

# THE NATIONAL ASSEMBLY FOR WALES AUDIT COMMITTEE

**Report 05-03 – Presented to the National Assembly for Wales on  
16 December 2003 in accordance with Section 102(1) of the Government  
of Wales Act 1998**

## **National Council for Education and Training for Wales: Financial Management of Partnership and Innovation and Development Projects**

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## Introduction

1. In this report, we examine the financial management of Partnership and Innovation Development projects by *ELWa - The National Council for Education and Training for Wales* (the National Council).
2. This is the second report we have produced on financial management issues within the National Council. In our first report<sup>1</sup>, we concentrated on irregular procurement expenditure by the National Council that had caused the Auditor General for Wales to qualify his regularity audit opinion on the body's accounts for the period ending 31 March 2002. This report is based on a review by the Auditor General of project and financial management arrangements within the National Council<sup>2</sup>.
3. We took evidence from Sir Jon Shortridge, Permanent Secretary of the National Assembly for Wales and Principal Accounting Officer, who was accompanied by Mr Peter Higson, Interim Chief Executive and Accounting Officer of the National Council, together with Mr Steve Martin, Chief Executive of the Higher Education Funding Council for Wales (who was the Chief Executive and Accounting Officer of the National Council for much of the period covered by the Auditor General's report). A transcript of this evidence is at Annex A.
4. We also took evidence from Sir Jon Shortridge, accompanied by Mr David Richards, his Principal Finance Officer, on the Welsh Assembly Government's oversight of Assembly Sponsored Public Bodies (ASPBs) and their financial management. A transcript of this evidence is at Annex B. We subsequently received further written evidence from Mr Peter Higson (Annexes C and D), Sir Jon Shortridge (Annex E) and the Auditor General for Wales (Annex F). We should like to thank all the witnesses for the positive and constructive way in which they responded to the Committee's questions.

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<sup>1</sup> Audit Committee: *'The Accounts of the National Council for Education and Training for Wales for the period ending 31 March 2002'* Committee Report 04-03, published on 3 April 2003

<sup>2</sup> Report by the Auditor General for Wales: *'ELWa / National Council for Education and Training for Wales: Financial Management of Partnership and Innovation & Development Projects'*, published on 16 September 2003.

5. Our report addresses the main issues covered by the Auditor General's report and our evidence session, focussing on five main areas:

- ***The National Council's 2001-02 financial position;***
- ***The Pop Centre MP3 Café project;***
- ***The other projects managed by the National Council;***
- ***The payments to Training Providers in March 2002; and***
- ***The Welsh Assembly Government's sponsorship of ASPBs.***

The report sets out our main findings and conclusions, together with a number of recommendations for consideration by both the Welsh Assembly Government and the National Council.

### **On the National Council's 2001-02 financial position**

6. The National Council is funded primarily by annual grant-in-aid of nearly £400 million from the Assembly Government. The bulk of this funding is passed on to further education institutions across Wales under formulae-based allocations and to training providers under annual contracts for the provision of learning opportunities and achievement of learner outcomes. The remainder of the National Council's programme expenditure is largely allocated to discretionary spending areas such as projects and developmental work<sup>3</sup>.

7. In November 2001, Council Members were informed of a potential £14 million underspend on its Youth Training and Adult Work-Based Learning programmes for the 2001-02 financial year. National Council staff had identified that some £12 million of funds would be available for investment in further projects, of which some £10.5 million would have to be surrendered to the Assembly Government if it was not spent by 31 March 2002. This was because of the two per cent limit on the carry-over of

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<sup>3</sup> AGW Report, paragraph 1.1

unspent grant-in-aid between financial years that is imposed on all Assembly sponsored public bodies<sup>4</sup>.

8. We asked the National Council why the potential underspend had not been brought to the attention of Council Members until November 2001. Mr Martin told us that his staff had experienced great difficulty in obtaining reliable information from the various different accounting systems of its predecessor organisations which it had inherited on 1 April 2001<sup>5</sup>. As a result, their original intention to bring a paper to the October Council meeting had not been achieved<sup>6</sup> and this had left the National Council about six weeks behind schedule in developing plans to address any forecast year-end expenditure variances against the annual budget<sup>7</sup>.
9. The Auditor General had noted that no case had been made by the National Council to its sponsor department within the Assembly Government for permission to carry-over funds in excess of the standard two per cent limit, as was sometimes done by other sponsored bodies<sup>8</sup>. Mr Martin confirmed that this was the case but told us that Assembly Government officials had previously indicated informally that there would be no flexibility<sup>9</sup>. Sir Jon Shortridge added that his officials had been aware of the projected underspend and had wished to satisfy themselves that this would be managed properly and effectively by the National Council<sup>10</sup>. He would expect a formal case for carry-over normally to be made by a sponsored body towards the end of the financial year, once it was clear that commitments could not be properly met during the period, but noted that in this instance that had not been done<sup>11</sup>.

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<sup>4</sup> AGW Report, paragraphs 2.16-2.17

<sup>5</sup> Annex A, Q5

<sup>6</sup> Annex A, Q12

<sup>7</sup> Annex A, Q13

<sup>8</sup> AGW Report, paragraphs 2.9 and 2.18

<sup>9</sup> Annex A, Q15

<sup>10</sup> Annex A, Q22

<sup>11</sup> Annex A, Q27

## ***Conclusions and recommendations on the National Council's 2001-02 financial position***

10. We consider it unsatisfactory that the National Council only identified in November 2001 a significant potential underspend in its first year of operation. However, we recognise that during the 'business as usual' period to 31 March 2002 the various inherited financial systems could not be properly integrated and note the National Council's assurance that these system weaknesses have since been rectified.
11. We consider that the National Council's decision not to make a formal business case to its sponsor department to carry forward a grant-in-aid balance in excess of the standard 2 per cent limit was flawed. The National Council's failure to test this perceived constraint was the root cause of their decision to make payments in advance of need in the final quarter of the 2001-02 financial year. It is clear to us that a 'use it or lose it' mentality towards the National Council's 2001-02 funding allocation from the Welsh Assembly Government prevailed at all levels within the National Council. This acted as a backdrop to poor decision-making and jeopardised the achievement of sound value for money.
12. We **recommend** that any Assembly Sponsored Public Bodies finding themselves in a similar position in future should enter into early and open dialogue with their sponsor department, so that significant decisions on the timing of commitment of public funds within the Welsh block can be taken in full knowledge of wider strategic factors and due weight given to the need to secure good value for money.

### **The Pop Centre MP3 Café project**

13. The Pop Centre MP3 Café project aimed to create a new media and information technology centre at Porth in the Rhondda, which would provide interactive e-learning opportunities for young people from deprived backgrounds or who would not normally be attracted to conventional training programmes. The project, proposed by the Avanti Media Group,

was innovative and was to be supported by £4 million of funding from the National Council under its Innovation Development Programme, as part of a wider joint venture with Rhondda Cynon Taf County Borough Council and the Welsh Development Agency<sup>12</sup>.

14. The Auditor General's report set out a range of serious weaknesses in the National Council's handling of this project<sup>13</sup>, and we questioned the witnesses carefully on how each of these had been allowed to occur.

15. On the failure of National Council staff to conduct a financial appraisal of the Avanti Media Group, Mr Martin told us that this should have been undertaken in accordance with extant operating procedures and that he had wrongly assumed at the time that it would therefore have been done<sup>14</sup>. Similarly, with respect to the failure to perform a risk assessment of the project prior to committing National Council funds, he admitted that he "...should have done more to have managed the individual risks in a very rigorous way to make sure that these kinds of things should not happen. We assumed too much about the ability of the [National Council's] staff to get this right..."<sup>15</sup>.

16. Mr Higson assured us that since taking up post in April 2003 he had implemented a project appraisal and approval system within the National Council, which requires positive proof that actions such as financial viability appraisals and risk assessments have been completed properly before projects are submitted for approval internally and to the Welsh Assembly Government<sup>16</sup>.

17. The Auditor General had found that serious concerns raised by the National Council's Chair and then Chief Executive in December 2001 concerning the project had not been addressed by staff prior to signature of the contract in February 2002, and that they had not reported back to

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<sup>12</sup> AGW Report, paragraphs 3.2-3.6

<sup>13</sup> AGW Report, pp 24-25

<sup>14</sup> Annex A, Qs 38 and 39

<sup>15</sup> Annex A, Q42

<sup>16</sup> Annex A, Qs 40 and 44

the then Chief Executive on these points as required<sup>17</sup>. Pressed on this, Mr Martin told us that he had relied on his senior staff to carry out the instructions that they had been given. He fully accepted that he should have followed up the concerns he had raised, and that he had taken his eye off the ball during a very pressured period of organisational restructuring. He accepted responsibility as Accounting Officer for this lapse<sup>18</sup>.

18. We asked Sir Jon Shortridge why it was that no minute had been taken by his officials of a meeting with National Council staff on 10 January 2002 to clarify aspects of the project application prior to submitting it on the following day for Ministerial approval<sup>19</sup>. Whilst he was unable to explain this omission, he agreed that a note should certainly have been taken. He observed that a retrospective note had since been prepared at his request and informed us that he had sent a reminder to all of his senior staff regarding the importance of recording key meetings and maintaining a proper audit trail<sup>20</sup>. He assured us that, based on his own discussions with officials and the retrospective note, he was satisfied that the advice given by his officials at the time to the Minister for Education and Lifelong Learning that she should approve the project concept was entirely proper and appropriate<sup>21</sup>. Sir Jon also confirmed that, on the basis of the evidence he had, there was no question of any issue of prepayment of monies to Learn to Live Ltd having been discussed at that meeting<sup>22</sup>.

19. Turning now to the contract itself between the National Council and Learn to Live Ltd, the Auditor General had found that it contained significant deficiencies such that it did not provide an adequate safeguard for public funds. For example, there was no definition of what constituted 'eligible expenditure' under the contract, it permitted sub-contracting of project work to other companies within the Avanti Media Group with no ceilings on

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<sup>17</sup> AGW Report, paragraph 3.23

<sup>18</sup> Annex A, Q53

<sup>19</sup> AGW Report, paragraphs 3.26-3.29

<sup>20</sup> Annex A, Qs 59 and 60.

<sup>21</sup> Annex A, Qs 61 and 62

<sup>22</sup> Annex A, Qs 63 and 64

the profit margins that might be charged, and it contained no interim 'milestones' for assessing progress before the project's intended completion in 2005<sup>23</sup>.

20. In addition, the Auditor General discovered that the EU State Aids implications of the contract were not properly assessed by the National Council prior to contract signature. The National Audit Office Wales concluded that there is a significant risk that the company has received unauthorised state aid<sup>24</sup>. Worryingly, we were informed by Mr Martin that a written warning to the National Council by its solicitors on deficiencies in the draft contract had been ignored by his staff at the time, and that he had been unable since to establish why this had occurred<sup>25</sup>.

21. The National Council paid its entire £4 million funding to the company on 27 March 2002<sup>26</sup>, four days before the end of the financial year, despite receiving a letter from the company on 15 March 2002 advising of a delay to the project and setting out a case that "in the best interests of value for money...[the purchase of]...certain fixed assets should be deferred"<sup>27</sup>. Two of the three conditions precedent specified in the contract were not enforced and payment was paid without the required supporting invoices being provided by the company<sup>28</sup>. The Auditor General found that no business case had been prepared by the National Council to make an advance payment on value for money grounds and that the necessary approval for such a payment had not been sought from the Assembly Government. He concluded that nearly £2 million of this funding had been provided in advance of need, in part so that the National Council could minimise its projected underspend for the 2001-02 financial year<sup>29</sup>.

22. We sought to establish how all this could have happened. Mr Martin told us that the 15 March 2002 letter from the company had simply been filed

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<sup>23</sup> AGW Report, paragraph 3.36 and Figure 4

<sup>24</sup> AGW Report, paragraphs 3.37-3.44

<sup>25</sup> Annex A, Q75

<sup>26</sup> AGW Report, paragraph 3.53

<sup>27</sup> Annex C: Letter to the National Council from Learn to Live Ltd, 15 March 2002

<sup>28</sup> AGW Report, paragraphs 3.60-3.64

<sup>29</sup> AGW Report, paragraphs 3.65-3.67



by the relevant project manager and had not been brought to the attention of senior staff within the National Council. He had personally been unaware of the existence of the letter until it was brought to his attention by the auditors<sup>30</sup>. He also conceded that the payment in advance of need had breached the requirements of Government Accounting and should not have been made<sup>31</sup>. He was unable to explain why payments had been made by his staff without sight of the required supporting invoices, or to add to the stated facts and conclusions drawn on these various payment issues within the Auditor General's report<sup>32</sup>.

23. Finally in respect of the Pop Centre MP3 Café project, we examined the deficiencies found by the Auditor General in the National Council's project monitoring processes<sup>33</sup>. Mr Martin admitted to us that there had been a failure of management in not putting into place the monitoring arrangements specified in the contract<sup>34</sup>. Mr Higson informed us that he has since implemented significant changes in the National Council's project monitoring and control arrangements, including a programme of staff training and the development of a risk register<sup>35</sup>.

### ***Conclusions and recommendations on the Pop Centre MP3 Café project***

24. We are deeply concerned at the evidence presented to us on the National Council's management of the Pop Centre MP3 café project. This seems to have been a viable project concept, with the potential to make a real difference to the learning opportunities available to a disadvantaged section of the community. But its handling by the National Council was extremely poor at almost every stage.

25. We consider that this was a failure of management, rather than a failure of the system itself which could have accommodated this innovative project if

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<sup>30</sup> Annex A, Qs 109-113

<sup>31</sup> Annex A, Q136

<sup>32</sup> Annex A, Qs 131-135

<sup>33</sup> AGW Report, paragraphs 3.54-3.56

<sup>34</sup> Annex A, Q114

<sup>35</sup> Annex A, Q119

only it had been properly conducted. It is clear to us that the perceived 'need for speed' by officials led to them overriding all of the safeguards built into the system that are intended to ensure that public funds are spent wisely and that value for money is achieved. In particular, it is completely unacceptable for a public body to make payments in advance of need.

26. We conclude that there were thirteen key weaknesses in the National Council's handling of this project, as set out in the following Table.

<b>Table 1: Key weaknesses in the National Council's handling of the 'Pop Centre MP3 Café' project</b>
<p>The appraisal and approval process was seriously flawed:</p> <ul style="list-style-type: none"> <li>• No financial viability checks, risk assessment or option appraisal were undertaken;</li> <li>• The project breaches National Council rules;</li> <li>• Concerns expressed by the Chair and Chief Executive were not followed up or addressed prior to contract signature;</li> <li>• No minutes were taken of a meeting with sponsor department officials.</li> </ul>
<p>The contract does not safeguard public funds or provide a sound basis to manage the project:</p> <ul style="list-style-type: none"> <li>• There are serious deficiencies in the contract wording;</li> <li>• Concerns expressed by the National Council's lawyers were ignored;</li> <li>• There are legitimate concerns that the project probably breaches EC State Aids regulations.</li> </ul>
<p>Payment was made in advance to minimise a potential annual underspend:</p> <ul style="list-style-type: none"> <li>• The contract required draw-down of all funding within one month, although the project was scheduled to last three years;</li> <li>• Conditions precedent were not enforced prior to payment of grant;</li> <li>• A request from the company to defer draw-down of funding was ignored by National Council staff;</li> <li>• Nearly half of the £4 million funding was paid in advance of need.</li> </ul>
<p>Project monitoring was inadequate:</p>

- Formal monitoring arrangements prescribed in the contract were not implemented;
- Monthly project monitoring reports were not produced and their absence was not followed up for over six months.

27. We **recommend** that the list of key project management weaknesses set out in Table 1 of this report should be drawn to the attention of staff in all Assembly Sponsored Public Bodies, in the firm expectation that the wider lessons of this project will be learned for the future. We further **recommend** that this report should be circulated by the Welsh Assembly Government to the Chair of each sponsored body and the Chairs of their respective Audit Committees, in order that they might benchmark their own corporate governance and risk management processes in the light of the National Council's experience.

### **The other projects managed by the National Council**

28. The National Audit Office review looked more widely at projects within the National Council's 2001-02 Innovation and Development Programme, in order to establish whether the weaknesses identified in its handling of the Pop Centre MP3 Café project were more widespread<sup>36</sup>. The Auditor General found that many of these weaknesses were indeed present in the other 17 projects within the Innovation and Development Programme, and that there had been significant failings in areas including project appraisal and approval procedures, contractual arrangements, and project monitoring<sup>37</sup>. The Auditor General also identified a further instance of a payment in advance of need, for £1.7 million, in respect of an engineering project at seven North Wales colleges<sup>38</sup>.

29. Mr Martin told us that there were differences in the extent of deficiencies in these other Innovation Development Programme projects, depending on their nature. Notwithstanding the payment in advance of need which he acknowledged had occurred, for those projects within the further education

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<sup>36</sup> AGW Report, Part 4

<sup>37</sup> AGW Report, page 29

<sup>38</sup> AGW Report, Figure 7 and page 29

sector he considered that the processes were rigorous. However, there had been inadequacies in the project development processes of the former TECs which were inherited by the National Council and which had been applied in other cases<sup>39</sup>.

30. Mr Higson informed us that he had commissioned an internal management review in April 2003 of all of the National Council's live projects across all of the National Council's programmes. Of the 160 projects examined in this review, 47 had been found to be non-compliant with the prescribed procedures<sup>40</sup>. In subsequent written evidence to the Committee, he provided details of these non-compliant projects and detailed the various actions that were being taken to rectify the deficiencies that the review had identified<sup>41</sup>. He also set out the changes to systems and control processes that he had instigated to prevent a recurrence of these failings, and explained that a programme of staff training would be completed by 31 March 2004<sup>42</sup>.

***Conclusions and recommendations on the other projects managed by the National Council***

31. We are gravely concerned that the Auditor General found that the Pop Centre MP3 Café project was not an isolated instance of poor project management and financial control practice within the National Council and that serious flaws existed in the management of the other projects within the 2001-02 Innovation Development Programme. The project management failings uncovered both by the internal and external auditors, and also by the subsequent wider management review of all live National Council projects, are most alarming and suggest significant shortcomings both in the operating controls and the organisational culture of the National Council at that time.

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<sup>39</sup> Annex A, Qs 149-152 and 157

<sup>40</sup> Annex A, Q153

<sup>41</sup> Annex D, Chief Executive's summary of projects as at 17 September 2003

<sup>42</sup> Annex A, Q154

32. Although it is a matter of regret that it should be necessary, we are pleased that a programme of corrective action is now being implemented by the Interim Chief Executive. We **recommend** that the remaining outstanding remedial measures be implemented urgently, both to correct weaknesses found in existing projects and to ensure that there can be no recurrence of these serious failings on new projects. This Committee would like to be notified by the National Council once it has completed its implementation of the programme of corrective action.

### **The payments to Training Providers in March 2002**

33. The Auditor General also reported on the results of his examination of payments made by the National Council to its training providers in March 2002. He identified payments on account totalling some £3.7 million which would normally have been made in the following month as reimbursement for training given and learning outcomes achieved in March. He noted that these payments on account served to bring the National Council's unspent cash balance below the upper threshold permitted by the Assembly Government for carry-over to the 2002-03 financial year. The Auditor General concluded that this arrangement was a departure from the National Council's normal payment practices and that approval for it should therefore have been sought from the Council's sponsor department within the Assembly Government<sup>43</sup>.

34. Mr Martin set out a rationale to us for these payments, based on previous TEC practices and the perceived needs of training providers to receive cash-flow assistance. He admitted that no documentary evidence existed to support an earlier explanation provided to Assembly Government officials, that the payments were made at the explicit request of training providers, but stressed that the National Council had acted in good faith and that in his view payments had not been made to them in advance of need<sup>44</sup>. He conceded that these payments on account were also intended

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<sup>43</sup> AGW Report, Part 5

<sup>44</sup> Annex A, Qs 176-178

to help the National Council manage its own cash-flows, but that he believed this both to have been perfectly legitimate and not to have required the prior approval of the Assembly Government<sup>45</sup>.

35. However, Sir Jon Shortridge told us that he agreed with the Auditor General's interpretation of the National Council's Financial Memorandum, and that he considered that it would have been "safer and more appropriate" for the National Council to have consulted his officials before making the payments on account<sup>46</sup>. Mr Higson told us that he did not intend to continue the practice of making payments on account to training providers at the end of the financial year<sup>47</sup>.

***Conclusions and recommendations on the payments to Training Providers in March 2002***

36. We are very concerned that the actions of the National Council in making payments on account to its training providers in March 2002 left it open to accusations of improper conduct. There is no clear evidence that the training providers had asked for payments on account, and the case for making such payments in March was no stronger than at any other time in the year. Together with the payments made in advance of need, we view this as yet another action taken by the National Council to circumvent the procedures that are in place to control the funding that can be carried forward at the year end.

37. We are also concerned at the decision by the National Council not to consult Assembly officials before making these payments. We recognise that the reference in the National Council's Financial Memorandum to 'novel or contentious' expenditure is deliberately designed to allow senior managers in sponsored public bodies to exercise professional judgement and discretion in determining what issues need be raised with their

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<sup>45</sup> Annex A, Q176

<sup>46</sup> Annex A, Q185

<sup>47</sup> Annex A, Q180

sponsor department. However, we agree with both the Auditor General and the Permanent Secretary that the judgement of National Council management was incorrect in this instance - the departure from usual payment arrangements should have been referred to the sponsor department for prior approval.

38. We **recommend** that the Welsh Assembly Government draw the attention of all Assembly Sponsored Public Bodies to the lessons to be learnt from this instance of financial mismanagement and stress to them that the circumvention of controls is not to be tolerated.

### **The Welsh Assembly Government's sponsorship of ASPBs**

39. We questioned the Permanent Secretary on the sponsorship mechanisms that exist within the Welsh Assembly Government to enable officials to monitor and advise sponsored bodies. Sir Jon described to us the nature and structure of the political and official relationships that exist, and the documentation such as remit letters and Management Statements that underpin those relationships<sup>48</sup>. He went on to set out his views on how the official relationships between Assembly officials and the senior management of sponsored bodies should operate in practice, noting in particular that open, honest and timely communications were of central importance to their effective operation<sup>49</sup>. Following our evidence session, we also received a helpful information note from the Auditor General, setting out the formal role and responsibilities of Accounting Officers of Assembly Sponsored Public Bodies<sup>50</sup>.

40. In the light of the Auditor General's report and the oral evidence provided to us by the current and former Accounting Officers of the National Council, we sought the Permanent Secretary's opinion as to why the sponsorship relationship between the Assembly Government and the National Council had not worked well. Sir Jon explained that, in essence,

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<sup>48</sup> Annex B, Q2

<sup>49</sup> Annex B, Qs 4 and 25-26

<sup>50</sup> Annex F

the Assembly Government should have adopted a more active sponsorship role during the first two years of the National Council's existence<sup>51</sup>. He noted that the former Chief Executive had told us that the National Council had tried to be too ambitious in its first year of operation, but suggested that this had not been at the behest of the Assembly Government<sup>52</sup>. He thought that the scope and scale of the problems experienced at the National Council had been beyond the expectations and previous experience of his sponsor department officials<sup>53</sup>. Given the National Council's over-ambition, with hindsight he very much regretted that it had been allowed to go ahead with its Innovation Development projects so early in its existence<sup>54</sup>.

41. The Permanent Secretary informed us that, in making the appointment of an Accounting Officer, he satisfies himself of that person's capacity and capability to perform the role. Once the National Council's problems with irregular procurements had emerged, there had been a series of meetings and correspondence with Mr Martin on his role as Accounting Officer. Sir Jon had also held three meetings with his employment lawyer and two meetings with the Treasury Officer of Accounts in order to assess the legal position concerning Mr Martin's position as Accounting Officer<sup>55</sup>. However, he had concluded that summary withdrawal of Mr Martin's Accounting Officer status had not been warranted, as he was required to operate within the law and felt that he had not had sufficiently firm evidence to act upon<sup>56</sup>.

42. The Permanent Secretary also informed us that he was considering carefully whether it would be appropriate to institute a two-year 'probation' period for new sponsored bodies, during which time they would receive greater than usual scrutiny and support from their sponsor department within the Assembly Government. This might be supported by an

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<sup>51</sup> Annex B, Qs 3 and 4

<sup>52</sup> Annex B, Q5

<sup>53</sup> Annex B, Q7

<sup>54</sup> Annex B, Q32

<sup>55</sup> Annex B, Qs 8 and 9

<sup>56</sup> Annex B, Q8



independent review of the adequacy of the new body's systems of control at the end of the probationary period before a more passive sponsorship stance could be adopted.<sup>57</sup>

43. We asked what training is provided to sponsor department staff. Sir Jon told us that there is no generic guidance for officials, but that he would expect desk instructions to be in place. He thought it important that sponsor department staff have opportunities to receive training and to meet to share experiences between departments, and that these were being provided periodically<sup>58</sup>. He subsequently submitted written evidence to us, detailing the training currently given to new Accounting Officers and to sponsor department staff<sup>59</sup>.

44. Finally, we questioned the Permanent Secretary on the overall financial management of Assembly Sponsored Public Bodies. Sir Jon explained that it is not viewed as sensible for sponsored bodies to build up large cash reserves, as these can best be utilised within the Assembly Government's own end-year flexibility reserve. Nonetheless, it was important for all bodies to be able to meet their financial commitments and hence the two per cent limit on carry-over of funding, which equates to one week's expenditure, is imposed across all sponsored bodies<sup>60</sup>. He considered this to be an effective control, as applications can be made by sponsored bodies on a case-by-case basis to carry over greater sums<sup>61</sup>.

### ***Conclusions and recommendations on the Welsh Assembly Government's sponsorship of ASPBs***

45. We are grateful to the Permanent Secretary for his clear exposition of how sponsorship arrangements should operate, both in theory and practice. We wholeheartedly endorse his view that the hallmarks of an effective sponsor relationship with a sponsored body should be openness, trust and

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<sup>57</sup> Annex B, Qs 3-5

<sup>58</sup> Annex B, Q28

<sup>59</sup> Annex E

<sup>60</sup> Annex B, Q48

<sup>61</sup> Annex B, Q51

robust challenge. We also agree that the extent of scrutiny and oversight of individual sponsored bodies should have proper regard to the experience and skills of their senior management and the proven robustness of their systems of internal control.

46. In the case of the National Council, we consider that the sponsor department within the Welsh Assembly Government got this balance wrong - as the Permanent Secretary conceded, "we trusted them too much and we challenged them too little<sup>62</sup>". From the weight of written and oral evidence put to us regarding the National Council, at both our January and September 2003 hearings, it seems to us that this may have been due to a misplaced confidence in the abilities and previous experience of the National Council's senior management team, as they were already well known to sponsor department officials.

47. We endorse the Permanent Secretary's suggestion of a two-year 'probation' period for new ASPBs during which they should be subjected to more rigorous scrutiny than normal, and **we recommend** that this be instituted with immediate effect. **We further recommend** that the probation period should conclude with an independent external assessment of the quality and effectiveness of the body's systems of control, the results of which should be reported to the Permanent Secretary as Principal Accounting Officer. Completion of the probation period should be dependent on the satisfactory results of that external review.

48. More generally, we are convinced that there is a pressing need for officials in sponsor departments to strike a more appropriate balance between proactive and reactive stances in the degree of oversight, advice and challenge they provide to sponsor bodies. In particular, and given his responsibilities as Principal Accounting Officer, we consider it vital that the Permanent Secretary is given the earliest possible warning of any potentially serious problems arising within Assembly Sponsored Public

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<sup>62</sup> Annex B, Q3

Bodies. This can only happen if the relevant sponsor department officials have close and frequent contact with the senior management teams of those bodies. We recognise that a 'rulebook' mentality would be wholly inappropriate, given the diverse nature and varying complexities of the Assembly's sponsored bodies, but **we recommend** that the Assembly Compliance Office should provide more generic guidance to sponsor department officials on the discharge of their responsibilities. We also **recommend** that the training provided to sponsor department officials on the principles of effective sponsorship should also be thoroughly overhauled, and that the Assembly Compliance Office should work closely with the Auditor General and his staff to secure real improvements in this regard.

49. On the Assembly Government's overall financial management of its sponsored bodies, we are persuaded that there is a compelling case to retain a robust control over the amount of grant-in-aid that each body can carry over between financial years. However, **we recommend** that the Welsh Assembly Government should review the rationale for continuing the existing imposition of a fixed 2 per cent carry-over limit for all sponsored bodies, irrespective of the nature of their operations.

## **Concluding Comments**

50. We have been deeply concerned by the evidence presented to us by the Auditor General and witnesses on the actions of the National Council and its staff. We do however recognise that, in general, standards of governance and probity across public bodies in Wales are high - and we are greatly reassured by the conclusions drawn to this effect by the Auditor General in his last two annual General Reports on his financial audit work<sup>63</sup>.

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<sup>63</sup> Auditor General for Wales: *'General Report on the Financial Audit work of the AGW: 2000-01'*, published 27 March 2002; and *'The 2003 General Report on the Financial Audit work of the AGW'*, published 30 July 2003

51. But the National Council is a telling illustration of what can go wrong. It should serve as a warning, both to sponsored bodies and their sponsors, of the need to guard against complacency and be alert to risk. Such attitudes are of particular importance where innovative programmes and projects are being developed by sponsored bodies. Innovation itself is a 'good thing' - imaginative projects and new thinking are welcome when they advance the public service in Wales, and we as a Committee would wish to emphasise that the audit process must never be perceived as stifling innovation. However, risks must be identified, assessed and sensibly managed within a coherent control framework and it was in this regard that the National Council was at fault.

52. The project management control framework was not fit for purpose and many of the controls that did exist over contract letting and the making of payments were breached, placing public funds at serious risk. The then Accounting Officer gave instructions that were not properly carried out and did not follow through on his concerns even though the Innovation Development Programme projects were, by definition, high risk. His staff acted without proper reference to him, made payments in advance of need and disregarded correspondence (including legal advice) that was inconvenient.

53. We consider that these events raise questions concerning the managerial competence of senior managers at the National Council during its first two years of operation. Although we have not taken specific evidence on this point, we do question whether the required competencies for the various posts within the National Council's senior management team were adequately assessed at the appointment stage. We **recommend** that the Welsh Assembly Government should review its appointment procedures for senior posts, particularly where new public bodies are being created. In this regard, we note the relevance of the joint initiative launched in June 2003 by Sir Andrew Turnbull and Peter Gershon<sup>64</sup> which is designed to

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<sup>64</sup> Press release by Sir Andrew Turnbull (Cabinet Secretary and Head of the Home Civil Service) and Peter Gershon (Chief Executive, Office of Government Commerce), 19 June 2003

ensure that senior public servants across the Civil Service receive improved training and support to develop their project and expenditure programme management skills.

54. The significant weaknesses identified in the National Council's handling of the Pop Centre MP3 Café project were primarily failures of management, and their occurrence across a wide range of other projects demonstrates that these failures were endemic. They indicate a degree of cultural malaise within the body that must be urgently addressed by the new senior management team in order that the National Council might move forward with confidence.

55. The Committee wishes to be informed of the outcome of the Investigating Officer's work and any subsequent disciplinary procedures, once these are concluded.

56. It is a matter of deep regret that the many significant achievements of the National Council in its first two years of operation should be overshadowed by its serious failures, which have resulted in two appearances before this Committee. However, public servants need to recognise that the utmost probity must be demonstrated at all times in the conduct of business, no matter how pressured the circumstances.

## **Summary of Recommendations**

57. In light of these findings and conclusions, we recommend that:

### ***On the National Council's 2001-02 financial position***

- (i) Any Assembly Sponsored Public Bodies finding themselves in a similar position in future should enter into early and open dialogue with their sponsor department, so that significant decisions on the timing of commitment of public funds within the Welsh block can be taken in full knowledge of wider strategic factors and due weight given to the need to secure good value for money.

### ***On the Pop Centre MP3 Café project***

- (ii) The list of key project management weaknesses set out in Table 1 of this report should be drawn to the attention of staff in all Assembly Sponsored Public Bodies, in the firm expectation that the wider lessons of this project will be learned for the future.
- (iii) This report should be circulated by the Welsh Assembly Government to the Chair of each sponsored body and the Chairs of their respective Audit Committees, in order that they might benchmark their own corporate governance and risk management processes in the light of the National Council's experience.

### ***On the other projects managed by the National Council***

- (iv) The remaining outstanding remedial measures should be implemented urgently, both to correct weaknesses found in existing projects and to ensure that there can be no recurrence of these serious failings on new projects. This Committee would like to be notified by the National Council once it has completed its implementation of the programme of corrective action.

### ***On the payments to Training Providers in March 2002***

- (v) The Welsh Assembly Government should draw the attention of all Assembly Sponsored Public Bodies to the lessons to be learnt from this instance of financial mismanagement and stress to them that the circumvention of controls is not to be tolerated.

### ***On the Welsh Assembly Government's sponsorship of ASPBs***

- (vi) We endorse the Permanent Secretary's suggestion of a two-year 'probation' period for new ASPBs during which they should be subjected to more rigorous scrutiny than normal, and recommend that this be instituted with immediate effect.

- (vii) The probation period should conclude with an independent external assessment of the quality and effectiveness of the body's systems of control, the results of which should be reported to the Permanent Secretary as Principal Accounting Officer. Completion of the probation period should be dependent on the satisfactory results of that external review.
- (viii) The Assembly Compliance Office should provide more generic guidance to sponsor department officials on the discharge of their responsibilities.
- (ix) The training provided to sponsor department officials on the principles of effective sponsorship should also be thoroughly overhauled, and the Assembly Compliance Office should work closely with the Auditor General and his staff to secure real improvements in this regard.
- (x) The Welsh Assembly Government should review the rationale for continuing the existing imposition of a fixed 2 per cent carry-over limit for all sponsored bodies, irrespective of the nature of their operations.



**Cynulliad Cenedlaethol Cymru  
Pwyllgor Archwilio**

**The National Assembly for Wales  
Audit Committee**

**Y Cyngor Cenedlaethol—ELWa: Rheolaeth Ariannol o  
Brosiectau Partneriaeth ac Arloesedd a Datblygiad  
National Council—ELWa: Financial Management of  
Partnership and Innovation and Development Projects**

**Cwestiynau 1-196  
Questions 1-196**

**Dydd Iau 25 Medi 2003  
Thursday 25 September 2003**



*Aelodau o'r Cynulliad yn bresennol: Janet Davies (Cadeirydd), Leighton Andrews, Mick Bates, Alun Cairns, Jocelyn Davies, Christine Gwyther, Mark Isherwood, Denise Idris Jones, Val Lloyd, Carl Sargeant.*

*Swyddogion yn bresennol: Syr John Bourn, Archwilydd Cyffredinol Cymru; Lew Hughes, Swyddfa Archwilio Genedlaethol Cymru; David Powell, Swyddog Cydymffurfio Cynulliad Cenedlaethol Cymru; Mike Usher, Swyddfa Archwilio Genedlaethol Cymru.*

*Tystion: Syr Jon Shortridge, Ysgrifennydd Parhaol Cynulliad Cenedlaethol Cymru; Peter Higson, Prif Weithredwr Dros Dro Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant; Steve Martin, Prif Weithredwr Cyngor Cyllido Addysg Uwch Cymru.*

*Assembly Members present: Janet Davies (Chair), Leighton Andrews, Mick Bates, Alun Cairns, Jocelyn Davies, Christine Gwyther, Mark Isherwood, Denise Idris Jones, Val Lloyd, Carl Sargeant.*

*Officials present: Sir John Bourn, Auditor General for Wales; Lew Hughes, National Audit Office Wales; David Powell, National Assembly for Wales Compliance Officer; Mike Usher, National Audit Office Wales.*

*Witnesses: Sir Jon Shortridge, Permanent Secretary, National Assembly for Wales; Peter Higson, Interim Chief Executive, National Council for Education and Training for Wales; Steve Martin, Chief Executive, Higher Education Funding Council for Wales.*

*Dechreuodd y cyfarfod am 9.30 a.m.  
The meeting began at 9.30 a.m.*

[1] **Janet Davies:** Good morning. I welcome Committee members, as we are all here at the moment. I also welcome the witnesses, members of the public and National Audit Office representatives. We have not received any apologies for today's meeting. Mick Bates will, unfortunately, have to leave at about 11.30 a.m. as he has another meeting. Mark Isherwood will not be here for this afternoon's session. I hope that not all witnesses will be here this afternoon, provided that we get through this session in reasonable time.

Before we go any further, may I ask Members whether they have any declarations of interest to make?

[2] **Carl Sargeant:** Chair, I declare an interest as a board member of Deeside College in north Wales.

[3] **Janet Davies:** Thank you. Next, I would like to remind people that the Committee operates bilingually and that you can use the

[1] **Janet Davies:** Bore da. Hoffwn groesawu aelodau'r Pwyllgor, gan ein bod ni i gyd yma ar hyn o bryd. Yr wyf hefyd am groesawu'r tystion, aelodau o'r cyhoedd a chynrychiolwyr y Swyddfa Archwilio Genedlaethol. Nid ydym wedi derbyn unrhyw ymddiheuriadau ar gyfer cyfarfod heddiw. Yn anffodus, bydd yn rhaid i Mick Bates adael am tua 11.30 a.m. gan fod ganddo gyfarfod arall. Ni fydd Mark Isherwood yma ar gyfer sesiwn y prynhawn. Gobeithiaf na fydd yn rhaid i'r holl dystion fod yma y prynhawn yma, cyn belled â'n bod yn gallu cwblhau'r sesiwn hwn mewn amser rhesymol.

Cyn i ni fynd ymhellach, a allaf fi ofyn i'r Aelodau a ydynt am ddatgan buddiant o gwbl?

[2] **Carl Sargeant:** Gadeirydd, yr wyf yn datgan buddiant fel aelod o fwrdd Coleg Glannau Dyfrdwy yng ngogledd Cymru.

[3] **Janet Davies:** Diolch. Nesaf, hoffwn atgoffa pobl fod y Pwyllgor yn gweithredu'n ddwyieithog ac y gallwch ddefnyddio'r

headsets provided to hear a translation of Welsh contributions. The headsets can also be used to hear English-language contributions more clearly. The pillar in the middle of this room is not conducive to always being able to understand what is going on. Please turn off mobile telephones, pagers and other electronic devices, as they interfere with the broadcasting and translation systems, and can cause an unpleasant buzzing for those who use the headsets.

Before we go any further, I want to get the minutes of the previous meeting out of the way. Do any Members have questions about those minutes? Do you agree those minutes? I see that you do. That is fine, thank you.

We now move on to the hearing on the report, 'ELWa/National Council for Education and Training for Wales: Financial Management of Partnership and Innovation and Development Projects'. The witnesses are Sir Jon Shortridge, the Permanent Secretary, Peter Higson, interim chief executive of the national council, and Steve Martin, chief executive of the Higher Education Funding Council for Wales and former chief executive and accounting officer of the national council.

This will be quite a lengthy session. I would like to make a few points at the start of the session. First, I remind Members of the role and remit of this Committee. Standing Order No. 12.4 states that

'In the performance of its responsibilities... the Committee shall not question the merits of the policy objectives of the Assembly, or those of any other body or person which is the subject of the Committee's report.'

I think that that is something that should be borne in mind.

We have a great deal of ground to cover today, but I am determined that we do a thorough job of today's hearing and get at the facts that lie behind this. It may be that some other items on the agenda will have to be squeezed or postponed. Above all, I want to

ffonau clust a ddarparwyd i glywed cyfieithiad o gyfraniadau Cymraeg. Gallwch ddefnyddio'r ffonau clust hefyd i glywed cyfraniadau Saesneg yn gliriach. Nid yw'r piler yng nghanol yr ystafell bob amser yn gymorth i allu deall yr hyn sy'n cael ei ddweud. Diffoddwch eich ffonau symudol, blipwyr a dyfeisiau electronig eraill, gan eu bod yn amharu ar y systemau darlledu a chyfieithu, ac yn gallu achosi sŵn sïo annymunol i'r rhai sy'n defnyddio ffonau clust.

Cyn i ni fynd ymhellach, yr wyf am ddelio â chofnodion y cyfarfod diwethaf. A oes gan unrhyw Aelod gwestiynau am y cofnodion hynny? A ydych yn cytuno bod y cofnodion yn rhai cywir? Yr wyf yn gweld eich bod chi. Mae hynny'n iawn, diolch yn fawr.

Yr ydym yn symud ymlaen yn awr i wrandawriad yr adroddiad, 'ELWA/Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant: Rheolaeth Ariannol o Brosiectau Partneriaeth ac Arloesedd a Datblygiad'. Y tystion yw Syr Jon Shortridge, yr Ysgrifennydd Parhaol, Peter Higson, prif weithredwr dros dro y cyngor cenedlaethol, a Steve Martin, prif weithredwr Cyngor Cyllido Addysg Uwch Cymru a chyn brif weithredwr a swyddog cyfrifo y cyngor cenedlaethol.

Bydd hwn yn sesiwn cymharol faith. Hoffwn wneud ychydig o bwyntiau ar ddechrau'r sesiwn. Yn gyntaf, yr wyf am atgoffa Aelodau o rôl a chylch gwaith y Pwyllgor hwn. Mae Rheol Sefydlog Rhif 12.4 yn datgan y canlynol:

'Wrth gyflawni ei amcanion polisi unrhyw gorff neu berson arall sy'n destun adroddiad gan y gyfrifoldebau...ni fydd y Pwyllgor yn amau rhagoriaethau amcanion polisi'r Cynulliad nac Pwyllgor.'

Credaf fod hynny yn rhywbeth y dylid ei gadw mewn cof.

Mae gennym lawer o faterion i'w trafod heddiw, ond yr wyf yn benderfynol o ymdrin yn drylwyr â gwrandawriad heddiw a chael at y ffeithiau sy'n gefndir i hyn. Efallai y bydd yn rhaid cywasgu neu ohirio eitemau eraill ar yr agenda. Yn anad dim, yr wyf am fynegi'n

make it clear to Members and witnesses that I will be looking for concise questions and answers. All Committee members have received copies of the previous Auditor General and Committee reports on the national council, so there is no need for witnesses to refer back to them, because we are aware of the context in which this hearing is taking place.

I draw Members' attention to paragraph 1.12 of the report, which notes the ongoing work of the independent investigating officer at the national council. As for previous Committee hearings, it would be inappropriate to delve into issues of individual culpability, since to do so could potentially prejudice the disciplinary process.

This afternoon's session with Sir Jon Shortridge will focus on wider issues to do with the Welsh Assembly Government's oversight of Assembly sponsored public bodies. Members may wish to pursue some of the issues that are raised this morning in that session.

I welcome the witnesses. Would you be kind enough to introduce yourselves to the Committee and to members of the public? We will begin with Sir Jon.

**Sir Jon Shortridge:** I am Jon Shortridge, Permanent Secretary of the Assembly.

**Dr Higson:** I am Peter Higson, interim chief executive of the National Council—ELWa.

**Mr Martin:** I am Steve Martin, chief executive of the Higher Education Funding Council for Wales and chief executive of the National Council—ELWa at the time of the events to which the report refers.

[4] **Janet Davies:** Thank you very much. I will begin the questioning. Most of the questions will be directed at you, Mr Higson, so I am afraid that you are going to bear the brunt of this. We will say if we want someone else to answer particular questions. If I could start by looking at part 2 of the Auditor General's report, the core issue

glir i'r Aelodau a'r tystion fy mod am gael cwestiynau ac atebion cryno. Mae holl aelodau'r Pwyllgor wedi derbyn copïau o adroddiadau blaenorol yr Archwilydd Cyffredinol a'r Pwyllgor ar y cyngor cenedlaethol, felly nid oes angen i dystion gyfeirio yn ôl atynt, gan ein bod yn ymwybodol o gyd-destun cynnal y gwrandawriad hwn.

Yr wyf yn tynnu sylw Aelodau at baragraff 1.12 yr adroddiad, sy'n nodi gwaith parhaus y swyddog ymchwilio annibynnol yn y cyngor cenedlaethol. Fel yng ngwrandawriadau blaenorol y Pwyllgor, byddai'n amhriodol ymchwilio i faterion yn ymwneud ag euogrwydd unigolion, gan y byddai hynny'n gallu niweidio'r broses ddisgyblu.

Bydd sesiwn y prynhawn yma gyda Syr Jon Shortridge yn canolbwyntio ar faterion ehangach sy'n ymwneud â gorolwg Llywodraeth Cynulliad Cymru o gyrrff cyhoeddus a noddir gan y Cynulliad. Gall aelodau drafod rhai o'r materion a godwyd y bore yma ymhellach yn y sesiwn hwnnw.

Yr wyf yn croesawu'r tystion. A fydddechystal â chyflwyno eich hunain i'r Pwyllgor ac i aelodau'r cyhoedd? Fe ddechreuwn ni gyda Syr Jon.

**Syr Jon Shortridge:** Fi yw Jon Shortridge, Ysgrifennydd Parhaol y Cynulliad.

**Dr Higson:** Fi yw Peter Higson, prif weithredwr dros dro y Cyngor Cenedlaethol—ELWa.

**Mr Martin:** Fi yw Steve Martin, prif weithredwr Cyngor Cyllido Addysg Uwch Cymru a phrif weithredwr y Cyngor Cenedlaethol—ELWa ar adeg y digwyddiadau mae'r adroddiad yn cyfeirio atynt.

[4] **Janet Davies:** Diolch yn fawr iawn. Yr wyf am ddechrau'r cwestiynau. Bydd y rhan fwyaf o'r cwestiynau wedi'u cyfeirio atoch chi, Mr Higson, felly chi fydd yn gorfod dwyn y baich yn anffodus. Byddwn yn dweud os ydym am i rywun arall ateb cwestiynau penodol. A gaf fi ddechrau drwy edrych ar ran 2 adroddiad yr Archwilydd

seems to be the breakdown in controls arising from some rather frenzied efforts by the national council to spend money towards the end of the 2001-02 financial year, money which would otherwise have had to be surrendered to the Assembly. How did this happen?

**Dr Higson:** Thank you. These events took place before I was appointed chief executive, so if I may ask Steve Martin—

**Mr Martin:** Could I pick that up?

[5] **Janet Davies:** Yes.

**Mr Martin:** My overall assessment, which you might want me to come back to in more detail later, is that we were trying to do too much too quickly on a wide range of fronts and for various reasons. Now, given your injunction about keeping the answers short, I will not spell all that out now, but if the Committee would like more details I am, of course, very happy to give them.

In terms of these particular projects, the situation was that, having taken over from the predecessor bodies—the four training and enterprise councils, the Council of Welsh Training and Enterprise Councils and the Further Education Funding Council for Wales—we had the business of running the existing systems and deriving information from those systems, on the basis of which we could do our budgeting and planning for the year. In about July—which was about the normal time you would start thinking about this in any organisation—the directors' group discussed the need, by September, to have gathered the information together on the basis of which we could assess the extent to which we needed to move money between programmes, seek Assembly approval, and have the capacity to take on new projects. What then happened was that, between September, when we first considered that, and the refinement of information, we needed end of period 6—that is, the end of September—out-turn figures before we could go back to the council with a coherent picture. That was not available for the October meeting but it was available for the November meeting. So it was at the

Cyffredinol, mae'n ymddangos mai'r mater craidd yma yw methiant y mesurau rheoli a gododd o ymdrechion eithaf gwyllt gan y cyngor cenedlaethol i wario arian tua diwedd blwyddyn ariannol 2001-02, arian a fyddai wedi gorfod mynd yn ôl i'r Cynulliad fel arall. Sut y digwyddodd hyn?

**Dr Higson:** Diolch. Digwyddodd hyn cyn i mi gael fy mhenodi yn brif weithredwr, felly os gallaf holi Steve Martin—

**Mr Martin:** A gaf fi sôn am hyn?

[5] **Janet Davies:** Cewch.

**Mr Martin:** Fy asesiad cyffredinol, y byddwch am ddychwelyd ato mewn mwy o fanylder yn ddiweddarach efallai, yw ein bod wedi ceisio gwneud gormod yn rhy gyflym mewn sawl maes ac am wahanol resymau. Nawr, o gofio eich gorchymyn i gadw atebion yn fyr, nid wyf am ymhelaethu ar hynny yn awr, ond os yw'r Pwyllgor am gael rhagor o fanylion, yr wyf yn hapus iawn o'u rhoi iddynt.

O ran y prosiectau penodol hyn, y sefyllfa oedd, ar ôl cymryd drosodd gan y cyrff a'n rhagflaenodd—y pedwar cyngor hyfforddiant a menter, Cyngor Cyngorau Hyfforddiant a Menter Cymru a Chyngor Cyllido Addysg Bellach Cymru—yr oedd yn rhaid i ni ddefnyddio'r systemau a oedd yno'n barod a chael gwybodaeth o'r systemau hynny i baratoi ein cyllidebau a'n cynlluniau am y flwyddyn. Ym mis Gorffennaf—sef yr amser arferol i ddechrau meddwl am hyn mewn unrhyw sefydliad—trafododd grŵp y cyfarwyddwyr yr angen i gasglu'r wybodaeth angenrheidiol ynghyd erbyn mis Medi i allu asesu i ba raddau yr oedd angen i ni symud arian rhwng rhaglenni, gofyn am gymeradwyaeth y Cynulliad, ac i ba raddau yr oedd yn gallu dechrau ar brosiectau newydd. Yr hyn a ddigwyddodd wedyn, rhwng mis Medi, pan wnaethom ystyried hyn gyntaf, a diwygio'r wybodaeth, yr oedd angen ffigurau canlyniadau diwedd cyfnod 6 arnom—hynny yw, diwedd mis Medi—cyn y gallem fynd yn ôl at y cyngor gyda darlun cydlynol. Nid oedd y rheini ar gael ar gyfer cyfarfod mis Hydref ond yr oeddynt ar gael erbyn cyfarfod mis Tachwedd. Felly yng nghyfarfod mis Tachwedd yr oedd yn

November meeting that we were really taking stock. I have to say that we had great difficulty in getting reliable information from the different accounting systems that we were operating, particularly from the former TECs.

In November, we asked the council to look, as the Auditor General's report describes, at the various options. We immediately had to spend about £1.5 million on covering the costs of value added tax that had not been allowed for in our initial budget. We also decided that it was a good idea to pay off some of the inherited debts of the further education sector, so we did that. That left us with a figure which, at that time, looked to be about £10 million that we could spend on other projects. The council decided that this should be regarded as an opportunity rather than a problem, and that we should move on as quickly as we could to identify projects if we could, making it very clear that we should not spend in advance of need. So that is a taste of how we got to the point of wanting to have these kinds of projects launched in the last few months of that first year of the council.

[6] **Janet Davies:** But given that you did realise that to spend this £10 million was going to be very challenging, why did you not put into place extra-specially robust measures to prevent the breakdown in control that eventually occurred?

**Mr Martin:** Well, first of all, we did establish a small central team to steer the projects. The prime responsibility for the identification of projects was with the regional directors in particular. In retrospect, one can now see clearly from the findings of the report that the arrangements were not as robust as they should have been. I think that there is a very clear distinction, however, between the weakness in respect of non-FE projects and the robustness of the arrangements that were used for the FE projects—which constituted a substantial number—where, although the conclusion of the audit was that there was not a proper risk assessment, there was actually a very robust process. Indeed, there was a bit of an argument about whether that constituted a full enough process. However, those FE

adolygu pethau go iawn. Mae'n rhaid i fi ddweud ein bod ni wedi cael anhawster mawr i gael gwybodaeth ddibynadwy o'r gwahanol systemau cyfrifo yr oeddem yn eu gweithredu, yn arbennig gan y cyn Gyngorau Hyfforddiant a Menter.

Ym mis Tachwedd, gofynasom i'r cyngor edrych ar y gwahanol ddewisiadau fel y mae adroddiad yr Archwilydd Cyffredinol yn eu disgrifio. Yr oedd yn rhaid i ni wario tua £1.5 miliwn ar unwaith i dalu costau treth ar werth nad oedd wedi'u cynnwys yn ein cyllideb gychwynnol. Bu inni benderfynu hefyd ei bod yn syniad da i dalu rhai o ddyledion a etifeddwyd y sector addysg bellach, felly gwnaethom hynny. Gadawodd hynny ffigur a oedd yn ymddangos yn £10 miliwn ar y pryd y gallem ei wario ar brosiectau eraill. Penderfynodd y cyngor y dylid ystyried hyn fel cyfle yn hytrach na phroblem, ac y dylem symud ymlaen mor gyflym ag y gallem i nodi prosiectau os y gallem, gan fynegi'n glir na ddylem wario cyn bod angen. Felly, dyna gipolwg ar sut y cyrhaeddasom y pwynt o fod eisiau lansio'r mathau hyn o brosiectau yn y misoedd olaf o flwyddyn gyntaf y cyngor.

[6] **Janet Davies:** Ond o ystyried eich bod yn sylweddoli bod gwario'r £10 miliwn hwn yn mynd i fod yn dasg llawn her, pam na fydech chi wedi cyflwyno mesurau cadarnach fyth i atal y methiant mewn rheolaeth a ddigwyddodd yn y pen draw?

**Mr Martin:** Wel, yn gyntaf oll, gwnaethom sefydlu tîm canolog bychan i lywio'r prosiectau. Y cyfarwyddwyr rhanbarthol yn arbennig a oedd yn bennaf gyfrifol am nodi prosiectau. Wrth edrych yn ôl, mae rhywun yn gallu gweld yn glir erbyn hyn o ganfyddiadau'r adroddiad nad oedd y trefniadau mor gadarn ag y dylent fod. Credaf fod gwahaniaeth clir iawn, fodd bynnag, rhwng y gwendid o ran prosiectau nad ydynt yn rhai AB a'r trefniadau cadarn a ddefnyddiwyd ar gyfer y prosiectau AB—a oedd yn nifer sylweddol—lle yr oedd proses gadarn iawn, er bod yr archwiliad wedi casglu na chynhaliwyd asesiad risg priodol. Yn wir, cafwyd dadl ynglŷn â beth oedd proses ddigon cyflawn. Fodd bynnag, credaf fod y prosiectau AB hynny, y rhan fwyaf ohonynt wedi'u cwblhau neu bron iawn â'u

projects, most of which have delivered or are well on the way to delivering, I think did go through a very clear process of expert evaluation. We had a panel looking at them and they were picked up, for the most part, from an earlier scheme that had been very rigorously run—these were projects that we had not been able to fund under that earlier scheme.

So those were on the one hand. On the other hand were projects that were managed and developed within the offices of the former training and enterprise councils. There, frankly, I and others assumed—wrongly—that there was the experience, and that there were the skills and understanding, that would have enabled them to have developed and managed those projects successfully. The findings of the report make it very clear that that was not a safe assumption, as it turned out. It seemed a reasonable assumption at the time. It is clearly not the way I would go about it again, if I had another opportunity.

[7] **Janet Davies:** Given that there have been some suggestions that the reorganisation took place in order to ensure that further education was run more effectively and in a better way, would it not have been reasonable to look very hard at the experience and previous practices to ensure that improved practices were in place? It does seem that there were assumptions made that the previous situation was fine, and that therefore it would continue to be fine.

**Mr Martin:** We gained progressive knowledge of those weaknesses. We inherited a number of audit reports, which I referred to when we were discussing the procurement deficiencies at a previous evidence session, and we also programmed, very consciously, a programme of audit activity that would pick up progressively on the practices in the former TECs. That did not give us enough information quickly enough to understand what was going on and, in retrospect, it clearly would have been very helpful to have tried to design a more rigorous project process. There was a project process in place, there were forms that the staff had to fill in, there was guidance in the operational plan about the way in which

cwblhau, wedi bod trwy broses glir iawn o werthuso arbenigol. Yr oedd gennym banel yn edrych arnynt ac dewiswyd y rhan fwyaf ohonynt o gynllun cynharach a oedd wedi'i redeg yn drylwyr iawn—prosiectau oedd y rhain nad oeddem wedi gallu eu hariannu o dan y cynllun cynharach hwnnw.

Felly yr oedd gennym y prosiectau hynny ar un llaw. Ar y llaw arall yr oedd prosiectau a oedd yn cael eu rheoli a'u datblygu o fewn swyddfeydd y cyn gynghorau hyfforddiant a menter. A bod yn blwmp ac yn blaen, bu i mi ac eraill dybio—yn anghywir—fod y rhain yn cynnwys y profiad, a sgiliau a'r ddealltwriaeth, a fyddai wedi'u galluogi i ddatblygu a rheoli'r prosiectau hynny'n llwyddiannus. Mae canfyddiadau'r adroddiad yn mynegi'n glir iawn nad oedd hon yn dybiaeth ddiogel, fel y digwyddodd pethau. Yr oedd yn ymddangos yn dybiaeth resymol ar y pryd. Ni fyddwn yn mynd ati fel hyn eto petawn i'n cael cyfle arall.

[7] **Janet Davies:** O ystyried fod rhai awgrymiadau wedi'u gwneud ynglŷn â bod yr ad-drefnu wedi digwydd i sicrhau bod addysg bellach yn cael ei rhedeg yn fwy effeithiol ac mewn gwell ffordd, oni fyddai wedi bod yn rhesymol i edrych yn fanwl iawn ar brofiad ac arferion blaenorol i sicrhau bod gwell arferion ar waith? Mae'n ymddangos bod rhagdybiaethau wedi'u gwneud ynglŷn â bod y sefyllfa flaenorol yn iawn, ac y byddai'n parhau i fod felly.

**Mr Martin:** Cawsom fwy a mwy o wybodaeth am y gwendidau hynny. Yr oeddem wedi etifeddu nifer o adroddiadau archwilio, y cyfeiriais atynt wrth i ni drafod diffygion caffael mewn sesiwn tystiolaeth blaenorol, a bu i ni hefyd gynllunio, yn gydwybodol iawn, raglen o weithgarwch archwilio a fyddai'n rhoi sylw cynyddol i arferion y cyn CHM. Nid oedd hynny yn rhoi gwybodaeth ddigonol i ni yn ddigon cyflym i allu deall beth a oedd yn digwydd ac, o edrych yn ôl, mae'n glir y byddai cynllunio proses brosiectau gadarnach wedi bod yn gam defnyddiol iawn. Yr oedd proses prosiectau ar waith, ffurflenni i'r staff eu llenwi, a chanllawiau yn y cynllun gweithredol ar y ffordd i gyflawni prosiectau

projects under the innovation and development programme should have been carried out.

There was also, of course, existing good practice. I do not want to convey the impression that everything that happened in the former TECs was bad; it was not at all. There are two things to say about that. First, some of that good practice—for instance, the carrying out of financial appraisals, which would be good practice in any sector—was not something that we felt at the time that we should have to spell out in relation to these particular projects, because it was established good practice in those offices for, for instance, all work-based training contracts and any variations to them. However, I think that it is fair to say that we could and should have done more to have identified a very rigorous project appraisal process. I thought that we had one; it clearly did not operate properly and it could have been improved, and the report makes some important suggestions about that.

[8] **Janet Davies:** Thank you, Mr Martin. Mr Higson, as you are now in post and you have access to all the papers, is there anything that you would like to add to that?

**Dr Higson:** Not about the events at that time, no. I can talk about what we have done since April to put in place further strengthening of our controls framework within the national council, if you wish. We have implemented a comprehensive programme of strengthening governance, project management, project appraisal and approval, and processes and documentation, picking up very much on the weaknesses identified by our internal audit team and the National Audit Office's reports.

[9] **Janet Davies:** Thank you, Mr Higson. Alun, you wanted to come in here?

[10] **Alun Cairns:** Yes. Thank you. I am a bit surprised by Mr Martin's response, to be frank, Cadeirydd. He seems to be placing a lot of blame on the structures of the former TECs. However, bearing in mind that this underspend came to light in November 2001, or around that period, at the same time they

o dan y rhaglen arloesedd a datblygiad.

Yr oedd arferion da hefyd wrth gwrs. Nid wyf am roi'r argraff fod popeth a ddigwyddodd yn y cyn CHM yn wael; nid dyna'r achos o gwbl. Mae dau beth i'w ddweud am hynny. Yn gyntaf, yr oedd rhywfaint o'r arferion da hynny—er enghraifft, cyflawni arfarniadau ariannol, a fyddai'n arfer da mewn unrhyw sector—yn rhywbeth yr oeddem yn teimlo na ddylem ni orfod ei bwysleisio mewn perthynas â'r prosiectau arbennig hyn, gan ei fod yn arfer da sefydledig yn y swyddfeydd hynny, er enghraifft, ar gyfer holl gontractau hyfforddi yn y gweithle ac unrhyw amrywiadau arnynt. Fodd bynnag, mae'n deg dweud y gallem ac y dylem fod wedi gwneud mwy i nodi proses arfarnu prosiectau mwy trylwyr. Credwn fod gennym ni un; yn amlwg, nid oedd yn gweithio'n briodol a gellid bod wedi ei wella, ac mae'r adroddiad yn gwneud rhai awgrymiadau pwysig ynglŷn â hynny.

[8] **Janet Davies:** Diolch, Mr Martin. Mr Higson, gan mai chi sy'n dal y swydd erbyn hyn a'ch bod yn gallu cael gafael ar yr holl bapurau, a oes rhywbeth yr hoffech ei ychwanegu at hynny?

**Dr Higson:** Nid am y digwyddiadau ar yr adeg honno, nac oes. Gallaf sôn am hyn yr ydym wedi'i wneud ers mis Ebrill i gryfhau ein fframwaith rheoli ymhellach yn y cyngor cenedlaethol, os dymunwch. Yr ydym wedi gweithredu rhaglen gynhwysfawr o gryfhau trefniadau llywodraethu, rheoli prosiectau, arfarnu a chymeradwyo prosiectau, a phrosesau a dogfennaeth, gan roi sylw i'r gwendidau a nodwyd gan ein tîm archwilio mewnol ac adroddiadau y Swyddfa Archwilio Genedlaethol.

[9] **Janet Davies:** Diolch, Mr Higson. Alun, credaf eich bod am gyfrannu yma?

[10] **Alun Cairns:** Ydw. Diolch. Yr wyf wedi synnu braidd gydag ymateb Mr Martin, i fod yn onest, Gadeirydd. Mae'n ymddangos fel pe bai'n rhoi llawer o fai ar strwythurau'r cyn CHM. Fodd bynnag, o ystyried bod y tanwario hwn wedi dod i'r amlwg ym mis Tachwedd 2001, neu tua'r cyfnod hwnnw, ar

were filing accounts well over the date for the previous investigation of the Audit Committee that was conducted. Bearing in mind the qualifications that the Auditor General had to put on those accounts at the time, did you not think, Mr Martin, because of the difficulties that you had had in your accounting processes and this major underspend, that you now needed to have extra rigorous procedures in place to ensure value for money?

**Mr Martin:** The events that we are talking about here were in the same financial year as those in which the procurement deficiencies occurred. In fact, all these events were concentrated around the autumn. So we are talking about the same period. I am accepting that we did not do enough to identify those weaknesses. They became progressively apparent to us. However, we did not have the information about the other deficiencies in the report of the Auditor General to take into account at the time. This is the same accounting period. Can I also make another point, which I should have drawn attention to in my earlier answer? We did have a discussion with the Assembly Government officials, as sponsors, about the situation in about September time. We did see whether there was any flexibility around, perhaps, special arrangements for the council's budget to take a two-year look at it for the first two years, because there was clearly a danger in trying to identify and spend money in that relatively short period. We were advised, on policy grounds, that there was not to be flexibility around the normal 2 per cent carry-over rule, and we obviously had to operate within that framework. However, I think that it is important for you to understand that we were looking at ways of trying to spread, as it were, this expenditure and this activity over a longer period, recognising the particularly challenging circumstances under which the council was trying to work. Of course, at the same time as we were doing all this, the principal preoccupation of myself and my senior colleagues was the major restructuring that was taking 20 per cent of the staff out of the organisation.

[11] **Janet Davies:** Val, would you like to continue with the questions?

yr un adeg ag yr oeddynt yn cyflwyno cyfrifon ymhell ar ôl y dyddiad ar gyfer yr ymchwiliad blaenorol gan y Pwyllgor Archwilio. O gofio'r amodau y bu'n rhaid i'r Archwilydd Cyffredinol eu rhoi ar y cyfrifon hynny ar y pryd, onid oeddech chi'n credu, Mr Martin, yn sgîl yr anawsterau a oedd gennych yn eich prosesau cyfrifo a'r tanwario sylweddol hwn, eich bod angen gweithdrefnau mwy trylwyr na'r arfer i sicrhau gwerth am arian?

**Mr Martin:** Mae'r digwyddiadau yma yn perthyn i'r un flwyddyn ariannol â'r rhai oedd â diffygion caffael. Mewn gwirionedd, digwyddodd y pethau hyn i gyd tua'r hydref. Felly yr ydym yn siarad am yr un cyfnod. Yr wyf yn derbyn na wnaethom ddigon i nodi'r gwendidau hynny. Daethant yn gynyddol amlwg inni. Fodd bynnag, nid oedd y wybodaeth am y diffygion eraill yn adroddiad yr Archwilydd Cyffredinol gennym i'w hystyried ar y pryd. Dyma'r un cyfnod cyfrifo. A gaf fi wneud pwynt arall, y dylwn i fod wedi dwyn sylw ato yn fy ateb cynharach? Cawsom drafodaeth gyda swyddogion Llywodraeth y Cynulliad, fel noddwyr, am y sefylla tua mis Medi. Buom yn edrych a oedd unrhyw hyblygrwydd yn bosibl, efallai cael trefniadau arbennig i gyllideb y cyngor gymryd golwg dwy flynedd arno am y ddwy flynedd gyntaf, oherwydd yr oedd mae'n amlwg berygl wrth geisio nodi a gwario arian yn y cyfnod cymharol fyr hwnnw. Cawsom ein cynghori, am resymau polisi, na fyddai modd bod yn hyblyg ynghylch y rheol cario drosodd arferol o 2 y cant, ac felly yr oedd yn rhaid i ni weithredu o fewn y fframwaith hwnnw. Fodd bynnag, credaf ei bod hi'n bwysig i chi ddeall ein bod wedi edrych ar ffyrdd o geisio gwasgaru'r gwariant a'r gweithgarwch hwn dros gyfnod hwy, gan gydnabod fod y cyngor yn ceisio gweithio o dan amgylchiadau heriol iawn. Wrth gwrs, yn ystod y cyfnod hwn, y prif fater oedd yn mynd â'm sylw pennaf i â'm huwch gydweithwyr oedd y gwaith ad-drefnu mawr a oedd yn golygu bod 20 y cant o'r staff yn gadael y sefydliad.

