

# Annual governance report

Tonbridge & Malling Borough Council

Audit 2011/12



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# Key messages

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**This report summarises the findings from the 2011/12 audit which is substantially complete. It includes the messages arising from my audit of your financial statements and the results of the work I have undertaken to assess your arrangements to secure value for money in your use of resources.**

## **Financial statements**

As at 3 September I expect to issue an unqualified audit opinion.

The Council continues to have a very strong closedown process. The financial statements were produced to a high standard and only a small number of amendments were required.

## **Value for money (VFM)**

I expect to conclude that you have made proper arrangements to secure economy, efficiency and effectiveness in your use of resources.

The Council continues to have an effective framework for managing its finances. There is a clear focus on maintaining a sustainable position in the medium term. Despite uncertainties over future levels of government funding the Council appears well placed to address any funding gap and deliver its financial objectives.

# Before I give my opinion and conclusion

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**My report includes only matters of governance interest that have come to my attention in performing my audit. I have not designed my audit to identify all matters that might be relevant to you.**

## **Independence**

I can confirm that I have complied with the Auditing Practices Board's ethical standards for auditors, including ES 1 (revised) - Integrity, Objectivity and Independence.

I am not aware of any relationships that may affect the independence and objectivity of the Audit Commission, the audit team or me, that I am required by auditing and ethical standards to report to you.

## **I ask the General Purposes Committee to:**

- take note of the adjustments to the financial statements set out in this report; and
- approve the letter of representation (Appendix 2), on behalf of the Council before I issue my opinion and conclusion.

# Financial statements

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**The Council's financial statements and annual governance statement are important means by which the Council accounts for its stewardship of public funds. As elected Members you have final responsibility for these statements. It is important that you consider my findings before you adopt the financial statements and the annual governance statement.**

## Opinion on the financial statements

My work on the financial statements is now substantially complete. The areas where work remains outstanding are;

- obtaining a signed letter of representation; and
- checking a final version of the accounts which contains all agreed amendments.

I anticipate that any remaining work will be completed to allow the issue of my audit opinion by 30 September 2012.

Subject to the outstanding work I propose to issue an unqualified audit opinion on the Council's 2011/12 financial statements. A draft auditor's report containing my proposed opinion is at Appendix 1.

## Errors in the financial statements

My audit seeks to ensure that the accounts are materially correct and present a true and fair view of the financial position of the Council at 31 March 2012 and of its income and expenditure in 2011/12. The concept of materiality is defined at Appendix 3. For the 2011/12 accounts I have set materiality at £1,366,000.

Under International Standards on Auditing I also set a threshold below which I assess any errors to be 'trivial' and do not ask for the accounts to be amended. For 2011/12 this triviality threshold is set at £13,000. Under auditing standards if I identify errors above this triviality threshold I must request management to amend the accounts. Where management chooses not to do so, and the General Purposes Committee agrees with this decision, I ask for a written representation setting out the Council's reasons for not correcting the misstatement.

## Uncorrected misstatements

The Council has included a contingent liability of £302,460 in respect of Municipal Mutual Insurance Limited (MMI) payments liable to clawback. Based on information provided in MMI's latest accounts, and the outcome of a recent Supreme Court judgement, it is my view that a provision is now required for these payments. Further explanation is provided at Appendix 3. Management has decided not to make an amendment to the accounts.

There are no other misstatements above my triviality threshold which management has decided not to amend.

## Corrected misstatements

I agreed with management that NNDR collection costs of £167,000 included at the line for "Grants" should be moved to the line for "Sales of Goods and Rendering of Services" on the Cash Flow Statement. I did not identify any other misstatements which required amendment to the core financial statements.

I also agreed a number of amendments to disclosure notes. These included;

- revised disclosure at Note 14 (Debtors) and additional disclosure at Note 16 (Short Term Creditors) for items meeting the definition of financial instruments; and
- expanded analysis at Note 18 (Grants and Contributions in advance and Grants and Contributions Unapplied) to provide details of major projects.

I also agreed a number of minor changes to the narrative in disclosure notes, including

- additional disclosure on heritage assets and related party transactions; and
- revised disclosure on the critical judgements made in preparing the accounts.

