



WORK PROGRAMME:
COURT REPORTER
2023

WORK PROGRAMME:

COURT REPORTER

Case Name :
Appointee :
Appointment Date :
Court Reporter :

COURT REPORTER – WORK PROGRAMME

1. Introduction

- 1.1. The attached work programme is part of a series of documents and checklists issued by ICAS. The objective of this work programme is to provide documentary evidence of work carried out as a Court Reporter appointed by either the Court of Session or a Sheriff Court.

It is accepted that there are alternative methods of recording and demonstrating court reporter work that has been completed. Use of this work programme is not mandatory where it can be demonstrated that other appropriate methods of recording work undertaken are employed.

- 1.2. The work programme assumes that members are familiar with insolvency procedures, gained through practical experience and through knowledge of the relevant statutory provisions. For the detailed requirements members should refer to legislation, to Statements of Insolvency Practice (Scotland) and to other guidance notes.
- 1.3. The work programme is issued as an aide-mémoire. The work required will vary depending on the size and complexity of the case as well as the relative stage of insolvency process. In addition, the work programme will be influenced by the terms of the interlocuter appointing the Court Reporter. As a result, the work programme may not be relied upon as exhaustive.
- 1.4. The work programme has been compiled using every best endeavour of ICAS and of those members whose expert opinion was sought. It is intended to apply only in the context of members dealing with court reporter assignments in Scotland. It should be noted that in using them, insolvency practitioners and members accept that no liability, howsoever caused, for loss or damage of any kind resulting from such use, attaches to ICAS, any of its staff or those individuals who contributed to their formulation and publication in respect of any fault, error, negligence or omission in their content.
- 1.5. The information contained in the work programme is based on legislation current as of 19 October 2023. Unless otherwise stated, references given are to the Insolvency Act 1986 ("IA") as amended and the Insolvency (Scotland) (Receivership and Winding up) Rules 2018 ("the Rules").

COURT REPORTER – WORK PROGRAMME

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CONFLICTS OF INTEREST IN ACCEPTING APPOINTMENT

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
1. Confirm that the Reporter and all their partners and associates in the firm (if any) have had no significant professional relationship with the insolvent or its directors prior to the appointment (Refer to the ICAS Code of Ethics Parts 1, 3 and 5)			
2. Confirm that there are no matters which may be seen to impair objectivity			
3. If there are potential problem areas prepare a file record stating the circumstances of the relationship and the conclusion reached about accepting the appointment			
4. Confirm that the Reporter and all their partners and associates had no financial interest in the insolvent company's affairs prior to the appointment			
5. Confirm that acceptance of this appointment will not give rise to a conflict with any other current assignment of the Reporter or of their partners or associates (if any)			
6. Confirm that there are no issues which would indicate that the appointment should not proceed			
7. Confirm compliance with the firm's procedures for anti-money laundering, counter-terrorist and counter-proliferation financing			
8. Confirm that ethics checklist (if one exists) has been completed and signed off at appropriate levels			

Reviewed and agreed

Reporter

Date

ON APPOINTMENT PROCEDURES

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
1. Obtain interlocutor appointing the Reporter			
2. Arrange with office holder to attend their office or for case files to be delivered in order to carry out the work. Where appropriate, consider how electronic files are to be accessed			
3. Obtain from office holder: • R&P account for each relevant period • Account cards for each relevant period • Trial balance for each period • Time records for each relevant period • Statement of time & trouble for each relevant period • SIP 9 statement • Interim liquidator's report • Statement of Affairs			
4. Where appropriate, calculate materiality levels			
<i>Example:</i>			
	£		£
Total asset value to be realised		x 0.5%	
Total realisations in period		x 5%	
Total expenses in period		x 5%	
Total			
		Divide by 3	
Average		£	
Performance materiality factor		x 60%	
Materiality level		£	
5. Document decision on sampling method			
<i>Sampling method should be determined taking into account the size and complexity of the case together with the number of transactions in the period</i>			

COURT REPORTER – WORK PROGRAMME
ON APPOINTMENT PROCEDURES

REP 2

File *Initials* *Date*
ref

Reviewed and agreed

Reporter

Date

CASE REVIEW

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
1. Consider whether the case records contain sufficient information to show and explain the administration of the case and any decisions made by the office holder which materially affect the case			
2. Review compliance with statutory requirements in areas such as: a) Advertising of appointment b) Bonding c) Decision procedures d) Conduct of requisitioned meetings e) Filing of period accounts f) s120 notifications to Pensions Regulator, Pension Protection Fund and Trustees of Scheme g) Proxies and claims			
3. Review records of decision procedures and minutes of creditors meetings (if appropriate)			
4. Confirm that unrealised assets have been appropriately insured or that an appropriate file note has been prepared explaining why certain classes of assets have not been insured			