[11] **Janet Daveis:** Val, a hoffech chi barhau gyda'r cwestiynau?



[12] **Val Lloyd:** Thank you, Chair. I would like to look in a little more depth at some of the things that have already been mentioned. If I could just set the scene, you said, and it says in the report, that it was not until November 2001 that council members were alerted to the potential underspend. Therefore, why was it nearly eight months into the financial year that that information was given to council members? Why was it not given earlier?

**Mr Martin:** First of all, I would say that it is fairly common only to start looking really seriously at end-of-year outturn—unless there are exceptional circumstances—and to start to broker money around, as it were, and to seek fresh approvals and new projects, about September time, because of the pattern of spending. Of course, in the case of the council, we did not have any historic pattern, as it were, to rely on. It was a new council and we had the patterns that we had inherited, which we were understanding progressively through the year. However, we did not actually have our own corporate history. Once you run a body for some time, you have a pretty good idea about what patterns of spending and so on are going to be like. As I said earlier, we did have considerable difficulty in getting reliable figures from all the offices using the existing systems. We tried to hit the October meeting of the council. Our analysis was not complete by then and we went to council in November in the light of the full analysis of the picture, as we understood it at that time. I think that it would have been extremely difficult for us to do it earlier. I think that the other thing that was going on, of course, was that during the summer there was a huge amount of attention being given to the shaping of the council's first own operational plan, as opposed to delivering the inherited plans, and also a corporate strategy for a long, 10-year, period, and a corporate plan for three years. We were very keen, generally, to understand what the council's priorities were and where it was going before we started making major decisions about new projects, new money, and so on. So it was a combination of those factors, but the predominant one was that we did not feel that we had an ample fix on the financial position until around the end of October.

[12] **Val Lloyd:** Diolch, Gadeirydd. Hoffwn edrych yn fanylach ar rai o'r pethau a grybwyllwyd eisoes. Os caf fi roi'r sefyllfa i chi, dywedasoeh chi, ac mae'n dweud yn yr adroddiad, na chafodd aelodau'r cyngor wybod am y tanwario posibl tan fis Tachwedd 2001. Felly, pam fod bron i wyth mis o'r flwyddyn ariannol wedi mynd heibio cyn i aelodau'r cyngor dderbyn y wybodaeth honno? Pam na roddwyd y wybodaeth ynghynt?

**Mr Martin:** Yn gyntaf oll, hoffwn ddweud ei bod yn eithaf cyffredin i beidio â dechrau edrych yn ddifrifol ar alldro diwedd blwyddyn—oni bai fod amgylchiadau eithriadol—nac i ddechrau broceru arian, fel petai, na cheisio cael cymeradwyaethau newydd a phrosiectau newydd, tan tua mis Medi, yn sgîl y patrwm gwario. Wrth gwrs, yn achos y cyngor, nid oedd gennym unrhyw batrwm hanesyddol, fel petai, i ddibynnu arno. Yr oedd yn gyngor newydd ac yr oedd gennym y patrymau yr oeddem wedi ei etifeddu, yr oeddem yn dod i'w ddeall yn gynyddol drwy gydol y flwyddyn. Fodd bynnag, nid oedd gennym ein hanes corfforaethol ein hunain o gwbl mewn gwirionedd. Ar ôl i chi redeg corff am beth amser, mae gennych syniad eithaf da am beth fydd y patrymau gwario ac ati. Fel y dywedais ynghynt, cawsom anhawster mawr i gael ffigurau dibynadwy gan yr holl swyddfeydd a oedd yn defnyddio'r systemau cyfredol. Bu i ni geisio bod yn barod erbyn cyfarfod y cyngor ym mis Hydref. Nid oedd ein dadansoddiad yn barod erbyn hynny ac aethom at y cyngor ym mis Tachwedd gyda dadansoddiad llawn o'r sefyllfa, fel yr oeddem yn ei ddeall ar y pryd. Credaf y byddai wedi bod yn anodd iawn i ni fod wedi gwneud hynny'n gynt. Rhywbeth arall a oedd yn digwydd hefyd, wrth gwrs, oedd bod llawer o sylw wedi'i roi dros yr haf i lunio cynllun gweithredol cyntaf y cyngor, a strategaeth gorfforaethol am gyfnod hir iawn o 10 mlynedd, a chynllun corfforaethol am dair blynedd yn hytrach na chyflawni'r cynlluniau a etifeddwyd. Yn gyffredinol, yr oeddem yn awyddus iawn i ddeall beth oedd blaenoriaethau'r cyngor a'i gyfeiriad cyn i ni ddechrau gwneud penderfyniadau pwysig am brosiectau newydd, arian newydd, ac ati. Felly, yr oedd yn gyfuniad o'r ffactorau hyn, ond y prif un oedd nad oeddem yn teimlo fod

gennym ni afael ddigonol ar y sefyllfa ariannol tan ddiwedd mis Hydref.

[13] **Val Lloyd:** Mr Martin, given that you say that you had no historic pattern on which to base your judgment, would it perhaps not have been even more important to have been more stringent before being two thirds of the way into the financial year?

**Mr Martin:** We were collecting information from early in the financial year, but establishing the reliability of that information, and establishing what the real pattern of outturn was going to be, was not possible earlier. Typically, and I have worked in a number of public organisations, you do not begin to have a clear picture of your possible end-of-year outturn position—unless something exceptional is going on—until around September time. You are monitoring it all the time up to then. However, in the first period, we certainly did not have reliable information, and we had to work extremely hard to generate it. So, we were a little bit behind the pace at which I would normally expect to be, but I would say that we were perhaps a month and a half or so behind the pace, rather than four or five months behind the point where we could have started to redirect expenditure.

[14] **Val Lloyd:** Thank you. My next question is to Sir Jon, please. It is outlined quite clearly in paragraph 2.6 that Assembly sponsored public bodies have a limit of 2 per cent of carry-over on the grant-in-aid funding. Sir Jon, why was a 2 per cent carry-over limit imposed on the national council?

**Sir Jon Shortridge:** It was the policy of the Assembly Government at that time, and it remains so, that sponsored bodies should only have the flexibility to carry over 2 per cent of their grant-in-aid. While that is the policy, obviously, if any sponsored body wants to make a special case, formally, to the Assembly, we would consider that case on its merits, as we have on at least one other occasion. However, I think that this is a policy that is certainly something that the Finance Minister at the time, and, I believe, the present Finance Minister, believe to be in the best interests of the Assembly.

[13] **Val Lloyd:** Mr Martin, gan eich bod chi'n dweud nad oedd gennych batrwm hanesyddol i seilio'ch barn arno, onid oedd yn bwysicach fyth i fod yn fwy llym cyn i ddau draean o'r flwyddyn ariannol fynd heibio?

**Mr Martin:** Yr oeddem yn casglu gwybodaeth o ddechrau'r flwyddyn ariannol, ond nid oedd yn bosibl gweld pa mor ddibynadwy oedd y wybodaeth honno, a phennu beth oedd patrwm gwirioneddol yr alldro, tan yn hwyrach. Yn nodweddiadol, ac yr wyf wedi gweithio mewn nifer o sefydliadau cyhoeddus, nid oes posibl dechrau cael darlun clir o'r alldro diwedd blwyddyn posibl—oni bai fod rhywbeth eithriadol yn digwydd—tan tua mis Medi. Yr ydych yn ei fonitro yn tan hynny. Fodd bynnag, yn y cyfnod cyntaf, mae'n sicr nad oedd gennym wybodaeth ddibynadwy o gwbl, a bu'n rhaid i ni weithio'n galed iawn i gael y wybodaeth honno. Felly, yr oeddem ychydig yn fwy ar ei hôl hi na'r disgwyl, tua mis a hanner ddywedwn i, yn hytrach na phedwar neu bum mis ar ôl y pwynt lle gallem fod wedi dechrau ailgyfeirio gwariant.

[14] **Val Lloyd:** Diolch. Hoffwn ofyn y cwestiwn nesaf i Syr Jon, os gwelwch chi'n dda. Mae paragraff 2.6 yn amlinellu'n ddigon clir fod cyrff cyhoeddus a noddir gan y Cynulliad yn cael cario uchafswm o 2 y cant drosodd ar gyllid y cymhorthdal. Syr Jon, pam fod terfyn cario drosodd o 2 y cant wedi'i roi ar y cyngor cenedlaethol?

**Syr Jon Shortridge:** Dyna bolisi Llywodraeth y Cynulliad ar y pryd, ac mae'n parhau i fod felly, sef mai dim ond 2 y cant o'u cymhorthdal y gall cyrff a noddir ei gario drosodd. Er mai dyma'r polisi, mae'n amlwg, pe byddai unrhyw gorff a noddir am gyflwyno achos arbennig, yn ffurfiol, i'r Cynulliad, byddem yn ystyried yr achos yn ôl ei haeddiant ei hun, fel y gwnaethom ar o leiaf un adeg arall. Fodd bynnag, credaf fod y Gweinidog Cyllid ar y pryd, a'r Gweinidog Cyllid presennol, o'r farn mai dyma'r polisi sy'n rhoi'r budd mwyaf i'r Cynulliad.

[15] **Val Lloyd:** Thank you, Sir Jon. Mr Martin, given that the council paper acknowledged that it would be difficult to spend £10 million wisely by the end of March, why was no case made to the Welsh Assembly Government for permission to carry this funding forward to the next financial year?

**Mr Martin:** We had put that case a little earlier, as I said earlier, and we received what we believed to be a very firm indication that there would not be flexibility. Of course, we did work subsequently very closely with the Assembly Government, as is described in the report, as this programme developed and the process of approvals went through. So the Assembly Government was well aware of the fact that we were continuing to try to spend the money in that period and, indeed, it very helpfully agreed the accelerated approval process that is described in the report. Could we have made a case subsequently? I suppose we could, but we proceeded together—and as I say, this was effectively a partnership in developing and taking forward the schemes—in this way on the assumption that we would not be carrying over 2 per cent. The very clear indication that we had generally was that our credibility as an organisation—with indeed possible implications for future years' budgeting—did depend on us being able to show that we were using money sensibly. However, I accept that there was a possibility for us to go back, but that was not the working assumption, I think it is fair to say, on either side, from the period when the first refusal to change the arrangements, which was expressed in more general terms, was made to the Assembly Government.

[16] **Val Lloyd:** So there is no 'use it or lose it' attitude, if you like, held by officials that could put at risk the value for money?

**Mr Martin:** There certainly should not have been, and, as the council paper in November 2001 made clear, we were very plain that we could not spend money in advance of need and in breach of the requirements in

[15] **Val Lloyd:** Diolch, Syr Jon. Mr Martin, o ystyried bod papur y cyngor yn cydnabod y byddai'n anodd gwario £10 miliwn yn ddoeth erbyn diwedd mis Mawrth, pam na gyflwynwyd achos i Lywodraeth Cynulliad Cymru i gael caniatâd i drosglwyddo'r arian hwn i'r flwyddyn ariannol nesaf?

**Mr Martin:** Yr oeddem wedi cyflwyno'r achos ychydig ynghynt, fel y dywedais yn gynharach, ac wedi derbyn yr hyn yr oeddem yn ei gredu i fod yn arwydd clir iawn na fyddai unrhyw hyblygrwydd. Wrth gwrs, buom yn gweithio'n agos iawn wedi hynny â Llywodraeth y Cynulliad, fel y mae'r Adroddiad yn ei ddisgrifio, wrth i'r rhaglen hon ddatblygu a'r broses o gymeradwyo fynd rhagddi. Felly, yr oedd Llywodraeth y Cynulliad yn ymwybodol iawn o'r ffaith ein bod ni'n parhau i geisio gwario'r arian yn y cyfnod hwnnw ac, yn wir, rhoddodd hwb i bethau trwy gytuno ar broses gymeradwyo gyflymach a ddisgrifir yn yr adroddiad. A allem ni fod wedi cyflwyno achos wedi hynny? Mae'n debyg y byddem wedi gallu, ond aethom ymlaen gyda'n gilydd—ac fel yr wyf wedi crybwyll, yr oedd hon yn bartneriaeth i ddatblygu a symud cynlluniau yn eu blaenau—yn y ffordd hon ar y dybiaeth na fyddem yn cario 2 y cant drosodd. Yr arwydd clir iawn a gawsom yn gyffredinol oedd bod ein hygredd fel sefydliad—gydag yn wir oblygiadau posibl ar gyfer cyllideb y blynyddoedd a ddaw—yn dibynnu ar ein gallu i ddangos ein bod yn defnyddio'r arian yn synhwyrol. Fodd bynnag, derbyniaf fod posibilrwydd i ni fynd yn ôl, ond nid dyna oedd y dybiaeth ymarferol, mae'n deg dweud, ar y ddwy ochr, o'r adeg pan wnaed y cynnig cyntaf i newid y trefniadau, a fynegwyd mewn termau mwy cyffredinol, i Lywodraeth y Cynulliad.

[16] **Val Lloyd:** Felly, os hoffech chi, nid oes gan swyddogion agwedd 'defnyddiwch yr arian neu ei golli' a allai beryglu'r gwerth am arian?

**Mr Martin:** Ni ddylai fod wedi bod yn sicr, ac, fel mae papur y cyngor ym mis Tachwedd 2001 yn ei nodi'n glir, yr oeddem yn glir iawn na allem wario arian cyn bod angen na thorri gofynion *Cyfrifo'r Llywodraeth*. Yn

*Government Accounting.* Clearly, things went pretty badly wrong later because significant amounts of money were made available in advance of need, and that is not acceptable. However, I never regarded it as any part of spending in this way that we should try to duck and weave around the rules; we knew that we had to operate within them.

[17] **Val Lloyd:** I have no further questions.

[18] **Janet Davies:** I would like to make one point clear to the witnesses, namely that the convention for the Audit Committee is that the accounting officer in post is responsible for answering the questions on a particular topic that is relevant to his or her responsibilities. While we can invite former accounting officers to attend Committee, it could have been that Mr Martin did not attend, as he had the right to refuse if he wished. Therefore, the answers being given are the responsibility of the present accounting officer. So, Mr Higson, I think that it is right that Committee members ask if you at least agree with Mr Martin's answers, because you are in post at the moment.

**Dr Higson:** Thank you, Chair. I understand fully what you are saying. It is rather difficult because I was not working for the national council at the time that the events took place. I have had access to the papers and have had discussions with my predecessor, obviously. So I think that, in many ways, I can only offer limited comment, unfortunately, because I was not there when these events were occurring. So far, the answers that Mr Martin have given concur with what I have read.

[19] **Janet Davies:** Thank you. I am sure that all Committee members will want to ensure that that is the case. Alun, did you want to come back in?

[20] **Alun Cairns:** I would like to ask Mr Shortridge when the Welsh Assembly Government became aware of the likely underspend by the national council.

**Sir Jon Shortridge:** From our own work in the sponsor division, we became concerned around about October that it looked as if

amlwg, aeth pethau o le yn sylweddol yn hwyrach ymlaen gan fod llawer o arian wedi'i neilltuo cyn bod angen, ac nid yw hynny'n dderbyniol. Fodd bynnag, ni chredais erioed y dylem geisio canfod ffordd o osgoi'r rheolau; yr oeddem yn gwybod fod yn rhaid i ni eu dilyn wrth weithredu.

[17] **Val Lloyd:** Nid oes gennyf ragor o gwestiynau.

[18] **Janet Davies:** Hoffwn wneud un pwynt yn glir i'r tystion, sef ei bod hi'n arferol i'r swyddog cyfrifo sydd yn y swydd ar y pryd fod yn gyfrifol am ateb y cwestiynau ar bwnc arbennig sy'n berthnasol i'w gyfrifoldebau ef neu hi yn y Pwyllgor Archwilio. Tra y gallwn wahodd cyn swyddogion cyfrifo i fynychu'r Pwyllgor, efallai na wnaeth Mr Martin hynny, gan fod ganddo'r hawl i wrthod. Felly, cyfrifoldeb y swyddog cyfrifo presennol yw'r atebion a roddir. Felly, Mr Higson, credaf ei bod yn iawn i aelodau'r Pwyllgor ofyn a ydych yn cytuno o leiaf gydag atebion Mr Martin, gan mai chi sydd yn y swydd ar hyn o bryd.

**Dr Higson:** Diolch, Gadeirydd. Deallaf eich pwynt yn llwyr. Mae'n anodd braidd gan nad oeddwn yn gweithio i'r cyngor cenedlaethol pan ddigwyddodd y materion hyn. Yr wyf wedi gweld y papurau ac wedi trafod gyda'm rhagflaenydd, mae'n amlwg. Felly, yn anffodus, credaf mai dim ond sylwadau cyfyngedig y gallaf eu cynnig, yn anffodus, gan nad oeddwn yn bresennol pan ddigwyddodd y materion hyn. Hyd yn hyn, mae atebion Mr Martin yn cyd-fynd â'r hyn a ddarllenais.

[19] **Janet Davies:** Diolch. Yr wyf yn siŵr y bydd holl aelodau'r Pwyllgor am sicrhau bod hynny'n wir. Alun, a oeddech chi am ddweud rhywbeth yma?

[20] **Alun Cairns:** Hoffwn ofyn i Mr Shortridge pryd y daeth Llywodraeth Cynulliad Cymru yn ymwybodol o danwario tebygol y cyngor cenedlaethol.

**Syr Jon Shortridge:** Yn sgil ein gwaith ein hunain yn yr is-adran nawdd, daethom yn bryderus tua mis Hydref fod tanwario posibl.

there might be an underspend. I think that we wrote or spoke to the finance director and the council's operations director at that time. The figure that Mr Martin has referred to became apparent to us, if not at the end of October, certainly during November.

[21] **Alun Cairns:** So if the information became apparent at the end of October or in early November, was the Welsh Assembly Government and its officials a little concerned that this money could be spent according to the rigour of the value-for-money requirements that we would expect of any sponsored body, particularly bearing in mind that this was a new quango?

**Sir Jon Shortridge:** I think that it was for that reason that we got in touch with the council's officials and asked them to explain to us what they were proposing to do about it.

[22] **Alun Cairns:** So with such a large underspend so late on in the year, just a few months before the end of the financial year, did you ever envisage that we would end up in this position and that money would be spent willy-nilly?

**Sir Jon Shortridge:** Certainly not personally, and my understanding is that the officials concerned were clearly concerned about the situation and wanted to satisfy themselves that this matter was going to be managed properly and effectively. I would like to say that, with hindsight, I wish that we had acted differently in those circumstances.

[23] **Alun Cairns:** If it was an overspend, what action would the Assembly Government take?

**Sir Jon Shortridge:** If there was a projected overspend in October—

[24] **Alun Cairns:** On this scale.

**Sir Jon Shortridge:** For a projected overspend on that scale, we would expect the council to go through all its relevant baselines and identify savings that could be made in order to bring its budget back into balance. If it were unable to satisfy us that

Credaf ein bod wedi siarad neu ysgrifennu at gyfarwyddwr cyllid a chyfarwyddwr gweithrediadau'r cyngor ar y pryd. Yr oedd y ffigur y mae Mr Martin wedi cyfeirio ato yn hysbys i ni yn bendant yn ystod mis Tachwedd, os nad ar ddiwedd mis Hydref.

[21] **Alun Cairns:** Felly, os oedd y wybodaeth ar gael ar ddiwedd mis Hydref neu ddechrau mis Tachwedd, a oedd Llywodraeth Cynulliad Cymru a'i swyddogion ychydig yn bryderus y gallai'r arian hwn gael ei wario yn unol â'r gofynion gwerth am arian llym a fyddai'n ddisgwyliedig o unrhyw gorff a noddir, yn arbennig o gofio fod hwn yn gwango newydd?

**Syr Jon Shortridge:** Credaf mai dyna'r rheswm i ni gysylltu â swyddogion y cyngor a gofyn iddynt egluro i ni beth oedd eu cynlluniau ar gyfer hyn.

[22] **Alun Cairns:** Felly, gyda chymaint o danwario yn hwyr yn y flwyddyn, dim ond ychydig fisoedd cyn diwedd y flwyddyn ariannol, a wnaethoch ragweld o gwbl y byddem yn diweddu yn y sefyllfa hon ac y byddai arian yn cael ei wario rywsut rywsut?

**Syr Jon Shortridge:** Ddim yn bersonol naddo yn sicr, ac yn ôl yr hyn a deallaf yr oedd y swyddogion dan sylw yn bryderus iawn am y sefyllfa ac am fodloni eu hunain fod y mater yn mynd i gael ei reoli'n briodol ac effeithiol. O edrych yn ôl, rhaid i mi ddweud fy mod yn gresynu na wnaethom ni ymddwyn yn wahanol o dan yr amgylchiadau hynny.

[23] **Alun Cairns:** Os oedd yn orwario, pa gamau gweithredu y byddai Llywodraeth y Cynulliad wedi'u cymryd?

**Syr Jon Shortridge:** Os oedd gorwario arfaethedig ym mis Hydref—

[24] **Alun Cairns:** Ar y raddfa hon.

**Syr Jon Shortridge:** Yn achos gorwario arfaethedig ar y raddfa honno, byddem yn disgwyl i'r cyngor fynd drwy ei holl linellau sylfaen a nodi arbedion y byddai modd eu gwneud er mwyn cydbwysu'i gyllideb unwaith eto. Pe na allai ein bodloni ei fod yn

that could be done credibly, we would have to look at the possibility of providing it with extra provision.

[25] **Alun Cairns:** Finally—

[26] **Janet Davies:** I do not think that we want to pursue overspend, as it is not particularly relevant to this report. Carl, you want to come in on this?

[27] **Carl Sargeant:** Just to clarify, was there a formal application for the 2 per cent carry-over?

**Sir Jon Shortridge:** No, there was no formal application. I think, as Mr Martin has said, that there were clearly discussions between officials and I think that officials would have rightly given the impression that, given the nature of the policy, they could not give council officials any comfort on this, particularly in November. To be anticipating that you want to be able to carry money forward that early in the year was not something that we would normally be contemplating. I think that a special case would need to be made towards the end of the financial year, when you know that there are commitments out there that you could not meet properly during the course of the financial year.

[28] **Janet Davies:** Mark, you have some questions to ask.

[29] **Mark Isherwood:** The exchange of letters between the national council and Assembly Government officials sets out a procedure of qualified approval for projects

‘in order that the National Council could resolve outstanding points in parallel with making operational progress.’

What does this mean in practice?

**Mr Martin:** Well, this was an Assembly Government arrangement which, as I said earlier, I think was intended to be very helpful. What it meant in practice was—as the report describes, and I do not think that I can really improve on that—that there was a process of putting projects for approval to the

gallu gwneud hynny, byddai'n rhaid i ni edrych ar y posibilrwydd o roi darpariaeth ychwanegol iddo.

[25] **Alun Cairns:** Yn olaf—

[26] **Janet Davies:** Nid wyf yn credu ein bod am drafod gorwario ymhellach gan nad yw'n arbennig o berthnasol i'r adroddiad hwn. Carl, a ydych am gyfrannu yma?

[27] **Carl Sargeant:** Dim ond i gadarnhau, a wnaed cais ffurfiol ar gyfer cario 2 y cant drosodd?

**Syr Jon Shortridge:** Na, ni chafwyd unrhyw gais ffurfiol. Credaf, fel y dywedodd Mr Martin, fod trafodaethau mae'n amlwg wedi bod rhwng swyddogion a chredaf y byddai swyddogion wedi rhoi'r argraff gywir na allent roi unrhyw gysur i swyddogion y cyngor ar hyn, o ystyried natur y polisi, yn arbennig ym mis Tachwedd. Fel rheol, ni fyddem yn ystyried gallu rhagweld yr angen i gario arian trosodd mor gynnar yn y flwyddyn. Credaf y byddai angen gwneud achos arbennig tua diwedd y flwyddyn ariannol, pan fyddwch yn gwybod fod ymrwymadau na allwch eu bodloni'n iawn yn ystod y flwyddyn ariannol.

[28] **Janet Davies:** Mark, mae gennych chi gwestiynau i'w gofyn.

[29] **Mark Isherwood:** Mae'r llythyrau rhwng y cyngor cenedlaethol a swyddogion Llywodraeth y Cynulliad yn nodi gweithdrefn gymeradwyo amodol ar gyfer prosiectau

‘er mwyn i'r Cyngor Cenedlaethol allu datrys pwyntiau a oedd yn weddill tra'n gwneud cynnydd gweithredol.’

Beth mae hyn yn ei olygu yn ymarferol?

**Mr Martin:** Wel, trefniant gan y Cynulliad oedd hwn a fwriadwyd i fod yn ddefnyddiol iawn, fel y dywedais eisoes. Yr hyn yr oedd yn ei olygu yn ymarferol oedd—fel mae'r adroddiad yn ei ddisgrifio, ac ni allaf wella ar hynny ar hynny—bod proses ar gyfer cyflwyno prosiectau i gael eu cymeradwyo

Assembly Government. The Assembly Government was very helpful in turning those projects around quickly in the interest of our being able to get on with the job. The onus was clearly on national council staff, in the light of the comments from the Assembly on the individual projects, to ensure that any issues that the Assembly Government wished to register in giving approval—namely to make the approval conditional on X and Y happening—were carried out. However, it was an Assembly Government process, so in terms of the details of how it was intended to operate at the Assembly end I cannot answer, but perhaps Sir Jon can help you.

**Sir Jon Shortridge:** Yes. We made it clear that, in order to assist the council, we would give it approval, but if we could not give absolute approval on anything upfront, then we would indicate the matters that we expected the council to have addressed itself before it committed the expenditure. That is what the relevant letters make clear.

[30] **Mark Isherwood:** Thank you. Did this entail the national council coming back to the Assembly Government for fresh approvals if there was a significant change to a project after qualified approval had been given?

**Mr Martin:** That must be the clear implication of the arrangement. One of the points that I presume that the Committee will wish to turn to is the general issue of why certain questions—whether they were raised by the Assembly Government, by myself or by the chairman—were not followed up. However, manifestly, if somebody gives qualified approval and there is a significant change—or as a result of dealing with those issues, fresh issues are thrown up—then I would certainly expect there to have been further discussions with the Assembly Government about that.

[31] **Mark Isherwood:** If we could clarify a little, why does it appear that this was not done on any of the projects that were covered by the Auditor General's report? Bearing in mind the risk, what extra steps did officials take to support this?

gan Lywodraeth y Cynulliad. Yr oedd Llywodraeth y Cynulliad o gymorth mawr o ran cymeradwyo'r prosiectau hyn yn gyflym er mwyn i ni allu mynd ymlaen â'r gwaith. Staff y cyngor cenedlaethol, ar sail sylwadau'r Cynulliad ar brosiectau unigol, a oedd yn gyfrifol am sicrhau bod unrhyw faterion yr oedd Llywodraeth y Cynulliad yn dymuno eu cofrestru wrth roi cymeradwyaeth—sef rhoi cymeradwyaeth amodol cyn belled bod X ac Y yn digwydd—yn cael eu cyflawni. Fodd bynnag, proses Llywodraeth y Cynulliad oedd hon, felly ni allaf ddweud sut y bwriadwyd ei gweithredu yn y Cynulliad, efallai y gall Syr Jon eich helpu.

**Syr Jon Shortridge:** Gallaf. Bu i ni nodi'n glir y byddem yn rhoi cymeradwyaeth i'r cyngor er mwyn ei helpu ond os na allem ni gymeradwyo unrhyw beth ymlaen llaw yn llwyr, byddem yn nodi'r materion y byddem yn disgwyl i'r cyngor fynd i'r afael â hwy cyn iddo ymrwymo i'r gwariant. Dyna sy'n cael ei nodi'n glir yn y llythyrau perthnasol.

[30] **Mark Isherwood:** Diolch. A oedd hyn yn golygu bod yn rhaid i'r cyngor cenedlaethol ddod yn ôl at Lywodraeth y Cynulliad i gael cymeradwyaeth o'r newydd os oedd newid sylweddol wedi'i wneud i brosiect ar ôl derbyn y gymeradwyaeth amodol?

**Mr Martin:** Mae'r trefniant yn awgrymu hynny'n glir. Un o'r pwyntiau y tybiaf y bydd y Pwyllgor am droi ato yw'r mater cyffredinol o pam na roddwyd sylw dilynol i rai cwestiynau—boed yn gwestiynau a godwyd gan Lywodraeth y Cynulliad, gennyf fi neu'r cadeirydd. Fodd bynnag, yn amlwg, os oes rhywun yn rhoi cymeradwyaeth amodol a bod newid sylweddol—neu bod materion newydd wedi dod i'r fei wrth ddelio â'r materion gwreiddiol—yna byddwn yn sicr yn disgwyl bod trafodaethau pellach wedi'u cynnal gyda Llywodraeth y Cynulliad am hynny.

[31] **Mark Isherwood:** Os gallem ni gael rhywfaint o eglurhad, pam ei bod yn ymddangos na chafodd hyn ei wneud gydag unrhyw un o'r prosiectau sydd yn adroddiad yr Archwilydd Cyffredinol? O gofio'r risg, pa gamau ychwanegol a gymerwyd gan y

swyddogion i gefnogi hyn?

**Mr Martin:** I cannot give you a categorical answer on that because, on a range of issues, reports were not made back to the chairman and me and to the Assembly Government, as required. There is quite a significant overlap—they are not exactly the same cases, or the same elements of each case, but there is quite a significant overlap. Clearly, there was a breakdown in the arrangements for reporting back that meant that those issues were not addressed properly and that is what led to the commitment of funds and the payments in advance of need and the other irregularities that are described in the report.

[32] **Mark Isherwood:** May I just slip in another question briefly, Chair? Was this because, as you said earlier on, you were trying to do too much too quickly on a wide range of fronts, and was that because of a policy issue or a delivery issue?

**Mr Martin:** I think that it is a whole range of things. The council was, as I described earlier—and I do not want to run over everything that was going on in the council at the time, as the Chairman said that we should not at the beginning. However, there was a huge weight of expectation and a huge agenda. That was not just from the Assembly itself through the old education and training action plan project, but through the remit letter from the Assembly Government, and from the council itself, which was properly ambitious that it should make a real impact and make it quickly, and also, I must say, from myself and the senior team—we were very keen that we should be responsive to that agenda and not whinge about it and say that it was too difficult. Retrospect tells me, particularly in light of the Auditor General's findings, that that was a mistaken approach, and that the remit letter from the Assembly Government and the council's own expectations and its own plans should have been more modest. I think that we would have placed a much greater emphasis on making sure that we understood the skills, systems and so on of the existing staff and that we would have, frankly, been deeply conservative before we moved on and tried to do anything clever and new. There would

**Mr Martin:** Ni allaf roi ateb pendant i chi ar hynny gan na chyflwynwyd adroddiadau i'r cadeirydd nac i mi nac i Lywodraeth y Cynulliad ar ystod o faterion, yn ôl y gofyn. Mae gorgyffwrdd eithaf sylweddol yma—nid yw'r achosion yn hollol yr un fath, ac nid yr un elfennau o bob achos sydd yma, ond mae gorgyffwrdd sylweddol. Yn amlwg, yr oedd methiant yn y trefniadau ar gyfer adrodd yn ôl a olygodd na chafodd y materion hynny sylw priodol a dyna a arweiniodd at neilltuo arian a thalu cyn bod angen a'r achosion eraill o afreoleidd-dra a ddisgrifiwyd yn yr adroddiad.

[32] **Mark Isherwood:** A gaf fi ofyn cwestiwn arall yn gyflym, Gadeirydd? Ai'r rheswm am hyn, fel y dywedasoeh yn gynharach, oedd eich bod chi'n ceisio gwneud gormod yn rhy fuan mewn nifer eang o feysydd, ac a oedd hynny yn sgîl mater polisi neu fater cyflawni?

**Mr Martin:** Credaf ei fod yn gyfuniad o lawer o bethau. Yr oedd y cyngor, fel y disgrifiais yn gynharach—ac nid wyf am sôn am bopeth a oedd yn digwydd yn y cyngor ar y pryd, yn ôl cais y Cadeirydd ar y dechrau. Fodd bynnag, yr oedd llawer o ddisgwyliadau ac agenda anferth. Roedd hynny nid yn unig gan y Cynulliad ei hun drwy hen brosiect cynllun gweithredu addysg a hyfforddiant, ond drwy'r llythyr cylch gwaith gan Lywodraeth y Cynulliad, a chan y cyngor ei hun, a oedd yn uchelgeisiol ynglŷn â'i allu i gael effaith wirioneddol a hynny'n gyflym, a hefyd, mae'n rhaid i mi ddweud, gennyf fi a'r uwch-dîm—yr oeddem yn awyddus i ymateb i'r agenda a pheidio â chwyno amdani a dweud ei bod yn anodd. O edrych yn ôl, yn arbennig yng ngoleuni canfyddiadau'r Archwilydd Cyffredinol, yr oedd hynny'n gamgymeriad, a dylai llythyr cylch gwaith Llywodraeth y Cynulliad a disgwyliadau a chynlluniau'r cyngor ei hun fod wedi bod yn fwy cymedrol. Credaf y byddem wedi rhoi mwy o bwyslais ar sicrhau ein bod yn deall sgiliau, systemau ac ati y staff cyfredol ac y byddem, i fod yn onest, wedi bod yn geidwadol iawn cyn symud ymlaen a cheisio gwneud unrhyw beth clyfar a newydd. Byddai anfanteision i'r agwedd yna, wrth gwrs, gan na fyddai llawer o gyflawniadau'r



have been downsides to that approach, of course, as well, because many of the things that the council has achieved would not have been achieved, but we would not, I think, have had the shortcomings that are before you today.

This is not an absolute thing, it does not mean that you could not do anything—of course it does not. However, it does mean that we were too ambitious. I do believe, in particular, that it was a mistake to begin the process of sharply reducing the council's running costs and staffing before we had agreed with the Assembly Government the nature of the future agenda, which would provide a solid basis for knowing what the running costs base should be going forward. As I said earlier, a huge preoccupation for the senior team and me at this time—all senior managers—was a fundamental restructuring and taking 20 per cent of the staff out. That is not an excuse for things that go wrong—there could never be any excuse for those. However, it was the context in which people were trying to do this. Yes, we tried to do too much, and those are some of the ingredients. We were trying to do too much on other fronts. We were trying to take on a big role in relation to the European partnerships. I was chairing two of the human resource partnership groups for Objective 1 and Objective 3. We were launching the new individual learning accounts system, which, in Wales, we did successfully, actually, within the framework we in which we were operating. We were the only part of the UK that did not have huge losses. We ran that well, we believe, and it provided the basis for the new system that is being introduced now. It is a mixed picture, but, on aggregate, my conclusion is that we did far too much too quickly. We should have taken more time, we should have been 'steady as she goes' for probably about a year and a half, and only then moved on to do the really ambitious things that we were created to achieve.

[33] **Janet Davies:** I think that those answers are very interesting. We need to bear them in mind for this afternoon's session perhaps. We

cyngor wedi'u cyflawni, ond ni chredaf y byddai gennym y diffygion sydd ger eich bron heddiw.

Nid yw hwn yn rhywbeth absoliwt, nid yw'n golygu na allech chi wneud unrhyw beth—wrth gwrs nad yw'n golygu hynny. Fodd bynnag, mae'n golygu ein bod ni wedi bod yn rhy uchelgeisiol. Credaf, yn arbennig, ei bod wedi bod yn gamgymeriad dechrau ar y broses o leihau costau rhedeg a staffio yn sylweddol cyn i ni gytuno ar agenda'r dyfodol gyda Llywodraeth y Cynulliad, a fyddai wedi darparu sail gadarn i wybod beth ddylai'r syflaen gostau rhedeg fod wrth symud ymlaen. Fel y dywedais yn gynt y mater anferth a oedd yn mynd â'm sylw a'r uwch-dîm ar yr adeg hon—pob uwch reolwr—oedd ad-drefnu sylfaenol a oedd yn golygu bod 20 y cant yn gadael y sefydliad. Nid yw hynny'n esgus am bethau a aeth o'i le—ni fyddai'n bosibl rhoi esgus dros y rheini o gwbl. Fodd bynnag, dyma'r cyddestun lle yr oedd pobl yn ceisio gwneud hyn. Do, bu i ni geisio gwneud gormod, a dyna rai o'r cynhwysion. Yr oeddem ni'n ceisio gwneud gormod mewn cyfeiriadau eraill. Yr oeddem yn ceisio ymgymryd â swyddogaeth o bwys mewn perthynas â phartneriaethau Ewropeaidd. Yr oeddwn yn cadeirio dau o'r grwpiau partneriaeth adnoddau dynol ar gyfer Amcan 1 ac Amcan 3. Yr oeddem yn lansio'r system gyfrifon dysgu unigol newydd, a lansiwyd yn llwyddiannus iawn gennym yng Nghymru o fewn ein fframwaith gweithredu. Ni oedd yr unig ran o'r DU na chafodd golledion anferth. Credwn ein bod wedi rhedeg hynny'n dda a'i fod wedi rhoi sail i'r system newydd sy'n cael ei chyflwyno yn awr. Mae'n ddarlun cymysg, ond, rhwng popeth, fy nghasgliad yw i ni wneud gormod yn rhy gyflym. Dylsem fod wedi cymryd mwy o amser, dylsem fod wedi cymryd pethau'n raddol am tua blwyddyn a hanner, ac yna symud ymlaen i wneud y pethau gwirioneddol uchelgeisiol y bwriadwyd i ni eu cyflawni.

[33] **Janet Davies:** Credaf fod yr atebion hynny yn ddiddorol iawn. Mae angen i ni eu cadw mewn cof ar gyfer sesiwn y prynhawn

now move on to part 3 of the Auditor General's report, which is about the Pop Centre MP3 Cafe project. In almost every respect, that particular project displays how public business should not be conducted. Before we look at that in detail, I would like to ask Mr Higson whether he has any overall comments on how he thinks this project was handled.

**Dr Higson:** Thank you, Chair. Notwithstanding the obvious errors in terms of payment in advance and so on, quite clearly there needed to be much stronger project management disciplines in its implementation. Since April, a number of things have been happening, which I will just tell the Committee about. We have been reviewing the progress of the project, because the decision was made earlier this year, before April, to allow the first module to continue to its fruition. That happened in July. It has had an initial evaluation, which is generally positive. Otherwise, the project is effectively on hold at the moment. We have strengthened the project management arrangements around that element that has continued. There are at least fortnightly meetings with the company to monitor progress on module developments. We have been looking at the whole project structure and, in particular, we are carrying out, and will be finishing in the next few weeks, an evaluation of the value-for-money element of continuing with the project. We have also had counsel opinion about state aid. There is an issue of state aid, both retrospectively and, if we were to continue, prospectively. We are working with the company, in a collaborative way I must say, to try to resolve the state aid issue and other issues surrounding the project.

[34] **Janet Davies:** Right, thank you. I am sure that we will get to the state aid issue later on. However, I am a bit concerned to hear you say that the module that was—there was a pilot-run in July—that the whole thing is now on hold. Did I understand you correctly in saying that?

**Dr Higson:** Other than that module development, there has been no further work on the project, subject to us completing our

o bosibl. Yr ydym yn symud ymlaen yn awr i ran 3 adroddiad yr Archwilydd Cyffredinol, sy'n ymwneud â phrosiect Caffi MPS y Ganolfan Bop. Ym mhob agwedd bron iawn, mae'r prosiect arbennig hwn yn dangos sut na ddylid cynnal busnes cyhoeddus. Cyn i ni edrych ar hynny'n fanwl, hoffwn ofyn i Mr Higson a oes ganddo unrhyw sylwadau cyffredinol ar sut y deliwyd â'r prosiect hwn.

**Dr Higson:** Diolch, Gadeirydd. Serch y camgymeriadau amlwg o ran talu ymlaen llaw ac yn y blaen, yr oedd hi'n amlwg bod angen mesurau rheoli prosiect cryfach wrth weithredu'r prosiect. Ers mis Ebrill, mae nifer o bethau wedi digwydd, y soniaf amdanynt wrth y Pwyllgor. Yr ydym wedi bod yn adolygu datblygiad y prosiect, gan fod penderfyniad wedi'i wneud yn gynharach eleni, cyn mis Ebrill, i ganiatáu'r modiwl cyntaf i barhau nes ei fod yn gorffen. Digwyddodd hynny ym mis Gorffennaf. Cynhaliwyd gwerthusiad cychwynnol ohono, sy'n gadarnhaol ar y cyfan. Fel arall, mae'r prosiect wedi'i atal dros dro ar hyn o bryd. Yr ydym wedi cryfhau trefniadau rheoli'r prosiect o ran yr elfen sydd wedi parhau. Mae cyfarfodydd yn cael eu cynnal o leiaf bob pythefnos gyda'r cwmni i fonitro cynnydd ar ddatblygiadau'r modiwl. Yr ydym wedi bod yn edrych ar strwythur y prosiect cyfan ac, yn arbennig, yn gwneud gwerthusiad gwerth am arian o barhau â'r prosiect, a fydd yn cael ei gwblhau yn ystod yr wythnosau nesaf. Yr ydym wedi derbyn cyngor am gymorth gwladol hefyd. Mae yna fater o gymorth gwladol, o edrych yn ôl a, phetaem yn parhau, yn y dyfodol hefyd. Yr ydym yn gweithio gyda'r cwmni, mewn ffordd gydweithredol mae'n rhaid i mi ddweud, i geisio datrys mater y cymorth gwladol a materion eraill sy'n gysylltiedig â'r prosiect.

[34] **Janet Davies:** Iawn, diolch. Yr wyf yn siŵr y byddwn yn cyrraedd y mater o gymorth gwladwrol yn hwyrach ymlaen. Fodd bynnag, yr wyf braidd yn bryderus i'ch clywed yn dweud fod y modiwl—y cynhaliwyd treial ohono ym mis Gorffennaf—fod y cyfan ar stop ar y funud. A ddeallais hyn yn gywir?

**Dr Higson:** Ac eithrio datblygiad y modiwl hwnnw, ni wnaed unrhyw waith pellach ar y prosiect, yn amodol arnom ni'n cwblhau ein

review of progress and looking at the options, because we cannot effectively continue until we have resolved some of the other matters such as state aid, because we would be in further breach if we continued without resolving it. If we are to continue with the project, which has not yet been decided, we have to get that one out of the way. Also, we would have to bring together a new project proposal, subject to our new procedures within the national council—which are far more stringent in terms of appraisal, risk assessment and value for money—and put it to the national council, hopefully in November, and if it approves continuation, we will take that to the Assembly for approval.

[35] **Janet Davies:** Would it be fair to say then, Mr Higson, that the way the national council was working could almost be said to have been a case of more haste less speed because, in fact, the fact that everything was being done very quickly is now resulting in things happening later than they might have otherwise happened?

**Dr Higson:** That is generally true because I initiated a review of all of our current projects at the end of April, and that has also shown a number of breaches of procedure, on which, you are quite right, Chair, we are having to spend time, I think, sorting things out before we can move forward, quite properly.

[36] **Janet Davies:** Right, thank you. May I just ask you then also, before I ask Christine to come in, whether you can give any reason as to why the national council's operating procedures did not require staff to conduct financial viability checks of project applicants, risk assessments and option appraisals?

**Dr Higson:** It is a clear omission and it is certainly one which we have remedied now in terms of any new projects that we are looking at.

[37] **Christine Gwyther:** Obviously, I want to come on to the Avanti Media Group. Now, a financial viability check was performed on this company, but only seven months after the contract was signed. To most of us, that

hadolygiad o gynnydd ac yn edrych ar y dewisiadau, gan na allwn ni barhau yn effeithiol nes i ni ddatrys rhai o'r materion eraill fel cymorth gwladol, gan y byddem yn torri'r rheolau ymhellach pe baem yn parhau heb ei ddatrys. Os ydym i barhau gyda'r prosiect, nad yw wedi'i benderfynu eto, mae'n rhaid i ni gael hwnnw o'r ffordd. Hefyd, byddai'n rhaid i ni feddwl am gynllunio cynnig am brosiect newydd, yn amodol ar ein gweithdrefnau newydd o fewn y cyngor cenedlaethol—sy'n llawer mwy llym o ran arfarnu, asesu risg a gwerth am arian—a'i gyflwyno i'r cyngor cenedlaethol, ym mis Tachwedd gobeithio, ac os yw'n cymeradwyo parhad y prosiect, byddwn yn ei gyflwyno i'r Cynulliad am gymeradwyaeth.

[35] **Janet Davies:** A fyddai'n deg dweud felly, Mr Higson, fod dull gweithio'r cyngor cenedlaethol yn achos o fwy'r brys, mwya'r rhwystr oherwydd, mewn gwirionedd, mae'r ffaith fod popeth wedi'i wneud yn gyflym iawn yn awr yn golygu fod pethau'n digwydd yn llawer hwyrach nag y byddent wedi digwydd fel arall?

**Dr Higson:** Mae hynny'n wir yn gyffredinol gan i mi ddechrau adolygiad o'n holl brosiectau cyfredol ar ddiwedd mis Ebrill, a bod hynny hefyd wedi dangos sawl achos o dor-gweithdrefn, yr ydym yn gorfod treulio amser arnynt, fel y bu i chi nodi'n gywir, Gadeirydd, i ddatrys pethau cyn y gallwn ni symud ymlaen yn briodol.

[36] **Janet Davies:** Iawn, diolch. A gaf i ofyn i chi hefyd, cyn i fi ofyn i Christine gyfrannu, a allwch chi roi unrhyw reswm pam nad oedd gweithdrefnau gweithredu'r cyngor cenedlaethol yn gofyn i staff gynnal archwiliadau hyfywedd ariannol ar ymgeiswyr prosiect, asesuadau risg ac arfarniadau o ddewisiadau?

**Dr Higson:** Mae hyn yn achos clir o hepgor ac yn un sy'n rhaid ei unioni yn awr o ran unrhyw brosiectau newydd yr ydym yn edrych arnynt.

[37] **Christine Gwyther:** Yn amlwg, yr wyf am drafod Grŵp Cyfryngau Avanti. Yn awr, cynhaliwyd archwiliad hyfywedd ariannol ar y cwmni hwn, ond dim ond saith mis ar ôl i'r contract gael ei lofnodi. I'r rhan fwyaf

sounds like quite an alarming lapse of time before checks were made. Can you tell me why they were not made until six months after that company had received £4 million?

**Dr Higson:** Again, with respect, may I pass the question to my predecessor, because I was not involved in those events?

[38] **Christine Gwyther:** Yes. Mr Martin?

**Mr Martin:** Well, as I said earlier, it was a routine part of the main part of TEC business to carry out financial viability checks, and I think that it is reasonable, where it is common and good and accepted practice, to expect that that would be carried out routinely in respect of any transaction. I mean, we do not issue fresh guidance every time we introduce a new programme. It is not the normal practice to say 'and there must be a financial viability check'. I have to say that, having lived through this, I would not make that assumption again. I would spell it out absolutely clearly. However, actually, my understanding is that the staff did, acting on their understanding of best practice as it operated within the TECs' work-based training, consider the issue of whether there should be a financial viability check. The reason they did not undertake one was not because they did not think that they needed to undertake one, but because they applied that literally to the Learn to Live Ltd company, which had been established as a subsidiary especially for this purpose by Avanti. As Learn to Live Ltd had only just been created, it clearly did not have any accounts, and they did not then take the next logical step, which was to say 'Let us look at the parent company's accounts'. So, I do not think that it is an issue of not considering whether there should be a financial viability check. They were considering it, but considering it too narrowly in respect of the new company created for this project, rather than the overall company, which would ultimately have to make sure that the project proceeded.

[39] **Christine Gwyther:** Yes. Chair, if I could just pursue that, that is not a case of

ohonom ni, mae hynny'n swnio fel amser maith iawn cyn cynnal archwiliadau. A allwch chi ddweud wrthyf pam na chafodd yr archwiliadau eu cynnal hyd at chwe mis ar ôl i'r cwmni dderbyn £4 miliwn?

**Dr Higson:** Unwaith eto, gyda pharch, a allaf fi drosglwyddo'r cwestiwn i'm rhagflaenydd, gan nad oeddwn i'n rhan o'r digwyddiadau hynny?

[38] **Christine Gwyther:** Iawn. Mr Martin?

**Mr Martin:** Wel, fel y dywedais yn gynharach, yr oedd archwiliadau hyfywedd ariannol yn elfen reolaidd o brif fusnes y CHM, a chredaf ei bod yn rhesymol, lle mae'n arfer cyffredin, da a derbyniol, i ddisgwyl y byddai hynny'n cael ei wneud yn rheolaidd mewn perthynas ag unrhyw achos. Hynny yw, nid ydym yn cyhoeddi canllawiau newydd bob tro yr ydym yn cyflwyno rhaglen newydd. Nid yw'n arferol i ddweud 'ac mae'n rhaid cael archwiliad hyfywedd ariannol'. Mae'n rhaid i mi ddweud, o fod wedi bod trwy hyn, na fyddwn i'n gwneud y dybiaeth honno eto. Byddwn yn ei fynegi'n hollol glir. Fodd bynnag, mewn gwirionedd, yn ôl yr hyn yr wyf yn ei ddeall bu i'r staff ystyried y mater a ddylid cynnal archwiliad hyfywedd ariannol ai peidio gan weithredu ar eu dealltwriaeth o arferion gorau fel maent yn weithredol o fewn hyfforddiant y CHM yn y gweithle. Nid am nad oeddynt yn credu y dylent wneud archwiliad oedd y rheswm na wnaethant wneud hynny, ond eu bod wedi cymhwyso hynny'n llythrennol i'r cwmni Learn to Live Cyf, a sefydlwyd fel isgwmni gan Avanti yn arbennig i'r diben hwn. Gan mai newydd ei sefydlu oedd Learn to Live Cyf, mae'n amlwg nad oedd ganddo unrhyw gyfrifon, ac ni wnaethant gymryd y cam rhesymegol nesaf, sef dweud 'Gadewch i ni edrych ar gyfrifon y rhiant gwmni'. Felly, nid wyf yn credu mai mater o beidio ag ystyried a ddylid fod wedi cynnal archwiliad hyfywedd ariannol sydd yma. Yr oeddynt yn ystyried hynny, ond yn ei ystyried yn rhy gyfyng o ran y cwmni newydd a sefydlwyd ar gyfer y prosiect hwn, yn hytrach na'r cwmni cyffredinol, a fyddai wedi gorfod sicrhau bod y prosiect yn mynd rhagddo yn y pen draw.

[39] **Christine Gwyther:** Iawn. Gadeirydd, a gaf fi ddweud nad yw'n fater o ystyried

considering something too narrowly. That is missing an absolutely basic, fundamental principle of due diligence when you are actually looking at a company of this kind. I am finding that really quite hard to accept. The Avanti Media Group had reasonably small capacity, and I think that we need to know if it was being considered whether the group could handle such a large project, and whether that consideration should have formed a key part of the project assessment criteria, if it was known to the national council at that time. Can you tell me, Mr Higson or Mr Martin, was this factor also overlooked in the decision to provide the whole of the national council's £4 million funding on an upfront, front-loading basis? Again, this is a very unusual—I am hesitating over the word 'irregular', but it was certainly unusual—procedure over the three-year life of the project.

**Mr Martin:** Could I start, perhaps? First of all, may I make clear, in the light of your response to what I said in reply to the previous question, that I am not saying that that is what should have happened. I am not trying to defend it at all; I agree with you that that should not have happened. They should have looked at the parent company, but what happened is that they did not. In terms of the general payment, the comments which the chairman and I made about the scheme when it was submitted to us in December were about a range of issues, but they included the question of making sure that we could protect public assets. We asked for further work to be done on that. As you know, that did not come back to us. What was actually done in terms of letting the contract clearly did not provide adequate protections and, indeed, this is something that you may want to come back to later in terms of the legal advice that council officers received, where the lawyers themselves expressed some concerns about those issues. Those, too, were not followed up. So there is a whole series of things that should have been tighter. The chairman and I asked for them to be addressed; they were not addressed. Obviously, I regret very much that I did not personally—rather than relying on the senior staff to oversee it and make sure that it happened—make absolutely sure that those things had been done.

rhywbeth yn rhy gyfyng. Mae hynny'n methu egwyddor hollol sylfaenol sylw dyledus pan fyddwch yn edrych ar gwmni o'r math hwn. Yr wyf yn ei chael yn anodd iawn derbyn hynny. Gallu cymharol fychan oedd gan Grŵp Cyfryngau Avanti, a chredaf y dylem gael gwybod a oedd disgwyl i'r grŵp allu delio â phrosiect mor fawr, ac a ddylai'r ystyriaeth honno fod wedi bod yn rhan allweddol o feini prawf asesu'r prosiect, pe bai'r cyngor cenedlaethol wedi gwybod am hynny ar y pryd. A allwch chi ddweud wrthyf fi, Mr Higson neu Mr Martin, a esgeuluswyd y ffactor hwn hefyd wrth benderfynu darparu holl £4 miliwn y cyngor cenedlaethol ar sail buddsoddi'n drwm ymlaen llaw? Unwaith eto, mae hon yn weithdrefn anarferol iawn—yr wyf yn oedi cyn defnyddio'r gair 'afreolaidd', ond yr oedd yn anarferol yn bendant—dros dair blynedd y prosiect.

**Mr Martin:** A gaf fi ddechrau, efallai? Yn gyntaf oll, a gaf fi ddatgan yn glir, yng ngoleuni eich ymateb i'r hyn a ddywedais yn yr ateb i'r cwestiwn blaenorol, nad ydwyf yn dweud mai hyn a ddylai fod wedi digwydd. Nid wyf yn ceisio amddiffyn hyn o gwbl; yr wyf yn cytuno gyda chi na ddylai hyn fod wedi digwydd. Dylent fod wedi edrych ar y rhiant gwmni, ond ni wnaethant hynny. O ran y taliad cyffredinol, yr oedd y sylwadau a wnaeth y cadeirydd a mi am y cynllun pan gyflwynwyd ef i ni ym mis Rhagfyr yn ymwneud ag amrywiaeth o faterion, ond yn cynnwys sicrhau y gallem warchod asedau cyhoeddus. Bu i ni ofyn am waith pellach ar hynny. Fel y gwyddoch, ni ddaeth hynny yn ôl i ni. Nid oedd yr hyn a wnaethpwyd mewn gwirionedd o ran rhoi'r contract yn darparu amddiffyniad digonol ac, yn wir, mae hyn yn rhywbeth y gallech ddod yn ôl ato yn ddiweddarach o ran y cyngor cyfreithiol a gynigiodd swyddogion y cyngor, lle y bu i'r cyfreithwyr eu hunain fynegi rhai pryderon am y materion hynny. Ni aethpwyd ar ôl y rhain ychwaith. Felly mae cyfres gyfan o bethau a ddylai fod wedi'u gweithredu yn fwy caeth. Gofynnodd y cadeirydd a mi am sylw i'r materion hyn; ni roddwyd sylw iddynt. Yn amlwg, yr wyf yn edifarhau llawer na wnes i sicrhau yn bersonol fod y pethau hynny'n cael eu cyflawni yn hytrach na dibynnu ar uwch staff i oruchwylio hynny a gofalu ei fod yn digwydd.

**Dr Higson:** Could I add something to that?

**Dr Higson:** A gaf fi ychwanegu rhywbeth at hynny?

[40] **Janet Davies:** Yes.

[40] **Janet Davies:** Gallwch.

**Dr Higson:** What we have done since April is to put in place and develop a project appraisal and approval system, which requires positive proof that these things have been covered—risk assessment, financial viability, state aid issues and so on—to ensure that we have an audit trail internally for new projects and that these matters have actually been dealt with properly before they are submitted for any approvals internally or to the Assembly.

**Dr Higson:** Yr hyn yr ydym wedi'i wneud ers mis Ebrill yw sefydlu a datblygu system arfarnu a chymeradwyo prosiectau, sy'n gofyn am dystiolaeth gadarnhau fod y pethau canlynol wedi derbyn sylw—asesiad risg, hyfywedd ariannol, materion cymorth gwladol ac yn y blaen—i sicrhau bod gennym lwybr archwilio mewnol ar gyfer prosiectau newydd a bod y materion hyn wedi derbyn sylw priodol cyn iddynt gael eu cyflwyno am unrhyw gymeradwyaeth mewnol neu gan y Cynulliad.

[41] **Christine Gwyther:** Mr Higson, you have gone through the paperwork concerned with this project very thoroughly, I am quite sure. Can you tell me why you believe that there was no risk assessment of the project undertaken?

[41] **Christine Gwyther:** Mr Higson, yr ydych wedi mynd trwy waith papur y prosiect hwn yn drylwyr iawn, yr wyf yn siŵr. A allwch chi ddweud wrthyf pam na wnaethpwyd asesiad risg ar y prosiect?

**Dr Higson:** All I can offer is an opinion, having read the paperwork, that, for a new company with a parent company with a small turnover, there was an obvious risk there that needed looking at and mitigating or managing. That is not to say that one should not have taken any risk, but certainly there should have been a more explicit process of recognising the risk involved and setting out the ways and means to actually manage and mitigate that if the project were to go ahead.

**Dr Higson:** Y cyfan y gallaf ei roi yw fy marn, ar ôl darllen y gwaith papur, sef bod risg amlwg i gwmni newydd a oedd â rhiant gwmni gyda throsiant bychan, a bod angen edrych ar y risg honno a'i lleihau neu ei rheoli. Nid yw hynny'n golygu na ddylai rhywun fod wedi cymryd unrhyw risg, ond yn bendant dylid fod wedi cael proses fanylach o adnabod y risg dan sylw a phennu ffyrdd a dulliau o'i rheoli a'i lleihau pe byddai'r prosiect yn mynd yn ei flaen.

[42] **Christine Gwyther:** Can I ask Mr Martin then, as the person responsible at the time, why no risk assessment was undertaken?

[42] **Christine Gwyther:** A gaf fi ofyn i Mr Martin felly, fel y person cyfrifol ar y pryd, pam na wnaethpwyd unrhyw asesiad risg?

**Mr Martin:** Well, as I say, in responding to the project that came to us, the chairman and I took the view that we did need to have much greater assurance that the public assets that would be purchased would be protected. Part of the process and the dialogue that should have taken place subsequently, which did not, would have answered those points. I think that, clearly, the kinds of mature controls that Peter Higson has just described are the ones that you need in place. As I said earlier, you can contrast very sharply the

**Mr Martin:** Wel, fel yr wyf yn dweud, wrth ymateb i'r prosiect a ddaeth i ni, yr oedd y cadeirydd a mi o'r farn ein bod angen cael llawer mwy o sicrwydd y byddai'r asedau cyhoeddus a fyddai'n cael eu prynu yn cael eu gwarchod. Byddai rhan o'r broses a'r ddeialog a ddylai fod wedi digwydd yn sgîl hynny, ond na ddigwyddodd, wedi ateb y pwyntiau hynny. Credaf, yn bendant, mae'r mathau o fesurau aeddfed a ddisgrifiwyd gan Peter Higson yw'r rhai y dylid eu cael. Fel y dywedais yn gynharach, gallwch weld

good inherited practice we had from the further education council, which was saturated in public sector disciplines in this area for the FE projects, with the sort of thing that happened in the Pop Factory. There was a major risk there, and as I have said to the Committee before, clearly, in that first year, having operated under this business-as-usual regime, which was necessary and, you know, everybody understood that we had little choice but to do that until we could introduce single systems to the new organisation, I and my colleague should have done more to have managed the individual risks in a very rigorous way to make sure that these kinds of things could not happen. We assumed too much about the ability of the staff to get this right based on what we thought to be the existing practice that they would have followed. However, that was not tested enough in an environment, where, as I said earlier, we were just trying to do too much too quickly.

[43] **Christine Gwyther:** Right. If I can just press you on that, given that this project was considered very innovative, why was a risk assessment not undertaken? I cannot accept that the inherited TEC procedures would have stopped people, under your leadership, undertaking a risk assessment.

**Mr Martin:** As I said earlier, the chairman and I did ask, when the project was submitted to us—and that was the same project that was submitted to the Assembly, which, of course, subsequently changed—to be satisfied about the way in which the public assets would be protected in going forward and how the other contributions would be made, because we, at that point, were supposed to be contributing some £4 million to a project with a total value of £13.7 million—and with other partners. So we were spreading the risk in that way, but we wished to be assured that those contributions were going to be secured and that the public assets being purchased would be secured in the future, so that if anything went wrong, or we had to reclaim because the project was not going to plan and so on, we could do so. However, on the fundamental point about the lack of a risk assessment, you are absolutely right: it

cyferbyniad llwyr rhwng yr arferion da yr oeddem wedi'u hetifeddu gan y cyngor addysg bellach, a oedd yn gyfuriog o ddisgyblaethau'r sector cyhoeddus yn yr ardal hon ar gyfer prosiectau AB, gyda'r hyn a ddigwyddodd yn y Ffatri Bop. Yr oedd risg anferth yno, ac fel y dywedais wrth y Pwyllgor hwn o'r blaen, mae'n amlwg, yn y flwyddyn gyntaf honno, o fod wedi gweithredu dan y drefn busnes-fel-arfer hon, a oedd yn angenrheidiol ac yr oedd pawb yn deall nad oedd gennym lawer o ddewis ond gwneud hynny nes y gallem gyflwyno systemau unigol i'r sefydliad newydd, y dylwn i a'm cydweithiwr fod wedi gwneud mwy i reoli'r risgiau unigol mewn ffordd mwy llym i sicrhau na allai'r mathau yma o bethau ddigwydd. Gwnaethom gymryd gormod yn ganiataol am allu'r staff i gael hyn yn iawn yn seiliedig ar yr hyn a gredem oedd yn arferion cyfredol. Fodd bynnag, ni phrofwyd hynny ddigon mewn amgylchedd, lle, fel y dywedais yn gynharach, yr oeddem yn ceisio gwneud gormod yn rhy gyflym.

[43] **Christine Gwyther:** Iawn. Os gaf fi eich pwysu ar hynny, o gofio fod y prosiect hwn yn cael ei ystyried yn arloesol iawn, pam na wnaethpwyd asesiad risg? Ni allaf dderbyn y byddai'r gweithdrefnau a etifeddwyd gan y CHM wedi atal pobl, dan eich arweinyddiaeth chi, rhag gwneud asesiad risg.

**Mr Martin:** Fel y dywedais yn gynharach, gofynnodd y cadeirydd a mi, pan gyflwynwyd y prosiect i ni—a chafodd yr un prosiect ei gyflwyno i'r Cynulliad, a newidiodd wedyn wrth gwrs—ein bod yn cael ein bodloni am y ffordd y byddai'r asedau cyhoeddus yn cael eu gwarchod wrth fynd ymlaen a sut y byddai'r cyfraniadau eraill yn cael eu gwneud, gan ein bod ni, ar y pwynt hwnnw, i fod i gyfrannu tua £4 miliwn i brosiect a oedd â chyfanswm gwerth o £13.7 miliwn—a chyda phartneriaid eraill. Felly, yr oeddem yn gwasgaru'r risg yn y ffordd honno, ond yr oeddem am fod yn fodlon fod y cyfraniadau hynny yn mynd i fod yn ddiogel ac y byddai'r asedau cyhoeddus a oedd yn cael eu prynu yn mynd i fod yn ddiogel yn y dyfodol, fel pe bai unrhyw beth yn mynd o'i le neu y byddai'n rhaid i ni adennill am nad oedd y prosiect yn cael ei gyflawni yn ôl y bwriad, y gallem

should have happened. The points that we and the Assembly Government made about that were not picked up, and that is clearly what led to the subsequent difficulties with the project and, of course, a set of other issues—which I am sure that you will come to—which are about a fundamental change in the nature and the structure of the project that was contracted for, which took it into new territory and created a new set of risks, which were never open to wider scrutiny. They were dealt with by the staff concerned and were not referred back.

[44] **Christine Gwyther:** Yes, but the fact is that the old set of risks was not assessed either. I am not comfortable with muddying the waters with talk about new sets of risks when even the old set of risks, which were risky enough, were not assessed. I really think that we need to get to the bottom of that, Chair.

Coming back to Mr Higson, can you give us some comfort that there are currently risk assessment procedures in place at the moment so that we do not face this sort of difficulty again?

**Dr Higson:** There are two parts to the answer. For any new projects that we have initiated this year, there are rigorous appraisals of risk viability and so on, which, as I said earlier, have to have proof positive that they have been looked at and dealt with. All projects are now considered by directors and myself and are thoroughly appraised. Those that need approvals, which are those above the £50,000 delegation that we have, go to the national council, which has developed, in conjunction with me, a much more thorough appraisal process within the council itself. Then, they go to the Assembly for its appraisal. It may be a longer process, but it is a much more thorough and proper process.

[45] **Christine Gwyther:** Finally, Chair, if I may, coming on to Learn to Live Ltd, I understand that it did not complete the necessary project application form, but that

wneud hynny. Fodd bynnag, o ran y pwynt sylfaenol o ddiffyg asesiad risg, yr ydych yn hollol gywir: dylai fod wedi digwydd. Yr oedd y pwyntiau a wnaethom ni a Llywodraeth y Cynulliad na chafodd sylw, a dyna'n bendant a arweiniodd at yr anawsterau dilynol gyda'r prosiect ac, wrth gwrs, set o faterion eraill—mae'n siŵr y byddwch yn eu trafod yn nes ymlaen—sy'n ymwneud â newid sylfaenol yn natur a strwythur y prosiect y gwnaethom contract ar ei gyfer, a aeth ag ef i dir newydd a chreu set newydd o risgiau, na chawsant eu harchwilio'n ehangach o gwbl. Y staff dan sylw a ddeliodd â hwy ac ni chyfeiriwyd hwy yn ôl o gwbl.

[44] **Christine Gwyther:** Ie, ond y ffaith yw na chafodd yr hen set o risgiau eu hasesu ychwaith. Nid wyf yn gyfforddus ynglŷn â chymhlethu pethau trwy siarad am setiau newydd o risgiau pan na aseswyd yr hen set o risgiau hyd yn oed, a oedd yn ddigon o risg ynddynt eu hunain. Credaf fod angen i ni fynd i wraidd hyn, Gadeirydd.

