



# York House Construction Limited (In Administration)

Joint Administrators' progress report

19 December 2017



# Abbreviations

The following abbreviations are used in this report:

the Company	York House Construction Limited
the Bank or the Secured Creditor	National Westminster Bank plc
the Proposals	Joint Administrators' statement of proposals dated 14 January 2009
Progress Reports	Joint Administrators' progress reports
the Court	High Court of Justice, Chancery Division, Leeds District Registry
Eversheds	Eversheds LLP
QS	Quantity Surveyor

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# Introduction

## **York House Construction Limited (in Administration)**

High Court of Justice, Chancery Division, Leeds District Registry (No. 1862 of 2008)

**Registered office address: c/o Ernst & Young LLP, 1 Bridgewater Place, Water Lane, Leeds, LS11 5QR**

I write, in accordance with Rule 18.3 of the Insolvency (England and Wales) Rules 2016, to provide creditors with a report on the progress of the administration. This report covers the period from 26 May 2017 to 25 November 2017 and should be read in conjunction with the Proposals and the previous Progress Reports.

York House Construction Limited, registered number 03359049, entered Administration on 26 November 2008 and R H Kelly and C G J King were appointed to act as Joint Administrators.

The appointment was made by the Bank under the provisions of paragraph 14 of Schedule B1 to the Insolvency Act 1986. Under the terms of the appointment, any act required or authorised to be done by the Joint Administrators can be done by either of them.

## **Extension to the period of Administration**

As previously reported, on 20 November 2009, the Court agreed a 24 month extension of the Administration to 25 November 2011 and on 20 October 2011, the Court agreed to a further 24 month extension of the Administration to 25 November 2013.

Previous 12 month extensions to the Administration were granted by the Court on 1 November 2013, 31 October 2014, 8 October 2015 and 28 October 2016. The purpose of these extensions was to facilitate the asset realisation process and resolve disputes with contract debtors, in particular the Donisthorpe Hall Bond (discussed below).

The most recent extension to the Administration was granted by the Court on 31 October 2017. This extension was for 12 months, the purpose of which is to conclude all outstanding Administration matters and to enable a distribution of the Prescribed Part to be made. It currently remains unclear whether the outstanding matters will be concluded before expiration of the Administration.

The Administration is due to expire on 25 November 2018.

# Summary of progress since the Progress Report dated 20 June 2017

## Contract debts

### Live contracts

At the date of our appointment, the Company had ten live contracts. The actions we have taken to realise the outstanding balances on these contracts are detailed in the previous Progress Reports.

The two key live contracts are the Donisthorpe Hall contract and Staithgate Lane contract. However, as previously reported the Employer of the Staithgate Lane contract has entered insolvency proceedings and therefore we have concluded it will not be possible to generate any recoveries from this asset.

### Donisthorpe Hall

The main outstanding matter relating to Donisthorpe Hall is the conditional bond provided by the Bank. This had an exposure of c.£204,000 on appointment.

As previously reported, a claim has been made against the Bond. However, as the claim was made directly against the Bank, it is a matter for the Bank to resolve directly with the Trustees and their legal advisers. Consequently, the Company has not been party to the recent discussions that have taken place in respect of the claim. We understand that a meeting is scheduled between the Bank and the Trustees' legal advisers which will likely result in resolution of this matter.

We would also note, the outcome of the discussions between the Bank and DHT's legal advisors will not impact the level of returns to other creditors since any successful claim under the bond would be paid directly by the Bank, thus increasing its exposure in the Administration.

It is therefore the opinion of the Joint Administrators that there is no reason to keep the Administration open, other than to distribute the Prescribed Part.

## Completed Contracts

### Khidmat Centre

As previously advised, we have agreed a settlement of £23,000 in relation to this debtor against a judgement debt of £30,358.90. This was considered a better return for creditors compared to continuing further legal proceedings, which may have had a significant cost impact.

## Other Matters

As there are no other outstanding matters to address the Joint Administrators will proceed to finalising all liabilities in the Administration and commence the process of eliciting and adjudicating non-preferential claims. You will be written to separately in this regard, however the exact timing of this remains uncertain.

