

Winding Up Petitions

A winding up petition is a legal action taken by a creditor or creditors against a company that owes them money (although others can also petition). The purpose of issuing a winding up petition is to have the company wound up, or put into compulsory liquidation. Going into liquidation signals the end of the company. A number of alternative strategies may be available to a company in financial difficulties which may allow the company, or at least part of it, to continue.

From the point of view of a creditor commencing winding up proceedings is the avenue of last resort. The procedure should not be used as a means of enforcing a debt; litigation through the courts or some alternative dispute resolution process may be more appropriate.

A creditor may present a petition if a company owes them £750 or more. At the point of issue the court will endorse the petition with a hearing date. Thereafter the petition must be served at the registered office of the company before subsequently being advertised in The Gazette.

If the order is made, the creditor can seek to appoint an insolvency practitioner as liquidator.

No5 counsel can assist at any stage leading up to, or indeed after, the presentation of a petition.

Timescales

Timescales for advice may vary depending on the barrister's pre-existing commitments but is likely to be provided within 14-21 days of instruction. Urgent instructions can of course be turned around as needed but this again will be subject to barrister availability.

Timescales for hearing winding up petitions may vary depending on factors such as barrister availability, the need for additional documents and court waiting times.

Fees

We charge fixed fees, which means that we will charge you a set amount of money for written advice or representation at a winding up petition which will be agreed before work is undertaken. We set out below estimates based on the ranges of fixed fees for barristers in No5 Barristers' Chambers. All fees include VAT (where applicable).

Your fixed fees may be towards the higher end of the range if you need a more experienced barrister. Equally if the case is particularly complex your fees may exceed the estimates provided below.

- ***Uncontested***
 - 1-5 years call (£150 - £500)
 - 6-10 years call (£500 - £1000)
 - 10+ years call (£1000 - £2500)

- ***Contested***
 - 1-5 years call (£500 - £1500)
 - 6-10 years call (£1500 - £3500)
 - 10+ years call (£3500 - £10,000)

Advice

If you are a petitioning creditor or debtor and require advice then the matter's complexity, the length of time involved and value will all be taken into consideration in relation to fees. Very often these will be assessed by reference to counsel's hourly rates although on occasion a fixed fee can be agreed in advance.

An indication of hourly rates is set out below

- 1-5 years call (£150 - £200 plus VAT)
- 5-10 year call (£200 - £350 plus VAT)
- 10+ years call (£350 - £650 plus VAT)

Contact us:

All information is correct as of January 2021, but fees are estimates only. For the most accurate fixed fee estimate, please contact the clerks on 0207 420 7598 or bp@no5.com