## Significant risks and my findings

I report to you in my annual audit plan any significant risks relevant to my audit of your financial statements. I report my findings against these risks in my annual governance report.

My April 2012 audit plan did not identify any significant risks relevant to the audit of your 2011/12 accounts.

## Significant weaknesses in internal control

It is the responsibility of the Council to develop and implement systems of internal financial control and to put in place proper arrangements to monitor their adequacy and effectiveness in practice. My responsibility as your auditor is to consider whether the Council has put adequate arrangements in place to satisfy itself that the systems of internal financial control are both adequate and effective in practice.

A significant weakness in internal control is a deficiency in design or operation which could adversely affect the Council's ability to record, process, summarise and report financial and other relevant data, and which I consider of sufficient importance to bring to your attention.

I have tested the controls of the Council only to the extent necessary for me to complete my audit. I am not expressing an opinion on the overall effectiveness of internal control.

I have not identified any significant weaknesses in the system of internal control relevant to preparing the financial statements.

I have reviewed the Annual Governance Statement and can confirm that:

- it complies with the requirements of CIPFA/SOLACE Delivering Good Governance in Local Government Framework; and
- it is consistent with other information that I am aware of from my audit of the financial statements.

## Other matters

I am required to communicate to you significant findings from the audit and other matters that are significant to your oversight of the Council's financial reporting process, including the following.

- qualitative aspects of your accounting practices
- matters specifically required by other auditing standards to be communicated to those charged with governance. For example, issues about fraud, compliance with laws and regulations, external confirmations and related party transactions.
- other audit matters of governance interest

I have no matters I wish to report.

## Whole of Government Accounts

Alongside my work on the financial statements, I also review and report to the National Audit Office on your Whole of Government Accounts return. As at 3 September I have not completed the procedures specified by the National Audit Office. I expect to complete my report by 30 September.

# Value for money

**I am required to conclude whether the Council put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. This is the value for money conclusion.**

I assess your arrangements against the two criteria specified by the Commission. In my April 2012 audit plan I reported to you the significant risks that were relevant to my conclusion. I have set out below my conclusion on the two criteria, including the findings of my work addressing each of the risks I identified.

I intend to issue an unqualified conclusion stating that the Council has proper arrangements to secure economy, efficiency and effectiveness in the use of its resources. I include my draft conclusion in Appendix 1.

Table 1: **Value for money conclusion criteria and my findings**

Criteria	Significant risk	Findings
<p><b>1. Financial resilience</b></p> <p>The organisation has proper arrangements in place to secure financial resilience.</p> <p><i>Focus for 2011/12:</i></p> <p>The organisation has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.</p>	<p>The external financial environment continues to be very challenging for all local authorities. Although the Council's underlying position is strong it faces a significant funding gap over a 10 year financial planning period. The council is taking action to address this gap through the medium term financial strategy.</p>	<p>The Council has a history of effective financial management. During 2011/12 it has continued to demonstrate a strong corporate focus on financial planning over the medium term. The 10-year Medium Term Financial Strategy (MTFS) has been updated and remains robust, whilst acknowledging the uncertainty around future levels of government funding and the economic environment. Modelling indicates the potential funding gap over the lifetime of the MTFS has increased slightly from the previous year, to approximately £2.5 million. However, the Council's approach to addressing this gap remains appropriate.</p>



Criteria	Significant risk	Findings
		<p>At 31 March 2012 the Council's general fund balance and general revenue reserves totalled £7,505,000. Revenue expenditure in 2011/12 was supported by a contribution of £510,000 from the general revenue reserve, although this was significantly less than planned due to grant received under the "New Homes Bonus" scheme. The MTFS anticipates further contributions from reserves to support revenue expenditure in future years. However, the strategy's objectives are to retain a minimum of £2m in the general revenue reserve and ensure that by 2021/22 contributions from this reserve to support revenue expenditure are not required. Despite the difficult financial environment the Council appears well-placed to meet these objectives.</p>
<p><b>2. Securing economy efficiency and effectiveness</b></p> <p>The organisation has proper arrangements for challenging how it secures economy, efficiency and effectiveness.</p> <p><i>Focus for 2011/12:</i></p> <p>The organisation is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.</p>		<p>In recent years the Council has had a strong record of achieving efficiency savings. It continues to actively review priorities and service delivery in the context of a strong medium term planning framework. Decisions on prioritisation and financial planning are based on appropriate information and there is a good understanding of the Council's cost base. The Council continues to actively investigate opportunities for efficiencies through shared service arrangements.</p>

# Fees

## I reported my planned audit fee in the April Audit Plan.

I will complete the audit within the planned fee.