Reviewed and agreed

Reporter

Date

TRANSACTIONS

	<u><i>File ref</i></u>	<u><i>Initials</i></u>	<u><i>Date</i></u>
1. Confirm funds are held on an interest-bearing bank account			
2. Reconcile/check bank reconciliation at end of period			
3. Vouch income to			
a) Account card			
b) Voucher			
c) Bank statement/bank reconciliation			
4. Vouch expenditure to			
a) Account card			
b) Voucher			
c) Bank Statement/bank reconciliation			
5. Test check account card additions			
6. Vouch R&P balances to:			
a) Trial balance			
b) Account card			
7. Investigate any entries on the bank statement that have not been vouched			
8. Confirm that legal expenses have been taxed by the Court if the legal agent is an associated party of the liquidator			

Reviewed and agreed

Reporter

Date

TAX

IP review: dates

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
VAT			
1. Confirm whether the VAT deregistration has taken place			
2. Where VAT deregistration has taken place, confirm a final VAT Return has been submitted			
3. Where VAT deregistration has not taken place, confirm that post-commencement VAT Returns have been completed, submitted and any amount due paid or repayments have been received			
4. Confirm that VAT has been accounted for in accordance with the VAT scheme operated by the insolvent entity			
5. Where VAT Returns have been completed, check VAT Return against VAT Output, VAT Input and VAT control account records			
6. Confirm that any VAT recoverable at the period end is within statutory time limits for recoverability.			
CORPORATION TAX			
7. Where case is past the first anniversary, confirm that corporation tax returns have been completed, submitted and any amounts due paid or repayments due have been received			
PAYE/NIC			
8. Confirm PAYE/NIC properly accounted for on wage payments			
Reviewed and agreed			

Reporter

Date

CONSIDERATION OF REQUESTED REMUNERATION

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>																						
1. Review case files and papers for the period under review and ensure that these are consistent with transactions and time charged, reviewing matters such as:																									
<table border="1"> <tr><td>Statutory compliance/administration</td><td></td></tr> <tr><td>Asset realisations</td><td></td></tr> <tr><td>Creditor claims/distributions</td><td></td></tr> <tr><td>Employees</td><td></td></tr> <tr><td>Trading</td><td></td></tr> <tr><td>Closing procedures</td><td></td></tr> <tr><td>Notes/petitions to Court</td><td></td></tr> <tr><td>Interlocutors from Court</td><td></td></tr> <tr><td>Reports/circulars to creditors</td><td></td></tr> <tr><td>Returns to AiB/Companies House</td><td></td></tr> <tr><td>Reports to Court for earlier periods</td><td></td></tr> </table>	Statutory compliance/administration		Asset realisations		Creditor claims/distributions		Employees		Trading		Closing procedures		Notes/petitions to Court		Interlocutors from Court		Reports/circulars to creditors		Returns to AiB/Companies House		Reports to Court for earlier periods				
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2. Review statement of time and trouble to ensure files evidence work carried out and tasks performed																									
3. Compare assets realised to statement of affairs and document reasons for material variances																									
4. Confirm remuneration and outlays drawn in the period have been properly authorised																									
5. Seek confirmation of payments made to associated entities or persons of the office holder, the firm or any person in the firm																									
6. Confirm that staff grades used are appropriate for the tasks undertaken given the size and complexity of the case																									
7. Review time records (on a sample basis where appropriate) and confirm they are consistent with expectations from case records																									
8. Consider whether any time costs claimed were incurred unnecessarily.																									
<i>Note – consideration should be limited to time costs which have been incurred unnecessarily due to the actions of the office holder (for example to correct or remedy errors) and not in relation to matters of professional judgement of the office holder.</i>																									
9. Consider whether there have been any significant delays in closing the case which are not explained by a satisfactory reason. If appropriate, assess the additional time charged during this period.																									

