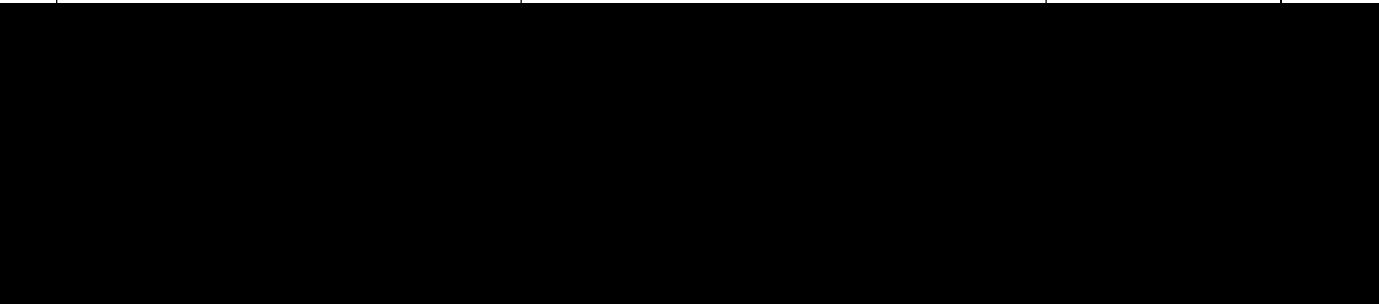


WBL Logbook Sheet Template

Competency e.g. 1	Learning Outcome e.g. 1.1	Example Number
2	2.4	1
Evidence provided e.g. letter to client dated 01.01.2017, Telephone attendance note dated 01.01.2017		
Letter to the other side dated 10 May 2021		
Explain how the example meets the learning Outcome and how the evidence shows this		
<p>Identify additional information required to progress the matter:</p> <p>I was instructed on behalf of a Liquidator of a Company in connection with recovery of various payments made from the Company account to the director and his family.</p> <p>The Director (and his wife) responded our letter before claim providing an explanation for the majority of the payments made to them (and their children). However, to enable me to provide advice on the merits of the claim (and to allow my client to consider its position), further information and documentation in support of the Director's position was required.</p> <p>Communicate the request for further information:</p> <p>On 10 May 2021, after taking instructions from my client on the information and documentation required to progress the matter, I wrote to the Director and his wife setting out in clear terms what further information was required in order to give full consideration to the matter.</p> <p>Apply relevant law and procedure</p> <p>The letters to both the Director and his wife clearly set out the information required and the reasons why. It also explains that, particularly in relation to the funds transferred to the Director's wife, that even if the information / evidence is provided, my client may also have a claim for recovery of the funds in accordance with Section 239(1) of the Insolvency Act 1986, since she had been preferred as a creditor.</p> <p>2.4 Example 1 – Logsheet</p>		
Reflection and evaluation Describe what you learnt from the activity you undertook to meet the Learning Outcome. You may want to complete this section at a later date once you have had time to reflect on your practice and experience.		
<p>It is important to be thorough at pre-litigation stage to prevent issues regarding missing/unavailable evidence arising once the matter has litigated. It is best practice to ensure that you have all information on your file as soon as possible. To proceed with litigation without obtaining the relevant information / evidence to enable you to consider the merits of the claim, this could result in having to discontinue proceedings later down the line incurring costs for your client.</p>		

Date work completed: (i.e. evidence date)	10/05/2021 ^{rk}	Date
--	--------------------------	-------------



Our ref [REDACTED]

Strictly private and confidential

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Also by e-mail: [REDACTED]

Direct tel [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]
Email [REDACTED]

Dear Sir

Our Client: [REDACTED]
[REDACTED]

We write further to the above matter and write to advise that the [REDACTED] has now had the opportunity to fully consider the points raised within your letter to us. Please do accept our apologies for the delay in responding to you.

We have set our response below.

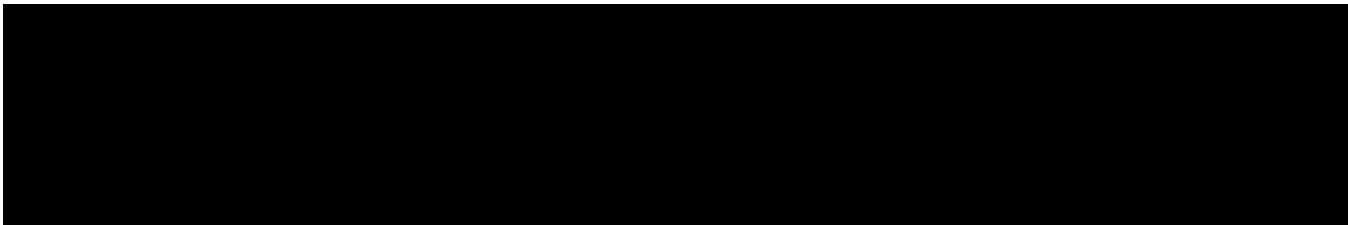
Payments made to [REDACTED] [REDACTED]

1. We note your position that, whilst payments have been made from the company account to your personal account, totalling £107,889.00. You state that you have made credits to the Company account which total £75,751.00 ("the Credits").