Table 2: Fees

	Planned fee 2011/12 £	Expected fee 2011/12 £
Audit	100,225	100,225
Non-audit work	0	0
<b>Total</b>	<b>100,225</b>	<b>100,225</b>

# Appendix 1 – Draft independent auditor’s report

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## INDEPENDENT AUDITOR’S REPORT TO THE MEMBERS OF TONBRIDGE & MALLING BOROUGH COUNCIL

### Opinion on the Authority financial statements

I have audited the financial statements of Tonbridge & Malling Borough Council for the year ended 31 March 2012 under the Audit Commission Act 1998. The financial statements comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement, the Collection Fund and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

This report is made solely to the members of Tonbridge & Malling Borough Council in accordance with Part II of the Audit Commission Act 1998 and for no other purpose, as set out in paragraph 48 of the Statement of Responsibilities of Auditors and Audited Bodies published by the Audit Commission in March 2010.

### Respective responsibilities of the Director of Finance and auditor

As explained more fully in the Statement of the Director of Finance’s Responsibilities, the Director of Finance is responsible for the preparation of the Statement of Accounts, which includes the financial statements, in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom, and for being satisfied that they give a true and fair view. My responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me to comply with the Auditing Practices Board’s Ethical Standards for Auditors.

### Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Authority’s circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Director of Finance; and the overall presentation of the financial statements. In addition, I read all the

financial and non-financial information in the explanatory foreword to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

### **Opinion on financial statements**

In my opinion the financial statements:

- give a true and fair view of the financial position of Tonbridge & Malling Borough Council as at 31 March 2012 and of its expenditure and income for the year then ended; and
- have been prepared properly in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2011/12.

### **Opinion on other matters**

In my opinion, the information given in the explanatory foreword for the financial year for which the financial statements are prepared is consistent with the accounting statements.

### **Matters on which I report by exception**

I report to you if:

- in my opinion the annual governance statement does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007;
- I issue a report in the public interest under section 8 of the Audit Commission Act 1998;
- I designate under section 11 of the Audit Commission Act 1998 any recommendation as one that requires the Authority to consider it at a public meeting and to decide what action to take in response; or
- I exercise any other special powers of the auditor under the Audit Commission Act 1998.

I have nothing to report in these respects.

### **Conclusion on Authority's arrangements for securing economy, efficiency and effectiveness in the use of resources**

#### **Respective responsibilities of the Authority and the auditor**

The Authority is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.

I am required under Section 5 of the Audit Commission Act 1998 to satisfy myself that the Authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion relating to proper arrangements, having regard to relevant criteria specified by the Audit Commission.

I report if significant matters have come to my attention which prevent me from concluding that the Authority has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources. I am not required to consider, nor have I considered, whether all aspects of the Authority's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.

### **Scope of the review of arrangements for securing economy, efficiency and effectiveness in the use of resources**

I have undertaken my audit in accordance with the Code of Audit Practice, having regard to the guidance on the specified criteria, published by the Audit Commission in October 2011, as to whether the Authority has proper arrangements for:

- securing financial resilience; and
- challenging how it secures economy, efficiency and effectiveness.

The Audit Commission has determined these two criteria as those necessary for me to consider under the Code of Audit Practice in satisfying myself whether the Authority put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2012.

I planned my work in accordance with the Code of Audit Practice. Based on my risk assessment, I undertook such work as I considered necessary to form a view on whether, in all significant respects, the Authority had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

### **Conclusion**

On the basis of my work, having regard to the guidance on the specified criteria published by the Audit Commission in October 2011, I am satisfied that, in all significant respects, Tonbridge & Malling Borough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2012.