CONSIDERATION OF REQUESTED REMUNERATION

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
10. Consider whether any expenses incurred were unnecessary. <i>Note – consideration should be limited only to items which have been incurred unnecessarily due to the actions of the office holder and not in relation to matters of professional judgement of the office holder.</i>			
11. Confirm category 1 expenses are disclosed and reasonable			
12. Confirm the basis of charge for Category 2 expenses has been disclosed and is calculated on an appropriate basis			
13. Consider whether there have been any significant delays in closing the case which are not explained by a satisfactory reason. If appropriate, assess the additional time charged during this period.			
14. Verify time records to SIP 9 statement			
15. Check additions on SIP 9 statement			
16. Document conclusions on proposed remuneration and outlays to be determined.			
17. Where appropriate, prepare a reconciliation between remuneration and outlays applied for and proposed amounts to be determined			
Reviewed and agreed			

Reporter

Date

REPORT

	<u>File ref</u>	<u>Initials</u>	<u>Date</u>
1. Where sampling is used, review materiality level based on information obtained during the work undertaken. Document any revised materiality level and reasons for amendment.			
2. Review schedule of unadjusted errors (if any) and where total exceeds materiality level, consider whether further testing is required or adjustment of accounts is required.			
3. Prepare draft report			
4. Confirm report certificate is consistent with the requirements set out in the Interlocutor			
5. Send draft report including proposed court reporter fee to office holder for comment.			
SHERIFF COURT			
6. Finalise report and send one copy to the office holder and one copy direct to the Sheriff Clerk or send both copies to the office holder – one for onward transmission to the relevant Court. Practice varies from Court to Court.			
COURT OF SESSION			
7. Send draft report to the Auditor of the Court and arrange to confer as necessary with Auditor of the Court			
8. Finalise report and send two copies to office holder and one copy to the Auditor of Court			
ALL CASES			
9. Issue Court Reporter fee to office holder			
10. Consider whether there are any matters which require to be reported to the Insolvency Complaints Gateway where the office holder has failed to comply with relevant laws and regulations and whose actions discredit the profession			

Reviewed and agreed

Reporter

Date

REPORT TEMPLATE – SHERIFF COURT

[Company Name] (In liquidation)

Sheriff Court at [Court name]

Sheriff Court at [Court name}

[Company name] (In liquidation)

**Report by a Reporter in accordance with the Interlocutor pronounced in the Sheriff Court at
[Court name] on [date]**

Liquidator:

Law agents:

Reporter:

Court:

Court ref:

Sheriff Court at [Court name}

[Company name] (In liquidation)

**Report by a Reporter in accordance with the Interlocutor pronounced in the Sheriff Court at
[Court name] on [date]**

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Sheriff Court at [Court name}

[Company name] (In liquidation)

[INSERT COURT INTERLOCUTOR]

Sheriff Court at [Court name}

[Company name] (In liquidation)

Report

In accordance with the foregoing interlocutor the Reporter has examined and audited the intrmissions of the liquidator for the period [date] to [date].

The work performed is not regulated audit work and accordingly has not been carried out in accordance with auditing standards. The Reporter has planned and performed their work in accordance with the ICAS court reporter work programme.

The work carried out and subsequent reporting has been based on the Reporter's assessment of materiality taking into account the size and complexity of the case as well as it's stage of progression.

Sheriff Court at [Court name]

[Company name] (In liquidation)

Case overview

The report should give a brief overview of the case setting out the nature of the company's business, trading history, the nature of the assignment, the liquidator's initial assessment of the case and an indication of the anticipated return to creditors.

The report should then go on to provide a brief review of the work undertaken by the liquidator referring, where appropriate, to matters such as:

- Sale of business/assets
- Continued trading
- Realisation of debtors
- Investigations undertaken
- Complex contractual issues
- Litigation matters
- ROT issues and claims
- Statutory matters completed
- Employee matters
- Confirming if legal accounts have been taxed (where required)
- Brief review of Statement of Affairs and comparison with outcome and brief comments on significant variations]

The Reporter appends the abstract of the liquidator's intromissions for the period from [date] to [date].

The balance with the bank amounting to £[amount] as at [date] has been reconciled to the bank statement at that date.

After providing for the remuneration and expenses of the liquidation the balance of funds [will be carried forward to the next account/will be available for distribution to the [secured/floating charge/unsecured creditors]].

Points of specific consideration

The following matters are brought to the attention of the Court:

[The report should give information on material deficiencies in work performed by the office holder or where the office holder has added value to the insolvency process. In both circumstances the effect on creditors and/or other stakeholders should be demonstrated.]

The time spent by the liquidator and their staff and grades of staff utilised [is/is not considered to be] appropriate, taking account of the size and complexity of the case. [Provide details where time or staff grades utilised is not considered appropriate.]

The hourly rates charged by the liquidator are [within/higher/lower] than the generally accepted range of hourly charge out rates for similarly sized and experienced insolvency professionals in Scotland. [Provide details where rates are higher/lower than the generally accepted rates].

