

# THE NATIONAL ASSEMBLY FOR WALES:AUDIT COMMITTEE

**Report 04-03 – Presented to the National Assembly for Wales on Thursday 3<sup>rd</sup> April 2003 in accordance with Section 102(1) of the Government of Wales Act 1998**

**The Accounts of the National Council for Education and Training for Wales for the period ending 31 March 2002**

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Thursday 23 January 2003

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18 March 2003

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## Introduction

1. The National Council for Education and Training for Wales (the National Council) published its first Annual Report and Accounts<sup>1</sup> on 14 January 2003, covering the period from its creation on 10 October 2000 to 31 March 2002. The National Council's Chief Executive, as Accounting Officer, was only finally able to sign the accounts on 20 December 2002, nearly four months after the statutory deadline of 31 August.
2. The accounts include irregular expenditure by the National Council totalling some £2.25 million in respect of contracts with the private sector for the provision of services. As a result, the Auditor General for Wales qualified the regularity element of his audit opinion on the accounts. His report<sup>2</sup> on the accounts detailed the procurement failures, and identified a range of serious weaknesses in the organisational and financial management arrangements of this new body. His report also highlighted the National Council's use of confidentiality clauses in departure and redundancy settlements, a practice which ran contrary to a previous recommendation of this Committee that had been accepted by the Welsh Assembly Government<sup>3</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 David Richards, Principal Finance Officer, together with Mr Steve Martin, Chief Executive of the National Council, who was accompanied by Mr Richard Hirst, Director of Finance and Systems. A transcript of this evidence is at Annex A. We subsequently also received written evidence from Sir Jon Shortridge (Annex B) and Mr Martin (Annex C). We should like to thank all the witnesses for the positive and constructive way in which they responded to the Committee's questions.
4. We consider the matters addressed in this report to be of exceptional importance. Whilst we acknowledge the considerable efforts of staff and the significant

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<sup>1</sup> *National Council for Education and Training for Wales, Accounts for the period ending 31 March 2002*, published on 14 January 2003

<sup>2</sup> *Report of the Auditor General for Wales on the accounts of the National Council for Education and Training for Wales for the period ending 31 March 2002*, published on 14 January 2003

<sup>3</sup> *National Museums and Galleries of Wales: Cabinet Response to the Report and Recommendations of the Audit Committee*, published on 14 June 2000

achievements of the National Council during its first year of operation, we are deeply concerned that such serious failures have arisen and that irregular expenditure has been incurred. It is imperative that the important lessons from these events are learnt by the National Council and that the Welsh Assembly Government take good note of them and disseminate them across the public sector in Wales, in order to guard against any recurrence.

5. Our report addresses the main issues covered by the Auditor General's report and our evidence session, focussing on five main areas:
  - *The establishment of the National Council;*
  - *The financial management and control of the National Council;*
  - *The irregular procurements;*
  - *The corrective action taken by the National Council; and*
  - *The use of confidentiality clauses by the National Council.*

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 establishment of the National Council**

6. In 1999, the Education and Training Action Group recommended that the National Council should operate in a shadow form for a 12-month period prior to its formal establishment<sup>4</sup>. This was to allow sufficient time for the organisational structure to be developed and proper financial control systems to be put in place. However, the National Assembly for Wales resolved on 1 February 2000<sup>5</sup> to establish the National Council with effect from 1 April 2001, subject to enactment of the Learning and Skills Bill which had been introduced at Westminster. The Bill received Royal Assent in July 2000<sup>6</sup> and the Chair and Chief Executive of the new body were appointed in October 2000. As the Welsh Assembly Government considered that a 'shadow running' period would delay the establishment of the new body, it decided that the new body would assume its new responsibilities directly on 1 April 2001. The transitional period was therefore limited to just six months and 570 staff transferred directly from the National Council's predecessor bodies on 1 April 2001. All staff, including the senior management team, were fully engaged with the work of those bodies until 31 March 2001, inevitably limiting their role in preparations during that period<sup>7</sup>.
7. We sought to establish the rationale for this ambitious timescale. Welsh Assembly Government officials told us they had considered that this approach would best protect business continuity in support of the provision of training in Wales<sup>8</sup>. At no time during this period did officials of either the National Council or the Welsh Assembly Government consider such a rapid establishment of the new body to be unachievable, nor did National Council officials consider seeking the agreement of the Assembly to defer the 1 April 2001 start date<sup>9</sup>.
8. In making preparations for the creation of the new National Council, a Project Management Board and Project Steering Group, each chaired by Assembly Government officials, were established. These were supported by a range of 'Strand Groups' tasked with considering various specific issues such as human

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<sup>4</sup> AGW's Report, paragraph 21

<sup>5</sup> National Assembly for Wales: Plenary debate, 1 February 2000

<sup>6</sup> *Learning and Skills Act 2000* (July 2000) c.21

<sup>7</sup> AGW's Report, paragraph 7

<sup>8</sup> Qs 4-8

<sup>9</sup> Qs 108-110 and 116

resources and finance<sup>10</sup>. We were surprised to be told that senior officials were apparently unaware of the existence of central Cabinet Office guidance for departments on the creation of new sponsored bodies<sup>11</sup>. However, in a subsequent note to us, the Principal Accounting Officer confirmed that this guidance had been made available to the relevant officials at the time<sup>12</sup>.

9. During the period prior to 1 April 2001, the Welsh Assembly Government commissioned only limited 'due diligence' reviews of the Training and Enterprise Councils (TECs) in Wales, comprising monthly reports on their respective financial positions<sup>13</sup>. Given this, we would have expected that the National Council would have undertaken as a matter of urgency a detailed review of the adequacy and soundness of the operating procedures and systems of control that it had inherited after 1 April 2001. However, the Auditor General found that this had not been done<sup>14</sup>.
10. On 1 April 2001, the National Council inherited the operational plans of the five predecessor bodies. It adopted a policy of "business as usual", whereby it continued with the financial systems, operating procedures and working practices in place at each of its five regional sites<sup>15</sup>. We were told that this approach was designed to ensure business continuity and avoid any reduction in the learning opportunities provided to clients<sup>16</sup>. Given the time constraints imposed by its rapid establishment, the National Council felt that this was the only practical course of action open to them. But, again, we found that the risks associated with this decision were poorly managed, and the significant differences in operation were not properly assessed<sup>17</sup>.
11. Mr Martin explained to us that he had no executive authority over the TECs prior to 1 April 2001 and stressed that, as many of the TECs' senior staff were not appointed to the National Council, this had created a very difficult transitional

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<sup>10</sup> AGW's Report, paragraph 6

<sup>11</sup> Qs 14-22

<sup>12</sup> Annex B: Letter dated 18 March 2003 from Sir Jon Shortridge, section 1

<sup>13</sup> Q35

<sup>14</sup> AGW's Report, paragraphs 44-45

<sup>15</sup> AGW's Report, paragraph 22

<sup>16</sup> Qs 44-46

<sup>17</sup> AGW's Report, paragraphs 30 and 44

period<sup>18</sup>. He detailed the steps he had taken to instil a common organisational culture across the National Council's various regional offices, including visits to each office to give presentations on regularity and propriety<sup>19</sup>. He also ensured that all staff had access to Treasury guidance, including '*Government Accounting*'. However, Mr Martin acknowledged that around 80 per cent of the inherited personnel had either limited or no recent public sector experience<sup>20</sup>, and that such a significant change in organisational culture cannot be achieved overnight<sup>21</sup>.

12. Mr Martin described to the Committee the high volume of business activities and challenges that the National Council faced from 1 April 2001, at the same time as setting up the systems and operations of the new organisation and implementing a significant restructuring involving over 100 redundancies<sup>22</sup>. He also noted that *"there is no doubt that had we not been, frankly, overwhelmed with a vast range of things, we should and would have given more attention to managing the risk"*<sup>23</sup>.

### ***Conclusions and recommendations on the establishment of the National Council***

13. It is not for us to question the policy decision to launch the National Council against such an ambitious timetable and without a period of shadow running; that matter falls within the remit of the relevant subject committee. However it is evident to us that, following this decision, insufficient attention was paid by Welsh Assembly Government and National Council officials to the identification, assessment and management of the various risks that arose as a direct consequence. We view this as a serious shortcoming in the conduct of public business in Wales and **we recommend** that all concerned learn the lessons from this unfortunate case.
14. We are concerned that the witnesses were apparently unaware of key Cabinet Office guidance on the creation of new public bodies that had been issued to all government departments in March 2000. Whilst we were subsequently assured

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<sup>18</sup> Qs 29 and 51

<sup>19</sup> Q42

<sup>20</sup> Q29

<sup>21</sup> Q42

<sup>22</sup> Q46

<sup>23</sup> Q34

that the officials directly responsible for managing the creation of the National Council had access to copies of this guidance, **we recommend** that the Welsh Assembly Government should disseminate this document, together with any Welsh-specific guidance that may be considered necessary, to all staff involved in preparing for any future reorganisations within the public sector in Wales. **We also recommend** that the Welsh Assembly Government should ensure that the rationale for any departure from the best practice recommendations contained in the Cabinet Office is robust and clearly documented.

15. Where organisational changes or major projects are being planned and implemented, **we strongly recommend** that officials should ensure that a structured process for the identification, assessment and management of the associated risks is employed. The resultant risk registers and risk management plans should be subject to senior management scrutiny and endorsement, and kept under continual review throughout the change process.
16. On the consequences of the decision to operate on a “business as usual” basis, the National Council faced an immediate and fundamental challenge in seeking to establish a unified culture from five disparate predecessor organisations. We note the steps taken personally by the Chief Executive to promote the public sector values of regularity and propriety within the new organisation. However, given the predominantly private sector background of his staff, we are very surprised that more was not done by the senior management team to ensure that all employees were fully conversant with the requirements of the public sector from the outset.
17. Once an Assembly Sponsored Public Body is established, the dual functions of the sponsor division are to provide advice and guidance to the body and also to exercise oversight. Through this monitoring role, any issues of concern should be brought promptly to the attention of senior Welsh Assembly Government officials and the Principal Accounting Officer so that corrective action can be taken. We are unconvinced that this latter role was discharged with sufficient rigour during the early months of the National Council's existence. **We recommend** that the Welsh Assembly Government sponsor divisions exercise tighter oversight and monitoring in future when Assembly Sponsored Public Bodies are involved in

significant change, and that more robust mechanisms are put in place to ensure that lessons learnt from the failings of one body are taken on board by other bodies.

### **The financial management and control of the National Council**

18. The Auditor General found that the National Council's decision to operate during 2001-02 on a 'business as usual' basis resulted in it adopting the existing accounting systems in use at its five regional offices, including five sets of financial regulations, procurement regulations, payroll and accounting systems etc<sup>24</sup>. Mr Martin told the Committee that there was no option but to operate on this basis for the first year, and Mr Hirst added that, taking account of the differences between these various systems, he had sought to ensure that coherent 'umbrella' financial procedures and systems were put in place where required<sup>25</sup>.
19. Mr Martin conceded that the existing TEC procurement procedures inherited by the National Council were seriously deficient and that further guidance should have been issued at the outset to all staff on the specific public sector requirements of procurement. He noted that an overwhelming difference existed in the application of European procurement regulations and that the associated compliance risks had not been managed by the National Council<sup>26</sup>. He informed us that, until unified procedures were implemented in January 2002, the risk of non-compliance with public sector procurement requirements had been heightened but that this risk (to potentially high-value contracts) had not been fully assessed at the time<sup>27</sup>.
20. A fundamental requirement for Assembly Sponsored Public Bodies is the adoption of formal sets of Standing Orders and Financial Regulations, governing the conduct of their business. The Auditor General reported that the National Council's Standing Orders were not formally approved until May 2002, some 15 months after the first meeting of the Council<sup>28</sup>. Mr Martin assured us that the various processes detailed in the Standing Orders had been established and were

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<sup>24</sup> AGW's Report, paragraph 31, and Q57

<sup>25</sup> Qs 57-58

<sup>26</sup> Q82

<sup>27</sup> Q34

<sup>28</sup> AGW's Report, paragraph 24



operating informally up until that date, but had not been formally adopted<sup>29</sup>. He also noted that the key appointment of Secretary to the National Council had not been made until January 2002<sup>30</sup>. We also found that financial regulations were not approved by the Council until 25 July 2002 and were not distributed to staff until September 2002. This was despite the findings of a risk assessment undertaken by the National Council in April 2001, which had identified financial policies and procedures as a key risk area<sup>31</sup>.

21. In common with many other Assembly Sponsored Public Bodies, the National Council is required by statute to sign its annual accounts by 31 August each year and present these to the Auditor General for his audit and certification. However, the National Council breached this statutory duty and the Accounting Officer was only able to sign a final version of the accounts on 20 December 2002<sup>32</sup>. Mr Martin identified three reasons contributing to this delay. The process of preparing the accounts had coincided with the installation of the National Council's new unified accounting system, which involved the same finance staff. It also coincided with a period of significant redundancies, including a loss of posts within the Finance function. Finally, the National Council had seriously underestimated the difficulties arising from the consolidation of accounting data from the five different accounting systems. Mr Martin added that the National Council did not possess the necessary expertise to produce the consolidated accounts and that, as a result, this exercise had been contracted out to accountants KPMG. These various factors had combined to delay the production of the accounts to the extent that the statutory deadline of 31 August could not be met<sup>33</sup>.

22. On 1 April 2002, the National Council adopted a new unified financial accounting system and Mr Martin gave us his personal assurance that the statutory deadline for accounts submission would be met in future<sup>34</sup>.

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<sup>29</sup> Qs 70-75

<sup>30</sup> Q76

<sup>31</sup> AGW's report, paragraphs 27 and 42

<sup>32</sup> AGW's Report, paragraphs 38-39

<sup>33</sup> Qs 106-107

<sup>34</sup> Q113

***Conclusions and recommendations on the financial management and control of the National Council***

23. In deciding to operate a policy of 'business as usual' from 1 April 2001, we do not consider that the National Council had a full and proper appreciation of the potential risks it faced in adopting the existing systems of the five regional offices virtually in their entirety. The management team failed to identify or assess adequately how the significant systemic and procedural differences might impact on the consistent handling and proper conduct of public business, particularly in respect of procurement.
24. We consider the National Council's failure to ratify its Standing Orders and approve its Financial Regulations for over 15 months to be completely unacceptable. We strongly endorse the Auditor General's conclusion that these are key pillars of corporate governance which should have been in place from 1 April 2001. We are also concerned that the sponsor division seemingly took no action at the time to ensure that these important processes had been completed.
25. The witnesses suggested to us that officials faced a potential 'trade-off' between a pressure to meet the stated desire of policy-makers that the National Council should come into being very rapidly, and the need to eliminate all the resultant risks. To focus on the latter would, in their judgement, have slowed down the process. We do not accept that the pace of change should lead to any compromise in the application of robust corporate governance procedures to safeguard the proper conduct of public business and ensure sound financial management. We accept that some element of risk is inherent in running any organisation, but risks need to be minimised by effective management. We do not believe that this was done in this case.
26. We were concerned to learn that the Secretary to the Council had not been appointed until nine months after the body commenced operations. This post is a vital safeguard in ensuring that the corporate governance of a body is properly conducted and we consider that it should have been filled at the latest by 1 April 2001.

27. On the preparation of accounts, the Committee views as unacceptable the failure of the National Council to meet its statutory deadline for submission of final signed accounts to the Auditor General by 31 August 2002. We note Mr Martin's assurance that such a breach will not recur in respect of the 2002-03 financial year and **we recommend** that the National Council should take all necessary measures to ensure that this commitment is honoured. We further **recommend** that the sponsor division puts in place mechanisms to monitor the delivery of this commitment, and that it takes action early on if problems emerge.

### **The irregular procurements**

28. The Auditor General reported that 21 separate contracts, with a total value of £2.863 million, had been let by the National Council in breach of its procurement procedures. In each case, the National Council was required to seek retrospective Assembly approval for the expenditure and applications were subsequently submitted to the Assembly Compliance Officer for his adjudication. Approval was refused in 14 cases and the resultant expenditure, totalling £2.243 million, was therefore deemed irregular. This caused the Auditor General to qualify his audit opinion on the National Council's accounts<sup>35</sup>.

29. We established that the procurement breaches had arisen partly because the National Council's procurement procedures were themselves inadequate, and partly because staff had failed to comply with the prescribed procedures. Indeed, both factors had applied in respect of the widespread failures to comply with European procurement regulations, where it appears that National Council staff formerly employed by the TECs were unfamiliar with these requirements<sup>36</sup>.

30. Table 1 to the Auditor General's report sets out nine separate categories of procurement failure across the 21 contracts. Mr Martin explained that certain of the procurement failures had arisen because the National Council staff involved had acted in extreme haste in response to the business needs of the organisation<sup>37</sup>. He assured us that all of the various errors were of 'omission' rather than 'commission' and, importantly, that no fraudulent activity had occurred<sup>38</sup>. He

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<sup>35</sup> AGW's report, paragraphs 57-59

<sup>36</sup> Q119

<sup>37</sup> Qs 120 and 122

<sup>38</sup> Qs 132-133

acknowledged that, although he had assumed that his directors had an understanding of the principles of the procurement system, the identified failures had demonstrated that in fact certain senior staff were unfamiliar with the National Council's standard procurement rules<sup>39</sup>.

31. We questioned the witnesses on the nature of the disciplinary process that the National Council had employed in respect of the procurement failures. The Auditor General had noted that the initial trigger for this process had been a review by a firm of independent accountants, Bentley Jennison, of the contracts originally identified by the National Council's Internal Auditors in March 2002. Following consideration of the Bentley Jennison report in May 2002, the National Council had decided to convene a disciplinary panel, and to engage an investigating officer from solicitors Halliwell Landau<sup>40</sup>.
32. Mr Martin informed us that the findings of the investigating officer had confirmed that staff had acted in good faith and that the non-compliances were not wilful breaches but errors of omission. However, the investigating officer had concluded that disciplinary action should be taken against four National Council staff in respect of a failure to identify the need to comply with European procurement regulations and for failures to ensure that existing contracts were properly re-tendered. The disciplinary panel had accepted these conclusions and issued time-limited warnings to the staff involved<sup>41</sup>.
33. We observed that the disciplinary panel had considered only the four original procurement failures identified by the internal auditors and reviewed by Bentley Jennison, and we established that the panel had not subsequently reconvened to consider its findings again in the light of the 21 separate contracts that were eventually found to be in breach of procedures<sup>42</sup>. Mr Martin explained that the National Council's Head of Internal Audit had reviewed the other 17 cases, using the same criteria that the investigating officer had employed, and had concluded that no further action by the disciplinary panel was necessary<sup>43</sup>. The Chairs of

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<sup>39</sup> Qs 139-143

<sup>40</sup> AGW's Report, paragraphs 51-56

<sup>41</sup> Qs 145-151

<sup>42</sup> Q152

<sup>43</sup> Qs 152-155

both Human Resource committees had been informed of this outcome<sup>44</sup>. The Permanent Secretary also told us that he was satisfied with the degree of thoroughness that the National Council had taken with its disciplinary process<sup>45</sup>.

***Conclusions and recommendations on the irregular procurements***

34. We accept the assurance given to us that the 21 identified cases of procurement breaches arose from National Council personnel acting in good faith and also the Accounting Officer's contention that there were mitigating circumstances. We are reassured to learn that fraud was not suspected and that the investigating officer found no evidence of officers wilfully subverting procurement rules. On this basis, we are satisfied that the procurement breaches were acts of 'omission' rather than 'commission'.
35. However, no matter how demanding and time-pressured the procurement needs were, the Committee considers it inexcusable that proper procurement procedures were either not in place or were not followed. It is unacceptable that irregular expenditure of over £2.2 million has been incurred by the National Council and regrettable that the organisation's reputation has been tarnished as a result.
36. We note the results of the disciplinary panel that was convened by the National Council, and that the panel arrived at its findings and sanctions on the basis of an independent investigating officer's report into only the four procurement breaches that had been originally identified. We are concerned that the panel did not have an opportunity to consider the later findings of the Head of Internal Audit in respect of the other 17 cases before determining the levels of sanction to be imposed on the four staff concerned. Even though no additional categories of 'offence' were identified by that subsequent review, the consideration of 21 rather than four cases would have indicated a greater magnitude of culpability and might well have impacted on the severity of the eventual sanction. In this respect, therefore, we consider that the Council's handling of the disciplinary panel process was deficient. Nevertheless, we accept the Permanent Secretary's contention that to reopen the proceedings on these grounds and at this stage would constitute a

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<sup>44</sup> Qs 156-159

<sup>45</sup> Q160

substantial distraction for the organisation at a time when its energies would best be directed elsewhere.

37. For the future, **we recommend** that in cases of disciplinary action all relevant evidence should be made available to the panel before its final judgement is determined. In cases where further material information is subsequently identified, the panel should be formally reconvened, even if only to satisfy itself that no further action is necessary.

### **The corrective action taken by the National Council**

38. The Assembly Compliance Officer explained to us the methodology and criteria he had employed when considering the National Council's request for retrospective approval for the 21 procurement contracts. In six cases he found a clear breach of European procurement regulations and, in a further eight cases, the National Council was unable to provide adequate information to support approval of the request making it impossible to determine whether or not value for money was achieved<sup>46</sup>.

39. Mr Martin set out for us the various measures that had been taken to strengthen the finance function and improve procurement procedures within the National Council. These included the appointment of a professional procurement officer in October 2001, induction and other staff training, and the issue of formal procurement guidelines to all staff in January 2002. However, a recent Internal Audit follow-up report on procurement had identified further improvements to processes and controls that remained outstanding, particularly in respect of contract management and post-contract evaluation<sup>47</sup>.

### ***Conclusions and recommendations on the corrective action taken by the National Council***

40. We consider it imperative that the National Council ensures that no further instances of non-compliance with its Financial Memorandum occur. We were therefore very concerned to hear from Mr Martin that weaknesses in the National

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<sup>46</sup> Q163

<sup>47</sup> Q175

Council's procurement processes still existed at the time of our hearing in January 2003. **We strongly recommend** that the outstanding improvements to contract management and post-contract evaluation procedures are implemented at the earliest opportunity.

41. We also note the assurance that Mr Martin provided to the Committee that his Statement of Internal Control, which will be published within the National Council's 2002-03 accounts, should not require any qualifying remarks this year<sup>48</sup>. Given the National Council's problems in 2001-02 and the assurance that we have been given, we would be very concerned if this proved not to be the case.

### **The use of confidentiality clauses by the National Council**

42. On the advice of their legal advisers, Eversheds, the National Council included a confidentiality clause in the departure settlement for a senior member of staff, Mr Anthony Drew, and for all 104 staff included in the 2002 redundancy exercise<sup>49</sup>. The Chief Executive had been unaware of this action until it was brought to his attention by the National Audit Office, but he readily acknowledged to us that the use of such confidentiality clauses is entirely inappropriate in the public sector<sup>50</sup>. Mr Martin has since released Mr Drew and all the other personnel included in the recent redundancy exercise from their obligations in this regard<sup>51</sup>.
43. Until 31 March 2001, Mr Drew had been the Chief Executive of North Wales TEC. The Assembly had approved the deferment of Mr Drew's redundancy settlement, allowing him to continue in post with the National Council for 12 months from 1 April 2001. This was of particular benefit to the National Council, given that certain senior posts were not filled during the initial recruitment<sup>52</sup>.
44. In the event, this 12-month contract was terminated after only nine months on 31 December 2001. We were informed that the terms and conditions of his departure were a contractual commitment and that these were consistent with the terms awarded by the TECs to their departing senior staff in 2000-01<sup>53</sup>. The Auditor

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<sup>48</sup> Qs 185-186

<sup>49</sup> AGW's Report, paragraphs 76-78 and 80

<sup>50</sup> Q197

<sup>51</sup> AGW's report, paragraphs 78 and 80

<sup>52</sup> Q205

<sup>53</sup> Qs 205-210

General had also satisfied himself that Mr Drew had acted entirely properly throughout this matter<sup>54</sup>.

***Conclusions and recommendations on the use of confidentiality clauses by the National Council***

45. We were deeply concerned to learn from the Auditor General that the National Council had included a confidentiality clause in the Compromise Agreements drawn up with over 100 staff made redundant as a consequence of restructuring when the National Council was established. As we noted in our report<sup>55</sup> on the National Museum and Galleries of Wales, such clauses are entirely inappropriate in the Welsh public sector. It is equally unacceptable that the National Council has thereby failed to comply with a clear and unambiguous Audit Committee recommendation which has been endorsed formally by the Welsh Assembly Government<sup>56</sup>.
46. We welcome the Welsh Assembly Government's intention to re-issue instructions to all Assembly Sponsored Public Bodies on the use of confidentiality clauses. We are reassured to learn from the Permanent Secretary that this will include a revision of the Financial Memoranda issued to these bodies, explicitly disallowing such clauses. **We recommend** that this is done as soon as possible.
47. **We reiterate our earlier recommendation** that all Assembly Sponsored Public Bodies should pay particular attention to the terms of settlements agreed with departing staff, ensuring that these are appropriate, defensible and achieve good value for money.
48. We acknowledge that the National Council had contractual obligations to Mr Drew, but we are not convinced that good value for money was achieved for the public purse under the terms of his settlement, especially given the early termination of the contract. This is particularly the case as regards, for example, his use of a fully expensed car for the unexpired period of the contract and the

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<sup>54</sup> AGW's Report, paragraph 78

<sup>55</sup> Audit Committee: *'Report on an irregular payment made to a former Assistant Director of the National Museum and Galleries of Wales'*, published on 12 May 2000

<sup>56</sup> *'Cabinet Response to the Report and Recommendations of the Audit Committee'*, published on 14 June 2000



payment of business telephone expenses after his employment ceased. **We recommend** that the Welsh Assembly Government and its sponsored bodies pay particular attention to the inclusion of such elements in all future departure settlements. **We also recommend** that legal firms engaged by the Welsh Assembly Government and its sponsored public bodies should also be made aware of best public sector practice as regards the handling of departure settlements.

## **Overall Conclusions**

49. The establishment of the National Council and the experience of its first year of operation illustrate the vital importance of effective risk management and sound corporate governance arrangements. Risks can only be adequately managed if they are first identified and assessed. Sound corporate governance relies upon the establishment from the outset of robust Financial Regulations and Standing Orders. We consider that the wholesale failures that occurred in these two processes led to the National Council's fundamental inability to manage several key strategic risks in the months both before and after 1 April 2001.
50. Throughout this review we have heard how acting quickly took precedence over acting properly, both in the creation of the National Council and during its first year of existence. Leaving aside the serious deficiencies uncovered in the National Council's corporate governance and internal operating procedures, we stress that 'urgent business need' can never be an excuse to justify failures by a public body to comply with externally prescribed systems and procedures for the proper conduct of business. It is unacceptable for any organisation in the Welsh public sector to incur irregular expenditure, especially on the scale exhibited by the National Council.
51. The procurement practices employed by the National Council have jeopardised the achievement of value for money and exposed the National Council to unnecessary contractual risks. This has caused significant damage to the reputation of the National Council and, by extension, to the Assembly itself. We consider that there are important lessons to be learnt from this case which are relevant to all Assembly Sponsored Public Bodies. We look to the Welsh

Assembly Government to ensure that there is no repetition of these problems within the Assembly or its Sponsored Bodies.



**Cynulliad Cenedlaethol Cymru  
Pwyllgor Archwilio**

**The National Assembly for Wales  
Audit Committee**

**Cyfrifon Cyngor Cenedlaethol Cymru dros Addysg a  
Hyfforddiant  
The Accounts of the National Council for Education and  
Training for Wales**

**Cwestiynau 1-225  
Questions 1-225**

**Dydd Iau 23 Ionawr 2003  
Thursday 23 January 2003**

*Aelodau o'r Cynulliad yn bresennol: Dafydd Wigley (Cadeirydd), Eleanor Burnham, Alun Cairns, Janet Davies, Jocelyn Davies, Janice Gregory, Alison Halford, Ann Jones, Val Lloyd.*

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

*Tystion: Syr Jon Shortridge, Ysgrifennydd Parhaol Cynulliad Cenedlaethol Cymru; David Richards, Prif Swyddog Cyllid Cynulliad Cenedlaethol Cymru; Steve Martin, Prif Weithredwr Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant; Richard Hirst, Cyfarwyddwr Cyllid a Systemau Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant.*

*Assembly Members present: Dafydd Wigley (Chair), Eleanor Burnham, Alun Cairns, Janet Davies, Jocelyn Davies, Janice Gregory, Alison Halford, Ann Jones, Val Lloyd.*

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

*Witnesses: Sir Jon Shortridge, Permanent Secretary, National Assembly for Wales; David Richards, Principal Finance Officer, National Assembly for Wales; Steve Martin, Chief Executive, National Council for Education and Training for Wales; Richard Hirst, Director of Finance and Systems, National Council for Education and Training for Wales.*

*Dechreuodd y cyfarfod am 2 p.m.  
The meeting began at 2 p.m.*

[1] **Dafydd Wigley:** Prynhawn da. Croesawaf aelodau'r Pwyllgor, y tystion ac aelodau o'r cyhoedd i'r cyfarfod hwn.

I remind everybody who is not bilingual that the Committee works in both languages. Simultaneous translation equipment is available and if any of you are hard of hearing—it can sometimes be difficult to hear in Committee rooms; I myself find it difficult to hear at times—you might find it advantageous to listen to the direct feed through the headphones.

Atgoffaf bawb hefyd i ddiffodd ffonau symudol, blipwyr neu unrhyw offer technegol arall allai ymyrryd ar y system ddarlledu.

Nid oes ymddiheuriadau gan fod pawb yn bresennol. A oes unrhyw ddatganiadau o fuddiant?

[2] **Eleanor Burnham:** I understand that I do not have to make a formal declaration, but I would just like to put it on record that I was contracted as a teacher to deliver the youth

[1] **Dafydd Wigley:** Good afternoon. I welcome Committee members, witnesses and members of the public to this meeting.

Yr wyf yn atgoffa pawb nad ydynt yn ddwyieithog bod y Pwyllgor hwn yn gweithredu yn y ddwy iaith. Mae offer cyfieithu ar y pryd ar gael ac os oes unrhyw un ohonoch yn drwm eich clyw—mae'n anodd clywed mewn ystafelloedd Pwyllgor o bryd i'w gilydd; yr wyf fi fy hun yn cael anhawster clywed ar adegau—efallai y byddai'n fanteisiol i chi wrando ar y sain yn uniongyrchol drwy'r clustffonau.

I also remind everyone to switch off mobile phones, beepers or any other technical equipment that could interfere with the broadcasting system.

There are no apologies because everyone is present. Are there any declarations of interest?

[2] **Eleanor Burnham:** Deallaf nad oes raid i mi wneud datganiad ffurfiol, ond hoffwn gofnodi'r ffaith imi weithio fel athrawes dan gytundeb i ddarparu'r rhaglen mynediad i

access programme for a training and enterprise council until I came to the Assembly in April 2001.

[3] **Dafydd Wigley:** That will be noted, although I do not think that it is technically necessary. However, I am grateful to you for drawing that to our attention, and no doubt you will bear that in mind in terms of any possible areas where anything could arise from that.

Symudwn ymlaen felly at y sesiwn cymryd tystiolaeth ar adroddiad Archwilydd Cyffredinol Cymru ar gyfrifon Cyngor Cenedlaethol Cymru dros Addysg a Hyfforddiant ar gyfer y cyfnod a ddaeth i ben ar 31 Mawrth 2002. Croesawaf y tystion a gofyn iddynt gyflwyno eu hunain.

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

**Mr Richards:** I am David Richards, the Assembly's principal finance officer.

**Mr Hirst:** I am Richard Hirst, the national council's director of finance.

**Mr Martin:** I am Steve Martin, chief executive of the national council.

[4] **Dafydd Wigley:** Diolch yn fawr i chi am fod yn bresennol heddiw. Mae'n debyg y byddwn yn torri am egwyl am 3.30 p.m.

Cyn gofyn y cwestiwn cyntaf, nid oes rhaid imi egluro bod y sesiwn hwn yn ymwneud â materion eithriadol o bwysig. Mae diddordeb cyhoeddus sylweddol yn y gwrandawriad hwn: mae bron bob sedd yn yr ystafell hon wedi'u llenwi'n barod, ac mae'n bosibl y bydd rhai pobl yn cael eu siomi. Efallai fod hynny'n profi bod angen ystafelloedd Pwyllgor mwy pan gawn adeilad newydd, ond mater arall yw hynny.

Pwysleisiaf hefyd bod rhai o'r materion a drafodir yn yr adroddiad dan sylw yn cydgyffwrdd â meysydd polisi. Ein gwaith a'n cyfrifoldeb fel Pwyllgor Archwilio yw trafod y materion sy'n ymwneud ag archwilio. Materion i'r Pwyllgor Addysg a Dysgu Gydol Oes yw'r rhai polisi. Mae'n

ieuenctid i gyngor hyfforddiant a menter tan i mi ddod i'r Cynulliad ym mis Ebrill 2001.

[3] **Dafydd Wigley:** Nodir hynny, er na chredaf ei fod yn angenrheidiol yn dechnegol. Fodd bynnag, yr wyf yn ddiolchgar i chi am dynnu hynny at ein sylw, ac yr wyf yn siŵr y byddwch yn cadw hynny mewn cof o ran unrhyw feysydd posibl lle y gallai rhywbeth godi o hynny.

We will therefore move on to the evidence-taking session on the Auditor General for Wales's report on the accounts of the National Council for Education and Training for Wales for the period ending 31 March 2002. I welcome the witnesses and ask them to introduce themselves.

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

**Mr Richards:** Fi yw David Richards, prif swyddog cyllid y Cynulliad.

**Mr Hirst:** Fi yw Richard Hirst, cyfarwyddwr cyllid y cyngor cenedlaethol.

**Mr Martin:** Fi yw Steve Martin, prif weithredwr y cyngor cenedlaethol.

[4] **Dafydd Wigley:** Thank you very much for being present today. We will probably have a break at 3.30 p.m.

Before I ask the first question, I do not have to explain that this session concerns exceptionally important matters. There is significant public interest in this hearing: almost every seat in this room has been taken, and it is possible that some people may be disappointed. Perhaps that proves that we need larger Committee rooms when we have the new building, but that is another matter.

I also emphasise that some of the matters discussed in the report under consideration overrun into policy areas. Our work and our responsibility, as the Audit Committee, is to discuss matters relating to audit. It is for the Education and Lifelong Learning Committee to deal with the policy matters. Members of

debyg y bydd aelodau'r Pwyllgor hwnnw yn cymryd sylw o'r hyn a gaiff ei ddweud yma.

Ein cyfrifoldeb yw edrych yn fanwl ar yr adroddiad, y cytunwyd arno eisoes. Hoffwn ddechrau drwy ystyried y modd brysiog y symudwyd ymlaen o benodi cyfarwyddwyr y cyngor cenedlaethol—a chredaf mai yn Ionawr 2001 y'u penodwyd—hyd iddynt gymryd grym llawn ar 1 Ebrill 2001, cwta dri mis yn ddiweddarach. Gofynnaf y cwestiwn hwn i Steve Martin ac i Syr Jon Shortridge. Mae paragraff 21 adroddiad yr Archwilydd Cyffredinol yn nodi bod y grŵp gweithredu addysg a hyfforddiant wedi argymhell yn 1999 y dylai'r cyngor cenedlaethol fod wedi cael cyfnod treialu, neu gyfnod fel cysgod gorff am 12 mis. Pam yr anwybyddwyd yr argymhelliad hwn o gofio y byddai cyfnod treialu wedi rhoi cyfle i sicrhau bod sdrwythur sefydliadol y corff a'i gyfundrefn rheoli ariannol yn addas ar gyfer y diben?

