

Annual governance report

Broads Authority

Audit 2010/11



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Traffic light explanation

Red  Amber  Green 

Key messages

This report summarises the findings from my 2010/11 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.

	Our findings
Unqualified audit opinion	●
Proper arrangements to secure value for money	●

Audit opinion and financial statements

My work on the audit is substantially complete. Subject to completing outstanding work and queries, I am planning to issue an unqualified audit opinion on 23 November 2011. A copy of my proposed audit opinion is shown at Appendix 1.

Due to the additional complexities of producing for the first time financial statements under International Financial Reporting Standards (IFRS), the Authority was unable to produce draft financial statements by 30 June 2011. The public inspection period was delayed as the necessary advertisement was not placed in time.

We found a number of errors within the draft financial statements provided for audit. The extent of issues identified during this audit has resulted in the need for the Authority to redraft its financial statements.

This has led to extra delays in the audit, as we have:

- had to repeat audit work, once the revised financial statements were produced; and
- completed additional procedures to gain sufficient audit assurance on the revised balances.

The issues reported above have contributed to me not being able to complete the audit work and issue my audit opinion by 30 September 2011.

Value for money

I am satisfied that in all significant respects the Authority has proper arrangements to secure economy, efficiency and effectiveness in its

use of resources for the year ended 31 March 2011. I therefore expect to issue an unqualified value for money conclusion.

The improvements made by the Authority in relation to strategic asset management have enabled me to remove the qualification given to this area in previous years.

Significant matters arising during my audit

I became aware of an issue which could lead to the Authority incurring costs above the level they had expected on their accommodation at Dragonfly House.

Any actions and decisions taken on related expenditure for Dragonfly House is solely a matter for the Broads Authority. However, I do need to assess the issues and the Authority's position, as it stands, on related expenditure for Dragonfly House. In particular I have considered:

- Representations on how the Authority has considered the extent of provisions and contingent liabilities it should recognise in the 2010/11 financial statements.

- The accounting treatment for any related provisions and contingent liabilities, including compliance with relevant International Accounting Standards.
- How the Authority has considered the financial implications arising from the issue, and whether assumptions feed into financial planning.
- The robustness of risk management arrangements for the issues related to Dragonfly House expenditure. I considered Authority awareness, action taken to mitigate risks, and member involvement.

This has resulted in an additional contingent liability disclosure in your financial statements. Otherwise, I am satisfied the Authority is effectively managing all the risks associated with the related expenditure for Dragonfly House.

I will maintain a watching brief and consider my response as I receive updates from your officers.

Before I complete my audit

I confirm to you

My report includes only matters of governance interest that have come to my attention in performing my audit. My audit is not designed 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 can also confirm there were no relationships resulting in a threat to independence, objectivity and integrity.

The Audit Commission's Audit Practice has not undertaken any non-audit work for the Authority during 2010/11.

Audit Fees

The estimated audit fee for 2010/11 was £26,710. When I set my fee, this was based on a number of assumptions, including that I did not need to undertake work for any new or increased audit risks and that we received timely financial statements and working papers. I have raised issues in my report on the extent of amendments necessary to the accounts to ensure the Authority complied with the first time adoption of International Financial Reporting Standards (IFRS) and the extra audit work arising from reviewing the significant matter on Dragonfly House expenditure, shown on page 3.

These issues have resulted in additional audit work to gain sufficient audit assurance. I did not foresee these risks at the time I prepared my audit plan and my fee did not include any assumptions that I would undertake work in this area. As a result, I have confirmed with the Director of Change Management and Resources that I plan to charge additional fees to cover the cost of this extra work. My additional fee is likely to be £3,000.

I ask you to confirm to me

I ask the Financial Scrutiny and Audit Committee **to:**

- note the adjustments to the financial statements which are set out in this report (Appendix 2);
- approve the letter of representation, provided alongside this report, on behalf of the Authority before I issue my opinion and conclusion; and

- agree your response to the proposed action plan (Appendix 3).
-

Financial statements

The Authority's financial statements and annual governance statement are important means by which the Authority accounts for its stewardship of public funds. As Authority 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

Subject to satisfactory clearance of outstanding matters, I plan to issue an audit report including an unqualified opinion on the financial statements. Appendix 1 contains a copy of my draft report.

My audit highlighted a significant number of errors within the financial statements provided for audit. The extent of issues identified during this audit has resulted in the financial statements being extensively redrafted.