Sheriff Court at [Court name]

[Company name] (In liquidation)

Certificate by Reporter

A Audit of intromissions

The Reporter certifies that the statement of the intromissions of the liquidator for the period from [date] to [date] as appended to this report is correctly stated and sufficiently vouched.

B Remuneration

The Reporter confirms that the liquidator's files and papers and the statements of the liquidator's time and trouble as appended to this report have been reviewed and that the complexity of the case, matters of exceptional responsibilities and matters which have brought additional value to the estate have been considered.

The Reporter is of the opinion that, after taking account of the points of specific consideration reported above, a suggested fee of £[xxxx] be allowed to which VAT falls to be added as appropriate.

If different from fee claimed: A [reduced/increased] fee has been suggested due to [insert reasons e.g. insufficient explanation, inappropriate grade of staff used, exceptional responsibilities, unduly complex requirements etc.]. The liquidator has been informed and agrees with the suggested fee proposed/does not agree with the suggested fee proposed. [This is important as the Court will expect there to have been some dialogue so that it understands whether a hearing or meeting is required].

Outlays/Expenses

The Reporter confirms that the outlays and category 2 expenses as set out below have been properly incurred and vouched:

Type and purpose	£
Type and purpose	£
Type and purpose	£
Total	£

Reporter's fee

It is requested that the Court determines the fee for the work carried out by the Reporter. It is respectfully suggested that a fee of £[xxx] be allowed by the Court as an expense of the liquidation. The suggested fee has been calculated on a time costs basis and is based on [xx] hours at an average rate of £[xx] per hour. [OR The suggested fee is a fixed fee but reflects [xx] hours and an average rate of £[xx] per hour]. Should the Court require any additional work to be performed by the Reporter, an additional fee for that work may be requested.

[Reporter]

[Place of signing]

[Signing date]

Sheriff Court at [Court name]

[Company name] (In liquidation)

Notes

Date

[Date] Date of presentation of petition for winding up

[Date] Date of appointment of provisional liquidator

[Date] Date of winding up order and appointment of interim liquidator

[Date] Date of appointment of liquidator

Or

[Date] Date of passing of resolution for voluntary winding up

[Date] Date of appointment of liquidator

Sheriff Court at [Court name]

[Company name] (In liquidation)

Annex 1 - Statement of liquidator's intromissions

[insert office holders R&P period account]

Sheriff Court at [Court name]

[Company name] (In liquidation)

Annex 2 - Statement of Time and charge out summaries

[Insert accounting period SIP 9 table]

Sheriff Court at [Court name]

[Company name] (In liquidation)

Annex 3 - Statement of liquidator's time and trouble

[Insert office holder's period statement of trouble]

Sheriff Court at [Court name]

[Company name] (In liquidation)

Annex 4 – liquidator's proposed scheme of division

[Insert office holder's proposed scheme of division of divisible funds – if applicable]

REPORT TEMPLATE – COURT OF SESSION

[Company name] (In liquidation)

Court of Session

Court of Session

[Company name] (In liquidation)

**Report by a Reporter in accordance with the Interlocutor pronounced in the Court of Session
on [Date]**

Liquidator:

Law agents:

Reporter:

Court: Court of Session
 Parliament House
 Parliament Square
 Edinburgh
 EH1 1RQ

Court ref:

Court of Session

[Company name] (In liquidation)

**Report by a Reporter in accordance with the Interlocutor pronounced in the Court of Session
on [Date]**

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Court of Session

[Company name] (In liquidation)

[INSERT COURT INTERLOCUTOR]

Court of Session**[Company name] (In liquidation)****Draft/Final* report [*delete as appropriate]**

In accordance with the foregoing interlocutor the Reporter has examined and audited the intrusions of the liquidator for the period [date] to [date].

The work performed is not regulated audit work and accordingly has not been carried out in accordance with auditing standards. The Reporter has planned and performed their work in accordance with the ICAS court reporter work programme.

The work carried out and subsequent reporting has been based on the Reporter's assessment of materiality taking into account the size and complexity of the case as well as its stage of progression.

Court of Session

[Company name] (In liquidation)

Case overview

The report should give a brief overview of the case setting out the nature of the company's business, trading history, the nature of the assignment, the liquidator's initial assessment of the case and an indication of the anticipated return to creditors.

The report should then go on to provide a brief review of the work undertaken by the liquidator referring, where appropriate, to matters such as:

- Sale of business/assets
- Continued trading
- Realisation of debtors
- Investigations undertaken
- Complex contractual issues
- Litigation matters
- ROT issues and claims
- Statutory matters completed
- Employee matters
- Confirming if legal accounts have been taxed (where required)
- Brief review of Statement of Affairs and comparison with outcome and brief comments on significant variations]

The Reporter appends the abstract of the liquidator's intromissions for the period from [date] to [date].