**Sir Jon Shortridge:** I will go first, Chair. I think that the first thing to bear in mind is that the Assembly resolved in February 2000 that the national council should be established from 1 April 2001. The Assembly was not in a position to appoint a council even in shadow form until the primary legislation—the Learning and Skills Act 2000—had been passed at the end of July. In anticipation of that, and in the knowledge that, if you used full and proper public appointment processes, you would not get council members fully in place until the turn of the year—in fact it was February before all the full members were appointed—I think that the view was taken at that time that what we should be looking at was a transition period to deliver the council from 1 April, rather than to seek to go back to the Assembly and extend the period over which the preparations for the council were put in place and, therefore, in effect, delay the establishment of the council by probably up to a year.

I think that it is also important to bear in mind that, from the time of the Assembly's resolution in February, we, as Assembly officials, set up a transition team, a steering group and an associated project management

that Committee will probably take note of what will be said here.

Our responsibility is to look in detail at the report, which has already been agreed upon. I would like to start by considering the hasty way in which the process was moved forward from appointing the directors of the national council—and I believe that they were appointed in January 2001—to them obtaining full power on 1 April 2001, only three months later. I ask this question to Steve Martin and Sir Jon Shortridge. Paragraph 21 of the Auditor General's report notes that the education and training action group had recommended in 1999 that the national council should have been given a trial period, or should have been in shadow form for 12 months. Why was this recommendation ignored, given that a trial period would have provided an opportunity to ensure that the body's organisational structure and its financial control system were fit for purpose?

**Syr Jon Shortridge:** Fe atebaf i gyntaf, Gadeirydd. Credaf mai'r peth cyntaf i'w gofio yw bod y Cynulliad ym mis Chwefror 2000 wedi penderfynu y dylid sefydlu'r cyngor cenedlaethol ar 1 Ebrill 2001. Nid oedd y Cynulliad mewn sefyllfa i benodi cyngor hyd yn oed ar ffurf cysgod gorff hyd i'r ddeddfwriaeth sylfaenol—Deddf Dysgu a Medrau 2000—gael ei phasio ar ddiwedd mis Gorffennaf. Gan ragweld hynny, ac o wybod, pe defnyddid prosesau penodi cyhoeddus llawn a chywir, na ellid cael aelodau'r cyngor ar waith yn llawnhyd ddechrau'r flwyddyn—yn wir yr oedd yn fis Chwefror cyn y penodwyd yr holl aelodau llawn—credaf y penderfynwyd ar y pryd mai'r hyn y dylem fod yn ei ystyried oedd cyfnod pontio i weithredu'r cyngor o 1 Ebrill, yn hytrach na cheisio mynd yn ôl at y Cynulliad ac ymestyn y cyfnod i baratoi i roi'r cyngor ar waith ac, felly, mewn gwirionedd, oedi sefydliad y cyngor o hyd at flwyddyn mae'n debyg.

Credaf ei bod yn bwysig cofio hefyd, o'r amser y gwnaeth y Cynulliad ei benderfyniad ym mis Chwefror, ein bod ni, fel swyddogion y Cynulliad, wedi sefydlu tîm pontio, grŵp llywio a bwrdd rheoli

board, which was staffed by Assembly officials and the key players and stakeholders who were going to be merged into the new council. Steve Martin became a member of that, I think, when he took over as chief executive of the funding council in May.

It is also important to remember that one of the first things that we did after the legislation was passed was to advertise for the chair of the council. That appointment was made in October. Steve Martin was confirmed as chief executive of the council in October. So the council actually became quorate at that point, even though it did not have its full membership. So what you had was an official working structure, which was seeking to ensure that the council could be up and running from 1 April in line with the Assembly's resolution. You had, certainly from October, the beginnings of a council coming into place and being in a position to take over the responsibility from 1 April. So, that is quite a full explanation but I think that it is important that you should have that understanding. I would not take away from the fact that the members and the executive of the council were given a challenging task to achieve. For very much the most part, they did achieve it.

[5] **Dafydd Wigley:** Do you want to you add anything at this point, Mr Martin?

**Mr Martin:** Yes. The challenge was very clear to all of us. It was a huge challenge. The chairman and I, from October 2000, had restricted powers. We were not able to run anything but we were able to begin. We concentrated primarily on two things. First, working with the chairman of the Higher Education Funding Council for Wales—I do not know if the Committee is aware that I am also the chief executive of the higher education funding council; I believe that it is mentioned in the report—there was a process of appointing the directors designate, as it were, for the new council from 1 April, which, as you were saying, happened from January. However, those people, at that time, also had day jobs and the majority of them were working also for the higher education funding council. The other thing that the chairman of the national council and I

prosiect cysylltiedig, yn cynnwys swyddogion y Cynulliad a'r ffigurau a'r rhanddeiliaid allweddol a fyddai'n cael eu huno i ffurfio'r cyngor newydd. Credaf i Steve Martin ddod yn rhan o hwnnw pan gymerodd yr awenau fel prif weithredwr y cyngor cyllido ym mis Mai.

Mae'n bwysig cofio hefyd mai un o'r pethau cyntaf i ni ei wneud ar ôl i'r ddeddfwriaeth gael ei phasio oedd hysbysebu am gadeirydd i'r cyngor. Gwnaed y penodiad hwnnw ym mis Hydref. Cadarnhawyd Steve Martin fel prif weithredwr y cyngor ym mis Hydref. Felly yr oedd cworwm i'r cyngor bryd hynny mewn gwirionedd, er nad oedd ganddo ei aelodaeth lawn. Felly yr hyn oedd gennyh oedd sdrwythur gwaith swyddogol, a oedd yn ceisio sicrhau y gallai'r cyngor weithredu'n llawn o 1 Ebrill yn unol â phenderfyniad y Cynulliad. Yr oedd gennym, yn sicr o fis Hydref, egin cyngor a oeddyn dod i fodolaeth ac a oedd mewn sefyllfa i ysgwyddo'r cyfrifoldeb o 1 Ebrill. Felly, y mae hynny'n eglurhad eithaf llawn ond credaf ei bod yn bwysig i chi ddeall hynny. Ni fuaswn yn gwadu bod aelodau a swyddogion gweithredol y cyngor wedi cael tasg llawn her i'w chyflawni. I raddau helaeth, yr oeddent yn llwyddiannus yn hynny o beth.

[5] **Dafydd Wigley:** A ydych am ychwanegu rhywbeth yn awr, Mr Martin?

**Mr Martin:** Ydw. Yr oedd yr her yn amlwg iawn i ni i gyd. Yr oedd yn her enfawr. Yr oedd gan y cadeirydd a minnau, o Hydref 2000, bwerau cyfyngedig. Nid oeddem yn gallu rhedeg dim ond yr oeddem yn gallu cychwyn. Bu inni ganolbwyntio'n bennaf ar ddau beth. Yn gyntaf, gan weithio gyda chadeirydd Cyngor Cyllido Addysg Uwch Cymru—nid wyf yn gwybod a yw'r Pwyllgor yn ymwybodol fy mod hefyd yn brif weithredwr i'r cyngor cyllido addysg uwch; yr wyf yn credu ei fod yn cael ei grybwyll yn yr adroddiad—yr oedd proses o benodi darpar gyfarwyddwyr, fel petai, ar gyfer y cyngor newydd o 1 Ebrill, a ddigwyddodd, fel y dywedasoch, o fis Ionawr ymlaen. Fodd bynnag, yr oedd gan y bobl hynny, ar y pryd, swyddi eraill ac yr oedd y mwyafrif ohonynt yn gweithio hefyd i'r cyngor cyllido addysg uwch. Y peth arall

concentrated on was the principles of corporate governance—how the council should be run, and what guidance should be given to regional committees. There was a dialogue with the Welsh Assembly Government about that. So, our efforts were focused on that. I have to say that it was not until 1 April, despite the excellent work that was done by the strand groups, that we were able to really get stuck into the business that we were then responsible for running and deliver the work that we had inherited.

[6] **Dafydd Wigley:** May I take that up directly? Whereas you say that members of the council had been coming into place from the autumn, the staff were in fact in their old jobs up to 31 March and the next morning they were expected to act in their new jobs in a full capacity overnight.

**Mr Martin:** What happened is not quite as straightforward as that. I mean, they did not have the ability—none of us did—to devote themselves anything like full-time to their new roles. What we did do with the directors that were appointed in January—I might say, incidentally, that we had to leave three vacancies; we were not able to make three appointments, but we made temporary appointments, which were filled permanently in the summer. What these people did do was to begin to devote a significant amount of their time, on top of their day jobs, to try to get these arrangements in place. However, I have to say that the overwhelming task was of determining the way in which further appointments would be made to new jobs in the organisation, so that from 1 April we had up and running, for instance, the posts of head of finance in north and south Wales and the post of head of compliance, which was obviously crucial to making a success of the new arrangements.

[7] **Dafydd Wigley:** I will turn back to Sir Jon and suggest to him that the approach to transfer power in this way was fundamentally flawed in that it was not possible to have people in their jobs from 1 April in all the jobs. Who in fact was responsible for taking the decision? Was it a decision that was taken

y bu cadeirydd y cyngor cenedlaethol a minnau yn canolbwyntio arno oedd egwyddorion llywodraethu corfforaethol—sut y dylid rhedeg y cyngor, a pha arweiniad ydylid ei roi i bwyllgorau rhanbarthol. Cynhaliwyd trafodaethau â Llywodraeth Cynulliad Cymru ynglŷn â hynny. Felly, bu inni ganolbwyntio'n hymdrechion ar hynny. Mae'n rhaid i mi ddweud, er gwaethaf y gwaith rhagorol a wnaed gan y grwpiau *strand*, nad oeddem yn gallu mynd i'r afael o ddifrif â'r busnes yr oeddem yn gyfrifol am ei redeg na darparu'r gwaith y bu inni ei etifeddu tan 1 Ebrill.

[6] **Dafydd Wigley:** A gaf fi drafod y pwynt hwnnw'n uniongyrchol? Er eich bod yn dweud bod aelodau'r cyngor wedi eu penodi o'r hydref ymlaen, yr oedd y staff mewn gwirionedd yn eu swyddi blaenorol hyd at 31 Mawrth ac yr oedd disgwyl iddynt ddechrau ar eu swyddi newydd yn llawn dros nos.

**Mr Martin:** Nid yw'r hyn a ddigwyddodd mor syml â hynny. Hynny yw, nid oedd ganddynt y gallu—nid oedd gan neb ohonom—i neilltuo eu hunain yn ddim byd agos i lawn amser i'w swyddi newydd. Yr hyn a wnaethom â'r cyfarwyddwyr a benodwyd ym mis Ionawr—gallwn ddweud, gyda llaw, ein bod wedi gorfod gadael tair swydd yn wag; nid oeddem yn gallu gwneud tri phenodiad, ond gwnaethom benodiadau dros dro, a chafodd y rhain eu llanw yn barhaol yn yr haf. Yr hyn a wnaeth y bobl hyn oedd dechrau neilltuo rhan helaeth o'u hamser, yn ychwanegol i'w swyddi eraill, i geisio rhoi'r trefniadau hyn ar waith. Fodd bynnag, y mae'n rhaid i mi ddweud mai'r dasg aruthrol oedd o bennu'r ffordd y byddai penodiadau pellach yn cael eu gwneud ar gyfer swyddi newydd yn y sefydliad, fel bod gennym gweithredu'n llawn o 1 Ebrill, er enghraifft, swyddi pennaeth cyllid yng ngogledd a de Cymru a swydd pennaeth cydymffurfio, a oedd yn amlwg yn hanfodol i lwyddiant y trefniadau newydd.

[7] **Dafydd Wigley:** Yr wyf am droi yn ôl at Syr Jon ac awgrymu iddo bod y dull o drosglwyddo pŵer yn y ffordd hon yn wallus yn y bôn oherwydd nad oedd yn bosibl i gael pobl yn eu swyddi o 1 Ebrill yn achos yr holl swyddi. Pwy mewn gwirionedd oedd yn gyfrifol am wneud y penderfyniad? A oedd



on an administrative level or was it a policy decision taken by Ministers?

**Sir Jon Shortridge:** This was a risk that was having to be managed and we were managing the whole process on that basis. I think that the important thing to stress is that organisational change of this type is never easy. It is always very demanding for the people who are most closely involved. There is also a very strong business case for doing it quickly, if you can. Even if you take out a shadow period, you need business continuity and one of the ways to get that is by having continuity of staff. If you create a shadow body and take out all the key staff who are currently running the business to create the new one, what happens to your existing business?

[8] **Dafydd Wigley:** That is what we do when local government changes.

**Sir Jon Shortridge:** Indeed, that is what we did with local government; I acknowledge that. However, it is not the model that has always been used and, as I say, in this case, there was a very strong business case for doing it this way to retain continuity, not least because, if we had taken an extra year and the staff in the training and enterprise councils had an extra year to know that this change was taking place, there would have been an erosion of staff, quite possibly, from doing the actual business. There was a very strong business case for doing it and it was done in a very open way with the project team and the various strand groups working openly together, very participatively, and the Education and Lifelong Learning Committee was kept informed on a regular basis about what was going on. We, as part of managing the risk, were certainly wanting to take the temperature in terms of whether people thought it was feasible because, up to a point, you could always have deferred matters. The continuing assessment through this process was whether the objective that the Assembly had set was achievable and could be, and would be, delivered. For the very most part, it was delivered, and I pay credit to everyone who was involved in that. In terms of who took the decision, we obviously consulted Ministers throughout all of this, and they in

yn benderfyniad a wnaethpwyd ar lefel weinyddol neu a oedd yn benderfyniad polisi gan Weinidogion?

**Syr Jon Shortridge:** Yr oedd hon yn risg yr oedd yn rhaid ei rheoli ac yr oeddem yn rheoli'r holl broses ar y sail honno. Credaf mai'r peth pwysig i'w bwysleisio yw nad yw newid sefydliadol o'r math hwn byth yn hawdd. Mae'n feichus iawn o hyd i'r bobl sy'n ymwneud agosaf ag ef. Mae achos busnes cryf iawn dros ei wneud yn gyflym hefyd, os y gallwch. Hyd yn oed os na cheir cyfnod cysgodol, mae angen parhad busnes ac un o'r ffyrdd o gael hynny yw drwy sicrhau parhad staff. Os ydych yn creu corff cysgodol ac yn defnyddio'r holl staff allweddol sy'n rhedeg y busnes ar hyn o bryd i greu'r un newydd, beth sy'n digwydd i'ch busnes presennol?

[8] **Dafydd Wigley:** Dyna'r hyn yr ydym yn ei wneud pan fo llywodraeth leol yn newid.

**Syr Jon Shortridge:** Yn wir, dyna beth a wnaethom gyda llywodraeth leol; yr wyf yn cydnabod hynny. Fodd bynnag, nid dyna'r model a ddefnyddiwyd erioed ac, fel y dywedaf, yn yr achos hwn, yr oedd achos busnes cryf iawn i gynnal parhad, yn anad dim oherwydd, pe baem wedi cymryd blwyddyn ychwanegol a bod y staff yn y cynghorau hyfforddiant a menter wedi cael blwyddyn ychwanegol i wybod bod y newid hwn yn digwydd, byddai erydiad o staff, o bosibl, ac ni fyddai'r busnes ei hun yn cael ei gwblhau. Yr oedd achos busnes cryf iawn dros ei wneud ac fe'i gwnaed mewn ffordd agored iawn gyda'r tîm prosiect a'r grwpiau *strand* amrywiol yn gweithio'n agored â'i gilydd, yn gyfranogol iawn, a hysbyswyd y Pwyllgor Addysg a Dysgu Gydol Oes yn rheolaidd ynglŷn â beth oedd yn digwydd. Yr oeddem, fel rhan o'r broses o reoli risg, yn sicr am ddarganfod a oedd pobl yn ei ystyried yn ymarferol oherwydd, i raddau, gellid o hyd fod wedi gohirio materion. Yr oedd asesiad parhaus drwy'r broses hon yn ymwneud ag a oedd y nod a osodwyd gan y Cynulliad o fewn cyrraedd ac a ellid, ac a fyddai'n cael, ei gyflawni. Cafodd ei gyflawni i raddau helaeth, a rhoddaf glod i bawb a gyfrannodd at hynny. O ran pwy a wnaeth y penderfyniad, yn amlwg bu inni ymgynghori â Gweinidogion drwy gydol

turn kept the Committee informed.

hyn, gyda hwythau'n rhoi gwybodaeth i'r Pwyllgor yn eu tro.

[9] **Dafydd Wigley:** It was a policy decision, in other words?

[9] **Dafydd Wigley:** Penderfyniad polisi ydoedd, felly?

**Sir Jon Shortridge:** Yes.

**Syr Jon Shortridge:** Ie.

[10] **Dafydd Wigley:** And, of course, that is appropriate for others to consider.

[10] **Dafydd Wigley:** Ac, wrth gwrs, mae hynny'n briodol i eraill ei ystyried.

**Mr Martin:** May I just add, and it is important to register this, that I very much agree with Jon's points. I think that it was a very tough assignment, but we all did it without whingeing and with our eyes open. I am in no doubt—and I do not think any fair, independent assessment could be in any doubt—that whatever difficulties we have had, we have achieved most of what we set out to do, and that we are much further forward than if there had been a year's delay.

**Mr Martin:** A gaf fi ychwanegu, ac mae'n bwysig nodi hyn, fy mod yn cytuno'n llwyr â phwyntiau Jon. Credaf ei fod yn brosiect anodd iawn, ond fe aeth pob un ohonom ati heb gwyno a chyda'n llygaid yn agored. Nid oes gennyf amheuaeth—ac nid wyf yn credu y gallai unrhyw asesiad teg, annibynnol fod ag unrhyw amheuaeth—pa bynnag anawsterau a gawsom, ein bod wedi cyflawni'r rhan fwyaf o'n hamcanion, a'n bod wedi gwneud llawer mwy o gynnyddnag y byddem wedi'i wneud pe bai oedi am flwyddyn wedi bod.

[11] **Dafydd Wigley:** Jocelyn, do you want to come in on this?

[11] **Dafydd Wigley:** Jocelyn, a ydych am ofyn cwestiynau ar hyn?

[12] **Jocelyn Davies:** It is just that paragraph 21 in Sir John's report states that the national council took the view that it should be business as usual—not that it was a ministerial or an Assembly decision, but that the national council took the view.

[12] **Jocelyn Davies:** Mae paragraff 21 yn adroddiad Syr Jon yn nodi bod y cyngor cenedlaethol wedi penderfynu y dylid gweithredu busnes-fel-arfer—nid ei fod yn benderfyniad gweinidogol neu i'r Cynulliad, ond mai dyna oedd penderfyniad y cyngor cenedlaethol.

**Sir Jon Shortridge:** I think that what I was talking about was not quite using the phrase 'business as usual'. That indeed was the national council's decision. What we were very clear on was that, through the transition, there had to be continuity of business—in other words, no disruption—so I am talking about a transfer of responsibility and power which was very disruptive and did not go sufficiently smoothly. And, in the period leading up to it, all the requirements imposed on the further education funding council and the TECs were actually achieved while all this organisational change was going on around them. That was achieved.

**Syr Jon Shortridge:** Credaf nad y defnydd o'r ymadrodd 'busnes-fel-arfer' oedd gennyf dan sylw yn union. Penderfyniad y cyngor cenedlaethol oedd hwnnw yn wir. Yr hyn yr oeddem yn glir iawn amdano oedd, drwy'r cyfnod pontio, bod yn rhaid cael parhad busnes—dim toriad, mewn geiriau eraill—felly yr wyf yn siarad am drosglwyddo cyfrifoldeb a phŵer a oedd yn aflonyddol iawn ac na ddigwyddodd yn ddigon rhwydd. Ac, yn y cyfnod yn arwain ato, cyflawnwyd yr holl ofynion a roddwyd ar y cyngor cyllido addysg bellach a'r cynghorau hyfforddiant a menter mewn gwirionedd tra'r oedd yr holl newid sefydliadol hwn yn digwydd o'u hamgylch. Cyflawnwyd hynny.

[13] **Dafydd Wigley:** Well, we will be

[13] **Dafydd Wigley:** Wel, byddwn yn dod

coming back to discuss the business as usual matters. Do you want to come in on this, Alun?

[14] **Alun Cairns:** Yes, very briefly. Can you advise us, Sir Jon, on whether there is any guidance from any Whitehall department that makes recommendations in relation to the establishment of a new quango?

**Sir Jon Shortridge:** I am not familiar with any specific guidance on that. We, in our old guise as the Welsh Office, had quite a lot of experience of setting up quangos. We also have quite a lot of experience of moving organisations into the Assembly, which involves most, if not all, of the issues that this transfer involved.

[15] **Alun Cairns:** Is there not guidance from the Treasury that suggests and highly recommends a shadow form for 12 months before actually becoming operational?

**Sir Jon Shortridge:** I am not familiar with that, and I would be surprised if there is.

[16] **Dafydd Wigley:** Does Mr Richards want to come in on that?

**Mr Richards:** I am not familiar with that; it does not ring a bell with me.

[17] **Dafydd Wigley:** Well, perhaps we can return to some aspects of that in a moment. Janet, do you want to come in on this?

[18] **Janet Davies:** Not if we are going to return to it.

[19] **Dafydd Wigley:** If it is directly relevant, you can ask your question now.

[20] **Janet Davies:** Well, it is just that I was wondering whether there was a body of information from previous experience that would help in this situation. I was certainly very aware at quite a close level of the problems of the reorganisation of local government and shadow running, or at least

yn ôl i drafod y materion busnes-fel-arfer. A ydych chi amofyn cwestiynau ar hyn, Alun?

[14] **Alun Cairns:** Ydw, yn gryno iawn. A allwch chi ein cynghori, Syr Jon, ynglŷn ag a oes unrhyw ganllawiau gan unrhyw adran yn Whitehall sy'n gwneud argymhellion ynghylch sefydlu cwango newydd?

**Syr Jon Shortridge:** Nid wyf yn gyfarwydd ag unrhyw ganllawiau penodol ar hynny. Yr oedd gennym ni, yn ein swyddogaeth flaenorol fel y Swyddfa Gymreig, gryn dipyn o brofiad o sefydlu cwangos. Mae gennym hefyd gryn brofiad o symud sefydliadau i mewn i'r Cynulliad, cynnwys y rhan fwyaf, os nad pob un, o'r materion a oedd yn rhan o'r trosglwyddiad hwn.

[15] **Alun Cairns:** Onid oes canllawiau gan y Trysorlys sy'n awgrymu ac yn argymhell yn gryf ffurf gysgodol am 12 mis cyn dod i rym?

**Syr Jon Shortridge:** Nid wyf yn gyfarwydd â hynny, a byddai'n fy synnu pe bai canllawiau o'r fath.

[16] **Dafydd Wigley:** A yw Mr Richards am ddweud rhywbeth ar hynny?

**Mr Richards:** Nid wyf yn gyfarwydd â hynny; nid yw'n canu cloch.

[17] **Dafydd Wigley:** Wel, efallai y gallwn ddychwelyd at rai agweddau ar hynny yn y man. Janet, a ydych am ofyn cwestiynau ar hyn?

[18] **Janet Davies:** Nid os ydym am ddychwelyd ato.

[19] **Dafydd Wigley:** Os yw'n uniongyrchol berthnasol, gallwch ofyn eich cwestiwn yn awr.

[20] **Janet Davies:** Wel, yr oeddwn yn meddwl tybed a oedd casgliad o wybodaeth o brofiad blaenorol a fyddai o gymorth yn y sefyllfa hon. Yr oeddwn yn sicr yn ymwybodol iawn ar lefel eithaf agos o'r problemau y gall ad-drefnu llywodraeth leol a chreu cyrffcysgodol eu hachosi, neu o leiaf

taking staff away from the existing authorities, which was quite a problem for those authorities. What kind of experience is there, and would it be possible to produce guidance for the establishment of organisations in future?

**Sir Jon Shortridge:** Yes, and if the Committee wanted to recommend that, I would look very carefully at it. Perhaps I can come back later in this hearing to some of my thoughts on these issues. What I would say is that the staff of the Welsh Assembly still have quite a long corporate memory. I was personally responsible for the reorganisation of local government, so I am very familiar with the arrangements that we put in place for the shadow running of those authorities. It is a relevant comparison, but it is not an absolutely identical one because you had to have an election of a very large number of members, and they in turn had to have the opportunity to take ownership of their authorities. It is perhaps relevant to say that this is an issue that we did address as officials when the Assembly was established. As you will recall, the Assembly was elected on something like 6 May, and you took on your powers on 1 July. I think that we, as officials, felt very strongly that you, as Members, would want to be taking your powers on very quickly, and yet that was quite a demanding and stressful period for some of us officials in having to make what is a very substantial transition from being a Government department to being an institution like the Assembly.

[21] **Dafydd Wigley:** Yes, but in the case of the Assembly, we did not have the complications that arose with bodies such as the TECs coming in from a different cultural background as far as administration was concerned. Would you accept that there is a difference there?

**Sir Jon Shortridge:** Yes. I do not want to press the analogy, but I would just make the point that, at the time that the Assembly was established, we were taking in bodies such as Tai Cymru. It is the case that we became a corporate body separated from Government and had to operate to our own Standing Orders and corporate governance

gymryd staff o'r awdurdodau presennol, a oedd yn gryn broblem i'r awdurdodau hynny. Pa fath o brofiad sy'n bodoli, ac a fyddai'n bosibl i gynhyrchu canllawiau ar gyfer sefydlu sefydliadau yn y dyfodol?

**Syr Jon Shortridge:** Byddai, a phe bai'r Pwyllgor am argymhell hynny, buaswn yn edrych ar y mater yn ofalus iawn. Efallai y gallaf ddod yn ôl yn nes ymlaen yn y gwrandawriad hwn at rai o'm sylwadau ar y materion hyn. Yr hyn y buaswn yn ei ddweud yw bod gan staff Cynulliad Cymru gof corfforaethol cymharol hir. Yr oeddwn yn bersonol gyfrifol am ad-drefnu llywodraeth leol, felly yr wyf yn gyfarwydd iawn â'r trefniadau a roddwyd ar waith gennym ar gyfer rhedeg yr awdurdodau hynny ar ffurf gysgodol. Mae'n gymhariaeth berthnasol, ond nid yw'n union yr un fath oherwydd yr oedd yn rhaid cynnal etholiad o nifer fawr o aelodau, ac yr oedd yn rhaid iddynt hwy yn eu tro gael y cyfle i gymryd perchnogaeth o'u hawdurdodau. Efallai ei bod yn berthnasol dweud bod hwn yn fater y bu inni ymdrin ag ef fel swyddogion pan sefydlwyd y Cynulliad. Fel y cofiwch, etholwyd y Cynulliad ar tua 6 Mai, ac fe ymgymerasoch â'ch pwerau ar 1 Gorffennaf. Credaf ein bod, fel swyddogion, yn teimlo'n gryf iawn y byddech chi, fel Aelodau, am ymgymryd â'ch pwerau yn gyflym iawn, ac eto yr oedd hwnnw yn gyfnod llawn her a phwysau i rai ohonom fel swyddogion am ein bod yn gorfod cyflawni newid sylweddol iawn o fod yn adran Llywodraeth i fod yn sefydliad fel y Cynulliad.

[21] **Dafydd Wigley:** Oedd, ond yn achos y Cynulliad, nid oedd gennym y cymhlethdodau a gododd gyda chyrff fel y cynghorau hyfforddiant a menter yn dod i mewn o wahanol gefndir diwylliannol o ran gweinyddiaeth. A fyddech yn derbyn bod gwahaniaeth yno?

**Syr Jon Shortridge:** Buaswn. Nid wyf am bwysleisio'r gyfatebiaeth, ond hoffwn ddweud, pan sefydlwyd y Cynulliad, yr oeddem yn cymryd i mewn gyrff fel Tai Cymru. Mae'n wir inni ddod yn gorff corfforaethol ar wahân i'r Llywodraeth ac ein bod yn gorfod gweithredu i'n Rheolau Sefydlog a'n trefniadau llywodraethu

arrangements, and maintain business as usual.

[22] **Dafydd Wigley:** I am aware that the Cabinet Office issued a document in March 2000, 'Non-Departmental Public Bodies: A Guide for Departments', which sets out certain steps that departments should address in creating a new sponsored body. Was the guidance that came from this document not relevant to these circumstances?

**Sir Jon Shortridge:** It certainly sounds as if it should have been, and it may be that the team that did this work had access to it. It is not a document that has been drawn to my attention.

[23] **Dafydd Wigley:** Right. If you have any further comments to add to that, a note would be appreciated, as always. I move on, and press the question as to how robust was the role played by the national council's sponsor division in the Assembly in providing the oversight and advice to the new body. Sir Jon, would you like to answer first?

**Sir Jon Shortridge:** Yes. I have a very high regard for the key individuals who work in that sponsor division. These are very experienced officials who understand sponsorship very well. They were the ones who were at the heart of the transition process, and who were driving the change project that was being managed. So they understood very clearly what the required outcomes were. The key individuals had lots of experience of sponsorship, and they ensured that all the relevant guidance and documentation for the accounting officer and for the council were available in a timely fashion.

[24] **Dafydd Wigley:** Steve Martin, do you want to add to that?

**Mr Martin:** No, except to say that the sponsors have been unfailingly supportive at all times. As I said earlier, the strand groups worked well within their terms of reference, which was to make sure that we were able to inherit some viable businesses. What they

corfforaethol ein hunain, a pharhau i gynnal busnes-fel-arfer.

[22] **Dafydd Wigley:** Yr wyf yn ymwybodol bod Swyddfa'r Cabinet wedi cyhoeddi dogfen ym mis Mawrth 2000, 'Non-Departmental Public Bodies: A Guide for Departments', sy'n nodi camau penodol y dylai adrannau eu dilyn wrth greu corff nodedig newydd. Onid oedd y canllawiau yn y ddogfen hon yn berthnasol dan yr amgylchiadau hyn?

**Syr Jon Shortridge:** Mae'n sicr yn ymddangos y dylai fod wedi bod yn berthnasol, ac efallai fod y tîm a wnaeth y gwaith hwn â mynediad iddo. Nid yw'n ddogfen sydd wedi dod i fy sylw.

[23] **Dafydd Wigley:** Iawn. Os oes gennych unrhyw sylwadau pellach i'w hychwanegu at hynny, byddem yn gwerthfawrogi nodyn, fel arfer. Yr wyf am symud ymlaen, a gofyn y cwestiwn ynglŷn â pha mor gadarn oedd y rôl a gymerwyd gan yr is-adran a oedd yn noddi'r cyngor cenedlaethol yn y Cynulliad wrth ddarparu'r oruchwyliaeth a'r cyngor i'r corff newydd. Syr Jon, a ydych am ateb yn gyntaf?

**Syr Jon Shortridge:** Ydw. Mae gennyf barch mawr at yr unigolion allweddol sy'n gweithio yn yr is-adran nawdd honno. Mae'r rhain yn swyddogion profiadol iawn sydd â dealltwriaeth dda iawn o'r broses noddi. Hwyl oedd y rhai a oedd yng nghanol y broses bontio ac yn llywio'r prosiect newid a oedd yn cael ei reoli. Felly yr oeddent yn deall beth oedd y canlyniadau yr oedd eu hangen yn iawn. Yr oedd gan yr unigolion allweddol brofiad eang o noddi ac fe wnaethant sicrhau bod yr holl ganllawiau a'r ddogfennaeth berthnasol ar gael yn brydlon i'r swyddog cyfrifo ac i'r cyngor.

[24] **Dafydd Wigley:** Steve Martin, a ydych am ychwanegu at hynny?

**Mr Martin:** Nac ydw, ar wahân i ddweud bod y noddwyr wedi bod yn hynod gefnogol bob amser. Fel y dywedais yn gynharach, gweithiodd y grwpiau *strand* yn dda o fewn eu cylch gorchwyl, sef sicrhau ein bod yn gallu etifeddu busnesau hyfyw. Yr hyn nad

were not able to do was to go on from that into the detail of how those would run under the new regime in the future.

[25] **Dafydd Wigley:** In that context, can I ask you, and perhaps Sir Jon particularly, whether you received any representations prior to 31 March 2001 from senior executives within the TECs criticising ELWa's approach to recruitment, and suggesting that this would make it difficult to cope with the compressed timetable? Were you warned that ELWa had not worked out the interface between its head office and the regions, and that this might cause particular difficulties with regard to finance and control?

**Sir Jon Shortridge:** To the best of my knowledge I did not receive any such letter personally. I did see the article in *The Western Mail* earlier this week or last week so I did make some enquiries about a particular letter that is topical at the moment. As I understand it, that was a letter that was sent to Steve Martin shortly before the vesting day, and was copied to one of my key officials who, in turn, saw and was satisfied with the reply that Steve Martin gave. Steve may want to comment further on that. I think that, in general terms, I would just want to make the point—but not in relation to any particular individual—that this was quite a contentious policy that was being implemented. Strong views existed in various parts of the TEC movement and elsewhere. So there were some quite challenging discussions and correspondence taking place throughout this period.

**Mr Martin:** I have the correspondence with me, actually. I think that it is probably what you are referring to. I am not entirely sure, because the letter that was written to me, outlining some transitional concerns, did not say anything about financial issues, control issues or, indeed, the organisational issues to which you refer. I did receive a letter from the chief executive of the out-going TEC in south-east Wales, which referred to a wide range of issues—for instance, the upcoming Corus redundancies, which I think was one of

oeddent yn gallu ei wneud oedd mynd ymlaen o hynny i fanylu ar sut y byddai'r rhai hynny yn cael eu cynnal dan y drefn newydd yn y dyfodol.

[25] **Dafydd Wigley:** Yn y cyd-destun hwnnw, a gaf fi ofyn i chi, ac efallai i Syr Jon yn arbennig, a wnaethoch dderbyn unrhyw sylwadau cyn 31 Mawrth 2001 gan uwch weithredwyr o fewn y cynghorau hyfforddiant a menter yn beirniadu dull ELWa o recriwtio, ac yn awgrymu y byddai hyn yn golygu y byddai'n anodd ymdopi â'r amserlen dyn? A gawsoch eich rhybuddio nad oedd ELWa wedi ystyried y rhyngwyneb rhwng ei brif swyddfa a'r rhanbarthau, ac y gallai hyn achosi anawsterau penodol o ran cyllid a rheoli?

**Syr Jon Shortridge:** Hyd y gwn i ni dderbyniais unrhyw lythyr o'r fath yn bersonol. Gwelais yr erthygl yn *The Western Mail* yn gynharach yr wythnos hon neu'r wythnos diwethaf felly fe wneuthum rai ymholiadau am lythyr penodol sy'n destun sylw ar hyn o bryd. Fel y deallaf, yr oedd hwnnw'n llythyr a anfonwyd at Steve Martin yn fuan cyn diwrnod y trosglwyddo, a chafodd ei gopïo i un o'm swyddogion allweddol a welodd ac a oedd yn fodlon, yn ei dro, gyda'r ymateb a roddodd Steve Martin. Efallai y bydd Steve am roi sylwadau pellach ar hynny. Credaf, yn gyffredinol, y buaswn am wneud y pwynt—ond nid mewn perthynas ag unrhyw unigolyn penodol—bod y polisi a oedd yn cael ei weithredu yn un eithaf dadleuol. Yr oedd teimladau cryf mewn gwahanol rannau o fudiad y cynghorau hyfforddiant a menter ac mewn manau eraill. Felly yr oedd trafodaethau a gohebiaeth eithaf heriol drwy gydol y cyfnod hwn.