## Receipts and payments account

I enclose a receipts and payments account for the period 26 November 2008 to 25 November 2017 at Appendix A. Please note this does not reflect estimated future realisations or costs.

## Outcome for creditors

### Secured creditors

At the date of our appointment the Bank's indebtedness totalled £1,383,000, including the potential exposure of c.£205,000 in respect of a guarantee bond on the Donisthorpe Hall contract. This amount is subject to accruing interest and charges.

Given the level of realisations to date it is unlikely the Bank will be repaid in full. The level of any payment in relation to the Bond will also impact the level of the Bank's shortfall.

The Bank's recovery will also be impacted by the level of realisations generated from the Liquidation of the Company's subsidiary and guarantor company, YHC Developments Limited.

To date, we have distributed £1,000,000 to the Bank under its fixed and floating charges.

### Preferential creditors

Preferential creditor claims of £190,583 have been paid in full.

### Non-preferential creditors

To date we have received non-preferential, unsecured claims totalling £3.6m. This is significantly below the £10.3m illustrated in the directors' statement of affairs.

As there are still liabilities to be finalised in the Administration, we are currently unable to quantify the extent of funds that will be available for distribution to non-preferential creditors of the Company and therefore, we have not formally commenced the process of eliciting and agreeing claims. As advised above, once these liabilities are agreed and settled this process will commence.

There will be insufficient funds available to allow a distribution to be made to non-preferential creditors other than by virtue of the prescribed part.

### The prescribed part

Based on our current estimate of floating charge realisations and before allowing for the costs of agreeing creditors' claims, we estimate that the prescribed part may total c.£186,000. Before the costs of distribution, this equates to a dividend of approximately c.5 pence in the £ based on the level of non-preferential, unsecured claims received to date and approximately c.2 pence in the £ based on the level of non-preferential creditors shown in the directors' statement of affairs.

The Joint Administrators will distribute the prescribed part during the Administration.

## Administrators' remuneration and disbursements

The Administrators' remuneration was fixed on a time-cost basis by a resolution of the creditors passed on 4 February 2009.

To date, the Administrators have incurred time costs of £621,199 against which no fees have been drawn. An analysis of the time spent is attached as Appendix B to this report. At Appendix C there is a statement of the Administrators' policy in relation to charging time and disbursements.

The statutory provisions relating to remuneration are set out in Part 18 of the Insolvency (England and Wales) Rules 2016. Further information is given in the Association of Business Recovery Professionals' publication 'A Creditors' Guide to Administrators' Fees', a copy of which may be accessed from the web site of the Institute of Chartered Accountants in England and Wales at <https://www.icaew.com/-/media/corporate/files/technical/insolvency/creditors-guides/2017/administration-creditor-fee-guide-6-april-2017.ashx?la=en> or is available in hard copy upon written request to the Joint Administrators.

To date, the Administrators have incurred disbursements of £27,164.75 and no disbursements have been drawn on account.

Type of expense	Incurred (£)	Paid (£)	Outstanding (£)
Postage	13,577.38	-	13,577.38
Photocopying	11,355.70	-	11,355.70
Courier	148.02	-	148.02
Sustenance	94.2	-	94.2
Taxi fares	58.31	-	58.31
<b>Total</b>	<b>25,233.61</b>	<b>-</b>	<b>25,233.61</b>
Category 2 disbursements	1,931.14	-	1,931.14
<b>Total disbursements</b>	<b>27,164.75</b>	<b>-</b>	<b>27,164.75</b>

Since our previous report our time has been spent on the following matters:

- ▶ Engaging with our legal advisors and the Bank to resolve the issues surrounding the Donisthorpe Hall contract debtor including the Bond;
- ▶ Reporting to the Bank;
- ▶ Dealing with unsecured creditor claims and enquiries;
- ▶ Taxation matters;
- ▶ Statutory duties; and
- ▶ Other matters arising out of the Administration.

## Other matters

### Future conduct of the Administration

The Joint Administrators will continue to act in accordance with their proposals. This work will include inter alia:

- ▶ Finalising Administration liabilities;
- ▶ Dealing with unsecured creditor enquiries;
- ▶ Dealing with statutory reporting and compliance issues;
- ▶ Making distributions to the secured creditor; and
- ▶ Distributing the Prescribed Part to unsecured creditors.