The balance with the bank amounting to £[amount] as at [date] has been reconciled to the bank statement at that date.

After providing for the remuneration and expenses of the liquidation the balance of funds [will be carried forward to the next account/will be available for distribution] to the [secured/floating charge/unsecured creditors].

Points of specific consideration

The following matters are brought to the attention of the Court:

[The report should give information on material deficiencies in work performed by the office holder or where the office holder has added value to the insolvency process. In both circumstances the effect on creditors and/or other stakeholders should be demonstrated.]

The time spent by the liquidator and their staff and grades of staff utilised [is/is not considered to be] appropriate, taking account of the size and complexity of the case. [Provide details where time or staff grades utilised is not considered appropriate.]

The hourly rates charged by the liquidator are [within/higher/lower] than the generally accepted range of hourly charge out rates for similarly sized and experienced insolvency professionals in Scotland. [Provide details where rates are higher/lower than the generally accepted rates].

Court of Session

[Company name] (In liquidation)

Certificate by Reporter

A Audit of intromissions

The Reporter certifies that the statement of the intromissions of the liquidator for the period from [date] to [date] as appended to this report is correctly stated and sufficiently vouched.

B Remuneration

The Reporter confirms that the liquidator's files and papers and the statements of the liquidator's time and trouble as appended to this report has been reviewed and that the complexity of the case, matters of exceptional responsibilities and matters which have brought additional value to the estate have been considered.

The Reporter is of the opinion that, after taking account of the points of specific consideration reported above, a suggested fee of £[xxxx] be allowed to which VAT falls to be added as appropriate.

If different from fee claimed: A [reduced/increased] fee has been suggested due to [insert reasons e.g. insufficient explanation, inappropriate grade of staff used, exceptional responsibilities, unduly complex requirements etc.]. The liquidator has been informed and agrees with the suggested fee proposed/does not agree with the suggested fee proposed. [This is important as the Court will expect there to have been some dialogue so that it understands whether a hearing or meeting is required].

Outlays/Expenses

The Reporter confirms that the outlays and category 2 expenses as set out below have been properly incurred and vouched:

Type and purpose	£
Type and purpose	£
Type and purpose	£
Total	£

[Reporter]

[Place of signing]

[Signing date]

Court of Session

[Company name] (In liquidation)

Notes

Date

[Date] Date of presentation of petition for winding up

[Date] Date of appointment of provisional liquidator

[Date] Date of winding up order and appointment of interim liquidator

[Date] Date of appointment of liquidator

Or

[Date] Date of passing of resolution for voluntary winding up

[Date] Date of appointment of liquidator

Court of Session

[Company name] (In liquidation)

Annex 1 - Statement of liquidator's intromissions

[insert office holders R&P period account]

Court of Session

[Company name] (In liquidation)

Annex 2 - Statement of time and charge out summaries

[Insert accounting period SIP 9 table]

Court of Session

[Company name] (In liquidation)

Annex 3 - Statement of liquidator's time and trouble

[Insert office holder's period statement of trouble]

Court of Session

[Company name] (In liquidation)

Annex 4 – liquidator’s proposed scheme of division

[Insert office holder’s proposed scheme of division of divisible funds – if applicable]

WORKING AS A COURT REPORTER - EXPLANATORY NOTES

Background

Legislation requires that in respect of each accounting period, a committee or, as the case may be, the Court, may audit the accounts and must issue a determination fixing the outlays and remuneration payable to the office holder.

The function of the Court Reporter will be set out in the interlocutor but will normally comprises two elements: an examination of the office holder's financial records relating to the case and an assessment of the remuneration and outlays which should be awarded to the office holder.

The role and function of the Court Reporter is to provide an impartial expert view of the factors which a Court should be aware of in order to conclude on a fair level of remuneration to be approved for an office holder for work done in relation to an appointment. **The responsibility for determining the amount of the office holder's remuneration and outlays remains with the Court.**

The Court Reporter role has no statutory framework or backing but has developed as working practice within the Scottish Court system¹. The Court Reporter acts as an officer of the Court.

Although most Court Reporter appointments are in relation to liquidations, the work programme and template report may be adapted as appropriate for appointments relating to other insolvency processes.

ICAS regulatory requirements

Although legislation uses the word 'audit' the work performed by a Court Reporter is not regulated audit work under legislation. Accordingly, individuals appointed as Court Reporters do not require to be within a firm which is a Registered Auditor or registered as a Responsible Individual in accordance with the ICAS Audit Regulations.

