

# SFP



## **MVL Stage 1** **Documentation**

## The Practice's Fee and Expenses Summary

### The Liquidator's Fee

In the engagement letter, you will see that we have proposed a fee to cover all the work undertaken by us both in putting the company into Liquidation and in handling and completing the Liquidation. The quantum of this fee has been calculated to reflect the anticipated complexity of the Liquidation and covers the following key items of work:

- providing all statutory documentation to convene and hold the meetings of the board of directors and of the members;
- assisting the director(s) to complete the Declaration of Solvency;
- checking all statutory documentation completed by the director(s) and arranging for statutory filing at Companies House and advertising in the London Gazette;
- maintaining a bank account (non interest-bearing where less than £2,000,000 is held) and cash book for the Liquidation estate;
- discharging any residual creditors' claims;
- distributing funds and/or assets to members;
- liaising with HM Revenue & Customs ("HMRC") to ensure that all statutory returns have been recorded, all liabilities have been paid and any refunds due have been received (note: even in the simplest of liquidations, it is our experience that significant time and effort is required to obtain the necessary clearances from HMRC);
- if the Liquidation is unable to be concluded within one year (which sometimes occurs because of delays encountered in dealing with HMRC), issuing a statutory progress report; and
- issuing statutory final accounts and reports to members and filing documents at Companies House to conclude the Liquidation.

Fixing the Liquidator's fee as a set amount provides you with certainty irrespective of developments in the Liquidation (although the Liquidator has a statutory right to seek members' approval to adjust the fee in the event that circumstances change significantly) and, if we were to charge our fee on the alternative basis of time costs at our standard rates, there is no doubt that this would result in a fee in excess of that proposed above.

### Direct Expenses (Category 1)

Category 1 Expenses, which can be specifically identified as relating to the administration of the case, will be charged to the estate at cost (plus VAT where applicable), with no uplift. The quantum of these costs are dependent on the circumstances and needs of the case and are set by third parties. For example, the bank charges a set amount for transfers to/from foreign currency accounts. We may also incur other direct expenses, such as courier charges and Land Registry fees, which will be charged at cost to the estate.

#### **Insurance:**

If possible, the current insurance policy should be maintained throughout the Liquidation process with the Liquidator's name noted which will prevent the requirement to take out any further cover. Should additional insurance be required, we shall provide you with quotes on a case by case basis.

#### **Solicitors' and agents' fees:**

Should solicitors or agents be required, we shall provide you with quotes on a case by case basis.

You should note that a number of documents to place the company into Liquidation are required to be signed in the presence of a solicitor. A charge by the solicitor is usually applicable, however this shall be a cost borne by the directors personally and shall not form part of our expenses, unless this has been agreed with us in order to deal with exceptional circumstances (see Indirect Expenses below). The price will vary between firms but you should expect to pay up to £100 for this.

#### **Indirect Expenses (Category 2)**

These are costs that are directly referable to the appointment in question but not to a payment to an independent party. All prices are exclusive of VAT, which will be reclaimed where possible. Where relevant, listed below are the current charging rates applied by external suppliers. If they increase by the time they are incurred, the Liquidator reserves the right to discharge that increase from the funds held in the MVL.

Anti-money laundering searches via external electronic databases: **£5.25 per individual search**

Mileage (where necessary): **45p per mile**

Stationery, photocopying and postage: **£10**

The expenses listed below will be incurred on every case and, ordinarily, would be paid as Category 1 expenses according to the external supplier's standard terms. However, in order to facilitate efficient progress of the Liquidation, they will be invoiced to the estate immediately upon the Liquidator's appointment. For the avoidance of doubt, these are charged at cost and with no uplift:

#### **Specific Bond Premium**

A bond is required to protect the assets of the company during the Liquidation process. The bond premium is scaled depending upon the level of assets under our control. The exact cost of the bond premium will be ascertained once the Declaration of Solvency has been sworn, however an estimate of the bond premium in your particular case is provided in the engagement letter.

#### **Statutory Advertising Costs**

Notification of Liquidation: **£100.80**

Notification of Appointment of Liquidator: **£100.80**

Advertisement for creditors' claims: **£100.80**

Total: **£302.40**

#### **Solicitors' Swearing Fee (optional)**

If you wish, we can put you in touch with a solicitor to enable the Declaration of Solvency to be sworn by video call. This will usually cost around £100 for a sole director company.