**Mr Martin:** Mae gennyf yr ohebiaeth gyda mi, a dweud y gwir. Credaf mai at hyn yr ydych yn cyfeirio, mae'n debyg. Nid wyf yn hollol siŵr, oherwydd nid oedd y llythyr a ysgrifenyd ataf, yn trafod rhai pryderon ynglŷn â'r pontio, yn dweud unrhyw beth am faterion ariannol, materion rheoli nac, yn wir, y materion sefydliadol yr ydych yn cyfeirio atynt. Bu imi dderbyn llythyr gan brif weithredwr y cyngor hyfforddiant a menter a oedd yn cael ei ddirwyn i ben yn ne-ddwyrain Cymru, a oedd yn cyfeirio at

our success stories in terms of handling the transition—relating to matters that South East Wales TEC had not managed to resolve before it went out of existence.

[26] **Dafydd Wigley:** That is not the letter that I am referring to. I am grateful to you for drawing our attention to that letter that was sent to you, but I am referring to one that was sent to Neil Thomas by John Taylor—whom I think had also sent your letter—and which said:

‘I am much less confident in those areas where ELWa has still to work out the boundaries between its virtual head office and its regions. This is particularly so for finance and control matters.’

I would have thought that having that spelt out specifically by somebody of John Taylor’s background, expertise and stature would have rung the alarm bells. Did it not?

**Sir Jon Shortridge:** I did speak to Neil Thomas about this either last night or this morning. I think that he had satisfied himself that this was a matter that was being dealt with effectively by Steve Martin and was not one that required further intervention from us in the Assembly other than that which we were already undertaking.

[27] **Dafydd Wigley:** Is that what later led to looking at the recommendations of the South East Wales TEC’s own internal auditors, referred to in paragraph 49, which started in June 2001? There was a three-month delay there, was there?

**Sir Jon Shortridge:** I have not seen any of this correspondence, so I am at a slight disadvantage, but I would have thought that latter reference would have been in the letter to—. Anyway, if you would like further detail on that correspondence, I will have to submit a note to you because that is correspondence that I have not seen.

[28] **Dafydd Wigley:** That is fair enough. It

ystod eang o faterion—er enghraifft, y diswyddiadau a oedd ar y gweill yn Corus, a oedd yn un o’n llwyddiannau yn fy marn i o ran delio â’r pontio—yn ymwneud â materion nad oedd TEC De Ddwyrain Cymru wedi gallu eu datrys cyn iddo gael ei ddiddymu.

[26] **Dafydd Wigley:** Nid hwnnw yw’r llythyr yr wyf yn cyfeirio ato. Yr wyf yn ddiolchgar i chi am dynnu ein sylw at y llythyr hwnnw a anfonwyd atoch, ond yr wyf yn cyfeirio at yr un a gafodd ei anfon at Neil Thomas gan John Taylor—sef y sawl a anfonodd eich llythyr chi hefyd fe gredaf—ac a oedd yn dweud:

Yr wyf yn llawer llai hyderus yn y meysydd hynny y mae angen i ELWa benderfynu o hyd ar y ffiniau rhwng ei brif swyddfa, i bob pwrpas, a’i ranbarthau. Mae hyn yn hynod berthnasol o ran materion cyllid a rheoli.

Buaswn wedi credu y byddai cael hynny wedi’i nodi’n glir gan rywun o gefndir, arbenigedd a statws John Taylor yn rhoi rhybudd clir ichi. Oni wnaeth?

**Syr Jon Shortridge:** Siaradais â Neil Thomas am hyn naill ai neithiwr neu fore heddiw. Credaf ei fod wedi bodloni ei hun bod hwn yn fater yr oedd Steve Martin yn delio ag ef yn effeithiol ac nad oedd yn fater a oedd angen ymyriad pellach gennym ni yn y Cynulliad ar wahân i’r hyn yr oeddem yn ei wneud yn barod.

[27] **Dafydd Wigley:** Ai hynny a arweiniodd yn ddiweddarach at edrych ar argymhellion archwilwyr mewnol TEC De Ddwyrain Cymru, y cyfeirir ato ym mharagraff 49, a ddechreuodd ym mis Mehefin 2001? Yr oedd oedi o dri mis, onid oedd?

**Syr Jon Shortridge:** Nid wyf wedi gweld dim o’r ohebiaeth hon, felly yr wyf dan ychydig o anfantais, ond credaf y byddai’r cyfeiriad olaf hwnnw wedi bod yn y llythyr at—. Beth bynnag, os ydych am dderbyn rhagor o fanylion ar yr ohebiaeth honno, bydd yn rhaid i mi gyflwyno nodyn i chi oherwydd bod hon yn ohebiaeth nad wyf wedi’i gweld.

[28] **Dafydd Wigley:** Mae hynny’n ddigon

might be unfair if that letter was one that you had not seen. I accept that it is perfectly reasonable for you to write to us with any further comment on it. However, the point that I was making—and I bring this part of my questioning to an end with this—is that, surely, when serious misgivings were being expressed by senior people about finance and control in particular, these should have been matters that should have had attention from the very highest level. I have noted the point that you make and, no doubt, other members have also noted it. However, if you do have anything to add to that, then by all means do so.

[29] **Val Lloyd:** Mr Martin, the new national council took on responsibility for the four Welsh TECs, which were private companies. Could you tell me what due diligence procedures were undertaken prior to the acquisition, and with what results?

**Mr Martin:** The due diligence that was undertaken—it was a kind of due diligence, which Assembly Government colleagues may wish to comment on—was about making sure that we were taking over businesses, as I said earlier, that would be capable of being run from 1 April. In terms of the work that we were able to do subsequently, clearly, it meant that 80 per cent of our staff had no or limited background—and if they had such a background, it tended to be out of date—in public sector values, procedures and so on. From the summer of 2000, when I had no jurisdiction at all, I was chief executive designate without having been formally appointed at that stage, I visited all the TEC offices—indeed, I spent several days on a sort of short secondment to one of them—making sure that I had met the staff, that I talked to them and that they had understood directly from me the sort of values that I wanted them to espouse. I have to say that, perhaps not surprisingly for private sector bodies, they found some of that quite difficult to understand. It is not something that you can change overnight. The immediate issue, and there has been reference already to the business-as-usual question, that was an imperative for the national council. We do

teg. Efallai fod hynny'n annheg os oedd y llythyr hwnnw yn un nad oeddech wedi'i weld. Yr wyf yn derbyn ei bod yn gwbl resymol i chi ysgrifennu atom gydag unrhyw sylwadau pellach arno. Fodd bynnag, y pwynt yr oeddwn yn ei wneud—a byddaf yn gorffen y rhan hon o'm cwestiynau gyda hyn—yw, does bosibl, pan fynegwyd amheuan difrifol gan uwch swyddogion am gyllid a rheolaeth yn arbennig, y dylai'r rhain fod wedi bod yn faterion a ddylai fod wedi cael sylw ar y lefel uchaf bosibl. Yr wyf wedi nodi'r pwynt a wnaethoch ac, heb os, mae aelodau eraill wedi'i nodi hefyd. Fodd bynnag, os oes gennych unrhyw beth i'w ychwanegu at hynny, gwnewch hynny ar bob cyfrif.

[29] **Val Lloyd:** Mr Martin, cymerodd y cyngor cenedlaethol newydd y cyfrifoldeb am y pedwar TEC yng Nghymru, a oedd yn gwmnïau preifat. A ellwch ddweud wrthyf pa weithdrefnau diwydrwydd priodol a gymerwyd cyn y caffaeliad, a beth oedd y canlyniadau?

**Mr Martin:** Yr oedd y diwydrwydd priodol a gymerwyd —yr oedd yn fath o ddiwydrwydd priodol, y bydd cydweithwyr Llywodraeth y Cynulliad efallai am wneud sylwadau arno—i sicrhau ein bod yn cymeryd drosodd busnesau, fel y dywedais yn gynharach, a fyddai'n gallu cael eu gweithredu o 1 Ebrill. O ran y gwaith yr oeddem yn gallu ei gyflawni wedi hynny, yn amlwg, yr oedd yn golygu bod 80 y cant o'n staff heb gefndir, neu gyda chefnidir cyfyngedig—ac os oedd ganddynt y cyfryw gefndir, yr oedd yn tueddu i fod wedi dyddio—mewn gwerthoedd sector cyhoeddus, gweithdrefnau ac ati. O haf 2000, pan nad oedd gennyf unrhyw awdurdod o gwbl, yr oeddwn wedi fy enwebu fel y prif weithredwr heb gael fy mhenodi yn ffurfiol bryd hynny, ymwelais â'r holl swyddfeydd TEC—yn wir, treuliais sawl diwrnod ar secondiad byr yn un ohonynt—yn sicrhau fy mod wedi cyfarfod â'r staff, fy mod wedi siarad â hwy a'u bod wedi deall yn uniongyrchol gennyf y math o werthoedd yr oeddwn am iddynt eu mabwysiadu. Mae'n rhaid i mi ddweud, ac efallai nad yw'n syndod i gyrff sector preifat, eu bod wedi cael cryn anhawster deall agweddau o hynny. Nid yw'n rhywbeth y gallwch ei newid dros



not believe that it was a matter of choice. We inherited the plans from the Further Education Funding Council for Wales, obviously—over which I could personally be very satisfied as I had been its chief executive—but also the plans that the TECs had drawn up and their contracts that were ready to issue. We had to make sure that those businesses were delivered. What we also did was that, in an attempt to make sure that there was a minimum understanding at that stage of public sector values, our newly-appointed head of finance in south Wales visited all the offices and gave talks about regularity and propriety, and made sure that staff had seen the Treasury guidance on that, and that in May—there was a delay, but only because I am afraid the publisher did not have copies at the time—that everybody had *Government Accounting*. However, there was very limited experience of these matters, and we did try to get people up to speed as quickly as possible. May I also say that the other key issue was that we knew that we would be getting a series of audit reports prepared by the internal auditors of the TECs. Those became available to my auditors in June, and in July they were presented by the head of compliance to the audit and risk committee of the national council at its first formal meeting.

The most significant one from this point of view was the report on South East Wales TEC, which is referred to in the Auditor General's report. That did say that there were serious breaches—I think that 49 out of 51 cases of tendering over £5,000 that should have gone out to competitive tendering had not. However, there was a management report prepared with that—largely, I believe, by out-going management—which said that those matters had been addressed and that there was a plan in place. The advice from our auditors was that, in view of that, we should not immediately panic, that those matters should have been addressed, and, moreover, that what was important was that we did follow-up action, which we programmed for September, when they

nos. Yr oedd y mater uniongyrchol, a chyfeiriwyd yn barod at y cwestiwn busnes-fel-arfer, yn hanfodol i'r cyngor cenedlaethol. Nid ydym yn credu bod hyn yn fater o ddewis. Bu inni etifeddu'r cynlluniau gan Gyngor Cyllido Addysg Uwch Cymru, yn amlwg—a gallwn fod yn fodlon iawn â hwy oherwydd i mi fod yn brif weithredwr y corff—ond hefyd y cynlluniau yr oedd y TEC wedi'u llunio a'u contractau a oedd yn barod i'w cyhoeddi. Yr oedd yn rhaid i ni sicrhau bod y busnesau hynny'n cael eu cyflawni. Yr hyn a wnaethom hefyd, mewn ymdrech i sicrhau bod o leiaf rhyw fath o ddealltwriaeth o werthoedd sector cyhoeddus bryd hynny, oedd trefnu i'n pennaeth cyllid newydd yn ne Cymru ymweld â'r holl swyddfeydd a chynnal trafodaethau am reoleidd-dra a phriodoldeb, a sicrhau bod y staff wedi gweld canllawiau'r Trysorlys ar hynny, ac ym mis Mai—yr oedd oedi, ond dim ond oherwydd nad oedd gan y cyhoeddwr gopïau ar y pryd, mae arnaf ofnyn—bod gan bawb *Government Accounting*. Fodd bynnag, yr oedd y profiad o'r materion hyn yn gyfyngedig iawn, a bu inni geisio gwella dealltwriaeth pobl cyn gynted â phosibl. A gaf fi ddweud hefyd mai'r mater allweddol arall oedd ein bod yn gwybod y byddem yn cael cyfres o adroddiadau archwiliad wedi'u paratoi gan archwilwyr allanol y TEC. Yr oedd y rhai hynny ar gael i'm harchwilwyr ym mis Mehefin, ac ym mis Gorffennaf cawsant eu cyflwyno gan y pennaeth cydymffurfio i bwyllgor archwilio a risg y cyngor cenedlaethol yn ei gyfarfod ffurfiol cyntaf.

Yr un mwyaf arwyddocaol o'r safbwynt hwn oedd yr adroddiad ar TEC De Ddwyrain Cymru, y cyfeirir ato yn adroddiad yr Archwilydd Cyffredinol. Yr oedd hwnnw yn dweud bod enghreifftiau o dorri amodau difrifol—credaf nad oedd 49 o 51 achos o dendro dros £5,000 a ddylai fod wedi mynd allan i dendro cystadleuol wedi mynd allan felly. Fodd bynnag, yr oedd adroddiad rheoli wedi'i baratoi gyda hwnnw—yn bennaf, yr wyf yn credu, gan reolwyr a oedd yn gadael—a oedd yn dweud bod y materion hynny wedi'u datrys a bod cynllun ar waith. Y cyngor a roddwyd gan ein harchwilwyr, o ystyried hynny, oedd na ddylem ddychryn yn syth, ac y dylid bod wedi mynd i'r afael â'r materion hynny, ac, ymhellach, mai'r hyn a oedd yn bwysig oedd ein bod yn cymryd

would establish whether or not those procedures were being followed. Some of the consequences of that follow-up work are, of course, covered elsewhere in the report.

[30] **Val Lloyd:** Thank you very much; I note the internal review from paragraph 49.

[31] **Alison Halford:** Chair, may I come in here?

[32] **Dafydd Wigley:** Yes.

[33] **Alison Halford:** So is the chief executive saying that, because the TECs had got things wrong—you just quoted 49 out of 51 contracts that, in my parlance, had not been handled properly—that is the main reason why you are accused of 31 system failures and 14 contracts not being properly adhered to in your term of office?

**Mr Martin:** No, I am not saying that. Would you like me to expand on that now?

[34] **Alison Halford:** Briefly, as I have cut across my colleague's questioning.

**Mr Martin:** I will try to give as brief an answer as I can.

Clearly, the number of those items—there is not one answer to all the issues. There is an underlying issue of the experience and understanding of those with a TEC background—some of them had not been in the TECs very long either for that matter—of what the requirements were. In other cases, there is no doubt that had we not been, frankly, overwhelmed with a vast range of things, we should and would have given more attention to managing the risk. The lesson that I draw for a number of the high-value contracts in particular—perhaps not smaller value ones—and certainly if I were doing this again, what I would want to do is, until we had unified procedures and a new culture established, to have done more to have identified those high-risk contracts and to have made sure that they were got right. I would accept full responsibility for us not

camau gweithredu dilynol, a gynlluniwyd gennym ar gyfer mis Medi, pan fyddent yn penderfynu a oedd y gweithdrefnau hynny'n cael eu dilyn ai peidio. Wrth gwrs, mae rhai o ganlyniadau'r gwaith dilynol yn cael eu trafod mewn rhannau eraill o'r adroddiad.

[30] **Val Lloyd:** Diolch yn fawr iawn; nodaf yr adolygiad mewnol o baragraff 49.

[31] **Alison Halford:** Gadeirydd, a gaf fi gyfrannu yma?

[32] **Dafydd Wigley:** Cewch.

[33] **Alison Halford:** Felly a yw'r prif weithredwr yn dweud, oherwydd bod y TEC wedi gwneud pethau'n anghywir—yr ydych newydd gyfeiro at 49 o 51 contract nad oedd, yn fy nhyb i, wedi eu trafod yn iawn—mai dyna'r prif reswm pam eich bod yn cael eich cyhuddo o 31 methiant system a pheidio â chadw at 14 contract yn iawn yn ystod eich cyfnod yn y swydd?

**Mr Martin:** Na, nid wyf yn dweud hynny. A ydych am i mi ymhelaethu ar hynny yn awr?

[34] **Alison Halford:** Yn gryno, am fy mod wedi torri ar draws cwestiynau fy nghyd-Aelod.

**Mr Martin:** Ceisiaf roi ateb mor gryno â phosibl.

Yn amlwg, yr oedd nifer yr eitemau hynny—nid oes un ateb i'r holl faterion. Mae mater sylfaenol o brofiad a dealltwriaeth y rhai hynny gyda chefnidir TEC—yn wir nid oedd rhai ohonynt wedi bod yn y TEC ers amser hir ychwaith—o beth oedd y gofynion. Mewn achosion eraill, nid oes amheuaeth pe na baem, a bod yn onest, wedi ein llethu gan ystod eang o bethau, dylem fod wedi, a byddem wedi, rhoi mwy o sylw i reoli'r risg. Y wers yr wyf yn ei chasglu o ran nifer o'r contractau gwerth uchel yn benodol—nid y rhai llai o werth o bosibl—ac yn sicr pe bawn yn gwneud hyn eto, y buaswn, tan i ni sefydlu gweithdrefnau unedig a diwylliant newydd, am fod wedi gwneud mwy i adnabod y contractau risg uchel hynny ac i sicrhau eu bod yn iawn. Buaswn yn cymryd cyfrifoldeb llawn am i ni beidio â gwneud hynny. Nid yw byth yn esgus dweud bod y

doing that. It is never an excuse to say that the many other things that you have to do let you off the hook of that responsibility, but that was the context within which we were working.

[35] **Val Lloyd:** If I could go back, you used the phrase ‘kind of due diligence’. I am not an accountant—I have a working, rather than an in-depth, knowledge of accounting—but I take it that that was not a full due diligence. So were you satisfied with the adequacy of the process?

**Mr Martin:** With respect, that is probably a matter for my Assembly Government colleagues to answer, because the due diligence exercise was conducted by the Assembly Government rather than by me.

**Sir Jon Shortridge:** What we did in the period leading up to the transfer of responsibilities was that we commissioned independent accountants to report on the TECs’ financial positions on a monthly basis, so that we could be sure that their assets and reserves remained intact and that liabilities were identified so that, on the point of handover, there would be no financial or accounting surprises for the new council. The monitoring exercise was also there to ensure that TECs behaved prudently in their closing months, and did not enter into new contracts without the prior knowledge of the Assembly. We received monthly reports and were satisfied that all was in order in that respect. That was not a full due diligence exercise that you would have in a transfer between two commercial organisations, for example. We were just seeking to satisfy ourselves that these organisations were managing themselves properly in the period leading up to their wind-up.

[36] **Val Lloyd:** I think that I need one more question, Chair. Paragraph 46 of the report notes that, under European regulations, there is an onus on public bodies to notify private companies such as TECs of the need to comply with EU procurement directives when they receive more than 50 per cent of their funds from public sources. Could you

nifer o bethau eraill sy’n rhaid i chi eu gwneud yn eich rhyddhau o’r cyfrifoldeb hwnnw, ond yn y cyd-destun hwnnw yr oeddem yn gweithio.

[35] **Val Lloyd:** Os caf fi fynd yn ôl, yr ydych wedi defnyddio’r ymadrodd ‘math o ddiwydrwydd priodol’. Nid wyf yn gyfrifydd—mae gennyf wybodaeth ymarferol yn hytrach na gwybodaeth dreiddgar am gyfrifo—ond yr wyf yn cymryd nad oedd hwnnw’n ddiwydrwydd priodol llawn. Felly a oeddech yn fodlon gyda digonolrwydd y broses?

**Mr Martin:** Gyda pharch, mae’n debyg fod hynny yn fater i’w cydweithwyr yn Llywodraeth y Cynulliad i’w ateb, oherwydd mai Llywodraeth y Cynulliad ac nid fi a gynhaliodd yr ymarfer diwydrwydd priodol.

**Syr Jon Shortridge:** Yr hyn a wnaethom yn y cyfnod a arweiniodd at y trosglwyddo cyfrifoldebau oedd comisiynu cyfrifwyr annibynnol i roi adroddiad ar sefyllfaoedd ariannol y TEC yn fisol, er mwyn i ni fod yn siŵr bod eu hasedion a’u harian wrth gefn yn parhau yr un fath a bod rhwymedigaethau’n cael eu hadnabod fel na fyddai sefyllfaoedd ariannol neu gyfrifydda annisgwyl yn wynebu’r cyngor newydd wrth drosglwyddo. Yr oedd yr ymarfer monitro yno hefyd er mwyn sicrhau bod TEC yn ymddwyn yn ddoeth yn eu misoedd olaf, ac nad oeddent yn ymrwymo i gontractau newydd heb i’r Cynulliad wybod hynny ymlaen llaw. Yr oeddem yn derbyn adroddiadau misol ac yr oeddem yn fodlon bod popeth mewn trefn yn hynny o beth. Nid oedd hwnnw yn ymarfer diwydrwydd priodol llawn fel y byddai gennych wrth drosglwyddo rhwng dau sefydliad masnachol, er enghraifft. Yr oeddem yn ceisio bodloni ein hunain bod y sefydliadau hyn yn rheoli eu hunain yn iawn yn y cyfnod a oedd yn arwain at eu diddymu.

[36] **Val Lloyd:** Credaf fy mod angen gofyn un cwestiwn arall, Gadeirydd. Mae paragraff 46 yr adroddiad yn nodi bod, o dan reoliadau Ewropeaidd, cyfrifoldeb ar gyrff cyhoeddus i roi gwybod i gwmnïau preifat fel TEC am yr angen i gydymffurfio â chyfarwyddbau caffael yr UE os ydynt yn derbyn dros 50 y cant o’u cyllid o ffynonellau cyhoeddus. A

tell us, please, whether the Assembly did that in respect of the Welsh TECs, during the period up to 31 March 2001?

**Sir Jon Shortridge:** This was something that was done shortly after the Welsh Office took over responsibility for the TECs early in the 1990s. They were written to in 1994 and 1995 on these matters.

[37] **Val Lloyd:** So, the clarification that I am looking for is that they were aware of it?

**Sir Jon Shortridge:** They should have been aware. They had received letters from Welsh Office officials on this matter.

[38] **Val Lloyd:** Thank you.

[39] **Dafydd Wigley:** Shall we go on with the business-as-usual matter? Eleanor?

[40] **Eleanor Burnham:** I just want to refer back to one issue. As I mentioned earlier, I was contracted in a training/teaching role by the North Wales Training and Enterprise Council and I am concerned about Mr Martin's assertion that the TECs had a private sector ethos. Surely, whether a body is private or public, it has to work effectively and efficiently. I do believe, Mr Martin, that perhaps you are over-egging this business of the private sector mentality because your chair, the ELWa chair, was formerly the North Wales Health Authority chair, the Welsh Development Agency chair—sorry, WDA chief executive—and a TEC chief executive. Surely, Mr Martin, you and the chair would have had intense discussions about how you were going to proceed with setting up ELWa.

**Mr Martin:** I hope that I did not give any impression of criticising the private-sector approach to issues; however, it is rather different. I have some direct experience of it, although most of my career has been in the public sector.

ellwch ddweud wrthym, os gwelwch yn dda, a wnaeth y Cynulliad hynny o ran TEC Cymru, yn ystod y cyfnod hyd at 31 Mawrth 2001?

**Syr Jon Shortridge:** Yr oedd hyn yn rhywbeth a wnaethpwyd yn fuan ar ôl i'r Swyddfa Gymreig gymryd cyfrifoldeb am y TEC yn gynnar yn yr 1990au. Ysgrifennwyd atynt ynglŷn â'r materion hyn yn 1994 a 1995.

[37] **Val Lloyd:** Felly, a ellwch gadarnhau a oeddent yn ymwybodol ohono?

**Syr Jon Shortridge:** Dylent fod wedi bod yn ymwybodol. Yr oeddent wedi derbyn llythyrau gan swyddogion y Swyddfa Gymreig ynglŷn â'r mater hwnnw.

[38] **Val Lloyd:** Diolch.

[39] **Dafydd Wigley:** A gawn ni fynd ymlaen gyda'r mater busnes-fel-arfer? Eleanor?

[40] **Eleanor Burnham:** Yr wyf am gyfeirio yn ôl at un mater. Fel y crybwyllais yn gynharach, fe'm contractwyd mewn rôl hyfforddi/addysgu gan Gyngor Hyfforddiant a Menter Gogledd Cymru ac yr wyf yn bryderus ynglŷn â honiad Mr Martin fod gan y TEC ethos sector preifat. Does bosibl, waeth a yw corff yn gyhoeddus neu'n breifat, mae'n rhaid iddo weithio'n effeithiol ac yn effeithlon. Credaf, Mr Martin, eich bod efallai'n gor-bwysleisio'r mater hwn o feddylfryd y sector preifat oherwydd bod eich cadeirydd, sef cadeirydd ELWa, yn arfer bod yn gadeirydd Awdurdod Iechyd Gogledd Cymru, cadeirydd Awdurdod Datblygu Cymru—mae'n ddrwg gennyf, prif weithredwr y WDA—a phrif weithredwr TEC. Does bosibl, Mr Martin, y byddech chi a'r cadeirydd wedi cael trafodaethau dwys ynglŷn â'r ffordd ymlaen ar gyfer sefydlu ELWa.

**Mr Martin:** Gobeithio na roddais unrhyw argraff fy mod yn beirniadu dull y sector preifat o ymdrin â materion; fodd bynnag, y mae'n eithaf gwahanol. Mae gennyf rywfaint o brofiad uniongyrchol ohono, er i mi dreulio'r rhan fwyaf o'm gyrfa yn y sector cyhoeddus.

[41] **Dafydd Wigley:** I think, Mr Martin, that the point that Eleanor was making was that, with the experience that both you and the chair had of the public sector, you would have been aware of these differences and, therefore, would have been on your guard for those problems arising.

[42] **Eleanor Burnham:** Thank you, Chair.

**Mr Martin:** Thank you very much. If I may come on to that, that is why we were very well aware of it. That is why I talked to the staff in the way that I have described, even in the summer of 2000, about some of those expectations of the public sector. It is why, in April 2001, as soon as we had responsibility and the ability to begin to work directly with the TEC staff, that we gave training through the head of finance. I think that the other point that I was trying to make, in parallel with that, is that you cannot change cultures overnight. The fundamental issue is that, whereas public bodies are required not only to make—as it were—a fair account of the way in which they have spent money, and to seek efficiency and all the rest of it, in the public sector there are also the requirements of regularity and propriety. For instance, Richard Hirst, as director of finance, just before the end of March, issued a direction to all staff that they had to follow the Assembly Government rules about single tender action and restricted tender action, and where those required Assembly approval. Now it is quite clear that a number of staff did not follow those requirements. The point that I am making is that the underlying difficulty in any change, in any process—and it was very true of this change—is that cultures are the most difficult things to change. You can change rules overnight; you cannot change the ways in which people behave overnight. It is an issue about hearts and minds and understanding and it does take time.

[43] **Dafydd Wigley:** That is indeed a challenge to manage. Would you like to take this on, Eleanor?

[44] **Eleanor Burnham:** Indeed. Accepting the business-as-usual decision, and it may well have been the only one open to the body,

[41] **Dafydd Wigley:** Credaf, Mr Martin, mai'r pwynt yr oedd Eleanor yn ei wneud oedd, gyda'r profiad sydd gennych chi a'r cadeirydd yn y sector cyhoeddus, y byddech wedi bod yn ymwybodol o'r gwahaniaethau hyn ac felly, y byddech wedi bod yn wyladwrus o'r problemau hynny a allai godi.

[42] **Eleanor Burnham:** Diolch, Gadeirydd.

**Mr Martin:** Diolch yn fawr iawn. Os gallaf droi at hynny, dyna pam ein bod yn hollol ymwybodol ohono. Dyna pam fy mod wedi siarad â staff yn y ffordd y disgrifiais, hyd yn oed yn haf 2000, am rai o'r disgwyliadau hynny yn y sector cyhoeddus. Dyna pam, yn Ebrill 2001, yn syth ar ôl i ni gael cyfrifoldeb a'r gallu i ddechrau ar y gwaith yn uniongyrchol â staff TEC, ein bod wedi rhoi hyfforddiant drwy'r pennaeth cyllid. Credaf mai'r pwynt arall yr oeddwn yn ceisio'i wneud, law yn llaw â hynny, yw nad oes modd newid diwylliannau dros nos. Y pwynt sylfaenol yw, tra bod yn ofynnol i gyrff cyhoeddus roi—fel pe bai—cyfrif teg o'r ffordd maent wedi gwario'r arian, ac i geisio bod yn effeithlon ac ati, yn y sector cyhoeddus mae gofynion ynglŷn â rheoleiddra a phriodoldeb hefyd. Er enghraifft, cyhoeddodd Richard Hirst, fel y cyfarwyddwr cyllid, ychydig cyn diwedd mis Mawrth, gyfarwyddyd i'r holl staff yn dweud eu bod yn gorfod dilyn rheolau Llywodraeth y Cynulliad ar dendr unigol a thendr cyfyngedig, a lle'r oedd angen cymeradwyaeth y Cynulliad. Mae'n eithaf amlwg bellach na wnaeth nifer o'r staff ddilyn y gofynion hynny. Y pwynt yr wyf yn ei wneud yw mai'r anhawster sylfaenol mewn unrhyw newid, mewn unrhyw broses—ac yr oedd yn hynod wir am y newid hwn—yw mai diwylliannau yw'r pethau anoddaf i'w newid. Gellwch newid rheolau dros nos; ond ni ellwch newid y ffyrdd y mae pobl yn ymddwyn dros nos. Mae'n fater o galonau a meddyliau a dealltwriaeth ac mae'n cymryd amser.

[43] **Dafydd Wigley:** Mae hynny'n wir yn her i'w rheoli. A hoffech ymhelaethu ar hyn, Eleanor?

[44] **Eleanor Burnham:** Yn wir. Gan dderbyn y penderfyniad busnes-fel-arfer, a gallai'n wir fod yr unig un a oedd yn

what more do you think could have been done by management to ensure that the handling of the business was conducted in an appropriate and consistent manner by staff across the national council's seven offices?

**Mr Martin:** As I said earlier, the big lesson that I draw is that—although I think it would have been inconceivable for us to have introduced effective new procedures overnight—what we did not do, or what I did not do, enough was to manage the risk that existed, particularly in relation to procurement, as evidenced by the findings of this report, in the period between taking over and January 2002, when we had the planned new procedures in place. That is one, but not the only reason, why these breaches occurred.

[45] **Eleanor Burnham:** I think that you have already pointed to the induction training that you undertook. Effective risk management, as we know, is only possible if risks are identified and assessed. Why was it that the key risks of the business-as-usual approach were not managed properly from the outset, in your view?

**Mr Martin:** I believe that many of them were. Clearly, we did not get it all right, or we would not be sitting here having to give this evidence today. However, we had a number of risks to manage. The first and primary risk was that there would be a collapse in the learning opportunities that were provided. The other risk—

[46] **Eleanor Burnham:** Could you please put that in plain English?

**Mr Martin:** Well, simply, that we were inheriting a range of businesses. We had to make sure that the things that we did meant that people received the education and training that they needed; that we responded to challenges like the Corus redundancies and the outbreak of foot and mouth disease and protected trainees through that; that we laid the foundations for the very ambitious Welsh Assembly Government programme for the future; that we produced a corporate plan and strategy in our first few months, following extensive public consultation. Those were all

ymarferol i'r corff, beth arall allai'r rheolwyr fod wedi'i wneud yn eich barn chi i sicrhau bod y busnes yn cael ei drafod mewn dull priodol a chyson gan staff ar draws saith swyddfa'r cyngor cenedlaethol?

**Mr Martin:** Fel y dywedais yn gynharach, y wers fawr yw bod—er y credaf y byddai wedi bod yn annirnadwy i ni fod wedi cyflwyno gweithdrefnau newydd effeithiol dros nos—yr hyn na wnaethom, neu'r hyn na wnes i, ddigon, oedd rheoli'r risg a oedd yn bodoli, yn arbennig o ran caffael, fel mae canfyddiadau'r adroddiad hwn yn tystio, yn y cyfnod rhwng cymryd drosodd a Ionawr 2002, pan oedd gennym y gweithdrefnau newydd a gynlluniwyd yn eu lle. Dyna un rheswm, ond nid yr unig un, pam y digwyddodd y tor-rheolau hyn.

[45] **Eleanor Burnham:** Credaf eich bod eisoes wedi cyfeirio at yr hyfforddiant cychwynnol a gynhaliwyd gennych. Dim ond drwy adnabod ac asesu risg y mae rheoli risg yn effeithiol yn bosibl, fel y gwyddom. Pam na reolwyd risgiau allweddol y dull busnes-fel-arfer yn iawn o'r cychwyn, yn eich barn chi?

**Mr Martin:** Credaf fod llawer ohonynt wedi'u rheoli'n effeithiol. Yn amlwg, ni wnaethom bopeth yn iawn, neu ni fyddem yn eistedd yma yn gorfod rhoi'r dystiolaeth hon heddiw. Fodd bynnag, yr oedd gennym nifer o risgiau i'w rheoli. Y risg gyntaf a'r un fwyaf sylfaenol oedd y byddai'r cyfleoedd dysgu a ddarparwyd yn dymchwel. Y risg arall—

[46] **Eleanor Burnham:** A ellwch chi roi hynny mewn iaith syml?

**Mr Martin:** Wel, yn syml, ein bod yn etifeddu amrywiaeth o fusnesau. Yr oedd yn rhaid i ni sicrhau bod y pethau yr oeddem yn eu gwneud yn golygu bod pobl yn derbyn yr addysg a'r hyfforddiant yr oedd eu hangen arnynt; ein bod yn ymateb i heriau fel diswyddiadau Corus ac argyfwng clwy'r traed a'r genau ac yn amddiffyn prentisiaid drwy hynny; ein bod yn gosod y sylfeini ar gyfer rhaglen uchelgeisiol iawn Llywodraeth Cynulliad Cymru ar gyfer y dyfodol; ein bod yn cynhyrchu cynllun corfforaethol a strategaeth yn ein misoedd cyntaf, yn dilyn

elements of risk and if we had not done that we would have also failed in our duty to move this business forward. So we were tackling that, and the other risk that we had to tackle was that we knew, in our first year, from our baseline, that we were going to have to make significant redundancies to reduce the scale of our staff. We took, in fact, by the end of that year, 104 staff out of the organisation, and came down from 637 inherited posts to 500 or so. In terms of managing procedures and so on, we did satisfy ourselves that there were workable financial procedures in all the offices. They were different, but we could not unscramble them. There was no way in which we could have set up a single and unified financial system and financial regulations within our first few months. We had the financial system in place by April 2001 and the full financial regulations for the whole organisation by June 2002—sorry, it was 2002 in both cases—

[47] **Dafydd Wigley:** We will want to come on to the financial systems in a moment.

[48] **Eleanor Burnham:** I would just like to say then, in respect of the training with which I was involved, called Compact Plus, that most of us who were involved with it, across north Wales, were not even told what was going to happen to us after the end of March.