### Exit from the Administration

In the event that the only funds available for the Company's unsecured creditors are those set aside under the Prescribed Part, these funds will be distributed in the Administration. At the end of the Administration we will file at Companies House a notice pursuant to paragraph 84 of Schedule B1 to the Insolvency Act 1986 for the dissolution of the Company.

If it transpires that there are sufficient funds available to enable a distribution to unsecured creditors by way of a surplus having discharged the secured creditors in full, the Company will be placed into Creditors' Voluntary Liquidation upon the filing at Companies House of a notice pursuant to paragraph 83 of Schedule B1 to the Insolvency Act 1986, and in accordance with the Proposals the Liquidators will be R H Kelly and C G J King of Ernst & Young LLP.

### Future reports

I will report to you again at the conclusion of the Administration or in six months' time, whichever is the sooner.

Should you wish to discuss any aspect of this report, please do not hesitate to contact my colleague, Ben Leach, on 0113 298 2224.

Yours faithfully  
for the Company



C G J King  
Joint Administrator

R H Kelly is licensed in the United Kingdom to act as an insolvency practitioner by the Institute of Chartered Accountants of Scotland and C G J King is licensed in the United Kingdom to act as an insolvency practitioner by the Institute of Chartered Accountants in England and Wales.

The affairs, business and property of the Company are being managed by the Joint Administrators, R H Kelly and C G J King, who act as agents of the Company only and without personal liability.

We may collect, use, transfer, store or otherwise process (collectively, "Process") information that can be linked to specific individuals ("Personal Data"). We may Process Personal Data in various jurisdictions in accordance with applicable law and professional regulations including (without limitation) the Data Protection Act 1998.

## Appendix A Receipts and payments account as at 25 November 2017

<i>Estimated to realise as per Statement of Affairs</i>	<i>Period to 25 May 2017</i>	<i>Period from 26 May 2017 to 25 November 2017</i>	<i>Total</i>
£	£	£	
<b>Receipts</b>			
700,000 Property	534,660	-	534,660
261,422 Book Debts	11,987	-	11,987
337,430 Plant & machinery	353,243	-	353,243
4,542,935 Contract novations & final account settlements	1,249,237	-	1,249,237
80,000 Return of pre appointment duplicate payment	104,694	-	104,694
- Rental income	23,175	-	23,175
- Cash at date of appointment	165	-	165
- Bank Interest	36,781	177	36,958
<b>5,921,787</b>	<b>2,313,943</b>	<b>177</b>	<b>2,314,121</b>
<b>Payments</b>			
Wages & salaries	20,726	-	20,726
Bank charges	340	-	340
Consultancy fees	78,021	-	78,021
Rent	39,988	-	39,988
Agents fees	91,028	-	91,028
Legal fees	131,591	-	131,591
ATE insurance costs	15,862	-	15,862
Insurance	6,828	-	6,828
Retention of title settlements	4,000	-	4,000
Stationery and postage	6,401	-	6,401
Utilities	1,564	-	1,564
Mileage charges	345	-	345
Storage charges	7,599	309	7,908
Specific bond and public notices	1,811	-	1,811
Sundry expenses	25	-	25
Property expenses	775	-	775
Corporation Tax	5,979	-	5,979
	<b>412,881</b>	<b>309</b>	<b>413,190</b>
Net Realisations	1,891,812		1,900,931
<b>Distributions</b>			
Preferential creditors	190,583	-	190,583
Secured creditor - National Westminster Bank Plc	1,000,000	-	1,000,000
	<b>1,190,583</b>	<b>-</b>	<b>1,190,583</b>
<b>Funds in hand</b>			
Cash at Bank	707,099	3,140	710,239
Net VAT receivable	3,381	(3,272)	109
	<b>710,479</b>	<b>(132)</b>	<b>710,348</b>