Gan fynd yn ôl at Mr Higson, a allwch chi roi rhywfaint o sicrwydd i ni fod yna weithdrefnau asesu risg ar waith ar hyn o bryd ac na fyddwn yn gorfod wynebu'r math hwn o anhawster eto?

**Dr Higson:** Mae dwy ran i'r ateb. Yn achos unrhyw brosiectau newydd yr ydym wedi'u dechrau eleni, ceir arfarniadau trylwyr o risg, hyfywedd ac yn y blaen, a ddylai, fel y dywedais yn gynharach, gael tystiolaeth gadarnhaol ein bod wedi edrych arnynt ac wedi delio â hwy. Mae pob prosiect yn awr yn cael eu hystyried gan y cyfarwyddwyr a minnau ac yn cael eu harfarnu'n drylwyr. Mae'r rhai sydd arnynt angen cymeradwyaeth, sef y rhai uwchlaw'r ddirprwyaeth o'r £50,000 sydd gennym, yn mynd i'r cyngor cenedlaethol, sydd wedi datblygu proses arfarnu llawer mwy trylwyr, ar y cyd â mi, o fewn y cyngor ei hun. Yna, maent yn mynd i'r Cynulliad ar gyfer ei arfarniad. Efallai ei bod hi'n broses hwy, ond mae'n llawer mwy trylwyr a phriodol.

[45] **Christine Gwyther:** Yn olaf, Gadeirydd, os caf fi, wrth ddod at fater Learn to Live Cyf, yr wyf yn deall na wnaeth gwblhau'r ffurflen gais angenrheidiol ar y



the national council prepared it on its behalf. Can you confirm that that was the case?

**Mr Martin:** I believe that that was the case. There was a dialogue going on between the staff concerned and Learn to Live Ltd. I believe that they worked together in terms of mechanically filling the form in, as it were. I believe that that was undertaken by national council staff. There was a second part to the form that had to be signed off by them, anyway.

Would you mind if I just commented briefly on the earlier answer? I was not suggesting for one moment that the change in the project should muddy the waters. I agree with you totally that there should have been a risk assessment and there is nothing between us on that, I am sure.

[46] **Christine Gwyther:** Right. Coming back to the application form, is it normal practice within the national council for members or officials of the council to help complete an application form?

**Mr Martin:** It is not normal practice. I was not aware that it was being done in this case at the time. I think, to be fair to those involved, when we were developing these projects generally, we were looking for partners that we could work with to deliver those projects as quickly as possible. So, these were not quite normal circumstances. I can imagine that the view would have been taken by the staff concerned that it would have been quite difficult for the Pop Factory managers to complete that application form without that sort of assistance within the timescales that were involved in making the application and so on. We were not, in this case, putting out to tender, as it were. We did not have the idea. The ideas came from the Pop Factory and we were, therefore, working with it to see how those ideas could be realised, and also in partnership, as I said earlier, with the Welsh Development Agency and Rhondda Cynon Taf County Borough Council. In those circumstances, it was not a case of having to go out to the market and say, here is what we want to buy, who wants the tender for it, where it would, clearly, be

gyfer y prosiect, ond bod y cyngor cenedlaethol wedi paratoi'r ffurflen ar ei ran. A allwch chi gadarnhau mai dyna a ddigwyddodd?

**Mr Martin:** Credaf mai dyna'r sefyllfa. Yr oedd deialog rhwng y staff dan sylw a Learn to Live Cyf. Credaf eu bod wedi cydweithio o ran llenwi'r ffurflen yn ymarferol, fel petae. Credaf mai staff y cyngor cenedlaethol a wnaeth hynny. Yr oedd yn rhaid iddynt hwy lofnodi ail ran y ffurflen beth bynnag.

A fyddai ots gennych pe bawn i'n rhoi ychydig o sylwadau ar yr ateb cynharach? Nid oeddwn yn awgrymu am eiliad y dylai'r newid yn y prosiect gymhlethu pethau. Yr wyf yn llwyr gytuno â chi y dylem fod wedi cynnal asesiad risg ac nid ydym yn anghytuno ar hynny, yr wyf yn siŵr.

[46] **Christine Gwyther:** Iawn. Gan ddychwelyd at y ffurflen gais, a yw'n arferiad i aelodau neu swyddogion y cyngor cenedlaethol helpu pobl i gwblhau ffurflen gais?

**Mr Martin:** Nid yw hynny'n arferol. Nid oeddwn yn ymwybodol fod hyn yn digwydd yn yr achos hwn ar y pryd. Credaf, i fod yn deg gyda'r rhai dan sylw, wrth i ni ddatblygu'r prosiectau hyn yn gyffredinol, ein bod ni'n edrych am bartneriaid y gallem gydweithio â hwy i ddarparu'r prosiectau hynny mor gyflym â phosibl. Felly, nid amgylchiadau arferol oedd y rhain. Gallaf ddychmygu bod y staff dan sylw wedi meddwl y byddai'n anodd i reolwyr y Ffatri Bop gwblhau'r ffurflen gais honno heb y math o gymorth hwnnw o fewn yr amserlenni a oedd gennym ar gyfer gwneud y cais ac ati. Nid oeddem yn rhoi'r contract allan i dendr yn yr achos hwn fel petae. Nid ein syniad ni oedd y prosiect. Y Ffatri Bop a oedd yn gyfrifol am y syniadau a chydweithio gyda'r ffatri yr oeddem ni, felly, i weld sut y gellid gwireddu'r syniadau hynny, ac mewn partneriaeth, fel y dywedais yn gynharach, gydag Awdurdod Datblygu Cymru a Chyngor Bwrdeistref Sirol Rhondda Cynon Taf. Dan yr amgylchiadau hynny, nid oedd yn fater o orfod mynd allan i'r farchnad a dweud, dyma'r hyn yr ydym am ei brynu,

quite improper to work with someone who was tendering to make an application. This was an application for something that was intended to be a partnership.

[47] **Christine Gwyther:** I will just end with this if I may, Chair. Coming back to Mr Higson, would you consider it proper for the body receiving an application to assist in the completion of that application?

**Dr Higson:** Up to a point, to give general advice, but not to give detailed help, it would, to my mind, be a proper procedure. I think that sometimes public bodies can be a little impenetrable for people making applications for project grant aid or whatever. I think that there is a case to actually be able to offer general advice and support, but not to go into detail over the particulars of any one application.

[48] **Christine Gwyther:** Finally, you would question the probity of an organisation filling out the application form?

**Dr Higson:** One would have to.

[49] **Janet Davies:** Alun wants to come in, and then I will call Leighton.

[50] **Alun Cairns:** Mr Martin, in some of your responses to Ms Gwyther earlier you, to my mind, blamed the TECs—organisations that did not even exist at the time that the applications were being pursued—and you said that you had asked for further work to come back to you, which did not come back to you, and you had also made additional requests, which, in your words, were not followed up. Mr Martin, you were the accounting officer. Was it not up to you to ensure that these obligations had been fulfilled and was it not up to you to make sure that this work had been done?

**Mr Martin:** First of all, I am not blaming the TECs at all. What I am saying is that we were relying on what we understood to be their best practice and so on and that was an unsafe assumption. Secondly, I hope that nothing I say will in any way suggest that I am trying to shuffle off my responsibilities as

pwysydd am gael y tendr i wneud hynny, lle byddai'n eithaf amhriodol, mae'n amlwg, i weithio ar gais gyda rhywun a oedd yn tendro. Yr oedd hwn yn gais am ryw beth a fwriadwyd yn bartneriaeth.

[47] **Christine Gwyther:** Yr wyf am orffen gyda hyn os caf fi, Gadeirydd. Gan ddychwelyd at Mr Higson, a fydddech yn ei hystyried yn briodol i'r corff sy'n derbyn cais helpu i gwblhau'r cais hwnnw?

**Dr Higson:** Hyd at bwynt, byddai rhoi cyngor cyffredinol, ond nid cymorth manwl, yn weithdrefn briodol, yn fy meddwl i. Credaf fod cyrff cyhoeddus, ar brydiau, yn gallu bod ychydig yn astrus i bobl sy'n gwneud ceisiadau am gymorth grant i brosiectau neu beth bynnag. Credaf fod achos i gynnig cyngor a chefnogaeth gyffredinol, ond nid i fynd i fanylder am fanylion unrhyw gais yn arbennig.

[48] **Christine Gwyther:** Yn olaf, a fydddech yn cwestiynu gonestrwydd sefydliad sy'n llenwi'r ffurflen gais?

**Dr Higson:** Byddai'n rhaid i rywun wneud hynny.

[49] **Janet Davies:** Mae Alun am gyfrannu yma, ac yna byddaf yn galw ar Leighton.

[50] **Alun Cairns:** Mr Martin, mewn rhai o'ch ymatebion i Ms Gwyther yn gynharach, bu i chi roi'r bai, o'r hyn a ddeallaf, ar y CHM—sefydliadau nad oeddynt mewn bodolaeth ar adeg gwneud y ceisiadau—a'ch bod wedi dweud eich bod wedi gofyn bod gwaith pellach yn dod yn ôl atoch chi, na ddaeth yn ôl atoch chi, a'ch bod hefyd wedi gwneud ceisiadau ychwanegol, na chafodd sylw, yn eich geiriau chi. Mr Martin, chi oedd y swyddog cyfrifo. Onid chi a oedd yn gyfrifol am sicrhau bod y rhwymedigaethau hyn wedi'u cyflawni ac i sicrhau bod y gwaith hwnnw wedi'i wneud?

**Mr Martin:** Yn gyntaf oll, nid wyf yn beio'r CHM o gwbl. Yr hyn a ddywedaf yw ein bod yn dibynnu ar yr hyn a ddealllem oedd eu harferion gorau ac yn y blaen a bod hynny wedi bod yn rhagdybiaeth anniogel. Yn ail, yr wyf yn gobeithio na fydd unrhyw beth a ddywedaf yn awgrymu mewn unrhyw ffordd

accounting officer at the time. I have always accepted those and I continue to accept them. In an earlier answer, I did say that I very much regretted that I relied on senior staff getting on and doing these things without having a full check in place to make sure that all of them had been done. So, I accept that point.

[51] **Leighton Andrews:** Going back to the application form that came in from Learn to Live Ltd for a moment, this was actually unclear, as we understand it, on the training outcomes of the project and how these would have fit with the national council's strategic targets. Can you tell us why those clear deficiencies were not picked up in the final contract wording so that your position could be properly protected? Is it, frankly, the case that you were simply under pressure to spend money by 31 March?

**Mr Martin:** I do not think that the reasons for the deficiencies can be explained in terms of people spending money, because the rules on this are very clear. You do not pay in advance of need and you do not, indeed, pay in advance unless you have a very compelling case to do so. There can be a case for payment in advance, and that is allowed for in *Government Accounting*, but this is for special cases. In the case of the training element of the contract, that was introduced at a late stage and links to the points that I made earlier. The proposal as submitted, not just to the chairman and myself, but also to the Assembly Government, was a proposal for the purchasing and refurbishing of a supermarket, which would house the pop cafe. The notion of the contract as it was finally let, which has these three annexes, one of which is concerned with training, one of which with the learning modules, and one of which with capital equipment, was devised at a subsequent stage, and I was not consulted about it. As I said, I accepted Mr Cairns's point that I should have had a more rigorous process to satisfy myself personally that all those things had been done. However, they were not done and, clearly, the effect of that was to make it very difficult to see whether the contract had been achieved. I understand that what the staff who introduced that shape

fy mod yn ceisio osgoi fy nghyfrifoldebau fel swyddog cyfrifo ar y pryd. Yr wyf wastad wedi derbyn y rheini ac yn parhau i'w derbyn. Mewn ateb cynharach, dywedais fy mod yn edifarhau i mi ddibynnu ar uwch staff i wneud y pethau hyn heb fod archwiliad llawn ar waith i ofalu bod y cyfan wedi'i gyflawni. Felly, yr wyf yn derbyn y pwynt hwnnw.

[51] **Leighton Andrews:** Gan ddychwelyd at y ffurflen gais a ddaeth gan Learn to Live Cyf am funud, roedd hyn yn aneglur, mewn gwirionedd fel yr ydym yn deall pethau, ar ganlyniadau hyfforddiant y prosiect a sut y byddai'r rhain wedi cyd-fynd â thargedau strategol y cyngor cenedlaethol. A allwch ddweud wrthym pam na sylwyd ar y diffygion clir hynny yng ngeiriad terfynol y contract fel bod modd gwarchod eich swydd yn briodol? Ai'r rheswm yw, i fod yn onest, eich bod dan bwysau i wario arian erbyn 31 Mawrth?

**Mr Martin:** Ni chredaf fod modd egluro'r rhesymau am y diffygion o ran pobl yn gwario arian, gan fod y rheolau ar hyn yn glir iawn. Nid ydych yn talu cyn bod angen nac yn talu ymlaen llaw oni bai fod gennyh achos cymhellgar iawn dros wneud hynny. Gall fod achos dros dalu ymlaen llaw, a chaniateir ar gyfer hynny yn *Cyfrifo'r Llywodraeth*, ond mae hyn ar gyfer achosion arbennig. Yn achos elfen hyfforddiant y contract, cafodd hynny ei gyflwyno yn ddiweddarach ac mae'n gysylltiedig â'r pwyntiau a wnaethpwyd gennyf yn gynharach. Yr oedd y cynnig a gafodd ei gyflwyno, nid yn unig i'r cadeirydd a fi, ond i Lywodraeth y Cynulliad hefyd, yn gynnig i brynu ac adnewyddu archfarchnad, a fyddai'n gartref i'r caffi pop. Cafodd syniad y contract fel y cafodd ei osod yn y pen draw, sy'n cynnwys tri atodiad, un yn ymwneud â hyfforddiant, un gyda modiwlau dysgu, ac un yn offer cyfalaf, ei lunio yn ddiweddarach, ac ni ymgynghorwyd â mi yn ei gylch. Fel y dywedais, derbyniasf bwynt Mr Cairns y dylwn fod wedi cael proses fwy llym i fodloni fy hun fod yr holl bethau hyn wedi'u cyflawni. Fodd bynnag, ni chawsant eu cyflawni ac effaith hynny, yn amlwg, oedd ei gwneud yn anodd iawn i weld a gafodd y contract ei gyflawni ai peidio. Deallaf mai'r hyn yr oedd y staff a gyflwynodd y siâp

to the training end of the contract were doing was relying on what had been a previous practice in TEC South East Wales, which was to—in respect of eligible employers who offered growth and development prospects for their areas—support a training plan. This was often linked to the work of an inward investor, for instance. The whole thing would be funded at the point where you had a plan. That is clearly in breach of the provisions in *Government Accounting* for payments in advance of need.

[52] **Leighton Andrews:** Mr Martin, the project also breaches your own guidelines for your innovation and development projects. For example, it does not consider the issue of EU state aid requirements, nor does it set effective project milestones. Can you explain why?

**Mr Martin:** On the issue of state aids, as staff were completing their appraisal, there is an element of the process that requires them to certify that the state aids regulations have been considered, and that they have satisfied themselves about them. As Peter Higson was saying earlier, he has now properly instituted a very rigorous process by which you can say that it is not just our staff asserting that it has been done, but you can prove that it has been done. At the time, we were relying on staff saying that it had been done, so in respect of state aids, that was the position. I must say that there is one issue here that may, I think, have led staff to believe that state aids were not an issue when they should have been, and it is this: there is detailed guidance about the rules governing innovation and development projects in schedule 8 of the management statement from the Assembly. In that schedule, there is a definition of state aids as they apply to innovation and development projects, which is solely in terms of work-based training. I suspect—and this would have been very familiar territory for the staff concerned, because that is the system that they were used to operating for their main business; but I cannot guarantee that this was the case, particularly because the project manager in this case has left the organisation some time since—that if they looked at that guidance, they might well have been led to

hwnnw i'r elfen hyfforddiant ar ddiwedd y contract yn ei wneud oedd dibynnu ar arferion blaenorol CHM De Ddwyrain Cymru, sef cefnogi cynllun hyfforddiant—mewn perthynas â chyflogwyr cymwys a oedd yn cynnig cyfleoedd am dwf a datblygiad yn eu hardaloedd. Yn aml, yr oedd hyn yn cael ei gysylltu â gwaith buddsoddwr mewnlol, er enghraifft. Byddai'r cyfan yn cael ei gyllido ar y pwynt lle yr oedd gennyh cynllun. Mae hyn yn amlwg yn mynd yn groes i ddarpariaethau taliadau cyn bod angen *Cyfrifo'r Llywodraeth*.

[52] **Leighton Andrews:** Mr Martin, mae'r prosiect hefyd yn mynd yn groes i'ch canllawiau chi eich hun ar gyfer eich prosiectau arloesedd a datblygiad. Er enghraifft, nid yw'n ystyried mater gofynion cymorth gwladol yr UE, nac yn gosod cerrig milltir effeithiol ar gyfer y prosiect. A allwch egluro pam?

**Mr Martin:** O ran cymorth gwladol, mae proses cwblhau arfarniad y staff yn cynnwys elfen sy'n gofyn iddynt dystio bod ystyriaeth wedi'i rhoi i reoliadau cymorth gwladol, a'u bod wedi bodloni eu hunain amdanynt. Fel y dywedodd Peter Higson yn gynharach, mae bellach wedi sefydlu proses lym iawn sy'n gallu profi fod y gwaith wedi'i wneud yn hytrach na dibynnu ar honiadau'r staff yn unig. Ar y pryd, yr oeddem yn dibynnu ar staff yn dweud fod y gwaith wedi'i gyflawni, felly dyna oedd y sefyllfa o ran cymorth gwladol. Mae'n rhaid i mi ddweud fod yma un mater, yn fy marn i, a arweiniodd staff i gredu nad oedd cymorth gwladol yn fater i'w ystyried pan ydoedd mewn gwirionedd, a dyma fe: mae atodlen 8 datganiad rheoli y Cynulliad yn cynnwys canllawiau manwl ar y rheolau sy'n llywodraethu prosiectau arloesedd a datblygiad. Yn yr atodlen honno, mae diffiniad o gymorth gwladol fel mae'n berthnasol i brosiectau arloesedd a datblygiad, sy'n ymwneud â hyfforddiant yn y gweithle yn unig. Tybiaf—a byddai hon yn sefyllfa gyfarwydd iawn i'r staff dan sylw, gan mai dyna'r system a ddefnyddiwyd ganddynt i weithredu eu prif fusnes; ond ni allaf warantu mai dyma'r achos, yn arbennig gan fod rheolwr y prosiect yn yr achos hwn wedi gadael y sefydliad beth amser ers hynny—pe byddent wedi edrych ar y canllawiau, y byddent wedi cael eu harwain i

feel that the state aids issue was not an issue in this case because it was not a work-based training project; it was something different.

[53] **Leighton Andrews:** Well, my understanding, although others will come to this, is that you had advice on this from lawyers. However, let us move on if we can. I want to go back to the whole issue of your own role in the consideration of this project. It is quite clear in the report. An assessment went out from you and the chair on 19 December to senior managers, outlining a range of key concerns that you had about the pop centre project. You have said that you regret that you did not do more to follow up with staff the necessary actions that needed to be taken. We do want to know better why that is. The quotation in the appendix from the paper that went out from you and the chair states:

‘This one needs to go to Steve again as, as Accounting Officer, he needs to be comfortable with it’.

Can I ask you then, why you did not follow up?

**Mr Martin:** I can only explain that in terms of relying too much on something that I have been able to rely on in my career hitherto, which was that, if senior staff are asked to do something, they do it. However, that does not exonerate me; I have already accepted that I should have followed it up, and the only other thing I can say is that all the senior staff, not just myself, were in the middle of an extraordinarily challenging process of restructuring and reducing the staff of the organisation. However, that is not an excuse. I took my eye off the ball. Clearly, other people did so too, but I have to accept responsibility as accounting officer, and I do.

[54] **Leighton Andrews:** But, Mr Martin, it seems that your eye was off the ball for several months because you signed off on this memo on 19 December that it needed to come back to you. You had expressed serious

gredu nad oedd cymorth gwladol yn fater i’w ystyried yn yr achos hwn gan nad oedd yn brosiect hyfforddiant yn y gweithle, ond yn rhywbeth gwahanol.

[53] **Leighton Andrews:** Wel, fy nealltwriaeth i oedd, er y bydd eraill yn trafod hyn yn y man, yw eich bod wedi cael cyngor ar hyn gan gyfreithwyr. Fodd bynnag, gadewch i ni symud ymlaen os gallwn. Yr wyf am ddychwelyd at y mater o’ch swyddogaeth chi wrth ystyried y prosiect hwn. Mae hynny’n glir yn yr adroddiad. Anfonwyd asesiad gennych a’r cadeirydd at uwch reolwyr ar 19 Rhagfyr yn amlinellu amrywiaeth o bryderon allweddol a oedd gennych am brosiect y ganolfan bop. Yr ydych wedi dweud eich bod yn edifarhau na wnaethoch fwy i fynd ar ôl y camau gweithredu angenrheidiol gyda’r staff. Yr ydym am wybod mwy ynglŷn â pham na wnaethoch hynny. Mae’r dyfyniad yn atodiad y papur a anfonwyd gennych a’r cadeirydd yn datgan:

‘Mae angen rhoi hwn i Steve eto gan fod angen iddo ef, fel Swyddog Cyfrifo, fod yn fodlon arno’.

A gaf fi ofyn i chi felly, pam na wnaethoch fynd ar ôl hyn?

**Mr Martin:** Yr unig ffordd i egluro hynny yw fy mod wedi dibynnu gormod ar rywbeth yr wyf wedi gallu dibynnu arno yn fy ngyrfa hyd yn hyn, sef, os yw uwch staff yn cael cais i wneud rhywbeth, y byddant yn gwneud hynny. Fodd bynnag, nid yw hynny yn fy esgusodi; yr wyf eisoes wedi derbyn y dylwn fod wedi mynd ar ôl hynny, a’r unig beth arall y gallaf ei ddweud yw fod yr holl uwch staff, nid fi yn unig, yng nghanol proses eithriadol llawn her o ad-drefnu a lleihau nifer y staff yn y sefydliad. Fodd bynnag, nid yw hynny’n esgus. Nid oeddwn yn canolbwyntio. Yn amlwg, yr oedd pobl eraill yr un mor euog, ond mae’n rhaid i mi dderbyn cyfrifoldeb fel swyddog cyfrifo, ac yr wyf yn gwneud hynny.

[54] **Leighton Andrews:** Ond, Mr Martin, mae’n ymddangos nad oeddech yn canolbwyntio am sawl mis gan i chi lofnodi ar y memo hwn ar 19 Rhagfyr fod angen ei ddychwelyd i chi. Yr oeddech wedi mynegi

concerns about it. Officials did not come back to you. Did you make any attempt to follow up your concerns prior to signature of the contract?

**Mr Martin:** What happened subsequently was that, in January, a report was made to council members, including myself, on the progress of the projects. What that report said was that various projects were being progressed and that among them was the Pop Factory project. That was described at that time in terms entirely of the project that went to the chairman and myself. So, at that time, in January, I believed that those matters were still under consideration. Of course, by that time, there had also been the discussions with the Assembly, and the Assembly approval process. I did not know that the meeting about that had taken place; that was not reported to me. What then happened in February was that there was a further report to council on progress, which spelt out—perhaps I can try to find the actual words used in the report that came to council. If I may quote from it, it says:

‘many of the projects approved may not be progressed if Assembly approval is not given or if project sponsors cannot deliver expenditure before the end of the financial year’.

It goes on:

‘all project sponsors have been informed that their projects might not be progressed’.

It also notes that:

‘we are currently reviewing the capacity of all projects to deliver the required projected outputs. Decisions will be made as soon as possible as to whether to proceed’.

So, at that point, these things were still in play. That report was made to myself and council the day before the contract was signed, and I had no idea that the contract was being signed at that time.

pryderon difrifol amdano. Ni ddaeth y swyddogion yn ôl atoch. A wnaethoch unrhyw ymgais i gael ateb i'ch pryderon cyn llofnodi'r contract?

**Mr Martin:** Yr hyn a ddigwyddodd wedi hynny, ym mis Ionawr, oedd bod adroddiad wedi'i gyflwyno i aelodau'r cyngor, gan gynnwys fi, ar gynnydd y prosiectau. Yr oedd yr adroddiad yn dweud fod nifer o brosiectau yn cael eu datblygu a bod prosiect y Ffatri Bop yn eu mysg. Cafodd hyn ei ddisgrifio ar y pryd yn llwyr o ran y prosiect a aeth i'r cadeirydd a minnau. Felly, ar y pryd hwnnw, ym mis Ionawr, credaf fod y materion hynny yn dal i gael eu hystyried. Wrth gwrs, erbyn yr amser hwnnw, yr oedd trafodaeth wedi'i chynnal gyda'r Cynulliad, a phroses gymeradwyo'r Cynulliad wedi'i chwblhau. Nid oeddwn yn gwybod fod y cyfarfod ynglŷn â hynny wedi'i gynnal; ni chefais wybod am hynny. Yr hyn a ddigwyddodd wedyn ym mis Chwefror oedd adroddiad pellach ar gynnydd i'r cyngor, a nododd—efallai y gallaf ddod o hyd i'r union eiriau a ddefnyddiwyd yn yr adroddiad a anfonwyd i'r cyngor. Os caf fi ddyfynnu ohono, mae'n dweud:

‘efallai na fydd llawer o'r prosiectau a gymeradwywyd yn mynd yn eu blaenau os na dderbynnir cymeradwyaeth gan y Cynulliad neu os na all noddwyr y prosiect ddarparu gwariant cyn diwedd y flwyddyn ariannol’.

Mae'n mynd ymlaen:

‘hysbyswyd holl noddwyr y prosiect nad oedd sicrwydd i'w prosiectau ddatblygu’.

Mae hefyd yn nodi:

‘ar hyn o bryd, yr ydym yn adolygu gallu pob prosiect i ddarparu'r alldroau arfaethedig angenrheidiol. Byddwn yn gwneud penderfyniadau ynglŷn â bwrw ymlaen gyda'r prosiect cyn gynted ag sy'n bosibl’.

Felly, ar y pwynt hwnnw, yr oedd pethau'n dal ar waith. Cyflwynwyd yr adroddiad hwnnw i mi a'r cyngor ddiwrnod cyn llofnodi'r contract, ac nid oedd gennyf syniad bod y contract yn cael ei lofnodi ar yr adeg honno.

[55] **Leighton Andrews:** Mr Martin, do you not discuss important papers that go to council with your staff before they are tabled for council?

**Mr Martin:** I do indeed, and I approve papers. I took that to be a faithful record of where we had got to on the project. I did not at the time, and would not routinely expect to, discuss the details of every project with staff. I wish I had done, but this was part of a portfolio that included £700 million-worth of expenditure, and I did not discuss those individual projects. I must say, in relation to the Pop Factory, that I do accept that that was a mistake. It was a substantial project and I should have had such a discussion.

[56] **Leighton Andrews:** But, Mr Martin, is this not really, frankly, an issue of basic and fundamental management errors? Is it not the case—I speak as someone who has been a manager in the private, public and voluntary sectors—that any manager who has a decision that concerns them and is delegated to line managers reporting to them normally has in place recall mechanisms to ensure that issues are flagged back up to them?

**Mr Martin:** I do have such a system and it normally works very well. It did not work in this case.

[57] **Leighton Andrews:** It clearly did not work in this case. I have a question for Mr Higson. Faced with a project over which you had doubts, how would you handle your supervisory role in relation to desk staff dealing with the project approval?

**Dr Higson:** I think that there are a number of points here. First, one has to establish a very strong controls framework, where there are positive checks on the progress of any project approvals as they go through the system. To achieve that, we are establishing a compliance unit within the national council. We decided to do this two or three months ago. We are now populating it with staff. We have support from the Assembly in terms of secondees to embed and put in place the

[55] **Leighton Andrews:** Mr Martin, onid ydych yn trafod papurau pwysig sy'n mynd i'r cyngor gyda'ch staff cyn iddynt gael eu cyflwyno gerbron y cyngor?

**Mr Martin:** Ydw, ac yn cymeradwyo papurau. Cymerais hynny fel cofnod cywir o ble yr oedd yn rhaid i ni fynd gyda'r prosiect. Ni fyddwn yn disgwyl trafod manylion pob prosiect gyda staff fel arfer, ac ni wneuthum hynny ar y pryd. Yr wyf yn edifarhau na wneuthum i hynny, ond yr oedd hyn yn rhan o bortffolio a oedd yn cynnwys gwerth £700 miliwn o wariant, ac ni thrafodais y prosiectau unigol hynny. Mae'n rhaid i mi ddweud, mewn perthynas â'r Ffatri Bop, fy mod yn derbyn bod camgymeriad wedi'i wneud. Yr oedd yn brosiect sylweddol a dylwn fod wedi cael trafodaeth o'r fath.

[56] **Leighton Andrews:** Ond, Mr Martin, onid yw hyn, a bod yn blwmp ac yn blaen, yn fater o gamgymeriadau rheoli sylfaenol? Onid oes gan—a siaradaf fel rhywun sydd wedi bod yn rheolwr yn y sectorau preifat, cyhoeddus a gwirfoddol—unrhyw reolwr sydd â phenderfyniad sy'n ymwneud â hwy ac sydd wedi'i ddirprwyo i reolwyr llinell i adrodd yn ôl iddynt dulliau dwyn i gof ar waith i sicrhau eu bod yn cael eu hatgoffa o faterion?

**Mr Martin:** Mae gennyf system o'r fath ac mae'n gweithio'n dda iawn fel rheol. Ond ni weithiodd yn yr achos hwn.

[57] **Leighton Andrews:** Mae'n amlwg na weithiodd yn yr achos hwn. Mae gen i gwestiwn i Mr Higson. Wrth wynebu prosiect y mae gennych amheuan yn ei gylch, sut y byddech yn delio â'ch rôl oruchwylio mewn perthynas â staff desg sy'n delio â chymeradwyo'r prosiect?

**Dr Higson:** Credaf fod nifer o bwyntiau yma. Yn gyntaf, mae'n rhaid sefydlu fframwaith rheoli cryf iawn, sy'n cynnwys archwiliadau cadarnhaol ar gynnydd unrhyw gymeradwyaeth prosiect wrth iddynt fynd trwy'r system. I gyflawni hynny, yr ydym yn sefydlu uned gydymffurfio yn y cyngor cenedlaethol. Penderfynasom wneud hyn ddau neu dri mis yn ôl. Yr ydym wrthi'n ei staffio ar hyn o bryd. Yr ydym yn derbyn cefnogaeth gan y Cynulliad o ran gweithwyr

proper requirements. That is the kind of system one needs in order to ensure that there is a control framework that identifies where decisions have got to and when they need to be stopped and brought back. So, I think, as an accounting officer, the duty is to put the systems in place and then make them work.

[58] **Leighton Andrews:** Would that system involve reminders in a sense, or, as I call them, recall mechanisms, for you to chase progress?

**Dr Higson:** Yes.

[59] **Leighton Andrews:** Thank you. I would like to move on to paragraphs 3.26 to 3.29. These, really, are questions for Sir Jon. There was a meeting of Assembly officials in the sponsor department and ELWa officials to discuss the project. It is clear from the report that Assembly officials had serious concerns about the project, and these are expressed, as we know, in e-mails between them over a two-week period in December 2001 and January 2002. However, I think that the critical issue is the meeting that took place in January, of which there is no minute, Sir Jon. Can you explain that?

**Sir Jon Shortridge:** There certainly should have been a note of that meeting and I very much regret that there was not one. When I discovered that there had not been one, I did ask the officials concerned to prepare, so far as they could, a retrospective note, which the report refers to. That retrospective note was actually prepared on the basis of manuscript notes that had been retained, so I have some understanding, on the basis of what I have now been given, of what went on at that meeting. However, the basic point is, and I agree with you, that on important issues like this, there has to be a proper audit trail and, therefore, there have to be proper records.

[60] **Leighton Andrews:** Have you discussed with officials who were at that meeting, not only the failure to produce minutes of the meeting, but what took place? Have you discussed in detail with them what matters

ar seconddiad i osod a sefydlu gofynion priodol. Dyna'r math o system sydd ei hangen i sicrhau fframwaith rheoli sy'n nodi ble y mae penderfyniadau arni a phryd y dylid eu hatal a'u dwyn yn ôl. Felly, fel swyddog cyfrifo, credaf ei bod hi'n ddyletswydd rhoi'r systemau ar waith a gwneud iddynt weithio.

[58] **Leighton Andrews:** A fyddai'r system honno yn cynnwys mesurau atgoffa, neu ddulliau dwyn i gof fel yr wyf yn eu galw, i chi ddilyn cynnydd?

**Dr Higson:** Byddai.

[59] **Leighton Andrews:** Diolch. Hoffwn symud ymlaen i baragraffau 3.26 i 3.29. Cwestiynau i Syr Jon yw'r rhain, mewn gwirionedd. Cynhaliwyd cyfarfod rhwng swyddogion adran noddwyr y Cynulliad a swyddogion ELWa i drafod y prosiect. Mae'n amlwg o'r adroddiad fod gan swyddogion y Cynulliad bryderon difrifol am y prosiect, a mynegwyd y rhain, fel y gwyddom, mewn negeseuon e-bost rhyngddynt dros gyfnod o bythefnos ym mis Rhagfyr 2001 a mis Ionawr 2002. Fodd bynnag, credaf mai'r mater tyngedfennol yw'r cyfarfod a gynhaliwyd ym mis Ionawr, nad oes cofnodion ar ei gyfer, Syr Jon. A allwch egluro hynny?

**Syr Jon Shortridge:** Mae'n sicr y dylid fod wedi cofnodi'r cyfarfod hwnnw ac mae'n flin gennyf nad oes cofnod ohono. Pan fu i mi ganfod nad oedd cofnod, gofynnais i'r swyddogion dan sylw i baratoi, cyn belled ag y gallent, nodyn ôl-weithredol, y mae'r adroddiad yn cyfeirio ato. Cafodd y nodyn ôl-weithredol hwnnw ei baratoi ar sail nodiadau llawysgrif a oedd wedi'u cadw, felly mae gennyf beth dealltwriaeth, ar sail yr hyn a dderbyniais yn awr, o'r hyn a ddigwyddodd yn y cyfarfod hwnnw. Fodd bynnag, y pwnt sylfaenol yw, ac yr wyf yn cytuno â chi, fod yn rhaid cael llwybr archwilio priodol ar gyfer materion pwysig fel hyn ac, felly, mae'n rhaid cael cofnodion priodol.

[60] **Leighton Andrews:** A ydych wedi trafod y methiant i ddarparu cofnodion a'r hyn a ddigwyddodd yn y cyfarfod gyda swyddogion a oedd yn y cyfarfod hwnnw? A ydych wedi trafod yn fanwl gyda hwy pa



were discussed at the meeting?

**Sir Jon Shortridge:** Yes, although I am relying mainly on the three-page note that I asked them to prepare for me, so I do have my own record of what went on at that meeting. I have also this week, as it happens, sent a further reminder around to all my senior staff about the importance of recording important meetings and maintaining an audit trail.

[61] **Leighton Andrews:** Have you reviewed the recommendations made to the Minister as a result of that meeting and the minutes that you subsequently had prepared retrospectively?

**Sir Jon Shortridge:** I have satisfied myself, on the basis of the discussions that I have held and on the basis of the retrospective note, that the advice that went forward to the Minister was entirely proper and appropriate.

[62] **Leighton Andrews:** So you are convinced that the recommendations that went to the Minister were consistent with the information that was supplied at the meeting and that the conclusions drawn by officials were made on a sound basis?

**Sir Jon Shortridge:** Yes, I am. However, I should perhaps make it clear, lest there is any misunderstanding, that the Minister was involved in this case very much on an exception basis. This was the only one of these projects that was referred to the Minister. Officials dealt with everything else on her behalf—perfectly properly in my view. This was referred to her, not so that she could do the officials' work for them, but because we felt that there were political aspects to this that she needed to be aware of. This was a very expensive project, it was one that was going to be very high profile, and it was very much at the innovative end of innovation. The officials concerned rightly felt that they needed to share that with her and that she needed to be told in advance of the nature of this project, for which we were recommending approval, so that she could be satisfied, and so that we could be satisfied, that she felt that it was fit for purpose in policy terms.

faterion a drafodwyd yn y cyfarfod?

**Syr Jon Shortridge:** Do, er fy mod yn dibynnu'n bennaf ar nodyn tair tudalen y gofynnais iddynt ei baratoi i mi, felly mae gennyf gofnod fy hun o'r hyn a ddigwyddodd yn y cyfarfod hwnnw. Yr wythnos hon, fel mae'n digwydd, yr wyf hefyd wedi anfon nodyn atgoffa pellach i'm holl uwch staff am bwysigrwydd cofnodi cyfarfodydd pwysig a chynnal llwybr archwilio.

[61] **Leighton Andrews:** A ydych wedi adolygu'r argymhellion a gyflwynwyd i'r Gweinidog yn sgil y cyfarfod hwnnw a'r cofnodion y gwnaethoch eu paratoi ar ôl y cyfarfod?

**Syr Jon Shortridge:** Yr wyf wedi bodloni fy hun, ar sail y trafodaethau a gefais yn sgil y nodyn ôl-weithredol, fod y cyngor a roddwyd i'r Gweinidog yn hollol briodol.

[62] **Leighton Andrews:** Felly, a ydych wedi'ch darbwyllo fod yr argymhellion a gyflwynwyd i'r Gweinidog yn gyson â'r wybodaeth a roddwyd yn y cyfarfod a bod y casgliadau a wnaeth swyddogion wedi'u gwneud ar sylfaen gadarn?

**Syr Jon Shortridge:** Ydwyf. Fodd bynnag, efallai y dylwn ddatgan yn glir, i osgoi unrhyw gamddealltwriaeth, fod y Gweinidog yn ymwneud â'r achos hwn ar sail eithriadol i raddau helaeth. Dyma'r unig brosiect a gafodd ei gyfeirio at y Gweinidog. Bu'r swyddogion yn delio â phopeth arall ar ei rhan—yn hollol briodol yn fy marn i. Cafodd hwn ei gyfeirio ati, nid fel y gallai wneud gwaith y swyddogion drostynt, ond gan ein bod yn teimlo bod agweddau gwleidyddol i'r prosiect yr oedd angen iddi fod yn ymwybodol ohonynt. Yr oedd hwn yn brosiect drud iawn, ac yn un oedd wastad yn mynd i fod â phroffil uchel iawn, ac yn arloesol o arloesol. Yr oedd y swyddogion dan sylw yn teimlo y dylent rannu hynny gyda hi, yn briodol, a bod angen iddi gael gwybod am natur y prosiect yr oeddem yn argymhell ei gymeradwyo ymlaen llaw, fel y gallai gael ei bodloni, ac y byddem ni yn fodlon, ei bod yn teimlo bod y prosiect yn addas i'r diben.

[63] **Leighton Andrews:** This meeting between officials from the Assembly and ELWa took place just over two months before the end of a financial year. Did the meeting discuss a schedule of payments for the project?

**Sir Jon Shortridge:** No—not on the evidence that I have. What we were doing throughout was making a distinction between approval on operational matters, which we made very clear was a matter for the national council, and on fitness for purpose in policy terms, if I can put it like that. The sorts of things that were being discussed were: could not the objectives of this project be met more satisfactorily, or as satisfactorily, by using the New Deal for musicians; would not this project actually sit more properly within mainstream further education. It was these policy issues which, as officials, we wanted to be satisfied on before we were prepared to let the national council go ahead with the scheme. However, it was always very explicit that it was for the council to satisfy itself that the proposal itself met the operational requirements of the guidelines.

[64] **Leighton Andrews:** So, on the basis of the evidence that you have, there was no question of any issue of prepayment being raised at that meeting?

**Sir Jon Shortridge:** Not at all. It is my understanding, from talking to the officials, that they were very clear that they were giving approval for these projects to assist the council to make progress with its innovation development schemes, but under no circumstances to encourage it to make payments in advance of need. That was just not an issue.

[65] **Leighton Andrews:** Finally, Sir Jon, having been through this episode of the missing minutes, are you now satisfied that procedures are tight enough in terms of relationships between sponsor divisions and ASPBs to ensure that no further meetings of this kind take place without minutes?

**Sir Jon Shortridge:** I would like to give you an absolute assurance on that and, as I say, I have given a reminder this week, but you are dealing with people who are often working

[63] **Leighton Andrews:** Cafodd y cyfarfod hwn rhwng swyddogion y Cynulliad ac ELWa ei gynnal ychydig dros ddeufis cyn diwedd blwyddyn ariannol. A drafodwyd amserlen taliadau'r prosiect yn y cyfarfod?

**Syr Jon Shortridge:** Naddo—nid yn ôl y dystiolaeth sydd gennyf. Yr hyn yr oeddem yn ei wneud drwy gydol yr amser oedd gwahaniaethu rhwng cymeradwyo materion gweithredol, y gwnaethom yn glir a oedd yn fater i'r cyngor cenedlaethol, a materion ateb y diben o ran polisi, os gallaf ei roi fel hynny. Y math o bethau a oedd yn cael eu trafod oedd: onid oedd modd cyflawni amcanion y prosiect hwn yn fwy boddhaol, neu mor foddhaol, trwy ddefnyddio'r Fargen Newydd i gerddorion; oni fyddai'r prosiect hwn yn fwy priodol mewn addysg bellach brif ffrwd. Y materion polisi hyn yr oeddem ni, fel swyddogion, am fod yn fodlon arnynt cyn i ni adael i'r cyngor cenedlaethol fynd ymlaen â'r cynllun. Fodd bynnag, yr oedd yn amlwg iawn o'r dechrau mai'r cyngor a fyddai'n penderfynu a fyddai'r cynnig ei hun yn bodloni gofynion gweithredol y canllawiau.

[64] **Leighton Andrews:** Felly, ar sail y dystiolaeth sydd gennych, ni chodwyd unrhyw gwestiwn am achos o dalu ymlaen llaw yn y cyfarfod hwnnw?

**Syr Jon Shortridge:** Dim o gwbl. Yn ôl yr hyn a ddeallaf, o siarad gyda'r swyddogion, yr oeddynt yn bendant iawn eu bod yn rhoi cymeradwyaeth i'r prosiectau hyn i helpu'r cyngor i wneud cynnydd gyda'i gynlluniau datblygu arloesedd, ond nid oeddynt i annog taliadau cyn bod angen dan unrhyw amgylchiadau. Nid oedd hynny'n codi o gwbl.

[65] **Leighton Andrews:** Yn olaf, Syr Jon, ar ôl bod trwy'r achos hwn o gofnodion coll, a ydych yn awr yn fodlon bod gweithdrefnau yn ddigon tynn o ran y berthynas rhwng adrannau noddi a Chyrff Cyhoeddus a Noddir gan y Cynulliad i sicrhau na fydd unrhyw gyfarfod pellach o'r math hwn yn cael ei gynnal heb gymryd cofnodion?

**Syr Jon Shortridge:** Hoffwn roi sicrwydd pendant i chi am hynny ac, fel y dywedais, yr wyf wedi anfon nodyn atgoffa yr wythnos hon, ond yr ydych yn delio â phobl sy'n

under great pressure and, in even the best managed and regulated of organisations, there will be lapses of that nature. So, I think that it would be foolish of me to give you an absolute assurance that never again will notes of meetings not be taken, and there are human error issues there. However, my views on the subject are very clear now, and I am sure that they are the same as yours.

[66] **Janet Davies:** On that, Sir Jon, I think that you would agree that, if several people go to a meeting, they all come away with a slightly different recollection. It is inevitable—we all look at things in a subjective way. Therefore, in preparing that retrospective note, presumably the people who were present from the Assembly had to come to an understanding with each other of what exactly happened.

**Sir Jon Shortridge:** I am sure that that was the case. As it happens, one of the people at the meeting had retained her manuscript notes, and that was the starting point for this note that was prepared and, I am sure, agreed among those concerned. What remains unsatisfactory about it is that it is an internal note of the Assembly, not one that was prepared at the time and shared with the national council. The Auditor General has quite rightly said that he cannot rely on it absolutely to give him the evidence that he requires.

[67] **Janet Davies:** You say that proper and appropriate advice was given to the Minister on the basis of that, yet here we are today looking at a fairly devastating National Audit Office report, are we not?

**Sir Jon Shortridge:** Yes, but just to repeat the point, the issues in the National Audit Office's report relate to failures by officials to do a job properly. There was never any question of referring the detail of those operational issues to the Minister. We just needed to be assured that she felt that this project was sufficiently consistent with the objectives of this scheme for it to be allowed to go ahead.

gweithio dan bwysau mawr yn aml ac mae diffygion o'r natur yna yn gyffredin yn y sefydliadau sy'n cael eu rheoli a'u rheoleiddio orau hyd yn oed. Felly, credaf y byddai'n annoeth i mi roi sicrwydd pendant na fydd achos o beidio â chymryd cofnodion yn digwydd eto, gan fod hyn yn gysylltiedig â chamgymeriadau dynol. Fodd bynnag, mae fy marn ar y mater yn glir iawn yn awr, ac yr wyf yn sicr ei fod yr un fath â'ch barn chi.

[66] **Janet Davies:** Ynglŷn â hynny, Syr Jon, credaf y byddech yn cytuno fod pawb sy'n mynd i gyfarfod yn dod oddi yno gydag argraff eithaf gwahanol o'r trafodaethau. Mae'n anochel—mae pawb yn edrych ar bethau yn oddrychol. Felly, wrth baratoi'r nodyn ôl-weithredol hwnnw, tybiaf fod y bobl a oedd yn bresennol o'r Cynulliad wedi gorfod dod i ddealltwriaeth gyda'i gilydd ynglŷn â'r hyn a ddigwyddodd.

**Syr Jon Shortridge:** Yr wyf yn sicr mai dyna a ddigwyddodd. Fel y mae'n digwydd, yr oedd un o'r bobl a oedd yn y cyfarfod wedi cadw ei nodiadau llawysgrif, a dyna oedd y pwynt dechrau ar gyfer y nodyn hwn a gafodd ei baratoi ac, yr wyf yn sicr, y cafwyd cytundeb yn ei gylch gan y rhai dan sylw. Yr hyn sy'n parhau i fod yn anfodddhaol am y sefyllfa yw ei fod yn nodyn mewdol o'r Cynulliad, nid yn un a gafodd ei baratoi ar adeg y cyfarfod a'i rannu gyda'r cyngor cenedlaethol. Yr oedd yr Archwilydd Cyffredinol yn iawn i ddweud na allai ddibynnu arno'n llwyr i roi'r dystiolaeth sy'n angenrheidiol iddo.

[67] **Janet Davies:** Yr ydych yn dweud fod cyngor priodol wedi'i roi i'r Gweinidog ar sail hynny, ond eto yr ydym yma heddiw yn edrych ar adroddiad eithaf deifiol gan y Swyddfa Archwilio Genedlaethol, onid ydym?

**Syr Jon Shortridge:** Ydym, ond i ailadrodd y pwynt, mae'r materion yn adroddiad y Swyddfa Archwilio Genedlaethol yn ymwneud â methiannau gan swyddogion i wneud tasg yn iawn. Nid oedd yn fwriad o gwbl cyfeirio manylion y materion gweithredol hynny i'r Gweinidog. Yr unig beth yr oeddem angen ei sicrhau oedd ei bod yn teimlo bod y prosiect hwn yn ddigon cyson gydag amcanion y cynllun hwn i'w

ganiatáu i barhau.

[68] **Janet Davies:** Thank you. Jocelyn, you have some questions?

[68] **Janet Davies:** Diolch. Jocelyn, mae gennyh gwestiynau?

[69] **Jocelyn Davies:** Yes, thank you. May I ask Mr Martin about some things that he has already told us today? You have previously told us, on previous visits here, Mr Martin, that you knew that your staff lacked experience and knowledge in handling these projects. This was a large contract. It was high risk. You and the chair of the board had expressed reservations. It required the personal approval of the Minister, which, we have just heard, is unique, and that approval was unusually conditional. Yet you appear today to be giving us the impression that it was quite routine and did not require your personal attention. Can you explain the conflict that exists there, that it would require the personal attention of the Minister, but not yours?

[69] **Jocelyn Davies:** Oes, diolch. A gaf fi holi Mr Martin am rai pethau y mae wedi sôn amdanynt eisoes heddiw? Yr ydych wedi dweud wrthym o'r blaen, mewn ymweliadau blaenorol, Mr Martin, eich bod yn gwybod fod gan eich staff ddiffyg profiad a gwybodaeth mewn delio â phrosiectau fel hyn. Yr oedd hwn yn gontract mawr. Yr oedd llawer o risg yn perthyn iddo. Yr oeddech chi a chadeirydd y bwrdd wedi mynegi eich amheuan. Yr oedd angen cael cymeradwyaeth bersonol gan y Gweinidog, a oedd, fel yr ydym newydd glywed, yn arfer unigryw, ac yr oedd y gymeradwyaeth honno yn amodol fel rheol. Ond eto, heddiw yr ydych yn ymddangos fel pe baech yn rhoi'r argraff bod hyn yn arferol ac nad oedd yn gofyn am eich sylw personol. A allwch chi egluro'r gwrthdaro sy'n bodoli yma, sef y byddai hyn angen sylw personol y Gweinidog, ond nid eich sylw personol chi?

**Mr Martin:** I did give the project my personal attention, in the sense that it was referred to me, I made my comments and I asked for further work to be done with the chairman. I have already accepted that I should have had a more effective system for making sure that I followed up on it. So, it was not the case that it did not have my personal attention. What is the case is that it did not get enough of my personal attention in the subsequent stages. The issue of the Minister's approval, I have to say, was not drawn to my attention. I did not know the terms of that. Clearly, had I followed it up, I would have found out about that. However, I only learned about that subsequently. As I say, at the time when the projects were being reported to myself and council on 21 February, immediately before the contract was signed, I had not been given information to suggest that the issues relating to the project had been clarified. As I said earlier, I can only explain the omission in terms of following up those earlier points, and in terms of making absolutely sure that those issues that we had addressed, never mind the ones that the Assembly Government had picked up on—and there was a substantial

**Mr Martin:** Rhoddais sylw personol i'r prosiect, o ran bod y prosiect wedi'i gyfeirio ataf, cyflwynais fy sylwadau a gofyn am i waith pellach gael ei gyflawni gyda'r cadeirydd. Yr wyf eisoes wedi derbyn y dylwn fod wedi sicrhau system fwy effeithiol ar gyfer sicrhau camau dilynol. Felly, nid yw dweud na chafodd fy sylw personol yn gywir yn yr achos hwn. Yr hyn a ddigwyddodd oedd na roddais ddigon o sylw personol yn y cyfnodau a ddilynodd. Ni chefais wybod am gymeradwyaeth y Gweinidog, mae'n rhaid i mi ddweud. Nid oeddwn yn ymwybodol o'r amodau hynny. Yn amlwg, pe byddwn wedi dilyn y mater, byddwn wedi dod i wybod am hynny. Fodd bynnag, ar ôl yr achos y daeth y wybodaeth honno yn hysbys i mi. Fel y dywedais, ar adeg adrodd y prosiectau i mi a'r cyngor ar 21 Chwefror, yn union cyn llofnodi'r contract, nid oeddwn wedi derbyn gwybodaeth a oedd yn awgrymu bod y materion a oedd yn gysylltiedig â'r prosiect wedi eu hegluro. Fel y dywedais yn gynharach, ni allaf ond egluro'r achos o hepgor o ran dilyn y pwyntiau cynharach hynny, ac o ran gwneud yn hollol siŵr bod y materion hynny a gafodd sylw gennym, heb sôn am y rhai yr oedd Llywodraeth y

overlap, I think, in terms of the concerns. I very much regret now that I did not do that. Clearly, there was an awful lot of activity going on that was not being referred back to me and, in this case, my normally excellent bring forward system for making sure that issues are followed up and so on, broke down.

[70] **Jocelyn Davies:** May I ask, did you have one of your auditors assigned to the team that was looking after this project to manage the high-risk areas?

**Mr Martin:** We did not have an auditor. It would not routinely be part of a process to have an auditor attached to a project; I agree that it can be a useful approach. One of the things that we did as part of the reorganisation, which was taking place at the time and which we were planning at the time, was to recognise that what you needed would not be an auditor, but a financial accountant, who would actually be available to work with operational colleagues on projects. Now, that system was not in place at this time. I think that if it had been in place, it would have made a significant contribution. There was finance involvement at a moderately senior level in terms of discussions around the contract, but that clearly was not as thoroughgoing as it should have been to have picked up on these issues and made absolutely sure that what happened, in terms of letting the contract, was acceptable.

[71] **Jocelyn Davies:** Just referring back to something that you said the last time you visited us, you did say at that time that,

‘where there are high-risk contracts... major, big contracts, we put in some extra effort, for instance assigning one of our auditors to make sure that they sat alongside the people who were responsible and that they dealt with those high-risk areas.’

That was not in place at that time, but you have it in place now?

**Mr Martin:** The system of having specialist finance accountants who work with teams is now in place, and that was put in place as part of the reorganisation that occurred in the

Cynulliad wedi’u codi—ac yr oedd gorgyffwrdd sylweddol, yn fy meddwl i, o ran y pryderon. Yr wyf yn edifar iawn yn awr na wneuthum i hynny. Yn amlwg, yr oedd llawer yn digwydd ar yr adeg honno na chafodd ei gyfeirio yn ôl ataf ac, yn yr achos hwn, methodd fy system dwyn sylw ar gyfer sicrhau bod materion yn derbyn sylw dilynol, system sy’n gweithio’n rhagorol fel rheol.

[70] **Jocelyn Davies:** A gaf fi ofyn, a fu i chi drefnu bod un o’ch archwilwyr a oedd wedi’i benodi i’r tîm a oedd yn gofalu am y prosiect hwn yn rheoli’r meysydd uchel eu risg?

**Mr Martin:** Nid oedd gennym archwilydd. Ni fyddai cael archwilydd ynghlwm wrth brosiect yn arfer rheolaidd; cytunaf y gallai hynny fod yn ddull defnyddiol. Un o’r pethau a wnaethom wrth ad-drefnu, a oedd yn digwydd ar yr adeg hon ac yr oeddem yn ei gynllunio ar yr adeg hon, oedd cydnabod mai’r hyn y byddech ei angen oedd cyfrifydd ariannol, yn hytrach nag archwilydd, a fyddai’n gallu gweithio gyda chydweithwyr gweithredol ar brosiectau. Ond nid oedd y system honno ar waith ar yr adeg hon. Credaf y byddai wedi gwneud cyfraniad sylweddol pe byddai ar waith. Yr oedd y prosiect yn cynnwys elfen ariannol ar lefel eithaf uchel o ran trafodaethau ynglŷn â’r contract, ond nid oedd hynny’n ddigon trylwyr ag y dylai fod mae’n amlwg i sylwi ar y materion hyn ac i wneud yn siŵr bod yr hyn a ddigwyddodd, o ran rhoi’r contract, yn dderbyniol.

[71] **Jocelyn Davies:** Gan gyfeirio yn ôl at rywbeth a ddywedasoeh y tro diwethaf y buoch yma, dywedasoeh ar yr adeg honno,

‘pan geir contractau uchel eu risg...contractau mawr, pwysig yr ydym yn ymdrechu’n fwy, er enghraifft yn neilltuo un o’n harchwilwyr i sicrhau eu bod yn eistedd wrth ochr pobl a oedd yn gyfrifol ac yn delio â’r meysydd uchel mewn risg hynny.’

Nid oedd hynny ar waith ar yr adeg honno, ond mae ar waith yn awr?

**Mr Martin:** Mae’r system o gael cyfrifwyr ariannol arbenigol sy’n gweithio gyda thimau yn awr ar waith, ac fe’i sefydlwyd fel rhan o’r ad-drefnu a ddigwyddodd yn rhan gyntaf

early part of the financial year 2002-03. The comments that I made, as I recall, were what ideally should have happened to manage risk in those circumstances. One of the clear things that I would do now and, indeed, is a routine part—. If I may just refer to the way in which I conduct these matters in relation to the Higher Education Funding Council for Wales, as we look, for instance, at a major merger proposal or any major special capital expenditure proposal, or whatever, in that sector, finance staff are part of the team. Finance staff are working alongside the operational staff to make sure that all those angles are covered. That is clearly best practice.

[72] **Jocelyn Davies:** But when you were talking to us then you were not referring to the time when this contract was taking place?

**Mr Martin:** Yes. The issues in relation to procurement, which was the subject of the earlier hearing and, indeed, the report that I think you are quoting from, were happening more or less at the same time as these processes were going on.

[73] **Jocelyn Davies:** Okay. There were material changes to the nature of the project and the purpose to which the national council funding was to be put. That was after the approval had been sought, but before the contract had actually been signed. These were not referred back to you or to the Assembly officials. Can you confirm that?

**Mr Martin:** Perhaps it would be helpful if I take you through what I understand the sequence of events to have been. Subsequent to the project's having been put to the chairman and me and to the Assembly Government, the finance department did become involved. It expressed concern about a particular aspect of the contract. It was concerned that the proposal to spend a good part of the total expenditure on the project on buildings would be very hard to reconcile and to safeguard in terms of some of the provisions of the financial memorandum, namely, what happens if an asset in the private sector is subsequently sold. How are you going to make sure that you secure the public interest in that asset? Normally, if you

blwyddyn ariannol 2002-03. Yr oedd y sylwadau a wneuthum, os yr wyf yn cofio'n iawn, yn ymwneud â'r hyn a ddylai fod wedi digwydd yn ddelfrydol i reoli risg dan yr amgylchiadau hynny. Dyna un o'r pethau amlwg y byddwn i'n eu gwneud yn awr, ac sy'n arfer rheolaidd—. Os caf fi gyfeirio at y ffordd yr wyf yn cynnal y materion hyn mewn perthynas â Chyngor Cyllido Addysg Uwch Cymru, wrth i ni edrych, er enghraifft, ar gynnig uno sylweddol neu unrhyw gynnig gwariant cyfalaf mawr arbennig, neu beth bynnag, yn y sector hwnnw, mae staff cyllid yn rhan o'r tîm. Mae staff cyllid yn gweithio ochr yn ochr â'r staff gweithredol i sicrhau bod yr holl agweddau wedi derbyn sylw. Dyna'n amlwg yw arferion gorau.

[72] **Jocelyn Davies:** Ond pan yr oeddech chi'n siarad gyda ni nid oeddech yn cyfeirio at amser cynnal y contract hwn?

**Mr Martin:** Ie. Yr oedd y materion yn gysylltiedig â chaffael, a oedd yn destun y gwrandawriad cynharach ac, yn wir, yr adroddiad y credaf eich bod yn dyfynnu ohono, yn digwydd fwy neu lai yr un adeg â'r prosesau hyn.

[73] **Jocelyn Davies:** Iawn. Yr oedd newidiadau perthnasol i natur y prosiect a diben y cyllido gan y cyngor cenedlaethol. Yr oedd hynny ar ôl ceisio cymeradwyaeth, ond cyn llofnodi'r contract. Ni chafodd y rhain eu cyfeirio yn ôl atoch na swyddogion y Cynulliad. A allwch chi gadarnhau hynny?

**Mr Martin:** Efallai y byddai'n ddefnyddiol i fi fynd drwy'r dilyniant o ddigwyddiadau, yn ôl yr hyn a ddeallaf fi. Ar ôl i'r prosiect gael ei gyflwyno i'r cadeirydd a mi ac i Lywodraeth y Cynulliad, daeth yr adran gyllid i mewn. Mynegodd bryder am agwedd ar arbennig ar y contract. Yr oedd yn bryderus y byddai'r cynnig i wario rhan dda o gyfanswm y gwariant ar brosiect ar adeiladau yn anodd iawn i'w gysoni ac i'w ddiogelu o ran rhai o ddarpariaethau'r memorandwm ariannol, sef, beth sy'n digwydd os oes ased yn cael ei werthu yn y sector preifat. Sut yr ydych yn mynd i sicrhau eich bod yn mynd i ddiogelu lles y cyhoedd yn yr ased honno? Fel rheol, pe baech yn gwneud hyn gyda choleg, nid yw'n broblem gan y gallwch

were doing this with a college, it is not a problem because you simply make it a condition that, in perpetuity, unless it is subsequently agreed otherwise for very good reasons, you have a lien on the relevant part of the asset. That led then to an instruction to the national council's solicitors, who were advising on this, to take that concern into account and to develop what became annex B to the contract for services—this is the element of the contract for the learning modules. So that was a fundamental change that arose from a worthy attempt to safeguard public assets, which ended up having a rather perverse result. It is very odd, because on the basis of what I have subsequently discovered, although the operational staff were party to all of this and were involved in those discussions about the change in the nature of the contract—the shift to the provision of services for the most substantial part of it—they continued to believe, and Learn to Live Ltd continued to believe, that the guts of the project, if you like, was really not about that, but about refurbishing, and later equipping, a building and capital works generally, and not about the provision of services. I cannot give you a categorical and straight answer to all that went on. However, that is my best understanding, having talked to the staff concerned, and having talked to the auditors who did this work about what was going on and what led to that change.

[74] **Jocelyn Davies:** But no fresh approvals were sought after the project obviously had material changes in it?

**Mr Martin:** That is correct.

[75] **Jocelyn Davies:** Staying with the contract, as you said, you had legal advisers, but the contract was actually provided by the national council. Eversheds, as I understand from the auditor's report, revised it in line with verbal instructions from your officials. Eversheds was so moved by this that it wrote to you—not to you personally, but to the national council—expressing certain reservations about the contract. Why was Eversheds ignored?

**Mr Martin:** Again, I cannot give you a

wneud amod bod gennych hawlrwym ar ran berthnasol o'r ased, am byth, oni bai fod cytundeb fel arall am resymau da iawn. Arweiniodd hynny at gyfarwyddo cyfreithwyr y cyngor cenedlaethol, a oedd yn cynghori ar hyn, i ystyried y pryder hwnnw ac i ddatblygu yr hyn a ddaeth yn atodiad B i gontract y gwasanaethau—dyma elfen y contract ar gyfer y modiwlau dysgu. Felly yr oedd hynny'n newid sylfaenol a gododd o ymgais werth chweil i ddiogelu asedau cyhoeddus, a gafodd ganlyniad eithaf gwrthnysig. Mae'n rhyfedd iawn, oherwydd ar sail yr hyn a ddarganfûm wedyn, er bod y staff gweithredol yn rhan o hyn oll ac yn rhan o'r trafodaethau hynny am y newid yn natur y contract—y symudiad i ddarparu gwasanaethau ar gyfer y rhan mwyaf sylweddol ohono—yr oeddynt yn dal i gredu, ac yr oedd Learn to Live Cyf yn dal i gredu, nad oedd gwraidd y prosiect, os hoffwch chi, yn ymwneud â hynny mewn gwirionedd, ond ynglŷn ag adnewyddu, a darparu adnoddau yn ddiweddarach, i adeilad a gwaith cyfalaf yn gyffredinol, ac nid ynglŷn â darparu gwasanaethau. Ni allaf roi ateb pendant a chlir ynglŷn â phopeth a ddigwyddodd. Fodd bynnag, dyna yw fy nealltwriaeth gorau, ar ôl siarad â'r staff dan sylw, ac ar ôl siarad â'r archwilwyr a wnaeth y gwaith hwn am yr hyn a oedd yn digwydd a beth a arweiniodd at y newid hwnnw.

[74] **Jocelyn Davies:** Ond ni ofynnwyd am gymeradwyaeth newydd ar ôl gwneud newidiadau perthnasol amlwg i'r prosiect?

**Mr Martin:** Mae hynny'n gywir.

[75] **Jocelyn Davies:** Gan aros gyda'r contract, fel y dywedaso, yr oedd gennych gynghorwyr cyfreithiol, ond y cyngor cenedlaethol a oedd yn darparu'r contract mewn gwirionedd. Adolygwyd ef gan Eversheds, fel y deallaf o adroddiad yr archwilydd, yn unol â chyfarwyddiadau llafar gan eich swyddogion. Effeithiodd hyn gymaint ar Eversheds fel ei fod wedi ysgrifennu atoch—nid atoch chi'n bersonol, ond i'r cyngor cenedlaethol—yn mynegi rhai amheuan am y contract. Pam y cafodd Eversheds ei anwybyddu?

**Mr Martin:** Unwaith eto, ni allaf roi ateb

satisfactory answer to that. I have not received one myself. Eversheds wrote on 18 February, which was four days before the contract was signed. Clearly, had the issues that Eversheds had raised been addressed, the council could have avoided the risk of the breach of the state aids issue and would have had a better basis for securing its assets. However, I cannot get from the staff concerned any satisfactory explanation of how that letter was dealt with.

[76] **Jocelyn Davies:** Although the contract for this project was signed just a few days later, and this legal advice that was offered to you by Eversheds was ignored—and obviously the contract was defective as a direct result of that—was that contract then used as a template for further contracts further down the line for other projects?

**Mr Martin:** I understand that that was a decision that arose from the role of the central unit that I described earlier—the small group of central staff under a senior member of staff—who decided that it would be a good idea to share that contract. I was not aware that that process was going on.

[77] **Jocelyn Davies:** So the answer to that was ‘yes’, even though this was a defective contract, and you had been advised by your solicitors that it was a defective contract, you had used it very quickly—within four days—and continued to use it for further projects later on?

**Mr Martin:** The council staff concerned had used it in that way, yes.

[78] **Jocelyn Davies:** When I say ‘you’, I do not mean you personally. So there are other contracts that are as defective as the original one?

**Mr Martin:** I understand that there were some, but this does not apply to all of the contracts. It should not have applied to any of them; it applies to a small number. The majority, of course, of the agreements—the grants and so on—that were made were to FE colleges, where we followed our normal

boddhaol i hynny. Nid wyf wedi derbyn un fy hun. Ysgrifennodd Eversheds ar 18 Chwefror, sef pedwar diwrnod cyn llofnodi'r contract. Yn amlwg, pe bai'r materion a gafodd eu codi gan Eversheds wedi derbyn sylw, gallai'r cyngor fod wedi osgoi'r risg o dorri mater cymorth gwladol a chael gwell sail ar gyfer diogelu ei asedau. Fodd bynnag, ni allaf gael unrhyw eglurhad boddhaol ar sut y deliwyd â'r llythyr hwnnw gan y staff dan sylw.