[49] **Dafydd Wigley:** That is your own experience, Eleanor. Janet, do you want to come in here?

[50] **Janet Davies:** I would like to return briefly to the issue of different cultures that Mr Martin raised. However, perhaps I could direct my question to Sir Jon, rather than to Mr Martin. It seems to me, from what is being said, that there is a major problem when you change organisations from private to public and, equally, that there would be a problem going from public to private. I wonder whether you would agree that it is very important for Government—by that I mean civil servants as well as politicians—to be very aware of the very great difficulties that arise when you change an organisation

ymgyngoriad cyhoeddus helaeth. Yr oedd y rhain i gyd yn elfennau risg a phe na baem wedi gwneud hynny byddem wedi methu yn ein dyletswydd i symud y busnes hwn yn ei flaen. Felly yr oeddem yn mynd i'r afael â hynny, a'r risg arall yr oedd yn rhaid i ni fynd i'r afael â hi oedd ein bod yn gwybod, o'n llinell sylfaen, ein bod yn mynd i orfod gwneud diswyddiadau sylweddol i ostwng nifer ein staff. Yn wir, cymerwn 104 aelod o staff allan o'r sefydliad erbyn diwedd y flwyddyn, a gostyngodd y swyddi a etifeddwyd gennym o 637 i tua 500. O ran gweithdrefnau rheoli ac ati, yr oeddem wedi bodloni ein hunain bod gweithdrefnau ariannol ymarferol yn y swyddfeydd i gyd. Yr oeddent yn wahanol, ond ni ellid eu datrys. Nid oedd yn bosibl sefydlu system ariannol a rheoliadau ariannol unigol ac unedig o fewn ein hychydig fisoedd cyntaf. Yr oedd y system ariannol ar waith erbyn Ebrill 2001 a'r rheoliadau ariannol llawn ar gyfer yr holl sefydliad erbyn Mehefin 2002—mae'n ddrwg gennyf, 2002 yn y ddau achos—

[47] **Dafydd Wigley:** Byddwn am drafod y systemau ariannol yn y man.

[48] **Eleanor Burnham:** Hoffwn ddweud, o ran yr hyfforddiant yr oeddwn yn rhan ohono, sef Compact a Mwy, na chafodd y mwyafrif ohonom a oedd yn rhan ohono, ledled gogledd Cymru, wybod hyd yn oed beth oedd yn mynd i ddigwydd i ni ar ôl diwedd mis Mawrth.

[49] **Dafydd Wigley:** Dyna eich profiad eich hun, Eleanor. Janet, a ydych am gyfrannu yma?

[50] **Janet Davies:** Hoffwn ddychwelyd yn fyr at y mater o wahanol ddiwylliannau a godwyd gan Mr Martin. Fodd bynnag, efallai y gallwn gyfeirio fy nghwestiwn at Syr Jon, yn hytrach na Mr Martin. Mae'n ymddangos i mi, o'r hyn sy'n cael ei ddweud, bod problem sylweddol wrth newid sefydliadau o fod yn rhai preifat i fod yn rhai cyhoeddus ac, yn yr un modd, y byddai problem wrth newid o fod yn gyhoeddus i fod yn breifat. Tybed a fydddech yn cytuno ei bod yn bwysig iawn i Lywodraeth— a chan hynny, yr wyf yn golygu gweision sifil yn ogystal â gwleidyddion—fod yn ymwybodol iawn o'r

from one culture to another; not just the importance of planning, but the importance of recognising that it may cause quite a few problems for some time after a change.

**Sir Jon Shortridge:** I am very happy to acknowledge that. One of the issues, probably the issue that I devote most of my time and energy to, is the whole question of continuing culture change for staff in the Assembly. If you have a leadership role and you are involved in the development of an organisation, or the mergers of organisations, that is the fundamental challenge that you face. The discussions that Mr Martin and I have had in recent months have focused—to a significant extent—on the whole issue of culture and the culture of compliance.

[51] **Dafydd Wigley:** May I pick up on one last aspect of the business-as-usual approach? In paragraph 21—this deals with the business as usual—the last sentence says:

‘The National Council told me that this decision—

that is, the decision to pursue business as usual—

‘had also been influenced by the Council’s inability to exercise executive or managerial authority prior to 1 April 2001’.

That suggests, Sir Jon, that those who did have executive authority were not seeing eye to eye with the council. Would you comment on that?

**Sir Jon Shortridge:** I think that I would like, actually, if I may, to invite Mr Martin to comment first, given that this is a national council quotation. Then, after I have a better understanding of what the issue is, I might be able to respond accurately.

**Mr Martin:** I do not think that there is any more to be read into it than that we did not have that authority formally until that date. An absolutely honest answer in terms of the relationships with the predecessor organisations is that it was a mixed picture.

anawsterau mawr iawn sy’n codi wrth i chi newid sefydliad o un diwylliant i un arall; nid yn unig bwysigrwydd cynllunio, ond pwysigrwydd cydnabod y gall achosi cryn dipyn o broblemau am gyfnod maith ar ôl newid.

**Syr Jon Shortridge:** Yr wyf yn hapus iawn i gydnabod hynny. Un o’r materion, sef y mater yr wyf yn neilltuo’r mwyafrif o’r hamser a’r hegni iddo, yw’r cwestiwn o newid diwylliant parhaus i staff yn y Cynulliad. Os oes gennych rôl arwain a’ch bod yn cymryd rhan mewn datblygu sefydliad, neu uno sefydliadau, dyma’r her sylfaenol y byddwch yn ei hwynebu. Mae’r trafodaethau y mae Mr Martin a minnau wedi’u cael yn y misoedd diweddar wedi canolbwyntio—i raddau helaeth—ar y mater o ddiwylliant a diwylliant cydymffurfio.

[51] **Dafydd Wigley:** A gaf fi godi un agwedd olaf ar y dull busnes-fel-arfer? Ym mharagraff 21—mae hwn yn trafod y busnes-fel-arfer—mae’r frawddeg olaf yn dweud:

‘Dywedodd y Cyngor Cenedlaethol wrthyf fod y penderfyniad hwn—

sef, y penderfyniad i gynnal busnes-fel-arfer—

‘wedi cael ei ddylanwadu gan anallu’r Cyngor i weithredu awdurdod gweithredol neu awdurdod rheoli cyn 1 Ebrill 2001’.

Mae hyn yn awgrymu, Syr Jon, bod y rhai hynny ag awdurdod gweithredol yn anghydweld â’r cyngor. A wnewch roi sylwadau ar hynny?

**Syr Jon Shortridge:** Credaf y buaswn yn hoffi, mewn gwirionedd, os caf fi, wahodd Mr Martin i roi sylwadau yn gyntaf, o ystyried mai dyfyniad gan y cyngor cenedlaethol yw hwn. Wedi hynny, ar ôl i mi gael gwell dealltwriaeth o’r mater, efallai y gallaf ymateb yn gywir.

**Mr Martin:** Nid wyf yn credu bod mwy i dynnu o hyn na’r ffaith nad oedd gennym yr awdurdod hwnnw yn ffurfiol tan y dyddiad hwnnw. Ateb hollol onest o ran y berthynas â’r sefydliadau blaenorol yw ei fod yn ddarlun cymysg. Cawsom lefelau amrywiol a



We had various and varying degrees of co-operation, but I underline what Sir Jon was saying earlier, that it was a difficult period for people. Indeed, the majority of the top staff of the TECs actually lost their jobs as a result of this process.

[52] **Dafydd Wigley:** Yes, it was a difficult period, but I do come back to the wording here. It says, and this is the wording and suggestion that was put through to the audit team, that the decision in relation to business as usual might have been different if you did have executive or managerial authority. Is that the case?

**Mr Martin:** Really, it means the plain meaning of the words there; nothing more was intended by that than that we could not take that active role in managing these bodies until that day.

[53] **Dafydd Wigley:** You were getting full co-operation with regard to the management of the previous bodies in line with what you required for that day?

**Mr Martin:** We had limited influence over the process at that time. The main energy that went into those bodies was into issues of winding-up their affairs in a way that enabled us to take them over satisfactorily. In that respect, we had a decent level of co-operation.

[54] **Dafydd Wigley:** But the limited influence was surely causing a problem? If it was limited, surely you either had an expectation of greater influence and that your requirements should have been taken more on board or that you should have had more authority directly before that time?

**Mr Martin:** All I can say is that we worked through the strand group process, which involved the TEC senior managers as it involved the funding council senior managers. Through that, we had as much influence as we could reasonably have had, I believe, until we actually took responsibility.

[55] **Dafydd Wigley:** I note what you say.

gwahanol o gydweithrediad, ond pwysleisiaf yr hyn yr oedd Syr Jon yn ei ddweud yn gynharach, sef ei fod yn gyfnod anodd i bobl. Yn wir, collodd y mwyafrif o staff hŷn y TEC eu swyddi o ganlyniad i'r broses hon.

[52] **Dafydd Wigley:** Oedd, yr oedd yn gyfnod anodd, ond yr wyf yn dod yn ôl at y geiriad yma. Y mae'n dweud, a dyma'r geiriad a'r awgrym a gyflwynwyd i'r tîm archwilio, y gallai'r penderfyniad o ran busnes-fel-arfer fod wedi bod yn wahanol pe bai gennych awdurdod gweithredol neu reolaethol. A yw hynny'n wir?

**Mr Martin:** Mewn gwirionedd, mae'n golygu'n yr hyn y mae'n ei ddweud yn union; ni fwriadwyd iddo ddweud dim mwy na nad oeddem yn gallu ymgymryd â'r swyddogaeth weithredol honno o reoli'r cyrff hyn tan y diwrnod hwnnw.

[53] **Dafydd Wigley:** Yr oeddech yn cael cydweithrediad llawn o ran rheoli'r cyrff blaenorol yn unol â'r hyn yr oeddech ei angen ar gyfer y diwrnod hwnnw?

**Mr Martin:** Yr oedd gennym ddylanwad cyfyngedig ar y broses ar y pryd. Yr oedd prif ymdrechion a wnaethpwyd ynghylch y cyrff hynny yn ymwneud â materion dirwyn i ben eu gwaith mewn ffordd a oedd yn ein galluogi i'w hysgwyddo'n foddhaol. Yn hynny o beth, cawsom lefel foddhaol o gydweithrediad.

[54] **Dafydd Wigley:** Ond mae'n rhaid bod y dylanwad cyfyngedig yn achosi problem? Os oedd yn gyfyngedig, mae'n rhaid eich bod yn naill ai disgwyl cael rhagor o ddylanwad ac y dylid bod wedi rhoi mwy i sylw i'ch gofynion neu y dylech fod wedi cael rhagor o awdurdod uniongyrchol cyn hynny?

**Mr Martin:** Y cwbl y gallaf ei ddweud yw ein bod wedi gweithio drwy'r broses grŵp *strand*, a oedd yn cynnwys uwch reolwyr y TEC yn ogystal ag uwch reolwyr y cyngor cyllido. Drwy hynny, yr oedd gennym gymaint o ddylanwad â'r hyn a oedd yn rhesymol bosibl, yn fy marn i, tan i ni gymryd yr awenau mewn gwirionedd.

[55] **Dafydd Wigley:** Yr wyf yn nodi'r hyn

Sir Jon, do you want to say anything?

**Sir Jon Shortridge:** I would certainly reinforce that point. I would just make this point: I think that whenever you have a transition, the transition of executive authority shifts overnight. You cannot have a sort of evolution of executive authority, so whatever the process we had been engaged upon, that would have been a problem that Steve and his colleagues would have had to face. In terms of managerial authority—and this is reinforcing the point that has been made—there was some opportunity for that through the involvement of Steve and his senior colleagues in the work of the strand groups and the project group more generally, so that they were working very closely with us in the developing of all the thinking that was required to make this transfer work.

[56] **Dafydd Wigley:** I note what you say, but I am sure that you will bear in mind the need in any such circumstances in future for the wishes of the incoming body to be taken fully into account. I do not ask you to respond to that.

[57] **Ann Jones:** Mr Martin, having to operate for the first year with five different financial accounting and management information systems was clearly going to pose a significant business risk. To what extent did the national council recognise this risk from the outset? What steps did you take to assess and manage that risk?

**Mr Martin:** Well, it was an immediate issue for us. We did not realise the full extent of it until we really got to examine them when we had direct responsibility. We had five sets of financial regulations, five sets of procurement regulations, five sets of lots of things—different payroll systems, and all the rest of it. That is a bit of a nightmare for any organisation. Four of the systems, for instance, were not configured so that we could identify grant-in-aid balances. There was no tradition of separating running costs and programme costs, which is obviously a key requirement of the way in which public sector bodies are run. We had very few accounting staff outside south-east Wales, so

yr ydych yn ei ddweud. Syr Jon, a ydych am ddweud unrhyw beth?

**Syr Jon Shortridge:** Buaswn yn sicr yn ategu'r pwynt hwnnw. Hoffwn wneud y pwynt hwn: credaf, pryd bynnag y bydd newid yn digwydd, fod y newid mewn awdurdod gweithredol yn digwydd dros nos. Ni ellir gadael i awdurdod gweithredol esblygu, felly pa bynnag broses yr oeddem wedi'i chynnal, byddai hynny wedi bod yn broblem y byddai'n rhaid i Steve a'i gydweithwyr fod wedi'i hwynebu. O ran awdurdod rheoli—ac mae hyn yn ategu'r pwynt sydd wedi'i wneud—yr oedd peth cyfle i hynny drwy ymglymiad Steve a'i uwch gydweithwyr yng ngwaith y grwpiau *strand* a'r grŵp prosiect yn fwy cyffredinol, felly yr oeddynt yn gweithio'n agos iawn â ni yn natblygiad yr holl feddylfryd a oedd ei angen i sicrhau bod y trosglwyddo hyn yn gweithio.

[56] **Dafydd Wigley:** Yr wyf yn nodi'r hyn yr ydych yn ei ddweud, ond yr wyf yn sicr y byddwch yn cofio'r angen dan amgylchiadau o'r fath yn y dyfodol i ystyried dymuniadau'r corff newydd yn llawn. Nid wyf yn gofyn i chi ymateb i hynny.

[57] **Ann Jones:** Mr Martin, yr oedd yn amlwg y byddai gorfod gweithredu am y flwyddyn gyntaf â phum system gyfrifo ariannol a gwybodaeth reoli wahanol yn achosi risg fusnes sylweddol. I ba raddau y bu i'r cyngor cenedlaethol gydnabod y risg hon o'r cychwyn? Pa gamau a gymerwyd gennych i asesu a rheoli'r risg honno?

**Mr Martin:** Wel, yr oedd yn fater brys i ni. Nid oeddem yn ymwybodol o hyd a lled y mater tan i ni eu harchwilio pan oedd gennym gyfrifoldeb uniongyrchol amdanynt. Yr oedd gennym bum cyfres o reoliadau ariannol, pum cyfres o reoliadau caffael, pum cyfres o lawer o bethau—systemau cyflogres gwahanol, ac yn y blaen. Mae hynny'n dipyn o hunllef i unrhyw sefydliad. Nid oedd pedair o'r systemau, er enghraifft, wedi'u ffurfweddu i ni allu nodi gweddillion grantiau cymorth. Nid oedd traddodiad o wahanu costau rhedeg a chostau rhaglen, sydd yn amlwg yn un o ofynion allweddol y ffordd y cynhelir cyrff cyhoeddus. Nid oedd gennym lawer iawn o staff cyfrifo y tu allan i

we had to deploy that resource. There was lack of clarity in the inheritance about who budget holders were. As I said earlier, the concepts of regularity and propriety were pretty alien in some of the sites. We had some specific problems: in south-west Wales there was no system, apart from a manual system, for doing payments. That is how things were generated. In Newtown there was a small-and-medium-sized-enterprise-style package that was really no good for a new system: the different systems could not talk to each other. So, generating our accounts—both financial and management accounts—was a huge difficulty and it required a quite disproportionate amount of staff time to get that work done. That was why we took the view and put the proposal to the Assembly for a single tender action, which was approved, to get in place a new, fully functioning accounting system from 1 April 2002. That was the earliest that we could do it, and even then it was a pretty risky business. It normally takes eight months to get a new finance system in; we did it in four.

[58] **Ann Jones:** Okay. Paragraph 22 of the report refers to potentially significant differences in operation, and I think that you have outlined some of those in your last answer. Was anything done to ensure consistency of approach in handling council business among staff at the various offices, or did they still operate as individual areas?

**Mr Martin:** It was selective. It may well be helpful for Richard Hirst to comment on some of the details, particularly in relation to financial and management reporting. We had to generate, as quickly as we could, a common approach to reports, and it took us some months to get that organised. We sought to ensure, as I said earlier, through early advice, what the requirements were in terms of single and restricted tenders, and those having to be cleared with the Assembly. As accounting officer, I also issued delegations—as I am required to do—in April 2001 to make sure that staff knew the levels of their authority and so on. I do not know if it is possible for Richard to add

dde ddwyrain Cymru, felly yr oedd yn rhaid i ni drefnu'r adnodd hwnnw. Yr oedd diffyg eglurder yn yr etifeddiaeth ynglŷn â phwy oedd yn daly cyllidebau. Fel y dywedais yn gynharach, yr oedd y cysyniadau o reoleiddra a phriodoldeb yn eithaf anghyfarwydd yn rhai o'r safleoedd. Yr oedd gennym rai problemau penodol: yn ne ddwyrain Cymru nid oedd system, ar wahân i system â llaw, ar gyfer gwneud taliadau. Dyna sut y cynhyrchwyd pethau. Yn y Drenewydd yr oedd pecyn ar gyfer mentrau bach a chanolig eu maint nad oedd yn ymarferol i system newydd mewn gwirionedd: nid oedd y gwahanol systemau yn gallu siarad â'i gilydd. Felly, yr oedd cynhyrchu ein cyfrifon—cyfrifon ariannol a rheolaethol—yn anodd iawn ac yn gofyn am ganran anghymesur o amser staff i wneud y gwaith. Dyna pam y bu inni gymryd y farn a chyflwyno cynnig i'r Cynulliad am weithred tendr unigol, a gymeradwywyd, i gael system gyfrifo newydd a fyddai'n llawn weithredol o 1 Ebrill 2002. Dyna'r cynharaf yr oeddem yn gallu gwneud hynny, ac hyd yn oed bryd hynny yr oedd yn dipyn o risg. Fel arfer mae'n cymryd wyth mis i gael system gyllid newydd yn ei lle; gwnaethom hynny mewn pedwar mis.

[58] **Ann Jones:** Iawn. Mae paragraff 22 yr adroddiad yn cyfeirio at wahaniaethau sylweddol posibl o ran gweithrediad, a chredaf eich bod wedi amlinellu rhai o'r rhai hynny yn eich ateb diwethaf. A wnaethpwyd unrhyw beth i sicrhau cysondeb yn y dull o fynd i'r afael â busnes y cyngor ymhlith staff y gwahanol swyddfeydd, neu a oeddent yn parhau i weithredu fel ardaloedd ar wahân?

**Mr Martin:** Yr oedd yn ddewisol. Efallai y bydd yn ddefnyddiol i Richard Hirst roi sylwadau ar rai o'r manylion, yn arbennig o ran adroddiadau ariannol a rheolaethol. Yr oedd yn rhaid i ni gynhyrchu, cyn gynted ag y gallem, dull cyffredin o greu adroddiadau, a chymerodd rai misoedd i ni drefnu hynny. Yr oeddem yn ceisio sicrhau, fel y dywedais yn gynharach, drwy dderbyn cyngor cynnar, beth oedd y gofynion o ran tendrau unigol a chyfyngedig, gorfod eu clirio gyda'r Cynulliad. Fel swyddog cyfrifo, cyhoeddais ddirprwyaethau—fel sy'n rhaid i mi ei wneud—yn Ebrill 2001 i sicrhau bod staff yn ymwybodol o lefelau eu hawdurdod ac ati. Nid wyf yn gwybod os oes modd i Richard

any points.

**Mr Hirst:** Although, as Steve Martin said, we did not feel that we could introduce one financial system overnight on 1 April—we put the process in place to introduce a new accounting system from 1 April 2002 so that each site operated its current systems for that year—we put in a common umbrella, if you like, over those individual systems. For example, we introduced a common, coherent set of banking arrangements where there had been five previously. We introduced coherent authorisation procedures. Although they were based on the previous practice at each individual site, there were differences in some of the levels of authorisation, so the procedures and any other requirements for signatories up the organisation and so forth were common between the sites, but as you moved down to some of the more detailed levels below, there would be differences in specific practices.

[59] **Ann Jones:** So had you gone for a shadow running period, perhaps that might have alleviated some of the difficulties to which Mr Martin referred in trying to bring all the systems together?

**Mr Hirst:** That is the kind of issue that we would have addressed in that sort of period, yes.

[60] **Ann Jones:** But you chose not to go down that road?

**Mr Hirst:** Sorry, we did not choose not to have a shadow running period. That was an Assembly decision.

[61] **Dafydd Wigley:** Can we tease that out a little bit?

[62] **Ann Jones:** Yes, because the report clearly states that the council took the decision.

**Mr Hirst:** No—sorry, which paragraph is that?

[63] **Ann Jones:** It is paragraph 21.

**Mr Hirst:** Paragraph 21. Without wishing to, if you like, second guess what the National

ychwanegu unrhyw bwyntiau.

**Mr Hirst:** Er, fel y dywedodd Steve Martin, nid oeddem yn teimlo y gallem gyflwyno un system ariannol dros nos ar 1 Ebrill—bu inni roi'r rhoesom y broses ar waith i gyflwyno system gyfrifo newydd o 1 Ebrill 2002 er mwyn sicrhau bod pob safle yn gweithredu eu systemau cyfredol ar gyfer y flwyddyn honno—cyflwynasom ymbarél cyffredin, os y dymunwch, dros y systemau unigol hynny. Er enghraifft, cyflwynasom gyfres gyffredin, gydlynol o drefniadau bancio lle'r oedd pump cyn hynny. Cyflwynasom weithdrefnau awdurdodi cydlynol. Er y seiliwyd hwy ar ymarfer blaenorol pob safle unigol, yr oedd gwahaniaethau yn rhai o'r lefelau awdurdodi, felly yr oedd y gweithdrefnau ac unrhyw ofynion eraill ar gyfer llofnodwyr yn uwch i fyny yn y sefylliad ac ati yn gyffredin rhwng y safleoedd, ond wrth symud i lawr i rai o'r lefelau mwy manwl yn is i lawr, byddai gwahaniaethau mewn arferion penodol.

[59] **Ann Jones:** Felly pe baech wedi dewis cyfnod gweithredu cysgodol, efallai y gallai hynny fod wedi osgoi rhai o'r anawsterau y cyfeiriodd Mr Martin atynt wrth geisio dod â'r systemau oll at ei gilydd?

**Mr Hirst:** Dyna'r math o fater y byddem wedi'i drafod mewn cyfnod o'r fath, ie.

[60] **Ann Jones:** Ond bu i chi ddewis peidio â dilyn y llwybr hwnnw?

**Mr Hirst:** Mae'n ddrwg gennyf, ni wnaethom benderfynu peidio â chael cyfnod gweithredu cysgodol. Penderfyniad y Cynulliad oedd hwnnw.

[61] **Dafydd Wigley:** A gawn ni ymhelaethu ar y mater hwn?

[62] **Ann Jones:** Ie, oherwydd mae'r adroddiad yn nodi'n glir mai'r cyngor wnaeth y penderfyniad.

**Mr Hirst:** Na—mae'n ddrwg gennyf, pa baragraff yw hwnnw?

[63] **Ann Jones:** Paragraff 21.

**Mr Hirst:** Paragraff 21. Heb ddymuno, os yr hoffech, ddyfalu beth oedd y Swyddfa

Audit Office and the Auditor General meant in that part of the report, I think that the distinction is drawn between the decision that there should not be a shadow running period and then, in the last couple of sentences of paragraph 21, the view that the national council took in the light of that decision, that it had to operate business as usual. It is not saying that the council took the decision not to have a shadow period; it is saying that, that decision having been taken, this is then how the council decided it would need to operate.

[64] **Dafydd Wigley:** But surely, from what you have just said, Mr Hirst, it would have been very much easier and better from the financial control point of view had you had more of a run-in to get the right people in place and to get similar systems running and to have meshed them together without having to do so under pressure? Is that not what you have just said?

**Mr Hirst:** Sorry, I was responding to a question about whether that was our decision and trying to clarify—

[65] **Dafydd Wigley:** Yes, and I am repeating the question.

[66] **Ann Jones:** It is the same question in another form.

**Mr Hirst:** No, I am sorry, I do not think that it is. The decision to have no shadow running period was a decision for the Assembly.

[67] **Dafydd Wigley:** Right. I accept that that was a decision for the Assembly, but had the decision been otherwise and had you had more time to get the systems right and the people right, would that not have made for a better period to set up the new organisation?

**Mr Hirst:** It would have made some of the things that we have just been talking about easier, perhaps, but, on the other hand, some of the issues that Steve Martin referred to earlier would have been more difficult, so there was a balance to be struck.

Archwilio Genedlaethol a'r Archwilydd Cyffredinol yn ei olygu yn y rhan hon o'r adroddiad, credaf y daw'r gwahaniaeth rhwng y penderfyniad na ddylid cynnal cyfnod gweithredu cysgodol ac yna, ym mrawddegau olaf paragraff 21, y farn a gymerodd y cyngor cenedlaethol yng ngoleuni'r penderfyniad hwnnw, bod yn rhaid iddo weithredu fel arfer. Nid yw'n dweud bod y cyngor wedi penderfynu peidio â chael cyfnod cysgodol; mae'n dweud, ar ôl i'r penderfyniad hwnnw gael ei wneud, mai dyma sut y penderfynodd y cyngor y byddai angen iddo weithredu.

[64] **Dafydd Wigley:** Ond does bosibl, o'r hyn yr ydych newydd ei ddweud, Mr Hirst, y byddai wedi bod yn llawer haws a gwell osafbwynt rheolaeth ariannol i chi gael mwy o amser i gael y bobl iawn yn eu lle ac i weithredu systemau tebyg a'u huno â'i gilydd heb orfod gwneud hynny dan bwysau? Onid hynny yr ydych newydd ei ddweud?

**Mr Hirst:** Mae'n ddrwg gennyf, yr oeddwn yn ymateb i gwestiwn ynglŷn ag a oedd hwn yn benderfyniad i ni ac yn ceisio egluro—

[65] **Dafydd Wigley:** Ie, ac yr wyf i yn ail ofyn y cwestiwn.

[66] **Ann Jones:** Dyma'r un cwestiwn ar ffurf wahanol.

**Mr Hirst:** Na, mae'n ddrwg gennyf, ni chredaf fod hynny'n wir. Penderfyniad i'r Cynulliad oedd peidio â chael cyfnod gweithredu cysgodol.

[67] **Dafydd Wigley:** Iawn, yr wyf yn derbyn mai penderfyniad i'r Cynulliad oedd hwnnw, ond pe bai'r penderfyniad wedi bod yn wahanol a phe baech wedi cael rhagor o amser i gael y system yn iawn a'r bobl yn iawn, oni fyddai hynny wedi bod yn gyfnod gwell i sefydlu'r sefydliad newydd?

**Mr Hirst:** Byddai wedi gwneud rhai o'r pethau yr ydym newydd eu trafod yn haws, efallai, ond, ar y llaw arall, byddai rhai o'r materion y cyfeiriodd Steve Martin atynt yn gynharach wedi bod yn anos, felly cafwyd rhyw fath o gydbwysedd.

[68] **Ann Jones:** Okay. Thanks. I think that we have covered that. How successful was the implementation of the council's new unified financial accounting and reporting system that you put in place on 1 April 2002?

**Mr Martin:** I will start but, again, Richard Hirst may have points to add. There is no doubt that it has made a huge difference. We are now able to generate reliable management and financial reports, which are essential to the control of any business. That is the fundamental point. It enables us to have a degree of confidence—I know that this is something that you may want to return to—that we will get our accounts prepared on time. It is generally a tremendous fillip for any organisation. Indeed, it is essential to the smooth running of the business.

There are still challenges, I have to say. We have not got every module running in that new system—for instance, commitment accounting arrangements still need to be put in, although we do have ways of controlling our expenditure. Even during that first year, actually, despite all the difficulties, we managed to control our cash and to come in within our limits and so on. So, yes, it has made a terrific difference. We are very keen now to build on that; that is priority work for the coming months.

[69] **Dafydd Wigley:** Alun, would you like to come in?

[70] **Alun Cairns:** Yes, thank you, Cadeirydd. Mr Martin, do you accept that standing orders and financial regulations are fundamental to the running of any organisation?

**Mr Martin:** I certainly believe that financial regulations and good financial procedures and good practice are absolutely crucial. If I may, I will come back to standing orders in a moment. With the financial regulations, we took the view that it would have been quite impossible to have a single set of comprehensive financial regulations until we had the new accounting system. On standing

[68] **Ann Jones:** Iawn. Diolch. Credaf ein bod wedi rhoi digon o sylw i hynny'n awr. Pa mor lwyddiannus oedd gweithrediad system gyfrifo ac adrodd ariannol unedig newydd y cyngor a roddwyd ar waith ar 1 Ebrill 2002?

**Mr Martin:** Yr wyf am ddechrau ond, eto, efallai y bydd gan Richard Hirst bwyntiau i'w hychwanegu. Nid oes amheuaeth bod hyn wedi gwneud gwahaniaeth mawr. Yr ydym yn awr yn gallu cynhyrchu adroddiadau rheoli ac ariannol dibynadwy, sy'n hanfodol i reolaeth unrhyw fusnes. Dyna'r pwynt sylfaenol. Mae hyn yn ein galluogi i gael rhywfaint o hyder—yr wyf yn gwybod fod hyn yn rhywbeth y byddwch efallai am ddychwelyd ato—y byddwn yn paratoi ein cyfrifon yn brydlon. Yn gyffredinol mae hyn yn hwb rhagorol i unrhyw sefydliad. Yn wir, mae'n hanfodol i weithrediad rhwydd y busnes.

Mae heriau o hyd, mae'n rhaid i mi ddweud. Nid ydym wedi llwyddo i gael pob modiwl ar waith yn y system newydd—er enghraifft, mae angen cyflwyno trefniadau cyfrifo ymrwymiad o hyd, er bod gennym ffyrdd o reoli ein gwariant. Hyd yn oed yn ystod y flwyddyn gyntaf, mewn gwirionedd, er yr holl anawsterau, llwyddasom i reoli ein harian ac i weithredu o fewn ein terfynau ac ati. Felly, ydy, mae wedi gwneud gwahaniaeth mawr. Yr ydym yn awyddus yn awr i adeiladu ar hyn; hyn yw ein blaenoriaeth o ran gwaith yn y misoedd nesaf.

[69] **Dafydd Wigley:** Alun, a ydych am gyfrannu yma?

[70] **Alun Cairns:** Ydw, diolch, Gadeirydd. Mr Martin, a ydych yn derbyn bod rheolau sefydlog a rheoliadau ariannol yn sylfaenol i weithrediad unrhyw sefydliad?

**Mr Martin:** Credaf yn sicr bod rheoliadau ariannol a gweithdrefnau ariannol da ac arferion da yn hollol hanfodol. Os caf, yr wyf am ddychwelyd at reolau sefydlog yn y man. Gyda'r rheoliadau ariannol, penderfynasom y byddai wedi bod yn eithaf amhosibl i gael un gyfres o reoliadau ariannol cynhwysfawr nes i ni gael system gyfrifo newydd. O ran rheolau sefydlog, nid wyf erioed wedi

orders, I have never worked for any body that has actually taken its corporate governance more seriously. At its very first meeting, the first thing that was done was to receive a presentation from the then head of compliance in-waiting, as it were, who explained what the statutory duties were and took the meeting through all the requirements.

I would argue that all the main pillars of corporate governance were put in place in the period up to 1 April, in terms, for instance, of council procedures, of a quorum, of its main committees and their terms of reference and membership, registers of interests, codes of practice for members and so on. Those were not fully codified into standing orders until May 2002. That is a crucial step in terms of bringing them all together in one place, but it does not mean that those fundamental corporate governance provisions were not in place at the time that the council was conducting its business from 1 April.

[71] **Alun Cairns:** So, in answer to my question, you do accept that standing orders and financial regulations are fundamental to the running of any organisation?

**Mr Martin:** I do indeed, although I would stress the latter, rather than the former.

[72] **Alun Cairns:** So, yes, you do. Okay, thank you. Bearing in mind the cultural issues that you highlighted earlier—you said that a culture cannot change overnight—do you accept that procedures such as standing orders and financial regulations can provide important guidance when there are different cultures within the same organisation?

**Mr Martin:** Indeed, and that is why we immediately paid attention to them. I said that it was one of the priority areas for the chairman and myself after October 2000—to make sure that, when we had a full council from February, the council members understood their duties and that the staff shared that understanding. For instance, great clarity about the chair's role, the full council's role, the chief executive's role, the accounting officer's role: that was shared throughout the organisation. I very much agree with you that, without that cement, you cannot have a fully coherent and well-run

gweithio i unrhyw gorff sydd wedi cymryd ei llywodraeth gorfforaethol cymaint o ddirif. Yn ei gyfarfod cyntaf, y peth cyntaf a wnaethpwyd oedd derbyn cyflwyniad gan y pennaeth cydymffurfio ar y pryd, fel petai, a eglurodd y dyletswyddau statudol a thrafod yr holl ofynion gyda'r pwyllgor.

Buaswn yn dadlau bod holl brif bileri llywodraeth gorfforaethol wedi'u rhoi ar waith yn y cyfnod hyd at 1 Ebrill, o ran, er enghraifft, gweithdrefnau cyngor, neu gworwm, ei brif bwyllgorau a'u cylch gorchwyl ac aelodaeth, cofrestri buddiannau, codau ymarfer aelodau ac ati. Nid oedd y rhain wedi'u cyfundrefnu'n llawn i reolau sefydlog nes mis Mai 2002. Yr oedd hwn yn gam hanfodol o ran dod â hwy i gyd at ei gilydd i un lle, ond nid yw'n golygu nad oedd y darpariaethau llywodraeth corfforaethol sylfaenol hynny ar waith pan oedd y cyngor yn gweithredu ei fusnes o 1 Ebrill.

[71] **Alun Cairns:** Felly, fel ateb i'm cwestiwn, yr ydych yn derbyn bod rheolau sefydlog a rheoliadau ariannol yn sylfaenol i weithrediad unrhyw sefydliad?

**Mr Martin:** Ydw, yn sicr, er y busaswn yn pwysleisio'r olaf, yn hytrach na'r cyntaf.

[72] **Alun Cairns:** Felly, ydych, yr ydych. Iawn, diolch. O gofio'r materion diwylliannol yr amlygoch yn gynharach—dywedasoeh na ellir newid diwylliant dros nos—a ydych yn derbyn y gall gweithdrefnau fel rheolau sefydlog a rheoliadau ariannol ddarparu arweiniad pwysig pan geir diwylliannau gwahanol o fewn yr un sefydliad?