### **Certificate**

I certify that I have completed the audit of the accounts of Tonbridge & Malling Borough Council in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Andy Mack  
Officer of the Audit Commission  
Audit Commission,  
Millbank Tower, Millbank,  
London, SW1P 4HQ

xx September 2012

# Appendix 2 – Draft letter of management representation

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To: Andy Mack  
Appointed Auditor  
Audit Commission  
1<sup>st</sup> Floor Millbank Tower  
Millbank  
London  
SW1P 4HQ

## **Tonbridge & Malling Borough Council - Audit for the year ended 31 March 2012**

I confirm to the best of my knowledge and belief, having made appropriate enquiries of other directors and officers of Tonbridge & Malling Borough Council, the following representations given to you in connection with your audit of the Authority's financial statements for the year ended 31 March 2012.

### **Compliance with the statutory authorities**

I have fulfilled my responsibility under the relevant statutory authorities for preparing the financial statements in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom which give a true and fair view of the financial position and financial performance of the Authority, for the completeness of the information provided to you, and for making accurate representations to you.

## **Uncorrected misstatements**

The effects of uncorrected financial statements misstatements summarised in the attached schedule are not material to the financial statements, either individually or in aggregate. The reasons for not correcting the misstatements are included on the schedule.

## **Supporting records**

I have made available all relevant information and access to persons within the Authority for the purpose of your audit. I have properly reflected and recorded in the financial statements all the transactions undertaken by the Authority.

## **Irregularities**

I acknowledge my responsibility for the design, implementation and maintenance of internal control to prevent and detect fraud or error.

I also confirm that I have disclosed:

- my knowledge of fraud, or suspected fraud, involving either management, employees who have significant roles in internal control or others where fraud could have a material effect on the financial statements;
- my knowledge of any allegations of fraud, or suspected fraud, affecting the entity's financial statements communicated by employees, former employees, analysts, regulators or others; and
- the results of our assessment of the risk the financial statements may be materially misstated as a result of fraud.

## **Law, regulations, contractual arrangements and codes of practice**

I have disclosed to you all known instances of non-compliance, or suspected non-compliance with laws, regulations and codes of practice, whose effects should be considered when preparing financial statements.

Transactions and events have been carried out in accordance with law, regulation or other authority. The Authority has complied with all aspects of contractual arrangements that could have a material effect on the financial statements in the event of non-compliance.

All known actual or possible litigation and claims, whose effects should be considered when preparing the financial statements, have been disclosed to the auditor and accounted for and disclosed in accordance with the applicable financial reporting framework.

## **Accounting estimates including fair values**

I confirm the reasonableness of the significant assumptions used in making the accounting estimates, including those measured at fair value.

## **Related party transactions**

I confirm that I have disclosed the identity of the Authority's related parties and all the related party relationships and transactions of which I am aware. I have appropriately accounted for and disclosed such relationships and transactions in accordance with the requirements of the Code.

**Subsequent events**

I have adjusted for or disclosed in the financial statements all relevant events subsequent to the date of the financial statements.

Signed on behalf of Tonbridge & Malling Borough Council

.....  
Sharon Shelton,  
Director of Finance

Date

I confirm that this letter has been discussed and agreed by the General Purposes Committee on 25 September 2012.

Signed

.....  
(Chair)

Date



# Appendix 3 – Uncorrected misstatements

I identified the following misstatements during the audit which management has decided not to amend.

Item of account	Nature of error	Statement of comprehensive income and expenditure		Balance sheet	
		Dr £'000s	Cr £'000s	Dr £'000s	Cr £'000s
Note 25 Contingent Liabilities	<p>The Council has included a contingent liability of £302,460 in respect of Municipal Mutual Insurance Limited (MMI) payments liable to clawback. A contingent liability is a possible liability whose existence will only be confirmed by uncertain future events. In my view clawback is now probable, and therefore the accounts should include a provision for these payments.</p> <p>MMI was the predominant insurer of public sector bodies prior to ceasing its underwriting operations in September 1992. Although MMI directors are committed to run-off with full payment of agreed claims, the company's liabilities have increased in recent years.</p> <p>Most of MMI's public sector members, including the Council, elected to participate in a 'Scheme of Arrangements'. This means that if the company's assets are unable to cover its liabilities and the</p>	302			302

Scheme of Arrangements is triggered some proportion of the payments made by MMI to settle claims since 1993 will be “clawed back” from members.