There have been delays in the audit from the Authority addressing these issues and our need to redesign and perform additional audit tests.

International Financial Reporting Standards

The Broads Authority, along with local authorities and police authorities, were required to prepare their financial statements in line with International Financial Reporting Standards (IFRS) for the first time in 2010/11. IFRS requirements differ significantly from UK Generally Accepted Accounting Practice (UK GAAP) which authorities have prepared their accounts under in previous years in several respects.

IFRS adoption has been a significant exercise because the CIPFA Code requires retrospective adoption of the new standards covering areas such as leases. This has required finance officers to review lease agreements and, where necessary, restate accounting entries from the beginning of these agreements onwards. To prepare for IFRS, Authorities have needed robust project plans to ensure they can collect and review the necessary information to restate balances, often with considerable lead-in times, and agree these with auditors at an early stage. In some areas of the financial statements, significant judgements are required in interpreting international standards and their applicability to local circumstances.

Authority finance officers have set out the significant judgements made in preparing the Authority's financial statements in its accounting policies.

I am satisfied the Authority has prepared for IFRS well. I reviewed management's arrangements for preparing for the transition to IFRS and concluded these were robust. There has been good, timely communication of proposed accounting changes with my audit team, in particular around leases and group accounting. I have audited all material adjustments made in the financial statements relating to IFRS. Subject to the amendments made to the draft accounts, I am satisfied the Authority has restated its financial statements correctly in line with IFRS requirements. The adjustments I identified which management has agreed to correct are outlined below.

Errors in the financial statements

I have identified two material errors in the financial statements presented for audit. Management have already chosen to adjust for these errors.

Both errors related to classification errors within the Balance Sheet and the cost of services in the Comprehensive Income and Expenditure Statement. This also resulted in amendments to the comparative figures. Appendix 2 sets out the amendments made, which are presentational and do not impact on the Authority's financial position and level of useable reserves

My audit of the financial statements also identified various non-trivial errors that were amended by officers.

These material and non-trivial errors resulted in amendments to various disclosure notes and figures on the face of all primary statements (Comprehensive Income and Expenditure Statement, Movement in Reserves Statement, Balance Sheet, and Cash Flow Statement).

Assessment of internal controls

I have been able to rely on the work of internal audit and I have achieved the audit efficiencies on which my audit plan was based. No significant weaknesses in fundamental systems were identified during the audit. I have not identified any material weakness in the design or operation of an internal control that might result in a material error in your financial statements.

Financial statements

In planning my audit I identified specific risks and areas of judgement that I have considered in addition to my normal audit procedures. The table below summarises the work I have undertaken in response to the specific audit risks in my 2010/11 Audit Plan.

Key audit risk and our findings

Key audit risk	Finding
<p>1. International Financial Reporting Standards (IFRS)</p> <p>Local authorities are now required to prepare financial statements under the International Financial Reporting Standards (IFRS), as adopted by the Code of Practice on Local Authority Accounting in the United Kingdom (the Code). Creating a risk that the 2010/11 financial statements do not meet the new requirements.</p> <p>I reviewed and tested whether the Authority:</p> <ul style="list-style-type: none">■ identified those transactions and balances that will be affected by the transition to IFRS;■ adopted and correctly applied accounting policies that comply with the requirements of the Code and IFRS;■ correctly restated 2009/10 transactions and balances in following adopted accounting policies and IFRS; and■ made all suitable disclosures following adopted accounting policies and the requirements of the Code and IFRS.	<p>The Authority identified transactions and balances that were affected by the transition to IFRS, and adopted accounting policies that complied with the Code and IFRS.</p> <p>My review of the Authority's IFRS restated comparator balances identified the following issues:</p> <ul style="list-style-type: none">■ a number of internal inconsistencies between the main statements and supporting notes,■ material miss classification errors on the Comprehensive Income and Expenditure Statement and Balance Sheet, and■ missing disclosures, for example the first time adoption note was not included in the draft accounts.

Key audit risk

2. Finance team

The Head of Finance will be on maternity leave during the final stage of preparing the Statement of Accounts and during the audit of the Financial Statements. This means there is a risk that the Authority may not have sufficient capacity, knowledge and resilience to finalise its Statement of Accounts and respond adequately to audit queries and/or issues.

3. Authority redundancies

I have considered the potential impact of redundancy payments and treatment of provisions in line with International Accounting Standard 37 Provisions, Contingent Liabilities and Contingent Assets.