[76] **Jocelyn Davies:** Er bod y contract ar gyfer y prosiect hwn wedi'i lofnodi ychydig ddyddiau'n ddiweddarach, a'r cyngor cyfreithiol hwn a gynigiwyd i chi gan Eversheds wedi'i anwybyddu—ac yn amlwg yr oedd y contract yn ddiffygiol fel canlyniad uniongyrchol i hynny—a ddefnyddiwyd y contract hwnnw fel templed wedyn ar gyfer contractau pellach yn ddiweddarach i brosiectau eraill?

**Mr Martin:** Deallaf fod hynny'n benderfyniad a gododd o rôl yr uned ganolog a ddisgrifiais yn gynharach—y grŵp bach o staff canolog dan aelod uwch o staff—a benderfynodd y byddai'n syniad da rhannu'r contract hwnnw. Nid oeddwn yn ymwybodol fod y proses honno'n digwydd.

[77] **Jocelyn Davies:** Felly yr ateb i hynny oedd ‘do’, er bod hwn yn gontract diffygiol, a'ch bod wedi derbyn cyngor gan eich cyfreithwyr ei fod yn gontract diffygiol, yr oeddech wedi'i ddefnyddio yn gyflym iawn—o fewn pedwar diwrnod—a pharhau i'w ddefnyddio ar gyfer prosiectau pellach yn ddiweddarach?

**Mr Martin:** Yr oedd y staff dan sylw wedi'i ddefnyddio yn y ffordd honno, oeddynt.

[78] **Jocelyn Davies:** Pan ddywedaf ‘chi’, nid wyf yn golygu chi yn bersonol. Felly, a oes contractau eraill sydd mor ddiffygiol â'r un gwreiddiol?

**Mr Martin:** Deallaf fod rhai, ond nid yw hyn yn berthnasol i'r holl gontractau. Ni ddylai fod yn wir am yr un ohonynt; mae'n wir am nifer fechan ohonynt. Yr oedd mwyafrif y cytundebau, wrth gwrs—y grantiau ac yn y blaen—a wnaethpwyd yn rhai i golegau AB, a ddilynodd ein gweithdrefnau arferol, ac nad



procedures, did not involve any of these deficiencies in terms of the contracting process.

[79] **Janet Davies:** Leighton, you want to come in very briefly.

[80] **Leighton Andrews:** I just want to understand, Mr Martin, the reporting line to you of the person who signed the contract.

**Mr Martin:** At that time, at one remove. That is to say, there was a national director of operations and then there was a regional director reporting to the national director of operations.

[81] **Janet Davies:** Thank you. Alun, you have some questions.

[82] **Alun Cairns:** Mr Martin, I want to turn to the matters relating to the concerns that European state aid regulations were breached by the arrangement of this contract. How was this degree of ambiguity and uncertainty, that is as to whether the regulations are breached or not, allowed to arise on a £4 million transaction?

**Mr Martin:** As I was saying earlier, the staff were asked to ensure—and the staff concerned, I think that it is reasonable to believe, had some experience of the state aids issue because it was directly relevant to the work-based training activities of the TECs. As I said earlier, they were working, however, on guidance, which is in the schedule 8 guidance from the Assembly, which is part of the management statement, and its annex, which defines state aids in a way which is rather more restrictive than it should be defined. There are some general statements in that management statement or schedule about the need always, obviously, to observe state aid regulations, but there is a categorical statement in the detailed guidance—this schedule 8—which states that, for the purposes of these projects, the annex describes what bits of state aids are relevant. That is not a direct quotation, but that is the sense of what is said in the guidance.

As I said earlier, if staff looking at that did not have any wider understanding of state

oedd yn cynnwys unrhyw un o'r diffygion hyn o ran y broses contractio.

[79] **Janet Davies:** Leighton, yr ydych am wneud sylw cryno yma.

[80] **Leighton Andrews:** Yr wyf am ddeall, Mr Martin, beth oedd y llinell adrodd i chi gan y sawl a lofnododd y contract.

**Mr Martin:** Ar yr adeg honno, un oedd rhyngddynt. Hynny yw, yr oedd cyfarwyddwr gweithrediadau cenedlaethol a chyfarwyddwr rhanbarthol yn adrodd i'r cyfarwyddwr gweithrediadau cenedlaethol.

[81] **Janet Davies:** Diolch. Alun, mae gennych gwestiynau.

[82] **Alun Cairns:** Mr Martin, yr wyf am droi i'r materion yn ymwneud â'r pryderon fod rheoliadau cymorth gwladol Ewropeaidd wedi'u torri gan drefniadau'r contract hwn. Sut y caniatwyd i'r graddau hwn o amwysedd ac ansicrwydd, hynny yw ynglŷn â dorwyd y rheoliadau ai peidio, i godi ar daliad o £4 miliwn?

**Mr Martin:** Fel y dywedais yn gynharach, cafodd y staff gais i sicrhau—ac yr oedd gan y staff dan sylw, credaf ei bod hi'n rhesymol i gredu, beth profiad o gymorth gwladol gan ei fod yn uniongyrchol berthnasol i weithgareddau hyfforddiant yn y gweithle y CHM. Fel y dywedais yn gynharach, yr oeddynt yn gweithio, fodd bynnag, ar ganllawiau, sydd yng nghanllawiau atodlen 8 y Cynulliad, sy'n rhan o'r datganiad rheoli, a'i atodiad, sy'n diffinio cymorth gwladol mewn ffordd fwy cyfyngol nag y dylai fod. Mae rhai datganiadau cyffredinol yn y datganiad rheoli hwnnw neu'r atodlen am yr angen bob amser, mae'n amlwg, i gydymffurfio â rheoliadau cymorth gwladol, ond mae'r canllawiau manwl—atodlen 8—yn cynnwys datganiad pendant sy'n nodi, at ddibenion y prosiectau hyn, pa ddarnau o gymorth gwladol sy'n berthnasol. Nid yw hwnnw'n ddyfyniad uniongyrchol, ond argraff o'r hyn a gafodd ei ddatgan yn y canllawiau.

Fel y dywedais yn gynharach, os nad oedd gan staff a oedd yn edrych ar hynny unrhyw

aids, I think they would have immediately and logically been led to believe that they should, as it were, only apply the rules that are there. I am speculating, because the person involved in this particular case has long since ceased to be a member of the organisation—I have not been able to talk to that person, but I suspect that that may be what went on. I think that they judged it in the same way as they would have judged it had it been an application for work-based training. The sorts of state aids issues—the legal advice about which Peter Higson subsequently obtained—would not have been clear at that time because they are actually to do with quite different considerations in relation to the state aids process and not those that were covered by that guidance on work-based training.

[83] **Alun Cairns:** Mr Martin, is that not a shortfall from the support that you really should have given the project? It should have been training for that person who did not quite understand the implications of it.

**Mr Martin:** At the time, it seemed a reasonable assumption that the staff concerned who had experienced the state aids issues would have had that understanding, and they certified that they had done that. Again, that was clearly a mistaken assumption based on our imperfect knowledge of the skills and understanding of the staff at that time. I have to say that at that time I was not aware of this, I think, deficiency in the terms of the detailed schedule which was said to apply to these projects that had been given to the organisation. Again, that is not an excuse because the general requirements in relation to state aids—although they are actually very complex and difficult to interpret—is that they are something that we are all very conscious that we need to get right.

[84] **Alun Cairns:** In your previous answer to me you mentioned the TECs again. However, is it not indicative of the culture of the organisation over which you presided as chief executive that such sloppy practices would endure?

**Mr Martin:** I think that that is too sweeping

ddealltwriaeth ehangach o gymorth gwladol, credaf y byddent wedi cael eu harwain i gredu ar unwaith ac yn rhesymegol y dylent weithredu'r rheolau a oedd yno'n unig, fel petai. Yr wyf yn dyfalu, oherwydd fod y sawl a oedd yn gysylltiedig â'r achos hwn wedi hen adael y sefydliad—nid wyf wedi llwyddo i siarad â'r unigolyn hwnnw, ond yr wyf yn amau mai dyna a ddigwyddodd. Credaf eu bod wedi'i feirniadu yn yr un ffordd ag y byddent wedi'i wneud pe bai yn gais am hyfforddiant yn y gweithle. Ni fyddai'r mathau o faterion cymorth gwladol—y cafodd Peter Higson gyngor gyfreithiol yn eu cylch wedi hynny—wedi bod yn glir ar yr adeg honno gan eu bod yn ymwneud ag ystyriaethau gwahanol iawn mewn perthynas â'r broses cymorth gwladol ac nid y rhai sy'n cael eu cwmpasu gan ganllawiau ar hyfforddiant yn y gweithle.

[83] **Alun Cairns:** Mr Martin, onid yw hynny'n ddiffyg o ran y cymorth a ddylech fod wedi'i roi i'r prosiect? Dylai fod yn hyfforddiant i'r unigolyn hwnnw nad oedd yn llwyr ddeall y goblygiadau.

**Mr Martin:** Ar yr adeg honno, yr oedd yn ymddangos yn rhesymol i dybio fod gan y staff dan sylw a oedd â phrofiad o faterion cymorth gwladol y ddealltwriaeth honno, ac maent wedi tystio eu bod wedi gwneud hynny. Unwaith eto, yr oedd hynny'n dybiaeth anghywir yn seiliedig ar ein gwybodaeth ddiffygiol ni o sgiliau a dealltwriaeth y staff ar yr adeg honno. Mae'n rhaid i mi ddweud nad oeddwn, ar yr adeg honno, yn ymwybodol o'r diffyg hwn o ran yr atodlen fanwl a oedd yn berthnasol i'r prosiectau hyn ac a oedd wedi'i roi i'r sefydliad. Unwaith eto, nid yw hyn yn esgus o gwbl gan fod y gofynion cyffredinol ynglŷn â chymorth gwladol—er eu bod yn gymhleth iawn ac yn anodd i'w dehongli—yn rhywbeth yr ydym i gyd yn ymwybodol fod yn rhaid i ni ei gael yn iawn.

[84] **Alun Cairns:** Yn eich ateb blaenorol i mi, bu i chi sôn am y CHM eto. Fodd bynnag, onid yw'r ffaith fod arferion llac o'r fath yn gallu bodoli yn arwydd o ddiwylliant y sefydliad yr oeddech chi'n brif weithredwr arno?

**Mr Martin:** Credaf fod hynny'n gyffredinoli

a generalisation.

[85] **Alun Cairns:** But come, Mr Martin, you were the chief executive and the accounting officer, surely you should have been responsible for all of these issues, and you seem to be blaming an organisation that did not even exist at the time that these contracts were agreed.

**Mr Martin:** No, I can only repeat what I said earlier. I accept fully my responsibility as accounting officer at the time. I am trying to help the Committee to understand what was going on in this very challenging first year—none of it by way of offering some kind of absolute excuse, that is not what you do as an accounting officer. However, I do not think that it is possible to understand what was happening unless you understand that, operating within a business-as-usual regime, we were reliant on predecessor systems. This is not a criticism of the TECs. In retrospect, as I said earlier, I believe that we should have tried to do a lot less and have concentrated rigorously on getting the kinds of frameworks, which Peter Higson was describing earlier, in place, which were only partially in place and which allowed these deficiencies to occur. I accept fully responsibility for that choice, and if I had the chance to do this again—and certainly it is the way that I conduct myself now—I would make absolutely sure that all the bases were in place before we attempted to do anything of this kind with the degree of ambition which we attempted it at the time.

[86] **Alun Cairns:** So, Mr Martin, are you in breach of either EU state aid rules or procurement regulations?

**Mr Martin:** I think that in this case it is my turn to ask Peter Higson to comment because he has had the updated advice, and so on, on that. Perhaps, I could just say on the procurement issue, I think that there is a genuine issue about whether procurement is an appropriate issue in a case such as this. The guidelines, again in schedule 8 of the management statement, do make it clear that it is perfectly proper for the council to have a one-to-one relationship with a body in particular circumstances to advance the

rhy ysgubol.

[85] **Alun Cairns:** Ond dewch, Mr Martin, chi oedd y prif weithredwr a'r swyddog cyfrifo, onid chi a ddylai fod wedi bod yn gyfrifol am yr holl faterion hyn, ac mae'n ymddangos eich bod yn beio sefydliad nad oedd yn bodoli ar y pryd fod cytundeb wedi'i roi i'r contractau hyn.

**Mr Martin:** Na, ni allaf ond ailadrodd yr hyn a ddywedais yn gynharach. Derbyniaf yn llwyr fy nghyfrifoldeb fel swyddog cyfrifo ar y pryd. Yr wyf yn ceisio helpu'r Pwyllgor i ddeall beth a oedd yn digwydd yn y flwyddyn gyntaf llawr her hon—nid trwy gynnig rhyw fath o esgus absoliwt, nid dyna a ddylai rhywun ei wneud fel swyddog cyfrifo. Fodd bynnag, credaf nad yw yn bosibl deall beth a oedd yn digwydd oni bai eich bod yn deall ein bod yn dibynnu ar systemau ein rhagflaenydd wrth weithredu o fewn trefn busnes-fel-arfer. Nid yw hyn yn feirniadaeth ar y CHM. O edrych yn ôl, fel y dywedais yn gynharach, credaf y dylem fod wedi gwneud llawer llai a chanolbwyntio'n drylwyr ar sicrhau bod y mathau o fframweithiau, yr oedd Peter Higson yn eu disgrifio yn gynharach, ar waith, a oedd ond yn rhannol ar waith ac a alluogodd y diffygion hyn i ddigwydd. Derbyniaf gyfrifoldeb llwyr am y dewis hwnnw, a phe bawn yn cael y cyfle i wneud hyn eto—a dyma'r ffordd yr wyf yn gweithredu erbyn hyn—byddwn yn gwneud yn hollol siŵr fod yr holl seiliau yn eu lle cyn ceisio gwneud unrhyw beth o'r math hwn gyda'r lefel o uchelgais a wnaethom ar yr adeg honno.

[86] **Alun Cairns:** Felly, Mr Martin, a ydych wedi torri rheolau cymorth gwladol yr UE neu reoliadau caffael?

**Mr Martin:** Yn yr achos hwn, credaf y dylwn ofyn i Peter Higson siarad gan ei fod wedi derbyn cyngor diweddar, ac yn y blaen, ar hynny. Efallai, os caf fi ddweud rhywbeth ynglŷn â chaffael, credaf fod pwynt gwirioneddol ynglŷn ag a yw caffael yn fater priodol mewn achos fel hwn. Mae'r canllawiau, unwaith eto yn atodlen 8 y datganiad rheoli, yn nodi'n glir ei bod yn hollol briodol i'r cyngor gael perthynas un-i-un gyda chorff dan amgylchiadau arbennig i ddatblygu bwriad y cyngor. Ni fyddem yn

council's ends. We would not see this, as I said earlier, as a tendering exercise and something that could be contracted for; I would argue, how could you? Because here is a company with a unique offering, which does appear to offer something very special for a particularly disadvantaged group. It is a particular attraction and a particular opportunity to develop learning possibilities that simply would not be there in other ways. I do not see, in those circumstances, how you can really procure that service. However, on the state aids issue, I would have to pass that back to Peter Higson, if I may.

**Dr Higson:** There are two points on the state aids issue. We have also looked at all other projects in which we are currently involved in this financial year, which I can return to later, but also any new projects. We do have some expertise in our European team, which gives them the appraisal. If there are any questions at all, they are then referred for legal advice. So, I can give an assurance that we are thoroughly checking the state aids for all our current projects.

In relation to the pop cafe project, we received senior counsel's advice at the end of July and, because the nature of the contract had changed to the purchase of equipment, it was felt that, on balance, that potentially gave the organisation an unfair commercial advantage. We are working with Avanti now to try to quantify and apportion what state aids benefits there may have been and which might be if we were to continue.

[87] **Alun Cairns:** So, what would be the implications of that?

**Dr Higson:** It is a very difficult position the national council is in because it has a contract of some form—going back to previous answers—with the company, which it can hold us to. Equally, we have a duty to try to recover state aids once we have identified that there has been such a grant. Where we sit today, we are trying to negotiate—and I must say that the company is being co-operative—to find a way forward on the state aids issue.

gweld hyn, fel y dywedais yn gynharach, fel ymarfer tendro ac yn rhywbeth y byddai modd tendro ar ei gyfer; byddwn yn dadlau, sut y gallwch chi? Oherwydd dyma gwmni gyda chynnig unigryw, sy'n ymddangos fel pe bai'n cynnig rhywbeth arbennig iawn i grŵp sydd dan anfantais arbennig. Mae'n atyniad arbennig ac yn gyfle arbennig i ddatblygu posibiliadau dysgu na fyddent ar gael fel arall. Ni allaf weld, dan yr amgylchiadau hynny, sut y gallwch mewn gwirionedd gaffael y gwasanaeth hwnnw. Fodd bynnag, o ran cymorth gwladol, mae'n rhaid i mi droi at Peter Higson, os caf fi.

**Dr Higson:** Mae dau bwynt i'w wneud ynglŷn â chymorth gwladol. Yr ydym hefyd wedi edrych ar yr holl brosiectau eraill sydd gennym yn y flwyddyn ariannol hon, y gallaf ddychwelyd atynt yn ddiweddarach, ac unrhyw brosiectau newydd hefyd. Mae gennym beth arbenigedd yn ein tîm Ewropeaidd, sy'n arfarnu'r prosiectau. Os oes cwestiynau o gwbl, byddant yn cael eu cyfeirio am gyngor cyfreithiol. Felly, gallaf roi sicrwydd ein bod yn archwilio'n drylwyr i'r cymorth gwladol sydd ar gael ar gyfer ein holl brosiectau cyfredol.

Mewn perthynas â phrosiect y caffi pop, derbynasom gyngor cyfreithiol uwch ar ddiwedd mis Gorffennaf ac, oherwydd bod natur y contract wedi newid i brynu offer, yr oeddem yn teimlo, wrth bwysu a mesur, bod hynny o bosibl yn rhoi mantais fasnachol annheg i'r sefydliad. Yr ydym yn gweithio gydag Avanti yn awr i geisio mesur a dosrannu pa fuddion cymorth gwladol a oedd o bosibl ac a allai fod wedi bod pe byddem yn parhau.

[87] **Alun Cairns:** Felly, beth fyddai goblygiadau hynny?

**Dr Higson:** Mae'r cyngor cenedlaethol mewn sefyllfa anodd iawn gan fod ganddo gontract o ryw fath—gan fynd yn ôl i atebion blaenorol—gyda'r cwmni, y gall ein dal yn rhwym iddo. Yn yr un modd, mae gennym ddyletswydd i geisio adfer cymorth gwladol unwaith i ni weld bod grant o'r fath wedi bod. Y sefyllfa heddiw yw, ein bod yn ceisio negodi—ac mae'n rhaid i mi ddweud fod y cwmni yn gydweithredol iawn yn hyn o beth—i geisio canfod ffordd ymlaen ar fater

cymorth gwladol.

[88] **Alun Cairns:** So, will the outcomes be fines or would there be any other source of recompense by the European Commission?

**Dr Higson:** The outcome would be that we would identify what is agreed, or what we believe to be a state aids amount within the money paid so far, and we would seek to recover that.

[89] **Alun Cairns:** Mr Shortridge, what scrutiny did your officials have over the questions about the European element in relation to the contract?

**Sir Jon Shortridge:** To the best of my knowledge, none at all, because the approval we gave was on the clear requirement that the council should have satisfied itself that it was complying with all the guidelines. The state aid issue was one of the guidelines.

[90] **Alun Cairns:** Mr Martin, can you tell me what a module is in relation to the contract?

**Mr Martin:** The contract does not define clearly what a module is. That is one of the defects.

[91] **Alun Cairns:** Absolutely. So, can you tell me what a module is?

**Mr Martin:** The module was always intended, conceptually, to be a particular programme of training based on video-media technology, which would be particularly attractive, using good, solid learning criteria as the best way to work with this particular client group. That is indeed what has now been piloted. My understanding is that the July pilot, which was referred to earlier, has been that kind of learning module. It is intended to enable those who have not been very successful in their learning—who have perhaps been substantially outside the learning system, and have had a very bad experience—through the use of media technology associated with the Pop Factory and its products, so that they are then attracted back into learning in ways that work for them.

[88] **Alun Cairns:** Felly, ai dirwyon fydd y canlyniadau neu a fydd unrhyw fath o iawndal arall gan y Comisiwn Ewropeaidd?

**Dr Higson:** Y canlyniad fyddai y byddem yn nodi swm o gymorth gwladol y cytunwyd arno neu y credwn ei fod yn gywir o fewn yr arian a gafodd ei dalu hyd yn hyn, ac y byddem yn ceisio adfer hynny.

[89] **Alun Cairns:** Mr Shortridge, i ba raddau y cafodd eich swyddogion y cyfle i graffu ar y cwestiynau am yr elfen Ewropeaidd mewn perthynas â'r contract?

**Syr Jon Shortridge:** Hyd y gwn i, dim o gwbl, gan fod y gymeradwyaeth a roddasom yn seiliedig ar y gofyniad pendant y dylai'r cyngor fod yn fodlon ei fod yn cydymffurfio â'r holl ganllawiau. Yr oedd cymorth gwladol yn un o'r canllawiau.

[90] **Alun Cairns:** Mr Martin, a allwch ddweud wrthyf beth yw modiwl mewn perthynas â'r contract?

**Mr Martin:** Nid yw'r contract yn diffinio'n glir beth yw modiwl. Dyna un o'r diffygion.

[91] **Alun Cairns:** Yn hollol. Felly, a allwch ddweud wrthyf beth yw modiwl?

**Mr Martin:** Yn syniadol, yr oedd y modiwl o'r dechrau wedi'i fwriadu i fod yn rhaglen o hyfforddiant yn seiliedig ar dechnoleg fideo-gyfrwng, a fyddai'n arbennig o ddeniadol, ac yn defnyddio meini prawf dysgu cadarn fel y ffordd orau o weithio gyda'r grŵp cleientiaid arbennig hwn. Dyna sydd wedi'i dreialu erbyn hyn. Yn ôl yr hyn a ddeallaf, dyma'r math o fodiwl a dreialwyd ym mis Gorffennaf, y cafwyd cyfeiriad ato'n gynharach. Ei fwriad yw galluogi'r rheini nad ydynt wedi bod yn llwyddiannus iawn yn dysgu—sydd wedi bod y tu allan i'r system ddysgu efallai, ac wedi cael profiad gwael iawn—trwy ddefnyddio technoleg cyfryngau sy'n gysylltiedig â'r Ffatri Bop a'i gynhyrchion, er mwyn eu denu yn ôl i ddysgu mewn ffyrdd sy'n gweithio iddynt hwy.

[92] **Alun Cairns:** With the greatest respect, Mr Martin, I do not think that I know yet what a module is. Maybe it is me: maybe I do not quite understand it. Can you explain in simple forms, for my benefit, exactly what a module is and why the number was reduced by one?

**Mr Martin:** Well, I cannot explain all of those things because some of those have happened subsequent to any involvement I had. What I can say, generally, if it helps you, is that a module normally is simply a programme of learning and a delivery mechanism for that programme of learning. This is an example of that, as I have said, making particular use of media and electronic technology to deliver it in an attractive way to a client group that is extremely difficult to reach in other ways. However, manifestly, those things are not defined in the contract in a satisfactory way or in a way that protected public money. My understanding—and Peter Higson may have more details—is that the reduction from five to four covers exactly the same range as was originally intended to be covered in terms of learning areas, but has simply amalgamated two of them into one, rather than doing them separately.

[93] **Alun Cairns:** I would like to come back to Mr Higson a little later because I want to pursue the issue a little bit further with you, Mr Martin. I now understand what a module is. It is a programme of learning making use of modern technology within this contract. Bearing in mind that it was costing £4 million, why was there no clarity within the contract on what the modules were and what was to be achieved with them?

**Mr Martin:** The total price of the modules was something like £2.3 million, relying on memory.

[94] **Alun Cairns:** I am talking about the scale of the project.

**Mr Martin:** The scale of the whole project? Well, manifestly, it should have been described in far plainer terms. The truth is that, at the point where the staff signed off the contract, the ideas for the nature of the modules had not yet been crystallised in a

[92] **Alun Cairns:** Gyda phob parch, Mr Martin, ni chredaf eto fy mod yn gwybod beth yw modiwl. Efallai mai fi sydd ar fai: efallai nad wyf yn ei ddeall. A allwch chi egluro'n syml, er fy mwyn i, beth yn union yw modiwl a pham y cafodd y nifer ei leihau o un?

**Mr Martin:** Wel, ni allaf egluro'r holl bethau hyn gan fod rhai o'r rheini wedi digwydd ar ôl i'm cysylltiad i â'r mater ddod i ben. Yr hyn y gallaf ei ddweud, yn gyffredinol, os yw o gymorth i chi, yw fod modiwl fel rheol yn rhaglen ddysgu a dull o ddarparu'r rhaglen ddysgu honno. Mae hyn yn enghraifft o hynny, fel y dywedais, gwneud defnydd arbennig o dechnoleg cyfryngau ac electronig i'w ddarparu mewn ffordd ddeniadol i grŵp cleientiaid sy'n anodd iawn eu cyrraedd mewn ffyrdd eraill. Fodd bynnag, mae'n amlwg nad yw'r pethau hynny wedi'u diffinio'n foddhaol yn y contract neu mewn ffordd sy'n diogelu arian cyhoeddus. Yn ôl yr hyn a ddeallaf—ac efallai fod gan Peter Higson fwy o fanylion—mae'r lleihad o bump i bedwar yn cwmpasu'n union yr un ystod â'r cwmpas a fwriadwyd yn wreiddiol o ran meysydd dysgu, ond ei fod wedi uno dau faes yn un, yn hytrach na'u gwneud ar wahân.

[93] **Alun Cairns:** Hoffwn ddod yn ôl at Mr Higson maes o law gan fy mod am drafod y mater ychydig ymhellach gyda chi, Mr Martin. Deallaf yn awr beth yw modiwl. Rhaglen ddysgu ydyw sy'n defnyddio technoleg fodern o fewn y contract hwn. Gan gofio ei fod yn costio £4 miliwn, pam na chafwyd esboniad o fewn y contract ar beth oedd y modiwlau a beth oedd angen ei gyflawni gyda hwy?

**Mr Martin:** Tua £2.3 miliwn oedd cyfanswm pris y modiwlau, os cofiaf yn iawn.

[94] **Alun Cairns:** Yr wyf yn sôn am faint y prosiect.

**Mr Martin:** Maint y prosiect cyfan? Wel, mae'n amlwg y dylid fod wedi'i ddisgrifio mewn termau mwy plaen o lawer. Y gwir yw, ar yr adeg y llofnododd y staff y prosiect, nid oedd y syniadau am natur y modiwlau wedi'u crisialu mewn ffurf a fyddai'n eu galluogi i

form that would enable them to be expressed in a contract, and that is not acceptable.

[95] **Alun Cairns:** How many students were envisaged to be trained within the modules? What were the targets?

**Mr Martin:** I do not have all those targets in front of me. I have some papers here that include them, if it would be helpful to the Committee later.

[96] **Alun Cairns:** Were they contained within the contract?

**Mr Martin:** No.

[97] **Alun Cairns:** There were no targets within this £4 million contract?

**Mr Martin:** There were targets included in the proposal that came forward. The contract is drawn up in different terms.

[98] **Alun Cairns:** Oh, okay. Is that usual?

**Mr Martin:** No. One would normally expect there to be a very clear indication of what you expect a contract to provide, and that is why the chairman and I, and indeed the Assembly Government, were very keen to see that there was a spelling out of exactly what learning outcomes and outputs would be achieved by the project. As I say, there were figures in the proposals that were originally developed.

[99] **Alun Cairns:** But the reality was that Avanti Media Group did not necessarily need to train a specific number of people within each module because it was not in the contract, or it might have been in its application, but it had already had the money so it did not really matter to it, did it?

**Mr Martin:** Well, I believe that it did matter to it because it was very committed to the project and it was very keen that it should succeed, and its reputation would ride on it being a successful project.

[100] **Alun Cairns:** But there was certainly no recompense by the Assembly Government or by the national council in protecting the

gael eu mynegi mewn contract, ac nid yw hynny'n dderbyniol.

[95] **Alun Cairns:** Faint o fyfyrwyr yr oeddech yn disgwyl i dderbyn hyfforddiant o fewn y modiwlau? Beth oedd y targedau?

**Mr Martin:** Nid oes gennyf yr holl dargedau hynny o'm blaen. Mae gennyf rai papurau yma sy'n eu cynnwys, pe bai hynny o ddefnydd i'r Pwyllgor yn ddiweddarach.

[96] **Alun Cairns:** A gawsant eu cynnwys yn y contract?

**Mr Martin:** Naddo.

[97] **Alun Cairns:** Nid oedd targedau yn y contract £4 miliwn hwn?

**Mr Martin:** Yr oedd targedau yn y cynnig a gyflwynwyd. Mae'r contract wedi'i lunio mewn termau gwahanol.

[98] **Alun Cairns:** O, iawn. A yw hynny'n arferol?

**Mr Martin:** Na. Byddai rhywun yn disgwyl cael arwydd clir iawn o ddisgwyliadau'r contract fel rheol, a dyna pam yr oedd y cadeirydd a minnau, a Llywodraeth y Cynulliad, yn awyddus iawn i weld manylion pendant am union ganlyniadau dysgu ac allbynnau'r prosiect. Fel y dywedais, yr oedd ffigurau yn y cynigion a ddatblygwyd yn wreiddiol.

[99] **Alun Cairns:** Ond y gwirionedd yw nad oedd yn rhaid i Grŵp Cyfryngau Avanti hyfforddi nifer penodol o bobl o fewn pob modiwl gan nad oedd y contract yn nodi hynny, neu efallai ei fod yn y cais, ond yr oedd yr arian eisoes ganddo felly nid oedd hynny o bwys iddo, yn nac oedd?

**Mr Martin:** Wel, credaf ei fod o bwys iddo gan ei fod yn ymrwymedig iawn i'r prosiect ac yn awyddus iawn iddo lwyddo, ac yr oedd ei enw da yn dibynnu ar lwyddiant y prosiect.

[100] **Alun Cairns:** Ond nid oedd iawndal gan Lywodraeth y Cynulliad na'r cyngor cenedlaethol i ddiogelu'r arian cyhoeddus,

public funds, was there?

**Mr Martin:** I think that it is true to say that even the original figures—and this is why we were pressing for more information—could not be substantiated. They were not based on anything solid enough, which is why we wanted that further work done.

[101] **Alun Cairns:** So we are now relying on the goodwill of the company in order to get some sort of value for money out of this project?

**Mr Martin:** Yes, but I believe that it is the case that the company is showing a lot of goodwill in wanting to take it forward.

[102] **Alun Cairns:** Well that is lucky, is it not?

**Mr Martin:** It is, and the contract clearly should have been very much tighter.

[103] **Alun Cairns:** Right. Can I ask Mr Higson why the number of modules has been reduced?

**Dr Higson:** My understanding is that the decision was made earlier this year to combine the television and video module in its developmental stage into one.

[104] **Alun Cairns:** What experience did Avanti Media Group have in developing this sort of module?

**Dr Higson:** I do not know, I would have to refer that to Mr Martin.

[105] **Alun Cairns:** Mr Martin, what experience did Avanti Media Group have in developing the module?

**Mr Martin:** It did not have experience in developing learning modules, which is why one of the proposals, which has been followed through, was that it would work closely with expert educational providers, because, clearly, you need to do that. It is very common now—and I have some experience of this in the broadcasting industry—for educationalists to work very closely with people with media expertise

onid oedd?

**Mr Martin:** Credaf ei fod yn wir i ddweud nad oedd modd profi hyd yn oed y ffigurau gwreiddiol—a dyna pam yr oeddem yn pwysu am fwy o wybodaeth. Nid oeddynt yn seiliedig ar unrhyw beth digon cadarn, a dyna pam yr oeddem am weld gwaith pellach yn cael ei wneud.

[101] **Alun Cairns:** Felly, a ydym yn dibynnu yn awr ar ewylllys da'r cwmni er mwyn i'r prosiect hwn roi rhyw fath o werth am arian?

**Mr Martin:** Ydym, ond credaf mai'r achos yw bod y cwmni yn dagnos llawer o ewylllys da yn ei ddyhead i ddatblygu'r prosiect.

[102] **Alun Cairns:** Wel mae hynny'n lwcus, onid yw?

**Mr Martin:** Ydy, a dylai'r contract fod wedi bod llawer yn dynnach.

[103] **Alun Cairns:** Iawn. A gaf fi ofyn i Mr Higson pam fod nifer y modiwlau wedi lleihau?

**Dr Higson:** Yn ôl yr hyn a ddeallaf, cafodd y penderfyniad ei wneud yn gynharach eleni i gyfuno'r modiwl teledu a fideo yn un modiwl yn ystod ei gam datblygiadol.

[104] **Alun Cairns:** Pa brofiad a oedd gan Grŵp Cyfryngau Avanti o ddatblygu'r math hwn o fodiwl?

**Dr Higson:** Nid wyf yn gwybod, byddai'n rhaid i mi gyfeirio hynny at Mr Martin.

[105] **Alun Cairns:** Mr Martin, pa brofiad a oedd gan Grŵp Cyfryngau Avanti i ddatblygu'r modiwl?

**Mr Martin:** Nid oedd ganddo brofiad o ddatblygu modiwlau dysgu, sy'n rheswm pam fod un o'r cynigion, a gafodd ei gyflawni, yn datgan y byddai'n cydweithio'n glôs gyda darparwyr addysgol arbenigol, oherwydd, mae'n amlwg, bod angen i chi wneud hynny. Mae'n gyffredin iawn bellach—ac mae gennyf beth profiad o hyn yn y diwydiant darlledu—i addysgwyr weithio'n agos â phobl gydag arbenigedd ym



because you need two sets of skills to deliver really attractive learning products.

[106] **Alun Cairns:** Thank you.

[107] **Mick Bates:** I thought that your description of this challenging first year is so true as a background, and I appreciate that you are helping us to understand this process. To help my understanding, I just want to refer to paragraph 3.51 under 'Project Monitoring and Control'. Now, the contract was actually signed on 22 February 2002, but specified that all claims against the £4 million of national council funding must be received by 20 March 2002. Why was such a tight deadline set, given that the project itself had a three-year timescale?

**Mr Martin:** I can only imagine that the staff were of the view that, if they did not spend the money in that time, they would not have a project, and that they therefore, improperly, let the contract in those terms.

[108] **Mick Bates:** I find that quite shocking really. How could an arrangement like that be considered good value or a defensible way of spending public money?

**Mr Martin:** It is a completely indefensible way of spending public money. There is not a cigarette paper between myself and the conclusions of the Auditor General about that matter.

[109] **Mick Bates:** Let us move on to 15 March. Learn to Live Ltd had written to you on 15 March requesting that, in the best interests of value for money, some expenditure should be deferred. On what basis was the decision taken to ignore this and, eventually, pay the whole £4 million on 27 March?

**Mr Martin:** It would appear that that letter, which went to the staff concerned, was received and filed, and it was not until the auditors found that correspondence, in pursuit of the detailed work that I commissioned, that we knew that such a letter had been received. It does not appear to have been drawn to the attention of any senior staff at all.

maes y cyfryngau gan fod angen dwy set o sgiliau arnoch i ddarparu cynhyrchion dysgu deniadol iawn.

[106] **Alun Cairns:** Diolch.

[107] **Mick Bates:** Credaf fod eich disgrifiad o'r flwyddyn gyntaf llawn her hon mor wir fel cefndir, a gwerthfawrogaf eich bod yn ceisio ein helpu i ddeall y broses hon. I helpu fi i ddeall, yr wyf am gyfeirio at baragraff 3.51 dan 'Monitro a Rheoli'r Prosiect'. Nawr, cafodd y contract ei lofnodi ar 22 Chwefror 2002, ond yr oedd yn nodi bod yn rhaid i holl geisiadau yn erbyn y £4 miliwn o gyllid y cyngor cenedlaethol fod mewn llaw erbyn 20 Mawrth 2002. Beth oedd y rheswm am amserlen mor dynn, o ystyried fod gan y prosiect ei hun amserlen o dair blynedd?

**Mr Martin:** Ni allaf ond dychmygu fod y staff yn credu na fyddai prosiect ganddynt os na fyddent yn gwario'r arian yn y cyfnod hwnnw, ac felly, eu bod, yn amhriodol, wedi rhoi'r contract dan yr amodau hynny.

[108] **Mick Bates:** Credaf fod hynny'n eithaf syfrdanol. Sut y gallai trefniant o'r fath gael ei ystyried yn werth da am arian neu'n ffordd gyfiawn o wario arian cyhoeddus?

**Mr Martin:** Mae'n ffordd o wario arian cyhoeddus na ellir ei amddiffyn o gwbl. Nid oes trwch blewyn rhwng fy nghasgliadau i a chasgliadau'r Archwilydd Cyffredinol ynglŷn â hynny.

[109] **Mick Bates:** Gadewch i ni symud at 15 Mawrth. Yr oedd Learn to Live Cyf wedi ysgrifennu atoch ar 15 Mawrth yn gofyn am ohirio peth gwariant, er lles gwerth am arian. Ar ba sail y cymerwyd y penderfyniad i anwybyddu hyn ac, yn y pen draw, i dalu'r £4 miliwn cyfan ar 27 Mawrth?

**Mr Martin:** Mae'n ymddangos fod y llythyr hwnnw, a anfonwyd at y staff dan sylw, wedi'i dderbyn a'i ffeilio, ac nid oeddem yn gwybod, tan i'r archwilwyr ddod o hyd i'r ohebiaeth honno, wrth chwilio am y gwaith manwl a gomisiynwyd gennyf, bod llythyr o'r fath wedi'i dderbyn. Nid yw'n ymddangos fod y llythyr wedi'i ddangos i uwch staff o gwbl.

[110] **Mick Bates:** Could I ask for a little more explanation? To whom was the letter dated 15 March addressed?

**Mr Martin:** To the relevant project manager.

[111] **Mick Bates:** To the relevant project manager? Where did he put it?

**Mr Martin:** Where the auditors found it when we undertook this detailed work later.

[112] **Mick Bates:** Just out of interest, where exactly was that?

**Mr Martin:** I believe it was on a file, but I would have to check the precise detail.

[113] **Mick Bates:** It was on a file?

**Mr Martin:** Which is how the auditors came to find it.

[114] **Mick Bates:** To move on from my complete surprise that that happened, the project application form and the contract refer to formal monitoring arrangements. Why were they not put into practice if both documents referred to them?

**Mr Martin:** It is clearly a failure of management to put those monitoring arrangements in place. The intention was that there would be, as you say, a regular programme of meetings. That regular programme of meetings, which took two forms—there was supposed to be monthly contact with the project manager and there was supposed to be, I think, at least a quarterly proper review meeting—was not instituted until, I think, it was October 2002. Do not hold me to the precise month, but it was certainly many months later. That is clearly not acceptable.

[115] **Mick Bates:** So what you are telling me, Mr Martin, is that no action was taken to chase Learn to Live Ltd for any financial report at all.

[110] **Mick Bates:** A gaf fi ofyn am ychydig mwy o eglurhad? At bwy yr oedd y llythyr dyddiedig 15 Mawrth wedi'i gyfeirio?

**Mr Martin:** At y rheolwr prosiect perthnasol.

[111] **Mick Bates:** At y rheolwr prosiect perthnasol? Ble roddodd ef y llythyr?

**Mr Martin:** Yn y fan lle daeth yr archilwyr o hyd iddo pan wnaethom ni'r gwaith manwl hwn yn ddiweddarach.

[112] **Mick Bates:** Er diddordeb, ble yn union oedd hynny?

**Mr Martin:** Credaf ei fod ar ffeil, ond byddai'n rhaid i mi edrych i gael yr union fanylion.

[113] **Mick Bates:** Yr oedd ar ffeil?

**Mr Martin:** Ac felly y daeth yr archilwyr o hyd iddo.

[114] **Mick Bates:** I symud ymlaen o'm syndod llwyr ynglŷn â'r hyn a ddigwyddodd, mae ffurflen gais y prosiect a'r contract yn cyfeirio at drefniadau monitro ffurfiol. Pam na chafodd y rhain eu rhoi ar waith os oedd y ddwy ddogfen yn cyfeirio atynt?

**Mr Martin:** Methiant y rheolwyr a oedd peidio â rhoi'r trefniadau monitro hynny ar waith. Y bwriad oedd cael rhaglen reolaidd o gyfarfodydd, fel i chi ddweud. Ni sefydlwyd y rhaglen reolaidd honno o gyfarfodydd, a oedd mewn dau ffurf—yr oedd cysylltiad misol i fod gyda rheolwr y prosiect a chyfarfod adolygu priodol bob chwarter, yr wyf yn credu—tan fis Hydref 2002, yr wyf yn credu. Peidiwch â'm dal at y mis yn bendant, ond yr oedd yn llawer o fisoedd yn ddiweddarach yn sicr. Nid yw hynny'n amlwg yn dderbyniol o gwbl.

[115] **Mick Bates:** Felly yr hyn a ddywedwch wrthyf, Mr Martin, yw na chymerwyd unrhyw gamau gweithredu i ofyn i Learn to Live Cyf am unrhyw adroddiad ariannol o gwbl.

**Mr Martin:** That is my understanding.

[116] **Mick Bates:** When you say that that is your understanding, did you yourself, in the process of your monitoring of this, ask why it had not taken place?

**Mr Martin:** What happened is that I instituted, as part of the restructured organisation, a performance board, because it was quite clear that we needed a rigorous process of receiving information in a structured way about all projects and all major things in the operational plan. I had previously conducted quarterly monitoring meetings with all the directors, but I came to realise, particularly as the weight of the agenda on the higher education side increased, that I needed a process whereby one of the senior managers had a dedicated responsibility for overseeing performance and knowledge management issues. That group was established, and in fact Peter Higson subsequently chaired it from August last year onwards, or November, or at least from some point in the process, but certainly not at the stage—

[117] **Mick Bates:** No passing the buck there?

**Mr Martin:** None whatsoever. I am just trying to make it clear that we established that arrangement. I have to say that that performance board and its chair really found it difficult to get quality information about projects coming back. It was incredibly hard work, and the first report, I believe, that the project board had on the Pop Factory project was in October 2002.

[118] **Mick Bates:** I think it was November. To delve deeper into this, the contract contains three conditions precedent that must be met before funds are released. Why were these specified in the contract and then not enforced prior to making the payment of £4 million?

**Mr Martin:** There is not an explanation that makes any sense about that. I mean, clearly, if those conditions are in a contract, those managing a contract should ensure that they have been met before the money is released

**Mr Martin:** Dyna fy nealltwriaeth i.

[116] **Mick Bates:** Pan ddywedwch mai dyna yw eich dealltwriaeth, a wnaethoch chi, wrth fonitro hyn, ofyn pam nad oedd hyn wedi digwydd?

**Mr Martin:** Yr hyn a ddigwyddodd oedd i mi sefydlu bwrdd perfformiad, fel rhan o'r sefydliad a ad-drefnwyd, gan ei bod yn amlwg iawn ein bod angen proses drylwyr o dderbyn gwybodaeth mewn ffordd strwythurol am yr holl brosiectau a'r holl bethau pwysig yn y cynllun gweithredol. Yr oeddwn wedi cynnal cyfarfodydd monitro chwarterol gyda'r holl gyfarwyddwyr cyn hyn, ond deuthum i sylweddoli, yn arbennig wrth i bwysau'r agenda ar yr ochr addysg uwch gynyddu, fod angen proses lle yr oedd gan un o'r uwch reolwyr gyfrifoldeb neilltuol am oruchwyllo materion perfformiad a rheoli gwybodaeth. Sefydlwyd y grŵp hwnnw, a Peter Higson, mewn gwirionedd, oedd y cadeirydd o fis Awst, neu fis Tachwedd y llynedd ymlaen, neu o leiaf am ryw bwynt yn y broses, ond yn bendant nid ar yr adeg—

[117] **Mick Bates:** Nid ydych yn bwrw'ch cyfrifoldeb yma?

**Mr Martin:** Ddim o gwbl. Yr unig beth a geisïaf ei wneud yw datgan yn glir ein bod wedi sefydlu'r trefniant hwnnw. Mae'n rhaid i mi ddweud fod y bwrdd perfformiad a'i gadeirydd yn ei chael yn anodd i gael gwybodaeth o ansawdd am brosiectau. Yr oedd yn waith anodd iawn, ac ym mis Hydref 2002, yr wyf yn credu, y cafodd y bwrdd prosiect yr adroddiad cyntaf ar brosiect y Ffatri Bop.

[118] **Mick Bates:** Credaf mai mis Tachwedd ydoedd. I dreiddio'n ddyfnach i hyn, mae'r contract yn cynnwys tair amod gysail sy'n rhaid eu bodloni cyn i'r arian gael ei ryddhau. Pam y cafodd y rhain eu nodi yn y contract ond na weithredwyd hwy cyn gwneud y taliad o £4 miliwn?

**Mr Martin:** Ni cheir esboniad sy'n gwneud unrhyw synnwyr am hynny. Mae'n amlwg, os yw'r amodau hynny mewn contract, dylai'r rhai sy'n rheoli contract sicrhau bod yr amodau wedi'u bodloni cyn i'r arian gael

and so on, and, as the report describes totally accurately, some of those conditions were not fulfilled; that is clearly a serious omission.

[119] **Mick Bates:** As a final question, we accept all these serious omissions and the challenging year, but just to help my understanding, Mr Higson, are you completely confident that you have systems, let us say project monitoring and control, that actually satisfy you, and that would never allow something like this to happen again?

**Dr Higson:** I will take that in a number of parts. We have identified a weakness in staff skills around project and contract management and we have training in place for them. By the end of this year approximately a quarter of all our staff will have gone through initial project and contract management training. That will be followed up by more advanced training for those who do it as a bigger part of their job.

We have developed a model contract with legal advice, which will be the standard contract, which will then be filled in with various content around various contracts that we will be letting. That will be scrutinised through our compliance function and through our finance directorate. I am a great believer that the finance directorate has to be at the heart of anything that we do and that anything that goes out through the door, in financial terms, has been checked thoroughly. In terms of project management, we have built on what Mr Martin said, and have strengthened our project management arrangements. We have put a bit more staffing into it as well. We have also integrated into our general performance and project management arrangements our audit recommendations and a risk register for the organisation. So, my overall view is that we have actually put in place the systems, and that the next six months will see them getting firmly embedded so that we have the proof positive that things have been properly managed.

[120] **Mick Bates:** So, the letter that mysteriously remained on file—that would

ei ryddhau ac yn y blaen, ac, fel mae'r adroddiad yn disgrifio'n hollol gywir, ni chwblhawyd rhai o'r amodau hynny; mae hynny'n achos o hepgor difrifol.

[119] **Mick Bates:** Fel cwestiwn olaf, yr ydym yn derbyn yr holl hepgoriadau difrifol hyn a'r flwyddyn llawn her, ond i helpu fy nealltwriaeth, Mr Higson, a ydych chi'n hollol hyderus bod gennych systemau, gadewch i ni ddweud systemau monitro a rheoli, sy'n eich bodloni'n llwyr mewn gwirionedd, ac na fydddech yn caniatáu rhywbeth fel hyn i ddigwydd eto?

**Dr Higson:** Atebaf hynny mewn nifer o rannau. Yr ydym wedi nodi gwendid mewn sgiliau staff yn gysylltiedig â rheoli'r prosiect a'r contract ac wedi darparu hyfforddiant ar eu cyfer. Erbyn diwedd eleni bydd tua chwarter o'n holl staff wedi derbyn hyfforddiant prosiect a chontract cychwynnol. Bydd hynny'n cael ei ddilyn gan hyfforddiant uwch i'r rhai sy'n ei wneud fel rhan fwy sylweddol o'u swydd.

Yr ydym wedi datblygu contract model gyda chyngor cyfreithiol, a fydd yn contract safonol, ac a fydd wedyn yn cael ei lenwi gyda gwahanol gynnwys yn gysylltiedig â'r gwahanol contractau y byddwn yn eu rhoi. Bydd hwnnw'n destun craffu trwy ein swyddogaeth gydymffurfio a thrwy ein cyfarwyddiaeth ariannol. Yr wyf yn gredwr cryf y dylai'r gyfarwyddiaeth ariannol fod yn ganolog i unrhyw beth a wnawn a bod unrhyw beth sy'n mynd drwy'r drws, mewn termau ariannol, wedi'i archwilio'n drylwyr. O ran rheoli prosiect, yr ydym wedi adeiladu ar yr hyn a ddywedodd Mr Martin, ac wedi cryfhau ein trefniadau rheoli prosiect. Yr ydym wedi cynnwys mwy o staff yn ogystal. Yr ydym hefyd wedi integreiddio ein hargymhellion archwilio a chofrestr risg ar gyfer y sefydliad i mewn i'n trefniadau rheoli prosiect a pherfformiad cyffredinol. Felly, fy marn gyffredinol yw ein bod mewn gwirionedd wedi gosod y systemau, ac y byddant yn cael eu sefydlu'n gadarn yn ystod y chwe mis nesaf fel y bydd gennym dystiolaeth gadarn fod pethau wedi cael eu rheoli'n briodol.

[120] **Mick Bates:** Felly, y llythyr a arhosodd ar ffeil trwy ddirgelwch—a fyddai hynny

never happen again? A letter of significance in this process would get through?

**Dr Higson:** Anything of significance in a process like that, I think, would be a very unlikely occurrence from now on.

[121] **Mick Bates:** Thank you. Finally, Chair, for Jon Shortridge, when were you actually aware of this terrible mislaid letter in all this process? It is quite critical. I mean, it wanted to defer payments, yet payments were made.

**Sir Jon Shortridge:** I imagine that the first time that I became aware of it was when I read the national council's own internal audit report, which would have been probably about May.

[122] **Mick Bates:** Thank you, Chair.

[123] **Leighton Andrews:** May I come in on this, Chair?

[124] **Janet Davies:** One very brief question, Leighton.

[125] **Leighton Andrews:** Just so that we can understand all the elements of what appears to be a catalogue of incompetence, what is the reporting line of the person who filed the letter from Learn to Live Ltd to you?

**Mr Martin:** At a very considerable remove. I am trying to remember what it—

[126] **Leighton Andrews:** You called that person a project manager?

**Mr Martin:** Yes. The overall project responsibility lay with the director; there was a senior member of staff responsible for the Pop Factory project and there was a day-to-day project manager working for that person.

[127] **Leighton Andrews:** Okay.

[128] **Janet Davies:** Thank you. We will now break for coffee.

byth yn digwydd eto? Byddai llythyr arwyddocaol i'r broses hon yn mynd trwodd?

**Dr Higson:** Credaf ei bod yn annhebygol y byddai unrhyw beth mor arwyddocaol mewn proses o'r fath yn digwydd o hyn allan.

[121] **Mick Bates:** Diolch. Yn olaf, Gadeirydd, i Jon Shortridge, pryd yr oeddech yn ymwybodol mewn gwirionedd o'r llythyr a gollwyd yn ddifrifol yn y broses hon? Mae'n eithaf allweddol. Hynny yw, yr oedd am ohirio taliadau, ond eto cafodd taliadau eu gwneud.

**Syr Jon Shortridge:** Dychmygaf mai'r tro cyntaf y deuthum yn ymwybodol ohono oedd pan ddarllenais adroddiad archwilio mewnol y cyngor cenedlaethol ei hun, sef tua mis Mai mae'n debyg.

[122] **Mick Bates:** Diolch, Gadeirydd.

[123] **Leighton Andrews:** A gaf fi ddod i mewn yma, Gadeirydd?

[124] **Janet Davies:** Un cwestiwn cryno iawn, Leighton.

[125] **Leighton Andrews:** Er mwyn i ni allu deall yr holl elfennau o'r hyn sy'n ymddangos fel catalog o anallu, beth yw llinell adrodd y sawl a ffeiliodd y llythyr gan Learn to Live Cyf i chi?

**Mr Martin:** Pell iawn oddi wrthyf. Yr wyf yn ceisio cofio beth oedd—

[126] **Leighton Andrews:** Bu i chi alw'r unigolyn hwnnw'n rheolwr prosiect?

**Mr Martin:** Do. Y cyfarwyddwr sy'n gyfrifol am y prosiect yn gyffredinol; yr oedd uwch aelod o staff yn gyfrifol am brosiect y Ffatri Bop ac yr oedd rheolwr prosiect o ddydd i ddydd yn gweithio i'r unigolyn hwnnw.

[127] **Leighton Andrews:** Iawn.

[128] **Janet Davies:** Diolch. Cawn egwyl goffi yn awr.

*Gohiriwyd y cyfarfod rhwng 11.22 a.m. a 11.33 a.m.  
The meeting was adjourned between 11.22 a.m. and 11.33 a.m.*

[129] **Janet Davies:** Thank you for getting back pretty well on time. Before we go any further, would it be possible for the Audit Committee members to have a copy of the letter of 15 March?

**Dr Higson:** Yes, Chair.

[130] **Janet Davies:** Thank you. I would also like to say that I have decided to drop item 4 from today's agenda. That is the item concerning achieving cost savings through improved procurement in further education colleges. I will now ask Denise to continue the questioning.

[131] **Denise Idris Jones:** I refer to paragraph 3.64. Annex C to the contract addressed capital expenditure and required the company, which is not unnatural, to supply invoices to support its funding draw-down. For £1.2 million, only quotes or estimates were provided, but in fact the national council did pay in full. Why were there no invoices to support such claims for funding?

**Mr Martin:** Again, I can only repeat what I have said. These are breaches. The terms of the contract were very clear that these things should have been done, and they were not done.

[132] **Denise Idris Jones:** And nobody asked for these invoices?

**Mr Martin:** I cannot say that they did not ask for them, but they certainly paid before they got them.

[133] **Denise Idris Jones:** That is just unbelievable. Anyway, I will carry on. No case was prepared by national council staff to assess whether an advance payment was justified. Why was no business case prepared to assess whether an advance payment was justified on this contract?

**Mr Martin:** Again, clearly, that should have happened, and—

[134] **Denise Idris Jones:** We are talking

[129] **Janet Davies:** Diolch am ddod yn ôl yn weddol brydlon. Cyn i ni fynd ymhellach, a fyddai modd i aelodau'r Pwyllgor Archwilio gael copi o lythyr 15 Mawrth?

**Dr Higson:** Byddai, Gadeirydd.

[130] **Janet Davies:** Diolch. Hoffwn ddweud hefyd fy mod wedi penderfynu dileu eitem 4 o agenda heddiw. Dyna'r eitem sy'n ymwneud â sicrhau arbedion cost drwy gaffael gwell mewn colegau addysg bellach. Yr wyf yn awr am ofyn i Denise barhau â'r cwestiynau.

[131] **Denise Idris Jones:** Cyfeiriaf at baragraff 3.64. Yr oedd Atodiad C i'r contract yn trafod gwariant cyfalaf ac yr oedd yn gofyn i'r cwmni, nad yw'n anarferol, gyflenwi anfonebau i ategu ei fenthyciadau cyllid. Am £1.2 miliwn, dim ond dyfynbrisiau neu amcangyfrifon a ddarparwyd, ond talodd y cyngor cenedlaethol yn llawn mewn gwirionedd. Pam nad oedd anfonebau i ategu ceisiadau o'r fath am gyllid?

**Mr Martin:** Eto, yr unig beth y gallaf ei wneud yw ailddweud yr hyn yr wyf wedi ei ddweud. Mae'r rhain yn dorcytundebau. Yr oedd amodau'r contract yn glir iawn y dylid bod wedi gwneud y pethau hyn, ac ni chawsant eu gwneud.

[132] **Denise Idris Jones:** Oni ofynnodd unrhyw un am yr anfonebau hyn?

**Mr Martin:** Ni allaf ddweud na wnaethant ofyn amdanynt, ond yn sicr yr oeddent wedi talu cyn eu cael.

[133] **Denise Idris Jones:** Mae hynny'n anghredadwy. Ta waeth, af ymlaen. Ni pharatowyd achos gan staff y cyngor cenedlaethol i asesu a ellid cyfiawnhau taliad ymlaen llaw. Pam na pharatowyd achos busnes i asesu a ellid cyfiawnhau taliad ymlaen llaw gyda'r contract hwn?

**Mr Martin:** Eto, yn amlwg, dylai hynny fod wedi digwydd, a—

[134] **Denise Idris Jones:** Yr ydym yn siarad

about a lot of money here, are we not?

**Mr Martin:** Absolutely.

[135] **Denise Idris Jones:** Exactly, yes.

**Mr Martin:** I agree totally. It is very difficult for me to add to the conclusions in the Auditor General's report, because, manifestly, any payment in advance has to be justified on the basis of a business case. If what is proposed is not supported by a business case, or amounts to a payment in advance of need, then it should not happen.

[136] **Denise Idris Jones:** And how was it that nearly half of the £4 million was paid in advance of need, breaching the requirements of *Government Accounting*?

**Mr Martin:** Well, again, because the requirements were not followed as they should have been. The clear requirements of *Government Accounting* were not followed in that case, and the payment should not have been made in those circumstances.

[137] **Denise Idris Jones:** It was decided to bring forward a planned internal audit review of the project to December 2002. What prompted this decision to bring it forward to that date?

**Mr Martin:** The responsible senior manager had picked up that the expenditure return, which was made at that time, from the company, seemed out of kilter with what he understood to be the actual progress of the project. So he took the, I believe, very sensible step of asking the auditors to bring forward their review and then, subsequently, I was made aware of the issue at that time. In the light of the emerging findings of the audit report I then, in the following month, commissioned the very detailed internal audit work that has led to the findings in this report ultimately.

[138] **Denise Idris Jones:** So there was a feeling at that time that things were definitely going out of place?

**Mr Martin:** Yes, and there were rumours

am lawer o arian yma, onid ydym?

**Mr Martin:** Yn sicr.

[135] **Denise Idris Jones:** Yn union, ydym.

**Mr Martin:** Yr wyf yn cytuno'n llwyr. Mae'n anodd iawn i mi ychwanegu at y casgliadau yn adroddiad yr Archwilydd Cyffredinol, oherwydd, yn amlwg, mae'n rhaid cyfiawnhau unrhyw daliad ymlaen llaw ar sail achos busnes. Os nad yw'r hyn a gynigir yn cael ei gefnogi gan achos busnes, neu'n cyfrif fel taliad cyn bod angen, yna ni ddylai ddigwydd.

[136] **Denise Idris Jones:** A sut y bu i bron i hanner y £4 miliwn gael ei dalu cyn bod angen, gan dorri gofynion *Cyfrifo'r Llywodraeth*?

**Mr Martin:** Wel, eto, oherwydd na ddilynwyd y gofynion fel y dylid fod wedi ei wneud. Ni ddilynwyd gofynion clir *Cyfrifo'r Llywodraeth* yn yr achos hwnnw, ac ni ddylid fod wedi gwneud y taliad dan yr amgylchiadau hynny.

[137] **Denise Idris Jones:** Penderfynwyd dod ag adolygiad archwiliad mewnol arfaethedig o'r prosiect ymlaen i Ragfyr 2002. Beth a sbardunodd y penderfyniad hwn i ddod â'r adolygiad ymlaen i'r dyddiad hwnnw?

**Mr Martin:** Yr oedd yr uwch reolwr cyfrifol wedi gweld bod yr adroddiad gwariant, a wnaed bryd hynny, gan y cwmni, yn ymddangos fel pe bai'n anghyson â'r hyn yr oedd yn ei ddeall oedd cynnydd gwirioneddol y prosiect. Felly, yn fy marn i, cymerodd y cam synhwyrol o ofyn i'r archwilwyr ddod â'u hadolygiad ymlaen ac yna, wedi hynny, daeth y mater i'm sylw bryd hynny. Yng ngoleuni canfyddiadau'r adroddiad archwiliad comisiynais, yn y mis canlynol, y gwaith archwilio mewnol manwl iawn sydd wedi arwain at y canfyddiadau yn yr adroddiad hwn yn y pen draw.

[138] **Denise Idris Jones:** Felly yr oedd teimlad ar y pryd bod pethau'n sicr yn mynd o chwith?

**Mr Martin:** Oedd, ac yr oedd sibrydion ar

flying around as well about redundancies being made within the company. It was obviously a very prudent step at that point to make sure that proper checks were done by the auditors on what had happened to the money and what state the project had reached.

[139] **Jocelyn Davies:** Could I just ask a question on a point of clarification, Chair?

[140] **Janet Davies:** Yes.

[141] **Jocelyn Davies:** Was that done by the national council's audit committee?

**Mr Martin:** The audit committee, and I would have to check the papers to confirm this, was informed about this, and was kept informed throughout the process. The initial decision to actually send the auditors in was a management decision, and properly a management decision. Of course, what this enabled us to do then was to take rapid action to secure repayment of money that had not been spent on the project.

[142] **Jocelyn Davies:** So the audit committee was kept informed, and there was a National Assembly official on the audit committee?

**Mr Martin:** There is an observer from the National Assembly on the audit committee, yes.

[143] **Jocelyn Davies:** Thank you.

[144] **Janet Davies:** Thank you, Jocelyn. Do you have any further questions, Denise?

[145] **Denise Idris Jones:** I have finished, thank you.

[146] **Janet Davies:** Okay. Before we left this part of the report I was going to ask what were the future prospects for the project, Mr Higson. You have already referred to them to an extent, but is there any thing else that you want to add to that?

**Dr Higson:** Shall I just summarise where we

led hefyd am ddiswyddiadau yn cael eu gwneud o fewn y cwmni. Yr oedd yn amlwg yn gam doeth iawn bryd hynny i sicrhau bod archwiliadau trylwyr yn cael eu gwneud gan yr archwilwyr o'r hyn a oedd wedi digwydd i'r arian ac ym mha gyflwr yr oedd y prosiect.

[139] **Jocelyn Davies:** A gaf fi ofyn cwestiwn er eglurhad, Gadeirydd?

[140] **Janet Davies:** Cewch.

[141] **Jocelyn Davies:** Ai pwyllgor archwilio'r cyngor cenedlaethol a wnaeth hynny?

**Mr Martin:** Hysbyswyd y pwyllgor archwilio, a byddai'n rhaid i mi archwilio'r papurau i gadarnhau hyn, am hyn, ac fe'i hysbyswyd gydol y broses. Penderfyniad y rheolwyr oedd y penderfyniad cychwynnol i anfon yr archwilwyr i mewn, ac yr oedd hwn yn gywir yn benderfyniad y rheolwyr. Wrth gwrs, yr hyn a alluogodd hyn i ni ei wneud oedd gweithredu'n gyflym i sicrhau bod arian nad oedd wedi'i wario ar y prosiect yn cael ei ad-dalu.

[142] **Jocelyn Davies:** Felly hysbyswyd y pwyllgor archwilio gydol yr adeg, ac yr oedd swyddog o'r Cynulliad Cenedlaethol ar y pwyllgor archwilio?

**Mr Martin:** Mae arsyllwr o'r Cynulliad Cenedlaethol ar y pwyllgor archwilio, oes.

[143] **Jocelyn Davies:** Diolch.

[144] **Janet Davies:** Diolch, Jocelyn. A oes gennych unrhyw gwestiynau pellach, Denise?

[145] **Denise Idris Jones:** Yr wyf wedi gorffen, diolch.

[146] **Janet Davies:** O'r gorau. Cyn i ni adael y rhan hon o'r adroddiad yr oeddwn am ofyn beth oedd rhagolygon y prosiect ar gyfer y dyfodol, Mr Higson. Yr ydych wedi cyfeirio yn barod atynt i ryw raddau, ond a oes unrhyw beth arall yr hoffech ei ychwanegu at hynny?

**Dr Higson:** A gaf fi grynhoi ble'r ydym er



are just to make things clear?

[147] **Janet Davies:** Yes.

**Dr Higson:** We have reviewed progress to date in terms of the one module, that is the combined module. There has been an initial evaluation of that. I think that there are issues, before we can make a decision to move forward, around cost content and delivery of future modules, which we need to be assured of in terms of value for money and so on. So we need to have a much clearer specification of what would go into the subsequent three, and a much clearer idea of the cost so that there is some benchmark that we can set it against. On the basis that we can also resolve the state aid issue by mutual agreement, we will prepare a project proposal, using our new procedures, for the national council to consider in November. If there were a decision to proceed, and if that was then approved by the Assembly, we would then negotiate a new contract with much clearer deliverables and milestones. So I think, at the moment, that it is work in progress but we hope to conclude that work in the next six weeks.

[148] **Janet Davies:** Okay, thank you. I would like to turn now to part 4 of the report, which concerns other innovation development programme projects. I should mention that there are 17 of these other projects. Paragraph 4.7 and figure 7 point out that several of the key weaknesses found in the Pop Centre cafe project have also been uncovered in these other projects. It is clearly a matter of enormous concern that those key weaknesses have appeared. How did this happen?

**Mr Martin:** Shall I begin?

[149] **Janet Davies:** Yes.

**Mr Martin:** Perhaps I can just go back to the process. Again, the proposals as they were developed were, as was required by the council's delegated authority to the chairman and myself, referred to us. We gave unconditional approval to five of those projects. We turned down three, although we

mwyn gwneud pethau'n glir?

[147] **Janet Davies:** Iawn.

**Dr Higson:** Yr ydym wedi adolygu ein cynnydd hyd yma o ran yr un modiwl, hynny yw y modiwl cyfunol. Mae gwerthusiad cychwynnol wedi'i gynnal o hwnnw. Credaf fod materion, cyn i ni allu penderfynu symud ymlaen, ynglŷn â chynnwys costau a darpariaeth modiwlau yn y dyfodol, y mae angen i ni gael sicrwydd yn eu cylch o ran gwerth am arian ac ati. Felly mae angen i ni gael manyleb llawer cliriach o'r hyn a fyddai'n mynd i mewn i'r tri dilynol, a syniad llawr cliriach o'r costau fel bod rhyw feincnod y gallwn ei gymharu yn ei erbyn. Ar y sail y gallwn hefyd ddatrys y mater cymorth gwladol drwy gyd-gytuno, byddwn yn paratoi cynnig prosiect, gan ddefnyddio ein gweithdrefnau newydd, i'r cyngor cenedlaethol ei ystyried ym mis Tachwedd. Pe bai penderfyniad i fynd ymlaen â hyn, a phe bai hynny wedyn yn cael ei gymeradwyo gan y Cynulliad, byddem yn negodi contract newydd gydag amcanion darparu a cherrig milltir llawer cliriach. Felly credaf, ar hyn o bryd, mai gwaith sy'n mynd rhagddo ydyw ond ein gobaith yw ei orffen yn y chwe wythnos nesaf.