**Mr Martin:** Yn wir, a dyna pam y rhoesom sylw iddynt yn syth. Dywedais mai un o'r meysydd blaenoriaeth i'r cadeirydd a minnau ar ôl mis Hydref 2000—oedd sicrhau, pan fyddai gennym gyngor llawn o fis Chwefror, bod aelodau'r cyngor yn deall eu dyletswyddau a bod staff yn rhannu'r ddealltwriaeth honno. Er enghraifft, esboniad clir o rôl y cadeirydd, rôl y cyngor llawn, rôl y prif weithredwr, rôl y swyddog cyfrifo: yr oedd hyn yn cael ei rannu drwy'r sefydliad. Yr wyf yn cytuno'n llwyr â chi na ellir cael sefydliad hollol gydlynol a reolir yn dda heb y sylfaen honno.

organisation.

[73] **Alun Cairns:** Okay. We seem to be making progress. We have accepted that standing orders and financial regulations are pretty well fundamental; we have accepted that, in changing the culture of an organisation, and influencing the culture, those rules and regulations are pretty important. So, would Mr Martin tell us why these were not in place from the outset?

**Mr Martin:** I think that I am possibly repeating points that I have made, but—

[74] **Alun Cairns:** It is because I do not believe, Mr Martin, that I am getting a straight answer. Why were they not in place from the outset?

**Mr Martin:** Well, first of all, on financial regulations, I do not believe that you can have comprehensive, unified financial regulations until you have a single financial system, which relates—

[75] **Dafydd Wigley:** That is the point that you were emphasising.

**Mr Martin:** Yes. The standing orders—my point is that we had in place all the fundamental things. If you go through our standing orders, and consider the substantive difference between what is in those standing orders and the decisions that the council took in its early meetings to put in place its corporate governance arrangements, there is very little difference between them. What is important is that the standing orders codified them into one document, but all the essentials were in place.

[76] **Alun Cairns:** That may well have been codified at the outset in the very first meeting, but why did it take you over 12 months to ratify those standing orders?

**Mr Martin:** It should have been done earlier. I would not disagree about that at all. We did not have a proper council secretary until January 2001—sorry, 2002. That was a key appointment because the council determined

[73] **Alun Cairns:** Iawn. Mae'n ymddangos ein bod yn symud yn ein blaenau. Yr ydym wedi derbyn bod rheolau sefydlog a rheoliadau ariannol yn eithaf sylfaenol; yr ydym wedi derbyn, wrth newid diwylliant sefydliad, a dylanwadu ar y diwylliant, bod y rheolau a'r rheoliadau hynny yn eithaf pwysig. Felly, a all Mr Martin ddweud wrthym pam na weithredwyd y rhain o'r cychwyn cyntaf?

**Mr Martin:** Credaf efallai fy mod yn ailadrodd pwyntiau yr wyf wedi'u gwneud yn barod, ond—

[74] **Alun Cairns:** Mae hyn oherwydd ni chredaf, Mr Martin, fy mod yn cael ateb gonest. Pam na chawsant eu gweithredu o'r cychwyn?

**Mr Martin:** Wel, yn gyntaf, o ran rheoliadau ariannol, nid wyf yn credu y gellir cael rheoliadau cynhwysfawr, unedig, nes y sefydlir system ariannol unigol, sy'n ymwneud—

[75] **Dafydd Wigley:** Dyna'r pwynt yr oeddech yn ei bwysleisio.

**Mr Martin:** Ie. Y rheolau sefydlog—fy mhwynt yw bod gennym yr holl bethau sylfaenol ar waith. Pe baech yn astudio ein rheolau sefydlog, ac yn ystyried y gwahaniaethau sylweddol rhwng yr hyn sydd yn y rheolau sefydlog hynny a'r penderfyniadau a wnaeth y cyngor yn ei gyfarfodydd cynnar i roi trefniadau llywodraeth gorfforaethol ar waith, nid oes llawer o wahaniaeth rhyngddynt. Yr hyn sy'n bwysig yw bod y rheolau sefydlog wedi eu cyfundrefnu i un ddogfen, ond yr oedd yr holl bethau hanfodol yn eu lle.

[76] **Alun Cairns:** Efallai fod hynny wedi'i gyfundrefnu yn y cychwyn yn y cyfarfod cyntaf, ond pam y cymerodd dros 12 mis i chi gadarnhau'r rheolau sefydlog hynny?

**Mr Martin:** Dylai hynny fod wedi'i wneud yn gynharach. Ni fuaswn yn anghytuno â hynny o gwbl. Ni chawsom ysgrifennydd iawn i'r cyngor tan Ionawr 2001—mae'n ddrwg gennyf, 2002. Yr oedd hwnnw yn



that it was a very important pillar of its corporate governance to have a secretary. We were very fortunate to pick up someone with a legal qualification to do that job. One of her first priorities was to bring all these things together so that the council could accept standing orders.

[77] **Alun Cairns:** So do you accept that the failure to ratify those very early on in the establishment of the organisation led to the irregularities later on?

**Mr Martin:** No, I do not believe that it played any part in that at all, because the pillars of corporate governance were put in place and I do not think that there is any connection between any deficiency that there might have been by not bringing them together in one document and any of the irregularities which are covered in this report.

[78] **Dafydd Wigley:** But you do accept that it was a mistake not to have brought them into one document, given that you were, in your own words, so close to doing so?

**Mr Martin:** It would not have taken a lot of effort to have done so. All the key elements were there.

[79] **Dafydd Wigley:** And it should have been done.

**Mr Martin:** And it should have been done. Yes, I accept that.

[80] **Alun Cairns:** We have talked about the 12 months that it took to ratify the standing orders. Bearing in mind the financial irregularities that later ensued, why did it then take 15 months for the national council to issue its staff with an approved set of financial regulations?

**Mr Martin:** If I may, I will ask Richard Hirst to comment on the details of what existed in the different offices, but it goes back to the fact that we were having to run five different financial systems. All the key characteristics of decent financial systems existed in those

benodiad allweddol oherwydd penderfynodd y cyngor y byddai ysgrifennydd yn biler pwysig iawn i'w lywodraeth gorfforaethol. Yr oeddem yn ffodus iawn i ddewis rhywun gyda chymhwyster cyfreithiol i wneud y swydd honno. Un o'i blaenoriaethau cyntaf oedd dod â'r pethau hyn i gyd at ei gilydd er mwyn i'r cyngor allu derbyn y rheolau sefydlog.

[77] **Alun Cairns:** Felly a ydych yn derbyn bod y methiant i'w cadarnhau yn gynnar iawn wrth sefydlu'r sefydliad wedi arwain at yr afreoleidd-dra diweddarach?

**Mr Martin:** Na, nid wyf yn credu bod hyn wedi cyfrannu at hynny o gwbl, oherwydd yr oedd pileri llywodraeth gorfforaethol wedi eu rhoi yn eu lle ac nid wyf yn credu bod unrhyw gysylltiad rhwng unrhyw ddiffyg a allai fod wedi bodoli drwy beidio â dod â hwy at ei gilydd mewn un ddogfen ac unrhyw achosion o afreoleidd-dra y rhoddid sylw iddynt yn yr adroddiad hwn.

[78] **Dafydd Wigley:** Ond a ydych yn derbyn mai camgymeriad oedd peidio â dod â hwy at ei gilydd i un ddogfen, o ystyried eich bod, yn eich geiriau eich hun, mor agos i wneud hynny?

**Mr Martin:** Ni fyddai wedi cymryd llawer o ymdrech i wneud hynny. Yr oedd yr holl elfennau allweddol yno.

[79] **Dafydd Wigley:** A dylid bod wedi ei wneud.

**Mr Martin:** A dylid bod wedi ei wneud. Ydw, yr wyf yn derbyn hynny.

[80] **Alun Cairns:** Yr ydym wedi trafod y 12 mis a gymerodd i gadarnhau'r rheolau sefydlog. O gofio'r afreoleidd-dra ariannol a ddilynodd, pam y cymerodd y cyngor cenedlaethol 15 mis i gyhoeddi cyfres o reoliadau ariannol wedi'u cymeradwyo i'w staff?

**Mr Martin:** Os caf, yr wyf am ofyn i Richard Hirst roi sylwadau ar fanylion yr hyn a oedd yn bodoli yn y gwahanol swyddfeydd, ond mae hyn yn mynd yn ôl at y ffaith ein bod yn gorfod gweithredu pum system ariannol gwahanol. Yr oedd holl nodweddion

inherited arrangements. We could not bring into place a proper set of unified financial regulations until we had one accounting system for the whole organisation, and that was not in place until the financial year 2002-03.

[81] **Alun Cairns:** Surely, Mr Martin, if the staff were not aware of those financial regulations—you have already said that there were different cultures, so should those regulations not have been in place to protect the staff and everyone within the organisation?

**Mr Martin:** Staff were asked to run with their pre-existing financial arrangements and regulations, because their systems did not allow them to do anything else. We modified them in the ways that I have explained in relation to single tender actions and so on, but we could not do a comprehensive rewrite of those financial procedures until we had a unified financial system in place for the whole organisation. I do not know whether Richard Hirst has any points that he can add.

**Mr Hirst:** I just want to emphasise, as Steve has said, that there were financial regulations in place on each site. They were largely the pre-existing ones; we made some changes, as I have outlined already to your colleague, in terms of bringing authorisations together and so forth. This was not a financial-regulation-free zone: there were regulations on each site. What we did not do was, until we had a unified financial accounting system in April 2002, to bring one set of procedures in.

[82] **Alun Cairns:** Please could you let us know the following, Mr Martin. You said earlier that the nature of public sector and private sector financial procurement arrangements is very different. Therefore, you had financial regulations within the regions that were according to the private sector arrangements that would have preceded because of the training and enterprise councils. Therefore, you did not seek to protect the staff who were working there, with the best will in the world, following the regulations that they had

allweddol systemau ariannol effeithlon yn bodoli yn y trefniadau hynny a etifeddwyd. Nid oeddem yn gallu gweithredu cyfres o reoliadau ariannol unedig go iawn nes i ni sefydlu un system gyfrifo ar gyfer y sefydliad oll, ac nid oedd y system honno ar waith hyd nes blwyddyn ariannol 2002-03.

[81] **Alun Cairns:** Does bosibl, Mr Martin, os nad oedd y staff yn ymwybodol o'r rheoliadau ariannol hynny—yr ydych wedi dweud yn barod bod gwahanol ddiwylliannau, felly oni ddylai'r rheoliadau hynny fod wedi bod yn eu lle i ddiogelu staff a phawb o fewn y sefydliad?

**Mr Martin:** Gofynnwyd i staff weithredu eu trefniadau a rheoliadau ariannol blaenorol, oherwydd nad oedd eu systemau yn caniatáu iddynt wneud unrhyw beth arall. Bu inni eu haddasu yn y ffyrdd yr eglurais mewn perthynas â gweithredoedd tendr unigol ac ati, ond nid oeddem yn gallu ail-lunio'r gweithdrefnau ariannol hynny yn gynhwysfawr nes i ni sefydlu system ariannol unedig ar gyfer y sefydliad i gyd. Nid wyf yn gwybod os oes gan Richard Hirst unrhyw bwyntiau y gall eu hychwanegu.

**Mr Hirst:** Yr wyf am bwysleisio, fel y dywedodd Steve, bod gan y ddau safle reoliadau ariannol ar waith. Yr oeddent yn bennaf yn rhai a oedd yn bodoli eisoes; gyda rhai newidiadau, fel a amlinellais eisoes i'ch cydweithiwr, o ran cyfuno awdurdodi ac ati. Nid amgylchedd heb unrhyw reolaeth ariannol oedd hon: yr oedd rheoliadau ariannol ar y ddau safle. Yr hyn na wnaethom, nes i ni gael system gyfrifo ariannol unedig yn Ebrill 2002, oedd cyflwyno un gyfres o weithdrefnau.

[82] **Alun Cairns:** A ellwch roi gwybod y canlynol i ni, Mr Martin. Dywedasoeh yn gynharach bod natur trefniadau caffael ariannol y sector cyhoeddus a'r sector preifat yn wahanol iawn. Felly, yr oedd gennych reoliadau ariannol o fewn y rhanbarthau a oedd yn dilyn trefniadau'r sector preifat a fyddai wedi rhagflaenu oherwydd y cynghorau hyfforddiant a menter. Felly, ni wnaethoch geisio amddiffyn staff a oedd yn gweithio yno, gyda'r ewyllys gorau yn y byd, yn dilyn y rheoliadau yr oeddent wedi'u dilyn cyn hynny, er i chi gydnabod yn gynharach

followed previously, although you recognised earlier that becoming part of the public sector required much more stringent regulations.

**Mr Martin:** The area where we were deficient, in terms of the gap between what existed in the training and enterprise councils and the full force of all the public sector requirements, was the European requirements. Looking at the Auditor General's report—paragraph 48, I believe it is—that does set out some of the characteristics that you would expect of decent arrangements for procurement. Measuring up the TEC arrangements against those, they met most of those tests. There was a competitive basis. They were supposed to put things out to competition. As I said, that was not always happening in practice. They were supposed to accept the most economically advantageous tender. They were supposed to—in the majority of cases, but not all—conduct a financial vetting prior to contracting. In respect of the only other area which was deficient, which was the requirement to bring to the Assembly for approval single tender actions over £25,000 and restricted tenders in the same category, we did issue before 1 April an instruction to all the sites that that should be done. So actually, the difference is overwhelmingly in respect of the European requirements, on which we should have provided two things. First, we should have provided further guidance immediately; I agree about that. Secondly, we should, as I said earlier, have made sure that we managed the risk—notwithstanding the fact that these procedures were there—in terms of particularly large tenders, and made sure that they complied with best public sector practice.

[83] **Alun Cairns:** Finally, Cadeirydd, a risk assessment was undertaken by the national council in April 2001. Why was a unified set of procedures not introduced at the outset so that the national council staff could handle all items of expenditure in a consistent and proper way? You have partly answered this.

**Mr Martin:** Perhaps I could restrict my answer to new information rather than go over the ground that I have already covered. At that time we did a risk assessment across

bod dod yn rhan o'r sector cyhoeddus yn gofyn am reoliadau llawer mwy llym.

**Mr Martin:** Y maes lle'r oeddem yn ddiffygiol, o ran y bylchau rhwng yr hyn a oedd yn bodoli yn y cynghorau hyfforddiant a menter a grym llawn holl ofynion y sector cyhoeddus, oedd y gofynion Ewropeaidd. O edrych ar adroddiad yr Archwilydd Cyffredinol—credaf mai paragraff 48 ydyw—mae'n nodi rhai o'r nodweddion y byddech yn eu disgwyl mewn trefniadau caffael priodol. Wrth fesur trefniadau'r TEC yn erbyn y rhai hynny, yr oeddent yn bodloni'r mwyafrif o'r profion hynny. Yr oedd sail gystadleuol. Dylent fod wedi gwahodd cystadleuaeth. Fel y dywedais, nid oedd hynny yn digwydd bob tro. Dylent fod wedi derbyn y tendr mwyaf buddiol yn economaidd. Dylent fod wedi—yn y mwyafrif o achosion, ond nid ym mhob un—pwyso a mesur y sefyllfa ariannol cyn cyflwyno contract. O ran yr unig faes diffygiol arall, sef rheidrwydd cyflwyno gweithredoedd tendr unigol dros £25,000 a thendrau cyfyngedig yn yr un categori i'r Cynulliad i'w cymeradwyo, bu inni gyhoeddi cyfarwyddyd ynghylch hyn cyn 1 Ebrill i'r holl safleoedd y dylid gwneud hynny. Felly mewn gwirionedd, mae'r gwahaniaeth yn aruthrol o ran y gofynion Ewropeaidd, lle dylem fod wedi darparu dau beth. Yn gyntaf, dylem fod wedi darparu arweiniad pellach yn syth; yr wyf yn cytuno ynglŷn â hynny. Yn ail, dylem, fel y dywedais yn gynharach, fod wedi sicrhau ein bod yn rheoli'r risg—er gwaethaf y ffaith bod y gweithdrefnau yno—o ran tendrau mawr iawn, a sicrhau eu bod yn cydymffurfio ag arferion gorau'r sector cyhoeddus.

[83] **Alun Cairns:** Yn olaf, Gadeirydd, cynhaliwyd asesiad risg gan y cyngor cenedlaethol yn Ebrill 2001. Pam na chyflwynwyd cyfres o weithdrefnau unedig yn y cychwyn er mwyn i staff y cyngor cenedlaethol allu mynd i'r afael â'r holl eitemau gwariant yn gyson ac mewn modd priodol? Yr ydych wedi ateb hyn yn rhannol.

**Mr Martin:** Efallai y gallaf gyfyngu fy ateb i wybodaeth newydd yn hytrach na thrafod pethau'r wyf wedi'u trafod yn barod. Ar y pryd gwnaethom asesiad risg ledled y busnes

the business of all the main things we faced—I have outlined those in some of my earlier answers—in terms of delivering the services to learners for which we were responsible while we existed, in terms of developing our corporate plan and in terms of developing new procedures. From the beginning we had a programme of action to address procurement. As I say, we had these inherited audit reports coming through from the TECs' internal auditors—the south-east Wales audit report was particularly material in respect of procurement. That did actually—on the basis of the management action plan—give a degree of assurance. In respect of our follow-up action, we said, 'this is a priority; we want the auditors to go in'. That was agreed by the audit and risk committee and, in September, that audit process started. We managed it in that way. The further thing that we did was to make sure that we had procurement expertise. We did not actually have on our inherited staff a procurement expert anywhere in the organisation. By August we had made a temporary appointment and by October we had made an excellent permanent appointment. We have now supplemented her with another member of staff, and we need to do more, because we are being sufficiently successful in this now that they are overwhelmed by the number of tenders coming across their desks.

[84] **Janice Gregory:** Mr Martin, during this period, in April 2001, there were obviously a lot of serious issues that were concentrating your mind and the minds of those in charge of the national council. Can you explain why you acquired a financial interest in the Work Connect joint venture in north Wales, even though you do not possess the statutory powers to do so? If I may refer you to paragraphs 36 and 37, you directly contravened paragraph 4(3)(d) of the Transfer Order. The Auditor General states in the last sentence of paragraph 36 that that Order explicitly stated that such interests in joint ventures should not transfer, but you chose to do so.

**Mr Martin:** If I could begin, but it may well

o'r holl bethau pwysig oedd yn ein hwynebu—yr wyf wedi eu hamlinellu yn rhai o'm hatebion cynharach—o ran darparu'r gwasanaethau i ddysgwyr yr oeddem yn gyfrifol amdanynt tra yr oeddem yn bodoli, o ran datblygu ein cynllun corfforaethol ac o ran datblygu gweithdrefnau newydd. O'r dechrau yr oedd gennym raglen weithredu i fynd i'r afael â chaffael. Fel y dywedais, yr oedd gennym yr adroddiadau archwiliad hyn yr oeddem wedi'u hetifeddu gan archwilwyr mewnol y TEC—yr oedd adroddiad archwiliad de ddwyrain Cymru yn hynod bwysig o ran caffael. Rhoddodd hwnnw mewn gwirionedd—ar sail y cynllun gweithredu rheoli—rywfaint o sicrwydd. O ran ein gweithredu dilynol, dywedaisom, 'mae hyn yn flaenoriaeth; yr ydym am i'r archwilwyr fynd i mewn'. Cytunodd y pwyllgor archwilio a risg ar hyn ac, ym mis Medi, dechreuodd y broses archwilio. Rheolwyd hyn yn y dull hwn. Y peth arall a wnaethom oedd sicrhau bod gennym arbenigedd caffael. Nid oedd gennym mewn gwirionedd arbenigwr caffael ar ein staff a etifeddasom unrhyw le yn y sefydliad. Erbyn mis Awst yr oeddem wedi penodi dros dro ac erbyn mis Hydref yr oeddem wedi gwneud penodiad parhaol rhagorol. Yr ydym wedi ychwanegu aelod o staff arall ati erbyn hyn, ac mae angen i ni wneud mwy, oherwydd yr ydym yn awr yn ddigon llwyddiannus yn hyn o beth fel bod eu desgiau wedi'u gorlwytho â thendrau.

[84] **Janice Gregory:** Mr Martin, yn ystod y cyfnod hwn, yn Ebrill 2001, yn amlwg yr oedd llawer o faterion difrifol yn canolbwyntio'ch meddwl a meddwl y rhai hynny a oedd yn gyfrifol am y cyngor cenedlaethol. A allwch egluro sut i chi gael budd ariannol yn y gyd-fenter Cyswllt Gwaith yng ngogledd Cymru, er nad oes gennych y pwerau statudol i wneud hynny? Os caf eich cyfeirio at baragraffau 36 a 37, yr ydych wedi torri amodau paragraff 4(3)(d) y Gorchymyn Trosglwyddo yn uniongyrchol. Mae'r Archwilydd Cyffredinol yn datgan ym mrawddeg olaf paragraff 36 bod y Gorchymyn hwnnw yn nodi'n benodol na ddylid trosglwyddo buddiannau o'r fath mewn cyd-fentrau, ond bu i chi ddewis gwneud hynny.

**Mr Martin:** Os caf gychwyn, ond mae'n

be that Assembly Government colleagues will wish to comment, I believe that clarification is going to be sought from the Assembly Government about whether that judgment is a correct judgment. Our judgment at the time was that this was a very important enterprise, which brought an intermediate employment service to very disadvantaged people in north Wales, and that we should not precipitately withdraw from it. Had we done so it would have damaged those interests. We are now divesting ourselves of our interest, but we have been asked by the Wales Council for Voluntary Action, which is now taking up the cause, to contribute some European match funding. We certainly did not want to precipitately dump something that was regarded as very valuable.

[85] **Janice Gregory:** I am sure that you did not and no-one is arguing for or against the merits of this particular programme. My direct question to you involves the fact that—we have had a lot this afternoon of the whys and the wherefores and the shoulds and the should nots—you actually directly contravened an Order. I will move on to Sir Jon Shortridge, if I may. In paragraph 37, for those who are referring to the report, there is a recommendation from the Auditor General that the Welsh Assembly Government regularises the council's position in respect of the Work Connect joint venture. Bearing in mind, Sir Jon, what Steve Martin has just said about the merits of this particular project, may I ask whether you have now acted on that recommendation?

**Sir Jon Shortridge:** To the best of my knowledge, we have not. Again, to the best of my knowledge, but I may be misleading you, I do not think that we knew of this issue—I certainly did not know of this issue—before the Auditor General's report was published. We would always, in these circumstances, if a request comes to us for regularising something, look at it from the point of view of had we known of it at the time, would we have given our approval, and if—

[86] **Dafydd Wigley:** Sorry, for the understanding of the Committee, I am always

bosibl y bydd fy nghydweithwyr yn Llywodraeth y Cynulliad am roi eu sylwadau, credaf y byddwn yn gofyn am eglurhad gan Lywodraeth y Cynulliad ynglŷn ag a yw'r dyfarniad hwnnw yn ddyfarniad cywir. Ein dyfarniad ar y pryd oedd bod hon yn fenter bwysig iawn, a ddaeth â gwasanaeth cyflogaeth canolradd i bobl dan anfantais fawr yng ngogledd Cymru, ac na ddylem dynnu yn ôl ohoni yn fyrbwyll. Pe baem wedi gwneud hynny byddai wedi niweidio'r buddiannau hynny. Yr ydym yn awr yn diosg ein hunain o'n buddiannau, ond mae Cyngor Gweithredu Gwirfoddol Cymru, sy'n cymryd yr awenau yn awr, wedi gofyn i ni gyfrannu rhywfaint o arian cyfatebol Ewropeaidd. Yn sicr nid oeddem am ollwng rhywbeth yn fyrbwyll a oedd yn cael ei ystyried yn werthfawr iawn.

[85] **Janice Gregory:** Yr wyf yn siŵr na wnaethoch ac nid oes neb yn dadlau o blaid nac yn erbyn rhinweddau'r rhaglen benodol hon. Mae fy nghwestiwn uniongyrchol i chi yn ymwneud â'r ffaith eich bod— yr ydym wedi cael llawer o gwestiynau y prynhawn yma yn gofyn pam ac oni ddylem ai peidio—wedi torri Gorchymyn yn uniongyrchol mewn gwirionedd. Symudaf ymlaen at Syr Jon Shortridge, os caf fi. Ym mharagraff 37, i'r rhai hynny sy'n cyfeirio at yr adroddiad, mae argymhelliad gan yr Archwilydd Cyffredinol bod Llywodraeth Cynulliad Cymru yn rheoleiddio safle'r cyngor o ran y gyd-fenter Cyswllt Gwaith. O gofio, Syr Jon, yr hyn y mae Steve Martin newydd ei ddweud am rinweddau y prosiect penodol hwn, a gaf fi ofyn a ydych wedi gweithredu ar yr argymhelliad hwnnw?

**Syr Jon Shortridge:** Hyd y gwn i, nid ydym. Eto, hyd y gwn i, ond efallai fy mod yn eich camarwain, nid wyf yn credu ein bod yn ymwybodol o'r mater hwn—nid oeddwn i yn sicr yn gwybod am y mater—cyn cyhoeddi adroddiad yr Archwilydd Cyffredinol. Pe bai cais yn cael ei gyflwyno i ni i reoleiddio rhywbeth, byddem bob tro, dan yr amgylchiadau hyn, yn ei ystyried o'r safbwynt ein bod yn ymwybodol ohono ar y pryd, a fyddem wedi rhoi ein cymeradwyaeth, a phe bai—

[86] **Dafydd Wigley:** Mae'n ddrwg gennyf, er dealltwriaeth y Pwyllgor, yr wyf bob tro

under the impression that what we have before us here is an agreed report. Is that not the case in this instance?

**Sir Jon Shortridge:** Yes, it is. Indeed, it is an agreed report, but the report contains a recommendation to the Assembly that we should take appropriate action, and so it is looking to the future. What I am saying is that, yes, certainly, this is something that I will want to be looking at with the compliance officer and, if it is appropriate for us to give this approval, we will do so.

[87] **Janice Gregory:** I accept that, Sir Jon, but it does state in this report that—there is a date in this report of 31 March 2003. We are now into January and I am rather confused as to where we are now with this. Are you suggesting that it has to come to the Assembly or—

**Sir Jon Shortridge:** Sorry, can I just say, to give an assurance to the Committee, this is something that I, or, indeed, the sponsor division could do under delegated powers. We will, following this hearing, look at the matter urgently and, if we can properly give this approval in advance of 31 March, we will certainly do so.

[88] **Janice Gregory:** If you had been aware of this before today's meeting, though, I assume that that would actually be in place now—in movement, if you like?

**Sir Jon Shortridge:** It may be that colleagues in the sponsor division are working on this; I personally have not been told that they are, so I do not want to—

[89] **Dafydd Wigley:** Well, if there is any note that you can drop through to us, that would be helpful.

**Sir Jon Shortridge:** It may be, Chair, that, after the break, I can just clarify the matter for you.

[90] **Dafydd Wigley:** Okay, fine. We would be grateful.

dan yr argraff bod yr hyn sydd gennym o'n blaenau yn adroddiad y cytunwyd arno. Onid yw hyn yn wir yn yr achos hwn?

**Syr Jon Shortridge:** Ydy, mae hynny'n wir. Yn wir, mae'n adroddiad y cytunwyd arno, ond mae'r adroddiad yn cynnwys argymhelliad i'r Cynulliad y dylem gymryd camau digonol, ac felly mae'n edrych tua'r dyfodol. Yr hyn yr wyf yn ei ddweud yw, ydy, yn sicr, mae hyn yn rhywbeth y byddaf am edrych arno gyda'r swyddog cydymffurfio ac, os yw'n briodol i ni roi'r gymeradwyaeth hon, byddwn yn gwneud hynny.

[87] **Janice Gregory:** Derbyniaf hynny, Syr Jon, ond mae'n nodi yn yr adroddiad—y dyddiad yn yr adroddiad hwn yw 31 Mawrth 2003. Mae nawr yn fis Ionawr ac yr wyf rywfaint yn ddryslyd ynglŷn â lle'r ydym yn awr o ran y mater hwn. A ydych yn awgrymu bod yn rhaid ei gyflwyno i'r Cynulliad neu—

**Syr Jon Shortridge:** Mae'n ddrwg gennyf, a gaf fi ddweud, i roi sicrwydd i'r Pwyllgor, bod hyn yn rhywbeth y gallaf i, neu, yn wir, yr is-adran nawdd ei wneud dan bwerau dirprwyedig. Byddwn, yn dilyn y gwrandawriad hwn, yn edrych ar y mater ar frys ac, os y byddwn yn gallu rhoi'r gymeradwyaeth hon yn iawn cyn 31 Mawrth, byddwn yn sicr yn gwneud hynny.

[88] **Janice Gregory:** Pe baech wedi bod yn ymwybodol o hyn cyn y cyfarfod heddiw, fodd bynnag, rhagdybiaf y byddai hynny wedi bod ar waith erbyn hyn—ar y gweill, os yr hoffech?

**Syr Jon Shortridge:** Efallai fod cydweithwyr yn yr is-adran nawdd yn gweithio ar hyn; nid wyf yn bersonol wedi clywed eu bod, felly nid wyf am—

[89] **Dafydd Wigley:** Wel, os oes unrhyw nodyn y gallwch ei roi ar hyn i ni, byddai hynny yn ddefnyddiol.

**Syr Jon Shortridge:** Efallai, Gadeirydd, ar ôl yr egwyl, y gallaf egluro'r mater i chi.

[90] **Dafydd Wigley:** Iawn, digon teg. Byddem yn gwerthfawrogi hynny.

[91] **Janice Gregory:** It is me again, I am afraid, and you, Sir Jon. Can you tell the Committee what your view is on the manner in which the national council discharged its responsibilities in its first year of operation?

**Sir Jon Shortridge:** I think that the national council, on the whole, did well in difficult circumstances, and I think that we have heard this afternoon just how difficult some of those circumstances were. I think that it is important that everyone hearing this—and certainly the Committee—should recognise and acknowledge that.

Can I also say, because I think that it is relevant to some of the discussion that we have just been having, that the big picture here is one of managing a big risk. Is it appropriate to move very fast in the way that we expected the council to move in order to give effect to an Assembly policy—and this was a policy, I think, which was supported fairly widely across the Assembly and certainly backed by an Assembly resolution—or do you take time and make sure that all the i's are dotted and the t's crossed? That is the issue, and the view that I took, and that colleagues took, was that, actually, it was to the benefit of Wales and in accordance with what I certainly understood to be the wishes of Members—that the Assembly was here to get things done and to move things on quickly—that this was a risk that was worth taking. As I say, I pay credit to the council members and officials because, actually, this could have gone much more seriously wrong than the Auditor General's report indicates. However, that is something that the Committee may want to reflect on: as Members, are you wanting to place more importance on moving policies forward and getting things done or on ensuring that we, as officials, have more time to really do a thorough job on the administration?

To revert to your more specific question, which was about what was my overall judgment on this, I think that, obviously, the procurement failures—which you will be coming to—were very serious and should not have been allowed to happen. They have damaged the council's reputation and have

[91] **Janice Gregory:** Dyma fi eto, mae'n ddrwg gennyf, a chi, Syr Jon. A allwch ddweud wrth y Pwyllgor beth yw eich barn ar y dull y cyflawnodd y cyngor cenedlaethol ei gyfrifoldebau yn ei flwyddyn gyntaf?

**Syr Jon Shortridge:** Credaf fod y cyngor cenedlaethol, ar y cyfan, wedi gwneud yn dda dan amgylchiadau anodd, a chredaf ein bod wedi clywed y prynhawn yma pa mor anodd oedd rhai o'r amgylchiadau hynny. Credaf ei bod yn bwysig bod pawb sy'n clywed hyn—ac yn sicr y Pwyllgor—yn sylweddoli ac yn cydnabod hynny.

A gaf fi ddweud hefyd, oherwydd fy mod yn credu bod hyn yn berthnasol i rai o'r trafodaethau yr ydym wedi'u cynnal, mai'r darlun cyfan yma yw rheoli risg fawr. A yw'n briodol symud yn gyflym iawn yn y ffordd yr oeddem yn disgwyl i'r cyngor ei wneud er mwyn rhoi polisi'r Cynulliad ar waith—ac yr oedd hwn yn bolisi, credaf, a gefnogwyd yn gymharol eang ledled y Cynulliad ac yn sicr a basiwyd gan y Cynulliad—neu a ydych yn cymryd amser a sicrhau bod yr holl fanylion mewn trefn? Dyna'r mater dan sylw, a'r farn a gymerais, ac a gymerodd cydweithwyr, oedd bod hyn, mewn gwirionedd, er budd Cymru ac yn unol â'r hyn yr oeddwn yn tybio oedd dymuniadau'r Aelodau—bod y Cynulliad yma i gyflawni pethau ac i symud pethau ymlaen yn gyflym—bod hon yn risg a oedd yn werth ei chymryd. Fel y dywedaf, yr wyf yn canmol aelodau a swyddogion y cyngor oherwydd, mewn gwirionedd, gallai hyn fod wedi mynd yn fwy o chwith na'r hyn a nodir yn adroddiad yr Archwilydd Cyffredinol. Fodd bynnag, efallai fod hyn yn rhywbeth y bydd y Pwyllgor am ei ystyried: fel Aelodau, a ydych am roi mwy o bwysigrwydd ar symud polisiau ymlaen a chyflawni pethau neu ar sicrhau ein bod, fel swyddogion, yn cael mwy o amser i wneud gwaith gweinyddu trylwyr?

I ddychwelyd at eich cwestiwn mwy penodol, oedd ynglŷn â beth oedd fy marn gyffredinol ar hyn, credaf, yn amlwg, bod y diffygion caffael—y byddwch yn eu trafod yn y man—yn ddifrifol iawn ac ni ddylent fod wedi gallu digwydd. Maent wedi niweidio enw da'r cyngor ac wedi tynnu sylw i ffwrdd o'r gwir

drawn attention away from the very real successes, that it has achieved during its first year of operation, which we have been discussing.

I would just like to make the point that compliance with the Assembly's delegations and with European Union rules is fundamentally important to good governance. However, it is important that you should understand that what happened was not unlawful, or did not constitute wasted expenditure necessarily. It was expenditure that was undertaken without going through the proper procedures or obtaining the necessary authorisation. As such, that means that the council is unable to demonstrate that it secured full value for money. That is the most important issue, I think, that comes out of this report.

[92] **Janice Gregory:** I do agree with you that it has detracted from the good work that ELWa has done, and I deeply regret that. There were problems, and I think that Mr Martin has taken us through some of the problems in the early stages, but, as a final question, when did you first become aware of the difficulties and what action did you take at the time when you discovered that there were difficulties within the national council?

**Sir Jon Shortridge:** I was aware of the fact that difficulties had emerged from the work of the council's internal auditor in, I think, February. I certainly knew of the action that the council had put in place to examine and investigate that. So, I was observing, with some concern, what was taking place. However, until I had evidence of the nature of the problem, I did not personally intervene, but rather simply kept a watching brief.

[93] **Alison Halford:** Which year was that?

**Sir Jon Shortridge:** Sorry, I am talking here about 2002. This was in relation to procurement and that is when the council itself had a report or knew that there was an internal audit report coming through.

lwyddiannau, y cyflawnodd yn ystod ei flwyddyn weithredol gyntaf, sef testun ein trafodaeth.

Hoffwn bwysleisio bod cydymffurfio â dirprwyaethau'r Cynulliad a rheolau'r Undeb Ewropeaidd yn hanfodol bwysig i lywodraethu da. Fodd bynnag, mae'n bwysig eich bod yn deall nad oedd yr hyn a ddigwyddodd yn anghyfreithlon, nac yn gyfystyr â gwastraffu gwariant o reidrwydd. Yr oedd yn wariant a wnaed heb ddilyn y gweithdrefnau cywir neu heb sicrhau yr awdurdodiad angenrheidiol. Fel y cyfryw, mae hyn yn golygu nad yw'r cyngor yn gallu dangos ei fod wedi sicrhau gwerth llawn am arian. Dyna'r mater pwysicaf, credaf, sy'n deillio o'r adroddiad hwn.