Finding

The Authority have responded appropriately to this risk by sharing responsibilities with other Broads Authority staff and seconding in a qualified public sector accountant for three days a week.

I will continue to monitor the Authority's plans to ensure skills and capacity within the finance section is maintained at an appropriate level.

I have reviewed the position at 31 March 2011 and conclude early termination costs have been correctly recognised and accounted for in the financial statements.

Financial statements

Quality of your financial statements

I consider aspects of your accounting practices, accounting policies, accounting estimates and financial statements disclosures. These are the issues I want to raise with you.

Accounting practices, policies, estimates and financial closures

Issue	Findings
<p>1. Quality of the financial statements</p> <p>The financial statements presented for audit contained material errors, missing disclosures, referencing issues and had inconsistencies between disclosure notes.</p>	<p>Various issues were identified with the draft financial statements presented for audit. Officers have undertaken a great amount of work to address these which resulted in a revised set of financial statements being presented for audit on the 16 November 2011.</p> <p>The new IFRS reporting framework noted above, places a significant amount of new disclosure requirements on the Authority. By addressing these matters in 2010/11, it should help ensure the Authority is well placed to meet the disclosure requirements for future financial year statements.</p>
<p>2. Timeliness of financial reporting</p> <p>The draft accounts were not submitted by the statutory deadline of 30 June 2011.</p>	<p>IFRS adoption has been a significant exercise because the CIPFA Code requires retrospective adoption of the new standards. The Authority was unable to complete this exercise by the 30 June 2011.</p> <p>As noted above, by addressing these matters in 2010/11, the Authority should be well placed to submit the 2011/12 draft accounts by 30 June 2012.</p>

Recommendation

R1 Complete a post-implementation review of the 2010/11 accounts preparation and closedown process. Identify and address the issues that led to the delay in certifying and submitting 2010/11 accounts. Ensure that the Authority's 2011/12 accounts plan, closedown and preparation means that draft financial statements are certified and submitted for audit by 30 June 2012. As part of good quality review, management should utilise disclosure checklists to resolve IFRS Code compliance issues before the financial statements are submitted for audit.

Letter of representation

Before I issue my opinion, auditing standards require me to ask you and management for written representations about your financial statements and governance arrangements.

Value for money

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

I assess your arrangements to secure economy, efficiency and effectiveness in your use of resources against criteria specified by the Audit Commission. My conclusion against this criteria are set out below.

I intend to issue an unqualified conclusion stating the Authority had adequate arrangements to secure economy, efficiency and effectiveness in the use of resources. Appendix 1 contains my draft auditor's report.

Value for money criteria and our findings

Criterion	Findings
1. Managing finances The organisation has proper arrangements in place to plan financial health, understand costs and achieve efficiencies, and produce accurate financial reporting.	<p>The Broads Authority has a medium term financial plan incorporated into its three-year business plan. This sets out a financial strategy for the duration of the plan.</p> <p>Financial plans have been re-assessed in light of reduced funding to ensure budgets are appropriately set and reserve levels maintained in line with the adopted policy without resorting to any short term fixes.</p> <p>The Authority have an established budget setting process and a good record of setting a balanced budget, and delivering against that budget.</p> <p>There is strong evidence that members and the corporate management team exercise collective responsibility for financial matters and understand the financial environment in which the body operates.</p> <p>The Authority has been proactive in reviewing and understanding costs, recent examples include:</p>

Criterion	Findings
	<ul style="list-style-type: none"> ■ The Resource Allocation Working Group, which was established to undertake a full review of costs and services in light of funding cuts. The proactive work has put the Authority in a strong position to continue to balance the budget, despite the significant funding reduction. ■ The Navigation, Finance and Tolls Review Group set up to review the costs associated with the navigation account. This group undertook an extensive analysis of expenditure associated with navigation. <p>The results from these, and other actions have allowed the Authority to identify and clearly articulate its priorities and the efficiency savings necessary to secure its financial resilience in the medium to long term.</p> <p>One significant change will see an Authority restructure to align services to available resources.</p> <p>As reported in the financial statements sections above, the draft 2010/11 accounts were not prepared by the deadline of 30 June due to issues arising from IFRS implementation. The draft accounts submitted for audit contained material errors (classification/ accounting errors in relation to IFRS) although these did not impact on the reported surplus or useable reserves of the Authority.</p>
<p>2. Governing the business</p> <p>The organisation has proper arrangements for risk management and internal control.</p>	<p>Risk management arrangements include a risk management policy and strategic risk register that is updated and reviewed by the Financial Scrutiny and Audit Committee. The risk register covers all main areas of business.</p> <p>The Authority has a Code of Corporate Governance and other relevant policies to govern operations. The Financial Scrutiny and Audit Committee agree the internal audit plan, receive internal and external audit reports, and monitor implementation of recommendations.</p>
<p>3. Strategic asset management</p> <p>Following up the weaknesses that resulted in a qualified VFM conclusion in 2009/10.</p>	<p>I qualified my VFM conclusion last year due to the lack of an asset management strategy and weaknesses in the detailed records of assets which the Authority holds.</p> <p>The Authority has worked hard to secure improvements in this area and I am pleased to report that I have removed this qualification. I have seen improvements in the following areas :</p> <ul style="list-style-type: none"> ■ Consolidation of land and property assets onto an excel database. The database holds information for each asset on the type of documentation, location and Grid Reference,