[148] **Janet Davies:** Iawn, diolch. Hoffem droi yn awr at ran 4 yr adroddiad, sy'n trafod prosiectau rhaglen datblygu arloesedd eraill. Dylwn grybwyll bod 17 o'r prosiectau eraill hyn. Mae paragraff 4.7 a ffigur 7 yn nodi bod nifer o'r diffygion allweddol a ddatgelwyd ym mhrosiect caffi'r Ganolfan Bop hefyd wedi dod i'r amlwg yn y prosiectau eraill. Mae'n amlwg yn fater o bryder mawr bod y diffygion allweddol hynny wedi ymddangos. Sut y digwyddodd hyn?

**Mr Martin:** A gaf fi gychwyn?

[149] **Janet Davies:** Cewch.

**Mr Martin:** Efallai y caf fynd yn ôl at y broses. Eto, cyfeiriwyd y cynigion fel yr oeddynt yn cael eu datblygu, fel a oedd yn ofynnol yn ôl awdurdod dirprwyedig y cyngor i'r cadeirydd a minnau, atom ni. Bu i ni roi cymeradwyaeth ddiamod i bump o'r prosiectau hynny. Bu i ni wrthod tri, er na

did not close the door to them coming back if our rather more fundamental than usual concerns could be dealt with satisfactorily. For the rest we required further work to be done before we were prepared to see them proceed. In two cases, in addition to the Pop Factory that is, namely the Sustainable Experience and the supplementary growth in further education, I explicitly required that they should come back to me before they could proceed. In other cases, I asked that the relevant senior manager should ensure that our concerns were followed up before the projects could go ahead. Those were concerns of a lesser order. You have also seen from figure 7 that, on the basis of the information provided to the chairman and myself, it was, we think, reasonable to believe that it would have been possible in all cases to incur expenditure properly before 31 March 2002.

I touched on this earlier, but perhaps I could say something about this again, because I think that it is wrong to categorise all the projects in quite the same way in terms of what happened and what the weaknesses were. There is actually a stark contrast between the development process for projects undertaken by staff in respect of the further education college infrastructure, and those in respect of the non-further-education provision. I think that that simply reflects the different procedures that existed in the relevant parts of the organisation at the time, when we were still operating under the predecessor arrangements. Again, I want to stress that I am not casting any aspersions about the predecessor arrangements except that they were not fit-for-purpose within the context that we were then operating for a number of these schemes.

In the former case—that of the FE colleges—there was a very rigorous process in place under which, particularly, our specialist estates officer vetted the projects. They had to conform with the estates strategy of the relevant college, and had to represent a proper assessment of options. So, it was not just a matter of doing this because it was the only thing on offer but of asking what were the other alternatives for undertaking this particular capital project. There was also a

wnaethom gau'r drws arnynt i ddod yn ôl pe gellid mynd i'r afael yn foddhaol â'n pryderon mwy sylfaenol nag arfer. Gyda'r gweddill yr oeddem yn disgwyl i waith pellach gael ei gyflawni cyn ein bod yn barod iddynt fynd ymlaen. Mewn dau achos, yn ogystal â'r Ffatri Bop, sef y Profiad Cynaliadwy a'r twf atodol mewn addysg bellach, gofynnais yn benodol iddynt ddod yn ôl ataf cyn iddynt allu mynd ymlaen. Mewn achosion eraill, gofynnais i'r uwch reolwyr perthnasol sicrhau eu bod yn mynd i'r afael â'n pryderon cyn i'r prosiectau gael mynd ymlaen. Yr oedd y rhai hynny yn bryderon llai difrifol. Yr ydych hefyd wedi gweld o ffigur 7 ei bod yn rhesymol credu, ar sail y wybodaeth a ddarparwyd i'r cadeirydd a minnau, y byddai modd gwario'n briodol ym mhob achos cyn 31 Mawrth 2002.

Bu i mi sôn am hyn yn gynharach, ond efallai y caf fi ddweud rhywbeth am hyn eto, oherwydd credaf nad yw'n iawn categoreiddio'r holl brosiectau yr un fath yn union o ran yr hyn a ddigwyddodd a beth oedd y gwendidau. Mae cyferbyniad amlwg mewn gwirionedd rhwng y broses ddatblygu ar gyfer prosiectau a gyflawnwyd gan staff sy'n ymwneud â seilwaith y coleg addysg bellach, a'r rhai sy'n ymwneud â'r ddarpariaeth nad yw'n ddarpariaeth addysg bellach. Credaf fod hynny'n syml yn adlewyrchu'r gwahanol weithdrefnau a oedd yn bodoli yn rhannau perthnasol y sefydliad ar y pryd, pan yr oeddem yn parhau i weithredu dan y trefniadau blaenorol. Eto, yr wyf am bwysleisio nad wyf yn lladd ar y trefniadau blaenorol ar wahân i'r ffaith nad oeddynt yn addas i'r pwrpas yn y cyddestun yr oeddem yn ei weithredu bryd hynny ar gyfer nifer o'r cynlluniau hyn.

Yn achos yr olaf—sef colegau AB—yr oedd proses drwyadl iawn ar waith lle'r oedd, yn benodol, ein swyddog ystadau arbenigol yn pwysu a mesur y prosiectau. Yr oedd yn rhaid iddynt gydymffurfio â strategaeth ystadau'r coleg perthnasol, ac yn gorfod cynrychioli asesiad iawn o opsiynau. Felly, nid dim ond mater o wneud hyn oherwydd mai dyna oedd yr unig beth a oedd ar gael oedd hyn, ond o ofyn beth oedd y dewisiadau eraill ar gyfer cynnal y prosiect cyfalaf

sensitivity analysis around the key assumptions and there was a process of checking the financial health implications of any borrowing, or other commitments being entered into by the colleges in undertaking the projects.

All that was clearly laid out in a circular to the sector and was followed rigorously. However, nothing like that thoroughness, as it transpired, was applied in the case of the non-FE projects. I think one learns the same lessons from all that as one would take from our discussion on the Pop Factory project. However, I did want to say that I think that for the majority of these projects, in particular those that relate to the FE estate, there was actually a very rigorous process in place and that insofar as there were weaknesses—and in one case there was some payment in advance of need—they were despite, as it were, rather than because of, a reasonable project appraisal and management system.

[150] **Janet Davies:** Mr Martin, the question occurs to me that if you were receiving reports of this rigorous appraisal for FE colleges issues, did you not notice any difference between those and the others?

**Mr Martin:** No, because what was actually presented to the chairman and myself—and I accept that this was not sufficient and is one of the reasons that led to us requiring further work—was a summary, or the main features, of the proposal rather than, as it were, all the underlying processes. I was aware that the FE college infrastructure investments were, as I said earlier, a hangover from an oversubscribed scheme that the council had operated earlier in the year. I knew that the processes for that were as they were because we had issued a circular about it to the FE sector and so on—it was all very clear and I think it was based on pretty good practice for the most part. I did not have the same awareness of what had existed in terms of the procedures in the various regional offices, and that, clearly, was the underlying deficiency in terms of the way in which these matters were handled.

penodol hwn. Yr oedd dadansoddiad o sensitifrwydd hefyd ynghylch rhagdybiaethau allweddol ac yr oedd proses o archwilio goblygiadau iechyd ariannol unrhyw fenthyca neu ymrwymadau eraill yr oedd y colegau yn eu gwneud wrth gyflawni'r prosiectau.

Yr oedd hynny i gyd wedi'i nodi'n glir mewn cylchlythyr i'r sector ac fe'i dilynwyd yn drwyadl. Fodd bynnag, ni ddefnyddiwyd unrhyw beth tebyg i'r manylder hwnnw, fel a ddaeth yn amlwg, yn achos y prosiectau nad ydynt yn rhai AB. Credaf fod rhywun yn dysgu yr un gwersi o hynny i gyd ag y byddai rhywun yn eu dysgu o'n trafodaeth ar y prosiect Ffatri Bop. Fodd bynnag, yr oeddwn am ddweud fy mod yn credu yn achos y mwyafrif o'r prosiectau hyn, yn enwedig y rhai hynny sy'n ymwneud â'r ystâd AB, bod proses drwyadl iawn wedi bod ar waith ac mor belled ag yr oedd gwendidau—ac mewn un achos yr oedd rhywfaint o dalu cyn bod angen—yr oeddynt er gwaethaf, fel petai, yn hytrach nag oherwydd, system arfarnu a rheoli prosiect resymol.

[150] **Janet Davies:** Mr Martin, daw'r cwestiwn i'm meddwl os oeddech yn cael adroddiadau o'r arfarniad trylwyr hwn ar gyfer materion colegau AB, oni wnaethoch sylwi ar unrhyw wahaniaeth rhwng y rheini a'r lleill?

**Mr Martin:** Na, oherwydd yr hyn a gyflwynwyd i'r cadeirydd a minnau mewn gwirionedd—a derbyniaf nad oedd hyn yn ddigonol ac mae'n un o'r rhesymau a arweiniodd atom i ofyn am waith pellach—oedd crynodeb o'r cynnig, neu brif nodweddion y cynnig, yn hytrach na'r holl brosesau sylfaenol, fel petai. Yr oeddwn yn ymwybodol bod y buddsoddiadau seilwaith coleg AB, fel y dywedais yn gynharach, yn froc môr o gynllun gordanysgrifedig y bu'r cyngor yn ei weithredu yn gynharach yn y flwyddyn. Gwyddwn fod y prosesau ar gyfer hwnnw fel yr oeddynt oherwydd yr oeddem wedi cyhoeddi cylchlythyr amdano i'r sector AB ac ati—yr oedd i gyd yn glir iawn a chredaf iddo fod yn seiliedig ar arferion eithaf da i raddau helaeth. Nid oedd gennyf yr un ymwybyddiaeth o'r hyn a oedd wedi bodoli o ran y gweithdrefnau yn y swyddfeydd rhanbarthol amrywiol a dyna, yn amlwg, oedd y diffyg sylfaenol o ran y modd

y deliwyd â'r materion hyn.

[151] **Janet Davies:** Mr Higson, are you aware of any other projects with similar weaknesses within the organisation?

**Dr Higson:** As I said earlier, at the end of April, I decided that it would be prudent to look at all the other national council's active projects at that time as well as putting in place more rigorous procedures for any new projects. From about 160 projects, which the national council was variously involved in, a total of 47 were non-compliant on the basis of either not having a scheme within the management relevant schedule or non-compliant in the sense of not having received council approval and, or Assembly approval for them to go ahead. There is a mixture there of some having had Assembly approval, but not council approval and so on. That was just about under a third, and within that, there are two outstanding issues of possible state aid, which we are investigating. There are four from the previous set of projects that you have just been discussing—two fairly low risk and two medium-ish risk—which we are also looking into at the moment and trying to get clarity on. Our review has also identified one project where there is a possible pre-16 vires issue under our powers. We have been, as I say, re-appraising all projects using our new procedures and have been taking any that were non-compliant through a very rigorous scrutiny within the national council and have, unfortunately, ended up in a position of having to seek retrospective approval from both council and, or the Assembly for those 47. There are 13 still outstanding that we are still ploughing through. So far, in terms of work to date, we have not identified any payments-in-advance of need issues, other than the issues that I have just mentioned.

In relation to that—if I can just add this—we have also done a considerable amount of work with our sponsor division to revise our management statement and financial memorandum and to make it more accessible and easier to use for our staff, in particular as part of the overall control framework. We are

[151] **Janet Davies:** Mr Higson, a ydych yn ymwybodol o unrhyw brosiectau eraill â gwendidau cyffelyb yn y sefydliad?

**Dr Higson:** Fel y dywedais yn gynharach, ar ddiwedd mis Ebrill, penderfynais y byddai'n ddoeth edrych ar holl brosiectau eraill y cyngor cenedlaethol a oedd ar y gweill bryd hynny yn ogystal â rhoi gweithdrefnau mwy trwyadl ar waith ar gyfer unrhyw brosiectau newydd. O ryw 160 o brosiectau, yr oedd y cyngor cenedlaethol ynghlwm wrthynt mewn rhyw fodd neu'i gilydd, nid oedd cyfanswm o 47 yn cydymffurfio ar y sail naill ai nad oedd ganddynt gynllun o fewn yr atodlen reoli berthnasol neu nad oeddynt yn cydymffurfio o ran nad oeddynt wedi cael cymeradwyaeth y cyngor ac, neu gymeradwyaeth y Cynulliad iddynt fynd yn eu blaen. Mae cymysgedd o rai sydd wedi cael cymeradwyaeth y Cynulliad, ond heb gael cymeradwyaeth y cyngor ac ati. Yr oedd hwnnw ychydig dan draean, ac o fewn hwnnw, mae dau fater o gymorth gwladol posibl yn weddill, yr ydym yn ymchwilio iddynt. Mae pedwar o'r set blaenorol o brosiectau yr ydych newydd fod yn eu trafod—dau â risg gweddol isel a dau â risg ganolig—yr ydym hefyd yn edrych arnynt ar hyn o bryd ac yn ceisio cael eglurder arnynt. Mae ein hadolygiad hefyd wedi adnabod un prosiect lle mae mater vires cyn-16 posibl dan ein pwerau. Yr ydym wedi bod, fel y dywedaf, yn ailwerthuso pob prosiect gan ddefnyddio ein gweithdrefnau newydd ac wedi bod yn craffu'n ofalus iawn ar y rhai nad oeddynt yn cydymffurfio yn y cyngor cenedlaethol ac wedi, yn anffodus, cael ein hunain yn y sefyllfa o orfod gofyn am ôl-gymeradwyaeth gan y cyngor ac, neu'r Cynulliad ar gyfer y 47 hynny. Mae 13 yn dal yn weddill yr ydym yn dal i balu drwyddynt. Mor belled, o ran y gwaith hyd yn hyn, nid ydym wedi nodi unrhyw faterion taliadau cyn bod angen, ac eithrio'r materion yr wyf newydd sôn amdanynt.

Mewn perthynas â hynny—os caf fi ychwanegu hyn—yr ydym hefyd wedi cyflawni cryn dipyn o waith gyda'n his-adran noddi i adolygu ein datganiad rheoli a memorandwm ariannol ac i'w wneud yn fwy hygyrch ac yn haws i'w ddefnyddio i'n staff, yn enwedig fel rhan o'r fframwaith rheoli

variously making it available electronically and are providing training and so on. However, in summary, there was a significant number of projects in May, which we identified as being non-compliant with our framework of control.

[152] **Janet Davies:** Thank you. Do you feel that you have outlined fully the lessons you have learned for the future from this?

**Dr Higson:** I think that the national council is very clear about what issues previous NAO reports and this one have raised. The NAO report built on the internal audit report into the projects. The action plan that I agreed with Sir John in April takes into account the weaknesses that they identify as well as further systemic and systems issues that I identified. The first six months of this financial year has been spent getting the systems more or less wholly in place. There is still a bit more work to be done on some, and in the second half of the year we will ensure that all the training goes with that to ensure that the council by the end of this period is functioning as a fully, fit-for-purpose public body.

[153] **Janet Davies:** Alun, you have a question.

[154] **Alun Cairns:** Yes, thank you, Cadeirydd. I am trying to reconcile what Mr Martin said with what Mr Higson has just said. In a response to you a moment ago, Cadeirydd, Mr Martin said that it would be wrong to categorise all projects in the same way. We read in figure 7 of the report that project application forms were not fully completed in seven of the cases. We then hear that formal risk assessments were not undertaken in any of the 17 cases that are mentioned here—we have already heard, obviously, about the pop cafe project. Mr Martin then also hinted that the FE infrastructure projects were very different. However, yet again, figure 7 states that

‘Of the £3.525 million provided to seven North Wales colleges in March 2002...’

cyffredinol. Yr ydym yn ei wneud ar gael yn electronig mewn amrywiol ffyrdd ac yn darparu hyfforddiant ac ati. Fodd bynnag, i grynhoi, yr oedd nifer sylweddol o brosiectau ym mis Mai, y bu inni nodi nad oeddynt yn cydymffurfio â’n fframwaith rheoli.

[152] **Janet Davies:** Diolch. A ydych yn teimlo eich bod wedi amlinellu’n llawn y gwersi yr ydych wedi eu dysgu ar gyfer y dyfodol o hyn?

**Dr Higson:** Credaf fod y cyngor cenedlaethol yn glir iawn am ba faterion y mae adroddiadau blaenorol y SAG a’r adroddiad hwn wedi eu codi. Adeiladodd adroddiad y SAG ar yr adroddiad archwilio mewnol i’r prosiectau. Mae’r cynllun gweithredu y cytunais arno gyda Syr Jon ym mis Ebrill yn ystyried y gwendidau y maent yn eu nodi yn ogystal â materion systemig a systemau pellach a nodais. Mae chwe mis cyntaf y flwyddyn ariannol hon wedi cael eu treulio’n rhoi’r systemau fwy neu lai yn eu lle yn llawn. Mae rhywfaint o waith pellach i’w wneud ar rai o hyd, ac yn ail hanner y flwyddyn byddwn yn sicrhau bod yr holl hyfforddiant yn cyd-fynd â hynny i sicrhau bod y cyngor erbyn diwedd y cyfnod hwn yn gweithredu fel corff cyhoeddus cwbl addas i bwrpas.

[153] **Janet Davies:** Alun, mae gennyh gwestiwn.

[154] **Alun Cairns:** Oes, diolch, Gadeirydd. Yr wyf yn ceisio cysoni yr hyn a ddywedodd Mr Martin gyda’r hyn y mae Mr Higson newydd ei ddweud. Mewn ymateb i chi funud yn ôl, Gadeirydd, dywedodd Mr Martin y byddai’n anghywir categoreiddio pob prosiect yn yr un modd. Darllenwn yn ffigur 7 yr adroddiad nad oedd ffurflenni cais prosiect wedi eu cwblhau’n llawn yn saith o’r achosion. Clywn wedyn na chynhaliwyd asesiadau risg ffurfiol yn yr un o’r 17 achos sydd wedi eu crybwyll yma—yr ydym eisoes wedi clywed, yn amlwg, am brosiect y caffî pop. Awgrymodd Mr Martin wedyn hefyd fod y prosiectau seilwaith AB yn wahanol iawn. Fodd bynnag, unwaith eto, mae ffigur 7 yn nodi

‘O’r £3.525 miliwn a ddarparwyd i saith o golegau Gogledd Cymru ym Mawrth

2002...'

The report goes on to say that money was not spent until eight months after its receipt, when

Â'r adroddiad ymlaen i ddweud na wariwyd arian tan wyth mis ar ôl ei dderbyn, pan yr oedd

'£1.7 million still remained unspent at 31 May 2003'.

'£1.7 miliwn... yn dal heb ei wario ar 31 Mai 2003'.

Mr Higson just mentioned that 47 contracts were non-compliant. So, how would you reconcile that, Mr Martin?

Mae Mr Higson newydd sôn nad oedd 47 o gontractau yn cydymffurfio. Felly, sut byddech yn cysoni hynny, Mr Martin?

**Mr Martin:** First of all, what I was describing with the FE projects was the process of appraisal of the value of the projects themselves. Clearly, in some cases, payments were made before they should have been made, but I was describing the actual process of assessing the projects and the risks associated with those particular projects, in terms of financial health and whether they sit with the estate strategy and so on. I think that there is a debate about the issue of how far what happened with the FE projects represented a full risk assessment as the Auditor General defines it here. However, I am satisfied that there was a very much more rigorous process in place, indeed, I know there was.

**Mr Martin:** Yn gyntaf oll, yr hyn yr oeddwn yn ei ddisgrifio gyda'r prosiectau AB oedd yr broses o werthuso gwerth y prosiectau eu hunain. Yn amlwg, mewn rhai achosion, gwnaed taliadau cyn y dylent fod wedi cael eu gwneud, ond yr oeddwn yn disgrifio'r broses go iawn o asesu'r prosiectau a'r risgiau sy'n gysylltiedig â'r prosiectau penodol hynny, o ran iechyd ariannol ac a ydynt yn gydnaws â'r strategaeth ystâd ac ati. Credaf fod dadlau ynglŷn â'r mater o i ba raddau yr oedd yr hyn a ddigwyddodd gyda'r prosiectau AB yn cynrychioli asesiad risg llawn fel y'i diffinnir gan yr Archwilydd Cenedlaethol yn y fan hon. Fodd bynnag, yr wyf yn fodlon bod proses lawer mwy trwyadl ar waith, yn wir, yr wyf yn gwybod hynny.

[155] **Alun Cairns:** Are you suggesting, Mr Martin, that the Auditor General has been unduly harsh on you?

[155] **Alun Cairns:** A ydych yn awgrymu, Mr Martin, bod yr Archwilydd Cyffredinol wedi bod yn rhy llym â chi?

**Mr Martin:** No, I am saying that the extent to which there were deficiencies in the project process was very different according to the nature of the project. I think that there are two separate issues: was this a good, sound project? I think in the case of all those that I referred to in the FE sector, the work on those was extremely rigorous, and the issue of how the payments for that work should be programmed, which in very much the minority of cases did not sit within the rules. So there are two separate processes. One I believe was got pretty well right, the other, in some cases, was clearly not.

**Mr Martin:** Na, yr wyf yn dweud bod y graddau yr oedd diffygion yn y broses brosiect yn wahanol iawn yn dibynnu ar natur y prosiect. Credaf fod dau fater ar wahân: a oedd hwn yn brosiect da, cadarn? Credaf yn achos pob un o'r rheini y cyfeiriais atynt yn y sector AB, yr oedd y gwaith ar y rheini yn hynod drwyadl, a dylai'r mater o sut mae'r taliadau ar gyfer y gwaith hwnnw'n cael eu rhaglennu, nad oedd yn y lleiafrif helaeth o achosion yn cyd-fynd â'r rheolau. Felly mae dwy broses ar wahân. Credaf i un ohonynt gael ei gwneud yn gywir i raddau helaeth, ond, yn amlwg, ni wnaed y llall mewn rhai achosion.

[156] **Alun Cairns:** Figure 7 mentions, in its first bullet point, that project application forms were not fully completed in seven of the cases. Did any of those cases refer to the

[156] **Alun Cairns:** Mae ffigur 7 yn sôn, yn ei bwynt bwled cyntaf, na chafodd ffurflenni cais prosiect eu cwblhau'n llawn yn saith o'r achosion. A oedd unrhyw un o'r achosion

FE colleges?

**Mr Martin:** I do not know the answer to that question.

[157] **Alun Cairns:** Well your answer to the previous question was not wholly accurate then, if you are not sure if that was the case. Surely you could not have given rigorous assessment if the application form was not fully completed?

**Mr Martin:** I have looked at the summary details of all the FE colleges, and I have looked at two examples of how those individual projects were appraised, which was entirely in accordance with the circular guidance and the best practices we believe we were operating at the time. I cannot answer the question in terms of whether every aspect of the project application form was filled in satisfactorily. Part of the reason for that is because the system that we were using for those FE college applications was based, as I said earlier, on an earlier scheme. So the actual project forms and so on may not have corresponded entirely. However, I would need to check the details to know whether there was any deficiency in the project application form that related to those projects. I stand by what I said in terms of the rigour of the assessment processes.

[158] **Alun Cairns:** That is despite potentially one of the application forms not being completed fully? I do not want to dwell on that point.

**Mr Martin:** Where it was not for this particular purpose, it maybe did not cover all the angles for that purpose. However, for instance, I am satisfied that the state aids issue was not an issue in relation to any of the FE college proposals.

[159] **Alun Cairns:** Mr Martin, who initiated the resubmission of the applications? They had clearly failed in one funding application under the other fund and then they came into the innovation or they were then subsequently funded, under the innovation development fund. Who initiated the resubmission?

hynny yn cyfeirio at y colegau AB?

**Mr Martin:** Ni wn yr ateb i'r cwestiwn hwnnw.

[157] **Alun Cairns:** Wel nid oedd eich ateb i'r cwestiwn blaenorol yn gwbl gywir felly, os nad ydych yn siŵr ai dyna'r achos. Does bosibl eich bod wedi gallu rhoi asesiad trwyadl os nad oedd y ffurflen gais wedi ei chwblhau'n llawn?

**Mr Martin:** Yr wyf wedi edrych ar fanylion crynodeb pob un o'r colegau AB, ac yr wyf wedi edrych ar ddwy enghraifft o sut y gwerthuswyd y prosiectau unigol hynny, a oedd yn gwbl unol â chanllawiau'r cylchlythyr a'r arferion gorau yr oeddem yn eu gweithredu ar y pryd yn ein tyb ni. Ni allaf ateb y cwestiwn o ran a gafodd pob agwedd ar ffurflen gais y prosiect eu llenwi'n foddhaol. Rhan o'r rheswm dros hynny yw oherwydd fod y system yr oeddem yn ei defnyddio ar gyfer y ceisiadau colegau AB hynny yn seiliedig, fel y dywedais yn gynharach, ar gynllun cynharach. Felly mae'n bosibl nad oedd y ffurflenni prosiect ac ati yn cyd-fynd yn gyfan gwbl. Fodd bynnag, byddai angen i mi wirio'r manylion i wybod a oedd unrhyw ddiffyg yn y ffurflen gais prosiect a oedd yn berthnasol i'r prosiectau hynny. Yr wyf yn dal at yr hyn a ddywedais o ran manylder y prosesau asesu.

[158] **Alun Cairns:** Er gwaethaf y posibilrwydd bod un o'r ffurflenni cais heb ei chwblhau'n llawn? Nid wyf am aros gyda'r pwynt hwnnw.

**Mr Martin:** Lle nad oedd ar gyfer y pwrpas penodol hwn, mae'n bosibl na wnaeth gwmpasu'r holl agweddau ar gyfer y pwrpas hwnnw. Fodd bynnag, er enghraifft, yr wyf yn fodlon nad oedd y mater cymorth gwladol yn fater mewn perthynas ag unrhyw un o'r cynigion colegau AB.

[159] **Alun Cairns:** Mr Martin, pwy ddechreuodd y gwaith o ailgyflwyno'r ceisiadau? Mae'n amlwg iddynt fethu mewn un cais am gyllid dan y gronfa arall ac yna daethant i'r gronfa arloesedd neu cawsant eu cyllido wedyn, dan y gronfa datblygu arloesedd. Pwy ddechreuodd yr ailgyflwyno?

**Mr Martin:** Resubmission is to overstate it.

**Mr Martin:** Mae ailgyflwyno yn ei orddweud.

[160] **Alun Cairns:** Well, clearly, they had not received approval under the first fund.

[160] **Alun Cairns:** Wel, yn amlwg, nid oeddynt wedi cael cymeradwyaeth dan y gronfa gyntaf.

**Mr Martin:** We had to ration. We had limited resources under the first fund and we were massively overbid for what were a wide range of very excellent projects. If we come on to it, there is a good story to tell about what has been achieved with those projects. What we then did was to look, particularly with the advice of our estate specialist, at which of the projects that had not been successful—and they were all looked at by a panel, it was not just a matter of one person looking at them—should now be given priority, given that we had not been able to fund them all the first time round. That seems to me to be a perfectly sensible way of proceeding in the circumstances that we faced.

**Mr Martin:** Bu'n rhaid i ni gyfyngu. Yr oedd gennym adnoddau cyfyngedig dan y gronfa gyntaf a chawsom lawer gormod o gynigion ar gyfer beth a oedd yn amrywiaeth eang o brosiectau gwych iawn. Os down ato, mae stori dda i'w hadrodd am yr hyn sydd wedi ei gyflawni gyda'r prosiectau hynny. Yr hyn a wnaethom wedyn oedd edrych, yn enwedig gyda chyingor ein harbenigwr ystadau, ar ba rai o'r prosiectau na fu'n llwyddiannus—ac edrychwyd arnynt i gyd gan banel, felly nid oedd yn fater o un person yn edrych arnynt—y dylid rhoi blaenoriaeth iddynt yn awr, o wybod na fu modd i ni gyllido pob un ohonynt y tro cyntaf. Mae hynny'n ymddangos i mi fel modd cwbl synhwyrol o weithredu dan yr amgylchiadau yr oeddem yn eu hwynebu.

[161] **Alun Cairns:** If you cannot meet one fund's criteria, and you do not qualify for the funding, then, we will see if we can fit you in somewhere else. Is that the suggestion?

[161] **Alun Cairns:** Os na allwch fodloni meini prawf un gronfa, ac nad ydych yn gymwys ar gyfer y cyllid, yna, cawn weld os gallwn eich cynnwys yn rhywle arall. Ai dyna'r awgrym?

**Mr Martin:** No, that is not the suggestion at all. The projects, I believe, did meet the previous fund criteria, but we simply ran out of money in that fund. We did not have enough money to fund all those excellent projects. They really have made a tremendous difference to the infrastructure in FE colleges around Wales.

**Mr Martin:** Na, nid dyna'r awgrym o gwbl. Yr oedd y prosiectau, yn fy marn i, yn bodloni meini prawf y gronfa flaenorol, ond, yn syml, daeth arian y gronfa honno i ben. Nid oedd gennym ddigon o arian i ariannu'r prosiectau gwych hynny i gyd. Maent yn sicr wedi gwneud gwahaniaeth aruthrol i'r seilwaith yng ngholegau AB ledled Cymru.

[162] **Alun Cairns:** Mr Shortridge, does this not suggest to you that the objectives of the funds are not clear enough or, at best, there is sufficient ambiguity to allow such practices to occur?

[162] **Alun Cairns:** Mr Shortridge, onid yw hyn yn awgrymu i chi nad yw amcanion y cronfeydd yn ddigon clir neu, ar y gorau, mae amwysedd digonol i ganiatáu i'r cyfryw arferion ddigwydd?

**Sir Jon Shortridge:** I pause before answering because I have not personally addressed that particular point. All I can say is that I have certainly discussed the wider issue with my colleagues in the sponsorship division and they are certainly satisfied that the schemes that came to them for approval

**Sir Jon Shortridge:** Oedaf cyn ateb hwnnw oherwydd nid wyf yn bersonol wedi mynd i'r afael â'r pwynt penodol hwnnw. Y cyfan y gallaf ei ddweud yw fy mod yn bendant wedi trafod y mater ehangach gyda'm cydweithwyr ac maent yn sicr yn fodlon bod y cynlluniau a gyflwynwyd iddynt am



under this programme were sufficiently compliant with its objectives because that was one of the key things that we were considering.

[163] **Alun Cairns:** Surely, the objective of a fund is to stimulate action in a certain area or to meet the shortfall in the market forces, or whatever related issue, so that there is clearly a strong purpose behind each fund. Is it right that something that does not meet the criteria of one fund should then be slotted into another just so that it gets the funding? If so, why do we not amalgamate all the funds?

**Sir Jon Shortridge:** I think that my answer to that is it is not necessarily wrong, and one option that the council presumably could have had would have just simply been to vire some more money from one scheme into the other. It chose not to do that. We had some projects to look at and we were satisfied that they were sufficiently compliant with the guidelines.

[164] **Alun Cairns:** Thank you. Mr Higson, what corrective actions are being taken by the national council against each of the sub-headings in figure 7?

**Dr Higson:** The general weaknesses to which I referred earlier are really part of the action plan that we have been implementing since April, learning from this report and previous ones to ensure that there are not any further problems in the future with contractual arrangements and so on. So, this very much has been the basis of the action plan that we have been putting in place. May I just add that I think also that the work that we have done with our sponsor division over the last few months is to actually clarify some of the schemes and schedules within our management statement so that, regarding the point that you raised earlier, I think that we have recognised the need for some further tweaking and tightening. Also, on capital, we are at the early stages of looking at establishing and negotiating with the Assembly whether the national council can establish a capital fund, which would have clear criteria, processes, business cases and so on, because there is a need there. These investments met that need and I think that we

gymeradwyaeth dan y rhaglen hon yn cydymffurfio'n ddigonol â'i hamcanion oherwydd dyna oedd un o'r pethau allweddol yr oeddem yn eu hystyried.

[163] **Alun Cairns:** Siawns mai amcan cronfa yw ysgogi gweithgarwch mewn maes penodol neu ddiwallu diffyg yng ngrymoedd y farchnad, neu ba bynnag fater cysylltiedig, fel bod yn amlwg pwrpas cryf wrth wraidd pob cronfa. A yw'n iawn y dylai rhywbeth nad yw'n bodloni meini prawf un gronfa gael ei gynnwys mewn un arall er mwyn iddo gael yr arian? Os felly, pam nad ydym yn cyfuno'r cronfeydd i gyd?

**Syr Jon Shortridge:** Ni chredaf fod fy ateb i hynny o reidrwydd yn anghywir, ac un opsiwn y gallai'r cyngor fod wedi ei gael yn ôl pob tebyg fyddai trosglwyddo rhywfaint yn fwy o arian o un cynllun i'r llall. Dewisodd beidio â gwneud hynny. Yr oedd gennym rai prosiectau i edrych arnynt ac yr oeddem yn fodlon eu bod yn cydymffurfio'n ddigonol â'r canllawiau.

[164] **Alun Cairns:** Diolch. Mr Higson, pa gamau unioni sy'n cael eu cymryd gan y cyngor cenedlaethol mewn perthynas â phob un o'r is-benawdau yn ffigur 7?

**Dr Higson:** Mae'r diffygion cyffredinol y cyfeiriais atynt yn gynharach mewn gwirionedd yn rhan o'r cynllun gweithredu yr ydym wedi bod yn ei weithredu ers mis Ebrill, gan ddysgu o'r adroddiad hwn a rhai blaenorol i sicrhau nad oes unrhyw broblemau pellach yn y dyfodol gyda threfniadau contract ac ati. Felly, hyn i raddau helaeth sydd wedi bod yn sail i'r cynllun gweithredu yr ydym wedi bod yn ei roi ar waith. A gaf fi ychwanegu fy mod yn credu hefyd bod y gwaith yr ydym wedi ei gyflawni gyda'n his-adran noddï dros y misoedd diwethaf yn egluro rhai o'r cynlluniau ac atodlenni yn ein datganiad rheoli fel, mewn perthynas â'r pwynt a godwyd gennych yn gynharach, credaf ein bod wedi cydnabod yr angen am rywfaint o addasu a thynhau pellach. Hefyd, o ran cyfalaf, yr ydym yn y camau cynnar o edrych ar sefydlu a negodi gyda'r Cynulliad ynglŷn ag a all y cyngor cenedlaethol sefydlu cronfa gyfalaf, a fyddai iddi feini prawf, prosesau, achosion busnes ac ati clir, oherwydd fod ei

have to find a way of doing that in a different and more explicit way.

[165] **Alun Cairns:** Why was it that conditional approvals by the chair and the then chief executive were not followed up and acted on by the national council staff, apparently across the board, Mr Martin?

**Mr Martin:** It is very difficult to add much to the answers that I gave earlier this morning in relation to the Pop Factory project. Clearly, there was a breakdown in two senses. First, the staff did not follow up all of those points in taking the projects forward and did not report them back and, secondly, my mechanism for making sure that that action had been taken did not work in this case. I was reliant too much on the senior managers getting on with it and I should have had a further check.

[166] **Alun Cairns:** What was the role of the chair in this, Mr Martin?

**Mr Martin:** The chair's role was, initially, in the entire process, to first of all lead the council through the determination of criteria for the selection of these projects, and then, with me, under delegated authority, to look at the schemes as they came forward and to comment on them. However, I have to say that I would regard it as my duty as chief executive to have the mechanisms in place to make sure that those matters were followed through. I do not think that it would be fair to expect a chairman to undertake that duty.

[167] **Alun Cairns:** But if the national council had delegated the authority to you jointly to review and to support projects, or to request additional information and so on before approval, would it not be fair for you jointly to look at something, rather than you accepting the responsibility for the chair? Otherwise you would be acting outside your delegated authority, surely?

**Mr Martin:** Let me be clear: the chairman and I acted clearly within that delegated authority in both of us considering the schemes. What I am talking about is the

hangen. Diwallodd y buddsoddiadau hyn yr angen hwnnw a chredaf fod yn rhaid i ni ddod o hyd i ffordd o wneud hynny mewn modd gwahanol a mwy agored.

[165] **Alun Cairns:** Pam na chafodd cymeradwyaeth amodol gan y cadeirydd ac yna'r prif weithredwr eu dilyn a'u gweithredu gan staff y cyngor cenedlaethol, drwyddo draw yn ôl pob golwg, Mr Martin?

**Mr Martin:** Mae'n anodd iawn ychwanegu llawer at yr atebion a roddais yn gynharach yn y bore mewn perthynas â phrosiect y Ffatri Bop. Yn amlwg, bu methiant mewn dau ystyr. Yn gyntaf, ni chyflawnodd y staff yr holl bwyntiau hynny wrth roi'r prosiectau ar waith ac ni wnaethant eu hadrodd yn ôl ac, yn ail, ni weithiodd fy null o sicrhau bod y camau hynny wedi eu cymryd yn yr achos hwn. Yr oeddwn yn dibynnu gormod ar yr uwch reolwyr i fynd ymlaen â'r gwaith a dylwn fod wedi gwneud archwiliad pellach.

[166] **Alun Cairns:** Beth oedd rôl y cadeirydd yn hyn, Mr Martin?

**Mr Martin:** Rôl y cadeirydd oedd, i ddechrau, yn y broses gyfan, arwain y cyngor yn gyntaf oll drwy'r gwaith o bennu meini prawf ar gyfer dewis y prosiectau hyn, ac yna, gyda mi, dan awdurdod dirprwyedig, edrych ar y cynlluniau wrth iddynt gael eu cyflwyno a gwneud sylwadau arnynt. Fodd bynnag, rhaid i mi ddweud y byddwn yn ei ystyried fel fy nyletswydd fel prif weithredwr i gael y mecanweithiau hynny ar waith i sicrhau bod y materion hynny'n cael eu cyflawni. Ni chredaf y byddai'n deg disgwyl i gadeirydd gyflawni'r ddyletswydd honno.

[167] **Alun Cairns:** Ond os oedd y cyngor cenedlaethol wedi dirprwyo'r awdurdod i chi i adolygu a chefnogi prosiectau ar y cyd, neu ofyn am wybodaeth ychwanegol ac ati cyn cymeradwyo, oni fyddai'n deg i chi edrych ar rywbeth ar y cyd yn hytrach na'ch bod chi'n derbyn cyfrifoldeb dros y cadeirydd? Fel arall, byddech yn gweithredu y tu hwnt i'ch awdurdod dirprwyedig, does bosibl?

**Mr Martin:** Gadewch i mi fod yn glir: gweithredodd y cadeirydd a minnau yn glir o fewn yr awdurdod dirprwyedig hwnnw gyda'r ddau ohonom yn ystyried y

action that one takes subsequently to ensure that, having commented on the schemes and, given conditional approval and so on—particularly conditional approval that required schemes to come back to me before they were signed off as it were—it is clearly a responsibility of my own to make sure that the systems that make sure that that happens are working.

[168] **Janet Davies:** Thank you, Alun. Denise, you have some questions?

[169] **Denise Idris Jones:** What is the total value of the projects where weaknesses have been found in the council's recent comprehensive review?

**Dr Higson:** I do not have that figure to hand. If I can just look over my shoulder, our director of finance might be able to help me—no, we do not have the actual value of the figure. We will submit a note.

[170] **Denise Idris Jones:** Can we note that, Chair? Thank you. Therefore, may I ask you, Mr Higson to provide a note for this Committee, setting out details of the weaknesses found, the corrective actions that are being taken, and where you consider that problems still remain to be addressed?

**Dr Higson:** Of course.

[171] **Denise Idris Jones:** Thank you.

[172] **Janet Davies:** We now turn to part 5 of the report, concerning the payments to training providers in March and April 2002. This concerns the payments on account that were sent to training providers, and the national council's being unable to provide the NAO with documentary evidence to support the assertion that it had requested them. Given that the national council has been unable to provide that evidence, why was this advanced as the explanation for the payments on account when they were originally queried?

**Mr Martin:** Shall I take that?

[173] **Janet Davies:** Yes.

cynlluniau. Yr hyn yr wyf yn sôn amdanynt yw'r camau gweithredu y mae dyn yn eu cymryd wedyn i sicrhau, ar ôl rhoi sylwadau ar y cynlluniau a, rhoi cymeradwyaeth amodol ac ati—yn enwedig cymeradwyaeth amodol a oedd yn gofyn i gynlluniau ddod yn ôl ataf cyn eu bod yn cael eu hawdurdodi fel petai—mae'n amlwg mai fy nghyfrifoldeb i yw sicrhau bod y systemau sy'n sicrhau bod hynny'n digwydd yn gweithio.

[168] **Janet Davies:** Diolch, Alun. Denise, mae gennyh rai cwestiynau?

[169] **Denise Idris Jones:** Beth yw cyfanswm gwerth y prosiectau lle mae gwendidau wedi eu canfod yn adolygiad cynhwysfawr diweddar y cyngor?

**Dr Higson:** Nid oes gennyf ffigur i law. Os caf fi edrych dros fy ysgwydd, efallai y gall ein cyfarwyddwr cyllid fy helpu—na, nid oes gennym werth go iawn y ffigur. Byddwn yn cyflwyno nodyn.

[170] **Denise Idris Jones:** A allwn ni nodi hynny, Gadeirydd? Diolch. Felly, a gaf fi ofyn i chi, Mr Higson ddarparu nodyn ar gyfer y Pwyllgor hwn, gan nodi manylion y gwendidau a ganfuwyd, y camau unioni sy'n cael eu cymryd, a ble yr ydych yn ystyried bod problemau yn dal i fodoli sydd angen mynd i'r afael â hwy?

**Dr Higson:** Wrth gwrs.

[171] **Denise Idris Jones:** Diolch.

[172] **Janet Davies:** Trown yn awr at ran 5 o'r adroddiad, sy'n ymwneud â'r taliadau i ddarparwyr hyfforddiant ym mis Mawrth a mis Ebrill 2002. Mae hyn yn ymwneud â'r taliadau ar gyfrif a anfonwyd at ddarparwyr hyfforddiant, a methiant y cyngor cenedlaethol i ddarparu tystiolaeth ddogfennol i'r SAG i gefnogi'r honiad ei fod wedi gofyn amdanynt. O ystyried bod y cyngor cenedlaethol wedi methu â darparu'r dystiolaeth honno, pam y cyflwynwyd hwn fel esboniad dros y taliadau ar gyfrif pan y'u cwestiynwyd yn wreiddiol?

**Mr Martin:** A wnaif i ateb hwnnw?

[173] **Janet Davies:** Ie.

**Mr Martin:** Would it be helpful if I explained the underlying rationale process to the payments and then come back at the end to answer the question about the issue of evidence for the stated rationale in the information that went out?

[174] **Janet Davies:** If we could have it fairly briefly and concisely.

**Mr Martin:** I will try to do it as concisely as I can. It was the practice that all the former TECs used to make a payment in March for claims that arose within that period. It is important to understand that that is not because we carried on what the TECs did, but because training providers were effectively paid for 12 months of the year. There was a system under which they could submit claims before the end of March so that, for activities that had been undertaken, they could receive payment before the end of the financial year, quite properly. We sought to do the same. There was a clear recognition in our remit letter that we should operate similar financial arrangements to those under the predecessor arrangements for inherited schemes. However—and I think that this is a very rational and proper decision and a good example of risk management being taken seriously and carried out well—the last thing that the organisation could have coped with at that time was to run through a whole claim exercise and invite training providers to submit claims at that time. We were in the middle of the reorganisation, we were about to lose a considerable number of both finance and operational staff, and doing that claim checking would have involved details relating to some 30,000 individuals. It was a very detailed claim-checking process. We managed the risk by asking, ‘Okay, what is a reasonable way of doing this?’, and the decision was taken by the senior staff that the best way to operate this was to say, ‘Let’s work out what 50 per cent of the activity would be in March for the training providers and let’s make a payment on account for that relevant amount’. This was, of course, also intended to help us manage our cash between the two years. There is no question about that. I believe that, in a case such as this, that is perfectly legitimate, although I know that that is an issue for debate.

**Mr Martin:** A fyddai’n ddefnyddiol pe bawn yn egluro proses resymu sylfaenol y taliadau ac yna dod yn ôl ar y diwedd i ateb y cwestiwn ynglŷn â’r mater o dystiolaeth dros y rhesymeg ddywededig yn y wybodaeth a ddosbarthwyd?

[174] **Janet Davies:** Pe gallem ei gael yn weddol fyr a chryno.

**Mr Martin:** Ceisiaf ei wneud mor gryno ag y gallaf. Dyna’r arfer yr oedd y cyn CHM i gyd yn ei ddefnyddio i wneud taliad ym mis Mawrth ar gyfer hawliadau a oedd yn codi o fewn y cyfnod hwnnw. Mae’n bwysig deall nad yw hyn oherwydd i ni barhau â’r hyn a wnaeth y CHM, ond oherwydd bod darparwyr hyfforddiant i bob pwrpas yn cael eu talu am 12 mis y flwyddyn. Yr oedd system lle’r oeddynt yn gallu cyflwyno hawliadau cyn diwedd mis Mawrth fel eu bod yn gallu derbyn taliadau, am weithgareddau a oedd wedi eu cyflawni, cyn diwedd y flwyddyn ariannol, yn gwbl briodol. Bu inni geisio gwneud yr un fath. Yr oedd cydnabyddiaeth glir yn ein llythyr cylch gorchwyl y dylasem weithredu trefniadau ariannol tebyg i’r rhai dan y trefniadau blaenorol ar gyfer cynlluniau a etifeddwyd. Fodd bynnag—a chredaf fod hwn yn benderfyniad priodol a synhwyrol iawn ac yn enghraifft dda o reoli risg yn cael ei gymryd o ddifrif a’i weithredu’n dda—y peth diwethaf y gallai’r sefydliad fod wedi ymdopi ag ef bryd hynny oedd gweithredu ymarfer hawlio cyfan a gwahodd darparwyr hyfforddiant i gyflwyno hawliadau bryd hynny. Yr oeddem yng nghanol yr ad-drefnu, yr oeddem ar fin colli nifer sylweddol o staff cyllid a gweithredol, a byddai gwneud y gwaith o archwilio’r hawliadau hynny wedi golygu archwilio manylion yn ymwneud â rhyw 30,000 o unigolion. Yr oedd yn broses archwilio hawliadau fanwl iawn. Bu inni reoli’r risg drwy ofyn, ‘O’r gorau, beth yw’r ffordd resymol o wneud hyn?’, a gwnaed y penderfyniad gan yr uwch staff mai’r ffordd orau i’w weithredu oedd dweud, ‘Gadewch i ni gyfrifo beth fyddai 50 y cant o’r gweithgarwch ym mis Mawrth ar gyfer y darparwyr hyfforddiant a gadewch i ni wneud taliad ar gyfrif ar gyfer y swm perthnasol hwnnw’. Bwriad hyn hefyd, wrth gwrs, oedd ein cynorthwyo i reoli ein harian rhwng y

ddwy flynedd. Nid oes amheuaeth am hynny. Credaf, mewn achos fel hwn, fod hynny'n hollol gyfiawn, er y gwn ei fod yn fater i'w drafod.

Turning to the issue of why the explanation was given that this would please training providers, the finance staff—and I have discussed this personally with the relevant staff—believed, on the basis of their contact with operational colleagues, that training providers would wish to have such a payment, parallel to that which would have been made in previous years, to aid their cash flow. However, I can confirm that no documentary evidence has been found that substantiates that assertion and that operational staff have not been able to provide any other evidence to me that that was in fact the case. I think that it is a shame that that was said to be the reason. I believe that it was said by the finance staff who wrote out to training providers in good faith. However, I think that there was a good justification for making this payment in the way that we did in its own right.

Gan droi at y mater o pam y rhoddwyd yr esboniad y byddai hyn yn plesio darparwyr hyfforddiant, yr oedd y staff cyllid—ac yr wyf wedi trafod hyn yn bersonol â'r staff perthnasol—o'r farn, ar sail eu contract â chydweithwyr gweithredol, y byddai darparwyr hyfforddiant yn dymuno cael y cyfryw daliad, ochr yn ochr â hwnnw a fyddai wedi cael ei wneud yn y blynyddoedd blaenorol, i gynorthwyo'u llif arian. Fodd bynnag, gallaf gadarnhau nad oes tystiolaeth ddogfennol wedi ei chanfod sy'n cefnogi'r honiad hwnnw ac nid yw staff gweithredol wedi gallu darparu unrhyw dystiolaeth arall i mi mai dyna oedd yr achos mewn gwirionedd. Credaf ei bod yn drueni mai dyna a ddywedwyd oedd y rheswm. Credaf iddo gael ei ddweud gan y staff cyllid a ysgrifennodd at ddarparwyr hyfforddiant yn ddidwyll. Fodd bynnag, credaf fod cyfiawnhad da dros wneud y taliad hwn yn y modd y bu i ni ei wneud.

[175] **Janet Davies:** But, Mr Martin, this is outside normal and accepted arrangements. I really do not feel that that explanation is particularly acceptable, particularly as deductions were made in April to try to claw that money back. Some actually went over to May. In other words, some training providers were paid in March, not only upfront for one month, but upfront for two months. It does seem to me to be quite extraordinary that that happened.

[175] **Janet Davies:** Ond, Mr Martin, mae hyn y tu hwnt i drefniadau arferol a derbyniol. Nid wyf yn teimlo bod yr esboniad hwnnw yn arbennig o dderbyniol, yn enwedig gan y gwnaed didyniadau ym mis Ebrill i geisio adfachu rhywfaint o'r arian hwnnw. Aeth rhai drosodd i fis Mai. Mewn geiriau eraill, talwyd rhai darparwyr hyfforddiant ym mis Mawrth, nid yn unig ymlaen llaw am un mis, ond ymlaen llaw am ddau fis. Mae'n ymddangos yn hynod i mi i hynny ddigwydd.

Christine, you have a question?

Christine, mae gennych gwestiwn?

[176] **Christine Gwyther:** Thank you, Chair. This question is for Mr Martin. Earlier on, Jon Shortridge told us that, in relation to the Pop Factory, there was no correspondence or engagement between yourself and the Welsh Assembly Government with regard to an underspend of more than 2 per cent. How do you square this with what you said a couple of minutes ago that you thought it was quite appropriate to have greater end-of-year flexibility? Why, at that very critical time, was there no further engagement with the

[176] **Christine Gwyther:** Diolch, Gadeirydd. Mae'r cwestiwn hwn i Mr Martin. Yn gynharach, dywedodd Jon Shortridge wrthym, mewn perthynas â'r Ffatri Bop, na fu gohebiaeth na chysylltiad rhyngoch chi a Llywodraeth Cynulliad Cymru ynglŷn â thanwario o fwy na 2 y cant. Sut yr ydych yn cysoni hyn â'r hyn a ddywedasoch rai munudau'n ôl eich bod o'r farn ei bod yn gwbl briodol cael mwy o hyblygrwydd diwedd blwyddyn? Pam, ar yr adeg dyngedfennol honno, na fu unrhyw gysylltiad

Government?

**Mr Martin:** May I say, in response to that and to the Chair's comments, that we were not paying in advance of need. We were not paying in advance. We sought not to pay anything in advance. What we were doing was asking, 'How can we replicate a 12-month profile of payments to providers within that financial year?'. We do not believe, since we did not change the amount of the payment and since the intention was to pay in respect of training activity already undertaken, that that represents any breach of the rules. There is an issue of judgment here, and I am sure that it would be helpful to the Committee for Sir Jon to comment more generally on where the line lies. However, I believe that it was a reasonable exercise of judgment to do that, and a proper management of risk, because of the greater risk of not making the payment as we did—based on only an estimate of 50 per cent of activity already undertaken, which was based on the arrangements contracted with the providers—but instead doing it on the basis of claims. That would have been massively greater. The whole place would have ground to a halt at a time when we were going through the restructuring and laying off staff and, given the volume of claims, I think that that would have been an entirely inappropriate thing to do.

[177] **Christine Gwyther:** Sorry, I just have to ask again why there was no engagement with the Welsh Assembly Government when a clear problem had been identified?

**Mr Martin:** I do not believe that we had a problem; this was, I believe, the routine management of the payments to training providers to replicate the arrangement under which they received 12 months' worth of activity payments in respect of 12 months' worth of activity within a financial year. That is, half a month's payments in April, another 10 months' worth of payments in subsequent months, and then one and a half months' worth of payments in the final month. However, all of it was in respect of activity that had already taken place, not in respect of things that might happen next year. So that is why I do not believe that it would have been

pellach â'r Llywodraeth?

**Mr Martin:** A gaf fi ddweud, mewn ymateb i hwnnw a sylwadau'r Cadeirydd, nad oeddem yn talu cyn bod angen. Nid oeddem yn talu ymlaen llaw. Bu inni geisio peidio â thalu unrhyw beth ymlaen llaw. Yr hyn yr oeddem yn ei wneud oedd gofyn, 'Sut y gallwn ailadrodd proffil 12 mis o daliadau i ddarparwyr yn y flwyddyn ariannol honno?'. Ni chredwn, gan na wnaethom newid swm y taliad a chan mai'r bwriad oedd talu o ran gweithgareddau hyfforddi a oedd eisoes wedi eu cyflawni, fod hynny yn cynrychioli unrhyw dor-rheolau. Mae mater o farn yma, ac yr wyf yn siŵr y byddai'n ddefnyddiol i'r Pwyllgor i Syr Jon sôn yn fwy cyffredinol am ble mae'r llinell honno. Fodd bynnag, credaf iddo fod yn ddefnydd rhesymol o grebwyll i wneud hynny, ac yn rheolaeth briodol o risg, oherwydd y risg fwy o beidio â gwneud y taliad fel y gwnaethom—yn seiliedig ar amcangyfrif yn unig bod 50 y cant o weithgareddau eisoes wedi eu cyflawni, a oedd yn seiliedig ar y trefniadau a gontractwyd â'r darparwyr—ond ei wneud yn hytrach ar sail hawliadau. Byddai hynny wedi bod yn aruthrol fwy. Byddai'r lle i gyd wedi sefyll yn stond ar adeg pan yr oeddem yn destun ad-drefnu ac yn diswyddo staff ac, o ystyried maint yr hawliadau, credaf y byddai hynny wedi bod yn beth gwbl amhriodol i'w wneud.

[177] **Christine Gwyther:** Mae'n ddrwg gennyf, ond mae'n rhaid i mi ofyn eto pam na fu cysylltiad â Llywodraeth Cynulliad Cymru pan yr oedd problem amlwg wedi cael ei nodi?

**Mr Martin:** Ni chredaf fod gennym broblem; hyn oedd, yn fy marn i, y rheolaeth arferol o'r taliadau i ddarparwyr hyfforddiant i ailadrodd y trefniad lle'r oeddynt yn derbyn gwerth 12 mis o daliadau gweithgarwch am werth 12 mis o weithgarwch yn y flwyddyn ariannol. Hynny yw, taliadau hanner mis yn Ebrill, gwerth 10 mis arall o daliadau yn y misoedd dilynol, ac yna gwerth mis a hanner o daliadau yn y mis olaf. Fodd bynnag, yr oedd i gyd yn ymwneud â gweithgarwch a oedd eisoes wedi digwydd, nid yn ymwneud â phethau a allai ddigwydd y flwyddyn nesaf. Felly dyna pham nad wyf yn credu y byddai wedi bod angen i ni fynd at Lywodraeth y

necessary for us to go to the Assembly Government to seek approval, because we were not changing the total amount of the payments—we were simply profiling them in such a way that we paid for activity that it was reasonable to assume had taken place. The outturn was that it was really a very few thousands of pounds, in the context of a budget well in excess of £3 million, where the assumption proved to be unfounded, and I think that a far bigger risk to the organisation would have been to have done it on the basis of asking for claims. However, I accept that it is a question of a judgment call that staff have to make about whether, in a particular case, it is necessary to go to the Assembly Government, and I urge that it would be useful to get a wider perspective on this from the Assembly Government's point of view about whether or not this is an acceptable practice.

[178] **Janet Davies:** Will you be continuing this, Mr Higson?

**Dr Higson:** No.

[179] **Janet Davies:** Thank you.

[180] **Jocelyn Davies:** May I just raise a point of clarification there? The judgment call was by staff? You just said that that was—

**Mr Martin:** By very senior staff.

[181] **Jocelyn Davies:** By very senior staff, but not yourself?

**Mr Martin:** No. It was reported to me, and I believe that it was the right thing to do.

[182] **Jocelyn Davies:** Okay.

[183] **Janet Davies:** Sir Jon, are you comfortable with such arrangements?

**Sir Jon Shortridge:** In the previous year, and, I think, in years previous to that—certainly in the one previous year—we made arrangements to pay the March payments, or a proportion of them, in March. We did that on claims, and it was a procedure that we had agreed with the NAO. So this was a way of

Cynulliad i gael cymeradwyaeth, oherwydd nid oeddem yn newid cyfanswm y taliadau—yr oeddem yn syml yn eu trefnu yn y fath fodd fel ein bod yn talu am weithgarwch yr oedd yn rhesymol i dybio ei fod eisoes wedi digwydd. Y canlyniad oedd mai yn achos ychydig filoedd o bunnoedd mewn gwirionedd, yng nghyd-destun cyllideb ymhell dros £3 miliwn, y profodd y rhagdybiaeth i fod yn ddi-sail, a chredaf y byddai risg lawer fwy i'r sefydliad o'i wneud ar sail gofyn am hawliadau. Fodd bynnag, derbyniaf ei fod yn fater o benderfyniad y mae'n rhaid i staff ei wneud am a oes, mewn achos penodol, angen mynd at Lywodraeth y Cynulliad, ac yr wyf yn cymell y byddai'n ddefnyddiol cael persbectif ehangach ar hyn o safbwynt Llywodraeth y Cynulliad ynglŷn ag a yw hyn yn arfer derbyniol ai peidio.

[178] **Janet Davies:** A fyddwch yn parhau â hyn, Mr Higson?

**Dr Higson:** Na.

[179] **Janet Davies:** Diolch.

[180] **Jocelyn Davies:** A gaf fi godi pwynt o eglurder yn y fan honno? Gwnaed y penderfyniad gan staff? Yr ydych newydd ddweud fod hynny—

**Mr Martin:** Gan staff uchel iawn.

[181] **Jocelyn Davies:** Gan staff uchel iawn, ond nid gennych chi?

**Mr Martin:** Na. Cefais fy hysbysu amdano, a chredaf mai dyna a oedd y peth iawn i'w wneud.

[182] **Jocelyn Davies:** O'r gorau.

[183] **Janet Davies:** Syr Jon, a ydych yn gysurus â threfniadau o'r fath?

**Syr Jon Shortridge:** Yn y flwyddyn flaenorol a, chredaf, yn y blynyddoedd cyn honno—yn sicr yn yr un flwyddyn flaenorol—gwnaethom drefniadau i dalu'r taliadau mis Mawrth, neu gyfran ohonynt, ym mis Mawrth. Gwnaethom hynny ar hawliadau, ac yr oedd yn weithdrefn yr

seeking to achieve that objective, but in a different and less definitive way. Deciding whether something is novel or contentious is always a judgment call for the officials concerned, and those of us who have long experience in these matters have had to make those calls ourselves. The financial memorandum states that,

‘the Council must obtain the written approval of the Assembly before incurring any expenditure on any project... or for any purpose which is or might be considered novel or contentious; before making any change of policy or practice which has significant financial implications or which may affect the future level of resources required; and before making any significant change in the operation or funding of any initiative or particular scheme previously approved by the Assembly.’

The Council shall not, without the prior approval of the Assembly, enter into any undertaking to incur any expenditure not provided for in the annual budget approved by the Assembly.’

So those were the guidelines, and the test was, faced with what they were proposing to do, was it a reasonable judgment to not regard it as novel or contentious, or should it have been regarded as novel or contentious. That is something that you yourselves will be able to consider. I personally think that it would have been safer and more appropriate under the circumstances if the council had tested that proposition with us.

[184] **Jocelyn Davies:** May I ask about delegation? Would you delegate that kind of decision to staff?

**Sir Jon Shortridge:** Yes, certainly. It would be very rare for something like this to come to me personally. It would be a really big decision. It would come into the sponsor division, staff there would consider it and would very likely consult the compliance office so that a view could be taken, in terms of consistency across the Assembly, of how

oeddem wedi ei chytuno arni gyda'r SAG. Felly yr oedd hyn yn fodd o geisio cyflawni'r amcan hwnnw, ond mewn modd gwahanol a llai diamod. Mae penderfynu a yw rhywbeth yn newydd neu'n ddadleuol bob amser yn fater o farn i'r swyddogion dan sylw, ac mae'r rheini ohonom sydd â phrofiad helaeth yn y materion hyn wedi gorfod gwneud y penderfyniadau hynny ein hunain. Mae'r memorandwm ariannol yn nodi,

‘rhaid i'r Cyngor gael cymeradwyaeth ysgrifenedig y Cynulliad cyn gwario ar unrhyw brosiect... neu ar unrhyw bwrpas sy'n newydd neu ddadleuol neu a allai gael ei ystyried fel pwrpas o'r fath; cyn gwneud unrhyw newid i bolisi neu ymarfer sydd â goblygiadau ariannol sylweddol neu a all effeithio ar lefelau'r adnoddau sydd eu hangen yn y dyfodol; a chyn gwneud unrhyw newid sylweddol yn y modd y gweithredir neu y cyllidir unrhyw fenter neu gynllun penodol a gymeradwywyd yn flaenorol gan y Cynulliad.’

Ni fydd y Cyngor, heb gymeradwyaeth ymlaen llaw y Cynulliad, yn gwneud unrhyw beth i wario unrhyw arian na ddarperir ar ei gyfer yn y gyllideb flynyddol a gymeradwywyd gan y Cynulliad.’

Felly dyna oedd y canllawiau, a'r prawf oedd, yn wyneb yr hyn yr oeddynt yn cynnig ei wneud, a oedd yn benderfyniad rhesymol i beidio â'i ystyried fel rhywbeth newydd neu ddadleuol, neu a ddylai fod wedi cael ei ystyried fel rhywbeth newydd neu ddadleuol. Mae hynny'n rhywbeth y gallwch chi eich hunain ei ystyried. Credaf yn bersonol y byddai wedi bod yn fwy diogel a phriodol dan yr amgylchiadau pe bai'r cyngor wedi trafod y cynigiad hwnnw gyda ni.

[184] **Jocelyn Davies:** A gaf fi ofyn am ddirprwyo? A fydddech yn dirprwyo'r math hwnnw o benderfyniad i staff?

**Syr Jon Shortridge:** Byddwn, yn bendant. Byddai'n anghyffredin iawn i rywbeth fel hyn ddod ataf fi yn bersonol. Byddai'n benderfyniad mawr iawn. Byddai'n dod i'r is-adran noddi, byddai staff yno yn ei ystyried a byddent yn debygol iawn o ymgynghori â'r swyddfa cydymffurfio fel y gellid gweld, o ran cysondeb ledled y



we have dealt with these matters in the past.

Cynulliad, sut yr ydym wedi delio â'r materion hyn yn y gorffennol.

[185] **Jocelyn Davies:** Thank you.

[185] **Jocelyn Davies:** Diolch.

[186] **Janet Davies:** Mark, you had some questions?

[186] **Janet Davies:** Mark, yr oedd gennych rai cwestiynau?

[187] **Mark Isherwood:** Your proposals set out in the active cash management memorandum were not disclosed to Assembly Government officials, and their approval for this change in payment arrangements was apparently not sought. Why was—*[Interruption.]* Sorry, did you catch all that? Why was the approach set out in the active cash memorandum not referred to the national council's sponsor division for prior approval? That is to Mr Martin, please.

[187] **Mark Isherwood:** Ni chafodd eich cynigion a nodwyd yn y memorandwm rheoli arian gweithredol eu datgelu i swyddogion Llywodraeth y Cynulliad, ac mae'n ymddangos na ofynnwyd am eu cymeradwyaeth ar gyfer y newid hwn i drefniadau talu. Pam—*[Torri ar draws.]* Mae'n ddrwg gennyf, a wnaethoch chi glywed hwnnw i gyd? Pam na chafodd y dull a nodir yn y memorandwm arian gweithredol ei gyfeirio at is-adran noddi'r cyngor cenedlaethol am gymeradwyaeth ymlaen llaw? Mae hwnnw i Mr Martin, os gwelwch yn dda.

**Mr Martin:** Well, as I said earlier, it is a judgment call, and I think that one makes a judgment then in hindsight about whether it would have been better or not. I think that there was an extremely strong case for what we did. I think that we managed the risks very well. I am reasonably convinced—although I cannot of course know what the outcome would have been—that, had we put that case to the Assembly Government, it would have approved it. However, you do make a call within an organisation about what needs—. It was quite genuine; it was not some attempt to pull a fast one. There was a quite genuine belief by the people managing the budgets that this was a sensible and responsible way to proceed that did not raise the kind of issues that ought to go to the Assembly Government. Sir Jon has said that he believes that, in the circumstances, it would have been appropriate and prudent and all the rest of it, but there is still a judgment call to make, and I think that this one sits somewhere on the line.

**Mr Martin:** Wel, fel y dywedais yn gynharach, mae'n fater o benderfyniad, a chredaf fod dyn yn gwneud penderfyniad wedyn o edrych yn ôl am a fyddai wedi bod yn well ai peidio. Credaf fod achos hynod gryf dros yr hyn a wnaethom. Credaf inni reoli'r risgiau'n dda iawn. Yr wyf yn rhesymol argyhoeddedig—er na allaf wrth gwrs wybod beth fyddai'r canlyniad wedi bod—pe bawn wedi rhoi'r achos hwnnw i Lywodraeth y Cynulliad, y byddai wedi ei gymeradwyo. Fodd bynnag, nid ydych yn gwneud penderfyniad o fewn sefydliad am ba anghenion—. Yr oedd yn gwbl ddiwyll; nid rhyw ymgais i dwyllo ydoedd. Yr oedd cred cwbl ddiwyll gan y bobl a oedd yn rheoli'r cyllidebau fod hwn yn fodd synhwyrol a chyfrifol o weithredu nad oedd yn codi'r math o faterion a ddylai fynd at Lywodraeth y Cynulliad. Mae Syr Jon wedi dweud ei fod yn credu y byddai wedi bod, dan yr amgylchiadau, yn briodol ac yn ddoeth ac ati, ond mae dal penderfyniad i'w wneud, a chredaf fod yr un yma yn eistedd rhywle ar y llinell.