[92] **Janice Gregory:** Yr wyf yn cytuno gyda chi fod hyn wedi tynnu oddi ar y gwaith da y mae ELWa wedi'i wneud, ac yr wyf yn gresynu at hynny. Yr oedd problemau, a chredaf fod Mr Martin wedi egluro rhai o'r problemau yn y cyfnodau cynnar, ond, fel cwestiwn terfynol, pryd yr oeddech yn ymwybodol am y tro cyntaf o'r anawsterau a pha gamau a gymerasoch ar y pryd pan sylweddoloch fod anawsterau o fewn y cyngor cenedlaethol?

**Syr Jon Shortridge:** Yr oeddwn yn ymwybodol o'r ffaith bod anawsterau wedi deillio o waith archwilydd mewnol y cyngor ym mis Chwefror, fe gredaf. Yr oeddwn yn sicr yn gwybod am y camau a gymerodd y cyngor i archwilio ac ymchwilio i hynny. Felly, yr oeddwn yn arsylwi, gyda pheth pryder, yr hyn oedd yn digwydd. Fodd bynnag, hyd nes i mi gael tystiolaeth o natur y broblem, ni ymyrrais yn bersonol, ond yn hytrach bûm yn gwyllo.

[93] **Alison Halford:** Ym mha flwyddyn oedd hynny?

**Syr Jon Shortridge:** Mae'n ddrwg gennyf, yr wyf yn siarad am 2002 yma. Yr oedd hyn mewn perthynas â chaffael a dyna pryd y cafodd y cyngor ei hun adroddiad neu pryd y cafodd wybod bod adroddiad archwilio mewnol am gael ei gyflwyno.



[94] **Dafydd Wigley:** We will be going on to procurement issues in a moment. Alun, I think that you wanted to come in here?

[95] **Alun Cairns:** I would like to take the Permanent Secretary back to the penultimate answer that he gave to Janice Gregory. If my interpretation is right—and I hope that this is not the case and that Sir Jon will clarify my understanding—you were excusing the financial irregularity for the sake of speed and policy development. Is it not your position as the Permanent Secretary of the Assembly to put the risks in front of the Minister and for the Minister to decide whether it is worth that risk or not? That is a policy matter, not something that you could say is well worthwhile because you did something quickly. What sort of message would it send to every public servant working in every division in Wales to say that, if something is done quickly, well, okay, perhaps it is a little irregular, but it does not matter?

**Sir Jon Shortridge:** That is a very important question. If I may clarify it, because it strikes at the heart of my accounting officer responsibilities, I think, and it has been my experience throughout my career, that elected Members and politicians want to get things done. I respect that and I support it. My job, when there are decisions taken and proposals for implementation taking place—and they are taking place all the time in this Assembly—is to take a view as to whether it is reasonable for the Assembly, or the Assembly Government, to proceed in this way or not. So, I would be looking at and taking a view on whether or not it is reckless for this to be done in this way. That is my responsibility. So, in terms of where the accountability is for what happened in terms of the speed of operation of ELWa, the accountability rests with me because, if I felt that it was inappropriate for that Assembly resolution to have been fully implemented in terms of timescale, I would have intervened and sought to stop it. I did not intervene. That is a judgment that I took. It is about managing risk and I think that the issue for this Committee is this: do you want people like me to be here seeking to eliminate all risk, in which case there will be delay, or do you trust my judgment to seek to put in place

[94] **Dafydd Wigley:** Byddwn yn mynd ymlaen i faterion caffael yn y man. Alun, credaf eich bod am gyfrannu yma?

[95] **Alun Cairns:** Hoffwn fynd â'r Ysgrifennydd Parhaol yn ôl at yr ateb olaf ond un a roddodd i Janice Gregory. Os yw fy nehongliad yn gywir—a gobeithiaf nad ydyw ac y bydd Syr Jon yn egluro i mi—yr oeddech yn esgusodi yr afreoleidd-dra ariannol ar draul cyflymder a datblygiad polisi. Onid eich swydd fel Ysgrifennydd Parhaol y Cynulliad yw rhoi'r risgiau gerbron y Gweinidog ac i'r Gweinidog benderfynu a yw'n risg gwerth ei chymryd ai peidio? Mae hynny yn fater polisi, nid yn rhywbeth y gallech ddweud sy'n fuddiol oherwydd eich bod wedi gwneud rhywbeth yn gyflym. Pa fath o neges y byddai'n ei chyfleu i bob gwas sifil sy'n gweithio ym mhob is-adran yng Nghymru i ddweud, os yw rhywbeth yn cael ei wneud yn gyflym, wel, iawn, efallai ei fod ychydig yn afreolaidd, ond nid yw hynny'n bwysig?

**Syr Jon Shortridge:** Mae hwnnw yn gwestiwn pwysig iawn. Os caf ei egluro, oherwydd mae'n ganolog i'm cyfrifoldebau fel swyddog cyfrifo, credaf, ac o'm profiad gydol fy ngyrfa, bod Aelodau a gwleidyddion etholedig am gyflawni pethau. Yr wyf yn parchu hynny ac fe'i cefnogaf. Fy swydd, pan wneir penderfyniadau a chynigion i weithredu—ac mae hyn yn digwydd drwy'r amser yn y Cynulliad—yw ffurfio barn ynglŷn ag a yw'n rhesymol i'r Cynulliad, neu Lywodraeth y Cynulliad, fynd ymlaen yn y modd hyn ai peidio. Felly, buaswn yn cadw llygaid ac yn ffurfio barn ynglŷn ag a yw'n fyrbwyll ai peidio i wneud hyn yn y ffordd hon. Dyna fy nghyfrifoldeb. Felly, o ran pwy sy'n atebol am yr hyn a ddigwyddodd o ran cyflymder gweithrediad ELWa, fy nghyfrifoldeb i yw hyn oherwydd, pe bawn yn credu y byddai'n amhriodol i'r penderfyniad hwnnw gan y Cynulliad gael ei weithredu'n llawn o ran amserlen, buaswn wedi ymyrryd a cheisio rhoi diwedd arno. Ni ymyrrais. Dyna'r farn a gymerais. Mae hyn yn ymwneud â rheoli risg a chredaf mai hyn ddylai'r Pwyllgor ei benderfynu: a ydych am i bobl fel fi fod yma yn ceisio diddymu pob risg, ac achosi oedi drwy hynny, neu a ydych yn ymddiried yn fy mhenderfyniadau i geisio rhoi trefniadau ar waith lle mae risgiau yn

arrangements whereby risks are properly and appropriately managed to ensure that, on the balance of judgment, you get a better outcome than if you delay?

[96] **Dafydd Wigley:** In terms of balance of judgment, Sir Jon, given hindsight, and had you known that things would have worked out like this, would you have taken the same decision?

**Sir Jon Shortridge:** Yes, I would. I say that because I acknowledge the pressure and difficulties that this decision has placed on people, but at no stage in this process was I being told by those involved that this was not achievable. I think, as we have seen, that certain things went seriously wrong, but, on the whole, as these accounts indicate, an enormous amount was achieved, both administratively and in terms of the delivery of business, as a result of ELWa being established when it was.

[97] **Dafydd Wigley:** Alun, do you want to say something before I move on to Alison?

[98] **Alun Cairns:** Yes. I am concerned that we are underplaying the irregularities. There are large sums of money involved here and I hope that we are not underplaying them. I know that we will come on to the specific contracts a little later on, but I would like to leave that as a statement.

**Sir Jon Shortridge:** Well, may I just say that I am in no way underplaying the irregularities. I have said that the procurement failures were very serious and should not have been allowed to happen. We, as Assembly officials, and the compliance officer were not prepared to give retrospective approval to them. These are serious matters—and I have my own little scale of seriousness regarding things that can genuinely go wrong in terms of governance—but this did not involve fraud and did not involve a serious abuse of public money. These were irregularities that should not have occurred but, when you take the whole picture in the round, I think that the council achieved an awful lot in a very difficult and challenging year.

cael eu rheoli'n gywir ac yn briodol i sicrhau, o bwysu a mesur, y cewch well canlyniad na phe bai oedi?

[96] **Dafydd Wigley:** O bwysu a mesur, Syr Jon, o edrych yn ôl, a phe baech yn gwybod y byddai pethau wedi dod i hyn, a fyddech wedi dod i'r un penderfyniad?

**Syr Jon Shortridge:** Buaswn, fe fuaswn. Dywedaf hynny oherwydd fy mod yn cydnabod y pwysau a'r anawsterau y mae'r penderfyniad hwn wedi ei roi ar bobl, ond ni ddywedwyd wrthyf ar unrhyw adeg gan y rhai a oedd ynghlwm wrth y peth nad oedd hyn o fewn cyrraedd. Credaf, fel yr ydym wedi gweld, bod rhai pethau penodol wedi mynd yn hollol anghywir, ond, ar y cyfan, fel y mae'r cyfrifon hyn yn ei ddangos, cafodd llawer iawn ei gyflawni, yn weinyddol ac o ran cyflawni'r busnes, o ganlyniad i sefydlu ELWa pan wnaethpwyd hynny.

[97] **Dafydd Wigley:** Alun, a ydych am ddweud unrhyw beth cyn i mi symud ymlaen at Alison?

[98] **Alun Cairns:** Ydw. Yr wyf yn bryderus ein bod yn bychanu'r afreoleidd-dra. Yr ydym yn trafod symiau mawr o arian yma a gobeithiaf nad ydym yn eu bychanu. Gwn y byddwn yn symud ymlaen at y contractau penodol ychydig yn ddiweddarach, ond hoffwn adael hynny fel datganiad.

**Syr Jon Shortridge:** Wel, a gaf ddweud nad wyf mewn unrhyw ffordd yn bychanu'r afreoleidd-dra. Yr wyf wedi dweud bod y methiannau caffael yn ddifrifol iawn ac ni ddylent fod wedi cael digwydd. Nid oeddem, fel swyddogion y Cynulliad, a'r swyddog cydymffurfio yn fodlon i roi cymeradwyaeth adolygol iddynt. Mae'r rhain yn faterion difrifol—ac mae gennyf fy ngraddfa fach fy hun o ddifrifoldeb o ran pethau a all fynd yn wirioneddol anghywir o ran llywodraethu—ond nid oedd hyn yn cynnwys twyll ac nid oedd yn cynnwys camddefnyddio arian cyhoeddus yn ddifrifol. Yr oedd y rhain yn achosion o afreoleidd-dra na ddylai fod wedi digwydd ond, o ystyried y darlun yn ei gyfanrwydd, credaf fod y cyngor wedi cyflawni llawer iawn mewn blwyddyn anodd

iawn a llawn her.

[99] **Dafydd Wigley:** We will come back to some aspects of that, I am sure.

[99] **Dafydd Wigley:** Byddwn yn dychwelyd at rai agweddau ar hyn, yr wyf yn sicr.

[100] **Alison Halford:** I am supposed to talk to you about the late production of accounts but, clearly, the issues that you have just discussed are of major concern. You are suggesting—and I understand what you are saying—that you did certain things because elected Members wanted to get things done. We have covered that basically in Alun Cairns's questions. You must have discussed matters with Mr Martin, who told us that he went out to visit all the TECs. Mr Martin, before I come back to that, when did you go out to visit all the TECs to talk to the staff?

[100] **Alison Halford:** Yr wyf i fod siarad â chi am gynhyrchu cyfrifon yn hwyr ond, yn amlwg, mae'r materion yr ydych newydd eu trafod yn achos pryder mawr. Yr ydych yn awgrymu—ac yr wyf yn deall yr hyn yr ydych yn ei ddweud—eich bod wedi gwneud pethau penodol oherwydd bod Aelodau etholedig am gyflawni pethau. Yr ydym wedi rhoi sylw'n gyffredinol i hynny yng nghwestiynau Alun Cairns. Mae'n rhaid eich bod wedi trafod materion â Mr Martin, a ddywedodd wrthym ei fod wedi ymweld â phob TEC. Mr Martin, cyn i mi dychwelyd at hynny, pryd y bu i chi ymweld â phob TEC i siarad â'r staff?

**Mr Martin:** It was not once. I am relying on memory, but it was after my appointment in May 2000—certainly that summer—again in the autumn and I think that I made a third series of visits and talks about the future in the immediate weeks before the handover.

**Mr Martin:** Nid unwaith y digwyddodd hynny. Yr wyf yn dibynnu ar fy nghof, ond yr oedd ar ôl fy mhenodi ym mis Mai 2000—yn sicr yn ystod yr haf hwnnw—eto yn yr hydref a chredaf fy mod wedi bod ar drydedd gyfres o ymweliadau a sgysiau am y dyfodol yn yr wythnosau cyn y trosglwyddo.

[101] **Alison Halford:** You were a diligent chief executive in the offing and you went out and spoke to the staff. You have also pointed out to colleagues—you did not use the word 'chaotic', that is my word—that you found different management systems and different ways of running things. You have talked about differences between costing a budget and costing a programme. You went through a whole list of things that were wrong with these five private organisations. Why was that not shared with the principal accounting officer so that he could have gone to the Minister—a man that I know well—who possibly could have slowed things down and given you this period of time that you clearly desperately needed in order not to have cost the taxpayer a vast sum of money?

[101] **Alison Halford:** Yr oeddech yn ddarpar brif weithredwr ac fe aethoch allan i siarad â'r staff. Yr ydych hefyd wedi pwysleisio wrth gydweithwyr—ni wnaethoch ddefnyddio'r gair 'anhrefnus', fy ngair i yw hwnnw—eich bod wedi canfod gwahanol systemau rheoli a gwahanol ffyrdd o weithredu pethau. Yr ydych wedi siarad am wahaniaethau rhwng prisio cyllideb a phrisio rhaglen. Yr ydych wedi mynd drwy restr gyfan o bethau a oedd yn anghywir gyda'r pum sefydliad preifat hyn. Pam na rannwyd hynny gyda'r prif swyddog cyfrifo fel y gallai fod wedi mynd at y Gweinidog—dyn yr wyf yn ei adnabod yn dda—a allai o bosibl fod wedi arafu pethau a rhoi'r cyfnod hwn ichi yr oedd yn amlwg ei angen arnoch er mwyn osgoi costau enfawr i'r trethdalwr?

**Mr Martin:** May I deal with the last point first? I do not believe that we have cost the taxpayer money in that sense, though you will doubtless want to ask questions about value for money.

**Mr Martin:** A gaf drafod y pwynt olaf yn gyntaf? Ni chredaf ein bod wedi achosi costau i'r trethdalwr yn y synnwyr hwnnw, er nad oes amheuaeth y byddwch am ofyn cwestiynau am werth am arian.

[102] **Dafydd Wigley:** But why the

[102] **Dafydd Wigley:** Ond pam yr

irregularities?

**Mr Martin:** To avoid the irregularities, clearly, the longer you have to do that the better. However, I think that it goes back to Sir Jon's point about where you want to place the balance of risk. As I said earlier—

[103] **Alison Halford:** I am sorry, but I am going to be rude here. Did you discuss the various problems that you saw? You have talked at length about changing the culture: we understand that. Was that not conveyed back to the Minster in any shape or form, either by you or through Sir Jon Shortridge?

**Mr Martin:** Certainly the strand group process threw up that there were these differences. Everybody was aware of them—there is no question about people not being aware of them. There was a regular dialogue—not with Sir Jon; I do not knock on his door unless there is very serious business to do—with the sponsor division, and we shared many of these things and they were known to all of us.

[104] **Alison Halford:** Did you consider going to the Minster and saying that the problems were worse than we ever considered them to be?

**Mr Martin:** No.

[105] **Alison Halford:** Why not?

**Mr Martin:** Because I regarded it as my job—and I still regard it as my job—to get on and do it. We believe that we made a pretty good fist of most of it. We got the things wrong that are highlighted in the Auditor General's report.

[106] **Alison Halford:** Okay. Let me go back to my prepared questions. If everything was so good, when and why did your accounts production go so seriously wrong and off the rails? As we know very well, the accounts that you submitted on 31 August 2002 were not finalised, and the corrected version did not finally go in until 20 December 2002.

afreoleidd-dra?

**Mr Martin:** I osgoi'r afreoleidd-dra, yn amlwg, po hiraf sydd gennych i wneud hynny, y gorau. Fodd bynnag, credaf fod hyn yn mynd yn ôl at bwynt Syr Jon ynglŷn â ble'r ydych am leoli'r risg. Fel y dywedais yn gynharach—

[103] **Alison Halford:** Mae'n ddrwg gennyf, ond yr wyf am fod yn ddigywilydd yma. A wnaethoch drafod y problemau amrywiol a welsoch? Yr ydych wedi siarad yn faith am newid y diwylliant: yr ydym yn deall hynny. Oni fynegwyd hynny i'r Gweinidog mewn unrhyw ffordd, naill ai gennych chi neu drwy Syr Jon Shortridge?

**Mr Martin:** Yn sicr amlygodd y broses grŵp *strand* y gwahaniaethau hyn. Yr oedd pawb yn ymwybodol ohonynt—nid oes amheuaeth nad oedd pobl yn ymwybodol ohonynt. Yr oedd trafodaeth gyson—nid gyda Syr Jon; nid wyf yn cnocio ar ei ddrws ef os nad oes busnes difrifol iawn i'w wneud—gyda'r is-adran nawdd, a bu inni rannu nifer o'r pethau hyn ac yr oeddent yn hysbys i bawb ohonom.

[104] **Alison Halford:** A wnaethoch ystyried mynd at y Gweinidog a dweud bod y problemau yn waeth nag yr oeddem erioed wedi ei ystyried?

**Mr Martin:** Na.

[105] **Alison Halford:** Pam lai?

**Mr Martin:** Oherwydd fy mod yn ystyried mai fy nyletswydd i—ac yr wyf yn parhau i'w ystyried yn ddyletswydd i mi—oedd bwrw iddi a'i gyflawni. Yr ydym yn credu ein bod wedi rhoi cynnig da ar y rhan fwyaf o'r gwaith. Bu inni gael y pethau a amlygir yn adroddiad yr Archwilydd Cyffredinol yn anghywir.

[106] **Alison Halford:** Iawn. Gadewch imi ddychwelyd at y cwestiynau yr oeddwn wedi'u paratoi. Os oedd popeth cystal, pryd a pham y bu i'ch gwaith o gynhyrchu cyfrifon fynd mor anghywir ac ar gyfeiliorn i'r fath raddau? Fel y gwyddom yn dda iawn, nid oedd y cyfrifon a gyflwynasoch ar 31 Awst 2002 yn rhai terfynol, ac ni chyflwynwyd y

fersiwn cywir tan 20 Rhagfyr 2002.

**Mr Martin:** That is correct. The first thing is that the assumption that was made in the strand groups, after detailed consideration in the finance group, was that we would not have to undertake the consolidation of the TEC accounts. I believe that we were made aware that we would have to undertake a consolidation of the TEC accounts, which was the major complicating factor in the production of the national council's accounts, in February 2002. That coincided with the time when we were doing two things. The first is that we were putting in a new accounting system, and a huge amount of senior and not-so-senior staff effort went into that. The second thing that was going on was that we were actually on the point of making major redundancies, which included taking posts out of finance. Frankly, in any event, we did not have the commercial expertise that would have enabled us to undertake that consolidation quickly. We recruited KPMG after a tender process and it then set about this work. I am afraid that one member of KPMG who was doing the work left, another was made redundant and new people had to be drafted in. We also seriously underestimated the difficulties arising from the five different accounting systems in terms of how difficult it was to get good data.

[107] **Alison Halford:** Thank you very much. You have explained in full. Why were you making people redundant and yet employing external auditors to help you to balance your books? Am I being terribly thick?

**Mr Martin:** The external auditors were recruited only to help us with the consolidation of the TEC accounts because we did not have the expertise to do that. We were making people redundant because our running cost line did not allow us to employ those people. It was always an expectation from the outset that bringing together these bodies would enable us to make savings, particularly in common services. Finance is obviously one of those areas. However, we were not making people redundant who would have helped us to do the consolidation. It is certainly true that, with the weight of

**Mr Martin:** Mae hynny'n gywir. Y peth cyntaf yw mai'r rhagdybiaeth a wnaed yn y grwpiau *strand*, wedi i'r grŵp cyllid ei hystyried yn fanwl, oedd na fyddem yn gorfod ymgymryd â chyfuno cyfrifon y TECs. Credaf inni gael ein hysbysu y byddai'n rhaid inni gyfuno cyfrifon y TEC, sef y brif ffactor cymhlethu o ran cynhyrchu cyfrifon y cyngor cenedlaethol, ym mis Chwefror 2002. Yr oedd hyn yn cyd-daro â'r amser yr oeddem yn gwneud dau beth. Y peth cyntaf oedd ein bod yn cyflwyno system gyfrifo newydd, ac yr oedd hyn yn gofyn am ymdrech enfawr gan uwch staff a staff arferol. Yr ail beth a oedd yn digwydd oedd ein bod mewn gwirionedd ar fin gwneud diswyddiadau pwysig, a oedd yn cynnwys cael gwared ar swyddi cyllid. Yn blwmp ac yn blaen, pa un bynnag, nid oedd gennym yr arbenigedd masnachol a fyddai wedi'n galluogi i ymgymryd â'r cyfuno hwnnw yn gyflym. Bu inni recriwtio KPMG ar ôl proses dendro ac yna dechreuodd ar y gwaith hwn. Yn anffodus gadawodd un aelod o KPMG a oedd yn gwneud y gwaith, diswyddwyd un arall ac yr oedd yn rhaid cyflogi pobl newydd. Yr oeddem hefyd wedi tan-amcangyfrif yn ddifrifol yr anawsterau a fyddai'n deillio o'r pum system gyfrifo wahanol o ran pa mor anodd oedd cael data da.

[107] **Alison Halford:** Diolch yn fawr. Yr ydych wedi egluro yn llawn. Pam eich bod yn diswyddo pobl ond eto'n cyflogi archwilwyr allanol i'ch cynorthwyo i fantoli'ch cyfrifon? A wyf yn bod yn hollol dwp?

**Mr Martin:** Recriwtiwyd yr archwilwyr allanol i'n cynorthwyo i gyfuno cyfrifon y TEC yn unig oherwydd nad oedd gennym yr arbenigedd i wneud hynny. Yr oeddem yn diswyddo pobl oherwydd nad oedd ein llinell gostau gweithredu yn caniatáu inni gyflogi'r bobl hynny. Yr oeddem yn disgwyl o'r cychwyn y byddai dod â'r cyrff hyn at ei gilydd yn galluogi i ni wneud arbedion, yn enwedig mewn gwasanaethau cyffredin. Mae cyllid yn amlwg yn un o'r meysydd hynny. Fodd bynnag, nid oeddem yn diswyddo pobl a fyddai wedi ein cynorthwyo i weithredu'r cyfuno. Y mae'n sicr yn wir, gyda baich y

payments that we then had to handle in March of that year, which was way beyond our expectations, we did not have as many staff as we needed to do the job that we had to undertake. It is also true, with hindsight, that letting people go at that time—although we could not afford to carry on paying them as we would have been overspending our budget—did not help with that process.

[108] **Alison Halford:** Sir Jon, could I quickly take you back to your areas of responsibility? We have both lost count of the times that you have appeared before this Committee. Obviously, from your attitude this afternoon, you were getting quite cross. That is interesting. I am not making that as any comment. I am sure that you are absolutely entitled to get cross. However, it is important. You are laying quite a lot of responsibility on Ministers. I am sorry, but in your comments, you are putting quite a lot on Ministers. Were you not aware of the major problems that were being stoically handled by Steve Martin? Could you not envisage that there were problems and at least have tapped the Minister on the shoulder to slow things down?

**Sir Jon Shortridge:** May I just say, Chair, that I was not getting cross. I might have been getting animated because I think that the issue we are addressing is very important.

[109] **Alison Halford:** I think that is excellent coming from a civil servant, quite frankly. [*Laughter.*]

[110] **Dafydd Wigley:** I think that that is meant to be a compliment. [*Laughter.*]

**Sir Jon Shortridge:** More importantly, I hope that I was not giving the impression that I was putting responsibilities on Ministers, to use your words. What I am saying is that I have a responsibility in these circumstances to satisfy myself that policies, which we as officials have been asked to do, and, in this case, we were actually asked to do by the Assembly at large, are ones that are deliverable. That is quite an onerous responsibility, and one that I take very

taliadau yr oedd yn rhaid i ni ymdrin â hwy ym mis Mawrth y flwyddyn honno, a oedd ymhell y tu hwnt i'n disgwyliadau, nad oedd gennym gymaint o staff ag yr oedd ei angen arnom i wneud y gwaith yr oedd yn rhaid i ni ei gyflawni. Mae'n wir hefyd, wrth edrych yn ôl, nad oedd gadael i bobl fynd bryd hynny—er nad oeddem yn gallu fforddio parhau i'w talu gan y byddem wedi bod yn gorwario—wedi helpu gyda'r broses honno.

[108] **Alison Halford:** Syr Jon, a gaf gyfeirio'n ôl yn gyflym at eich meysydd cyfrifoldeb? Yr ydym ein dau wedi colli cyfrif o'r nifer o weithiau yr ydych wedi ymddangos gerbron y Pwyllgor hwn. Yn amlwg, o'ch agwedd y prynhawn yma, yr oeddech yn dechrau digio. Mae hynny'n ddiddorol. Nid wyf yn dweud hynny fel unrhyw sylw. Yr wyf yn siŵr bod gennych berffaith hawl i fod yn ddig. Fodd bynnag, mae hyn yn bwysig. Yr ydych yn rhoi llawer o gyfrifoldeb i Weinidogion. Mae'n ddrwg gennyf, ond yn ôl eich sylwadau, yr ydych yn gofyn llawer gan Weinidogion. Onid oeddech yn ymwybodol o'r problemau difrifol a oedd yn cael eu hysgwyddo'n stoicaidd gan Steve Martin? Onid oeddech yn gallu rhagweld bod problemau ac oni fydddech o leiaf wedi gallu hysbysu'r Gweinidog er mwyn arafu pethau?

**Syr Jon Shortridge:** A gaf ddweud, Gadeirydd, nad oeddwn yn digio. Efallai fy mod yn cyffroi oherwydd fy mod yn ystyried bod y mater yr ydym yn ei drafod yn un pwysig iawn.

[109] **Alison Halford:** Credaf fod clywed hynny o enau gwas sifil yn rhagorol, a bod yn blwmp ac yn blaen. [*Chwerthin.*]

[110] **Dafydd Wigley:** Credaf mai canmoliaeth yw bwriad hwnnw. [*Chwerthin.*]

**Syr Jon Shortridge:** Yn bwysicach, yr wyf yn gobeithio nad oeddwn yn rhoi'r argraff fy mod yn rhoi cyfrifoldebau i Weinidogion, i ddefnyddio'ch geiriau chi. Yr hyn yr wyf yn ei ddweud yw bod dyletswydd arnaf dan yr amgylchiadau hyn i fodloni fy hun bod polisïau, y gofynnwyd i ni fel swyddogion eu gwneud, ac, yn yr achos hwn, gofynnwyd i ni wneud hyn gan y Cynulliad yn gyffredinol, yn rhai y gellir eu gweithredu. Mae hynny yn gyfrifoldeb eithaf beichus, ac yn un yr wyf yn

seriously. My judgment is that, through the process, it was right to let it continue to go on, because I had a lot of confidence in the transition arrangements which were in place, and because I personally did not have members of the council, or the chief executive of the council, coming up to me and saying, 'this is not deliverable'. So, through that process, I felt that the policy that we were being asked to implement by the Assembly was deliverable, and that we had a responsibility as officials to deliver it. I was further saying that, while I very much regret the things that went wrong, and which are reported on in these accounts, I think that, if you balance that against what ELWa has achieved, and consider whether it would have been better to have spent the public money involved in delaying the establishment of ELWa by a further year, my judgment is that actually it was right to continue as we did. I would be very interested in whether the Committee, when it has deliberated on this, agrees with that. I would also genuinely be very interested—because it could be part of that—in the extent to which you feel that I, in exercising my responsibilities, and we as officials exercising our responsibilities, should put more emphasis on eliminating risk, which can lead to delay, as opposed to seeking to manage and minimise it in order to be able to make progress quickly.

[111] **Dafydd Wigley:** May I just say—and I will come back to you, Alison—that those are not the only two options, are they? There is the third option that, if you have full information about the developing risk and the worsening problems that are arising, you relieve the financial pressures that might have led to Mr Martin and his team having to do without certain key staff such as accountants. That seems to have been one of the aspects that was not properly followed.

**Sir Jon Shortridge:** I think that that begins to get into the policy area. This was not something that I was being asked or required to address during the process of establishing ELWa, and I think that, in part, this is all around wider financial settlements as opposed to the arrangements for establishing ELWa council itself.

ei gymryd o ddifrif. Yn fy marn i, drwy gydol y broses, yr oedd yn briodol caniatáu iddi barhau i fynd yn ei blaen, oherwydd yr oedd gennyf lawer o ffydd yn y trefniadau pontio oedd ar waith, ac oherwydd nad oedd aelodau o'r cyngor, neu brif weithredwr y cyngor, yn dod ataf yn bersonol ac yn dweud, 'nid oes modd gweithredu hyn'. Felly, drwy'r broses honno, teimlais fod modd gweithredu'r polisi yr oedd y Cynulliad yn gofyn i ni ei weithredu, a'i bod yn ddyletswydd arnom ni fel swyddogion i'w gyflawni. Yr oeddwn yn dweud hefyd, er fy mod yn edifarhau'n fawr y pethau a aeth o le, ac a adroddwyd arnynt yn y cyfrifon hyn, credaf, os byddech yn cymharu hynny â'r hyn y mae ELWa wedi ei gyflawni, ac yn ystyried a fyddai wedi bod yn well gwario'r arian cyhoeddus dan sylw ar ohirio sefydlu ELWa am flwyddyn arall, credaf, mewn gwirionedd, ei bod yn gywir i ni barhau fel y gwnaethom. Byddai'n ddiddorol iawn gennyf weld a fydd y Pwyllgor yn cytuno â hynny ar ôl trafod hyn. Byddai diddordeb gwirioneddol gennyf hefyd—oherwydd gallai fod yn rhan o hynny—i weld i ba raddau yr ydych yn teimlo y dylwn i, wrth weithredu fy nghyfrifoldebau, a ni fel swyddogion wrth weithredu ein cyfrifoldebau, roi mwy o bwyslais ar ddileu risg, sy'n gallu arwain at oedi, yn hytrach na cheisio ei reoli a'i leihau er mwyn gwneud cynnydd yn gyflym.

[111] **Dafydd Wigley:** A gaf ddweud—adof yn ôl atoch, Alison—bod opsiynau eraill heblaw'r ddau hynny, onid oes? Mae trydydd opsiwn sef, os oes gennych yr holl wybodaeth am y risg sy'n datblygu a'r problemau mwyfwy difrifol sy'n codi, eich bod yn lleddfu'r pwysau ariannol a allai fod wedi arwain at sefyllfa lle'r oedd Mr Martin a'i dîm yn gorfod ymdopi heb rai aelodau staff allweddol megis cyfrifwyr. Mae honno yn ymddangos fel un o'r agweddau na chafodd ei dilyn yn gywir.

**Syr Jon Shortridge:** Yr wyf yn meddwl bod hynny'n gorgyffwrdd â'r maes polisi. Ni ofynnwyd i mi, ac nid oedd yn ofynnol i mi fynd i'r afael â hyn yn y broses o sefydlu ELWa, a chredaf, yn rhannol, bod hyn yn cwmpasu cytundebau ariannol ehangach yn hytrach na'r trefniadau ar gyfer sefydlu cyngor ELWa ei hun.

[112] **Dafydd Wigley:** I note that as a policy question, therefore, which should be pursued in the appropriate place. Sorry, Alison.

[112] **Dafydd Wigley:** Yr wyf yn ei nodi fel cwestiwn polisi, felly, y dylid ei drafod yn y man priodol. Mae'n ddrwg gennyf, Alison.

[113] **Alison Halford:** This is my very final question, Chair, and thank you very much for that frank exchange, Sir Jon; I shall obviously read the record carefully for various reasons. Is it going to happen again, please, gentlemen—the late submission of accounts?

[113] **Alison Halford:** Dyma fy nghwestiwn olaf un, Gadeirydd, a diolch yn fawr iawn i chi am eich sylwadau gonest, Syr Jon; byddaf yn amlwg yn darllen y cofnod yn ofalus am wahanol resymau. A yw'n mynd i ddiagwydd eto, os gwelwch yn dda, wŷr bonheddig—cyflwyno cyfrifon yn hwyr?

**Mr Martin:** I will ensure that it does not happen. We already have, as I say, a single system in place, which is making the production of the accounts much simpler. The job will be greatly eased to the extent that we can get the residual TEC business into the hands of the liquidator, who can then take responsibility for these matters, and we will not have to face them. However, if necessary, I will deploy additional resources—indeed I am already in the process of strengthening the financial and the procurement operations even more so that we can make sure that we are successful. I am not prepared to have it happen twice running.

**Mr Martin:** Byddaf yn sicrhau na fydd yn digwydd. Mae gennym eisoes, fel yr wyf wedi crybwyll, system sengl ar waith, sy'n gwneud y gwaith o gynhyrchu cyfrifon llawer yn haws. Bydd y gwaith yn llawer mwy hwylus i'r graddau y gallwn roi'r busnes TEC sydd yn weddill yn nwylo'r diddymwr, a all wedyn ysgwyddo cyfrifoldeb am y materion hyn, ac ni fydd yn rhaid i ni eu hwynebu. Fodd bynnag, os oes angen, byddaf yn neilltuo adnoddau ychwanegol—yn wir yr wyf eisoes yn y broses o gryfhau ymhellach y gweithredoedd ariannol a chaffael fel y gallwn sicrhau ein bod yn llwyddiannus. Nid wyf yn barod i adael i hyn ddiagwydd ddwy waith yn olynol.

[114] **Alison Halford:** At least I will not be around to interview you next time, Mr Martin.

[114] **Alison Halford:** O leiaf ni fyddaf i yma i'ch cyfweld y tro nesaf, Mr Martin.

[115] **Dafydd Wigley:** Nor will I. We are running late, but this is a suitable break point. I ask the Committee to be back in 10 minutes, please, when we will take on the question of irregular procurements.

[115] **Dafydd Wigley:** Na minnau ychwaith. Yr ydym yn rhedeg yn hwyr, ond mae hwn yn fan priodol am egwyl. Gofynnaf i'r Pwyllgor ddychwelyd ymhen 10 munud, os gwelwch yn dda, pan fyddwn yn trafod y mater o gaffaeliadau afreolaidd.