NB: Some receipts and payments have been reclassified for completeness

## Appendix B SIP 9 analysis as at 25 November 2017

	Partner/ Director	Assistant Director	Senior Executive	Executive	Analyst	Total hours	Time costs	Average Hourly rate
Accounting & Administration	1.0	0.7	4.5	56.2	233.3	295.7	41,797	141
Bank & Statutory Reporting	54.3	40.8	22.8	129.4	103.5	350.8	91,491	261
Creditors	5.5	29.2	2.7	217.5	220.9	475.8	86,397	182
Debtors	100.7	218.7	28.0	149.0	60.2	556.6	174,283	313
Employee Matters	4.7	-	3.0	78.0	32.5	118.2	21,841	185
General	24.4	7.4	3.1	0.5	40.0	75.4	19,565	259
Immediate Tasks	4.5	-	-	-	45.4	49.9	6,689	134
Investigations & CDDA	9.3	1.9	-	50.1	13.0	74.3	16,372	220
Legal Issues	16.7	-	23.5	24.0	-	64.2	23,370	364
Other Assets	2.0	-	1.3	7.5	29.0	39.8	6,401	161
Other Matters	1.0	4.6	10.0	36.8	36.5	88.9	17,715	199
Property	5.5	3.3	4.0	4.6	46.0	63.4	11,353	179
Retention of Title	6.9	1.6	-	8.1	54.3	70.9	11,368	160
Statutory Duties	5.3	8.6	26.5	52.5	48.8	141.7	34,801	246
VAT & Taxation	2.9	16.7	16.4	90.5	104.4	230.9	57,759	250
<b>Total Hours</b>	<b>244.7</b>	<b>333.5</b>	<b>145.8</b>	<b>904.7</b>	<b>1,067.8</b>	<b>2,696.5</b>		
<b>Time Costs (£)</b>	<b>114,508</b>	<b>124,530</b>	<b>54,880</b>	<b>197,956</b>	<b>129,325</b>		<b>621,199</b>	
<b>Average hourly rate (£)</b>	<b>468</b>	<b>373</b>	<b>376</b>	<b>219</b>	<b>121</b>		<b>230</b>	

The Category 1 and Category 2 disbursements incurred during the Administration are detailed below:

Category 1 disbursements are defined as specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party.

### Category 1

Postage	13,577.38
Photocopying	11,355.70
Courier	148.02
Sustenance	94.20
Taxi fares	58.31
	<b>25,233.61</b>

Category 2 disbursements are charges made by the office holder's firm that include elements of shared or overhead costs.

### Category 2

Mileage	1,931.14	Basis of charge Mileage is charged at 45p per mile
	1,931.14	
<b>Total Expenses</b>	<b>27,164.75</b>	

## Appendix C Office Holders' Charging Policy for Fees and Disbursements

### Fees

The Company's creditors as a whole determined at the creditors' meeting held on 4 February 2009 that the Administrators' remuneration should be fixed on the basis of time properly spent by the Administrators and their staff in attending to matters arising in the Administration.

The Administrators engaged a manager and other staff to work on the cases. The work required was delegated to the most appropriate level of staff taking account of the nature of the work and the individual's experience. Additional assistance was provided by accounting and treasury executives dealing with the company's bank accounts and statutory compliance duties. Work carried out by all staff was subject to the overall supervision of the Administrators.

All time spent by staff working directly on case-related matters was charged to a separate time code established for each case. Each member of staff had a specific hourly rate, which was subject to change over time. The average hourly rate for each category of staff over the period is shown in Appendix B, and the latest hourly rates used are shown below. The latest hourly rates may be higher than the average rates, if hourly rates increased over the period covered by this report.

The appropriate rates are shown below:

Effective from	Hourly rate (£)		
	1 July 2017	1 July 2016	1 July 2015
Partner	745	710	660
Executive Director	695	660	630
Assistant Director	525	500	475
Senior Executive	410	390	370
Executive	295	280	265
Analyst			
Level 3	235	225	215
Level 2	180	170	160
Level 1	160	150	145
Account & Treasury Executive	140	130	130

A copy of the R3 (Association of Business Recovery Professionals) creditors' guide to Administrators' fees may be obtained by contacting Tom Harvey at the above address, or at [www.r3.org.uk](http://www.r3.org.uk).