There is an issue here. If every issue about which there could conceivably be any question at all is automatically referred to the Assembly Government, the whole system is going to tend to clog up. I would contend that, in this case, it is a matter of judgment; it

Mae yna fater yn y fan hon. Os yw pob mater y gallai fod unrhyw amheuaeth o gwbl yn ei gylch yn cael ei gyfeirio at Lywodraeth y Cynulliad, mae tuedd i'r system gyfan dagu. Byddwn yn dadlau, yn yr achos hwn, mai mater o farn ydyw; nid yw'n amlwg yn

is not clearly wrong or right that we did not refer it in. If there is a balance of doubt, the guidance says to submit it. At the time, the staff concerned did not believe that there should be a balance of doubt, but that it was a fairly straightforward process of just managing the cash and replicating, in circumstances that were appropriate to us at the time, what had been the previous arrangement.

[188] **Mark Isherwood:** Paragraph 5.11 of the report refers to the *Week In, Week Out* programme in February 2003. It states here that your response at the time insisted that payment had not been made in advance of need. Is that still your view, or have you now changed that? Why are the national council's contracts with training providers silent on the whole issue of payments on account? Given that no such payments occurred at other times during the 2001-02 financial year, is it not reasonable to consider this to be, as set out in the financial memorandum, a

'significant change in the operation or funding of any scheme previously approved by the Assembly, and therefore clearly requiring Assembly Government approval'?

**Mr Martin:** It turns obviously on the meaning attached to the word 'significant' in the particular case. I certainly do not believe that these were payments in advance of need, because they were intended and, except for this very tiny figure of £6,000 within a budget of £3 million plus, were manifestly not in advance of need, because they did relate to the claims for 2001-02 activity made in the subsequent month and those payments were duly adjusted to take account of that. The public explanation that I have given for this—and indeed not just that I gave, but that was given to training providers in terms of the letter that went from finance staff to providers to tell them, in March, that this payment would be made—was given in good faith. I was advised that there were such representations from training providers. I have already indicated to the Committee that I have not been able, any more than the NAO has, to find documentary evidence that that was the case. However, I am told by the

anghywir neu'n gywir inni beidio â'i gyfeirio ati. Os oes cydbwysedd amheuaeth, mae'r canllawiau'n dweud y dylid ei gyflwyno. Ar y pryd, nid oedd y staff dan sylw yn credu y dylai fod cydbwysedd amheuaeth, ond ei bod yn broses eithaf syml o reoli'r arian ac ailadrodd, dan amgylchiadau a oedd yn briodol i ni ar y pryd, yr hyn a fu'r trefniad blaenorol.

[188] **Mark Isherwood:** Mae paragraff 5.11 yr adroddiad yn cyfeirio at y rhaglen *Week In, Week Out* yn Chwefror 2003. Mae'n nodi yn y fan hon i'ch ymateb ar y pryd fynnu na wnaed taliad cyn bod angen. Ai dyna'ch barn o hyd, neu a ydych bellach wedi ei newid? Pam nad yw contractau'r cyngor cenedlaethol â'r ddarparwyr hyfforddiant yn sôn am y mater o daliadau ar gyfrif? Gan na chafwyd unrhyw daliadau o'r fath ar adegau eraill yn ystod y flwyddyn ariannol 2001-02, onid yw'n rhesymol ystyried hwn, fel a nodir yn y memorandwm ariannol, yn

'newid sylweddol yn y modd y gweithredir neu y cyllidir unrhyw gynllun a gymeradwywyd yn flaenorol gan y Cynulliad, ac sydd felly'n amlwg yn gofyn am gymeradwyaeth Llywodraeth y Cynulliad'?

**Mr Martin:** Mae'n amlwg yn dibynnu ar yr ystyr a roddir ar y gair 'sylweddol' yn yr achos penodol. Yn sicr ni chredaf i'r rhain fod yn daliadau cyn bod angen, oherwydd yr oeddynt wedi eu bwriadu, a heblaw am y ffigur bach hwn o £6,000 o fewn cyllideb o dros £3 miliwn, yn amlwg nid oeddynt cyn bod angen, oherwydd yr oeddynt yn ymwneud â'r hawliadau ar gyfer gweithgaredd 2001-02 a wnaed yn y mis dilynol ac addaswyd y taliadau hynny yn briodol i ystyried hynny. Rhoddwyd yr esboniad cyhoeddus yr wyf wedi ei roi am hyn—ac yn wir nid yn unig hwnnw a roddais i, ond rhoddwyd hwnnw i ddarparwyr hyfforddiant ar ffurf llythyr a anfonwyd gan staff cyllid at ddarparwyr i'w hysbysu, ym mis Mawrth, y byddai'r taliad hwn yn cael ei wneud—yn ddiwyll. Cefais fy hysbysu bod cyflwyniadau o'r fath gan ddarparwyr hyfforddiant. Yr wyf eisoes wedi dynodi i'r Cynulliad nad wyf wedi gallu, mwy nag y mae'r SAG wedi gallu, dod o hyd i

finance staff concerned that their clear understanding, from conversations with operational staff, was that there were such conversations going on. What I cannot do is prove it.

[189] **Mark Isherwood:** If I could just add—this is to all three of you, if possible—is not the real issue here that the financial memorandum itself is insufficiently explicit as to the circumstances under which the national council should revert to the Assembly Government for approval? Please could you also confirm who actually drafted the financial memorandum initially.

**Sir Jon Shortridge:** Shall I take that? The financial memorandum is a National Assembly document so the starting point is officials, but obviously it is prepared in a consultative way when you have a new body like the national council. We gave them a draft of it back in November 2000, got comments back on it, and issued it when the council was created in April 2001, and we would then have arrangements, as this was a new body, to review it after a year. We are currently reviewing it again in the light of the experience of using it.

We have a model financial memorandum and management statement that we use as a basis for all our sponsored bodies, and this model is kept up to date by the compliance office. The material that it contains on payments in advance of need I would expect to be standard across all sponsored bodies, but I would have to give you separate absolute confirmation of that, because this is a basic rule in *Government Accounting* and I imagine that it is a form of words that has been taken from the Treasury's own guidance that it gives to Government departments. So, I would say that what we have in the management statement reflects the current factors and the current description of this. I will be very happy to look at it again in the light of this experience to see if we should make it more explicit. However, I think that, ultimately, on matters of financial accountability you cannot exemplify every rule and every circumstance. Ultimately, it

dystiolaeth ddogfennol mai dyna a oedd yr achos. Fodd bynnag, dywedir wrthyf gan y staff cyllid dan sylw mai eu dealltwriaeth glir, o sgysiau gyda staff gweithredol, oedd bod y cyfryw sgysiau yn digwydd. Yr hyn na allaf ei wneud yw ei brofi.

[189] **Mark Isherwood:** Pe gallwn ychwanegu—mae hyn i'r tri ohonoch, os yn bosibl—onid y mater go iawn yn y fan hon yw nad yw'r memorandwm ariannol ei hun yn ddigon clir ynglŷn ag o dan ba amgylchiadau y dylai'r cyngor cenedlaethol droi at Lywodraeth y Cynulliad am gymeradwyaeth? A allech hefyd gadarnhau pwy ddrafftiodd y memorandwm ariannol yn y lle cyntaf.

**Syr Jon Shortridge:** A ydych am i mi ateb y cwestiwn hwnnw? Dogfen y Cynulliad Cenedlaethol yw'r memorandwm ariannol felly swyddogion yw'r man cychwyn, ond yn amlwg caiff ei baratoi mewn modd ymgynghorol pan fo gennych gorff newydd fel y cyngor cenedlaethol. Bu inni roi drafft ohono iddynt yn ôl yn Nhachwedd 2000, a chael ymateb arno, a'i gyhoeddi pan grëwyd y cyngor yn Ebrill 2001, ac yna byddai gennym drefniadau, gan mai corff newydd ydoedd, i'w adolygu ar ôl blwyddyn. Yr ydym yn ei adolygu eto ar hyn o bryd yng ngoleuni'r profiad o'i ddefnyddio.

Mae gennym femorandwm ariannol a datganiad rheoli safonol yr ydym yn eu defnyddio fel sail i'n cyrff a noddir i gyd, a diweddarir y ddogfen safonol hon gan y swyddfa cydymffurfio. Byddwn yn disgwyl i'r deunydd y mae'n ei gynnwys ar daliadau cyn bod angen fod yn safonol ar draws yr holl gyrff a noddir, ond byddai'n rhaid i mi roi cadarnhad pendant ar wahân o hynny i chi, oherwydd fod hon yn rheol sylfaenol yn *Cyfrifo'r Llywodraeth* a dychmygaf ei bod yn ffurf o eiriau sydd wedi cael eu cymryd o'r canllawiau y mae'r Trysorlys yn eu rhoi i adrannau'r Llywodraeth. Felly, byddwn yn dweud bod yr hyn sydd gennym yn y datganiad rheoli yn adlewyrchu'r ffactorau cyfredol a'r disgrifiad cyfredol o hyn. Byddaf yn hapus i edrych arno unwaith eto yn sgil y profiad hwn i weld a ddylem ei wneud yn fwy eglur. Fodd bynnag, credaf, yn y pen draw, na allwch enghreifftio pob rheol a'r holl amgylchiadau ynghylch materion o

does come down to the good judgment and common sense of the people who are seeking to apply this. Obviously, if in doubt, the thing to do is to ask. You do not necessarily go straight in with a formal submission, but you ask and seek clarification as to whether, in these circumstances, it would be necessary and appropriate to do this or whether this is something that officials in the Assembly can say quite readily, 'Well, you know, this is practice that occurs elsewhere, and we would not expect you to make a submission on it.'

[190] **Mark Isherwood:** Perhaps Mr Higson and Mr Martin could also comment. Do you believe that the financial memorandum was or is sufficiently explicit in these areas?

**Dr Higson:** As Sir Jon said, we are looking at it with our sponsor division at the moment and I think that I do concur with the view that it is actually probably less helpful to have many sorts of complex rules about what one can and cannot do. It is simpler to have broad guidance with an expectation that there will be discussion with the Assembly for anything outside of that guidance.

**Mr Martin:** If I could conclude, I do not think that there is a problem with that bit of the financial memorandum anyway. I am sure that lots of things could be clearer, but I think that there is grave danger in thinking that you can try to spell out every possible eventuality. The fact is that in this case it was not referred to the sponsor division because the senior staff concerned did not believe that it represented a significant change. It was a judgment call and I think that all of us, particularly hearing Sir Jon's comments this morning, would want always to make sure that, if there is any doubt whatsoever—there was no doubt in their minds, but where there is any doubt among staff—those matters are referred to the Assembly Government.

[191] **Jocelyn Davies:** And referred to the chief executive?

**Mr Martin:** Yes, although I do believe that it

atebolrwydd ariannol. Yn y pen draw, crebwyll da a synnwyr cyffredin y bobl sy'n ceisio gweithredu hwn ydyw yn y bôn. Yn amlwg, os oes amheuaeth, dylid gofyn. Nid ydych o reidrwydd yn mynd ati ar unwaith gyda chyflwyniad ffurfiol, ond yr ydych yn gofyn ac yn gwneud cais am eglurhad ynglŷn ag a fyddai'n angenrheidiol ac yn briodol, dan yr amgylchiadau hyn, gwneud hyn neu a yw hwn yn rhywbeth y gall swyddogion yn y Cynulliad ddweud yn ddigon parod, 'Wel, wyddoch chi, mae hwn yn arfer sy'n digwydd mewn manau eraill, ac ni fyddem yn disgwyl i chi wneud cyflwyniad yn ei gylch.'

[190] **Mark Isherwood:** Efallai y gall Mr Higson a Mr Martin roi sylwadau hefyd. A ydych o'r farn bod y memorandwm ariannol a'i fod yn awr yn ddigon eglur yn y meysydd hyn?

**Dr Higson:** Fel y dywedodd Syr Jon, yr ydym yn edrych arno gyda'n his-adran noddi ar hyn o bryd a chredaf fy mod yn cytuno â'r farn ei fod yn ôl pob tebyg yn llai defnyddiol cael sawl math o reolau cymhleth am yr hyn y gall neu ni all dyn ei wneud. Mae'n symlach cael canllawiau bras gyda disgwyliad y bydd unrhyw beth y tu hwnt i'r canllawiau hynny yn cael ei drafod â'r Cynulliad.

**Mr Martin:** Pe gallwn gloi, ni chredaf fod problem gyda'r rhan honno o'r memorandwm ariannol beth bynnag. Yr wyf yn siŵr y gallai llawer o bethau fod yn gliriach, ond credaf fod perygl mawr gyda meddwl y gallwch geisio roi sylw i bob digwyddiad posibl. Y ffaith yw na chafodd yr achos hwn ei gyfeirio at yr is-adran noddi oherwydd nad oedd y staff dan sylw yn credu ei fod yn cynrychioli newid sylweddol. Mater o farn ydoedd a chredaf y byddai pob un ohonom, yn enwedig o glywed sylwadau Syr Jon y bore yma, am sicrhau bob amser, os oes unrhyw amheuaeth o gwbl—nid oedd ganddynt amheuaeth ond lle mae unrhyw amheuaeth ymhlith staff—bod y materion hynny yn cael eu cyfeirio at Lywodraeth y Cynulliad.

[191] **Jocelyn Davies:** A'u cyfeirio at y prif weithredwr?

**Mr Martin:** Ie, er y credaf iddo fod yn

was a fair judgment call by them and, in retrospect, I certainly think that it was a significant enough issue that it would have been sensible for it to have been referred to me. However, at the same time, I do not think that my judgment on it, if I am honest, would have been any different at that time. I would be rationalising if I said that I would have taken a different view of that.

[192] **Janet Davies:** Thank you. We are coming to the end—you can see what the time is. Could I ask you, Mr Higson, how confident are you that the sort of extraordinary issues that have arisen out of this report, which have their roots in the need to spend available resources before the end of the year, will not recur in 2003-04 or, indeed, in future financial years?

**Dr Higson:** There are two parts to the answer, Chair. The first part is the issue of the actual budget profiling and the grip that the national council has on its expenditure, which is about an underspend situation arising again, and the second part is about the actual process of spending its money routinely, at any stage during the year. In terms of this financial year and future financial years, we are putting in place—or have put in place and are strengthening—budget profiling. So we are looking at profile expenditure across all our budget headings over the financial year, new guidance for budget holders, training for budget holders, and so on. We are in the process of looking at re-profiling the second half of the year by the end of this next week, and we are also reporting monthly to the council now on our financial situation. So, there is a much more rigorous reporting regime. As of today, I cannot answer whether there is any likely projected underspend, but I know that, within the very tight financial year that we are in, if there were to be any, it would be very small and we could take corrective action well in advance of the second half of the year to deal with it.

[193] **Janet Davies:** Thank you. That is good news. I will just bring Leighton in before I open matters up.

[194] **Leighton Andrews:** This is a final

benderfyniad teg ganddynt ac, o edrych yn ôl, yr wyf yn sicr o'r farn iddo fod yn fater digon arwyddocaol fel y byddai wedi bod yn synhwyrol iddo gael ei gyfeirio ataf. Fodd bynnag, ar yr un pryd, ni chredaf y byddai fy marn arno, os ydwyf yn onest, wedi bod tamaid yn wahanol bryd hynny. Byddwn yn rhesymoli pe bawn yn dweud y buaswn wedi cymryd agwedd wahanol ar hwnnw.

[192] **Janet Davies:** Diolch. Yr ydym yn tynnu at y terfyn—gallwch weld faint o'r gloch yw hi. A allwn ofyn i chi, Mr Higson, pa mor ffyddiog yr ydych na fydd y math o faterion eithriadol sydd wedi deillio o'r adroddiad hwn, sydd â'u gwreiddiau yn yr angen i wario adnoddau sydd ar gael cyn diwedd y flwyddyn, yn digwydd eto yn 2003-04 neu, yn wir, ym mlynnyddoedd ariannol y dyfodol?

**Dr Higson:** Mae dwy ran i'r ateb, Gadeirydd. Y rhan gyntaf yw'r mater o broffilio cyllideb go iawn a'r gafael sydd gan y cyngor cenedlaethol ar ei wariant, sy'n ymwneud â sefyllfa o danwario yn codi eto, ac mae'r ail ran am y broses go iawn o wario'i arian mewn modd safonol, ar unrhyw adeg yn ystod y flwyddyn. O ran y flwyddyn ariannol hon a blynyddoedd ariannol y dyfodol, yr ydym yn rhoi ar waith—neu wedi rhoi ar waith ac yn cryfhau—proffilio cyllideb. Felly yr ydym yn edrych ar wariant proffil ar draws pob un o'n penawdau cyllideb dros y flwyddyn ariannol, canllawiau newydd ar gyfer deiliaid cyllidebau, hyfforddiant ar gyfer deiliaid cyllidebau, ac ati. Yr ydym yn y broses o edrych ar ail-broffilio yn ail hanner y flwyddyn erbyn diwedd yr wythnos nesaf, ac yr ydym hefyd yn adrodd yn fisol i'r cyngor bellach am ein sefyllfa ariannol. Felly, mae trefn adrodd llawer mwy trwyadl. O heddiw, ni allaf ateb a oes unrhyw danwariant arfaethedig tebygol, ond gwn, o fewn y flwyddyn ariannol dynn iawn yr ydym ynddi, pe bai unrhyw danwario, byddai'n fach iawn a gallem gymryd camau unioni ymhell cyn ail hanner y flwyddyn i fynd i'r afael ag ef.

[193] **Janet Davies:** Diolch. Mae hynny'n newyddion da. Galwaf ar Leighton cyn i mi ehangu materion.

[194] **Leighton Andrews:** Cwestiwn olaf i

question for Mr Martin. Was this the first time that you had been an accounting officer? If so, can you tell us what training you had had in order to perform the role of an accounting officer?

**Mr Martin:** Certainly it was my first appointment as an accounting officer, and in respect of both the national council and the higher education council—because initially, of course, and, in fact, until the end of March this year, I was doing both jobs. The training I received formally was that I attended a half-day session, I think it was. My awareness of accounting issues, I have to say, is much greater than that would suggest, however, because I was, for many years, a public servant—indeed, I was employed in the Welsh Office for many years. I was private secretary to two of Jon's predecessors, and sat with them on occasions like this in Westminster, before the Assembly was created. So, I was very well aware of those issues. I think that it is fair to say that none of that could have prepared me or anybody else for—or it would be very unlikely—the particular set of circumstances that we faced and were working within. That, clearly, taxed myself and colleagues to the point where some things went quite seriously wrong, as are described in this report.

[195] **Janet Davies:** Right. Thank you. Before we finish, I ask Mr Higson and Mr Martin whether there are any other points that you would like to put to us and bring to our attention.

**Dr Higson:** Only, Chairman, to restate that we are learning the lessons. Many have already been learned, and we will continue to learn them over the next few months to ensure that these circumstances do not arise again as far as is at all possible.

**Mr Martin:** Could I say two things in conclusion? First is to say that yes, we have all learned lessons and the process of learning those lessons and making processes more vigorous was something that was in train throughout, and particularly took wing in 2002-03. Now Peter Higson and colleagues

Mr Martin yw hwn. Ai dyma oedd y tro cyntaf i chi fod yn swyddog cyfrifo? Os felly, a allwch ddweud wrthym pa hyfforddiant y cawsoch er mwyn cyflawni rôl swyddog cyfrifo?

**Mr Martin:** Yn sicr hwn oedd fy mhenodiad cyntaf fel swyddog cyfrifo, ac o ran y cyngor cenedlaethol a'r cyngor addysg uwch—oherwydd i ddechrau, wrth gwrs, a, than ddiwedd mis Mawrth eleni, mewn gwirionedd, yr oeddwn yn gwneud y ddwy swydd. Yr hyfforddiant a dderbyniais yn ffurfiol oedd i mi fynychu sesiwn hanner diwrnod, yr wyf yn credu. Mae fy ymwybyddiaeth o faterion cyfrifo, rhaid i mi ddweud, yn llawer mwy nag y byddai hynny'n ei awgrymu, fodd bynnag, oherwydd yr oeddwn, am flynyddoedd lawer, yn was cyhoeddus—yn wir, cefais fy nghyflogi yn y Swyddfa Gymreig am sawl blwyddyn. Yr oeddwn yn ysgrifennydd personol i ddau o ragflaenwyr Jon, ac eisteddais gyda hwy ar achlysuron fel hwn yn San Steffan, cyn creu'r Cynulliad. Felly, yr oeddwn yn ymwybodol iawn o'r materion hynny. Credaf ei bod yn deg i ddweud na allai dim o hynny fod wedi fy mharatoi i nac unrhyw un arall—neu y byddai'n annhebygol iawn—ar gyfer yr amgylchiadau penodol yr oeddem yn eu hwynebu ac yn gweithio ynddynt. Bu hynny, yn amlwg, yn dreth arnaf i a'm cydweithwyr i'r graddau i rai pethau fynd o chwith yn ddifrifol, fel a ddisgrifir yn yr adroddiad hwn.

[195] **Janet Davies:** O'r gorau. Diolch. Cyn i ni orffen, gofynnaf i Mr Higson a Mr Martin a oes unrhyw bwyntiau eraill yr hoffech eu cyflwyno i ni a'u dwyn i'n sylw.

**Dr Higson:** Dim ond, Gadeirydd, ailadrodd ein bod yn dysgu'r gwersi. Mae llawer wedi cael eu dysgu eisoes, a byddwn yn parhau i'w dysgu dros yr ychydig fisoedd nesaf i sicrhau nad yw'r amgylchiadau hyn yn codi eto mor belled ag sy'n bosibl.

**Mr Martin:** A allwn i ddweud dau beth i gloi? Y cyntaf yw dweud ydym, yr ydym i gyd wedi dysgu gwersi ac mae'r broses o ddysgu'r gwersi hynny a gwneud prosesau yn fwy trwyadl yn rhywbeth a oedd ar waith gydol yr amser, ac a fu'n arbennig o flaenllaw yn 2002-03. Bellach mae Peter

are taking that a step further and making sure that it is really embedded and really working well. The final point that I want to make is that I sensed from some of the exchanges earlier that some Committee members may have been taking from my comments that I am, in some sense, blaming the TECs or something about those organisations. That emphatically is not the case. I am making a point about the systems that we were operating with. We inherited many good things from the TECs—a really entrepreneurial approach to business, a can-do approach, a relationship with the business community that, frankly, nobody else could have given us. So I certainly do not want any of this to be, as it were, presented as some kind of indictment of the TECs, or blaming of the TECs. It certainly is not that. It is a purely factual description of the systems that we were operating which, clearly, were not fit for purpose in the public sector environment of an ASPB.

[196] **Janet Davies:** Okay. Thank you very much. I thank the three of you for your answers. I think that they have left quite a lot for the Committee to reflect upon in coming to our own report on this issue. You will be aware that a draft transcript will be sent to you for you to check for factual accuracy before it is published as part of the minutes. When the Committee publishes its report, the transcript will be included as an annex. I thank the witnesses again.

Higson a'i gydweithwyr yn mynd â hynny gam ymhellach ac yn sicrhau ei fod wedi ei wreiddio ac yn gweithio'n dda mewn gwirionedd. Y pwynt olaf yr wyf am ei wneud yw y synhwyras o rai o'r trafodaethau yn gynharach fod rhai o aelodau'r Pwyllgor wedi cael ar ddeall o'm sylwadau fy mod, ar ryw ystyr, yn rhoi'r bai ar y CHM neu rywbeth am y sefydliadau hynny. Yn sicr nid dyna'r achos. Yr wyf yn gwneud pwynt am y systemau yr oeddem yn gweithredu â hwy. Bu inni etifeddu llawer o bethau da gan y CHM—ymagwedd entrepreneuriaidd iawn at fusnes, ymagwedd gadarnhaol, perthynas â'r gymuned fusnes na allai unrhyw un arall, a bod yn onest, fod wedi ei rhoi i ni. Felly yn sicr nid wyf am i unrhyw elfen o hyn gael, fel petai, ei chyflwyno fel rhyw fath o feirniadaeth ar y CHM, neu roi bai ar y CHM. Nid dyna ydyw yn bendant. Mae'n ddisgrifiad cwbl ffeithiol o'r systemau yr oeddem yn eu gweithredu nad oeddynt, yn amlwg, yn addas i'r pwrpas yn amgylchedd sector cyhoeddus ASPB.

[196] **Janet Davies:** O'r gorau. Diolch yn fawr iawn. Diolchaf i'r tri ohonoch am eich atebion. Credaf eu bod wedi rhoi cryn dipyn i'r Pwyllgor fyfyrion arno wrth greu ein hadroddiad ni ar y mater hwn. Byddwch yn ymwybodol y bydd trawsgrifiad drafft yn cael ei anfon atoch i chi archwilio cywirdeb y ffeithiau cyn iddo gael ei gyhoeddi fel rhan o'r cofnodion. Pan fydd y Pwyllgor yn cyhoeddi ei adroddiad, bydd y trawsgrifiad yn cael ei gynnwys fel atodiad. Diolchaf i'r tystion unwaith eto.

*Daeth y sesiwn cymryd tystiolaeth i ben am 12.27 p.m.  
The evidence-taking session ended at 12.27 p.m.*



**Cynulliad Cenedlaethol Cymru  
Pwyllgor Archwilio**

**The National Assembly for Wales  
Audit Committee**

**Y Modd y mae Llywodraeth Cynulliad Cymru yn  
Goruchwylio'r Cyrff Cyhoeddus a Noddir gan y Cynulliad  
a'u Rheolaeth Ariannol**

**Welsh Assembly Government Oversight of Assembly  
Sponsored Public Bodies and their Financial Management**

**Cwestiynau 1-59  
Questions 1-59**

**Dydd Iau 25 Medi 2003  
Thursday 25 September 2003**



*Aelodau o'r Cynulliad yn bresennol: Janet Davies (Cadeirydd), Leighton Andrews, Alun Cairns, Jocelyn Davies, Christine Gwyther, Denise Idris Jones, Val Lloyd, Carl Sargeant.*

*Swyddogion yn bresennol: Syr John Bourn, Archwilydd Cyffredinol Cymru; Lew Hughes, Swyddfa Archwilio Genedlaethol Cymru; Mike Usher, Swyddfa Archwilio Genedlaethol Cymru.*

*Tystion: Syr Jon Shortridge, Ysgrifennydd Parhaol Cynulliad Cenedlaethol Cymru; David Richards, Prif Swyddog Cyllid Cynulliad Cenedlaethol Cymru.*

*Assembly Members present: Janet Davies (Chair), Leighton Andrews, Alun Cairns, Jocelyn Davies, Christine Gwyther, Denise Idris Jones, Val Lloyd, Carl Sargeant.*

*Officials present: Sir John Bourn, Auditor General for Wales; Lew Hughes, National Audit Office Wales; Mike Usher, National Audit Office Wales.*

*Witnesses: Sir Jon Shortridge, Permanent Secretary, National Assembly for Wales; David Richards, Principal Finance Officer, National Assembly for Wales.*

*Dechreuodd y sesiwn cymryd tystiolaeth am 2 p.m.  
The evidence-taking session began at 2 p.m.*

[1] **Janet Davies:** Good afternoon. I think that we are all here, so we might as well begin. As you know, this particular session is about the Welsh Assembly Government's oversight of Assembly sponsored public bodies and their financial management. I welcome Sir Jon Shortridge and David Richards as witnesses for this part of the proceedings.

My first question concerns the nature of the Assembly Government's relationship with its sponsored public bodies. Sir Jon, I will begin by asking you to set up some introductory comments on your view on how the relationship between the Assembly and its sponsored public bodies should operate. Also, why does it not appear to have done so in the case of the National Council for Education and Training for Wales?

**Sir Jon Shortridge:** May I just say, Chair, that that is a very big question. I will try to give bite-sized answers to it. Essentially, what I will do is talk about the nature of the political relationship, then the nature of the official relationship, and then I can go on to deal with the subsidiary questions of how it should have worked and why it did not. May I do it in those four bits?

[1] **Janet Davies:** Prynhawn da. Credaf ein bod ni i gyd yma, felly cystal i ni ddechrau. Fel y gwyddoch, mae'r sesiwn penodol hwn yn ymwneud â'r modd y mae Llywodraeth Cynulliad Cymru yn goruchwylio cyrff cyhoeddus a noddir gan y Cynulliad a'u rheolaeth ariannol. Croesawaf Syr Jon Shortridge a David Richards fel tystion ar gyfer y rhan hon o'r cyfarfod.

Mae fy nghwestiwn cyntaf yn ymwneud â natur perthynas Llywodraeth y Cynulliad â'i gyrff cyhoeddus a noddir. Syr Jon, dechreuaf drwy ofyn i chi roi rhai sylwadau rhagarweiniol ar eich safbwynt chi am sut y dylai'r berthynas rhwng y Cynulliad a'r cyrff cyhoeddus a noddir ganddo weithio. Hefyd, pam nad yw'n ymddangos ei fod wedi gwneud hynny yn achos Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant?

**Syr Jon Shortridge:** A gaf fi ddweud, Gadeirydd, fod hwnnw yn gwestiwn mawr iawn. Ceisiaf roi atebion cryno iddo. Yn y bôn, yr hyn y byddaf yn ei wneud yw siarad am natur y berthynas wleidyddol, yna natur y berthynas swyddogol, ac yna gallaf fynd ymlaen i ddelio â'r cwestiynau atodol o sut y dylai fod wedi gweithio a pham na weithiodd. A gaf fi ei rannu'n bedwar fel hynny?

[2] **Janet Davies:** Yes.

**Sir Jon Shortridge:** Basically, the political relationship is defined by the remit letter that the Minister sends to the chair of the body, usually at some time between January and March—the earlier the better. That sets out what the expectation is of that body, certainly over the following year, but also, indicatively, into subsequent years. The other element is then the fact that the Assembly makes the appointments to the board. Certainly all the Members from the previous Assembly will be aware of the nature of that relationship, which is that these appointments are made, as far as possible, on a bipartisan basis within the Assembly. The Minister then has regular meetings with the chair and/or the council. In the case of the national council, I think that they were six-monthly meetings. That is about monitoring performance. Certain of the control documents, which I will come on to in a moment, define very clearly the nature of the responsibility of the Minister and the nature of the responsibility of the chair of the council, which I define as the political relationship.

In summary, I would say that the role of the Minister, and the Government in its political form, is to set the agenda for the council—in this case—and satisfy herself that the council is fulfilling those policy objectives. There is a residual interest in the effectiveness of the management of the operation of the council. I say ‘residual’ because I am very clear that Ministers should have an expectation that things are done properly and that it is the accounting officer who has a responsibility to ensure that things are done properly. It is only when there is some evidence that things are not going right that, in my view, there should be the political and the ministerial interest. So, if I can take the example of procurement problems, the moment that it became apparent that there were these procurement problems last year, it was right and proper that the Minister should, at that stage, take a close interest and seek to be satisfied that these things were being dealt with properly. So, that is a summary of the political relationship.

The official relationship is much more

[2] **Janet Davies:** Gallwch.

**Syr Jon Shortridge:** Yn sylfaenol, diffinnir y berthynas wleidyddol gan y llythyr cylch gorchwyl a anfonir gan y Gweinidog at gadeirydd y corff, rywbryd rhwng mis Ionawr a mis Mawrth fel arfer—gorau po gyntaf. Mae hynny'n nodi'r hyn a ddisgwylir gan y corff hwnnw, yn sicr yn ystod y flwyddyn ganlynol, ond hefyd, yn arwydd o'r hyn a ddisgwylir yn y blynyddoedd a ganlyn. Yr elfen arall wedyn yw'r ffaith mai'r Cynulliad sy'n penodi i'r bwrdd. Yn sicr bydd pob un o'r Aelodau o'r Cynulliad blaenorol yn ymwybodol o natur y berthynas honno, sef y gwneir y penodiadau hyn, cyn belled â phosibl, ar sail ddwybleidiol o fewn y Cynulliad. Mae'r Gweinidog wedyn yn cael cyfarfodydd rheolaidd gyda'r cadeirydd a/neu'r cyngor. Yn achos y cyngor cenedlaethol, credaf mai cyfarfodydd bob chwe mis oeddynt. Mae hynny'n ymwneud â monitro perfformiad. Mae rhai o'r dogfennau rheoli, y byddaf yn eu trafod mewn munud, yn diffinio'n glir natur cyfrifoldeb y Gweinidog a natur cyfrifoldeb cadeirydd y cyngor, sef yr hyn yr wyf fi yn ei ddiffinio fel y berthynas wleidyddol.

I grynhoi, byddwn yn dweud mai rôl y Gweinidog, a'r Llywodraeth yn ei ffurf wleidyddol, yw gosod yr agenda ar gyfer y cyngor—yn yr achos hwn—a bodloni'i hun bod y cyngor yn cyflawni'r amcanion polisi hynny. Mae diddordeb parhaus yn effeithiolrwydd y gwaith o reoli gweithrediad y cyngor. Dywedaf ‘parhaus’ oherwydd yr wyf yn sicr iawn y dylai Gweinidogion ddisgwyl bod pethau'n cael eu gwneud yn gywir ac mai'r swyddog cyfrifo sy'n gyfrifol am sicrhau bod pethau'n cael eu gwneud yn gywir. Dim ond pan fo rhyw dystiolaeth nad yw pethau'n cael eu gwneud yn iawn, yn fy marn i, y dylid cael y diddordeb gwleidyddol a gweinidogol. Felly, os caf fi gymryd yr enghraifft o broblemau caffael, y funud y daeth yn amlwg bod y problemau caffael hyn y llynedd, yr oedd yn gywir ac yn briodol y dylai'r Gweinidog, ar yr adeg honno, gymryd diddordeb manwl a cheisio bod yn fodlon bod pethau'n cael eu trafod yn briodol. Felly, dyna grynnodeb o'r berthynas wleidyddol.

Mae'r berthynas swyddogol yn llawer mwy

comprehensive and I can again only sketch some of this out because otherwise it would be a very long presentation. You can come back to me on some of it. The official relationship is defined very much in terms of the documentation that is provided. So the prime documentation that determines the relationship is the management statement and financial memorandum, which we spoke about this morning. Those two documents together—I have them here and I would think that we are talking about 30 or 40 pages—are very comprehensive documents, which define the nature of the relationship that should exist between the two organisations. Essentially, they are setting out the framework within which we expect the organisation to operate. It defines the organisation's freedoms to operate. These are organisations that are independent statutory bodies for the most part, and so they have to take responsibility for their actions. However, we define for them the freedoms that they have and the parameters within which they take those actions and then, by definition, to the extent that we have not specified the freedoms, they have to come back to us as officials for the necessary approvals.

Now, underlying all of that, there is a very complex network of relationships and of meetings, which I have twice a year with the accounting officers, which David Richards has twice a year with the finance directors, and which certain of our other finance colleagues have on a regular basis with the organisations collectively. Then we have the sponsor division, which has the responsibility for managing the relationship of the Assembly Government, or the Assembly in one sense, with the particular body. Those are pretty hands-on relationships so that, for example, there are regular monthly meetings between the sponsor division and the relevant executives within the body concerned. We receive their monthly financial reports and we monitor those pretty closely. So we are constantly looking for intelligence about how the body is performing against its remit letter and also against—and I should have mentioned this earlier—its corporate plan and its business plan, both of which are signed off by the Minister. So, those are, fundamentally,

cynhwysfawr ac unwaith eto dim ond amlinelliad y gallaf ei roi neu byddai'n gyflwyniad hir iawn fel arall. Gallwch ddod yn ôl ataf ynglŷn â rhai agweddau arni. Mae'r berthynas swyddogol yn cael ei diffinio i raddau helaeth yn nhermau'r dogfennau a ddarperir. Felly, y prif ddogfennau sy'n pennu'r berthynas yw'r datganiad rheoli a'r memorandwm ariannol, y buom yn sôn amdanynt yn ystod y bore. Mae'r ddwy ddogfen hyn gyda'i gilydd—maent gennyf yn y fan hon a byddwn yn meddwl ein bod yn sôn am tua 30 neu 40 tudalen—yn ddogfennau cynhwysfawr iawn, sy'n diffinio natur y berthynas a ddylai fodoli rhwng y ddau sefydliad. Yn eu hanfod, maent yn gosod y fframwaith yr ydym yn disgwyl i'r sefydliad weithio oddi fewn iddo. Mae'n diffinio rhyddid y sefydliad i weithredu. Mae'r rhain yn sefydliadau sy'n gyrff statudol annibynnol i raddau helaeth, ac felly mae'n rhaid iddynt fod yn gyfrifol am eu gweithredoedd. Fodd bynnag, yr ydym yn diffinio ar eu cyfer y rhyddid sydd ganddynt a'r paramedrau y maent yn cyflawni'r camau gweithredu hynny oddi fewn iddynt ac yna, trwy ddiffiniad, i'r graddau nad ydym wedi nodi'r hawliau, mae'n rhaid iddynt ddychwelyd atom ni fel swyddogion am y gymeradwyaeth angenrheidiol.

Yn sail i hynny i gyd, mae rhwydwaith cymhleth iawn o gydberthnasau ac o gyfarfodydd, yr wyf fi yn eu cael ddwywaith y flwyddyn gyda'r swyddogion cyfrifo, y mae David Richards yn eu cael ddwywaith y flwyddyn gyda'r cyfarwyddwyr cyllid, ac mae rhai o'n cydweithwyr cyllid eraill yn eu cael yn rheolaidd gyda'r sefydliadau gyda'i gilydd. Yna mae gennym yr is-adran noddi, sy'n gyfrifol am reoli perthynas Llywodraeth y Cynulliad, neu'r Cynulliad mewn un synnwyr, gyda'r corff penodol. Mae'r rheini yn gydberthnasau eithaf ymyrrol felly, er enghraifft, mae cyfarfodydd misol rheolaidd rhwng yr is-adran noddi a'r swyddogion gweithredol perthnasol yn y corff dan sylw. Derbyniwn eu hadroddiadau ariannol misol ac yr ydym yn monitro'r rheini'n eithaf gofalus. Felly yr ydym yn edrych yn gyson am wybodaeth am sut mae'r corff yn perfformio yn erbyn ei lythyr cylech gorchwyl a hefyd yn erbyn—a dylwn fod wedi sôn am hyn yn gynharach—ei gynllun corfforaethol a'i gynllun busnes, sydd ill dau yn cael eu

the hard relationships and how they are defined in documentation, but then there is a lot of softer stuff that goes on as well in terms of training and sharing experience and so on, which I can talk about subsequently. That, given that I am not reading from a text, I think defines sufficiently clearly for you the nature of the relationship.

Now, your subsidiary questions—I cannot read my writing—one was why did it not work on this occasion and the first was about how it should have worked, was it?

[3] **Janet Davies:** Really, it was on your view of how the relationship should operate in general.

**Sir Jon Shortridge:** Okay. Well, I think, having defined that sort of framework, how it should work is on a basis of openness, trust and no surprises. Both sides—this is the sponsor division now and the sponsor body—should be in pretty much constant communication so that we know what is going on, we are being told what is going on and we have the opportunity to challenge whether what is being proposed is satisfactory and appropriate. I should perhaps add that part of our intelligence comes, certainly in the case of the national council, from the fact that we have a right to have an observer at every council meeting and to see the papers, and that right is invariably taken up. I am not aware of one council meeting where we were not represented. We also have Laurie Pavelin, our chief accountant, as a member of the council's audit committee. So we are quite well wired into the national council and can get intelligence from what is going on.

Now, why did this not work properly and effectively on this occasion? It is my judgment, and this is one of the big lessons from this experience, that the assumption was made in the case of the national council—this is an assumption by officials, I must emphasise, of the national council—that you could just move pretty seamlessly into that sort of relationship. With hindsight, clearly, we should have been treating the national

harwyddo gan y Gweinidog. Felly, dyna, yn sylfaenol, yw'r cydberthnasau caled a sut y'u diffinnir mewn dogfennau, ond yna mae llawer o bethau llai difrifol sy'n digwydd hefyd o ran hyfforddiant a rhannu profiad ac ati, y gallaf siarad amdanynt maes o law. Credaf fod hynny, gan ystyried nad wyf yn darllen o destun, yn diffinio natur y berthynas yn ddigon clir i chi.

Yn awr, eich cwestiynau ategol—ni allaf ddarllen fy ysgrifen—un ohonynt oedd pam na wnaeth weithio ar yr achlysur hwn ac yr oedd y cyntaf ynglŷn â sut y dylai fod wedi gweithio, oedd?

[3] **Janet Davies:** Mewn gwirionedd, yr oedd ynglŷn â'ch safbwynt chi ar sut y dylai'r berthynas weithio yn gyffredinol

**Syr Jon Shortridge:** O'r gorau. Wel, credaf, ar ôl diffinio'r math hwnnw o fframwaith, y dylai weithio ar sail natur agored, ymddiriedaeth a dim syndod. Dylai'r ddwy ochr—sef yr is-adran noddi yn awr a'r corff noddi—fod yn cyfathrebu fwy neu lai'n gyson fel ein bod yn gwybod beth sy'n digwydd, ein bod yn cael ein hysbysu am yr hyn sy'n digwydd a bod gennym gyfle i herio a yw'r hyn sy'n cael ei gynnig yn foddhaol ac yn briodol. Efallai y dylwn ychwanegu y daw rhan o'n gwybodaeth, yn sicr yn achos y cyngor cenedlaethol, o'r ffaith bod gennym hawl i gael rhywun yn arsylwi yn holl gyfarfodydd y cyngor ac i weld y papurau, ac yr ydym yn manteisio ar yr hawl honno yn ddieithriad. Nid wyf yn ymwybodol o un cyfarfod cyngor lle na chawsom ein cynrychioli. Hefyd, mae Laurie Pavelin, ein prif gyfrifydd, yn aelod o bwyllgor archwilio'r cyngor. Felly yr ydym yn ymwneud yn eithaf agos gyda'r cyngor cenedlaethol ac yn gallu cael gwybodaeth o'r hyn sy'n digwydd.

Felly, pam na weithiodd hyn yn gywir ac yn effeithiol ar yr achlysur hwn? Yn fy marn i, a dyma un o'r gwersi mawr o'r profiad hwn, gwnaed y rhagdybiaeth yn achos y cyngor cenedlaethol—rhaid i mi bwysleisio mai rhagdybiaeth gan swyddogion y cyngor cenedlaethol yw hon—y gallech symud fwy neu lai'n ddidrafferth i'r math hwnnw o berthynas. O edrych yn ôl, yn amlwg, dylem fod wedi trin y cyngor cenedlaethol yn ei

council in its first year, arguably the first two years, as a new body on probation. We should therefore have been adopting a much more active sponsorship role in relation to the national council than we did. I would not want to give the impression that it was an entirely passive relationship or that it was no more active than in other cases. I am confident from the significant team that we had there, and the very experienced team that we had there, that they were actively engaging with the council, and more so than they would have done with the predecessor body. However, nonetheless, in light of what we have all heard this morning, I would not begin to pretend that that proved to be sufficient. I think that underlying all this was that we trusted them too much and we challenged them too little, particularly on the issue of whether they should have been allowed to go ahead and bring forward these innovation and development projects in the latter half of the year.

So what would I have done differently? With the benefit of hindsight, I would have put the council officials on probation for up to two years. I would have been looking for independent assurance of the quality of the council's systems and controls before it had the freedoms to embark upon what was for it a novel grant scheme. Only once we had the necessary assurance would we have let it off the leash more.

[4] **Janet Davies:** Thank you, Sir Jon. I would like to refer to the answer to the last part of my question. It does seem to me that it may possibly have been that perhaps not as full information as possible was coming to the board meetings, if the people from the Assembly Government did not pick up that things needed harder and closer monitoring. Perhaps you would like to comment on that and also on the ways in which you pick up on when things are not perhaps going according to rule, and how you would do it in future if you had a similar situation. It does appear that there was not sufficient information coming through for the officials from the Assembly Government to get to grips with the situation. I hope that I have made myself clear.

**Sir Jon Shortridge:** Yes, you have. May I

flwyddyn gyntaf, neu gellir dadlau y ddwy flynedd gyntaf, fel corff newydd ar brawf. Felly dylem fod wedi mabwysiadu rôl noddi llawer mwy gweithgar mewn perthynas â'r cyngor cenedlaethol nag y gwnaethom. Ni fyddwn am roi'r argraff iddi fod yn berthynas hollol oddefol neu nad oedd yn fwy gweithredol nag mewn achosion eraill. Yr wyf yn hyderus o ystyried y tîm sylweddol a oedd gennym yno, a'r tîm profiadol iawn yr oedd gennym yno, eu bod wedi ymwneud yn ddiwyd â'r cyngor, a hynny i raddau helaethach nag y byddent wedi ei wneud â'r corff rhagflaenol. Fodd bynnag, serch hynny, yn sgil yr hyn yr ydym wedi ei glywed y bore yma, ni fuaswn yn dechrau esgus bod hynny wedi bod yn ddigonol. Credaf mai'r hyn sydd wrth wraidd hyn oll yw i ni ymddiried ormod ynddynt a methu â'u herio ddigon, yn enwedig ynghylch y mater a ddylent fod wedi gallu mynd rhagddynt a dod â'r prosiectau arloesi a datblygu hyn ymlaen yn hanner olaf y flwyddyn.

Felly beth fyddwn i wedi ei wneud yn wahanol? O edrych yn ôl, byddwn wedi rhoi swyddogion y cyngor ar brawf am hyd at ddwy flynedd. Byddwn wedi bod yn edrych am sicrwydd annibynnol am ansawdd systemau a chamau rheoli'r cyngor cyn bod ganddo'r hawliau i gychwyn ar yr hyn a oedd yn gynllun grant newydd iddo. Ar ôl cael y sicrwydd angenrheidiol yn unig y byddem wedi rhoi mwy o ryddid iddo.

[4] **Janet Davies:** Diolch, Syr Jon. Hoffwn gyfeirio at yr ateb i ran olaf fy nghwestiwn. Mae'n ymddangos i mi ei bod yn bosibl nad oedd gwybodaeth mor llawn â phosibl yn cyrraedd cyfarfodydd y bwrdd, os na wnaeth pobl o Lywodraeth y Cynulliad sylwi bod angen monitro pethau yn fwy llym a thrylwyr. Efallai yr hoffech roi sylwadau ar hynny a hefyd ar y ffyrdd yr ydych yn sylwi pan nad yw pethau efallai yn datblygu yn ôl y disgwyl, a sut byddech yn ei wneud yn y dyfodol pe bai gennych sefyllfa debyg. Mae'n ymddangos nad oedd gwybodaeth ddigonol yn dod drwodd er mwyn i swyddogion Llywodraeth y Cynulliad fynd i'r afael â'r sefyllfa. Gobeithio fy mod wedi mynegi fy hun yn glir.

**Syr Jon Shortridge:** Ydych. A gaf fi drafod

deal with three things? Two of them are the points that you made, but I just want to add one further thought to my opening remarks. To the best of my knowledge and experience, when we have set up bodies like the national council—this is going back to my Welsh Office days—we have not put in place the sort of probationary arrangements that I mentioned. So, to the extent that we were acting in accordance with what was deemed to be best practice, I think that we probably were. I think that none of us had an expectation that what we learned about this morning could have happened. However, clearly, in light of those events, just doing as we did when we set up Tai Cymru—or, it is not quite a direct comparison, but when we set up the Welsh European Funding Office—was not enough.

Clearly, more was required, with hindsight, in the case of the national council. In terms of whether enough information was coming forward to the council, I am not able to give you a definitive answer to that because I have not reviewed all the information that was becoming available. All I do know is that we did not have any reason to believe, on the basis of the intelligence that we had received through our routine monitoring and observation of the council, that it would not be able to cope with the situation that it got itself into. In part, I think that colleagues took assurance from the fact that, while this was a brand new public body, it had grown out of the Further Education Funding Council for Wales, which had been around for a long time. So it had a very experienced finance director and had an accounting officer who had joined FEFCW in May 2000. So when these things started to happen in November 2001, an accounting officer had been in place for 18 months, and so I think that there was a bit of a view that, by then, the organisation had begun to mature.

Your last point about, well, where do you get the assurance from, I think is a very important point, and it goes back to what I was saying about the fact that perhaps we should in future have a probationary period of up to two years. By definition, if you have a hands-off relationship with a body, you tend to find out about things—good or bad—

tri pheth? Pwyntiau yr ydych chi wedi eu gwneud yw dau ohonynt, ond yr wyf am ychwanegu un pwynt arall at fy sylwadau agoriadol. Hyd eithaf fy ngwybodaeth a'm profiad, pan yr ydym wedi sefydlu cyrff fel y cyngor cenedlaethol—mae hyn yn mynd yn ôl i'm dyddiau yn y Swyddfa Gymreig—nid ydym wedi rhoi ar waith y math o drefniadau cyfnod prawf yr wyf wedi eu crybwyll. Felly, i'r graddau yr oeddem yn gweithredu yn unol â'r hyn a bennwyd yn arfer gorau, credaf i ni wneud hynny yn ôl pob tebyg. Credaf nad oedd yr un ohonom yn disgwyl y gallai'r hyn yr ydym wedi'i ddysgu y bore yma fod wedi digwydd. Fodd bynnag, yn amlwg, yn sgîl y digwyddiadau hynny, nid oedd gwneud fel y gwnaethom pan sefydlasom Tai Cymru—neu, nid yw'n gymhariaeth hollol uniongyrchol, ond pan sefydlasom Swyddfa Cyllid Ewropeaidd Cymru—yn ddigon.

Yn amlwg, yr oedd angen mwy, o edrych yn ôl, yn achos y cyngor cenedlaethol. O ran a oedd digon o wybodaeth yn cael ei chyflwyno i'r cyngor, ni allaf roi ateb penodol i hynny oherwydd nid wyf wedi adolygu'r holl wybodaeth a oedd yn cael ei chyflwyno. Y cyfan y gwn i yw nad oedd gennym unrhyw reswm i gredu, ar sail y wybodaeth a ddaeth i law drwy ein monitro ac arsylwi arferol o'r cyngor, na fyddai'n gallu ymdopi â'r sefyllfa y cafodd ei hun ynddi. Yn rhannol, credaf i gydweithwyr ennyn sicrwydd o'r ffaith, er mai corff cyhoeddus newydd sbon oedd hwn, ei fod wedi datblygu o Gyngor Cyllido Addysg Bellach Cymru, a oedd wedi bod mewn bodolaeth ers tro byd. Felly yr oedd ganddo gyfarwyddwr cyllid profiadol iawn a swyddog cyfrifo a oedd wedi ymuno â CCABC ym mis Mai 2000. Felly pan ddechreuodd pethau ddigwydd ym mis Tachwedd 2001, yr oedd swyddog cyfrifo wedi bod yn ei swydd am 18 mis, ac felly credaf fod rhywfaint o farn, erbyn hynny, bod y sefydliad wedi dechrau aeddfedu.

Mae'ch pwynt olaf ynglŷn â, wel, o ble yr ydych yn cael eich sicrwydd, yn bwynt pwysig iawn yn fy marn i, ac mae'n mynd yn ôl at yr hyn yr oeddwn yn ei ddweud am y ffaith efallai y dylem gael cyfnod prawf o hyd at ddwy flynedd yn y dyfodol. Mae'n amlwg felly, os oes gennych berthynas anymyrrol â chorff, yr ydych yn tueddu i

after they have happened. So I have to rely, to a significant extent, on audit. That is, both reports that are coming out from internal audit in the council—they hit the council's audit committee and I have a member of staff on that audit committee—and also the audit report of the Auditor General for Wales, which is always supplemented by a management letter, which is not a public document, but which goes to the accounting officer of the body concerned and which is copied across to me. So that is my hard intelligence about what is happening within an organisation such as this, but, by definition, that documentation comes through to me at least 18 months after the beginning of the financial year concerned. So this is wise-after-the-event territory.

What I could say perhaps is that these documents are taken very seriously by my officials and by me. All the assurance reports and all the management letters that come from all our executive bodies go straight into our finance group and our chief accountant examines them very closely to see if there are serious issues in relation to an individual body, but also to see if there are any generic issues coming through that affect a number of bodies and which require action. The chief accountant then reports to the corporate governance committee, which, until very recently, I chaired. I am now a member of that committee—it is an official committee—and one of my non-executive directors chairs it, so that, annually, we are in a position to assess the state of financial health, if I can put it that way, of all our sponsored bodies, and we take that, and do that, very seriously. Perhaps I could just add context to that, because what we heard this morning at one level certainly should make us very depressed, but I think that it needs to be put into context. In the last two general reports from the Auditor General, he has said that the standard of probity, or words to that effect, in public bodies in Wales is high. So what you have heard today is very much an exception to the rule. I would like to think that, in part at least, that means that the nature of the systems and arrangements that we have in place to oversee these public bodies is, and has been, working reasonably well.

ddod i wybod am bethau—da neu ddrwg—ar ôl iddynt ddigwydd. Felly mae'n rhaid i mi ddibynnu, i raddau helaeth, ar archwilio. Hynny yw, adroddiadau archwiliadau mewnol yn y cyngor—maent yn cael eu cyflwyno i bwyllgor archwilio'r cyngor ac mae gennyf aelod o staff ar y pwyllgor archwilio hwinnw—a hefyd adroddiad archwilio Archwilydd Cyffredinol Cymru, sydd bob amser yn cael ei ategu gan lythyr rheoli, nad yw'n ddogfen gyhoeddus, ond sy'n cael ei hanfon at swyddog cyfrifo'r corff dan sylw ac yr wyf yn derbyn copi ohoni. Felly dyna fy ngwybodaeth gadarn am yr hyn sy'n digwydd o fewn sefydliad tebyg i hwn, ond, drwy ddiffiniad, yr wyf yn derbyn y dogfennau hynny o leiaf 18 mis ar ôl dechrau'r flwyddyn ariannol dan sylw. Felly yr ydym ar dir doeth-wedi'r-digwyddiad.

Yr hyn y gallwn ei ddweud efallai yw bod fy swyddogion a minnau yn cymryd y dogfennau hyn o ddifrif. Mae'r holl adroddiadau sicrwydd a'r holl lythyrau rheoli a ddaw o'n holl gyrff gweithredol yn mynd yn uniongyrchol i'n grŵp cyllid ac mae ein prif gyfrifydd yn eu harchwilio'n ofalus iawn i weld a oes materion difrifol yn ymwneud â chorff unigol, ond hefyd i weld a oes materion cyffredinol yn codi sy'n effeithio ar nifer o gyrff ac sydd angen gweithredu yn eu cylch. Yna mae'r prif gyfrifydd yn adrodd i'r pwyllgor rheoli corfforaethau yr oeddwn, tan yn ddiweddar, yn gadeirydd arno. Yr wyf bellach yn aelod o'r pwyllgor hwinnw—pwyllgor swyddogol ydyw—ac mae un o'm cyfarwyddwyr anweithredol yn ei gadeirio, felly, yn flynyddol, yr ydym mewn sefyllfa i asesu cyflwr iechyd ariannol, os gallaf ei roi fel hynny, pob un o'n gyrff a noddir, ac yr ydym yn cymryd hynny, ac yn gwneud hynny, o ddifrif. Efallai y gallwn roi cyd-destun i hynny, oherwydd dylai'r hyn y clywsom y bore yma ein digalonni'n fawr ar un lefel, ond credaf fod angen ei roi mewn cyd-destun. Yn y ddau adroddiad diwethaf gan yr Archwilydd Cyffredinol, mae wedi dweud bod safon cywirdeb, neu eiriau i'r perwyl hwinnw, mewn gyrff cyhoeddus yng Nghymru yn uchel. Felly mae'r hyn yr ydych wedi ei glywed heddiw yn eithriad i'r rheol i raddau helaeth. Byddwn yn hoffi meddwl, yn rhannol o leiaf, bod hynny'n golygu bod natur y systemau a'r trefniadau sydd gennym ar waith i oruchwyllo'r gyrff cyhoeddus hyn

yn gweithio'n rhesymol dda, ac wedi bod yn gweithio felly.

[5] **Janet Davies:** I think that I would agree with you on that last point, because most of the reports that come before us—well, we have never had a report quite like this one in over four years. I have to say, Sir Jon, that you have talked about the experience of the financial officers, and I really am struggling to understand how this could have happened when you had people with that sort of experience involved. It may be that, as politicians, we are sort of outside the loop, if I can put it like that, but it really is very, very difficult to understand it. I do not know if you can make any comment on that.

**Sir Jon Shortridge:** Well, I can only agree with you. If I had begun to have an expectation that this sort of thing could have happened, I would have acted very differently and I am sure that my colleagues would have acted very differently. It is a salutary lesson for us all. One of my mantras throughout my career has been 'assume nothing'. We certainly did not assume that this could have happened, and if we had felt that there was any serious prospect of it happening we must, and we should, have conducted ourselves very differently. That is why I am acknowledging to you today that I think, in the light of this, that I would want all new sponsored bodies to have a probationary period of about two years, which would be extendable depending upon the independent reports that we were getting, not just from the auditors, but from independent consultants who we were probably putting in to get that assurance.

How could it have happened? Steve Martin said this morning that the council and everyone was too ambitious in that first year, and I think that that must be a relevant consideration and an explanation—not an excuse, but an explanation. On that, I would just like to quote from the remit letter, because I do not think that, from my reading of the remit letter, the council was being put under pressure to do an unreasonable amount in its first year. As always with a new organisation, reorganisation absorbs an

[5] **Janet Davies:** Credaf y byddwn yn cytuno â chi ar y pwynt diwethaf hwnnw, oherwydd mae mwyafrif yr adroddiadau a ddaw ger ein bron—wel, nid ydym wedi cael adroddiad tebyg i hwn mewn dros bedair blynedd. Rhaid i mi ddweud, Syr Jon, eich bod wedi siarad am brofiad y swyddogion ariannol, ac yr wyf yn ei chael yn anodd iawn deall sut y gallai hyn fod wedi digwydd pan yr oedd gennych bobl â'r cyfryw brofiad yn ymwneud â'r corff. Efallai, fel gwleidyddion, ein bod ni ar yr ymylon i ryw raddau, os gallaf ei roi fel hynny, ond mae'n wir yn anodd iawn, iawn ei ddeall. Ni wn a allwch roi unrhyw sylwadau ar hynny.

**Syr Jon Shortridge:** Wel, ni allaf ond cytuno â chi. Pe bawn i wedi dechrau disgwyl y gallai'r math hwn o beth ddigwydd, byddwn wedi gweithredu'n wahanol iawn ac yr wyf yn siŵr y byddai fy nghydweithwyr wedi gweithredu'n wahanol iawn. Mae'n wers ddefnyddiol i ni i gyd. Mae 'na thybiwch unrhyw beth' wedi bod yn un o'm mantrâu gydol fy ngyrfa. Yn sicr ni thybiasom y gallai hyn fod wedi digwydd, a phe baem wedi teimlo bod unrhyw debygrwydd difrifol ohono'n digwydd byddai'n rhaid i ni fod wedi, a dylem fod wedi, gweithredu'n wahanol iawn. Dyna pam yr wyf yn cydnabod i chi heddiw fy mod yn credu, yn sgîl hyn, y byddwn am i bob corff newydd a noddur gael cyfnod prawf o tua dwy flynedd, y byddai modd ei ymestyn yn dibynnu ar yr adroddiadau annibynnol y byddem yn eu derbyn, nid yn unig gan yr archwilwyr, ond gan ymgynghorwyr annibynnol y byddem yn eu defnyddio i gael y sicrwydd hwnnw.

Sut y gallai hyn fod wedi digwydd? Dywedodd Steve Martin y bore yma fod y cyngor a phawb yn rhy uchelgeisiol yn y flwyddyn gyntaf honno, a chredaf fod yn rhaid i hynny fod yn ystyriaeth berthnasol ac yn esboniad—nid esgus, ond esboniad. Parthed hynny, hoffwn ddyfynnu o'r llythyr cylch gorchwyl oherwydd ni chredaf, o ddarllen y llythyr cylch gorchwyl, i'r cyngor gael ei roi dan bwysau i gyflawni baich afresymol yn ei flwyddyn gyntaf. Fel yn achos pob sefydliad newydd, mae ad-drefnu



enormous amount of energy and there will always be the unanticipated, however good your management of risk. However, the remit letter said:

‘2001-02 will be a transitional year in which an early priority for the Council will be to ensure that there is continuity of business. The Assembly will expect it to place emphasis during the early days on maintaining performance, and to act prudently in developing new initiatives at a realistic pace.’

So, I do not think, in terms of the remit letter, that the council was under the obligation to do as much as quickly as it chose to do. Now, I can well understand why a new council would have great ambitions and would be wanting to do a lot; the only point that I am making is that I do not think that it was being put under unreasonable pressure from here to do so.

[6] **Janet Davies:** Okay, Sir Jon. Leighton, do you want to come in with something?

[7] **Leighton Andrews:** Thank you. Sir Jon, I just wanted to ask whether there was, in any way, a kind of cultural issue here? You used the phrase that you had trusted too much and challenged too little. This morning, we heard from Mr Martin about his own background: that he had been a private secretary to two of your predecessors and, clearly, had a background in, presumably, the Assembly and, before that, the Welsh Office. What I want to ask you, really, is: was there a kind of complacency on the part of officials that, having come out of that culture, the standards of public service that would have been, I hope, practised in those institutions would automatically have been carried through at every level of the new body?

**Sir Jon Shortridge:** I cannot give you a definitive answer to that, because you would actually have to do some sort of a study and talk to all the people concerned to be able to give a definitive answer. I think that, within the public service, those of us who have been in it for some considerable time have certain

yn cymryd llawer iawn o egni a bydd bob amser yr annisgwyl, pa mor dda bynnag yw'ch rheolaeth o risg. Fodd bynnag, dywedodd y llythyr cylch gorchwyl:

‘Bydd 2001-02 yn flwyddyn drawsnewidiol a blaenoriaeth gynnar i'r Cyngor fydd sicrhau parhad yn y busnes. Bydd y Cynulliad yn disgwyl iddo bwysleisio cynnal perfformiad yn y dyddiau cynnar, a gweithredu'n ddoeth i ddatblygu mentrau newydd ar gyflymder realistig.’

Felly, ni chredaf, o ran y llythyr cylch gorchwyl, i'r cyngor fod dan rwymedigaeth i wneud cymaint mor gyflym ag y penderfynodd ei wneud. Yn awr, gallaf ddeall yn iawn pam y byddai gan gyngor newydd uchelgeisiau mawr a pham y byddai am gyflawni llawer; yr unig bwynt yr wyf yn ei wneud yw nad wyf o'r farn ei fod wedi bod dan bwysau afresymol o'r fan hon i wneud hynny.

[6] **Janet Davies:** O'r gorau, Syr Jon. Leighton, a hoffech chi ychwanegu unrhyw beth?

[7] **Leighton Andrews:** Diolch. Syr Jon, yr oeddwn am ofyn a oedd, mewn unrhyw ffordd, rhyw fath o fater diwylliannol ar waith yn y fan hon? Defnyddiasoch y cymal eich bod wedi ymddiried gormod a heb herio digon. Y bore yma, clywsom gan Mr Martin am ei gefndir ei hun: iddo fod yn ysgrifennydd personol i ddau o'ch rhagflaenwyr ac, yn amlwg, bod ganddo gefndir, yn ôl pob tebyg, yn y Cynulliad, a chyn hynny, y Swyddfa Gymreig. Yr hyn yr hoffwn ei ofyn i chi, mewn gwirionedd, yw: a oedd rhyw fath o hunanfodlonrwydd ar ran y swyddogion, o ddod o'r diwylliant hwnnw, y byddai'r safonau o wasanaeth cyhoeddus a fyddai wedi bod, gobeithiaf, ar waith yn y sefydliadau hynny wedi cael eu lledaenu'n awtomatig i bob lefel o'r corff newydd?

**Syr Jon Shortridge:** Ni allaf roi ateb pendant i hynny, oherwydd byddai'n rhaid i chi mewn gwirionedd wneud rhyw fath o astudiaeth a siarad â'r holl bobl dan sylw i allu rhoi ateb pendant. Credaf, o fewn y gwasanaeth cyhoeddus, fod gan y rheini ohonom sydd wedi bod yn gweithio ynddo

expectations of behaviour and conduct and those expectations influence the way that we do things and the nature of the relationships that we have with people. So there may have been some of that. Going back to what I was just saying, I certainly did not—and I am sure that no-one did—have an expectation that anything like this could ever have happened. Well, that may be complacency, but it was just way outside of our experience.

[8] **Leighton Andrews:** Given that, as you say, this is something way outside of your experience, may I ask you where do you start to make a judgment in a situation like this where an official heading a public body has, in the role of accounting officer, by omission or for whatever other reason, allowed certain practices to be undertaken that are not compatible with the regulations, the guidelines and the ethos, if you like, of the public service? At what point do you make a judgment that such a person should not continue in post?

**Sir Jon Shortridge:** Let me preface my answer on that by saying that one of the relationships that I could have described at the outset is the relationship between accounting officers, and while the chief executive of a sponsored body is appointed through open competition, by the council in this case—although in many cases with the approval of the Assembly Government subsequently—I independently and separately appoint the accounting officer once that person has been appointed chief executive. So, in making that appointment, I have to satisfy myself at the time that that person has the capacity and capability to perform this role. When things start to go wrong, I have a responsibility to re-evaluate that judgment and take a view as to whether this person is still fit to be an accounting officer. Ever since the problems of the irregular procurements emerged, I have been keeping this accounting officer under regular review. In a sense, I put him on probation, I suppose. There has been a series of meetings and correspondence with him on this subject, and it has been, and continues to be, a difficult judgment for me to make. But,

ers cryn amser ddisgwyliadau penodol o ran ymddygiad ac ymarweddiad a bod y disgwyliadau hynny yn dylanwadu ar y modd yr ydym yn gwneud pethau a natur y cydberthnasau sydd gennym â phobl. Felly mae'n bosibl bod rhywfaint o hynny wedi bod ar waith. Gan ddychwelyd at yr hyn yr oeddwn yn ei ddweud, yn sicr nid oeddwn i—ac yr wyf yn sicr nad oedd unrhyw un—yn disgwyl y gallai rhywbeth fel hyn fyth ddigwydd. Wel, efallai mai hunanfodlonrwydd yw hynny, ond yr oedd ymhell y tu hwnt i'n profiad.