On 28 March 2012 the Supreme Court issued a judgement on the ‘mesothelioma trigger litigation’. The case considered if insurers had a liability to meet claims based on the date of exposure to asbestos or based on the date of becoming ill.

The Supreme Court ruled that liability could be based on the date of exposure. As a result MMI will now need to pay some claims it had previously rejected.

The MMI accounts for the year to 30 June 2011 showed a deficit of liabilities over assets of £72m. The Directors indicated in the accounts that if, as has subsequently happened, the mesothelioma trigger litigation went against MMI, they were unable to foresee a position in which future investment income net of operating expenses would be adequate to achieve payment of agreed claims in full, and therefore that appropriate alternative arrangements would have to be made which might involve triggering the Scheme of Arrangements.

In my view it is now probable that clawback will take place under the Scheme of Arrangements.

# Appendix 4 – Glossary

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## **Annual Audit Letter**

Letter issued by the auditor to the Authority after the completion of the audit that summarises the audit work carried out in the period and significant issues arising from auditors' work.

## **Annual Governance Report**

The auditor's report on matters arising from the audit of the financial statements presented to those charged with governance before the auditor issues their opinion [and conclusion].

## **Annual Governance Statement**

The annual report on the Authority's systems of internal control that supports the achievement of the Authority's policies aims and objectives.

## **Audit of the accounts**

The audit of the accounts of an audited body comprises all work carried out by an auditor under the Code to meet their statutory responsibilities under the Audit Commission Act 1998.

## **Audited body**

A body to which the Audit Commission is responsible for appointing the external auditor.

## **Auditing Practices Board (APB)**

The body responsible in the UK for issuing auditing standards, ethical standards and associated guidance to auditors. Its objectives are to establish high standards of auditing that meet the developing needs of users of financial information and to ensure public confidence in the auditing process.

## **Auditing standards**

Pronouncements of the APB that contain basic principles and essential procedures with which auditors must comply, except where otherwise stated in the auditing standard concerned.

**Auditor(s)**

Auditors appointed by the Audit Commission.

**Code (the)**

The Code of Audit Practice for local government bodies issued by the Audit Commission and approved by Parliament.

**Commission (the)**

The Audit Commission for Local Authorities and the National Health Service in England.

**Ethical Standards**

Pronouncements of the APB that contain basic principles relating to independence, integrity and objectivity that apply to the conduct of audits and with which auditors must comply, except where otherwise stated in the standard concerned.

**Financial statements**

The annual statement of accounts that the Authority is required to prepare, which report the financial performance and financial position of the Authority in accordance with the Accounts and Audit (England) Regulations 2011 and the Code of Practice on Local Authority Accounting in the United Kingdom.

**Group accounts**

Consolidated financial statements of an Authority and its subsidiaries, associates and jointly controlled entities.

**Internal control**

The whole system of controls, financial and otherwise, that the Authority establishes to provide reasonable assurance of effective and efficient operations, internal financial control and compliance with laws and regulations.

**Materiality**

The APB defines this concept as ‘an expression of the relative significance or importance of a particular matter in the context of the financial statements as a whole. A matter is material if its omission would reasonably influence the decisions of an addressee of the auditor’s report; likewise a misstatement is material if it would have a similar influence. Materiality may also be considered in the context of any individual primary statement

within the financial statements or of individual items included in them. Materiality is not capable of general mathematical definition, as it has both qualitative and quantitative aspects’.

The term ‘materiality’ applies only to the financial statements. Auditors appointed by the Commission have responsibilities and duties under statute, as well as their responsibility to give an opinion on the financial statements, which do not necessarily affect their opinion on the financial statements.

### **Significance**

The concept of ‘significance’ applies to these wider responsibilities and auditors adopt a level of significance that may differ from the materiality level applied to their audit of the financial statements. Significance has both qualitative and quantitative aspects.

### **Those charged with governance**

Those entrusted with the supervision, control and direction of the Authority. This term includes the members of the Authority and its Audit Committee.

### **Whole of Government Accounts**

A project leading to a set of consolidated accounts for the entire UK public sector on commercial accounting principles. The Authority must submit a consolidation pack to the department for Communities and Local Government which is based on, but separate from, its financial statements.

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**0844 798 7070**

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The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors, members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