Criterion

Findings

status of any agreement, terms and conditions, responsible officer, relevant dates, valuation, running costs, and maintenance or other liabilities.

- A capital expenditure programme has been developed for the period 2011/12 to 2014/15 and is incorporated into the Authority's Business Plan.
- An Asset Management Strategy has been developed and was approved by the Management Team in April 2010. This includes details of practices in relation to asset management, acquisitions and disposals.
- Establishing an Asset Management Steering Group to influence and monitor the strategy.

The Authority recognises that further improvements can be made to their asset management. In May 2011 a new post of Asset Officer was introduced to oversee these improvements.

Appendix 1 – Draft audit report

INDEPENDENT AUDITOR'S REPORT TO THE MEMBERS OF THE BROADS AUTHORITY

Opinion on the Authority accounting statements

I have audited the accounting statements of the Broads Authority for the year ended 31 March 2011 under the Audit Commission Act 1998. The accounting statements comprise the Movement in Reserves Statement, the Comprehensive Income and Expenditure Statement, the Balance Sheet, the Cash Flow Statement, and the related notes. These accounting statements have been prepared under the accounting policies set out in the Statement of Accounting Policies.

This report is made solely to the members of the Broads Authority 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 Treasurer and Financial Adviser and auditor

As explained more fully in the Statement of the Treasurer and Financial Adviser's Responsibilities, the Treasurer and Financial Adviser is responsible for the preparation of the Authority's Statement of Accounts in accordance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom. My responsibility is to audit the accounting 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 accounting statements sufficient to give reasonable assurance that the accounting 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 Authority; and the overall presentation of the accounting statements. I read all the information in the explanatory foreword to identify material inconsistencies with the audited accounting statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my report.

Opinion on accounting statements

In my opinion the accounting statements:

- give a true and fair view of the state of the Broads Authority's affairs as at 31 March 2011 and of its income and expenditure for the year then ended; and
- have been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom.

Opinion on other matters

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

Matters on which I report by exception

I have nothing to report in respect of the governance statement on which I report to you if, in my opinion the governance statement does not reflect compliance with 'Delivering Good Governance in Local Government: a Framework' published by CIPFA/SOLACE in June 2007.

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

Authority's responsibilities

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.

Auditor's responsibilities

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.

Basis of conclusion

The Code of Audit Practice issued by the Audit Commission requires me to report to you my conclusion in relation to proper arrangements, having regard to relevant criteria for other local government bodies specified by the Audit Commission and published in January 2009. I report if significant matters have come to my attention which prevent me from concluding that the Authority has made such proper arrangements. 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.

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 2010, I am satisfied that, in all significant respects, the Broads Authority put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2011.

Certificate

I certify that I have completed the audit of the accounts of Broads Authority in accordance with the requirements of the Audit Commission Act 1998 and the Code of Audit Practice issued by the Audit Commission.

Neil Harris
District Auditor
Audit Commission
3rd Floor
Eastbrook
Shaftesbury Road
Cambridge
CB2 8BF

xx November 2011

Appendix 2 – Amendments to the draft financial statements

I identified the following misstatements during my audit and management have adjusted the financial statements. I bring them to your attention to aid you in fulfilling your governance responsibilities.