## **Disbursements**

Statement of Insolvency Practice No. 9 ("SIP 9") published by R3 (The Association of Business Recovery Professionals) divides disbursements into two categories.

Category 1 disbursements comprise payments made by the office holders' firm, which comprise specific expenditure relating to the administration of the insolvent's affairs and referable to payment to an independent third party. These disbursements can be paid from the insolvent's assets without approval from the Committee. In line with SIP 9, it is our policy to disclose such disbursements drawn but not to seek approval for their payment.

Category 2 disbursements comprise payments made by the office holders' firm which include elements of shared or overhead costs. Such disbursements are subject to approval from the Secured Creditor as if they were remuneration. It is our policy, in line with SIP 9, to seek approval for this category of disbursement before they are drawn.

## Appendix D Summary of Statutory Information

### Company Information

Company Name: York House Construction Limited (In Administration)  
Registered Office Address: c/o Ernst & Young LLP  
1 Bridgewater Place  
Water Lane  
Leeds  
LS11 5QR  
Registered Number: 03359049  
Trading Name(s): YORK HOUSE CONSTRUCTION LIMITED  
Trading Address(es): York House,  
Gatherley Road,  
RICHMOND  
North Yorkshire  
DL10 7JH  
United Kingdom

### Details of the Administrators and of their appointment

Administrators: R H Kelly and C G J King  
Date of Appointment: 26 November 2008  
By Whom Appointed: The appointment was made by National Westminster Bank plc  
Court Reference: High Court of Justice, Chancery Division, Leeds District Registry – 1862 of 2008.

Any of the functions to be performed or powers exercisable by the administrators may be carried out/exercised by any one of them acting alone or by any or all of them acting jointly.

### Statement concerning the EC Regulation

The EC Council Regulation on Insolvency Proceedings does apply to this administration and the proceedings are main proceedings. This means that this Administration is conducted according to UK insolvency legislation and is not governed by the insolvency law of any other European Union Member State.

**Share capital**

Class	Authorised		Issued & Fully paid	
	Number	£	Number	£
Ordinary	195,000	195,000	50,000	50,000
Ordinary B	5,000	5,000	5,000	5,000

**Directors and secretary and their shareholdings**

Name	Director or Secretary	Date Appointed	Date Resigned	Current Shareholding
Robert Andrew Bruce	Director	01/05/2001	N/A	19,000
James William Grice	Director and Secretary	24/04/1997	N/A	19,000
Stephen William Hall	Director	01/01/2005	N/A	2,500
Frank Kofler	Director	01/05/2001	N/A	12,000
Arthur Richardson	Director	01/01/2005	N/A	2,500
Simon Robert Smith	Director	01/01/2005	N/A	Nil



For further information, please  
refer to our guidance at  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

### 1 Company details

Company number

Company name in full

→ **Filling in this form**

Please complete in typescript or in  
bold black capitals.

### 2 Administrator's name

Full forename(s)

Surname

### 3 Administrator's address

Building name/number

Street

Post town

County/Region

Postcode

Country

### 4 Administrator's name ①

Full forename(s)

Surname

① **Other administrator**

Use this section to tell us about  
another administrator.

### 5 Administrator's address ②

Building name/number

Street

Post town

County/Region

Postcode

Country

② **Other administrator**

Use this section to tell us about  
another administrator.

# AM10

## Notice of administrator's progress report

### 6 Period of progress report

From date	d	d	m	m	y	y	y	y
To date	d	d	m	m	y	y	y	y

### 7 Progress report

I attach a copy of the progress report

### 8 Sign and date

Administrator's  
signature

Signature

X



X

Signature date

d	d	m	m	y	y	y	y
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# AM10

## Notice of administrator's progress report



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name

Company name

Address

Post town

County/Region

Postcode

Country

DX

Telephone



### Checklist

**We may return forms completed incorrectly or with information missing.**

**Please make sure you have remembered the following:**

- The company name and number match the information held on the public Register.
- You have attached the required documents.
- You have signed the form.



### Important information

**All information on this form will appear on the public record.**



### Where to send

**You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:**

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.



### Further information

For further information please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

**This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)**