[8] **Leighton Andrews:** O ystyried, fel y dywedwch, bod hyn yn rhywbeth sydd ymhell y tu hwnt i'ch profiad, a gaf fi ofyn i chi ble yr ydych yn dechrau barnu mewn sefyllfa fel hon lle mae swyddog sy'n bennaeth ar gorff cyhoeddus wedi, yn rhinwedd ei swydd fel swyddog cyfrifo, drwy esgeulustod neu am ba bynnag reswm arall, ganiatáu defnyddio rhai arferion penodol nad ydynt yn gydnaws â rheoliadau, canllawiau ac ethos, os hoffwch chi, y gwasanaeth cyhoeddus? Pryd yr ydych yn penderfynu na ddylai'r cyfryw unigolyn barhau yn y swydd?

**Syr Jon Shortridge:** Gadewch i mi ddweud, cyn ateb, mai un o'r cydberthnasau y gallwn fod wedi ei disgrifio ar y dechrau yw'r berthynas rhwng swyddogion cyfrifo, a thra penodir prif weithredwr corff cyhoeddus trwy gystadleuaeth agored, gan y cyngor yn yr achos hwn—er gyda chymeradwyaeth Llywodraeth y Cynulliad wedi hynny mewn sawl achos—yr wyf yn penodi'r swyddog cyfrifo yn annibynnol ac ar wahân ar ôl i'r unigolyn hwnnw gael ei benodi'n brif weithredwr. Felly, wrth wneud y penodiad hwnnw, rhaid i mi fodloni fy hun ar y pryd bod gan yr unigolyn hwnnw y gallu a'r ddawn i berfformio'r rôl hon. Pan fo pethau'n dechrau mynd o'i le, mae cyfrifoldeb arnaf i ail-werthuso'r penderfyniad hwnnw a phenderfynu a yw'r unigolyn hwn yn parhau'n addas fel swyddog cyfrifo. Byth ers i'r problemau o'r caffaeliadau afreolaidd ddod i'r fei, yr wyf wedi bod yn adolygu'r swyddog cyfrifo hwn yn rheolaidd. Ar ryw ystyr, tybiaf i mi ei roi ar brawf. Bu cyfres o gyfarfodydd a gohebiaeth gydag ef ynghylch y pwnc hwn, ac mae wedi bod, ac mae'n parhau i fod, yn benderfyniad anodd i mi ei wneud. Ond, yn y bôn, yr wyf yn cael fy

essentially, I am guided by the position that I can either summarily withdraw accounting officer status, which is almost certainly the equivalent of summary dismissal because the employing body would then cease to have an accounting officer, or I take the view that the problem with the person concerned is not sufficient to justify summary removal and that therefore I have to wait upon a process. I would summarily dismiss someone who was guilty of an impropriety.

What we do not have here is a propriety issue; it is a failure of management essentially, and there I feel a need to be fair, reasonable and to act within the law. So fairness requires me to take a balanced view. This Committee, understandably, gets a distorted view because you just learn what has gone wrong. I have to look at what has gone right, I have to be reasonable in the sense that I need to be able to demonstrate that I have gone through a proper process, and I have to have regard to the effect of this on the organisation concerned. Ultimately, I have to act within the law because if I took action to remove accounting officer status and the person concerned lost his or her job, I would need to be confident that they would not win a case for unfair dismissal at an employment tribunal. So it is quite a complicated and complex issue. What I have done in reviewing all these matters is that I have taken the view that I should work on the basis of evidence and, in the absence of final audit reports agreed by all the parties, I feel that I have not had sufficiently firm evidence to act upon. I have been conscious too that there is a disciplinary investigation going forward. If I were to act other than summarily, I would have to put in place my own investigation before withdrawing accounting officer status. That is in the guidance within which I operate. So, essentially, the view that I have taken is that I have had to wait for the results of this NAO report to see if there is, in my judgment, sufficient evidence to act summarily. If, in my judgment, there is not, I have to wait for the completion of any disciplinary investigation to ensure that I have the evidence on which to act.

arwain gan y sefyllfa y gallaf naill ai ddi-ddymu statws swyddog cyfrifo yn ddiannod, sydd bron yn sicr yn cyfateb i ddiswyddiad diannod oherwydd ni fyddai gan y corff sy'n ei gyflogi swyddog cyfrifo mwyach, neu byddwn yn penderfynu nad yw'r broblem gyda'r unigolyn dan sylw yn ddigon i gyfiawnhau diswyddiad diannod ac felly bod yn rhaid i mi bwysu ar broses. Byddwn yn diswyddo'n ddiannod unrhyw un a oedd yn euog o weithredu'n amhriodol.

Yr hyn nad oes gennym yn y fan hon yw mater o briodoldeb; methiant rheolwyr ydyw yn y bôn, a theimlaf bod angen bod yn deg, yn rhesymol a gweithredu o fewn y gyfraith yn y fan honno. Felly mae tegwch yn gofyn i mi gymryd golwg cytbwys. Mae'r Pwyllgor hwn, yn hollol ddealladwy, yn cael golwg camarweiniol oherwydd yr ydych ond yn clywed am yr hyn sydd wedi mynd o'i le. Mae'n rhaid i mi edrych ar yr hyn sydd wedi mynd yn iawn, mae'n rhaid i mi fod yn rhesymol o ran bod angen i mi ddangos fy mod wedi dilyn y broses gywir, ac mae'n rhaid i mi ystyried effaith hyn ar y sefydliad dan sylw. Yn y pen draw, mae'n rhaid i mi weithredu o fewn y gyfraith oherwydd pe bawn yn gweithredu i ddi-ddymu statws swyddog cyfrifo ac y byddai'r unigolyn dan sylw yn colli ei swydd, byddai angen i mi fod yn hyderus na fyddent yn ennill achos diswyddo annheg mewn tribiwnlys cyflogaeth. Felly mae'n fater eithaf cymhleth a dyrys. Yr hyn yr wyf wedi ei wneud wrth adolygu'r materion hyn i gyd yw fy mod wedi penderfynu y dylwn weithio ar sail tystiolaeth ac, yn absenoldeb adroddiadau archwilio terfynol y mae'r holl bartïon wedi cytuno arnynt, teimlaf nad wyf wedi cael tystiolaeth ddigon cadarn i weithredu ar ei sail. Bûm yn ymwybodol hefyd bod ymchwiliad disgyblaethol ar y gweill. Pe bawn yn gweithredu mewn unrhyw fodd heblaw'n ddiannod, byddai'n rhaid i mi roi fy ymchwiliad fy hun ar waith cyn diddymu statws swyddog cyfrifo. Dyna'r canllawiau y gweithredaf oddi fewn iddynt. Felly, yn y bôn, y penderfyniad yr wyf wedi ei gymryd yw bod yn rhaid i mi aros am ganlyniadau'r adroddiad SAG hwn i weld a oes, yn fy marn i, digon o dystiolaeth i weithredu'n ddiannod. Os nad oes, yn fy marn i, rhaid i mi aros am gwblhad unrhyw ymchwiliad disgyblaethol i sicrhau bod gennyf dystiolaeth i weithredu ar

ei sail.

[9] **Leighton Andrews:** Nobody is alleging impropriety at all, but, first, would you accept that, in some circumstances, justification for summary dismissal might be given by clear evidence of negligence of duty? Secondly, could you let us, as a Committee—if this is okay, Chair—have a note on whether there have been any other examples, say in the last 10 years or so, of accounting officers in the public sector, in Wales or in England, who have been subject to disciplinary proceedings?

**Sir Jon Shortridge:** Yes, could I take the second one first? I mean, obviously, I have been looking at precedents as well. I might say that I have probably had three meetings with my employment lawyer and two meetings with the Treasury officer of accounts—who is the equivalent of our compliance officer—in order to try to judge the nature and the scale of the situation that I am dealing with here, so that I can act properly and fairly; I mean, fairly to the person concerned, but also fairly to the Assembly. So, as part of that, I have asked for and got examples of accounting officers who have been dismissed and the circumstances around their dismissal. I have not got examples of ones who have been disciplined so, in terms of providing you with the information, I would have to do that by way of a two-stage process. I think that I may write a letter inviting you not necessarily to publish that sort of material.

Negligence of duty is obviously one of the considerations that I have, but I cannot presume negligence of duty, which means that I have had to wait for this audit report, which I received in its final form on 15 September, which was something like last Tuesday I think. If the negligence of duty was so considerable and there were not sufficient mitigating factors then that might be sufficient for me to move to summary dismissal. However, I would only act on the advice of an employment lawyer, because what I cannot do is act in such a way and find that an employment tribunal subsequently finds that I have acted unlawfully.

[9] **Leighton Andrews:** Nid oes unrhyw un yn honni amhriodoldeb o gwbl, ond, yn gyntaf, a fydddech yn derbyn, dan rai amgylchiadau, y gallai tystiolaeth glir o esgeuluso dyletswydd roi cyfiawnhad dros ddiswyddiad diannod? Yn ail, a allech adael i ni, fel Pwyllgor—os yw hyn yn iawn, Gadeirydd—gael nodyn ar a fu unrhyw enghreifftiau eraill, dywedwch yn y 10 mlynedd diwethaf yn fras, o swyddogion cyfrifo yn y sector cyhoeddus, yng Nghymru neu yn Lloegr, sydd wedi bod yn destun achosion disgyblu?

**Syr Jon Shortridge:** Iawn, a gaf fi ateb yr ail un yn gyntaf? Hynny yw, yn amlwg, yr wyf wedi bod yn edrych ar enghreifftiau blaenorol hefyd. Efallai y dywedaf fy mod yn ôl pob tebyg wedi cael tri chyfarfod gyda'm cyfreithiwr cyflogaeth a dau gyfarfod gyda swyddog cyfrifon y Trysorlys—sy'n cyfateb i'n swyddog cydymffurfio ni—er mwyn ceisio barnu ar natur a graddfa'r sefyllfa yr wyf yn delio â hi yn y fan hon, er mwyn i mi allu gweithredu'n briodol ac yn deg; hynny yw, yn deg i'r sawl sydd dan sylw, ond hefyd yn deg i'r Cynulliad. Felly, fel rhan o hynny, yr wyf wedi gofyn am, ac wedi cael, enghreifftiau o swyddogion cyfrifo sydd wedi cael eu diswyddo ac amgylchiadau eu diswyddiad. Nid oes gennyf enghreifftiau o rai sydd wedi cael eu disgyblu felly, o ran darparu'r wybodaeth i chi, byddai'n rhaid i mi wneud hynny mewn proses dau gam. Credaf efallai yr ysgrifennaf lythyr yn eich gwahodd i beidio o reidrwydd â chyhoeddi'r math hwnnw o ddeunydd.

Mae esgeuluso dyletswydd yn amlwg yn un o'r ystyriaethau sydd gennyf, ond ni allaf dybio bod esgeuluso dyletswydd, sy'n golygu y bu'n rhaid i mi aros am yr adroddiad archwilio hwn, a dderbyniais ar ei ffurf derfynol ar 15 Medi, sef rhywbeth fel dydd Mawrth diwethaf yr wyf yn credu. Os oedd yr esgeuluso dyletswydd mor sylweddol ac nad oedd ffactorau lliniarol digonol yna efallai y byddai hynny'n ddigon i mi ddiswyddo'n ddiannod. Fodd bynnag, byddwn ond yn gweithredu ar gyngor cyfreithiwr cyflogaeth, oherwydd yr hyn na allaf ei wneud yw gweithredu yn y cyfryd fodd a chanfod bod tribiwnlys cyflogaeth

wedyn yn barnu fy mod wedi gweithredu'n anghyfreithlon.

[10] **Janet Davies:** Thank you. Alun, you have a question.

[10] **Janet Davies:** Diolch. Alun, mae gennyh gwestiwn.

[11] **Alun Cairns:** Yes, thank you, Cadeirydd. During the Audit Committee's previous investigation into the national council, although it was not disclosed at that time against which individuals disciplinary action had been taken, it is since on public record that Mr Martin was one of those individuals against whom disciplinary action was taken.

[11] **Alun Cairns:** Oes, diolch, Gadeirydd. Yn ystod ymchwiliad blaenorol y Pwyllgor Archwilio i'r cyngor cenedlaethol, er na ddatgelwyd ar y pryd yn erbyn pa unigolion y cymerwyd camau disgyblu, mae ar gofnod cyhoeddus ers hynny i Mr Martin fod yn un o'r unigolion hynny y cymerwyd camau disgyblu yn eu herbyn.

[12] **Janet Davies:** We are not going into individual disciplinary action.

[12] **Janet Davies:** Nid ydym yn mynd i drafod camau disgyblu unigol.

[13] **Alun Cairns:** No, I appreciate that, but I am trying to test the responses that Sir Jon has given to the Committee—

[13] **Alun Cairns:** Na, yr wyf yn gwerthfawrogi hynny, ond yr wyf yn ceisio rhoi'r ymatebion y mae Syr Jon wedi eu rhoi i'r Pwyllgor ar brawf—

[14] **Janet Davies:** Finish your question and I will think again.

[14] **Janet Davies:** Gorffennwch eich cwestiwn a byddaf yn ailfeddwl.

[15] **Alun Cairns:** —whereby he said that he is not aware of an accounting officer having been involved in a disciplinary procedure. However, this is one that is obviously very close to home and does it not ring any alarm bells in your mind in terms of action that you should take?

[15] **Alun Cairns:** —lle y dywedodd nad yw'n ymwybodol i swyddog cyfrifo fod yn destun achos disgyblu. Fodd bynnag, mae hwn yn un sy'n amlwg yn agos iawn i gartref ac onid yw'n seinio rhybudd o ran y camau gweithredu y dylech eu cymryd?

**Sir Jon Shortridge:** Sorry, I think that I was being asked about those over the last 10 years who have been subject to disciplinary action, so I did not have Steve Martin in my mind at the time. Was your basic question, well, should I not be taking that disciplinary event into account in deciding whether he is still suitable to be an accounting officer? That is the point, is it not?

**Syr Jon Shortridge:** Mae'n ddrwg gennyf, yr wyf yn credu i mi gael fy holi am y rheini sydd wedi bod yn destun camau disgyblu dros y 10 mlynedd diwethaf, felly nid oeddwn yn meddwl am Steve Martin ar y pryd. Ai'ch cwestiwn sylfaenol oedd, wel, oni ddylwn ystyried y digwyddiad disgyblu hwnnw wrth benderfynu a yw'n dal i fod yn addas i fod yn swyddog cyfrifo? Onid dyna'r pwynt?

[16] **Alun Cairns:** Yes.

[16] **Alun Cairns:** Ie.

**Sir Jon Shortridge:** What I have to do is look at how seriously, after a very full process, his employer perceived the failures that resulted in that disciplinary action. The outcome of that disciplinary process, which I do not think that I can properly reveal, was actually quite low on the Richter scale, if I

**Syr Jon Shortridge:** Yr hyn sy'n rhaid i mi ei wneud yw edrych ar ba mor ddifrifol, ar ôl proses lawn iawn, yr oedd ei gyflogwr yn ystyried y methiannau a arweiniodd at yr achos disgyblu hwnnw. Ni wnaeth canlyniad y broses ddisgyblu honno, ac ni chredaf ei bod yn gywir i mi ei datgelu, gofrestru'n

can put it that way. So, if someone has gone through a full disciplinary process and has not had that big a sanction imposed on him, if I were then to say, 'well, I am going to withdraw accounting officer status', also against the background that the council has taken a reasonably positive view of his performance overall as a chief executive during this period, then the view that I took—and I did consult lawyers—was that that would not give me a sufficiently sound basis, summarily, to withdraw the accounting officer status.

[17] **Alun Cairns:** Would that not prompt you to investigate further into the wider actions of any individual in that position?

**Sir Jon Shortridge:** There had been very thorough investigations, and I had access to all the relevant documentation relating to the disciplinary hearing, or at least the evidence that was before the disciplinary panel. I did not feel that there was more that I needed, or could or should be seeking. What I sought to do was to take action in order to satisfy myself that there could be no repetition of the sorts of problems that had arisen. I did make it clear that, if I did have such evidence, that would be a very serious matter. As it happens, I do not yet have evidence of comparable failings since I discussed this matter with him following the procurement problems in June of last year. The things that we have been discussing this morning all occurred and took place before June of last year. So, since I became aware of the problems in terms of the quality of the financial control and management in the national council, I have not seen evidence of significant failures in the council for which I can hold the relevant accounting officer to account.

[18] **Leighton Andrews:** Can I come in on that?

[19] **Janet Davies:** Leighton, we are working to a tight line on this.

[20] **Leighton Andrews:** I appreciate that, but I think that this is very important. It is on

uchel iawn ar y raddfa Richter, os caf fi ei roi fel hynny. Felly, os oes rhywun wedi bod yn destun proses ddisgyblu lawn ac nid yw wedi cael ei gosbi mor llym â hynny, pe bawn i wedyn yn dweud, 'wel, yr wyf am ddiddymu statws swyddog cyfrifo', hefyd yn erbyn y cefndir fod y cyngor wedi cymryd safbwynt eithaf cadarnhaol o'i berfformiad cyffredinol fel prif weithredwr yn ystod y cyfnod hwn, yna deuthum i'r penderfyniad—ac ymgynghorais â chyfreithwyr—na fyddai hynny wedi rhoi sail ddigon cadarn i mi ddiddymu'r statws swyddog cyfrifo yn ddiannod.

[17] **Alun Cairns:** Oni fyddai hynny wedi eich ysgogi i ymchwilio ymhellach i weithrediadau ehangach unrhyw unigolyn yn y swydd honno?

**Syr Jon Shortridge:** Bu ymchwiliadau trylwyr iawn, ac yr oedd modd i mi weld yr holl ddogfennau perthnasol yn ymwneud â'r gwrandawriad disgyblu, neu o leiaf y dystiolaeth a oedd gerbron y panel disgyblu. Nid oeddwn yn teimlo bod mwy yr oeddwn ei angen, neu fwy y gallwn neu y dylwn fod yn chwilio amdano. Yr hyn y ceisiais ei wneud oedd gweithredu er mwyn bodloni fy hun na allai'r mathau o broblemau a oedd wedi codi ddigwydd eto. Gwneuthum yn glir y byddai hynny, pe byddai gennyf y cyfryw dystiolaeth, yn fater difrifol iawn. Fel y mae'n digwydd, nid oes gennyf dystiolaeth hyd yn hyn o fethiannau cyffelyb ers i mi drafod y mater hwn gydag ef yn dilyn y problemau caffael ym mis Mehefin y llynedd. Digwyddodd y pethau yr ydym wedi eu trafod y bore yma i gyd cyn mis Mehefin y llynedd. Felly, ers i mi ddod yn ymwybodol o'r problemau o ran ansawdd y rheolaeth a'r camau rheoli ariannol yn y cyngor cenedlaethol, nid wyf wedi gweld dystiolaeth o fethiannau sylweddol yn y cyngor y gallaf ddal y swyddog cyfrifo perthnasol yn gyfrifol amdanynt.

[18] **Leighton Andrews:** A gaf fi ddweud rhywbeth am hynny?

[19] **Janet Davies:** Leighton, yr ydym yn gweithio i amserlen dynn ar hyn.

[20] **Leighton Andrews:** Yr wyf yn gwerthfawrogi hynny, ond credaf fod hyn yn

that point, really. You have just said to us, Sir Jon, in answer to Mr Cairns, that you have not seen evidence of particular kinds of behaviour since last June in respect of the accounting officer. However, earlier, in answer to me, you said that you could not make an effective judgment until you received the NAO report last week. I find those statements rather incompatible.

**Sir Jon Shortridge:** Sorry, I think that they can be reconciled in the sense that last week's NAO report, the report before us today, relates to events that took place in the period up to April 2002. I became aware of the problems in relation to procurement and had a decisive discussion with the accounting officer in June 2002. So, although I have new evidence, it relates to a period before I had actually put him on warning about his performance, if you see what I mean.

[21] **Leighton Andrews:** I understand that, but what it essentially means is that you may now have evidence that, I suppose, might cause you to revise that opinion, or might not cause you to revise that opinion—I do not want to make a judgment either way here. It seems to me that it suggests that we are in danger, and this is more a question for the future I suppose, of being in a situation where you formulate a judgment in one year and have to wait another year for evidence from the NAO before you can get a fully rounded picture as to the effectiveness or otherwise of a particular accounting officer.

**Sir Jon Shortridge:** I agree, and I also agree that what we are discussing is very important. I have devoted an enormous amount of my time, energy and thought to this situation over the last year. I think that the position that I am in at the moment is that I now have definitive evidence, as of last week, from the National Audit Office. I am also aware that there is a report by the investigating officer into the disciplinary matter, which is likely to become available very shortly. The view that I have taken is that I need to see both documents rather than rely on this document.

bwysig iawn. Mae'n ymwneud â'r pwynt hwnnw, i bob pwrpas. Yr ydych newydd ddweud wrthym, Syr Jon, yn eich ateb i Mr Cairns, nad ydych wedi gweld tystiolaeth o fathau penodol o ymddygiad yn achos y swyddog cyfrifo ers mis Mehefin diwethaf. Fodd bynnag, yn gynharach, yn eich ateb i mi, dywedasoch na allech wneud penderfyniad effeithiol tan i chi dderbyn adroddiad y SAG yr wythnos diwethaf. Mae'r datganiadau hynny braidd yn anghyson yn fy marn i.

**Syr Jon Shortridge:** Mae'n ddrwg gennyf, credaf fod modd eu cysoni o ran bod adroddiad y SAG yr wythnos diwethaf, yr adroddiad o'n blaenau heddiw, yn ymwneud â digwyddiadau a welwyd yn y cyfnod hyd at Ebrill 2002. Deuthum yn ymwybodol o'r problemau yn ymwneud â chaffael a chefais drafodaeth bendant gyda'r swyddog cyfrifo ym Mehefin 2002. Felly, er bod gennyf dystiolaeth newydd, mae'n ymwneud â chyfnod cyn i mi ei roi ar rybudd ynglŷn â'i berfformiad, os yr ydych yn fy neall.

[21] **Leighton Andrews:** Yr wyf yn deall hynny, ond yr hyn y mae'n ei olygu yn y bôn yw efallai fod tystiolaeth gennych bellach a allai, y tybiaf, achosi i chi newid y farn honno, neu na allai achosi i chi newid y farn honno—nid wyf am farnu un ffordd na'r llall yn y fan hon. Mae'n ymddangos i mi ei bod yn awgrymu ein bod mewn perygl, a thybiaf fod hwn yn gwestiwn sy'n fwy at y dyfodol, o fod mewn sefyllfa lle'r ydych yn gwneud penderfyniad un flwyddyn ac yn gorfod aros blwyddyn arall am dystiolaeth gan SAG cyn y gallwch gael darlun llawn am effeithiolrwydd neu aneffeithiolrwydd swyddog cyfrifo penodol.

**Syr Jon Shortridge:** Cytunaf, ac yr wyf hefyd yn cytuno bod yr hyn yr ydym yn ei drafod yn bwysig iawn. Yr wyf wedi ymroddi llawer iawn o'm hamser, egni a meddwl i'r sefyllfa hon dros y flwyddyn ddiwethaf. Credaf mai'r sefyllfa yr wyf ynnddi ar hyn o bryd yw fod gennyf dystiolaeth bendant bellach, ers yr wythnos diwethaf, gan y Swyddfa Archwilio Genedlaethol. Yr wyf hefyd yn ymwybodol bod adroddiad gan y swyddog ymchwilio i'r mater disgyblu, sy'n debygol o fod ar gael yn fuan iawn. Yr hyn yr wyf wedi ei benderfynu yw bod angen i mi

This document, it seems to me, demonstrates that the accounting officer did not have the necessary controls in place in relation to this grant scheme. He made some serious omissions—you used the word ‘negligence’, but he made serious omissions. I have not found any evidence of wilful conduct on his part, where he was inviting or encouraging his staff to spend money in advance of need, or do other things like that. If I had that sort of evidence, that would put it, I think, in a different situation to the one that I have before me on the basis of this report. However, the investigation may provide other things.

[22] **Leighton Andrews:** I have not alleged negligence. I was testing negligence in a relatively abstract way with you.

**Sir Jon Shortridge:** Okay, yes.

[23] **Leighton Andrews:** You have just made a number of statements about the accounting officer. There are a number of disciplinary steps short of dismissal. Indeed there are, in employment law, recognised processes that involve verbal warnings, written warnings, and so on. In your view, given what you have just said—. Can I ask this question? No, I think that I will stop there.

[24] **Alun Cairns:** Can I try to be helpful by asking, bearing in mind that we are aware that disciplinary actions have been initiated against Mr Martin previously—I appreciate that Sir Jon Shortridge cannot share those details, nor would we want him to—can I ask that Sir John Bourn, because there are elements of procurement within this document, I believe, considers whether there are any common factors that arose previously, and that might have repeated themselves here?

**Sir John Bourn:** The issue that you raise, Mr Cairns, is being addressed by the investigating officer, but I shall have access to that material. I will look at the point that

weld y ddwy ddogfen yn hytrach na dibynnu ar y ddogfen hon. Mae'r ddogfen hon, mae'n ymddangos i mi, yn dangos nad oedd gan y swyddog cyfrifo y camau rheoli angenrheidiol ar waith mewn perthynas â'r cynllun grant hwn. Gwnaeth rai hepgoriadau difrifol—defnyddiasoch y gair ‘esgeuluster’, ond gwnaeth hepgoriadau difrifol. Nid wyf wedi dod o hyd i unrhyw dystiolaeth o ymddygiad bwriadol ar ei ran, lle yr oedd yn gwahodd neu'n annog ei staff i wario arian cyn bod angen neu wneud pethau eraill tebyg. Pe bai gennyf y math hwnnw o dystiolaeth, byddai hynny'n ei roi, yn fy marn i, mewn sefyllfa wahanol i'r un sydd gennyf o'm blaen ar sail yr adroddiad hwn. Fodd bynnag, efallai bydd yr ymchwiliad yn darparu pethau eraill.

[22] **Leighton Andrews:** Nid wyf wedi honni esgeuluster. Yr oeddwn yn rhoi esgeuluster ar brawf mewn ffordd gymharol ddamcaniaethol gyda chi.

**Syr Jon Shortridge:** O'r gorau, iawn.

[23] **Leighton Andrews:** Yr ydych newydd wneud nifer o ddatganiadau ynglŷn â'r swyddog cyfrifo. Mae nifer o gamau disgyblu llai eithafol na diswyddo. Yn wir, mewn cyfraith gyflogi, mae prosesau cydnabyddedig sy'n cynnwys rhybuddion llafar, rhybuddion ysgrifenedig, ac ati. Yn eich barn chi, o ystyried yr hyn yr ydych newydd ei ddweud—. A gaf fi ofyn y cwestiwn hwn? Na, yr wyf yn credu y tawelaf yn y fan honno.

[24] **Alun Cairns:** A gaf fi geisio bod o gymorth drwy ofyn, o gofio ein bod yn ymwybodol bod camau disgyblu wedi cael eu dwyn yn erbyn Mr Martin yn y gorffennol—yr wyf yn gwerthfawrogi na all Syr Jon Shortridge rannu'r manylion hynny, ac ni fyddwn am iddo wneud—a gaf fi ofyn a yw Syr John Bourn, oherwydd bod elfennau o gaffael yn y ddogfen hon, yn fy marn i, yn ystyried a oes unrhyw ffactorau cyffredin a gododd yn flaenorol, ac sydd efallai wedi ailadrodd eu hunain yn y fan hon?

**Syr John Bourn:** Mae'r swyddog ymchwilio yn delio â'r mater a godwch, Mr Cairns, ond bydd modd i mi weld y deunydd hwnnw. Byddaf yn edrych ar y pwynt a wnaethoch ac



you made and advise the Committee on it.

yn hysbysu'r Pwyllgor yn ei gylch.

[25] **Janet Davies:** Thank you. Could we move on from this to the role of the sponsor department within the Assembly Government? What do you see that role as being, Sir Jon?

[25] **Janet Davies:** Diolch. A allwn symud ymlaen at rôl yr adran noddi yn Llywodraeth y Cynulliad? Beth yw'r rôl honno yn eich barn chi, Syr Jon?

**Sir Jon Shortridge:** Well, essentially, it is to manage the relationship between the Assembly Government/Assembly—because there was an Assembly interest in there as well, I suppose, corporately, but let us say Assembly Government—and the body concerned. So it is the conduit for information and intelligence and for ensuring that the guidelines and the framework, which is controlling the activities of the sponsored body, is being conformed with appropriately.

**Syr Jon Shortridge:** Wel, yn y bôn, ei rôl yw rheoli'r berthynas rhwng Llywodraeth y Cynulliad/y Cynulliad—oherwydd yr oedd diddordeb gan y Cynulliad yno hefyd, tybiaf, yn gorfforaethol, ond gadewch i ni ddweud Llywodraeth y Cynulliad—a'r corff dan sylw. Felly cyfrwng ydyw ar gyfer gwybodaeth a newyddion ac ar gyfer sicrhau bod cydymffurfiaeth briodol â'r canllawiau a'r fframwaith sy'n rheoli gweithgareddau'r corff a noddir.

[26] **Janet Davies:** Right. Thank you. How do you think that the balance should be struck between oversight and advice?

[26] **Janet Davies:** O'r gorau. Diolch. Sut yn eich barn chi y dylid cael cydbwysedd rhwng goruchwyliaeth a chyngor?

**Sir Jon Shortridge:** Well, at one level, if the relationship is working properly, as I said at the outset, there should be a very open trusting relationship. So there is a lot of contact, strong personal relationships, so that both sides can have confidence in letting the other know what is going on, providing, from our point of view, informal guidance on how you can handle this, what you should do about that, does this need to come to us or not—that sort of relationship. The oversight is the things that just have to be done on a very regular basis to ensure that, from our perspective, proper controls are in place. You clearly need to be monitoring expenditure monthly against budget, you need to be looking at the performance of the body in terms of outcomes rather than just resource inputs, to satisfy yourself that it is actually conforming with its business plan and remit letter and that the Assembly corporately is getting value from the performance of the body.

**Syr Jon Shortridge:** Wel, ar un lefel, os yw'r berthynas yn gweithio'n iawn, fel y dywedais ar y dechrau, dylai fod perthynas ymddiriedus agored iawn. Felly mae llawer o gysylltiad, cydberthnasau personol cryf, fel y gall y ddwy ochr fod yn hyderus wrth hysbysu'r llall am yr hyn sy'n digwydd, darparu, o'n safbwynt ni, ganllawiau anffurfiol ar sut y gallwch ddelio â hyn, beth y dylech ei wneud ynglŷn â hynny, a oes angen i hyn ddod atom ni ai peidio—y math hwnnw o berthynas. Yr oruchwyliaeth yw'r pethau sy'n rhaid eu gwneud yn rheolaidd iawn i sicrhau, o'n safbwynt ni, bod camau rheoli priodol ar waith. Mae'n amlwg bod angen i chi fod yn monitro gwariant yn fisol yn erbyn y gyllideb, mae angen i chi fod yn edrych ar berfformiad y corff o ran canlyniadau yn hytrach na mewnbynau adnoddau'n unig, i fodloni'ch hun ei fod wir yn cydymffurfio â'i gynllun busnes a llythyr cylch gorchwyl a bod y Cynulliad yn gorfforaethol yn cael gwerth o berfformiad y corff.

[27] **Janet Davies:** Thank you. Val, you have questions to ask.

[27] **Janet Davies:** Diolch. Val, mae gennych gwestiynau i'w gofyn.

[28] **Val Lloyd:** Sir Jon, you briefly started to touch on my question, so that was quite helpful. Could you let us know what

[28] **Val Lloyd:** Syr Jon, dechreuasoch ymdrin yn fyr â'm cwestiwn, felly yr oedd hynny yn eithaf defnyddiol. A allech ddweud

guidance exists for officials in sponsor departments on the discharge of their responsibility?

**Sir Jon Shortridge:** On guidance within sponsor departments, we do not have a document that is generic guidance for sponsor officials. I would expect there to be desk instructions in place within the individual sponsoring divisions concerned so that staff know what the expectation is of them, and I would expect to get an annual report through the questionnaire that I send to all my heads of division on whether they have the necessary financial and other controls in place to be confirming that to me. I think that the main issue is less one of written guidance because, in a sense, the management statement and the financial memorandum set out the requirements of the body and, therefore, of the sponsoring division. The main issue is one of training and sharing experience, and we do have a number of arrangements in place in terms of training and sharing experience, which I will happily provide details of if you would like me to do so.

[29] **Val Lloyd:** Yes. That would be helpful.

**Sir Jon Shortridge:** I will put in a note on it if you prefer, or I can tell you—whichever you like. I am conscious of the fact that short answers have been asked for.

[30] **Val Lloyd:** I am conscious that there are probably a lot of questions, so perhaps a note would be more handy. I have a follow-up question: bearing in mind what you have said, what procedures do you have in place to ensure that the sponsor departments act consistently across all of the Assembly sponsored bodies?

**Sir Jon Shortridge:** Well, I think that the main way that this is done is through—we have a thing called the sponsors group, which David Richards chairs. It meets twice a year, and all the heads of the sponsor divisions can attend or nominate the branch head, who is usually the person whose full-time job, or near full-time job in the case of the larger

wrthym pa ganllawiau sy'n bodoli i swyddogion mewn adrannau noddi ar weithredu eu cyfrifoldeb?

**Syr Jon Shortridge:** Ar ganllawiau o fewn adrannau noddi, nid oes gennym ddogfen sy'n ganllaw cyffredinol ar gyfer swyddogion noddi. Byddwn yn disgwyl bod cyfarwyddiadau desg ar waith yn yr is-adrannau noddi unigol dan sylw fel bod staff yn gwybod beth a ddisgwylir ganddynt, a byddwn yn disgwyl cael adroddiad blynyddol drwy'r holiadur yr anfonaf at bob un o'n penaethiaid is-adran ynghylch a oes ganddynt y camau rheoli ariannol a chamau rheoli eraill angenrheidiol ar waith i fod yn cadarnhau hynny i mi. Credaf nad canllawiau ysgrifenedig yw'r prif fater, oherwydd, ar ryw ystyr, mae'r datganiad rheoli a'r memorandwm ariannol yn nodi'r gofynion ar y corff ac, felly, yr is-adran noddi. Hyfforddiant a rhannu profiad yw'r prif fater, ac mae gennym nifer o drefniadau ar waith o ran hyfforddiant a rhannu profiad, y byddaf yn hapus i ddarparu manylion amdanynt os hoffech i mi wneud hynny.

[29] **Val Lloyd:** Iawn. Byddai hynny'n ddefnyddiol.

**Syr Jon Shortridge:** Gallaf gyflwyno nodyn arno os yw'n well gennych, neu gallaf ddweud wrthyh—pa un bynnag y dymunwch. Yr wyf yn ymwybodol o'r ffaith y gofynnwyd am atebion byr.

[30] **Val Lloyd:** Yr wyf yn ymwybodol ei bod yn debygol bod llawer o gwestiynau, felly efallai y byddai nodyn yn fwy defnyddiol. Mae gennyf gwestiwn ategol: o gofio'r hyn yr ydych wedi ei ddweud, pa weithdrefnau sydd gennych ar waith i sicrhau bod adrannau noddi yn gweithredu'n gyson mewn perthynas â phob un o'r cyrff a noddir gan y Cynulliad?

**Syr Jon Shortridge:** Wel, credaf mai'r brif ffordd y gwneir hyn yw drwy—mae gennym ni rywbeth o'r enw grŵp noddwyr, sy'n cael ei gadeirio gan David Richards. Mae'n cyfarfod ddwywaith y flwyddyn, a gall holl bennaethiaid yr is-adrannau noddi fynychu neu enwebu'r pennaeth cangen, sef, fel arfer, yr unigolyn sydd â swydd lawn amser, neu fwy

sponsored bodies, is looking after that body. These meetings have their agendas, and issues of current interest or concern are always discussed. David Powell, as the compliance officer, is, or can be, there and we certainly use those meetings, among other things, to report on outcomes from Audit Committee sessions, which are of relevance, or indeed any other reports which are of relevance, so that we have in place arrangements where everyone who has a role in sponsorship has the opportunity to be sharing experiences and learning of problems that need to be looked out for or addressed.

May I just make this point, because I think that it is something that may be relevant to your subsequent consideration of this? You can either have a very rules-based approach to sponsorship, or you seek to put in place arrangements that ensure that there is the right culture, the right understanding, the right knowledge on both sides in the way in which this sponsorship relationship is made to work. If you have a very rules-based, a very prescriptive approach, then you do end up with a lot of documentation. One of the things that I have been having to reflect on, in the light of all this, is should I be having rules that are seeking to set out very explicitly how to avoid this worst case, or whether we operate more on the basis that everyone should learn from this experience, but we should not be seeking to make the relationship more prescriptive and more confining than we need to.

[31] **Alun Cairns:** I would like to pursue Sir Jon Shortridge's answer in terms of the support by sponsor divisions and how that should be managed. Clearly it is right for any Minister to set the political agenda, and the body was created without a shadow period and that is a decision that is on the record and, clearly, we cannot question that in any way. However, bearing in mind that the political agenda had been set, does the department then have a responsibility to help the body follow through the obligations that it has placed upon it, bearing in mind, maybe, the greater pressure that it might be under as a result of the lack of the shadow period?

neu lai swydd lawn amser yn achos y cyrff a noddir mwyaf, yn edrych ar ôl y corff hwnnw. Mae gan y cyfarfodydd hyn eu hagenda, ac mae materion o ddiddordeb neu bryder cyfredol bob amser yn cael eu trafod. Mae David Powell, fel y swyddog cydymffurfio, yn bresennol, neu'n gallu bod yn bresennol ac yr ydym yn sicr yn defnyddio'r cyfarfodydd hynny, ymhlith pethau eraill, i adrodd ar ganlyniadau o sesiynau'r Pwyllgor Archwilio, sy'n berthnasol, neu'n wir unrhyw adroddiadau eraill sy'n berthnasol, fel bod gennym drefniadau ar waith lle mae gan bawb sydd â rôl mewn noddi y cyfle i rannu profiadau a dysgu am broblemau sydd angen cadw llygad arnynt neu fynd i'r afael â hwy.

A gaf fi wneud y pwynt hwn, oherwydd credaf ei fod yn rhywbeth a allai fod yn berthnasol i'ch ystyriaeth ddilydol o hyn? Gallwch naill ai gael ymagwedd sy'n seiliedig iawn ar reolau at noddi, neu yr ydych yn ceisio gosod trefniadau sy'n sicrhau bod y diwylliant priodol, y ddealltwriaeth briodol, y wybodaeth briodol ar y ddwy ochr yn y modd y gwneir y berthynas noddi hon i weithio. Os oes gennych ymagwedd sy'n seiliedig iawn ar reolau, ymagwedd gyfarwyddol iawn, yna bydd llawer o ddogfennau gennych yn y pen draw. Un o'r pethau yr wyf wedi bod yn meddwl amdano, yn sgîl hyn oll, yw a ddylwn fod yn cael rheolau sy'n ceisio nodi'n glir iawn sut i osgoi'r achos gwaethaf, neu a ddylem weithredu yn fwy ar sail y dylai pawb ddysgu o brofiad, ond ni ddylem fod yn ceisio gwneud y berthynas yn fwy cyfarwyddol ac yn fwy cyfyng nag sydd angen i ni ei wneud.

[31] **Alun Cairns:** Hoffwn ddilyn trywydd ateb Syr Jon Shortridge o ran y gefnogaeth i is-adrannau noddi a sut dylid ei rheoli. Mae'n amlwg ei bod yn iawn i unrhyw Weinidog osod yr agenda wleidyddol, a chrëwyd y corff heb gyfnod cysgodi ac mae hwnnw'n benderfyniad sydd wedi ei gofnodi ac, yn amlwg, ni allwn gwestiynu hynny mewn unrhyw fodd. Fodd bynnag, o gofio bod yr agenda wleidyddol wedi ei gosod, a oes cyfrifoldeb wedyn ar yr adran i gyflawni'r rhwymedigaethau y mae wedi eu gosod arni, o gofio, efallai, y gallai fod dan fwy o bwysau o ganlyniad i'r diffyg cyfnod cysgodi?

**Sir Jon Shortridge:** In part, that goes back to what I was saying about the fact that I think that, in the light of this, new bodies should have a probationary period. However, may I just say that, on the shadow period, my own view is that to have had a full shadow year—an additional shadow year—would not have been appropriate and there would have been huge risks associated with that, because there would have been great vulnerability in terms of business continuity.

[32] **Alun Cairns:** Sir Jon, I am not questioning the shadow year, because that is a matter of record and the Committee has considered that in the past. I am talking about the potential for additional support to be required because of the lack of the shadow year.

**Sir Jon Shortridge:** Let me put it this way, then. I think that what in many ways there was—but it did not actually turn out this way in practice—was that we had two transitional years. We had the year leading up to April 2001, where there was a huge programme full of projects put in place to establish the national council in April 2001. Then, in accordance with the paragraph in the remit letter that I read out, there was an expectation that that first year of the council year would in turn be a transition when it could be getting all its necessary systems and procedures in place to have a proper launch pad to do the kind of things which it had been set up to do.

What happened was that, as we heard this morning, the council itself was too ambitious, with hindsight, and I think that Steve Martin was acknowledging that it had been too ambitious. I think that we, as officials, had not sufficiently discouraged it from being too ambitious. So, with hindsight, I very much regret that we had allowed it to go ahead with its innovation and development projects.

[33] **Alun Cairns:** Again, we are not answering the point about the potential for additional support. Let me present it in, hopefully, a straightforward way. There would, no doubt, be regular meetings, possibly quarterly or six-monthly, be it the

**Syr Jon Shortridge:** Yn rhannol, mae hynny'n mynd yn ôl at yr hyn yr oeddwn yn ei ddweud am y ffaith fy mod yn credu, yn sgîl hyn, y dylai cyrff newydd gael cyfnod prawf. Fodd bynnag, a gaf fi ddweud, ynglŷn â'r cyfnod cysgodi, yn fy marn i, ni fyddai cael blwyddyn gysgodi lawn—blwyddyn gysgodi ychwanegol—wedi bod yn briodol a byddai risgiau enfawr wedi bod yn gysylltiedig â hynny, oherwydd byddai mwy o wendid wedi bod o ran parhad busnes.

[32] **Alun Cairns:** Syr Jon, nid wyf yn cwestiynu'r flwyddyn gysgodi, oherwydd mae hynny yn fater o gofnod ac mae'r Pwyllgor wedi ystyried hynny yn y gorffennol. Yr wyf yn sôn am y posibilrwydd o'r angen am gefnogaeth ychwanegol oherwydd y diffyg blwyddyn gysgodi.

**Syr Jon Shortridge:** Gadewch i mi ei roi fel hyn, felly. Credaf mai'r hyn a oedd mewn sawl ffordd—ond nid hyn a ddigwyddodd mewn gwirionedd yn ymarferol—oedd i ni gael dwy flynedd drawsnewidiol. Yr oedd gennym y flwyddyn yn arwain at Ebrill 2001, lle'r oedd rhaglen enfawr yn llawn prosiectau a roddwyd ar waith i sefydlu'r cyngor cenedlaethol yn Ebrill 2001. Yna, yn unol â'r paragraff yn y llythyr cylch gorchwyl a ddarllenais i chi, yr oedd disgwyliad y byddai blwyddyn gyntaf blwyddyn y cyngor yn ei dro yn drawsnewidiad pan fyddai'n gallu rhoi ei systemau a'i weithdrefnau angenrheidiol ar waith i gael sail briodol i wneud y math o bethau y'i sefydlwyd i'w gwneud.

Yr hyn a ddigwyddodd, fel y clywsom y bore yma, oedd fod y cyngor ei hun yn rhy uchelgeisiol, o edrych yn ôl, a chredaf i Steve Martin gydnabod iddo fod yn rhy uchelgeisiol. Credaf na wnaethom ni, fel swyddogion, ei annog ddigon i beidio â bod yn rhy uchelgeisiol. Felly, o edrych yn ôl, yr wyf yn edifarhau'n fawr ein bod wedi caniatáu iddo fwrw ymlaen â'i brosiectau arloesedd a datblygu.

[33] **Alun Cairns:** Eto, nid ydym yn ateb y pwynt ynglŷn â'r posibilrwydd o gefnogaeth ychwanegol. Gadewch i mi ei gyflwyno, gobeithiaf, mewn ffordd syml. Byddai, mae'n siŵr, gyfarfodydd rheolaidd, bob chwarter neu chwe mis o bosibl, boed hynny yr adran

sponsoring department with the national council or the accounting officer or whoever from the council. That is taken as read. I would assume that there are regular meetings in place. As it is a new organisation, would there be the need for additional meetings—perhaps quarterly instead of six-monthly—or a much greater communication or involvement, if you like, in the procedures and processes without, of course, jeopardising the organisation's right to make decisions itself?

**Sir Jon Shortridge:** You are right to pick me up on that, but in part what I was getting to was relevant in the sense that, if it had been the second transitional year in the way that I think it should have been, then, arguably, the support that was available within the division was sufficient. It is quite a large team and a very, very experienced person was in charge of that sponsorship team. I, at the time, had no doubt or concern that this was a team that was strong enough to deal with the new body. Where additional support, clearly, with hindsight, became needed was in the circumstances where the council was taking on new responsibilities in the sense of not just responsibilities that it had inherited from the previous bodies, but this major new grant scheme. Clearly, with hindsight, we did not invest sufficient time and effort into overseeing the way in which that was being put in place.

[34] **Alun Cairns:** Thank you, that is useful. I have just a few questions that have been playing on my mind since this morning's session in relation to advice given to the Minister. The first issue relates to the advice that was given. How was that submission drafted, bearing in mind that the minutes of that meeting are not available—that is, the minutes of the meeting that came up with the recommendations?

**Sir Jon Shortridge:** Effectively, what happened was that the meeting was on 10 January and the advice went up on the eleventh. So, this advice was written immediately after, and was informed by, that meeting. So, okay, there was not a record of that meeting, but all the things that happened in that meeting would have been very fresh in

noddi gyda'r cyngor cenedlaethol neu'r swyddog cyfrifo neu bwy bynnag o'r cyngor. Mae hynny'n cael ei gymryd yn ganiataol. Byddwn yn tybio bod cyfarfodydd rheolaidd yn cael eu cynnal. Gan ei fod yn sefydliad newydd, a fyddai angen cyfarfodydd ychwanegol—pob chwarter yn hytrach na phob chwe mis efallai—neu lawer mwy o gyfathrebu neu ymwneud, os hoffech, â'r gweithdrefnau a'r prosesau heb, wrth gwrs, beryglu hawl y sefydliad i wneud penderfyniadau ei hun?

**Syr Jon Shortridge:** Yr ydych yn gywir i'm holi am hynny, ond yr oedd yr hyn yr oeddwn yn mynd i'w ddweud yn berthnasol yn rhannol oherwydd, pe bai wedi bod yn ail flwyddyn drawsnewidiol yn y modd y dylai wedi bod yn fy marn i, yna gellir dadlau bod y gefnogaeth a oedd ar gael o fewn yr isadran yn ddigonol. Mae'n dîm eithaf mawr ac yr oedd unigolyn profiadol iawn, iawn yn gyfrifol am y tîm noddi hwnnw. Nid oedd gennyf i, bryd hynny, unrhyw amheuaeth neu ofid bod hwn yn dîm a oedd yn ddigon cryf i ddelio â'r corff newydd. Lle daeth angen am gefnogaeth ychwanegol, yn amlwg, o edrych yn ôl, oedd dan yr amgylchiadau lle'r oedd y cyngor yn ysgwyddo cyfrifoldebau newydd yn ystyr nid yn unig y cyfrifoldebau a etifeddodd gan y cyrff blaenorol, ond y cynllun grant newydd pwysig hwn. Mae'n amlwg, o edrych yn ôl, na fu i ni fuddsoddi digon o amser ac ymdrech i oruchwylio'r modd yr oedd hwnnw'n cael ei roi ar waith.

[34] **Alun Cairns:** Diolch, mae hynny'n ddefnyddiol. Mae gennyf rai cwestiynau sydd wedi bod yn chwarae ar fy meddwl ers sesiwn y bore yma mewn perthynas â chyngor a roddwyd i'r Gweinidog. Mae'r mater cyntaf yn ymwneud â'r cyngor a roddwyd. Sut drafftwyd y cyflwyniad hwnnw, o gofio nad yw cofnodion y cyfarfod hwnnw ar gael—hynny yw, cofnodion y cyfarfod a benderfynodd ar yr argymhellion?

**Syr Jon Shortridge:** I bob pwrpas, yr hyn a ddigwyddodd oedd y cynhaliwyd y cyfarfod ar 10 Ionawr a rhoddwyd y cyngor ar yr unfed ar ddeg. Felly, ysgrifennwyd y cyngor hwn yn union ar ôl, a llywiwyd ef gan, y cyfarfod hwnnw. Felly, o'r gorau, nid oedd cofnod o'r cyfarfod hwnnw, ond byddai'r holl bethau a ddigwyddodd yn y cyfarfod

the mind of the person who put up the advice.

[35] **Alun Cairns:** In general—not in relation maybe to this sponsor division within the Assembly—how often is advice accepted by Ministers? Is it the majority of times, is it almost always, is it always or is it not quite so often? There is a point behind this.

**Sir Jon Shortridge:** I honestly do not think that I can generalise on that because you do not have homogeneous advice. You have some advice that is pretty routine and some that is dealing with very complex and difficult issues. This advice was very straightforward advice: it was inviting the Minister to focus on really a very narrow point—none of the issues that we were considering this morning. This was advice about whether she felt she was comfortable with a very innovative project such as this being supported—the principle of it.

[36] **Alun Cairns:** In the first paragraphs reported here of the advice it says—and I will read out the last sentence to save everyone looking—

‘we believe that the council is doing what it can to minimise and manage that risk’.

Now, clearly, this morning we found out that maybe it was not doing what it could to minimise and manage that risk. Would it be fair for anyone receiving such advice to ask, well, how is it doing that and what measures are in place in order to deliver that?

**Sir Jon Shortridge:** I think that what the officials concerned were addressing were not the operational risks at all, which it was always very clear were matters for the council. This was the fact that this was an untried and experimental approach, which itself, intrinsically, might not work. However, that is very different from whatever risks there may have been in making what, at this time, was conceived as a joint venture, work. This was very much focusing on the product that was to come out of the pop cafe, which might not have worked. The meeting did address that to some extent: what would

hwnnw wedi bod yn ffres iawn ym meddwl yr unigolyn a roddodd y cyngor.

[35] **Alun Cairns:** Yn gyffredinol—nid mewn perthynas efallai â'r is-adran noddi hon yn y Cynulliad—pa mor aml y mae Gweinidogion yn derbyn cyngor? Ai'r rhan fwyaf o'r amser, ai bron bob amser, ai bob amser neu ai ddim mor aml â hynny? Mae pwynt y tu ôl i hyn.

**Syr Jon Shortridge:** Mewn gwirionedd, ni chredaf y gallaf gyffredinoli am hynny oherwydd nid oes gennych gyngor unffurf. Mae gennych beth cyngor sy'n eithaf cyffredinol a pheth cyngor sy'n delio â materion cymhleth ac anodd iawn. Yr oedd y cyngor hwn yn gyngor syml iawn: yr oedd yn gwahodd y Gweinidog i ganolbwyntio ar bwynt cul iawn mewn gwirionedd—dim un o'r materion y buom yn eu hystyried y bore yma. Yr oedd y cyngor ar a oedd yn teimlo ei bod yn gyfforddus bod prosiect arloesol iawn fel hwn yn cael ei gefnogi—egwyddor hynny.

[36] **Alun Cairns:** Yn y paragraffau cyntaf a adroddir yma o'r cyngor mae'n dweud—a darllenaf y frawddeg olaf i chi i arbed pawb rhag edrych—

‘credwn fod y cyngor yn gwneud hynny y gall i leihau a rheoli'r risg honno’.

Yn awr, yn amlwg, y bore yma bu i ni ganfod efallai nad oedd yn gwneud hynny a allai i leihau a rheoli'r risg honno. A fyddai'n deg i unrhyw un sy'n derbyn y cyfryw gyngor ofyn, wel, sut mae'n gwneud hynny a pha fesurau sydd ar waith i weithredu hynny?

**Syr Jon Shortridge:** Credaf mai'r hyn yr oedd y swyddogion dan sylw yn cyfeirio ato oedd nid y risgiau gweithredol o gwbl, ac yr oedd bob amser yn glir iawn mai materion i'r cyngor oedd hynny. Yma, y ffaith oedd fod hon yn ymagwedd arbrofol a heb ei phrofi, a allai, yn y bôn, beidio â llwyddo. Fodd bynnag, mae hynny'n wahanol iawn i ba bynnag risgiau a allai fod yn gysylltiedig â gwneud yr hyn a oedd, ar y pryd, yn cael ei ystyried fel menter ar y cyd, weithio. Yr oedd hyn i raddau helaeth yn canolbwyntio ar y cynnyrch a oedd yn deillio o'r caffi pop, a allai beidio â llwyddo. Aeth y cyfarfod i'r

happen if it was a failure, could the building still be used for further education purposes? It was those sorts of issues and those sorts of risks that were being addressed by the officials concerned.

[37] **Alun Cairns:** Okay. This is not a question. It is, hopefully, a statement that will help the Committee in terms of its deliberations. I am aware of another situation where a Minister has declined the advice that was given by the officials. The rationale behind that was that it is up to the Minister to probe and question and make a judgment on the information that is received. Now, I would suggest that maybe that has not been done and pursued on this basis. I think that it is unfair to ask—[*Interruption.*]. I am not asking a question. I am making a statement for the Committee.

[38] **Leighton Andrews:** We can all make statements.

[39] **Janet Davies:** Excuse me, Leighton; it is in Alun's hands.

**Sir Jon Shortridge:** Chair, may I just make a comment? I am aware that, understandably perhaps, there are political issues around that. It just puts me in a very difficult position.

[40] **Alun Cairns:** I was not asking the question. I would not expect you to comment on that, Sir Jon.

[41] **Christine Gwyther:** We are here to take evidence, not to make statements.

[42] **Janet Davies:** We are.

[43] **Alun Cairns:** So, Sir Jon, as principal accounting officer, how do you manage your relationship with the accounting officers of sponsored bodies?

**Sir Jon Shortridge:** Whenever an accounting officer is appointed, I have a meeting with them pretty much straight away. First of all, I send them a letter setting

afael â hynny i ryw raddau: beth fyddai'n digwydd pe bai'n fethiant, a allai'r adeilad barhau i gael ei ddefnyddio ar gyfer dibenion addysg bellach? Y mathau hynny o faterion a'r mathau hynny o risgiau yr oedd y swyddogion dan sylw yn mynd i'r afael â hwy.

[37] **Alun Cairns:** O'r gorau. Nid cwestiwn yw hwn. Mae'n ddatganiad a fydd, gobeithio, yn cynorthwyo'r Pwyllgor gyda'i drafodaethau. Yr wyf yn ymwybodol o sefyllfa arall lle mae Gweinidog wedi gwrthod y cyngor a roddwyd gan y swyddogion. Y rhesymeg y tu ôl i hyn oedd mai cyfrifoldeb y Gweinidog oedd holi a chwestiynu a phenderfynu ar y wybodaeth a dderbynnir. Yn awr, byddem yn awgrymu nad yw hynny efallai wedi ei wneud a'i ddilyn ar y sail hon. Credaf ei bod yn annheg gofyn—[*Torri ar draws*]. Nid wyf yn gofyn cwestiwn. Yr wyf yn gwneud datganiad i'r Pwyllgor.

[38] **Leighton Andrews:** Gallwn ni i gyd wneud datganiadau.

[39] **Janet Davies:** Esgusodwch fi, Leighton; mae yn nwylo Alun.

**Syr Jon Shortridge:** Gadeirydd, a gaf fi wneud sylw? Yr wyf yn ymwybodol, yn ddealladwy efallai, bod materion gwleidyddol yn gysylltiedig â hynny. Mae'n fy rhoi mewn sefyllfa anodd iawn.

[40] **Alun Cairns:** Nid oeddwn yn gofyn y cwestiwn. Ni fyddwn yn disgwyl i chi roi sylwadau ar hynny, Syr Jon.

[41] **Christine Gwyther:** Yma i gymryd tystiolaeth yr ydym ni, nid i wneud datganiadau.

[42] **Janet Davies:** Ie.

[43] **Alun Cairns:** Felly, Syr Jon, fel y prif swyddog cyfrifo, sut yr ydych yn rheoli eich perthynas â swyddogion cyfrifo cyrff a noddir?

**Syr Jon Shortridge:** Pryd bynnag y penodir swyddog cyfrifo, yr wyf yn cael cyfarfod â hwy yn fwy neu lai ar unwaith. Yn gyntaf oll, anfonaf lythyr atynt yn nodi eu cyfrifoldebau

out their responsibilities and I attach to that letter a document that sets out in detail the responsibilities of an accounting officer. I also say in that letter that, within three months of their appointment, I expect them to have taken the relevant civil service training and I also arrange for them to come to see me. So, I then have a meeting with them to take them through their responsibilities, to remind them of the need for training or seek assurance that they have had the training, and generally start to have a relationship with them. I then meet accounting officers collectively twice a year, when we have an opportunity to discuss issues of mutual interest and concern. So, I use those meetings, obviously among other things, to share the conclusions of the sorts of things that we have been discussing today. The other thing that I do is that I keep a close eye—no, that is the wrong phrase. I have a network of intelligence about how I think accounting officers are performing, and it is not just about their ability, because accounting officers can sometimes find themselves in quite difficult circumstances. They have a lot on, and in those circumstances, I will try to give them some support. So there have been occasions when I have met accounting officers once a month. I meet Peter Higson certainly once a month to go through with him how his council is performing against the action plan and the milestones that I have set him, and I have not as regular meetings, but nonetheless fairly regular meetings, with Steve Martin in his role as accounting officer at HEFCW.

[44] **Alun Cairns:** Okay. In light of your response, and in light of this morning's evidence, would you say that that relationship works effectively?

**Sir Jon Shortridge:** In general terms, if that is a question that relates to the 15 or 16 or so accounting officers with whom I have a relationship, I think that it does work effectively. I think that I have a good relationship with all of them. One of the points that I always make to them when I see them is that they should always feel free to

ac ynghlwm wrth hwnnw mae dogfen sy'n nodi cyfrifoldebau swyddog cyfrifo yn fanwl. Yr wyf hefyd yn dweud yn y llythyr hwnnw fy mod, o fewn tri mis o'u penodi, yn disgwyl y byddant wedi derbyn yr hyfforddiant gwasanaeth sifil perthnasol ac yr wyf hefyd yn trefnu iddynt ddod i'm gweld. Felly, wedyn yr wyf yn cael cyfarfod gyda hwy i drafod eu cyfrifoldebau, i'w hatgoffa am yr angen am hyfforddiant neu i gael sicrwydd eu bod wedi derbyn yr hyfforddiant, ac yn dechrau meithrin perthynas â hwy yn gyffredinol. Wedyn yr wyf yn cyfarfod â'r swyddogion cyfrifo gyda'i gilydd ddwywaith y flwyddyn, pan gawn gyfle i drafod materion sydd o ddiddordeb a phryder i ni i gyd. Felly, defnyddiaf y cyfarfodydd hynny, ymhlith pethau eraill mae'n amlwg, i rannu casgliadau y mathau o bethau yr ydym wedi bod yn eu trafod heddiw. Y peth arall y gwnaf yw fy mod yn cadw llygad barcud—na, dyna'r dywediad anghywir. Mae gennyf rwydwaith o wybodaeth ynglŷn â sut mae swyddogion cyfrifo yn perfformio yn fy nhyb i, ac nid yw'n ymwneud â'u gallu yn unig, oherwydd weithiau gall swyddogion cyfrifo gael eu hunain mewn amgylchiadau eithaf anodd. Maent yn brysur iawn, a dan yr amgylchiadau hynny, byddaf yn ceisio rhoi peth cefnogaeth iddynt. Felly, bu achlysuron lle'r wyf wedi cyfarfod â swyddogion cyfrifo unwaith y mis. Yr wyf yn sicr yn cyfarfod â Peter Higson unwaith y mis i drafod ag ef sut mae ei gyngor yn perfformio yn erbyn y cynllun gweithredu a'r cerrig milltir yr wyf wedi eu gosod ar ei gyfer, ac yr wyf yn cael cyfarfodydd llai rheolaidd, ond cyfarfodydd gweddol reolaidd serch hynny, gyda Steve Martin yn ei swydd fel swyddog cyfrifo yn HEFCW.

[44] **Alun Cairns:** O'r gorau. Yn sgîl eich ateb, ac yn sgîl tystiolaeth y bore yma, a fydech yn dweud bod y berthynas yn gweithio'n effeithiol?

**Syr Jon Shortridge:** Yn gyffredinol, os yw hwnnw'n gwestiwn sy'n ymwneud â'r 15 neu 16 o swyddogion cyfrifo y mae gennyf berthynas â hwy, credaf ei fod yn gweithio'n effeithiol. Credaf fod gennyf berthynas dda â phob un ohonynt. Un o'r pwyntiau yr wyf bob amser yn ei wneud iddynt pan y'u gwelaf yw y dylent bob amser deimlo bod croeso



come to see me or ring me up if ever they have a problem, and I have never turned down an accounting officer who wants to see me. So I think that it is a relationship that works pretty well.

[45] **Alun Cairns:** Do you plan to make any changes as a result of today's meeting in terms of your relationship?

**Sir Jon Shortridge:** No, but I qualify that. I have not yet fully had time to reflect on precisely what changes I should put in place as a result of these events. It may be that I will decide to make some changes to that relationship with the accounting officers, but, as of now, I have not taken a decision on that.

[46] **Denise Idris Jones:** The issue here, Sir Jon, is the extent to which sponsorship rules may vary across the sponsored public bodies. Therefore, do you consider that the management statements and financial memoranda are sufficiently explicit on issues such as when sponsored department approval should be sought?

**Sir Jon Shortridge:** It cannot be a one-size-fits-all, and we do have a model management statement and financial memorandum, which underpins all these relationships, but those documents are varied to take account of the particular circumstances of the organisation concerned. We define in those documents, very clearly—I would say it is very clear; I am sure that it could perhaps be more clear, but clearly—the circumstances in which council officials have to turn to us for agreement on matters, and that is well understood in terms of delegations and so on. There is also this catch-all, that even if it is compliant with all these things, you have to ask yourself if it could be conceived as being novel or contentious, which is something we touched on this morning.

[47] **Denise Idris Jones:** Thank you.

[48] **Leighton Andrews:** May I just ask you about the rationale for having a control on the amount of expenditure that ASPBs can carry

iddynt ddod i'm gweld neu fy ffonio os oes ganddynt broblem, ac nid wyf erioed wedi gwrthod swyddog cyfrifo sydd eisiau fy ngweld. Felly credaf ei bod yn berthynas sy'n gweithio'n eithaf da.

[45] **Alun Cairns:** A ydych yn bwriadu gwneud unrhyw newidiadau o ganlyniad i gyfarfod heddiw o ran eich perthynas?

**Syr Jon Shortridge:** Na, ond yr wyf yn amodi hynny. Nid wyf wedi cael digon o amser hyd yma i feddwl am ba newidiadau yn union y dylwn eu gweithredu o ganlyniad i'r digwyddiadau hyn. Efallai y byddaf yn penderfynu gwneud rhai newidiadau i'r berthynas honno â'r swyddogion cyfrifo ond, ar hyn o bryd, nid wyf wedi dod i benderfyniad ynglŷn â hynny.

[46] **Denise Idris Jones:** Y mater yn y fan hon, Syr Jon, yw'r graddau y gall rheolau noddï amrywio ymhlith y cyrff cyhoeddus a noddïr. Felly, a ydych yn ystyried bod y datganiadau rheoli a'r memoranda ariannol yn ddigon clir ar faterion megis pryd y dylid gofyn am gymeradwyaeth gan adran noddï?

**Syr Jon Shortridge:** Ni all fod yn un rheol i bawb, ac mae gennym ddatganiad rheoli a memorandwm ariannol enghreifftiol, sy'n sail i'r holl gydberthnasau hyn, ond mae'r dogfennau hynny'n amrywio i ystyried amgylchiadau penodol y sefydliad dan sylw. Yr ydym yn diffinio yn y dogfennau hynny, yn glir iawn—byddwn yn dweud ei fod yn glir iawn; yr wyf yn siŵr y gallai fod yn gliriach o bosibl, ond yn glir—dan ba amgylchiadau y mae'n rhaid i swyddogion cyngor droi atom i ni gytuno ar faterion, ac mae dealltwriaeth dda o hynny mewn perthynas â dirprwyo ac ati. Mae hefyd yr elfen dal-popeth hon, sef hyd yn oed os yw'n cydymffurfio â'r holl bethau hyn, mae'n rhaid i chi ofyn i chi'ch hun a allai gael ei ystyried fel rhywbeth newydd neu ddadleuol, sy'n rhywbeth y soniwyd yn fyr amdano y bore yma.

[47] **Denise Idris Jones:** Diolch.

[48] **Leighton Andrews:** A gaf fi ofyn i chi am y rhesymeg dros gael rheolaeth dros swm y gwariant y gall ASPBs ei drosglwyddo i

over into another year?