		Comprehensive income and expenditure statement		Balance sheet	
Adjusted misstatement	Nature of adjustment	Dr £000s	Cr £000s	Dr £000s	Cr £000s
Cash and cash equivalents	Balances held by Broadland District Council on behalf of the Broads Authority should be classified as cash equivalents as they can be recalled and converted into cash within the seven day policy adopted by the Authority in the accounting policies. This adjustment also impacts on the CIES, Cash Flow Statement and notes 13, 15, 16, 21, 22 and 23. Similar adjustments of £2,990,000 and £3,240,000 were required to the 01/04/09 and 31/03/10 Balance Sheets.			1,990	
Short term investments					1,990

**Comprehensive income and
expenditure statement**

Balance sheet

General fund services	General fund recharges were shown	1,832	
Non distributed costs	as non distributed costs rather than being apportioned to the relevant services. An adjustment of £1,318,000 was also made to the 2009/10 CIES. Similar non trivial adjustments were made to 2009/10 and 2010/11 income.	1,832	
Notes 4, 18, 20, 24, 28, 29, 30, 33, 35 and a First Time Adoption Note	Adjustments required to comply with the Code of Practice on Local Authority Accounting, to correct analysis between headings, to ensure internal consistency of the financial statements and to comply with disclosure requirements.		

Appendix 3 – Action Plan

Recommendations

Recommendation 1

Complete a post-implementation review of the 2010/11 accounts preparation and closedown process. Identify and address the issues that led to the delay in certifying and submitting 2010/11 accounts. Ensure that the Authority's 2011/12 accounts plan, closedown and preparation means that draft financial statements are certified and submitted for audit by 30 June 2012. As part of good quality review, management should utilise disclosure checklists to resolve IFRS Code compliance issues before the financial statements are submitted for audit.

Responsibility	Director of Change Management and Resources
Priority	High
Date	by 31 December 2011
Comments	Agreed. A post implementation review will be carried out and a report will be produced for consideration by the Management Team.

Appendix 4 – Glossary

Annual governance statement

A statement of internal control prepared by an audited body and published with the financial statements.

Audit closure certificate

A certificate that I have completed the audit following statutory requirements. This marks the point when I have completed my responsibilities for the audit of the period covered by the financial statements.

Audit opinion

On completion of the audit of the financial statements, I must give my opinion on the financial statements, including:

- whether they give a true and fair view of the financial position of the audited body and its spending and income for the year in question; and
- whether they have been prepared properly, following the relevant accounting rules.

Opinion

If I agree that the financial statements give a true and fair view, I issue an unqualified opinion. I issue a qualified opinion if:

- I find the statements do not give a true and fair view; or
- I cannot confirm that the statements give a true and fair view.

Materiality and significance

The Auditing Practices Board (APB) defines this concept as ‘an expression of the relative significance or importance of a particular matter for the financial statements as a whole. A matter is material if its omission would reasonably influence users of the financial statements, such as the

addressees of the auditor's report; also a misstatement is material if it would have a similar influence. Materiality may also be considered for any individual primary statement within the financial statements or of individual items included in them. We cannot define materiality mathematically, as it has both numerical and non-numerical 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' applies to these wider responsibilities and auditors adopt a level of significance that may differ from the materiality level applied to their audit in relation to the financial statements. Significance has both qualitative and quantitative aspects.

Weaknesses in internal control

A weakness in internal control exists when:

- a control is designed, set up or used in such a way that it is unable to prevent, or detect and correct, misstatements in the financial statements quickly; or
- a control necessary to prevent, or detect and correct, misstatements in the financial statements quickly is missing.

An important weakness in internal control is a weakness, or a combination of weaknesses that, in my professional judgement, are important enough that I should report them to you.

Value for money conclusion

The auditor's conclusion on whether the audited body has put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources based on criteria specified by the Audit Commission.

The Code of Audit Practice defines proper arrangements as corporate performance management and financial management arrangements that form a key part of the system of internal control. These comprise the arrangements for:

- planning finances effectively to deliver strategic priorities and secure sound financial health;
- having a sound understanding of costs and performance and achieving efficiencies in activities;
- reliable and timely financial reporting that meets the needs of internal users, stakeholders and local people;
- commissioning and buying quality services and supplies that are tailored to local needs and deliver sustainable outcomes and value for money;
- producing relevant and reliable data and information to support decision making and manage performance;
- promoting and displaying the principles and values of good governance;
- managing risks and maintaining a sound system of internal control;
- making effective use of natural resources;

- managing assets effectively to help deliver strategic priorities and service needs; and
- planning, organising and developing the workforce effectively to support the achievement of strategic priorities.

If I find that the audited body had adequate arrangements, I issue an unqualified conclusion. If I find that it did not, I issue a qualified conclusion.

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0844 798 7070

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