A Court Reporter will require a Practicing Certificate under the ICAS Public Practice Regulations.

Although the Courts will generally expect a Court Reporter to be an Insolvency Practitioner, there is no requirement under the ICAS Insolvency Regulations for an individual acting as a Court Reporter to be authorised.

Standards

As noted above, in fulfilling the requirement for audit as instructed in the Interlocutor, the Court Reporter is not carrying out regulated audit work. Auditing standards do not therefore apply to Court Report work.

ICAS members (which includes Affiliates) carrying out Court Reporter work must comply with the ICAS Code of Ethics. The ethical standards governing Court Report work carried out by an ICAS members are:

- a. *Integrity*
To be straightforward and honest in all professional and business relationships
- b. *Objectivity*
To not allow bias, conflict of interest or undue influence of others to override professional or business judgements
- c. *Professional Competence and due care*

¹ See paragraphs 2 and 3 of [Dempster & Anor, re Park Gardens Investments Ltd \(in liquidation\)](#)

WORKING AS A COURT REPORTER - EXPLANATORY NOTES

To maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional services based on current developments in practice,

legislation and techniques and act diligently and in accordance with applicable technical and professional standards.

d. Confidentiality

To respect the confidentiality of information acquired as a result of professional and business relationships and, therefore, not disclose any such information to third parties without proper and specific authority, unless there is a legal or professional right or duty to disclose, nor use the information for the personal advantage of the professional accountant or third parties

e. Professional behaviour

To comply with relevant laws and regulations and avoid any action that discredits the profession

The fundamental principles of objectivity and confidentiality are likely to be of primary significance in any Court Report work undertaken.

The factors which may threaten objectivity include:

- a) Familiarity (at a personal level and knowledge of work standards or practices) from regular appointments to Report on a particular office holder or from within a particular firm
- b) The Court Reporter and office holder being competitors as Insolvency Practitioners
- c) Significant personal or business relationships established through work reciprocity
- d) Acceptance of goods, services or other hospitality from the office holder or others within their firm

Although the Court Reporter does not have to have regard to auditing standards when performing Court Report work, the work should be performed to a standard which shall enable the Court Reporter to express an opinion on the office holder's Account of intromissions or Receipts and payments account.

Engagement

The engagement of a Court Reporter is by the Court. It is not normally expected that a letter of engagement will be issued between the Reporter and the Court. In some Sherifffdoms and in the Court of Session a panel of Court Reporters is in place and may be subject to a letter of engagement or similar framework contract between the parties.

The interlocutor from the Court will normally set out the scope of the work to be undertaken by the Court Reporter. All Courts however do not use the same wording on the Interlocutor and the Interlocutor will rarely set out in detail the scope of the work.

Court Reporter engagements will normally be undertaken in accordance with the engagement framework set out in Appendix 4. Where the work is not to be undertaken in accordance with the framework there should be a clearly documented reason for not doing so and should be discussed with the Court and the office holder(s) appointed in the case.

Planning

The Court Reporter should plan the work so that an effective engagement will be performed.

The extent of planning varies according to the size, complexity and stage of the insolvency appointment. Planning will also vary depending on the number of transactions in the accounting period.

WORKING AS A COURT REPORTER - EXPLANATORY NOTES

A further factor is the extent to which work will be delegated to assistants (it should be noted that some Courts expect that the work will be carried out by the appointed Court Reporter personally).

Materiality

Materiality should be considered before and during the work being undertaken and prior to the report being drafted. The Court Reporter's assessment of materiality is a matter of professional judgement but when considering materiality, the Court Reporter should have regard to:

- a) the need to evaluate misstatements, including omissions, which individually or in aggregate, could reasonably be expected to influence the Court in their decision making;
- b) the common needs of the Court and creditors as a group. The possible effect of misstatements on the Court alone or specific individual creditors, which may vary widely, is not considered; and
- c) surrounding circumstances, affected by the size or nature of a misstatement, or a combination of both.

Materiality may be considered as a whole in relation to the insolvency appointment. The Court Reporter should also consider whether it is necessary to set a lower or higher level of materiality in relation to certain classes of transactions, account balances or disclosures.

Materiality will apply to disclosure of information within the report as well as in relation to the examination of the office holder's financial statements.

Report

The template report style in Appendix 1 to this work programme is based on an appointment as a Court Reporter by a Sheriff Court in relation to a liquidation. The template report style in Appendix 2 to this work programme is based on an appointment as a Court Reporter by the Court of Session in relation to a liquidation. The template reports should be amended as appropriate to deal with appointments arising from other insolvency processes

The report should give a sufficiently detailed review of the case to enable the Court to have a full understanding of the case, the work carried out and any specific issues arising in the particular case.