## The Board's Duties and Obligations

1. The Board remains responsible for the conduct of the affairs of the Company until such time as a liquidator is appointed and it is under a duty to act so as to preserve the Company's assets and minimise its liabilities for the benefit of the members.
2. Until such time as a liquidator is appointed, the Board remains responsible for ensuring that the Company and its officers continue to comply with their statutory duties. For example, it is particularly important to address any outstanding filings with the Registrar of Companies prior to the commencement of the liquidation in order to avoid the Registrar dissolving the Company.
3. The Board must ensure that all assets of the Company remain properly insured and all liability insurances such as for employees, products, professional indemnity, property owners and public should be maintained. The appropriate premiums should be paid such that adequate insurance cover remains in force for the duration of the liquidation or until such time as the liquidator confirms that alternative arrangements are in place.
4. The Board should deliver up to the liquidator any books and records of the Company that they request, but the Board will remain responsible for the safe-keeping of the Company's records in its possession up to and after liquidation. It is the responsibility of the Board to ensure that the Company continues to comply with all data protection legislation. This includes ensuring that access to and copies of digital data are restricted so that the risk of any data breach is mitigated.
5. Where 20 or more employees are to be dismissed or transferred, formal consultation procedures must be followed and documentation completed. If this is not done correctly, the Company risks giving employees grounds to seek Protective Awards, which will rank in priority to shareholders' distributions, and therefore it may be appropriate to seek the advice of specialist employment solicitors.
6. It is important that we work closely together and that the Board deals with any queries that we raise, both fully and promptly, so that the Company may be placed into liquidation without delay and the various statutory requirements complied with. We will provide a questionnaire, which will help you to gather the information required.
7. In the interests of shareholders, all liabilities including those due to HM Revenue & Customs should be settled before the Company is placed into liquidation. If any liabilities remain to be paid in the liquidation, these will attract statutory interest at the rate of 8% per annum calculated from the commencement of the liquidation to the date that the liability is settled. Statutory interest ranks in priority to distributions to shareholders.
8. It is vital that you provide full and accurate information to us and that you submit all VAT and other tax returns to HM Revenue & Customs up the cessation of trade. Consequently, we ask that you liaise closely with your accountants in preparing the Company for liquidation and we will be asking you to confirm that your accountants have agreed that your completed questionnaire and other documents provided are complete and accurate.

## Our Changing Role and the Importance of Solvency

Before liquidation, as the company's advisor, we owed our prime duty to the company acting through its Board and took appropriate steps to ensure that the Board received appropriate advice on its options.

Once the company is placed into liquidation, the liquidator and their staff are required to act in accordance with the requirements of the insolvency legislation and those of their regulatory body. Subject to any restrictions arising from such compliance, they are required to act in the best interest of the members as a whole.

If during the course of the liquidation, the liquidator forms the opinion that the company will be unable to pay its debts in full plus interest within the time period set out in the Declaration of Solvency, they will have to take steps to convert the MVL into a creditors' voluntary liquidation ("CVL"). This will mean amongst other matters that the liquidator will owe their prime duty to the creditors as a whole and must act as an officer of the court. For further information regarding the potential consequences of CVL, including steps that may be taken if directors are considered unfit to act in the management of a company, please read the FAQs on this website. Before swearing the Declaration of Solvency, it is essential that the Board is satisfied that MVL is appropriate to the company's circumstances and that the director(s) are confident that the MVL can be completed successfully.