We have cross referenced the company statements with the schedule you provided and can see that the Credits total [REDACTED]. The Credits are a mixture of cash deposits and bank transfers from your personal account as follows:

[REDACTED]
[REDACTED] transfers ("the Transfers")

In view of the above, [REDACTED] is willing to deduct the Transfers from the amount withdrawn from the account. This leaves an outstanding balance of [REDACTED] 00 which remains due and owing to the Company.



[REDACTED]

With regards to the Cash Deposits, you have provided no evidence to substantiate that these deposits have been made from your personal funds and, were not funds due to the Company. Could you please provide such evidence?

2. In addition to the Credits, you state that you have paid suppliers sums totalling £14,310.00 from your personal bank account ("the Supplier Payments"). Whilst you have provided a schedule which sets out details of the Supplier Payments, you have not provided any evidence in support of the same. Please therefore provide evidence that you have paid the sum of £14,310.00 to suppliers from your own personal funds (ie provide copy bank statements highlighting all supplier payments).
3. You also state that you have undrawn wages totalling £9,120.00 which is owed to you by the Company. However, you have failed to provide any evidence in respect of the same. Could you therefore please provide:
 - a. The amount of wages you should have drawn each month from the Company;
 - b. Details of what months wages were drawn and the months you did not draw any wages.
 - c. Provide evidence in support of the sums drawn and the months which you did not draw a wage.
4. Finally, you state that any cash withdrawals would have been utilised to purchase materials, consumables and travel expenses whilst on site. It is noted that you have located records / evidence which can account for £4,645.00 and we therefore should be grateful if you could provide copies the same to us.

Payments made to [REDACTED] [REDACTED]

[REDACTED] which have been made from the company to [REDACTED] relate to payment of wages.

The sum of £61,697.00 has been paid to [REDACTED] over a period of 12 months and, following a review of the Company account statements it would appear that these payments are not consistent in either amount or frequency. Could you please therefore provide:

1. Evidence of [REDACTED] agreed salary / wage;
2. Evidence that these payment were in fact made in respect of wages (to include, but not limited to, [REDACTED] PAYE / tax return).

Payments to [REDACTED] [REDACTED]

[REDACTED] to [REDACTED] relate to payments of wages for work carried out for the company during school holidays and during weekends. However, some of these payments do not appear to be consistent with weekend work / school holidays.

Again, we would ask that you provide evidence of the work which has been undertaken by [REDACTED] and the hourly rate / wage which has been paid to her in respect of the same.

Payments to [REDACTED] (wife) - [REDACTED]

We note your contention that payments totalling [REDACTED] made to your wife, [REDACTED], were largely made in relation to loans she provided to the Company. In particular, you state that the family home was sold in 2013 and the proceeds of sale ([REDACTED]) were credited to the Company account on [REDACTED]. You also state that [REDACTED] has made additional loans to the Company.



The Official Receiver does not hold Company statements dating back to 22 January 2013. Could you please therefore provide:

1. Copy statements from January 2013 to 2018 which show the credit [REDACTED] (and any other credits made to the account by [REDACTED], or indeed payments to [REDACTED] in reduction of the alleged loans).
2. Details (supported by evidence) of any other loans made by [REDACTED] to the Company
3. Evidence of the agreed terms of repayment for any such loan(s)
4. The total amount repaid to [REDACTED] in respect of the loan(s)
5. Details and evidence of the amount paid to [REDACTED] in respect of wages for "admin duties"

The above information / documentation will allow my client to give full consideration to the allegations raised in respect of the sums in dispute. However, in any event, it is the [REDACTED] position that any sums paid to Mrs [REDACTED] in settlement of loans due to her by the Company remain recoverable and due and owing.

T [REDACTED], as Liquidator of the Company, has a duty to protect property in the interest of the Company. Therefore, [REDACTED] may challenge some transactions to ensure that the best recovery for the Company's creditors is achieved.

In particular, [REDACTED] has the right to challenge the payments made to [REDACTED] and we have set out below the legal basis for any such claim the Official Receiver may have to undo the effect of it.

Preference

The Official Receiver believes that it may have a claim against [REDACTED] as a preferred creditor under the provisions of Section 239(1) of the Insolvency Act 1986 ("the Act").

Section 239(1) applies in circumstances where a transaction has put the creditor in a better position, in the event of insolvency liquidation, than it would otherwise have been had the transaction not taken place. The Courts have held that this means that the company must permit something to happen that it has the power to stop or obstruct.

Where Court deems that a preference has been given, it may restore the position to what it would have been if that individual had not been given that preference.