Because there is no liaison with the Auditor of the Court in the Sheriff Court process, unless the Sheriff has any specific concerns or questions, it is unlikely that there will be an opportunity to discuss the report with the Sheriff prior to the fee being fixed. In the Court of Session, the interlocutor will normally instruct the Court Reporter to confer with the Auditor of the Court of Session and this will allow an opportunity for any issues to be raised and discussed with the Auditor of the Court who will report to the Lord Ordinary.

Appending the liquidator's statement of time and charge out rates along with a statement of trouble should further assist the Court in a better understanding of the case when considering the report and the fee recommendation.

This information should have regard to the size and complexity of the case and should comprise an explanation of what the liquidator has achieved and how it was achieved to enable the value of the exercise to be assessed as well as recognizing that the liquidator is required to fulfil certain statutory duties which might be seen to bring no added value for creditors.

The information provided should also be sufficient to establish that the time claimed has been properly spent on the case.

The detail provided and the form of presentation should always be proportionate to the size and complexity of the case. When considering the level of disclosure, the areas set out in paragraph 23 of

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SIP 9 should be considered for appropriateness. IPs and Reporters should have regard to paragraph 24 of SIP 9 (Scotland) (effective 1 April 2021).

(Note: The matters listed in the template reports at Appendices 1 and 2 are examples only and not an exhaustive list of matters which could be mentioned in the report to provide a fuller understanding)

The report should clearly set out the basis of the work performed. It should include a statement that the work undertaken does not constitute regulated audit work and accordingly has not been carried out in accordance with auditing standards. Where work has been undertaken in accordance with this work programme, reference can be made to work having been performed in accordance with the ICAS court reporter work programme.

The report should also refer to the work performed being carried out based on an assessment of materiality.

The Court Reporter is not acting as a regulatory insolvency monitor but may have a duty to report certain matters to the Court². The Report should clearly set out observations on material deficiencies in work performed by the office holder. Similarly, the Report should clearly set out where the office holder has added value to the insolvency process. In both circumstances the effect on creditors and/or other stakeholders should be demonstrated.

The following examples, which are not exhaustive, may assist to determine whether a deficiency in work performed by the office holder is a material deficiency or not:

Example of deficiency	Example of material deficiency
Failure to submit statutory filing on time	Multiple failure to submit statutory filing on time, or individual occasions where the delay in filing is substantial (in excess of 14 days)
Occasional failure to include narrative in time record	Widespread failure to provide narrative in time record, or where time or charge exceeds materiality (individual or cumulative)
	Failure or unnecessary delay in following up matters identified through investigation
Under/over bonding	Significant over bonding which has resulted in material unnecessary cost to the estate, or under bonding which has gone without correction for a significant period (over 2 months)
	Failure to have legal accounts taxed, where the liquidator is an associate of the legal agent.
	Failure to insure assets without appropriate explanation
Failure to adhere to a SIP requirement	Failure to adhere to one or more SIP requirements and which action brings the profession into disrepute (e.g. has a significant detrimental impact on a creditor)

When determining the remuneration to be recommended, or the reporting of material deficiencies in work performed by the office holder, the Court Reporter should not take into account whether an office holder's strategic approach or decisions as part of the case were or were not appropriate, unless the strategic approach or decision was one that no reasonable insolvency practitioner would take³.

² [Note of The Provisional/Interim liquidator of Equal Exchange Trading Limited \[2018\] CSOH 35](#)

³ [Re Edenote Limited 1996 \[BCC\] 718 at 722](#)

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Where the office holder's claim for remuneration is to be recommended for reduction, or to be increased, from the level sought, detailed justification and explanation of how the proposed reduction or increase has been arrived at should be included.

Statements of Time and charge out summaries should be appended in a format consistent with SIP 9 requirements.

The purpose of sending the draft report to the office holder is to provide an opportunity for any factual inaccuracies or misunderstandings to be raised and clarified. Particularly where there are concerns raised within the report about matters which may result in a recommendation of remuneration and outlays by the Reporter at a level lower than that requested by the office holder, it is important that care is taken when evaluating comments received back from the office holder that these are considered only in this context. While the result of this process may be an amendment of the report and of the Reporter's recommendation of the quantum of remuneration and outlays, this process is not a negotiation between the office holder and Reporter of the recommendation to the Court. The Reporter should not seek the office holder's approval of their proposed recommendation⁴.

