs are available upon written request	

All costs are recharged at cost except where bought in bulk in which case they are charged at the price paid when last purchased or within the last 6 months. Since these are small stationery items, there is unlikely to be any significant difference.

### Costs Review

Actual prices shown are subject to change and will be charged at the rates prevailing when they are incurred. The hourly charging rate bands for Carmichael & Co will not increase by more than 10% per year.