**Gohiriwyd y cyfarfod rhwng 3.29 p.m. a 3.41 p.m.  
The meeting was adjourned between 3.29 p.m. and 3.41 p.m.**

[116] **Dafydd Wigley:** Before I ask Val to ask her questions, there is one matter just hanging over from the last question that I would like to put to you, Sir Jon, and that is in the context of your balancing taking certain risks in order to achieve a rapid programme that would have benefits in educational terms. The question that comes to mind is whether in fact you did have enough knowledge about the risks that you were taking, whether those risks were conveyed to

[116] **Dafydd Wigley:** Cyn i mi ofyn i Val ofyn ei chwestiynau, yr wyf am eich holi am un mater sy'n weddill o'r cwestiwn diwethaf, Syr Jon, ac mae hynny yn y cyd-destun i chi gydbwyso cymryd rhai risgiau er mwyn sicrhau rhaglen gyflym â manteision o ran addysg. Y cwestiwn ddaw i'r meddwl yw a oedd gennyf, mewn gwirionedd, ddigon o wybodaeth am y risgiau yr oeddech yn eu cymryd, a gyflëwyd y risgiau hynny i chi, ac a oeddech mewn sefyllfa drefnus i asesu eu



you, and whether you were in a systematic position to assess their impact and significance, because I believe that that is something that is probably material to assessing the line of argument that you are putting forward.

**Sir Jon Shortridge:** Chair, may I first say, because I do not want there to be any misinterpretation, that one of the other things that I am balancing is wanting to make it absolutely clear to the Committee just how seriously I take what happened at ELWa council and the irregularity. There is no doubt about that at all. However, I do think that I have a responsibility—as indeed I think the Committee would want—to put that into this wider context. Now, in terms of what intelligence system I had—if I can put it that way—I was not directly involved in this process personally. I had a steering group, chaired by the director of education, and I had the project board, chaired by Neil Thomas, the head of division. They had a very comprehensive risk register, which they kept fully up to date, but the focus of work and of that risk register was on ensuring that the council could and would be established on 1 April. Our focus was much less on the competence of the council to organise itself and run itself effectively. It was—and Mr Martin may want to comment—seen by the chief executive of the council as very much his personal responsibility as accounting officer to deal with those issues.

The way I look at it is that it is dangerous if you have a blurring of accounting officer responsibilities. I need to be quite clear about what my responsibilities are as principal accounting officer and Steve needs to be clear about what his are, because if we both think that we are doing something that the other one should be doing, then things can fall down between cracks. So the assurance that I took, through this process, was that I was not being alerted as accounting officer by Mr Martin, or by the people who were acting on my behalf, that this was undeliverable, or would not be able to operate sufficiently effectively through that year. So I

heffaith a'u harwyddocâd, oherwydd credaf fod hynny yn rhywbeth sydd yn hanfodol yn ôl pob tebyg i asesu'r ddadl yr ydych yn ei chyflwyno.

**Syr Jon Shortridge:** Gadeirydd, a gaf yn gyntaf ddweud, oherwydd yr wyf am osgoi unrhyw gamddehongli, mai un o'r pethau eraill yr wyf yn eu cydbwysu yw'r angen i'w gwneud yn hollol glir i'r Pwyllgor pa mor ddifrifol yr wyf yn ystyried yr hyn a ddigwyddodd yng nghyngor ELWa a'r afreoleidd-dra. Nid oes unrhyw amheuaeth am hynny. Fodd bynnag, credaf fod cyfrifoldeb arnaf—fel yr hoffai'r Pwyllgor yr wyf yn siŵr—i roi hynny o fewn y cyddestun ehangach hwn. Felly, o ran pa system wybodaeth oedd gennyf—os gallaf gyfeirio ati yn y modd hwnnw—nid oeddwn yn ymwneud yn uniongyrchol â'r broses hon yn bersonol. Yr oedd gennyf grŵp llywio, dan gadeiryddiaeth y cyfarwyddwr addysg, ac yr oedd gennyf y bwrdd prosiect, dan gadeiryddiaeth Neil Thomas, pennaeth yr isadran. Yr oedd ganddynt gofrestr risg dra chynhwysfawr, a oedd yn cael ei diweddarau'n llawn ganddynt, ond yr oedd ffocws y gwaith a'r gofrestr risg honno ar sicrhau y gellid sefydlu'r cyngor ar 1 Ebrill ac ar sicrhau y byddai hyn yn cael ei gyflawni. Yr oeddem yn canolbwyntio lawer yn llai ar gymhwysedd y cyngor i drefnu'i hun a chynnal ei hun yn effeithiol. Yr oedd—ac efallai y bydd Mr Martin am wneud sylw—prif weithredwr y cyngor yn ystyried mai ei gyfrifoldeb personol ef fel swyddog cyfrifo oedd ymdrin â'r materion hynny.

Yn fy marn i, mae aneglurder o ran cyfrifoldebau swyddog cyfrifo yn beryglus. Mae angen imi fod yn hollol glir beth yw fy nghyfrifoldebau fel prif swyddog cyfrifo ac mae angen i Steve fod yn glir beth yw ei gyfrifoldebau ef, oherwydd os ydym ein dau yn meddwl ein bod yn gwneud rhywbeth y dylai'r llall fod yn ei wneud, yna gall pethau ddisgyn rhwng y ddwy stol. Felly y sicrwydd y cymerais, drwy'r broses hon, oedd nad oeddwn yn cael fy hysbysu fel swyddog cyfrifo gan Mr Martin, neu gan y bobl a oedd yn gweithredu ar fy rhan, ei bod yn amhosibl cyflawni hyn, neu na fyddai'n gallu gweithredu'n ddigon effeithiol drwy gydol y

had no basis for assuming that there would be very serious failings in ELWa council in the first year. The point that I am trying to make—but, as I say, it is a balancing act—is that things could have gone much worse than they did in the first year and they did not. So I think that, from where I am sitting, the balance of risk and the way it was handled was sufficiently justified. However, as I have said to the Committee, I acknowledge that you will want to consider that, and see whether you would take a different view. It may be that Mr Martin wants to—

[117] **Dafydd Wigley:** Before Mr Martin comes in, we will take whatever comfort we can from the fact that things did not go worse than they did. Mr Martin?

**Mr Martin:** Thank you, Chair. I agree with Jon. I take the point about clarity of responsibility, as I will say again when I no doubt have the opportunity in answering questions about the particular procurements and what went wrong with them.

[118] **Dafydd Wigley:** Perhaps we had better get on to that immediately.

[119] **Val Lloyd:** I will address my next question regarding the irregular procurements to Mr Martin, but, if I may, I will first of all highlight a previous answer that was given to a question I asked regarding the requirement for private companies to comply with EU procurement rules in certain circumstances. Now, if that is a requirement for private companies, I would say that it would be a fair bet that any person would think that that would also apply to public bodies to at least the same degree, if not more so. That being the case, why was it that your staff were apparently unaware of the national council's procurement rules and of fundamental matters such as the need to comply with EU procurement regulations?

**Mr Martin:** If I could take the point about understanding the EU requirements first, I think that there is very little evidence at all of any attention being paid—notwithstanding the Welsh Assembly Government guidance to the TECs in the mid-1990s—to those EU

flwyddyn honno. Felly nid oedd gennyf unrhyw sail i feddwl y byddai methiannau difrifol iawn yng nghyngor ELWa yn y flwyddyn gyntaf. Y pwynt yr wyf yn ceisio ei wneud—ond, fel y dywedais, mae'n fater o gydbwysu—yw y gallai pethau fod wedi bod yn llawer gwaeth nag yr oeddynt yn y flwyddyn gyntaf ond nad dyna oedd yr achos. Felly credaf, o'm safbwynt i, bod y cydbwysu risg a'r modd y deliwyd ag ef, wedi ei gyfiawnhau'n ddigonol. Fodd bynnag, fel yr wyf wedi ei ddweud wrth y Pwyllgor, cydnabyddaf y byddwch am ystyried hynny, a gweld a fyddai'ch barn chi yn wahanol. Efallai fod Mr Martin am—

[117] **Dafydd Wigley:** Cyn i Mr Martin siarad, cymerwn pa bynnag gysur y gallwn o'r ffaith nad aeth pethau'n waeth nag y gwnaethant. Mr Martin?

**Mr Martin:** Diolch, Gadeirydd. Yr wyf yn cytuno â Jon. Yr wyf yn derbyn y pwynt am eglurder ynghylch cyfrifoldeb, fel y dywedaf eto pan mae'n siŵr y caf y cyfle i ateb cwestiynau am y caffaeliadau penodol a beth aeth o'i le gyda hwy.

[118] **Dafydd Wigley:** Efallai y byddai'n well i ni drafod hynny ar unwaith.

[119] **Val Lloyd:** Cyfeiriaf fy nghwestiwn nesaf am y caffaeliadau afreolaidd at Mr Martin, ond, os caf fi, tynnaf sylw yn gyntaf at ateb blaenorol a roddwyd i gwestiwn y gofynnais ynglŷn â'r gofyniad ar gwmnïau preifat i gydymffurfio â rheolau caffael yr UE dan rai amgylchiadau. Felly, os yw hynny yn ofyniad ar gwmnïau preifat, buaswn yn dweud ei bod yn ddigon teg i ddweud y byddai unrhyw un yn credu y byddai hynny hefyd yn berthnasol i gyrff cyhoeddus i'r un graddau o leiaf, os nad i raddau pellach. Gan fod hyn yn wir, pam nad oedd eich staff, yn ôl pob golwg, yn ymwybodol o reolau caffael y cyngor cenedlaethol ac o faterion sylfaenol fel yr angen i gydymffurfio â rheoliadau caffael yr UE?

**Mr Martin:** Os gallaf sôn am ddeall gofynion yr UE yn gyntaf, credaf mai prin iawn yw'r dystiolaeth y talwyd unrhyw sylw—serch canllawiau Llywodraeth Cynulliad Cymru i'r TEC yng nghanol yr 1990—i'r gofynion UE hynny yn y

requirements in the former training and enterprise councils. As I said earlier, it was clearly something that we should have identified as a risk early on and we should have issued clear guidance about those European requirements to them, whether or not they had been operating them properly. I think that, if there was any doubt about that at all, that is something that, with hindsight, we certainly should have done. In terms of the staff's awareness of the procedures, I have set out already the action that I took as accounting officer with my staff to make staff aware of the issues around propriety and regularity and also of the requirements in respect of clearing single tender actions and restricted tender actions with the Welsh Assembly Government. What we were also saying, in parallel with that, in the interests of business continuity, was that they should continue with their existing policies and procedures. In respect of Europe, as I have already said, those were clearly deficient. The evidence that we then gained in June, particularly from the audit report that we inherited on the South East Wales TEC, did mean that we immediately prioritised follow-up work by our own audit service. It was in the light of that that we also, with the recruitment of a permanent procurement specialist from October, put in hand the urgent preparation of unified procurement procedures. It was in early January 2002 that my head of compliance came to see me, as he does regularly to tell me how he is getting on with his reports, to warn me of emerging issues on some major procurements. I immediately raised the issue with directors in the same week; I reported the matter as soon as I could, in February, to council, and the actions followed that are described in this report. So it was a progressive programme that we put in place to get those unified procedures. With hindsight, I can see that there were risk areas that we should have managed. I hope that you do not mind me repeating the point, but I think that it is fundamental. The key error that I made, and which we made, was to not put in place a system, pending those unified procedures, to identify the major contracts and to ensure that they complied with best public-sector practice. I would certainly want to do that if I had the chance to do it again.

cynghorau hyfforddiant a menter gynt. Fel y dywedais yn gynharach, yr oedd yn amlwg yn rhywbeth y dylem fod wedi ei nodi fel risg ar y cychwyn a dylem fod wedi cyhoeddi arweiniad clir ar y gofynion Ewropeaidd iddynt, waeth a oeddynt wedi bod yn eu gweithredu'n gywir ai peidio. Credaf, os oedd unrhyw amheuaeth am hynny o gwbl, fod hynny yn rhywbeth, o edrych yn ôl, y dylem yn sicr fod wedi ei wneud. O ran ymwybyddiaeth staff o'r gweithdrefnau, yr wyf wedi nodi eisoes pa gamau gweithredu a gymerais fel swyddog cyfrifo gyda'm staff i wneud staff yn ymwybodol o'r materion yn ymwneud â phriodoldeb a rheoleidd-dra a hefyd am y gofynion o ran clirio gweithrediadau tendr sengl a gweithrediadau tendr cyfyngedig gyda Llywodraeth Cynulliad Cymru. Beth yr oeddem yn ei ddweud hefyd, law yn llaw â hynny, oedd y dylent, er budd parhad busnes, barhau â'u polisiau a'u gweithdrefnau cyfredol. Mewn perthynas ag Ewrop, fel yr wyf eisoes wedi ei ddweud, yr oedd y rheiny yn amlwg yn ddiffygiol. Yr oedd y dystiolaeth a gawsom ym mis Mehefin, yn enwedig o'r adroddiad archwiliad a etifeddwyd gennym ar TEC De Ddwyrain Cymru, yn golygu y bu inni flaenoriaethu gwaith dilynol gan ein gwasanaeth archwilio ein hunain ar unwaith. Yn sgil hynny bu inni hefyd, drwy recriwtio arbenigwr caffael parhaol o fis Hydref, ddechrau paratoi gweithdrefnau caffael unedig ar frys. Daeth fy mhennaeth cydymffurfio i'm gweld ddechrau Ionawr 2002, fel y daw yn rheolaidd i'm hysbysu am sut mae ei adroddiadau yn dod yn eu blaen, i'm rhybuddio am faterion yn codi ynghylch rhai caffaeliadau pwysig. Codais y mater gyda chyfarwyddwyr ar unwaith yn yr un wythnos; adroddais y mater cyn gynted â phosib, ym mis Chwefror, i'r cyngor, a'r camau gweithredu a ddilynodd yw'r rhai a ddisgrifir yn yr adroddiad hwn. Felly, bu inni roi rhaglen gynyddol ar waith i gael y gweithdrefnau unedig hynny. O edrych yn ôl, gallaf weld bod meysydd risg y dylem fod wedi eu rheoli. Gobeithio nad oes gwahaniaeth gennyh fy mod yn ailadrodd y pwynt, ond credaf ei fod yn sylfaenol. Fy nghamgymeriad allweddol i, a'n un ni, oedd methu â sefydlu system, wrth ddisgwyl am y gweithdrefnau unedig hynny, i nodi'r contractau mwyaf a sicrhau eu bod yn cydymffurfio ag arfer sector-cyhoeddus

gorau. Buaswn yn sicr am wneud hynny pe bawn yn cael cyfle i'w wneud unwaith yn rhagor.

[120] **Val Lloyd:** You would agree that, if you look at the key on page 52 relating to table 1, there is quite a catalogue of a range of different non-compliant approaches such as single tender, restricted tender, contract expenditure exceeding approved limits and contracts extended without prior approval. Do you feel that the answer that you have just given would cover that?

**Mr Martin:** I think so. I could perhaps just add one point. Again, with hindsight, I seriously underestimated the extent to which these cultural issues are at play, particularly in circumstances where you are moving at great speed. For a number of the areas where we let high-value contracts—not all of them, but a number of them—we were moving at very great speed. For instance, it was not until September 2001, once the council had prepared its corporate strategy and its corporate plan, that we were in a position to plan for the nature of the structural changes that we would make in the organisation. Frankly, at that time we still did not feel that we had enough understanding of all that we had inherited and all that would make it successful in the future, although our understanding developed very quickly, that we could at that point, without some expert help, really make a good fist, in an incredibly tight timescale, of getting our running costs down to the level that we had to achieve from 1 April. This was a big hit on the staff numbers—104 people out of 550, or something like that. We therefore recruited, very quickly, consultants in a competitive exercise, and breaches occurred with people acting in extreme haste to get that done, without being able to specify the contract in the detailed way in which you would normally specify a public-sector contract. That is not an excuse; I am describing very frankly what happened. We then moved very quickly to recruit those people. As they did their work, we found that we needed more of their help, so the bill went up. We worked very hard with them, way into the night for a period of several months, to make sure that we were in a position to run the organisation

[120] **Val Lloyd:** Byddech yn cytuno, os edrychwch ar yr allwedd ar dudalen 52 i dabl 1, bod rhestr eithaf hir o ystod o ddulliau gwahanol nad ydynt yn cydymffurfio, megis tendr sengl, tendr cyfyngedig, gwariant contract yn mynd y tu hwnt i derfynau cymeradwy a chontractau a ymestynnwyd heb gymeradwyaeth flaenorol. A gredwch y byddai'r ateb yr ydych newydd ei roi yn cwmpasu hynny?

**Mr Martin:** Tybiaf y byddai. Efallai y gallwn ychwanegu un pwynt. Unwaith eto, o edrych yn ôl, tan-ystyriais yn ddifrifol i ba raddau y mae'r materion diwylliannol hyn ar waith, yn enwedig mewn amgylchiadau lle yr ydych yn symud yn gyflym. Yr oeddem yn symud yn gyflym iawn gyda nifer o'r meysydd lle bu inni roi contractau o werth uchel—nid pob un ohonynt, ond nifer fawr ohonynt. Er enghraifft, nid oeddem mewn sefyllfa i gynllunio ar gyfer natur y newidiadau sdrwythurol y byddem yn eu gwneud yn y sefydliad tan Fedi 2001, ar ôl i'r cyngor baratoi ei strategaeth gorfforaethol a'i gynllun corfforaethol. I fod yn onest, ar yr adeg honno, yr oeddem yn parhau i deimlo nad oedd gennym ddealltwriaeth ddigonol o bopeth yr oeddem wedi ei etifeddu a phopeth a fyddai'n ei wneud yn llwyddiannus yn y dyfodol, er i'n dealltwriaeth ddatblygu'n gyflym iawn, bod modd inni bryd hynny, heb gymorth arbenigol, wneud ymgais dda, o fewn amserlen hynod dynn, i ostwng ein costau gweithredu i'r lefel yr oedd yn ofynnol i ni ei chyflawni o 1 Ebrill. Yr oedd hon yn ergyd galed ar niferoedd staff—104 o bobl o 550, neu rywbeth cyffelyb. Felly, bu inni recriwtio, yn gyflym iawn, ymgynghorwyr mewn ymarfer cystadleuol, a chafwyd enghreifftiau o gam-arfer wrth i bobl weithredu ar frys mawr i wneud hynny, heb allu rhoi manyleb i'r contract yn y modd manwl y byddech fel arfer yn ei wneud yn achos contract sector cyhoeddus. Nid esgus yw hwnnw; yr wyf yn disgrifio yr hyn a ddigwyddodd yn blwmp ac yn blaen. Yna, symudasom yn gyflym i recriwtio'r bobl hynny. Wrth iddynt wneud eu gwaith, bu inni sylweddoli bod angen mwy o'u cymorth arnom, felly cynyddodd y bil. Bu inni

with those reduced running costs and with a much better, more efficient structure, from 1 April. We achieved that. The price that we paid was not paying enough attention to the risks, in terms of public procurement rules.

[121] **Dafydd Wigley:** Right. From now on, in taking further questions, can you be fairly focused in the answers, because we are falling behind time?

[122] **Val Lloyd:** I will just ask one brief one then, Chair. I accept your response on timescales, and there was a progressive development in the procurement, a specific procurement officer, but, if you look at the range of non-compliance and just focus on the splitting of contracts by multiple purchase orders, the question has to be asked, I think, as to whether this was done to circumvent individual delegated financial limits.

**Mr Martin:** I do not believe that that is the case. I think that what was happening was ad hoc purchases. What we did inherit—there is no question about this—was a lot of procurement practice that was not what one would expect and that any public body should have. Added to that were these issues around taking some corners very fast and having to move the agenda forward very quickly. I repeat again, these are not excuses—there can never be excuses for these breaches and I greatly regret them personally and take responsibility for them—but I do not believe that the way in which this panned out, in terms of the breaches, can be attributed simply to any one cause. It was a combination of the speed at which we were moving and the way in which the practices that we inherited were, in themselves, not up to the practices that were there on paper.

[123] **Val Lloyd:** Thank you.

[124] **Dafydd Wigley:** Right. Thank you. I think that the next thing that we were going to ask has probably been covered, Ann, has it not?

[125] **Ann Jones:** Yes, I think so.

weithio'n galed iawn gyda hwy, tan yn hwyr yn y nos am gyfnod o fisoedd lawer, i sicrhau ein bod mewn sefyllfa i gynnal y sefydliad gyda'r costau gweithredu is hynny a chyda sdrwythur llawer gwell a llawer mwy effeithlon, o 1 Ebrill. Cyflawnasom hynny. Y gosb oedd na wnaethom roi digon o sylw i'r risgiau, o ran rheolau caffael cyhoeddus.

[121] **Dafydd Wigley:** Iawn. O hyn ymlaen, a allwch gadw ffocws eich atebion wrth ateb cwestiynau pellach, oherwydd mae amser yn ein maeddu?

[122] **Val Lloyd:** Os felly, gofynnaf un cwestiwn byr, Gadeirydd. Derbyniaf eich ateb am gyfyngiadau amser, ac yr oedd datblygiad graddol yn y caffaeliad, swyddog caffael penodol, ond, os edrychwch ar yr amrywiaeth o ddiffyg cydymffurfio a chanolbwyntio'n unig ar rannu contractau gan orTECynion prynu lluosog, credaf fod yn rhaid gofyn a wnaed hyn i fynd o'r tu arall i derfynau ariannol dirprwyedig unigol.

**Mr Martin:** Ni chredaf mai dyna oedd yr achos. Credaf mai pryniadau ad hoc oedd yr hyn a oedd yn digwydd. Bu inni etifeddu—ac nid oes amheuaeth am hyn—lawer o arfer caffael na fyddai rhywun yn ei ddisgwyl ac na ddylai unrhyw gorff cyhoeddus ei gael. Yn ogystal â hyn oedd y materion hyn ynglŷn â chymryd rhai corneli yn gyflym iawn a gorfod symud yr agenda ymlaen yn gyflym iawn. Ailadroddaf eto, nid esgusodion yw'r rhain—ni ellir byth esgusodi'r achosion hyn o gam-arfer ac maent yn destun gofid mawr i mi'n bersonol ac yr wyf yn cymryd cyfrifoldeb amdanynt—ond ni chredaf y gellir beio'r sefyllfa hon, o ran y cam-arfer, yn syml ar unrhyw un achos. Yr oedd yn gyfuniad o'r cyflymder yr oeddem yn symud arno a'r modd nad oedd yr arferion y bu inni eu hetifeddu, o'u rhan eu hunain, yn cyfateb i'r arferion a oedd ar bapur.

[123] **Val Lloyd:** Diolch.

[124] **Dafydd Wigley:** Iawn. Diolch yn fawr. Credaf fod y peth nesaf yr oeddem yn mynd i'w ofyn wedi ei drafod eisoes, onid yw, Ann?

[125] **Ann Jones:** Ydyw, fe gredaf.

[126] **Dafydd Wigley:** So, Jocelyn, can you take things on?

[127] **Jocelyn Davies:** I wonder if I could ask about the financial delegation? The report says that, in April 2001, you issued financial delegations to your directors and other senior staff. I assume that that gave them the authority to handle financial matters and limited their authority etcetera. You said earlier that you had talked to staff and that you had issued guidance and so on. So can you tell me whether, at the point that you made that delegation, you considered it an appropriate thing to do? Were you fully confident that your staff could handle the authority that you were giving them?

**Mr Martin:** A number of the breaches actually exceeded the authority that people had been given; I think that that is an important point to make. Did I think that it was appropriate to give them that? I do not believe that the organisation could have functioned unless I had issued delegations. It simply could not have functioned. If everything had had to cross my desk, we would have ground to a halt within a day or two.

[128] **Jocelyn Davies:** However, you would not have been under the same pressure as officials who work for the National Assembly because of what Ministers want. So what I am asking you is why, if you did not feel that your staff were sufficiently able and competent to handle that financial delegation, did you do it?

**Mr Martin:** Well, because I do not believe that we could have continued to deliver the businesses, the plans that we inherited and, indeed, the new challenges that we had to deliver, otherwise. Although we lost the majority of the senior staff from the training and enterprise councils—and this is a period of huge change, and therefore high risk—I did inherit a lot of very experienced senior and middle managers, who were used to having budgets. What I did not know at that stage was the extent to which some of the practices and so on, and the culture and so on, were not capable of delivering within

[126] **Dafydd Wigley:** Felly, Jocelyn, allwch chi arwain y drafodaeth ymlaen?

[127] **Jocelyn Davies:** A fyddai'n bosibl i mi ofyn i chi am y dirprwyo ariannol? Dywed yr adroddiad i chi roi dirprwyaethau ariannol i'ch cyfarwyddwyr ac uwch staff eraill yn Ebrill 2001. Yr wyf yn cymryd i hyn roi awdurdod iddynt ymdrin â materion ariannol a chyfyngu ar eu hawdurdod ac ati. Dywedasoeh yn gynharach i chi siarad â staff a'ch bod wedi cyhoeddi canllawiau ac ati. Felly, a allwch ddweud wrthyf, wrth i chi wneud y ddirprwyaeth honno, a oeddech yn ei ystyried fel rhywbeth priodol i'w wneud? A oeddech yn gwbl hyderus y gallai'ch staff ymdopi â'r awdurdod yr oeddech yn ei roi iddynt?

**Mr Martin:** Yr oedd nifer o'r enghreifftiau o gam-arfer mewn gwirionedd yn mynd y tu hwnt i'r awdurdod a roddwyd i bobl; credaf fod hwn yn bwynt pwysig i'w wneud. A oeddwn yn meddwl ei bod yn briodol rhoi hwnnw iddynt? Ni chredaf y byddai'r sefydliad wedi gallu gweithredu oni bai i mi ddirprwyo. Yn syml, ni fyddai wedi gallu gweithredu. Pe bai popeth wedi gorfod croesi fy nesg i, byddem wedi dod i stop o fewn diwrnod neu ddau.

[128] **Jocelyn Davies:** Fodd bynnag, ni fydddech wedi bod dan yr un pwysau â swyddogion sy'n gweithio i'r Cynulliad Cenedlaethol oherwydd yr hyn y mae Gweinidogion ei angen. Felly yr hyn yr wyf yn ei ofyn i chi yw pam wnaethoch chi'r ddirprwyaeth ariannol honno os nad oeddech yn teimlo bod eich staff yn ddigon galluog a chymwys i ymdopi â hi?

**Mr Martin:** Wel, oherwydd ni chredaf y byddem wedi gallu parhau i weithredu'r busnesau, y cynlluniau y bu inni eu hetifeddu ac, yn wir, yr heriau newydd y bu'n rhaid i ni eu cyflawni, fel arall. Er i ni gollu mwyafrif yr uwch staff o'r cynghorau hyfforddiant a menter—ac mae hwn yn gyfnod o newid mawr, ac felly risg uchel—etifeddais lawer o uwch reolwyr a rheolwyr canol profiadol iawn, a oedd yn gyfarwydd â chael cyllidebau. Yr hyn nad oeddwn yn ei wybod bryd hynny oedd i ba raddau yr oedd rhai o'r arferion ac ati, a'r diwylliant ac ati, yn methu â gweithredu o fewn iddynt.

them.

[129] **Jocelyn Davies:** So, it came as a surprise to you when you discovered those things?

**Mr Martin:** It certainly did, and what I look back on and take serious personal responsibility for, was that, with the benefit of hindsight, I did underestimate the extent to which there were risks. As I say, if in doubt in those circumstances, I think that there is a duty on someone like me, and senior finance staff and so on, to make absolutely sure that, where there are high-risk contracts—you would not have picked everything up—but where there are 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.

[130] **Jocelyn Davies:** You mentioned the private sector culture and how that has hindered your staff in understanding the public sector culture, and there is a list—I am referring to the Bentley Jennison report—at paragraph 54 of the things that it found that required further consideration. For example, the job specification and pre-tender estimates were actually being prepared by the contractors themselves, the contract letters did not always state the value of the contracts, and so on. These, to me, do not seem like things that come from the private sector, in fact I would have thought that the private sector would be a little tighter with things like setting the value of the contract in a letter.

**Mr Martin:** I certainly would not suggest for a moment that a well-regulated private sector body would not get many of those things right.

[131] **Jocelyn Davies:** Well, they would not last very long if they did not set the value of the contract and if they allowed people with whom they were contracting to write their own job specification.

**Mr Martin:** Yes, I think what happened in that case was not quite—

[132] **Jocelyn Davies:** There are two cases.

[129] **Jocelyn Davies:** Felly, fe'ch synnwyd pan ganfuochoch y pethau hynny?

**Mr Martin:** Yn bendant, a'r hyn yr wyf yn edrych yn ôl arno ac yn cymryd cyfrifoldeb personol difrifol drosto yw, gyda chymorth edrych yn ôl, i mi danystyried i ba raddau yr oedd risgiau. Fel y dywedais, os oedd amheuaeth yn yr amgylchiadau hynny, credaf fod dyletswydd ar rywun fel fi, ac uwch staff ac ati, i wneud yn hollol siŵr, lle mae contractau risg-uchel—ni fyddech wedi sylwi ar bopeth—ond lle mae contractau mawr, pwysig, gwnaethom rywfaint o ymdrech ychwanegol, er enghraifft penodi un o'n harchwilwyr i sicrhau eu bod yn eistedd ochr yn ochr â'r bobl a oedd yn gyfrifol a'u bod yn delio â'r meysydd risg-uchel hynny.

[130] **Jocelyn Davies:** Soniasoch am y diwylliant sector preifat a sut mae hwnnw wedi rhwystro eich staff rhag deall y diwylliant sector cyhoeddus, ac mae rhestr—cyfeiriad at adroddiad Bentley Jennison—ym mharagraff 54 o'r pethau y canfu oedd angen eu hystyried ymhellach. Er enghraifft, yr oedd y fanyleb swydd a'r amcangyfrifon cynthendr mewn gwirionedd yn cael eu paratoi gan y contractwyr eu hunain, nid oedd y llythyron contract bob amser yn nodi gwerth y contractau, ac ati. Nid yw'r rhain yn ymddangos i mi fel pethau sy'n deillio o'r sector preifat, ac mewn gwirionedd, buaswn yn tybio y byddai'r sector preifat ychydig yn fwy llym o ran pethau fel nodi gwerth contract mewn llythyr.

**Mr Martin:** Ni fuaswn yn awgrymu am funud na fyddai corff sector preifat sy'n cael ei reoleiddio'n dda yn cael llawer o'r pethau hynny'n gywir.

[131] **Jocelyn Davies:** Wel, ni fyddent yn para'n hir iawn os na fyddent yn nodi gwerth y contract ac os oeddynt yn caniatáu i'r bobl yr oeddynt yn eu contractio i ysgrifennu eu manyleb swydd eu hunain.

**Mr Martin:** Ie, credaf nad oedd beth a ddiwyddodd yn yr achos hynny—

[132] **Jocelyn Davies:** Mae dau achos.

**Mr Martin:** It is not quite as grim in those cases as it sounds from those words. There was a dialogue with a consultant in cases where people were moving ahead at great speed, and that led to the consultant putting in a written submission as a result of that dialogue, and there was negotiation around that, but I do not regard that as acceptable—it is not best practice. May I make one point, which I think does distinguish the way in which some of these matters will be conducted in a private business, particularly a private business that is having to move very quickly? There is a trading of time, and the value-for-money issues associated with the use of time, in a way that there really is not, and which there is no space for, in the public sector arrangements. If, for instance—and I am delighted to say that the independent investigation that the council launched into this to make sure that the matter was looked into properly concluded that there was no attempt to circumvent anything, and that they were acts of omission rather than commission, but nonetheless—

[133] **Jocelyn Davies:** Yes, there was no intention—

**Mr Martin:** There was no intention, but I think that what is true is that—and I have worked with them in other contexts—people who are used to being able to take decisions on a balance of judgment without going through a lot of processes and procedures are going to be very impatient with the protection of the public purse, which says that you must do this in this way, and you must take this long about it in the case of European procurement, where there is quite a process involved. There is no doubt that it is difficult for people coming from a private sector background to understand that, in a public sector environment—and this is certainly one of the lessons that I have learned—you cannot trade time and money in that way.

[134] **Jocelyn Davies:** You certainly cannot. It was February when you informed the council members of the emerging internal audit findings. Did you inform officials at the National Assembly in that February?

**Mr Martin:** Nid yw'r achosion hynny mor erchyll ag yr awgrymir gan y geiriau hynny. Bu cyfathrebu gydag ymgynghorydd mewn achosion lle'r oedd pobl yn symud ymlaen yn gyflym iawn, ac arweiniodd hynny at yr ymgynghorydd yn rhoi cyflwyniad ysgrifenedig o ganlyniad i'r cyfathrebu hynny, a bu trafod ynghylch hynny, ond ni ystyriaf fod hynny yn dderbyniol—nid yw'n arfer gorau. A gaf fi wneud un pwynt, sydd y tybiaf yn gwahaniaethu'r modd y bydd rhai o'r materion hyn yn cael eu rheoli mewn busnes preifat, yn enwedig busnes preifat sy'n gorfod symud yn gyflym iawn? Ceir masnachu amser, ac mae'r materion gwerth-am-arian sy'n gysylltiedig â'r defnydd o amser, mewn modd nad yw'n bodoli mewn gwirionedd, ac nad oes lle iddo, yn nhrefniadau'r sector cyhoeddus. Os, er enghraifft—ac mae'n bleser gennyf ddweud i'r ymchwiliad annibynnol a lansiwyd gan y cyngor i sicrhau bod y mater wedi cael ei archwilio'n briodol ddod i'r casgliad na fu unrhyw ymgais i fynd i'r tu arall i unrhyw beth, ac mai achosion o hepgor oeddynt yn hytrach na chomisiynu, ond serch hynny—

[133] **Jocelyn Davies:** Na, nid oedd bwriad—

**Mr Martin:** Nid oedd bwriad, ond credaf mai'r hyn sy'n wir yw bod—ac yr wyf wedi gweithio gyda hwy mewn cyd-destunau eraill—pobl sy'n gyfarwydd â gallu gwneud penderfyniadau ar sail cydbwysio barn heb fynd drwy lawer o brosesau a gweithdrefnau yn mynd i fod yn ddiamynedd iawn gyda diogelu'r pŵrs cyhoeddus, sy'n dweud bod yn rhaid i chi wneud hyn yn y modd hwn, a bod yn rhaid i chi gymryd cymaint â hyn o amser i'w gyflawni yn achos caffael Ewropeaidd, sy'n cynnwys tipyn o broses. Nid oes amheuaeth ei bod yn anodd i bobl sy'n dod o gefndir sector preifat ddeall—ac mae hon yn sicr yn un o'r gwersi yr wyf i wedi eu dysgu—na allwch fasnachu amser ac arian yn y modd hwnnw mewn amgylchedd sector cyhoeddus.

[134] **Jocelyn Davies:** Na allwch yn wir. Bu i chi hysbysu aelodau'r cyngor ym mis Chwefror am ganfyddiadau'r archwiliad mewnol a oedd yn dod i'r fei. A wnaethoch chi hysbysu swyddogion yn y Cynulliad



Cenedlaethol yn y mis Chwefror hwnnw?

**Mr Martin:** Officials at the National Assembly were informed at the same time. There is a National Assembly Government official who is a member of our audit committee.

**Mr Martin:** Hysbyswyd swyddogion yn y Cynulliad Cenedlaethol ar yr un pryd. Mae swyddog o Gynulliad Cenedlaethol Cymru yn aelod o'n pwyllgor archwilio.

[135] **Jocelyn Davies:** Fine. I will leave it there, Dafydd.

[135] **Jocelyn Davies:** Iawn. Gadawaf y mater yn y fan hon, Dafydd.

[136] **Alun Cairns:** Why was it that a supposedly comprehensive review of procurement contracts by the directors in January 2002 did not pick up all of the irregular procurements, and left five further instances to be detected by the Auditor General and your internal auditors in their subsequent reviews?