Court Reporter feesCourt of Session

The Court of Session will not normally become involved in the agreement of the Court Reporter's fee. As a result, the basis of the Court Reporter's costs and the final amount shall be fixed between the Court Reporter and the office holder.

Sheriff Court

In the Sheriff Courts, the Court Reporter's fee will normally be approved by the Court and referred to in the interlocutor fixing the remuneration etc.

The report should clearly set out a request for the Court to fix the Reporter's fee and for the fee to be allowed as an expense of the liquidation.

There is generally no fixed method of calculating the Court Reporter's fee. The report should therefore set out the basis on which the fee has been calculated.

It is generally not appropriate for the Court Reporter's remuneration to be fixed by reference to a percentage of the remuneration and outlays determined. Where a fixed fee is charged, the report should disclose the number of hours and average rate per hour in order that the Court may assess the reasonableness of the request.

⁴ See paragraph 30, [Re Future Renewables Eco plc \(in administration\) \[2023\] CSOH 27](#)

ENGAGEMENT FRAMEWORK

The appointment of a Court Reporter is as an officer of the Court with responsibility to report to the Court in terms of the interlocutor issued by the Court.

The Court Reporter is bound by a Code of Ethics and the Court's instructions are accepted on the basis that the Code of Ethics shall be adhered to.

Purpose

The purpose of the work is to assist the Court to consider the office holder(s) request for an audit of their accounts and determination of their remuneration and outlays in respect of a case and the relevant accounting period(s).

Court Reporter responsibilities

Make arrangements to carry out the work at the office holder(s) premises or for the office holder(s) to deliver the required case files and records (whether electronic or physical) to the Court Reporter's office for the necessary work to be performed.

Prepare a report to the Court in accordance with the requirements set out in the Interlocutor, based on accounts, information and explanations provided by the office holder(s) and their staff (as appropriate). As part of the report, the Court Reporter will provide a certification relating to an audit of the office holder(s) accounts. The report will also make a recommendation to the Court in relation to the level of remuneration and outlays that should be approved.

The Court Reporter should complete the work and issue the final copies of the report within the timescales set out in the interlocutor. If the interlocutor does not specify a timescale in which to report, then the timescales set out in legislation for the issuing of a determination by an approving body should be used. Where it is not going to be possible to adhere to the timelines set out in the interlocutor or legislation as appropriate, then the Court Reporter should liaise with the office holder and the Court to ensure that the report is completed in a timely manner.

The Court Reporter is not responsible for the fixing of your remuneration and outlays. This is a matter only for the Court.

Where required by the Court, the Court Reporter will attend a hearing or meeting with any Court official to discuss the content of my report or provide further information as necessary.

Where appropriate, the Court Reporter may be required to report certain matters to the Court, the office holder(s) authorising body or other relevant bodies. This shall be undertaken in accordance with the Court Reporters professional and legal obligations.

The audit of accounts is not regulated audit work and is not carried out in accordance with auditing standards. The work will be carried out in accordance with the ICAS court reporter work programme.

A draft of the Court Reporter's report will be sent to the office holder(s) for comment prior to finalisation. The purpose of this is to clarify any factual inaccuracies or misunderstandings.

The Court Reporter's fee for carrying out the Court report shall be discussed with the office holder and agreement obtained to the amount to be charged. This should be narrated within the report submitted to the Court.

The Court Reporter and office holder(s) shall agree the distribution of the final report. Ordinarily for a Sheriff Court appointment the Court Reporter would issue two copies of the report to the office holder(s) who would be responsible for the submission of the report to the Court. For a Court of Session appointment, the Court Reporter would ordinarily send a draft to the Auditor of Court and, once agreed, two copies of the final report to the office holder and one copy direct to the Auditor of Court.

ENGAGEMENT FRAMEWORK**Office holder(s) responsibilities**

Office holder(s) are responsible for:

- (a) providing all relevant accounts, records, information and explanations requested,
- (b) ensuring that information provided to the Court Reporter is, to the best of their knowledge, complete and accurate,
- (c) providing any comments on the draft report within a reasonable period (within 10 days of issuing is considered reasonable), or such other period agreed,
- (d) submitting the report to the Court where this is the approach agreed with the Court Reporter.

The Court Reporter may require to approach third parties for information considered necessary for the purposes of the report. Office holder(s) should facilitate this where necessary and should if required, sign a mandate authorising a third party to provide such information to the Court Reporter.

The Court Reporter's fee should be requested to be approved by the Court as an outlay of the insolvency process when seeking the appointment of a Court Reporter. The Court Reporter's fee should be paid within 7 days of the Court's interlocutor determining the remuneration and outlays.