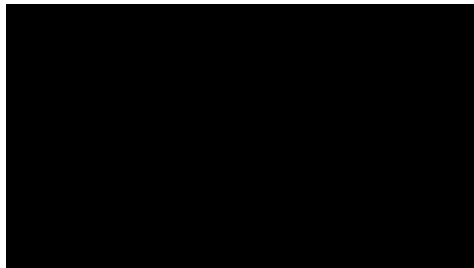
By your own admission, there was an outstanding debt owed to [REDACTED] in respect of loans provided to the Company and, the transfers to her totalling [REDACTED] discharged some, or all, of the Company's indebtedness to her. It is therefore clear the Company has preferred [REDACTED] as a creditor and, as a result, the sum [REDACTED] is open to challenge under the provisions of Section 239(1) of the Act and is due and owing to our client.

We can confirm that we have written to [REDACTED] in similar terms to fully set out the [REDACTED].

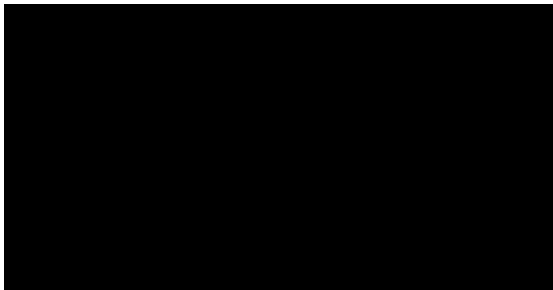
Without Prejudice

In the meantime, we confirm that the Official Receiver is open to discuss settlement options with you in a genuine attempt to bring this matter to a swift conclusion. With this in mind, we would invite you to put forward an offer of settlement (taking the above issues into consideration).

We can then take our client's instructions in respect of the same.



Should you have any queries or wish to discuss matters further please do not hesitate to contact [redacted] (contact details above).



Our ref [REDACTED]

Strictly private and confidential

[REDACTED]
[REDACTED]
[REDACTED]

Direct tel + [REDACTED]

10 May 10 May 2021

Direct fax + [REDACTED]

Email [REDACTED] [REDACTED]

Dear Sir

Our Client: [REDACTED]
[REDACTED]

We write further to the above matter and write to advise that the [REDACTED] has now had the opportunity to fully consider the points raised within your letter to us. Please do accept our apologies for the delay in coming back to you.

It is noted that you were working for the Company undertaking booking and, that you did not receive a proper salary for such work.

You further state that you made payments on behalf of the Company on your personal cards to pay suppliers and other company expenditure. Furthermore, you state that to assist the company you paid the sum [REDACTED] into the account following the sale of your property in 2013.

We thank you for providing the above information. However, to enable the [REDACTED] to consider its position and any sums owed to the Company, by you, could you please provide:

1. Confirmation (supported by evidence) of the salary you were to receive from the Company in respect of the work undertaken;
2. Details of (supported by evidence) the amount of salary you received from the Company.
3. Receipts / bank statements / credit card statements detailing each transaction paid by your personal cards / funds on behalf of the company; and
4. Account statements showing the payment of [REDACTED] to the Company account following the sale of your property.

[REDACTED]



Preference

In the event it can be evidenced by you that you have both paid personal payments on behalf of the Company and, provided the company with loans to assist its position, the [REDACTED] believes that it may still have a claim against you as a preferred creditor under the provisions of Section 239(1) of the Insolvency Act 1986 (“the Act”).

Section 239(1) applies in circumstances where a transaction has put the creditor in a better position, in the event of insolvency liquidation, than it would otherwise have been had the transaction not taken place. The Courts have held that this means that the company must permit something to happen that it has the power to stop or obstruct.

Where Court deems that a preference has been given, it may restore the position to what it would have been if that individual had not been given that preference.

By your own admission, you provided the Company with Loans (both by way of cash injection and by making personal payments to suppliers on its behalf). Therefore, it would appear that there was an outstanding debt owed to you by the Company and as such, you were / are a creditor of the Company.

It would therefore appear to be your position that the transfers made to you totalling [REDACTED] has discharged some, or all, of the Company’s indebtedness to you. The Company has therefore preferred you as a creditor and, as a result, the sum of [REDACTED] 0 is open to challenge under the provisions of Section 239(1) of the Act and is due and owing to our client.

We can confirm that we have written to [REDACTED] in similar terms regarding the above transfers to you.

Without Prejudice

In the meantime, we note that [REDACTED] would like to reach an amical resolution to this matter and as such we can confirm that the [REDACTED] is open to discuss settlement options with you / [REDACTED] in a genuine attempt to bring this matter to a swift conclusion. With this in mind, we would invite you / [REDACTED] to put forward an offer of settlement (taking the above issues into consideration).

We can then take our client’s instructions in respect of the same.

Should you have any queries or wish to discuss matters further please do not hesitate to contact [REDACTED] (contact details above).

Yours faithfully