## Regulatory Disclosures

- The services you require will be dealt with by SFP Restructuring Limited ("SFP")
- SFP is associated with JA (SFP) Limited, JA (SFPRM) Limited, SFP Brokers Limited (each t/a Touch) and SFP Property Limited and as such they promote each other's services.
- Where you have been referred by your accountant:
  - Accountants that have provided the URL directing you to this page are on either JA (SFP) Limited's approved panel of contractor accountants or JA (SFPRM) Limited's approved panel of SME accountants, which brings them into contact with business owners interested in finding new accountants.
- Where you have been referred by a business finance provider:
  - Business finance providers that have provided the URL directing you to this page are on SFP Brokers Limited's approved panel of business finance providers, which brings them into contact with business owners interested in finding business finance products.
- Where you have been referred by B2B Quote Services Limited t/a The MVL Organisation:
  - B2B Quote Services Limited t/a The MVL Organisation has been instructed by SFP Brokers Limited to operate a website designed to introduce potential new MVL clients to us.
- Where you have been referred by someone who has previously used our MVL services:
  - We operate a referral system for existing MVL clients. Please contact us if you want to know more.
- Where you have been referred by a member of our staff:
  - We also operate a staff bonus system, which pays out a fixed sum to staff where they introduce leads for new clients to us. Although this is very rare, if you were introduced to us by a staff member and you want to know more about the bonus, please get in touch.
- In addition to the sources detailed above, we also have business relationships with a range of professionals and finance providers, who refer clients to us simply because they know we will provide an effective and efficient service.
- To learn about some of the advantages and disadvantages of an MVL in comparison with the alternatives, see the FAQs download.
- To learn about some of the advantages and disadvantages of any proposed insolvency process in comparison with the alternatives, go to our Business Survival website and Compare Insolvency Regimes. [www.bizsurvival.co.uk/surviving-through-restructuring/compare-insolvency-regimes/](http://www.bizsurvival.co.uk/surviving-through-restructuring/compare-insolvency-regimes/)
- Depending on your circumstances, SFP will also provide one-to-one assistance in considering your options.
- The services that SFP provide could be arranged and administered from a different provider for a different cost.
- Seeking independent advice should be considered.

## Once the MVL has Begun

### Day

#### The Liquidation Commences

- Prior to the start of the Liquidation, a Statutory Declaration of Solvency is sworn by all, or a majority of, the Directors. This is a statement confirming that the Company will pay all debts (plus statutory interest and costs) in full within 12 months and providing details of the Company's assets and liabilities.
- At a meeting, the Board of Directors resolves to summon the Shareholders' meeting.
- At the Shareholders' Meeting, resolutions are passed to place the Company into Liquidation and to appoint a Liquidator.

### Day

#### Statutory Filing and Advertising

- Notice of appointment must be sent to Registrar of Companies and to creditors within 14 days and 28 days respectively, but we look to complete these within the first week. If there are any creditors, they are given 6 weeks to claim any amounts owed.
- Notice of appointment must be advertised in the Gazette within 14 days, but we look to complete this within the first week. A notice is also published in the Gazette inviting any creditors to submit claims within 6 weeks.
- The Declaration of Solvency must be filed at Registrar of Companies within 15 days, but again we aim to complete this within the first week

#### First Distribution Payment <sup>(N1)</sup>

- The Liquidator makes payment of an interim distribution to the shareholders. This distribution will be an agreed percentage of the funds held (less liquidation costs and anticipated creditors' claims).

### Month

#### Liquidator Agrees Any Creditors' Claims and Seeks Tax Clearance

- After the 6-week period for creditors to submit their claims has ended, the Liquidator will look to agree and pay them. The Liquidator has 2 months to do so, however they will typically undertake this in short order, subject to receipt of any complex claims being received. Statutory interest at 8% pa is also payable.
- The Liquidator seeks confirmation from HMRC that there are no outstanding tax matters. HMRC is notoriously slow at providing tax clearance and it may take several months and chasers from the Liquidator before tax clearance is received.



Month

**Interim Distribution Payment<sup>(N1)</sup>**

- In the event that the initial capital distribution was 80% or less, then once any creditors have been paid in full and the only outstanding matter is receipt of tax clearance, a further payment of 50% of the remaining company funds being held are distributed to shareholders.

Month

**Final Distribution Payment<sup>(N1)</sup>**

- Once confirmation has been obtained from HMRC that there are no outstanding tax matters, the remaining company assets being held will be distributed to the shareholders.<sup>(N2)</sup>
- Once the funds have been distributed, a proposed final account and report are issued to members.
- 8 weeks later, a final copy is sent to the members and to the Registrar of Companies and the Liquidator is released from office. This 8-week period can be shortened, if all members give consent in writing.
- We are then able to close the liquidation and the company is dissolved 3 months after.

<sup>(N1)</sup> We are unable to assist with personal tax affairs in relation to distributions to shareholders.

<sup>(N2)</sup> It is impossible to be certain when the final distribution will be paid, as it can vary according to HMRC's workload and any other delays or complications experienced.