**Sir Jon Shortridge:** This is certainly a policy that the previous administration felt was important. From my perspective, these are the Assembly's resources, and if you encourage bodies to store up Assembly resources as reserves, which the Assembly may feel it could spend better elsewhere, that is not a particularly good idea. The 2 per cent carry-over is essentially saying, well, you can have cash in hand—2 per cent is one week's expenditure. So you say that you can have cash in hand because in the last month of the year you cannot be sure that you will not run out of cash. It is the case that if bodies are underspending and, in the last quarter of the year, know that there are commitments out there that they cannot properly meet in the financial year concerned but will fall in the following financial year, they can, and they do, come to us for the flexibility. To a significant extent, that would be dealt with at an official level and we will, if appropriate, give them that agreement. However, there has to be a formal case put to us, and we have to be satisfied by it, and we are certainly not in the business of giving sponsored bodies, under this present rule, the impression that 'okay it is a 2 per cent carry-over but there will not be a problem in your carrying over whatever you like'. There has to be a good reason.

[49] **Leighton Andrews:** What happens to the money that is given back at the year's end?

**Sir Jon Shortridge:** That would then be part of the end-year flexibility reserve that the Assembly itself has, and Ministers can take a view on how that should be most properly spent, including possibly going back to the body concerned. These matters then come before the Assembly in what are, I think, called MEG to MEG transfers, which are agreed from time to time.

[50] **Janet Davies:** Christine, you have a question?

flwyddyn arall?

**Syr Jon Shortridge:** Mae hwn yn bendant yn bolisi a oedd yn bwysig iawn ym marn y weinyddiaeth flaenorol. O'm safbwynt i, adnoddau'r Cynulliad yw'r rhain, ac os yr ydych yn annog cyrff i storio adnoddau'r Cynulliad fel adnoddau wrth gefn, adnoddau efallai y teimla'r Cynulliad y gallai eu gwario'n well yn rhywle arall, nid yw hynny'n syniad da iawn. Mae'r trosglwyddiad o 2 y cant yn dweud yn y bôn, wel, gallwch gael arian mewn llaw—gwariant un wythnos yw 2 y cant. Felly yr ydych yn dweud y gallwch gael arian mewn llaw oherwydd ni allwch fod yn siŵr na fyddwch wedi rhedeg allan o arian ym mis olaf y flwyddyn. Mae'n wir os yw cyrff yn tanwario ac, yn chwarter olaf y flwyddyn, maent yn gwybod bod ymrwymadau'n bodoli na allant eu bodloni'n briodol yn y flwyddyn ariannol dan sylw ond a fydd yn berthnasol i'r flwyddyn ariannol ganlynol, gallant ddod, ac maent yn dod, atom i gael yr hyblygrwydd. I raddau helaeth, byddai hynny'n cael ei ymdrin ag ef ar lefel swyddogol a byddwn, os yw'n briodol, yn rhoi'r caniatâd hynny iddynt. Fodd bynnag, mae'n rhaid bod achos ffurfiol yn cael ei gyflwyno i ni, a rhaid i ni fod yn fodlon ag ef, ac yn sicr nid ydym yn y busnes o roi'r argraff i gyrff a noddir, dan y rheol bresennol hon, 'o'r gorau, gallwch drosglwyddo 2 y cant ond ni fydd problem os byddwch yn trosglwyddo faint bynnag y mynnwch'. Rhaid bod rheswm da.

[49] **Leighton Andrews:** Beth sy'n digwydd i'r arian sy'n cael ei ddychwelyd ar ddiwedd y flwyddyn?

**Syr Jon Shortridge:** Byddai hwnnw wedyn yn rhan o'r gronfa hyblygrwydd wrth gefn diwedd-blwyddyn sydd gan y Cynulliad, a gall Gweinidogion benderfynu ar sut y dylid ei wario'n fwyaf priodol, gan gynnwys ei ddychwelyd i'r corff dan sylw o bosibl. Mae'r materion hyn wedyn yn dod gerbron y Cynulliad yn yr hyn a elwir, yr wyf yn credu, yn drosglwyddiadau PGG i PGG, y cytunir arnynt o dro i dro.

[50] **Janet Davies:** Christine, mae gennyh gwestiwn?

[51] **Christine Gwyther:** Thank you, Chair. Jon, sticking with the 2 per cent carry-over rule, you said in one of your previous answers on the financial memoranda that one size does not fit all. Why is the 2 per cent limit imposed as a blanket? Has any assessment been made of what the various ASPBs could be carrying over? You said that if they come to your officials with a proper proposal, then a larger carry-over could be considered. Has there been an assessment of what, generally, is the optimum carry-over?

**Sir Jon Shortridge:** I may ask David to come in and help me on this. However, I think that the 2 per cent rule has gained some currency since the Assembly was established and has generally been applied, and I think, as far as we are concerned as officials, it has generally been an effective control given that if there is a particular reason in terms of commitment, as I said earlier, a case can be made to us and an exception can be granted. There is one exception that I know of, and I think that that is Health Professions Wales, which has just been established. It is such a small body that 2 per cent of its small budget arguably is just too small a figure for it to have the flexibility that it requires and, in its case, we have agreed an absolute sum that it can have as flexibility if it wants to.

[52] **Janet Davies:** David?

**Mr Richards:** Perfect, Permanent Secretary. [*Laughter.*]

[53] **Christine Gwyther:** Funny that. If there was a bespoke carry-over limit for each body driven by business need—and it does not sound as if you would advocate that—what would be the practical difficulties with that? Can we expect a plethora of applications similar to that of Health Professions Wales? What would the practical difficulties be?

**Sir Jon Shortridge:** If we relaxed and made the flexibility more than 2 per cent, then it would arguably reduce the amount of administration associated, because one would hope that there would be less special claims

[51] **Christine Gwyther:** Diolch, Gadeirydd. Jon, gan aros gyda'r rheol trosglwyddo 2 y cant, dywedasoch yn un o'ch atebion blaenorol ynglŷn â'r memorandwm ariannol nad oes un ateb i bawb. Pam fod y cyfyngiad 2 y cant yn cael ei weithredu fel rheol i bawb? A oes unrhyw asesiad wedi ei gynnal o beth y gallai'r gwahanol gyrff cyhoeddus a noddir ei drosglwyddo? Dywedasoch os ydynt yn dod at eich swyddogion â chynnig priodol, yna gellid ystyried trosglwyddiad mwy. A fu asesiad o beth, yn gyffredinol, yw'r trosglwyddiad mwyaf?

**Syr Jon Shortridge:** Efallai y gofynnaf i David gyfrannu a'm cynorthwyo gyda hyn. Fodd bynnag, credaf fod y rheol 2 y cant wedi ennill ei phlwyf i ryw raddau ers sefydlu'r Cynulliad ac wedi cael ei gweithredu ar y cyfan mor belled, a chredaf, mor bell ag yr ydym ni yn y cwestiwn fel swyddogion, iddi fod yn fesur rheoli effeithiol ar y cyfan oherwydd os oes rheswm penodol o ran ymrwymiad, fel y dywedais yn gynharach, gellir cyflwyno achos i ni a gellir rhoi eithriad. Mae un eithriad y gwn amdano, a chredaf mai Proffesiynau Iechyd Cymru, sydd newydd ei sefydlu, ydyw. Mae'n gorff mor fach fel y gellir dadlau bod 2 y cant o'i gyllideb fach yn ffigur rhy fach iddo gael yr hyblygrwydd sydd ei angen arno ac, yn ei achos ef, yr ydym wedi cytuno ar swm pendant y gall ei gael fel hyblygrwydd os yw'n dymuno.

[52] **Janet Davies:** David?

**Mr Richards:** Perffaith, Ysgrifennydd Parhaol. [*Chwerthin.*]

[53] **Christine Gwyther:** Mae hynny'n rhyfedd. Pe bai terfyn trosglwyddo unigol ar gyfer pob corff yn seiliedig ar angen busnes—ac nid yw'n swnio fel pe baech yn cefnogi hynny—beth fyddai'r anawsterau ymarferol gyda hynny? A allwn ddisgwyl gormodedd o geisiadau tebyg i un Proffesiynau Iechyd Cymru? Beth fyddai'r anawsterau ymarferol?

**Syr Jon Shortridge:** Pe baem yn llacio ac yn gwneud yr hyblygrwydd yn fwy na 2 y cant, yna gellir dadlau y byddai'n lleihau faint o weinyddiaeth sy'n gysylltiedig, oherwydd byddai dyn yn gobeithio y byddai llai o

put to us. However, against that, there would be a reduction in the freedom that the Assembly would have as to how it wanted to spend the resources available to it in the following year. It is that judgment, essentially.

[54] **Christine Gwyther:** Okay. Thank you, Chair.

[55] **Janet Davies:** Jocelyn, you wanted to come in?

[56] **Jocelyn Davies:** How will the introduction of resource-based budgeting in the Assembly affect the operation of a cash-based control, such as the 2 per cent rule?

**Sir Jon Shortridge:** I think it is right to say that, at the time, accrual accounting, resource budgeting and accounting, applied to the national council but not to us. If we pay out grant in aid at the end of the year, which is not all used, under resource accounting that would, none the less, score as an expenditure on our resource account. In terms of the sponsored body itself, it would be set against its creditors for the following year and scored against that, I suspect.

**Mr Richards:** It would be treated as cash in hand and carried over. It is not actually a perfect fit, I have to say, in accounting terms. However, those are the rules that we operate under, but it is slightly anomalous.

[57] **Janet Davies:** Right. Sir Jon, I think that you have given something of your overall view of what has happened at the national council. However, I wondered if there was anything that you would like to add to what you have already said about your overall perspective of events since the establishment of the national council in 2001?

**Sir Jon Shortridge:** Over the weekend I did just prepare some bullet points, trying to distil out what I thought. If you would find this helpful, I will just read out some of those. It does encapsulate it, although I would say that it encapsulates it on the basis of what

hawliadau arbennig yn cael eu cyflwyno i ni. Fodd bynnag, yn erbyn hynny, byddai lleihad yn y rhyddid a fyddai gan y Cynulliad ynglŷn â sut yr oedd am wario'r adnoddau sydd ar gael iddo yn y flwyddyn ganlynol. Y penderfyniad hwnnw ydyw, yn y bôn.

[54] **Christine Gwyther:** O'r gorau. Diolch, Gadeirydd.

[55] **Janet Davies:** Jocelyn, yr oeddech chi am ddod i mewn?

[56] **Jocelyn Davies:** Sut bydd cyflwyno cyllidebu ar sail adnoddau yn y Cynulliad yn effeithio ar weithrediad mesur rheoli yn seiliedig ar arian, megis y rheol 2 y cant?

**Syr Jon Shortridge:** Credaf ei bod yn iawn dweud, ar y pryd, i gyfrifeg groniatol, cyfrifeg a chyllidebu adnoddau, fod yn gymwys i'r cyngor cenedlaethol ond nid i ni. Os ydym yn talu cymhorthdal ar ddiwedd y flwyddyn, nad yw'n cael ei ddefnyddio i gyd, dan gyfrifeg adnoddau y byddai hynny, serch hynny, yn cael ei gofnodi fel gwariant ar ein cyfrif adnoddau. O ran y corff a noddir ei hun, yr wyf yn amau y byddai'n cael ei osod yn erbyn ei gredydwy'r ar gyfer y flwyddyn ganlynol ac yn cael ei gofnodi yn erbyn hwnnw.

**Mr Richards:** Byddai'n cael ei drin fel arian mewn llaw a'i drosglwyddo. Nid yw'n ffit perffaith, rhaid i mi ei ddweud, yn nhermau cyfrifeg. Fodd bynnag, dyna'r rheolau yr ydym yn gweithio iddynt, ond mae yn braidd yn anghyson.

[57] **Janet Davies:** O'r gorau. Syr Jon, credaf eich bod wedi rhoi rhywfaint o'ch safbwynt cyffredinol ar yr hyn sydd wedi digwydd yn y cyngor cenedlaethol. Fodd bynnag, yr oeddwn yn meddwl a oedd unrhyw beth yr hoffech ei ychwanegu at yr hyn yr ydych eisoes wedi ei ddweud am eich persbectif cyffredinol o ddigwyddiadau ers sefydlu'r cyngor cenedlaethol yn 2001?

**Syr Jon Shortridge:** Dros y penwythnos, paratoais rai pwyntiau bwled, gan geisio grynhoi beth yr oeddwn yn ei feddwl. Pe baech yn ystyried hyn yn ddefnyddiol, darllenaf rai o'r rheini i chi. Mae'n ei grynhoi, er y byddwn yn dweud ei fod yn ei

I have read—I think that when you hear things, it actually sort of reinforces the seriousness of it.

I do endorse the Auditor General's view that it was not acceptable that public business was conducted in this way and that the interests of the people of Wales were not better protected. There were inadequate controls, and failures in the operation of those that existed. These failures all appear to be linked to overall management arrangements that were not systematically concerted. Although there was much that went right over this period—and I think that we do have to remember that, and that the vast majority of the national council's expenditure was spent properly—at crucial points, senior staff seem to have been ignorant of essential rules or misunderstood them, were confused about who should do what, were incautious about making orderly connections up and down the line, and overlooked the need to report back when asked to check something or to do further work. The primary responsibility for these failures must rest, as Steve Martin acknowledged this morning, with the accounting officer. However, I think, in fairness, that it will be an oversimplification to see his performance as the sole explanation for what went wrong.

As I said earlier, I do not agree with those who think that the establishment of the national council should have been delayed and that it should have been given a shadow year of parallel running with predecessor bodies. However, I do think, in the light of what has happened, that its first year should have been treated primarily as a second transitional year, as I said in my evidence, with priority being given to establishing corporate systems and building a corporate culture. If all concerned—the council, its accounting officer and Assembly officials too—had been even more measured about their ambitions for ELWa in its first year and placed much more emphasis on the application of controls, the risk of these serious failures occurring would have been much reduced. On the other hand—and I am trying to keep some balance in this all the time—this would have meant that many of

grynhoi ar sail yr hyn yr wyf wedi ei ddarllen—credaf pan yr ydych yn clywed pethau, mae fel pe bai'n cadarnhau difrifoldeb y sefyllfa.

Yr wyf yn cefnogi barn yr Archwilydd Cyffredinol nad oedd yn dderbyniol i fusnes cyhoeddus gael ei weithredu yn y modd hwn ac nad oedd buddiannau pobl Cymru wedi cael eu hamddiffyn yn well. Yr oedd mesurau rheoli annigonol, a methiant yng ngweithrediad y rhai a oedd yn bodoli. Mae'n ymddangos bod y methiannau hyn i gyd yn gysylltiedig â threfniadau rheoli cyffredinol nad oedd wedi eu cydgyllunio'n systematig. Er bod llawer a aeth yn iawn yn ystod y cyfnod hwn—a chredaf fod yn rhaid i ni gofio hynny, a bod mwyafrif llethol gwariant y cyngor cenedlaethol wedi ei wario'n briodol—ar adegau tyngedfennol, mae'n ymddangos bod uwch staff wedi bod yn anwybodus ynglŷn â rheolau hanfodol neu wedi eu camddeall, yn ddryslyd am bwy dylai wneud beth, yn ddiofal am wneud cysylltiadau trefnus i fyny ac i lawr y llinell, ac wedi esgeuluso'r angen i adrodd yn ôl o gael eu holi i wirio rhywbeth neu wneud gwaith pellach. Rhaid mai'r swyddog cyfrifo, fel y cydnabu Steve Martin y bore yma, sy'n ysgwyddo'r prif gyfrifoldeb am y methiannau hyn. Fodd bynnag, credaf, i fod yn deg, mai gorsymleiddio fydd ystyried ei berfformiad fel yr unig esboniad dros yr hyn a aeth o'i le.

Fel y dywedais yn gynharach, ni chytunaf â'r rheini sy'n credu y dylai sefydlu'r cyngor cenedlaethol fod wedi cael ei ohirio ac y dylai fod wedi cael blwyddyn gysgodi yn gweithio ochr yn ochr â chyrff rhagflaenol. Fodd bynnag, credaf, yn sgîl yr hyn sydd wedi digwydd, y dylai ei flwyddyn gyntaf fod wedi cael ei thrin yn bennaf fel ail flwyddyn bontio, fel y dywedais yn fy nhystiolaeth, gyda blaenoriaeth yn cael ei rhoi i sefydlu systemau corfforaethol a meithrin diwylliant corfforaethol. Pe bai pawb dan sylw—y cyngor, ei swyddog cyfrifo a swyddogion y Cynulliad hefyd—wedi bod hyd yn oed yn fwy pwylllog am eu huchelgeisiau i ELWa yn ei flwyddyn gyntaf ac wedi rhoi mwy o bwyslais ar gymhwyso mesurau rheoli, byddai'r risg o'r methiannau difrifol hyn yn digwydd wedi bod yn llawer llai. Ar y llaw arall—ac yr wyf yn ceisio cadw rhywfaint o gydbwysedd yn hyn drwy'r amser—byddai

the very real successes that the national council scored in its first year would not have been achieved and Wales would have been the poorer for that.

Organisational change is never easy; it absorbs enormous energy and imposes great pressure on those in leadership roles. I very much regret that the important successes that the national council has achieved have been marred by the serious failures in its financial management of the innovation and development grant scheme. However, on the basis of the progress that has been made over the past six months—and I took, and do take, a lot of assurance from some of the stuff that you were getting from Peter Higson—I am now increasingly confident that the national council has turned a corner and that it stands on the threshold of becoming an organisation of which we can all be justly proud.

[58] **Janet Davies:** Lastly, do you think that anything else needs to be done at the national council to avert the risk of future appearances of this nature by the accounting officer before this Committee?

**Sir Jon Shortridge:** Those of you who have read the interim PriceWaterhouseCoopers report will know that the council is still managing very serious risks and that the next six months will be critical. I agree with what Peter Higson told you this morning that, I think, in terms of the systems that are now in place, they are pretty robust. I know that he has a lot of confidence in them; I too have a lot of confidence in them. I think that the PriceWaterhouseCoopers report reflects that. I pay a lot of credit, actually, to the very systematic and determined way in which Peter has addressed the situation that he has inherited.

However, the big problem that they still face is a cultural problem. This is an organisation which has, understandably—people working for it must be feeling under an enormous amount of pressure because of the public interest that is, understandably, in them. So, the next six months are all about making sure

hyn wedi golygu na fyddai llawer o'r llwyddiannau gwirioneddol a ddaeth i ran y cyngor cenedlaethol yn ei flwyddyn gyntaf wedi cael eu cyflawni a byddai Cymru ar ei cholled am hynny.

Nid yw newid sefydliadol byth yn hawdd; mae'n mynd â llwyth o egni ac yn rhoi pwysau mawr ar y rheini sy'n arwain. Yr wyf yn edifarhau'n fawr bod y llwyddiannau pwysig y mae'r cyngor cenedlaethol wedi eu cyflawni wedi cael eu andwyo gan y methiannau difrifol yn ei reolaeth ariannol o'r cynllun grant arloesedd a datblygu. Fodd bynnag, ar sail y cynnydd sydd wedi ei wneud dros y chwe mis diwethaf—a chymerais, a chymeraf, lawer o sicrwydd o rywfaint o'r wybodaeth yr oeddech yn ei chael gan Peter Higson—yr wyf bellach yn gynyddol ffyddiog bod y cyngor cenedlaethol wedi troi cornel a'i fod ar drothwy dod yn sefydliad y gallwn oll fod yn haeddiannol falch ohono.

[58] **Janet Davies:** Yn olaf, a ydych yn credu bod angen gwneud unrhyw beth arall yn y cyngor cenedlaethol i osgoi'r risg o ymddangosiadau o'r natur hon gan y swyddog cyfrifo gerbron y Pwyllgor hwn yn y dyfodol?

**Syr Jon Shortridge:** Bydd y rheini ohonoch sydd wedi darllen adroddiad interim PriceWaterhouseCoopers yn gwybod bod y cyngor yn parhau i reoli risgiau difrifol iawn a bydd y chwe mis nesaf yn dyngedfennol. Cytunaf â'r hyn a ddywedodd Peter Higson wrthy ch yn bore yma sef, yn fy marn i, o ran y systemau sydd bellach ar waith, eu bod yn eithaf cadarn. Gwn fod ganddo lawer o hyder ynddynt; mae gennyf i hefyd lawer o hyder ynddynt. Credaf fod adroddiad PriceWaterhouseCoopers yn adlewyrchu hynny. Yr wyf yn rhoi llawer o glod, a dweud y gwir, i'r modd penderfynol a threfnus iawn y mae Peter Higson wedi mynd i'r afael â'r sefyllfa a etifeddodd.

Fodd bynnag, y broblem fawr y maent yn dal i'w hwynebu yw'r broblem ddiwylliannol. Dyma sefydliad sydd â, yn ddealladwy—rhaid bod y bobl sy'n gweithio iddo yn teimlo dan bwysau enfawr oherwydd y diddordeb cyhoeddus sydd, yn ddealladwy, ynddynt. Felly, mae'r chwe mis nesaf yn

that the people who have to apply these much more robust systems actually fully understand their roles and responsibilities, and are exercising them properly. Peter told you about the training that is taking place: that training is not yet complete. So there do remain risks, and I cannot be absolutely confident that further problems will not arise. All I can say is that I am not aware of anything on anything like this scale that has emerged since June of last year, and I do have a lot of confidence in the way in which Peter Higson is turning this organisation around. I also have a lot of confidence—they have not been mentioned much today—in the council members, who I feel, through this very difficult time for them, at every stage as far as I can see, have always confronted the situation that arose, and sought to deal with it as effectively as they could. There has never been any attempt to underplay things or to sweep things under the carpet.

[59] **Janet Davies:** Thank you very much, Sir Jon and Mr Richards. You are aware, of course, that you will be sent a draft transcript of today's proceedings for you to confirm its factual accuracy. That will go at the end of our report. Thank you very much; that is the end of proceedings for today.

ymwneud yn gyfan gwbl â sicrhau bod y bobl sy'n gorfod defnyddio'r systemau mwy cadarn hyn yn deall eu rolau a'u cyfrifoldebau'n llawn, ac yn eu gweithredu'n briodol. Dywedodd Peter wrthych am yr hyfforddiant sydd ar waith: nid yw'r hyfforddiant hwnnw wedi ei gwblhau hyd yma. Felly mae risgiau yn parhau, ac ni allaf fod yn gwbl hyderus na fydd problemau pellach yn codi. Y cyfan y gallaf ei ddweud yw nad wyf yn ymwybodol o unrhyw beth ar unrhyw beth tebyg i'r raddfa hon sydd wedi dod i'r fei ers mis Mehefin y llynedd, ac mae gennyf lawer o ffydd yn y modd y mae Peter Higson yn gwednewid y sefydliad hwn. Mae gennyf lawer o ffydd hefyd—ni chafwyd lawer o sôn amdanynt heddiw—yn aelodau'r cyngor, sydd yn fy marn i, gydol y cyfnod anodd iawn hwn iddynt, ym mhob cam hyd y gwelaf, bob amser wedi wynebu'r sefyllfa a gododd, ac wedi ceisio delio â hi mor effeithiol ag y gallent. Ni fu erioed unrhyw ymgais i fychanu pethau neu guddio pethau.

[59] **Janet Davies:** Diolch yn fawr iawn, Syr Jon a Mr Richards. Yr ydych yn ymwybodol, wrth gwrs, y bydd trawsgrifiad drafft o drafodion heddiw yn cael ei anfon atoch er mwyn i chi gadarnhau ei gywirdeb ffeithiol. Bydd hwnnw'n cael ei gynnwys ar ddiwedd ein hadroddiad. Diolch yn fawr; dyna ddiwedd y trafodion am heddiw.

*Daeth y cyfarfod i ben am 3.16 p.m.  
The meeting ended at 3.16 p.m.*

Our ref: Oct03-493B

PRIVATE & CONFIDENTIAL  
 Mr Adrian Crompton  
 Clerk to the Audit Committee  
 National Assembly for Wales  
 Cardiff Bay  
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23 October, 2003

*Deow Adrian*

**Audit Committee hearing – 25 September 2003**

Further to my letter of 10 October I now enclose the additional information which was requested by the Audit Committee.

In my evidence to the Committee I referred to weaknesses in a further 47 projects highlighted in the management review which I commissioned in May 2003. The identified weaknesses fall into 4 main categories:

- a) failure to secure required approvals;
- b) potential contravention of State Aid regulations;
- c) potential exceeding of the National Council's vires; and
- d) project life exceeding 3 years.

Over the last few months we have been working in a structured way to correct the identified shortcomings, working closely with Assembly colleagues and seeking legal advice where that has been necessary. At the date of the Audit Committee meeting on 25 September I reported that there were outstanding issues in respect of 13 projects. We have now reached a situation where the corrective action has been initiated and completed for most of the projects. The detail of this work and the remaining outstanding issues is shown on the attached **ANNEX A**.

This work is ongoing. We are also devoting more resources to ensure that new projects being proposed and developed are subject to a rigorous appraisal and approval process. A comprehensive staff training programme on project and contract management is well underway and this should ensure that the strengthened procedures are applied by project managers in an effective manner.

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 dros Addysg a Hyfforddiant**  
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I hope that this information is sufficient for the Committee, but please let me know if you require anything further.

As with my previous letter I am copying this to the Assembly Compliance Office.

Yours sincerely

A handwritten signature in cursive script that reads "Peter".

**Dr Peter Higson**  
**Interim Chief Executive**

## CHIEF EXECUTIVE'S SUMMARY OF PROJECTS - 17TH SEPTEMBER 2003

	Name of Applicant	Project Title	Description of Project	Total ELWa Contribution	Reason for irregularity	Corrective Action taken
1	Coleg Morgannwg (formerly Aberdare College)	Learning Resource Centre	To contribute towards the capital costs of a new Learning Resource Centre at Coleg Morgannwg.	£170,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
2	Axiom Manufacturing Services (formerly AIWA)	Acquisition of Business	To support the training and development of staff during the acquisition of AIWA by CEI.	£200,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
3	ARENA Network	Confidence in Learning Ila	The aim of the project is to develop people and promote a lifelong learning approach by developing people in basic IT and keyskills in the environmental field and thereby improving the competitiveness of SMEs. The project helps in the support of the development of a culture of lifelong learning in the Objective 1 area by a combination of outreach events linking generic basic ICT skills to environmental awareness.	£73,600	Required approvals not in place	Approved by Council - seeking Assembly approval
4	CAD Centre	E Skills	To help specialised businesses that service electronic systems to become more competitive by increasing the knowledge base and adaptability of the workforce.	£60,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government

5	CAD Centre	E. Valleys	To provide level 4 skills for Service Engineers and Technicians employed by SMEs in Digital and Networking Technology	£120,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
6	Computeraid	ICT training (SME key staff)	To improve SME productivity and viability in the Western Valleys, through the provision of training for key staff in business-related ICT skills, and to increase the skills, knowledge and adaptability of the workforce, whilst improving entrepreneurial skills in the process.	62,473	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
7	GWINTO	Gas NVQ Training	Setting up of three centers throughout Wales for GAS Fitting for individuals new to the industry	126,900	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
8	SCT (UK) Ltd	WASP	WASP offers access to new ICT application environment and provides beneficiaries with a customised and flexible training and support programme, leading to high level competence in Enterprise Resource Planning, e-commerce, ICT and business processes skills, required for modern business activities.	172,669	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government

9	SCT	Adult NVQs	The provision of manufacturing training to employees aged over 25 years working in manufacturing businesses in Objective 1 areas of the SE region.	£105,318	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
10	Wales Quality Centre	Innovation Management Project	To support owner/managers of SMEs in West Wales and the Valleys to implement Innovation Management Strategies to improve their competitiveness and encourage growth through fostering innovation effectively.	£27,775	Required approvals not in place - extension of contract in excess of three years	All approvals in place
11	ELWa - NC	Shared Chef Scheme	Collaborative project to improve training provision for chefs in Meirionnydd	£205,000	Required approvals not in place	Outstanding
12	DTZ	DTZ Feasibility Study	The establishment of effective network clusters of SMEs involved in tourism in RCT, with the aim of providing training tailored to individual employer needs and the sharing of good practice between businesses.	£15,000	Required approvals not in place - extension of contract in excess of three years	All approvals in place
13	Wales TUC	Training of Trade Union Reps	To provide a means of increasing the numbers of Union Representatives trained at 4 FE organisations in Wales	110,000	Required approvals not in place - extension of contract in excess of three years	All approvals in place
14	DARE Training	Learning for Prosperity	Using a co-ordinated multi-agency approach to target areas with high levels of economic inactivity within RCT to motivate socially excluded youngsters and adults to engage in learning.	£116,108	Required approvals not in place	Approved by Council - seeking Assembly approval

15	Include	Post 16 Employability Project	A tailor-made programme of support targeted at 16-18 year-olds who have offended or are likely to offend. Beneficiaries are offered a structured and intensively supported programme which covers essential skills, social skills and generic skills including basic ICT skills. NB: This Project completed in March '03	£200,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
16	Pembrokeshire County Council	E-Learning Infrastructure in North Pems	Development of two secondary schools within North Pembrokeshire into Community Learning Facilities	£339,500	Required approvals not in place - extension of contract in excess of three years	All approvals in place
17	Cardiff Council	Cardiff Call Centre Initiative	Forum to encourage call centre companies to locate to Wales and to encourage exemplar HR practices	£60,000	Required approvals not in place	Retrospective approval has been given by Council
18	NC-ELWa project	ICT/MD for Farmers	ICT and Mgt training for Farmers in Support of WAG/WAD Farming Connect Project	242,308	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
19	ELWa - NC initially	Aberporth	Development of Training Centre on WDA Technology Park	£700,000	State aid issues	Legal opinion received. Implications being resolved in discussion with DARA
20	Merthyr Tydfil Council	Merthyr Tydfil Lifelong Learning Campus	The project seeks to provide a project management team to develop and progress the Lifelong Learning Campus for the County Borough of Merthyr	£752,800	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
21	Pembrokeshire County Council	Developing an Alternative Vocational Curriculum (APEX/CAPP)	Development of an alternative vocational curriculum provision for disaffected year 10 and 11 pupils within Pembrokeshire	£335,550	Pre-16 vires issue	Currently seeking legal advice - outstanding
22	Wales Co-operative Centre	Training for Social Economy	To improve access to learning for the co-operative sector within the Welsh social economy. Opportunities for learning will be offered to Directors, employees and volunteers with the sector through an	£464,253	Required approvals not in place	Approved by Council - seeking Assembly approval

23	Cydag	National Bilingual Learning, Teaching and Training Network	Project's purpose is to use video-conferencing to expand the range of subjects taught in Welsh in sixth forms to offer pupils more choice. Project will fund the installation of video-conferencing in 6 Welsh speaking schools and train staff to	£424,000	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
24	Tourism Training Forum for Wales	A National Strategy to enhance quality, relevance and take up of Tourism Training and Education in Wales	To deliver specific learning outcomes that will improve the relevance and quality of training provision and increase learning in tourism businesses.	£122,985	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
25	CYMAD	Cyfrwng Iaith Gwaith - Lang at Work	Development of Welsh for Adults provision in 9 institutions across Wales that will reach new audiences, namely parents; workplace staff and people who relocate from England to Welsh-speaking areas. Project will also market and promote the new provision.	£318,423	Required approvals not in place	Retrospective approval has been given by Council and Welsh Assembly Government
26	CRG Consulting	FSW Consultation	Three year evaluation and research programmes	£64,120	Required approvals not in place	All approvals in place
27	Experian Business Strategies	FSW - Generic Skills Survey		797,526		All approvals in place
28	Miller Research	FSW - Job Outlooks		£105,000		All approvals in place
29	Trosol	FSW Translation		£62,861		All approvals in place
30	Imaginnet	FSW Website		£110,000		All approvals in place
31	Hughes Associates	FSW Design, printwork and strategic marketing assistance		110,000		All approvals in place

32	Bostock Marketing	MA/NT Evaluation	Assess the operational effectiveness of NT/MA, and recommend improvements where helpful to the future performance of the programme and to inform the development of the new all age programme	£63,946	Required approvals not in place	Approved by Council - seeking Assembly approval
33	Centre for Social and Economic Inclusion	Baseline Data	The aim of the project is to collate and analyse baseline data at a national, regional and CCET level to help inform the process of planning and priority setting within the organisation. The data would be used in preparation of national and Regional Statements of Needs and Priorities, and the CCET data would be used to support CCETs in developing their Annual Recommendations	£65,000	Required approvals not in place	Approved by Council - seeking Assembly approval
34	Shared Intelligence	Evaluation Strategy and Guide	Production of Evaluation Strategy and associated materials in order to evaluate current and future National Council programmes	£59,925	Required approvals not in place	Approved by Council - seeking Assembly approval
35	Exeter Enterprises	Learning and Skills Observatory	The purpose of the project is to consider the opportunities to develop a Learning and Skills Observatory for Wales. And if appropriate develop a plan to establish the Observatory	£66,200	Required approvals not in place	Approved by Council - seeking Assembly approval
36	FEIs/WEAs	E-Learning Pilot	Project to develop E-learning Champions in FEI/WEAs continues into 2003/04.	1,678,000	Needed clarification that section 10 of schedule 8 has been satisfied	All approvals in place
37	ELWaColeg Sir Gar	Learning Worker Pilot	Level 3 Pilot in D8Llanelli to test the impact of free NVQ level 3 training	1,500,000	Needed clarification that section 10 of schedule 8 has been satisfied	All approvals in place
38	UK Skills	National Training Awards 2002	To run and promote the National Training awards in Wales on behalf of the Welsh Assembly Government	£75,000	Required approvals not in place	Outstanding
39	NIACE	NIACE sign up now	To work with NIACE Dysgu Cymru to provide a national focus to support the drive for enrolments	£120,000	Required approvals not in place	Approved by Council - seeking Assembly approval
40	Technicare Management Services	ELWa Net Content Audit	Evaluation of effectiveness of service	£102,000	Required approvals not in place	Outstanding

41	ELWa	National Planning and Funding System	Identify models and mechanism for funding post-16 education and training (except HE in Wales) and to set out a model for a National Planning framework	£600,720	Required approvals not in place	Awaiting Assembly approval
42	ELWa	National Funding System	To develop and operationalise models and mechanism for funding post-16 training (except HE) in Wales	£117,000	Required approvals not in place	Awaiting Assembly approval
43	Scheme	Capital Investment Scheme		No Cost implications	Schedule 8 scheme providing framework for further Investment Projects(1 year only)	On going discussions with Assembly for the development and approval of new Capital Scheme
44	Scheme	Learning Challenge Fund Scheme		No Cost implications	Schedule 8 Scheme previously approved by the Assembly - no prior Council approval had been sought	All approvals in place
45	Scheme	Redundancy Action Fund Scheme		No Cost implications	Schedule 8 Scheme previously approved by the Assembly - no prior Council approval had been sought	All approvals in place
46	Scheme	Company Learning Accounts Scheme		No Cost implications	Schedule 8 Scheme previously approved by the Assembly - no prior Council approval had been sought	All approvals in place
47	Scheme	MIS Development Scheme		No Cost implications	Schedule 8 Scheme previously approved by the Assembly - no prior Council approval had been sought	All approvals in place



Our ref: Oct03-481B

PRIVATE & CONFIDENTIAL  
 Mr Adrian Crompton  
 Clerk to the Audit Committee  
 National Assembly for Wales  
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10 October, 2003



**Audit Committee hearing – 25 September 2003**

In response to your letter of 7 October 2003 I attach a copy of the letter dated 15 March 2002 from Learn to Live Ltd.

With regard to the supplementary information which the Committee requested regarding the outcome of the National Council's review of current projects and schemes, I understand that you have agreed with Arwel Thomas a submission deadline of 24 October 2003 for that note. The work to prepare the required information is ongoing and Arwel will liaise with you to ensure that the proposed format and content will be adequate for the members of the Committee.

As with your letter I am copying this to the Assembly Compliance Office.

Yours sincerely



**Dr Peter Higson**  
 Interim Chief Executive

**Cyngor Cenedlaethol Cymru**  
**dros Addysg a Hyfforddiant**  
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**Education and Training**  
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15<sup>th</sup> March 2002

Mr Ian Smith  
 ELWa,  
 Ty'r Afon,  
 Bedwas Road,  
 Bedwas.

Dear Ian

**RE: Learn to Live – ELWa Contract Annex C – Café Fit-out Capital Expenditure**

Further to our discussions with you, Alison and with Brian, I write to detail why in the best interests of value for money and fitness for purpose, the procurement of certain items listed on Annex C should be deferred.

**1. The development of a new Building "Porth Plaza" to house the Cafe.**

In the last 4 weeks, other public sector parties (RCT and WDA) have offered to extend their support for our Pop Factory Café project, in the form of proposed funding for a new facility "Porth Plaza," in which the café would be located, together with other community facilities. This would mean that instead of refurbishing the old supermarket, the café could be located in a brand new state of the art facility, bigger and better than any refurbishment and allowing more access to other community groups and other landmark tenants such as the BBC and the Prince's Trust. These new facilities will greatly enhance the experiences both of the target audience and extend the opportunities for access to further groups in the community.

A business plan and feasibility study for the new facility have been commissioned by the WDA on behalf of the partners and ELWa is part of this work which is progressing apace. The time line is such that whilst good progress has been made in the development of the concept and in the funding plan, detailed drawings and specifications are not yet available.

Whilst we have some costing information on the previous refurbishment concept, it is impossible to secure accurately-costed quotations for fit out items, such as café and kitchen equipment, data cabling, flooring, lighting etc without access to technical drawings. Without these accurate quotations we cannot commit to purchasing items. Also other items such as



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the number of meeting rooms, kiosks, computer surf terminals, video walls, plasma screens and even the number and sizes of furniture items cannot be accurately ordered without knowing the layout of the floorplate as we risk either over-ordering, wasting money or under-ordering and losing potential quantity discounts.

Estimates have been provided based on previous projects that have been undertaken by potential suppliers / consultants of these fit out items and as the new building project progresses through the design stages, these estimates can be firmed up and commitments made.

## 2. Technical architecture -in Café and online delivery of data

A significant portion of the infrastructure kit list is equipment for the data network to be deployed which can be sourced from IBM or Cisco or Hewlett Packard. All of these suppliers are keen to work on this project but need more details on the online network over which data is to be delivered, before they can best advise on the exact specification for items in the technical architecture.

More information on the networks will be available within the next 4-6 months from the broadband consortium that Patrick Sullivan of the WDA is leading and also the groups such as RCT Connect who are keen to be recipients of content but are still to confirm platforms and locations etc for the terminals etc on the end of the network. ELWa itself is keen to take the delivery of the content on line and are working to determine when and where the modules will next be delivered.

Building the technical architecture without the exact information regarding the networks and delivery locations etc, is possible but a much more robust network will be achieved if we wait for more confirmation of the network specification.

## 3. Architecture lead times and testing regime.

Technical equipment of this type typically incurs lead times from order placement to delivery of up to 12 weeks. Recently these long lead times have been exaggerated mainly due to the events on Sept 11th and the technology market downturn during the middle and end of last year.

The general procedure when procuring components for a new network infrastructure is to place the order with a deposit and have them delivered to the distribution partner and soaked in a simulated operational environment. This allows any faulty components to be identified and replaced under warranty so that they do not affect the implementation phase of the project in the live environment. This test environment normally takes approximately 3



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months to set up, test and prove. Only once this testing phase is completed satisfactorily, should total payments be made.

#### 4. Technological Advances

Although we are firm on the type and quantity of some items required and for which we can secure estimates based on current pricing, there are several valid reasons for not placing component specific orders at this stage.

If we were to take advance delivery of the items (i.e. April 2002) we would reduce the terms of the support and maintenance contracts and warranties which all run from the date of delivery as the kit would sit idle for 9 months before use.

Since technology advances occur very frequently, it is possible that components specified today will be superseded within 3 months and although we are keen to secure discounts from advance order placement, we would not want to buy any hardware that would require upgrade within the short term. Also, value for money commodity items such as PC's etc are upgraded on a regular basis and in 9-11 months time we would get "more gigabytes etc per pound" than we would get today.

Many hardware items also come pre-configured with software releases and these could become out-dated by the time of implementation. Further update costs would then be incurred unnecessarily.

#### 5. Funding.

Many technology and software distributors will not deal with a company or give any significant discounts if a company cannot show financial capability for completing purchases to the value relevant to this infrastructure deployment sum. Being able to provide financial evidence of the funding required, will allow us to progress relationships with technology partners through the infrastructure planning stage and into the implementation phase quickly and successfully.

As Learn to Live (or The Avanti Media Group) does not have significant business histories with suppliers like IBM, Cisco and Hewlett Packard or many of the recognised major IT distribution companies, it will be necessary to show proof of the financial strength of this project (in terms of Live to Learn accounts and deposits) secure this equipment and the development and testing services required.



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This proof of financial strength will also guarantee those "early order" discounts and cost-efficiencies that have already been outlined in a previous letter.

The Avanti team is fully committed to ensuring that this project delivers the highest standards of quality and value for money as is evidenced by our research into these items of expenditure. The deferment period for each set of expenditures will be closely monitored with you and items will only be purchased when most appropriate to meet the delivery timescale of the café but also to ensure best value and fitness for purpose.

Please contact me if you require any further information.

Yours Sincerely

Mair Afan Davies



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*Avanti*

Cynulliad Cenedlaethol Cymru  
National Assembly for Wales

Ysgrifennydd Parhaol  
Permanent Secretary

Mr Adrian Crompton  
Clerk to the National Assembly Audit Committee  
National Assembly for Wales  
Cardiff Bay  
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22 October 2003

*Dear Adrian*

**NATIONAL ASSEMBLY AUDIT COMMITTEE: 25 SEPTEMBER**

I undertook to provide Committee members with a note on the arrangements the Assembly has in place for training and sharing experience with Assembly sponsored public bodies and sponsor departments within the Assembly. I also said I would provide a note on examples of accounting officers who had been dismissed or disciplined within the last 10 years or so.

**Training and Sharing Experience.**

An accounting officer, either of the Assembly or a sponsored body is required to undertake initial accounting officer training within 3 months of designation. The training covers the fundamentals of effective financial accountability such as irregularity, propriety, and the value for money. It also deals with the responsibilities of an accounting officer (including providing evidence to the National Assembly Audit Committee or Public Accounts Committee) set out in an Accounting Officer Memorandum that all accounting officers receive upon designation. They also receive a copy of Treasury guidance on regularity and propriety upon designation.

The accounting officer training is a one-day course provided by the Civil Service College. It is co-ordinated by the Assembly Compliance Office. Whenever possible the training is held in Cardiff and involves a number of newly designated accounting officers, thereby encouraging a more interactive approach to the training.

In May 2002 a refresher training day was held for all sponsor body accounting officers. The agenda consisted of an open forum session and issues of particular relevance such as the work of the Auditor General for Wales and accounting officer issues arising from reports of the Assembly Audit Committee. A further refresher day

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is to be planned for 2004. All accounting officers have been invited to attend an Assembly sponsored conference, to be held on 5 December, to discuss ways in which the Public Sector Management Initiative (PSMI) can provide better training and development opportunities. I am firmly committed to promoting the Initiative in Wales as I believe it has a fundamental role to play in enhancing leadership and management skills of senior management in the Welsh Public Sector.

I referred in my evidence to the fact that desk instructions are in place within sponsor departments that provide staff with guidance and a clear understanding of what is expected of them. I satisfy myself that the appropriate guidance is in place through the Statements of Internal Control that all heads of Assembly divisions are required to complete on an annual basis.

Training on financial accountability for the staff of sponsor divisions is also co-ordinated by the Assembly Compliance Office. Seven such one-day courses have been held in the last 12 months or so and 3 have involved the participation of staff from both sponsored bodies and sponsoring divisions. They cover such issues as an understanding of the key control documents such as the Management Statement and Financial Memorandum; accounting officer responsibilities and the proper conduct of public business; and the role of external audit and the Assembly Audit Committee. This is an ongoing programme of courses arranged on a "pay as you go" basis. Consideration is being given to extending the range of the training to cover the principles of effective sponsorship.

A very important component of training and guidance in respect of both sponsored bodies and sponsoring departments is the cycle of meetings my senior officers and I hold in the course of a year.

I meet the administrative heads of sponsored bodies twice yearly. One meeting focuses on accounting officer issues; the other on administrative and governance issues relevant to their role as chief executives. My meeting with accounting officers on 10 October included a presentation on the key issues arising from recent Audit Committee reports and relevant Assembly Government responses. It also included a discussion of training needs and opportunities and in particular the potential for providing sponsored body board members with financial awareness training. This has been given to the board of a number of bodies recently and I am anxious to extend it.

David Richards, the Principal Finance Officer, chairs a twice-yearly meeting of sponsor division heads and branch heads to discuss key issues and concerns and also to exchange best practice. David Richards and Laurie Pavelin, the Assembly's Chief Accountant, meet the finance officers of sponsored bodies on an annual basis. Financial awareness issues also form part of the agenda for the First Minister's six monthly meetings with the chairpersons of sponsored bodies.

The recommendations and conclusions set out in Audit Committee reports and the Assembly Government's response to those recommendations are circulated to all sponsored bodies and Assembly senior staff via Chief Executive Office (CEO) letters issued by me (as was the case in respect of CEO 9/2003 on issues relating to the

National Council's Accounts report), David Richards or David Powell the Assembly Compliance Officer.

**Accounting Officer Dismissal and Disciplinary Issues.**

The Treasury Officer of Accounts has provided 2 instances of dismissal or termination in comparatively recent years, these are set out in the accompanying annex to this letter. The Public Accounts Committee Reports referred to are published documents.

Examples of disciplinary action have proved harder to acquire and would entail extensive work in approaching each Central Government Department to provide a definitive response. The Treasury Officer of Accounts has indicated that in practice it is also difficult to distinguish between the role of Chief Executive and the role of Accounting Officer.

I hope this is helpful.

*Yours sincerely*  
*Jon Shortridge*

**JON SHORTRIDGE**



**Annex.**

1. **The National Heritage Memorial Fund 1994-95: Replacement of the Accounting Officer Report by the Public Accounts Committee** [the 23<sup>rd</sup> Report 1995-96]. The report notes:

*In June 1995 the Department [of National Heritage]'s Accounting Officer concluded that the Accounting Officer of the Fund had allowed a clear conflict of interest to arise in breach of her basic responsibilities as an Accounting Officer. After informing the Chairman of the Trustees, he therefore revoked the [Director's] appointment as Accounting Officer. The Trustees of the Fund then terminated her appointment as Director [paragraph 1].*

2. Another PAC report, the 2<sup>nd</sup> Report 2000-01, **Public Trust Office: Unclaimed Balances Held in Funds in Court and the Office's 1998-99 Accounts**, records the termination of the role of Chief Executive rather than the role of Accounting Officer:

*xi. The Department felt that it was mutually beneficial for the Agency Chief Executive to leave her position early, to allow her successor to see through important changes affecting the Agency. Despite the serious problems at the Agency, the Department did not consider that there were sufficient grounds for removal on the basis of poor performance. In their desire to obtain a mutually agreed departure, the Department made no attempt to negotiate a smaller severance settlement. (Paragraph 45)*



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Enn Cyfeirnod / Our Reference JBB/2073/03

Fich Cyfeirnod / Your Reference

Dyddiad / Date 2 December 2003

## **THE ROLE AND RESPONSIBILITIES OF AN ASSEMBLY SPONSORED PUBLIC BODY ACCOUNTING OFFICER**

At last Thursday's Audit Committee meeting, I offered to provide the Committee with a note setting out the role and responsibilities of Accounting Officers of Assembly Sponsored Public Bodies (ASPBs).

The Chief Executive of an ASPB is designated as the Accounting Officer by the Permanent Secretary of the National Assembly for Wales, in his capacity as Principal Accounting Officer. This designation conveys a personal responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, and also for signing the annual accounts of the ASPB.

The Accounting Officer must ensure that high standards of financial management operate within the ASPB, that financial systems and procedure promote the efficient and economical conduct of business and safeguard regularity and propriety, and that financial considerations are fully taken into account in decisions on ASPB policy proposals.

By virtue of these personal responsibilities, the Accounting Officer has the duty to appear as a witness before the Assembly Audit Committee (and also the Committee of Public Accounts at the Westminster Parliament) to deal with questions arising from the ASPB's accounts, or from reports made to the Assembly by the Auditor General or to Parliament by the Comptroller and Auditor General.

The main detailed written guidance on the role of an ASPB Accounting Officer is set out in the National Assembly's document '*The Responsibilities of an Assembly Sponsored Public Body Accounting Officer*', and I enclose a copy of this paper (which closely mirrors the equivalent Treasury document for Government departments and agencies set out in '*Government Accounting*') for the Committee's information. The paper is appended to each Accounting Officer's letter of appointment from the Principal Accounting Officer, who also holds a meeting with each newly-appointed Accounting Officer to discuss in detail the responsibilities of this role with them.

The Committee expressed particular interest in the relationship between an ASPB Accounting Officer and Assembly Government Ministers. This is covered indirectly in paragraphs 16 to 20 of the Assembly guidance paper, which addresses the provision of advice by an Accounting Officer to the Board of an ASPB, as the same principles would apply to advice to a Minister. The Accounting Officer is required to have regard to regularity, propriety and value for money in providing advice to the Board. However, if the Board (or, by extension, the Minister) is contemplating a course of action which the Accounting Officer considers would infringe these requirements, then the Board should be advised clearly of this judgement. In the event that the Board decides nonetheless to over-rule this

advice and proceed with the proposed course of action, then the Accounting Officer should seek a written instruction before proceeding. The Assembly's Principal Accounting Officer should also be informed, if possible before the decision is implemented, so that he has the opportunity to consider the matter and decide whether or not to intervene.

Both the Accounting Officer's request for a written instruction, and the instruction itself, should be communicated without undue delay to the Auditor General for Wales. Provided that this procedure is followed, the guidance makes clear that the Audit Committee and the Committee of Public Accounts can be expected to recognise that the Accounting Officer bears no personal responsibility for the transaction.

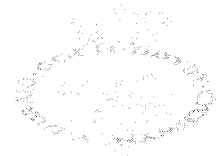
This procedure is designed to operate as a 'fail-safe' mechanism, and its use is quite exceptional. Since the establishment of the National Assembly for Wales, there have been no instances where an ASPB or Assembly Accounting Officer has communicated to me such a written instruction from their Board or an Assembly Minister. There have also been only a handful of instances in recent years within the Westminster context where the Comptroller and Auditor General has been informed of such a written instruction to an Accounting Officer.

I do hope that you find this note of assistance to the Committee.

*Yours sincerely,*  
*John Bourn*

**JOHN BOURN**

**THE RESPONSIBILITIES  
OF AN ASSEMBLY SPONSORED  
PUBLIC BODY (ASPB)  
ACCOUNTING OFFICER**



**Cynulliad Cenedlaethol Cymru  
The National Assembly for Wales**

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## **THE RESPONSIBILITIES OF AN ASSEMBLY SPONSORED PUBLIC BODY (ASPB) ACCOUNTING OFFICER**

1. The senior official (usually the full time Chief Executive or equivalent) of an Assembly Sponsored Public Body (ASPB) is normally designated as Accounting Officer by the Principal Accounting Officer of the National Assembly for Wales (the Assembly). An Accounting Officer has the personal duty of signing the body's accounts, unless the body is a Companies Act company, in which case the accounts should be signed both by a Director and the Accounting Officer. By virtue of this duty, the Accounting Officer has the further duty of being a witness before the Audit Committee of the Assembly (the Audit Committee) or the Committee of Public Accounts (PAC) to deal with questions arising from those accounts or, more commonly, from reports made to the Assembly by the Auditor General for Wales or to Parliament by the Comptroller and Auditor General (C&AG).
2. Associated with these duties are the further responsibilities which are the subject of this memorandum. It is incumbent on the officials who serve as Accounting Officers to combine these duties with their duties to the Board of the ASPB (or where there is no Board, to the senior appointee to the body), which they should inform of their designation. More detailed guidance for the Accounting Officer and the staff of the ASPB is contained in the Treasury Manual 'Government Accounting' (copies of which are available from The Stationary Office Ltd).
3. Assembly Sponsored Public Bodies are financed in a variety of ways, for example by grant-in-aid, grant, income from fees and charges or private sector funds. An Accounting Officer is designated in the case of ASPBs which are financed by a large grant or grant in aid or where the accounts of the body are to be laid before the Assembly. Where it is in the interests of public accountability, the Assembly will also designate an Accounting Officer for an ASPB which receives its primary funding from other sources. It is an important principle that, regardless of the source of the funding, Accounting Officers are responsible to Parliament and the Assembly for the resources under their control.
4. This memorandum is directed at those who are formally designated as Accounting Officer. Its contents, however, are applicable to the senior full-time official of an ASPB for which there is no designated Accounting Officer. This memorandum does not apply to those ASPBs (such as Tribunals and Advisory ASPBs) which are funded directly by the Assembly (as opposed to via grant or grant in aid) and for which the Principal Accounting Officer of the Assembly is therefore accountable.
5. Paragraph 6 describes the responsibilities of the Principal Accounting Officer of the Assembly in relation to ASPBs. Paragraph 7 describes the general responsibilities of the Chief Executive of an ASPB. Paragraphs 8-18 set out the responsibilities of Accounting Officers in respect of the funds for which they are responsible. Paragraphs 19-24 deal with the Accounting Officer's duties and responsibilities in respect of the Audit Committee and Public Accounts Committee. Paragraphs 25-27 describe the arrangements for covering the absence of an Accounting Officer.

### **Responsibilities of the Principal Accounting Officer of the Assembly**

6. In relation to ASPBs, it is the responsibility of the Principal Accounting Officer of the Assembly to be satisfied that
- a. the financial and other management controls applied by the Assembly are appropriate and sufficient to safeguard public funds and, more generally, that those being applied by the ASPB conform with the requirements both of propriety and of good financial management;
  - b. there is an adequate statement of the financial relationship between the Assembly and the ASPB (in a financial memorandum or similar document) and that this statement is regularly reviewed;
  - c. the conditions attached to grants conform with the terms of the Budget and that the Assembly monitors compliance with those conditions.

### **The general responsibilities of the ASPB Accounting Officer**

7. The designation as Accounting Officer reflects the fact that under the Board (whether or not he or she is a member of the Board) the Accounting Officer has responsibility, which only he or she is in a position to discharge, for the overall organisation, management and staffing of the ASPB and for its procedures in financial and other matters. The Accounting Officer must ensure that there is a high standard of financial management in the ASPB as a whole; that financial systems and procedures promote the efficient and economical conduct of business and safeguard financial propriety, and regularity throughout the ASPB; and that financial considerations are fully taken into account in decisions on ASPB policy proposals.

### **The specific responsibilities of the ASPB Accounting Officer**

8. The essence of Accounting Officer's role is a personal responsibility for the propriety and regularity of the public finances for which he or she is answerable; for the keeping of proper accounts; for prudent and economical administration; for the avoidance of waste and extravagance, and for the efficient and effective use of all the resources in their charge.

9. As Accounting Officer you must:
- a. personally sign the accounts, (subject to the point in paragraph 1 about Companies Act companies), and in doing so accept personal responsibility for their proper presentation as prescribed in legislation or by the Assembly;
  - b. conform with the requirements of any financial memorandum and ensure that accounts are drawn up in accordance with any conditions set out in legislation, the accounts direction and relevant Assembly guidance;

- c. ensure that proper financial procedures are followed and that accounting records are maintained in a form suited to the requirements of management as well as in the form prescribed for published accounts;
- d. ensure that the resources for which you are responsible as Accounting Officer are properly and well managed (see paragraph 10) and safeguarded, with independent and effective checks of cash balances in the hands of any official;
- e. ensure that assets for which you are responsible such as land, buildings or other property, including stores and equipment are controlled and safeguarded with similar care, and with checks as appropriate;
- f. ensure that conflicts of interest are avoided, whether in the proceedings of the Board or in the actions or advice of its staff, including yourself;
- g. ensure that, in the consideration of policy proposals relating to the expenditure for which you are responsible as Accounting Officer, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and brought to the attention of the Board.

10. An Accounting Officer should ensure that effective management systems appropriate for the achievement of the ASPB's objectives, including financial monitoring and control systems, have been put in place. An Accounting Officer should also ensure that managers at all levels:

- a. have a clear view of their objectives, and the means to assess and, wherever possible, measure outputs or performance in relation to those objectives;
- b. are assigned well defined responsibilities for making the best use of resources (both those consumed by their own commands and any made available to organisations or individuals outside the ASPB) including a critical scrutiny of output and value for money;
- c. have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.

11. Accounting Officers must make sure that their arrangements for delegation promote good management and that they are supported by the necessary staff with an appropriate balance of skills. Arrangements for internal audit should accord with the objectives, standards and practices set out in the Treasury "Government Internal Audit Manual".

12. An Accounting Officer should ensure that the impact of the ASPB's activities on others is properly identified and where appropriate taken into account. For example, it might be decided that an ASPB should contribute to a joined-up activity led by another organisation (whether in the public or private sectors) and that, even though this would not directly contribute to the achievement of the ASPB's own objectives, it should make the contribution in view of the impact it would have on the achievement of the other organisation's objectives. Accounting Officers will need to show that the



participation represents good value for money overall and that appropriate controls are in place to safeguard propriety and to provide proper accountability. Similarly, Accounting Officers should ensure that the organisation's staff are as conscientious in their approach to costs not borne directly by the ASPB as they would be were such costs directly borne.

13. In the case of joint working, there is no reason why more than one Accounting Officer should not be held responsible for the delivery of a joined-up service. But lines of responsibility need to be clearly defined, so it is absolutely clear what each Accounting Officer is responsible and accountable for.

### **Regularity and propriety of expenditure**

14. Accounting Officers have a particular responsibility for ensuring compliance with Parliamentary and Assembly requirements in the control of expenditure. A fundamental requirement is that the funds for which they are responsible should be applied only to the extent and for the purposes authorised by the Assembly. You must also comply with any conditions which the Assembly may attach to the grant or grant-in-aid. You must ensure that the Assembly's attention is drawn to losses or special payments, by appropriate notation of the relevant account.

15. An Accounting Officer is responsible for ensuring that specific approval for expenditure has been obtained from the Assembly in all cases where it is required, including cases involving pay, pensions and conditions of service. This will include any expenditure not covered by any authorities delegated by the Assembly to the ASPB. Delegated authority does not remove the obligation to submit to the Assembly proposals which are novel or contentious. The Accounting Officer is also responsible for ensuring that adequate machinery exists for the collection of and bringing to account in due form all receipts of any kind connected with the accounts of the ASPB.

### **Advice to the Board**

16. An Accounting Officer has particular responsibility to see that appropriate advice is tendered to the Board on all matters of financial propriety and regularity and more broadly as to all considerations of prudent and economical administration, efficiency and effectiveness. Accounting Officers will need to determine how and in what terms such advice should be tendered, and whether in a particular case to make specific reference to their own duty as Accounting Officer to justify to the Audit Committee of the Assembly or the Public Accounts Committee transactions for which they are accountable

17. The Board of an ASPB should act in accordance with the propriety or regularity (including the provisions of the ASPB's financial memorandum, or other documents setting out the financial duties of the ASPB, or any of "Government Accounting" or other rules governing the conduct of the ASPB). If, however, the Board or the Chairman is contemplating a course of action involving a transaction which you as Accounting Officer consider would infringe these requirements, you should set out in writing your objection to the proposal, the reasons for this objection, and your duty to notify the Auditor General for Wales should your advice be overruled. If the Board decides nonetheless to proceed, you should seek a written instruction to take the action in question. You should also inform the Assembly's Principal Accounting Officer of the position, if possible before the Board takes its decision or in any event before the decision is implemented, so that the Assembly, if it considers it appropriate, can

intervene with the Board. If the outcome is that you are overruled the Board's instruction must be complied with, but your request for the instruction and the instruction itself should be communicated without undue delay to the ASPB's external auditors, and to the Auditor General for Wales. Provided that this procedure has been followed, the Audit Committee and the PAC can be expected to recognise that the accounting officer bears no personal responsibility for the transaction.

18. If a course of action is contemplated which raises an issue not of formal propriety or regularity but relating to your wider responsibilities for economy, efficiency and effectiveness, it is your duty to draw the relevant factors to the attention of the Board and to advise them in whatever way you deem appropriate. If your advice is overruled, and the proposal is one which as Accounting Officer you would not feel able to defend to the Audit Committee or the Public Accounts Committee as representing value for money, you should seek a written instruction before proceeding. The Assembly's Principal Accounting Officer should be informed of such an instruction, if possible before the decision is implemented. It will then be for the Assembly's Principal Accounting Officer to consider the matter, and whether or not to intervene. If the outcome is that the difference between yourself and the Board nevertheless remains unresolved, your request for the instruction and the instruction itself should be communicated to the Auditor General for Wales without undue delay, as in cases of propriety or regularity (paragraph 15 refers).

19. If because of the extreme urgency of the situation there is no time to submit advice in writing to the Board in either of the eventualities referred to in paragraphs 15 and 16 before the Board takes a decision, you must ensure that, if the Board overrules the advice, both the advice and the Board's instructions are recorded in writing immediately afterwards.

20. If an Accounting Officer is also the Chairman or a member of the Board, he or she should ensure that the responsibilities as Accounting Officer do not conflict with those as Board member. For example, if the Board proposes action which as Accounting Officer you could not endorse, and would therefore advise against, you should, as a Board member, vote against such action, or ensure that your opposition as Board member as well as Accounting Officer is clearly recorded if no formal vote is taken. In serious cases it will not be sufficient to protect your position as Board member merely by abstaining from a decision which cannot be supported.

#### **Appearance before the Audit Committee or the Public Accounts Committee**

21. Both the Auditor General for Wales and the C&AG may carry out examinations into the economy, efficiency and effectiveness with which the ASPB has used its resources in discharging its functions. An Accounting Officer may expect to be called upon to appear before either of the Committees from time to time, normally with the Principal Accounting Officer of the Assembly, to give evidence on the reports arising from these examinations or reports following the annual certification audit, and to answer the questions of the Committees concerning expenditure and receipts for which he or she is accounting officer. An Accounting Officer may be supported by one or two other senior officials who may, if necessary, assist in giving evidence.

22. Treasury officials attend PAC hearings, and may be asked to comment on the evidence. The Treasury has the formal responsibility for presenting Estimates to Parliament, for prescribing the form of accounts and the rules of Government Accounting and for promoting good financial management in departments. This goes with the Treasury's central responsibility for the operation of public expenditure control. Parliament has traditionally regarded the Treasury as an ally in controlling expenditure. An official of the Finance Group of the Assembly (the Assembly Compliance Officer) usually attends Audit Committee meetings, normally on behalf of the Principal Accounting Officer, to provide the Committee with technical advice on financial management.

23. An Accounting Officer will be expected to furnish either of the Committees with explanations of any indications of weakness in the matters covered by paragraphs 8-13, to which their attention has been drawn by the Auditor General for Wales or the C&AG or about which they may wish to question the Accounting Officer.

24. In practice, an Accounting Officer will normally have delegated authority to others, but cannot on that account disclaim responsibility or dilute his or her accountability. Nor, by convention, does the incumbent Accounting Officer decline to answer questions where the events took place before taking up appointment: the Committees may be expected not to press the incumbent's personal responsibility in such circumstances.

25. Great importance is attached to accuracy of evidence, and the responsibility of witnesses to ensure this, in order to ensure that relevant lines of enquiry may be pursued at Committee hearings. The Accounting Officer should ensure that he or she is adequately and accurately briefed on matters which are likely to arise at a hearing. The accounting officer may, however, ask the Committees for leave to supply information not within his or her immediate knowledge by means of a later note. Should it be discovered subsequently that the evidence provided to the Committees has contained errors, these should be made known to the Committees at the earliest possible moment.

26. In general, the rules and conventions governing appearances of officials before Parliamentary Committees apply to the Audit Committee and the PAC, including the general convention that officials do not disclose the advice given to the Board. Nevertheless, in a case where the procedure described in paragraph 15 was used concerning a matter of propriety or regularity, the Accounting Officer's advice, and its overruling by the Board, would be disclosed to the Committees. In a case covered by paragraph 16, where the advice of an Accounting Officer has been overruled in a matter not of propriety or regularity but of prudent and economical administration, efficiency or effectiveness, the Auditor General for Wales or the C&AG will have made clear in the report to the relevant Committee that the Accounting Officer was overruled. The Accounting Officer should seek to avoid disclosing the advice given to the Board, though subject to their agreement the Accounting Officer should be ready to explain the reasons for their decision.

#### **Absence of an Accounting Officer**

27. An Accounting Officer should ensure that he or she is generally available for consultation, and that in any temporary period of unavailability due to illness or other cause, or during the normal period of annual leave, there will be a senior officer in the ASPB who can act on his or her behalf if required.

28. If it becomes clear to the Board that an Accounting Officer is so incapacitated that he or she will be unable to discharge these responsibilities over a period of four weeks or more, the Assembly should be notified so that an acting Accounting Officer can be formally designated, pending the Accounting Officer's return. The same applies if exceptionally the Accounting Officer plans an absence of more than four weeks during which he or she cannot be contacted.

29. The Audit Committee and the PAC may be expected to postpone a hearing if the relevant Accounting Officer is temporarily indisposed. Where the Accounting Officer is unable by reason of incapacity or absence to sign the accounts in time to submit them to the Assembly, the ASPB may submit unsigned copies pending the Accounting Officer's return. If the Accounting Officer is unable to sign the accounts in time for printing, the acting Accounting Officer should sign instead.

**THE AUDIT COMMITTEE**

The National Assembly's Audit Committee ensures that proper and thorough scrutiny is given to the Assembly's expenditure. In broad terms, its role is to examine the reports on the accounts of the Assembly and other public bodies prepared by the Auditor General for Wales; and to consider reports by the Auditor General for Wales on examinations into the economy, efficiency and effectiveness with which the Assembly has used its resources in discharging its functions. The responsibilities of the Audit Committee are set out in detail in Standing Order 12.

The membership of the Committee as appointed on 3 June 2003:

Janet Davies (Plaid Cymru) - Chair  
Leighton Andrews (Labour)  
Mick Bates (Liberal Democrat)  
Alan Cairns (Conservative)  
Jocelyn Davies (Plaid Cymru)  
Christine Gwyther (Labour)  
Denise Idris-Jones (Labour)  
Mark Isherwood (Conservative)  
Val Lloyd (Labour)  
Carl Sargeant (Labour)

Further information about the Committee can be obtained from:

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National Assembly for Wales  
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CF99 1NA  
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