[136] **Alun Cairns:** Pam na wnaeth adolygiad cynhwysfawr, yn ôl y sôn, o gontractau caffael gan y cyfarwyddwyr yn Ionawr 2002 sylwi ar yr holl gaffaeliadau afreolaidd, gan adael pum achos arall i gael eu canfod gan yr Archwilydd Cyffredinol a'ch archwilwyr mewnol yn eu hadolygiadau dilynol?

**Mr Martin:** In one case—you will see that there is a case listed of £208,000, I think the figure is, for the lease of photocopiers—this is a roll-over and extension of a TEC contract. The responsible member of staff, who left us at the time of the restructuring, did not declare that in the return that was made as part of that trawl, and it was picked up subsequently by the auditors as a result. Now—

**Mr Martin:** Mewn un achos—gwelwch fod achos wedi ei restru o £208,000. Credaf mai ffigur ar gyfer prydlesu llungopiwyr yw hwn—mae'n barhad ac yn estyniad o gontract TEC. Ni wnaeth yr aelod o staff cyfrifol, a'n gadawodd yn ystod yr ailsdrwythuro, ddatgan hynny yn yr adroddiad a wnaed fel rhan o'r archwiliad hwnnw, ac o ganlyniad, sylwyd arno gan yr archwilwyr. Yn awr—

[137] **Dafydd Wigley:** The year before?

[137] **Dafydd Wigley:** Y flwyddyn gynt?

**Mr Martin:** Well, it was simply omitted from the return so, when the directors did this trawl, that member of staff did not include this in the trawl. However, it is not someone who is with us anymore.

**Mr Martin:** Wel, cafodd ei hepgor yn syml o'r adroddiad felly, pan gynhaliodd y cyfarwyddwyr yr archwiliad hwn, ni wnaeth yr aelod staff hwnnw gynnwys hwn yn yr archwiliad. Fodd bynnag, nid yw'r unigolyn hwnnw gyda ni mwyach.

[138] **Alun Cairns:** Mr Martin, in response to Jocelyn Davies's question a moment ago, you said that you were delighted that the internal audit confirmed that there was no intention to circumvent the rules. If your internal audit had missed five instances of irregularities, how can we be sure about the comments that you made previously?

[138] **Alun Cairns:** Mr Martin, mewn ymateb i gwestiwn Jocelyn Davies funud yn ôl, dywedasoeh eich bod yn falch i'r archwiliad mewnol gadarnhau nad oedd bwriad i fynd o'r tu arall i'r rheolau. Os oedd eich archwiliad mewnol wedi colli pum achos o afreoleidd-dra, sut y gallwn fod yn siŵr am y sylwadau a wnaethoch yn gynharach?

**Mr Martin:** Well, I think that we are now in a position where they did pick them up, and their subsequent work picked them up. It is very difficult when you have a situation where an individual member of staff does not

**Mr Martin:** Wel, credaf ein bod bellach mewn sefyllfa lle y bu iddynt eu canfod, ac y bu i'w gwaith dilynol eu canfod. Mae'n anodd iawn pan fo gennych sefyllfa lle nad yw aelod unigol o staff yn cynnwys

include something. Eventually, what we did was to apply an increasingly fine net. We started off by asking directors, and we then did follow-up work by the auditors. It was that work that threw up these additional cases. If I could mention the other cases, such as that on the provision of legal services, you will see that there is a case in the report of around £62,000. At the time of the request to the directors, that contract was below the threshold for single tender action. The expenditure on that contract escalated as we moved into the redundancy situation, and we were seeking urgent employment law advice in a number of cases. Now, that should not have happened, it should have been retendered at that time. It was not picked up; it was not done. However, at the time when the trawl was done, this was not in the category that should have been reported.

[139] **Alun Cairns:** But Mr Martin, does this not indicate that even your senior directors were not fully aware of the procurement regulations that their staff were meant to follow, or is it that their review was slipshod?

**Mr Martin:** It is certainly the case that not all directors were as fully aware as they should have been. That is something that came through in the investigation.

[140] **Alun Cairns:** Does this not fly in the face of the comments that you made to me earlier when you said, when we discovered that the financial regulations were not adopted until July 2002, that you felt that you had sufficient measures in place to prevent irregularities coming to the fore?

**Mr Martin:** What I described earlier were the systems that existed. Had those systems been operated satisfactorily then these matters would have been picked up.

[141] **Alun Cairns:** But with the greatest respect, Mr Martin, if even your senior directors are not aware of that, what chance do the other staff have?

rhywbeth. Yn y pen draw, yr hyn a wnaethom oedd archwilio'n fwyfwy manwl. Dechreuasom drwy ofyn i gyfarwyddwyr, ac yna gwnaed gwaith dilynol gan yr archwilwyr. Y gwaith hwnnw a arweiniodd at yr achosion ychwanegol hyn. Os y gallaf sôn am yr achosion eraill, fel yr achos ynglŷn â'r ddarpariaeth o wasanaethau cyfreithiol, gwelwch fod achos yn yr adroddiad o oddeutu £62,000. Ar adeg y cais i'r cyfarwyddwyr, yr oedd y contract hwnnw dan y trothwy ar gyfer gweithred tendr sengl. Cynyddodd y gwariant ar y contract hwnnw wrth i ni symud at y sefyllfa o ddiswyddo gwirfoddol, ac yr oeddem yn gwneud cais am gyngor brys ar gyfraith cyflogi mewn nifer o achosion. Yn awr, ni ddylai hynny fod wedi digwydd, dylai fod wedi cael ei aildendro bryd hynny. Ni chanfuwyd hynny; ac ni wnaed hynny. Fodd bynnag, adeg yr archwiliad, nid oedd hwn yn y categori a ddylai fod wedi cael ei gynnwys yn yr adroddiad.

[139] **Alun Cairns:** Ond Mr Martin, onid yw hyn yn dynodi nad oedd hyd yn oed eich uwch gyfarwyddwyr yn hollol ymwybodol o'r rheoliadau caffael yr oedd staff i fod i'w dilyn, neu a oedd eu hadolygiad yn esgeulus?

**Mr Martin:** Yn sicr mae'n wir nad oedd y cyfarwyddwyr i gyd mor ymwybodol ag y dylasant fod wedi bod. Yr oedd hynny'n rhywbeth a ddaeth i'r amlwg yn yr ymchwiliad.

[140] **Alun Cairns:** Onid yw hyn yn gwbl groes i'r sylwadau a wnaethoch i mi yn gynharach pan ddywedaso, pan ganfuom na chafodd y rheoliadau ariannol eu mabwysiadu tan fis Gorffennaf 2002, eich bod yn teimlo bod gennych fesurau digonol ar waith i rwystro achosion o afreoleidd-dra rhag digwydd?

**Mr Martin:** Yr hyn a ddisgrifiais yn gynharach oedd y systemau a oedd yn bodoli. Pe bai'r systemau hynny wedi cael eu gweithredu'n foddhaol, byddai'r materion hyn wedi cael eu canfod.

[141] **Alun Cairns:** Ond gyda phob parch, Mr Martin, os nad oedd hyd yn oed eich uwch gyfarwyddwyr yn ymwybodol o hynny, pa obaith sydd gan y staff eraill?

**Mr Martin:** I certainly did not say that it was true of all senior directors. That would not be true.

[142] **Alun Cairns:** But you certainly said that some of your senior directors were not aware of those financial requirements.

**Mr Martin:** That is correct.

[143] **Alun Cairns:** Well if some of your senior directors were not aware of the financial requirements, how would you expect more junior staff to be aware of them?

**Mr Martin:** I made too many assumptions. I think actually that it is a reasonably safe assumption that senior staff will be aware of these matters. I did not cross-examine them all individually about whether they knew that. Maybe I would be more cautious on a future occasion. I accept that we should on some of these, I think that it is caught by—I really do feel very strongly that the big lesson from this is the point that I made earlier. We should have identified the high-risk areas, whoever was handling them—these big contracts. During this very difficult period, with people coming from a range of backgrounds, we should have surrounded those people with whatever protection they needed to make absolutely sure that we were not exposed in this way.

[144] **Alun Cairns:** Is not the core theme through all of the questions that we have been asking that financial regulations should have been in place at the very outset so that at least staff had guidance to follow, and even senior directors would have had guidance to follow, as to what was acceptable and what was unacceptable?

**Mr Martin:** I think that that is certainly one of the lessons. I go back to the point that this was not black and white. We had financial regulations and disciplines in place, which we inherited. In the areas that we were vulnerable we took action in respect of the question of single tenders, and not everybody followed that, quite clearly. We did not give guidance, as I believe we should have done—and certainly, with hindsight, I would make

**Mr Martin:** Yn sicr ni ddywedais ei fod yn wir am yr holl uwch gyfarwyddwyr. Ni fyddai hynny'n wir.

[142] **Alun Cairns:** Ond dywedasoeh yn sicr nad oedd rhai o'ch uwch gyfarwyddwyr yn ymwybodol o'r gofynion ariannol hynny.

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

[143] **Alun Cairns:** Wel os nad oedd rhai o'ch uwch gyfarwyddwyr yn ymwybodol o'r gofynion ariannol, sut byddech yn disgwyl i staff iau fod yn ymwybodol ohonynt?

**Mr Martin:** Gwneuthum ormod o ragdybiaethau. Credaf mewn gwirionedd ei bod hi'n weddol ddiogel i dybio y bydd staff uwch yn ymwybodol o'r materion hyn. Ni chawsant bob un yn unigol eu croesholi gennyf a oeddynt yn gwybod hynny. Efallai y buaswn yn fwy gofalus yn y dyfodol. Derbyniaf y dylem ar rai o'r rhain, credaf ei fod yn cael ei ddal gan—yr wyf wir yn teimlo'n gryf mai'r wers fawr o hyn yw'r pwynt a wneuthum yn gynharach. Dylem fod wedi nodi'r meysydd risg-uchel, pwy bynnag oedd yn ymdrin â hwy—y contractau mawr hyn. Yn ystod y cyfnod hynod ddyrys hwn, gyda phobl yn dod o amrywiaeth o gefndiroedd, dylem fod wedi rhoi iddynt ba bynnag amddiffyniad oedd ei angen arnynt i wneud yn hollol siŵr nad oeddem yn agored yn y modd hwn.

[144] **Alun Cairns:** Onid y thema graidd drwy'r holl gwestiynau yr ydym wedi bod yn eu gofyn yw y dylai rheoliadau ariannol wedi bod ar waith o'r cychwyn cyntaf fel bod gan staff o leiaf gyfarwyddyd i'w ddilyn, a byddai hyd yn oed gan uwch gyfarwyddwyr gyfarwyddyd i'w ddilyn, yn glŷn â beth oedd yn dderbyniol a beth oedd yn annerbyniol?

**Mr Martin:** Credaf fod hynny yn sicr yn un o'r gwersi. Dychwelaf at y pwynt nad oedd hyn yn ddu a gwyn. Yr oedd gennym fesurau disgyblu a rheoliadau ariannol ar waith, yr oeddem wedi eu hetifeddu. Yn y manau lle'r oeddem yn wan, bu inni weithredu ynghylch tendrau sengl, ac mae'n amlwg na ddilynodd pawb hynny. Ni roesom gyfarwyddyd, fel y credaf y dylem fod wedi ei wneud—ac yn sicr, o edrych yn ôl, buaswn

sure that we got this right—on European requirements.

[145] **Dafydd Wigley:** Thank you. The fact that people did not follow guidance that was given leads us on to the question of disciplinary action. I do not want to raise the question of individual identity—my Committee agrees that that would be inappropriate. There are, however, important questions that arise out of this with regard to the processes, and that is what we want to be assured of as a Committee. So my first question is, how was the council's disciplinary process structured?

**Mr Martin:** The first thing to say is that the council itself took the decision first to ask Bentley Jennison, as independent accountants, to look at the case. Not all of the cases before you were considered by Bentley Jennison—the Auditor General's report identifies which cases it considered. In the light of the Bentley Jennison report, the full council then decided that it should constitute a panel that would then commission a further investigation. That panel comprised the chairs of the human resources committees of both the national council and the higher education council. The reason that this included the higher education council is because a number of the staff involved worked for both councils, as do a significant number of staff within the organisation. That is the procedure that is prescribed in those cases.

[146] **Dafydd Wigley:** How did the national council identify and seek to manage any potential conflicts of interest that arose during that process?

**Mr Martin:** I think that the first thing is independence, requiring that there should be someone—a firm of accountants—that did a very quick study to identify the nature of the breaches, because it would have placed internal audit in a very difficult position where senior colleagues and peers and so on were involved. However, I think that the crucial thing then was the appointment, following a tender, of a distinguished solicitor to undertake the investigation on behalf of the panel.

yn sicrhau ein bod yn gwneud hyn yn gywir—o ran gofynion Ewropeaidd.

[145] **Dafydd Wigley:** Diolch. Mae'r ffaith na ddilynodd pobl y cyfarwyddyd a roddwyd yn ein harwain at fater camau disgyblu. Nid wyf am godi'r mater o enwi unigolion—cytuna fy Mhwyllgor y byddai hynny yn amhriodol. Mae, fodd bynnag, gwestiynau pwysig am y prosesau yn deillio o hyn, a dyna'r hyn yr ydym ni fel Pwyllgor angen sicrwydd yn ei gylch. Felly fy nghwestiwn cyntaf yw, sut yr oedd proses ddisgyblu'r cyngor wedi ei sdrwythuro?

**Mr Martin:** Y peth cyntaf i'w ddweud yw i'r cyngor ei hun benderfynu yn gyntaf ofyn i Bentley Jennison, fel cyfrifwyr annibynnol, fwrw golwg ar yr achos. Ni chafodd yr holl achosion o'ch blaen eu hystyried gan Bentley Jennison—mae adroddiad yr Archwilydd Cyffredinol yn nodi pa achosion a ystyriwyd ganddo. Yn sgîl adroddiad Bentley Jennison, penderfynodd y cyngor llawn y dylai sefydlu panel a fyddai wedyn yn comisiynu ymchwiliad pellach. Yr oedd y panel hwnnw yn cynnwys cadeiryddion pwyllgorau adnoddau dynol y cyngor cenedlaethol a'r cyngor addysg uwch. Y rheswm yr oedd hwn yn cynnwys y cyngor addysg uwch oedd oherwydd yr oedd nifer o'r staff dan sylw yn gweithio i'r ddau gyngor, fel y gwna nifer sylweddol o staff o fewn y sefydliad. Honno yw'r weithdrefn a bennir yn yr achosion hynny.

[146] **Dafydd Wigley:** Sut y gwnaeth y cyngor cenedlaethol nodi a cheisio rheoli unrhyw ddarpar wrthdaro buddiannau a gododd yn ystod y broses honno?

**Mr Martin:** Credaf mai'r peth cyntaf yw annibyniaeth, sy'n mynnu y dylai fod rhywun—cwmni o gyfrifwyr—a wnaeth astudiaeth gyflym iawn i nodi natur y tor-rheolau, oherwydd byddai wedi rhoi archwiliad mewnol mewn sefyllfa anodd iawn lle'r oedd uwch gydweithwyr a chymheiriaid ac ati dan sylw. Fodd bynnag, credaf mai'r peth hanfodol bryd hynny oedd penodi, yn dilyn tendr, cyfreithiwr amlwg i gyflawni'r ymchwiliad ar ran y panel.

[147] **Dafydd Wigley:** What were the findings of the investigating officer?

**Mr Martin:** The findings, in summary, were: first, a recognition that the staff had acted in good faith; secondly, that where there were errors, that they were errors of omission rather than commission; thirdly, that the staff had, in all other respects, given exemplary service and, indeed, had achieved a level of achievement—particularly in the area of human resources—which was pretty extraordinary in a very limited space of time; and that there were unprecedented mitigating circumstances, in terms of the overwhelming demands on those staff, the hours they were working and the challenges they were facing. However, the panel took the view when it received that evidence, that there should be disciplinary proceedings and the determination—

[148] **Dafydd Wigley:** May I just stop you? You gave a list of the findings, but I do not think that you emphasised what went wrong.

**Mr Martin:** Sorry, I beg your pardon.

[149] **Dafydd Wigley:** Otherwise, presumably, there would not have been any disciplinary action.

**Mr Martin:** The disciplinary action was in respect of three of the items that were considered only and that was because it was felt that the staff concerned should have identified the requirement, in the first place, for a European procurement and, secondly, for there to be no extensions to existing contracts, as there were, which should have been subject to separate tender action and, in some cases, European action.

[150] **Dafydd Wigley:** Those are two of them.

**Mr Martin:** There were three contracts for which those considerations were the same.

[151] **Dafydd Wigley:** I see. The disciplinary action was based on those faults?

[147] **Dafydd Wigley:** Beth oedd canfyddiadau'r swyddog ymchwilio?

**Mr Martin:** Dyma oedd y canfyddiadau yn gryno: yn gyntaf, cydnabyddiaeth bod staff wedi gweithredu'n ddidwyll; yn ail, lle'r oedd camgymeriadau, mai camgymeriadau hepgor yn hytrach na chomisiynu oeddynt; yn drydydd, bod y staff, ymhob ffordd arall, wedi rhoi gwasanaeth rhagorol ac, yn wir, wedi cyflawni lefel o gyrhaeddiad—yn enwedig ym maes adnoddau dynol—a oedd yn eithaf rhyfeddol mewn bach iawn o amser; a bod amgylchiadau lliniarol hollol newydd, o ran y gofynion aruthrol ar y staff hynny, yr oriau yr oeddynt yn eu gweithio a'r heriau'r oeddynt yn eu hwynebu. Fodd bynnag, penderfynodd y panel pan dderbyniodd y dystiolaeth honno, y dylid cael achosion disgyblu a'r penderfyniad—

[148] **Dafydd Wigley:** A gaf fi'ch stopio chi? Rhoesoch restr o'r canfyddiadau, ond ni chredaf i chi bwysleisio beth aeth o'i le.

**Mr Martin:** Mae'n ddrwg gennyf, maddeuwch i mi.

[149] **Dafydd Wigley:** Fel arall, mae'n debyg, ni fyddai unrhyw gamau disgyblu wedi eu cymryd.

**Mr Martin:** Yr oedd y camau disgyblu yn ymwneud â thri o'r eitemau a ystyriwyd yn unig ac yr oedd hynny oherwydd teimlwyd y dylai'r staff dan sylw fod wedi nodi'r gofyniad, yn y lle cyntaf, ar gyfer caffael Ewropeaidd ac, yn ail, na ddylid rhoi estyniadau i gontractau a oedd yn bodoli eisoes, fel a wnaed, a ddylai fod wedi bod yn destun gweithredu tendr ar wahân ac, mewn rhai achosion, gweithredu Ewropeaidd.

[150] **Dafydd Wigley:** Dyna ddau ohonynt.

**Mr Martin:** Yr oedd tri chontract, yr oedd yr ystyriaethau hynny yr un peth ar gyfer y tri ohonynt.

[151] **Dafydd Wigley:** Yr wyf yn gweld. Yr oedd y camau disgyblu yn seiliedig ar y beiau hynny?

**Mr Martin:** The panel accepted those findings, and its conclusion was to issue time-limited warnings to the staff, recognising the unprecedented mitigating circumstances.

[152] **Dafydd Wigley:** You mentioned a handful of cases; why was it that the disciplinary panel confined its investigation just to a few cases originally detected by the internal auditors, rather than considering the totality of the procurement breaches listed in the table?

**Mr Martin:** Well, the council put that action in hand fairly early on. What I was then able to do, as chief executive, was to ask our head of audit to produce a report on the other cases. He was able, in doing that, to apply the test that the solicitor had applied, and one of the key findings of the solicitor—I have mentioned some of them—was that he believed that it would have been impossible to have established systems, other than business-as-usual for, I think his phrase was, six months at the very earliest. He did note, however, that there were problems in relation to the failure to manage the risk in the case of the particular contracts. That is why he found that there was a case for disciplinary action in those cases.

In respect of the others, in applying this test to them, it was unreasonable to expect staff to have got this right in that first six months, and applying a further test which I asked for—was there any evidence whatsoever of people trying to subvert the rules or by-pass them or whatever—the auditor’s finding was that there was no such case in that respect with any of the other cases.

[153] **Dafydd Wigley:** Hold on. If you are saying—and I may have misunderstood this, and correct me if I have—that in the first six months there was the mitigating factor that circumstances led to people making mistakes, and that this was understandable, in that case could there not have been a whole plethora of other errors going on, with immense implications?

**Mr Martin:** Well, we have talked already about the measures that we took across a

**Mr Martin:** Derbyniodd y panel y canfyddiadau hynny, a’i gasgliad oedd rhoi rhybuddion â therfyn amser i’r staff, gan gydnabod yr amgylchiadau lliniarol digynsail.

[152] **Dafydd Wigley:** Soniasoch am lond dwrn o achosion; pam wnaeth y panel disgyblu gyfyngu ei ymchwiliad i rai achosion a ganfuwyd yn wreiddiol gan yr archwilwyr mewnol yn unig, yn hytrach nag ystyried yr holl enghreifftiau o dor-amod wrth gaffael a resdrwyd yn y tabl?

**Mr Martin:** Wel, rhoddodd y cyngor y camau gweithredu hynny ar waith yn weddol fuan. Yr hyn y gallais i ei wneud wedyn, fel prif weithredwr, oedd gofyn i’n pennaeth archwilio gynhyrchu adroddiad ar yr achosion eraill. O wneud hynny, gallodd weithredu’r prawf a ddefnyddiwyd gan y cyfreithiwr, ac un o brif ganfyddiadau’r cyfreithiwr—yr wyf wedi sôn am rai ohonynt—oedd ei fod yn credu y byddai wedi bod yn amhosibl i gael systemau sefydliedig, ac eithrio rhai busnes-fel-arfer am, credaf mai ei eiriau oedd, chwe mis o leiaf. Nododd, fodd bynnag, fod problemau mewn perthynas â’r methiant i reoli’r risg yn achos y contractau arbennig. Dyna pam y daeth i’r casgliad bod angen camau disgyblu yn yr achosion hynny.

O ran y lleill, o osod y prawf hwn arnynt, yr oedd yn afresymol disgwyl i staff gael hwn yn iawn yn y chwe mis cyntaf hwnnw, ac o osod prawf pellach y gofynnais amdano—a oedd unrhyw dystiolaeth o gwbl fod pobl wedi ceisio tanseilio neu osgoi rheolau neu beth bynnag—canfyddiad yr archwilydd oedd nad oedd achos o ran hynny gydag unrhyw un o’r achosion eraill.

[153] **Dafydd Wigley:** Arhoswch. Os ydych yn dweud—ac efallai fy mod wedi camddeall hyn, a chywirwch fi os y gwneuthum hynny—bod ffactor lliniarol yn y chwe mis cyntaf sef bod amgylchiadau wedi achosi pobl i wneud camgymeriadau, a bod hyn yn ddealladwy, os felly, oni allai llu o gamgymeriadau eraill fod wedi cael eu gwneud, gyda goblygiadau enfawr?

**Mr Martin:** Wel, yr ydym eisoes wedi sôn am y mesurau a gymerasom ar draws ystod

broad range of the council's activities. We have a comprehensive audit programme and I believe that, if there were any other cases of that sort, it would have identified them. I think that—it was perhaps better for Sir Jon to say it than for me—we did actually handle most of these matters properly. However, you have before you some very serious cases where we did not handle them properly, and we could have done things better.

[154] **Dafydd Wigley:** Yes. When you had Bentley Jennison in, it was only to examine the four cases that you had it in and you gave terms of reference which implied a light touch review. I quote the words 'light touch'. Why was this? Who approved that it should be a light touch review?

**Mr Martin:** That was a council decision. The reason for that was because there was already a tremendous weight of evidence on this and analysis from internal audits. It was to take that work in a fairly rapid period, because in these circumstances it is best to move as quickly as you can, while being fair to all interests concerned, and make sure that you get to the bottom of it. So, it produced that report. What the council wanted to know was whether there was prima facie evidence that should lead us to have any further investigation carried out. That is what led it to set up the disciplinary panel. That is what led to the appointment of the independent investigator by that panel.

[155] **Dafydd Wigley:** When did the national council's head of internal audit conduct his review of the other 17 cases?

**Mr Martin:** He conducted that around the turn of the year. I asked him to do that once the disciplinary proceedings had been completed for the other cases, so that he could use the guiding principles in the Halliwell Landau report—the independent solicitor—as the basis for his independent judgment.

[156] **Dafydd Wigley:** And were his findings communicated to the disciplinary panel?

**Mr Martin:** I have communicated his

eang o weithgareddau'r cyngor. Mae gennym raglen archwilio gynhwysfawr a chredaf, os oedd unrhyw achosion eraill o'r math hynny, y byddai wedi eu nodi. Credaf—efallai mai gwell oedd i Syr Jon ddweud hynny na mi—y bu inni, mewn gwirionedd, ymdrin â'r mwyafrif o'r materion hyn yn briodol. Fodd bynnag, o'ch blaen mae rhai achosion difrifol iawn na fu inni ymdrin â hwy yn briodol, a gallem fod wedi gwneud pethau'n well.

[154] **Dafydd Wigley:** Yn wir. Pan fu Bentley Jennison gyda chi, gofynasoch iddo archwilio pedwar achos yn unig, a rhoesoch gylch gorchwyl a oedd yn awgrymu adolygiad nad oedd yn ymwithiol. Dyfynnaf y geiriau 'nad yw'n ymwithiol'. Beth oedd y rheswm am hyn? Pwy gymeradwyodd y dylai fod yn adroddiad nad oedd yn ymwithiol?

**Mr Martin:** Penderfyniad y cyngor oedd hwnnw. Y rheswm am hynny oedd bod eisoes llawer o dystiolaeth am hyn a dadansoddiad o archwiliadau mewnol. Yr oedd yn mynd i ymgymryd â'r gwaith hwnnw mewn cyfnod go gyflym, oherwydd dan yr amgylchiadau hyn mae'n well symud cyn gynted ag y gallwch, tra'n bod yn deg â phawb â budd dan sylw, a sicrhau eich bod yn ei ddatrys. Felly, cynhyrchodd yr adroddiad hwnnw. Yr oedd y cyngor am wybod a oedd dystiolaeth olwg gyntaf a ddylai'n harwain at gynnal unrhyw ymchwiliad pellach. Dyna'r hyn a wnaeth iddo sefydlu'r panel disgyblu. Dyna'r hyn a arweiniodd at benodi ymchwiliwr annibynnol gan y panel hwnnw.

[155] **Dafydd Wigley:** Pryd wnaeth pennaeth archwilio mewnol y cyngor cenedlaethol gynnal ei adolygiad o'r 17 achos arall?

**Mr Martin:** Cynhaliodd yr adolygiad oddeutu'r flwyddyn newydd. Gofynnais iddo wneud hynny ar ôl i'r achosion disgyblu ar gyfer yr achosion eraill gael eu cwblhau, fel y gallai ddefnyddio'r egwyddorion arweiniol yn adroddiad Halliwell Landau—y cyfreithiwr annibynnol—yn sail i'w ddyfarniad annibynnol.

[156] **Dafydd Wigley:** Ac a gafodd ei ganfyddiadau eu cyfleu i'r panel disgyblu?

**Mr Martin:** Yr wyf wedi cyfleu ei

findings to the chairman of the human resources committee of the national council, to the chairman of the council and indeed also to the National Assembly.

[157] **Dafydd Wigley:** What about the disciplinary panel?

**Mr Martin:** Well, the chair of the human resources committee of the national council was the national council's representative on the panel and he had the findings.

[158] **Dafydd Wigley:** And is still?

**Mr Martin:** Well, the panel had ceased. The panel was commissioned by the council to look into particular cases, but I also communicated those findings and the full report to the chairman of the council's audit and risk committee because it seemed to me important that he too should take a view about them.

[159] **Dafydd Wigley:** So, the disciplinary panel as such did not consider these other cases.

**Mr Martin:** No, but the national council's member on it did see the findings.

[160] **Dafydd Wigley:** I turn to you, Sir Jon. Are you content with the degree of thoroughness applied by the national council to these disciplinary processes?

**Sir Jon Shortridge:** Yes I am. I should say that, during this process, I kept very close, particularly to the chair of the council, and made sure that she had, if she wanted it, access to my advice, and the advice that I can make available from within the Assembly. We certainly facilitated further legal advice for her, so that both she and I could be fully satisfied as to the robustness and the appropriateness of the process that they went through. I think that the issue where judgment subsequently had to be exercised was on the further irregular contracts that came to light, and whether those should have been treated in the same way. Mr Martin is closer to this than me and can confirm, I think, that his internal auditor looked at these issues and took a view as to whether these

ganfyddiadau i gadeirydd pwyllgor adnoddau dynol y cyngor cenedlaethol, i gadeirydd y cyngor ac, yn wir, i'r Cynulliad Cenedlaethol hefyd.

[157] **Dafydd Wigley:** Beth am y panel disgyblu?

**Mr Martin:** Wel, cadeirydd pwyllgor adnoddau dynol y cyngor cenedlaethol oedd cynrychiolydd y cyngor cenedlaethol ar y panel ac yr oedd ganddo'r canfyddiadau.

[158] **Dafydd Wigley:** Ac mae hynny'n dal yn wir?

**Mr Martin:** Wel, yr oedd y panel wedi dirwyn i ben. Comisiynwyd y panel gan y cyngor i edrych ar achosion penodol, ond cyfleais y canfyddiadau hynny a'r adroddiad llawn i gadeirydd pwyllgor archwilio a risg y cyngor hefyd oherwydd yr oeddwn yn credu ei bod yn bwysig iddo ddod i benderfyniad amdanynt.

[159] **Dafydd Wigley:** Felly, ni wnaeth y panel disgyblu fel y cyfryw ystyried yr achosion eraill hyn.

**Mr Martin:** Na, ond gwelodd yr aelod o'r cyngor cenedlaethol arno y canfyddiadau.

[160] **Dafydd Wigley:** Trof atoch chi, Syr Jon. A ydych yn fodlon â pha mor drywadol fu'r cyngor cenedlaethol yn y prosesau disgyblu hyn?

**Syr Jon Shortridge:** Ydw. Dylwn ddweud i mi, yn ystod y broses hon, lynu'n agos, yn enwedig at gadeirydd y cyngor, a sicrhais fod ganddi fynediad, os oedd ei angen arni, i'm cyngor, ac i'r cyngor y gallaf ei gael gan y Cynulliad. Yn sicr, bu inni hwyluso cyngor cyfreithiol pellach iddi, fel y gallai hi a mi fod yn hollol fodlon am gadernid a phriodoldeb y broses y buont yn destun iddi. Credaf mai'r mater lle yr oedd yn rhaid i ddyfarniad gael ei weithredu wedyn oedd y contractau afreolaidd pellach a ddaeth i'r amlwg, ac a ddylai'r rheiny fod wedi cael eu trin yn yr un modd. Mae Mr Martin yn agosach at hyn na mi a gall gadarnhau, fe gredaf, i'w archwilydd mewnol edrych ar y materion hyn a phenderfynu a oedd yr achosion pellach hyn yn cynrychioli



further cases illustrated further and different problems, or whether this was more of the same. He concluded that they were more of the same and advised that he did not think any further action was needed. Mr Martin will have to confirm this, but I think that I am correct in that.

**Mr Martin:** Yes.

**Sir Jon Shortridge:** This matter was then referred ultimately to the chair of the council who sought my views on the matter and the judgment that I reached confirmed the view that was coming through from the council itself. I did not think that any further benefit would come from mounting further disciplinary proceedings at this stage, given—as I think you will acknowledge and understand—what the council went through. These investigations and the disciplinary process were a massive—it was necessary, but it was a massive distraction. The judgment that I reached, and that colleagues reached, was that there would be no further benefit to be had from taking further action.

[161] **Dafydd Wigley:** It may have been a distraction, but there was a purpose to it, was there not—not only as a disciplinary action against the individuals concerned, but as a warning to others and to highlight the importance of these events?

**Sir Jon Shortridge:** Absolutely, but I think, picking up on that particular point, that the deterrent value had been fully achieved. There was then the issue of ensuring that the council was in a position to deliver its main policies and business without certain key members of staff being very focused on their personal circumstances.

[162] **Dafydd Wigley:** I have one final question on the disciplinary matters. I have heard reference to the chair of human resources and all the rest. Was the chair of ELWa involved in this at all?

**Sir Jon Shortridge:** Mr Martin can answer that. I do not think that she was directly involved in the process, but she was certainly, on occasions, acting with the assistance of my advice.

problemau pellach a gwahanol, neu ai mwy o'r un rhai oeddynt. Daeth i'r casgliad mai mwy o'r un problemau oeddynt a chyngorodd nad oedd o'r farn bod angen gweithredu ymhellach. Bydd yn rhaid i Mr Martin gadarnhau hyn, ond credaf fy mod yn gywir yn hynny.

**Mr Martin:** Ydych.

**Syr Jon Shortridge:** Cyfeiriwyd y mater hwn wedyn yn y pen draw at gadeirydd y cyngor a ofynnodd am fy marn ar y mater ac yr oedd fy nyfarniad yn cadarnhau barn y cyngor ei hun. Nid oeddwn o'r farn y byddai achosion disgyblu pellach ar hyn o bryd yn gwneud unrhyw ddaioni, o gofio—fel y credaf y byddwch yn cydnabod ac yn deall—yr hyn y bu'r cyngor yn destun iddo. Yr oedd yr ymchwiliadau hyn a'r broses ddisgyblu yn andros o—yr oedd yn angenrheidiol, ond yr oedd yn andros o ymyriad. Y penderfyniad y deuthum iddo, a'r penderfyniad y daeth cydweithwyr iddo, oedd na fyddai camau gweithredu pellach o unrhyw fudd pellach.

[161] **Dafydd Wigley:** Efallai iddo fod yn ymyriad, ond onid oedd pwrpas iddo—nid yn unig fel achos disgyblu yn erbyn yr unigolion dan sylw, ond fel rhybudd i eraill ac i bwysleisio pwysigrwydd y digwyddiadau hyn?

**Syr Jon Shortridge:** Yn bendant, ond credaf, gan ganolbwyntio ar y pwynt arbennig hwnnw, fod ei bwrpas fel rhybudd wedi ei gyflawni'n llawn. Yna yr oedd y mater o sicrhau bod y cyngor mewn sefyllfa i weithredu ei brif bolisiau a busnes heb fod rhai aelodau allweddol o staff yn canolbwyntio'n helaeth ar eu hamgylchiadau personol.

[162] **Dafydd Wigley:** Mae gennyf un cwestiwn olaf am y materion disgyblu. Yr wyf wedi clywed cyfeiriadau at y cadeirydd adnoddau dynol a'r gweddill i gyd. A fu cadeirydd ELWa yn ymwneud â hyn o gwbl?

**Syr Jon Shortridge:** Gall Mr Martin ateb hynny. Ni chredaf iddi ymwneud yn uniongyrchol â'r broses, ond yr oedd yn bendant, ar brydiau, yn gweithredu gyda chymorth fy nghyngor.

**Mr Martin:** She played no part in the formal disciplinary process. That job was given—as the procedure requires—to the chairs of the two human resources committees.

May I add one important point to the issue of the action that was taken? As soon as I had digested and considered the further report from the head of internal audit about the other cases, I sent that report to the relevant directors—not that they were responsible in all cases for the breaches. I sent that to them and asked all of them for an assurance, not only that the staff concerned understood what had gone wrong and that they had been talked to about the cases and so on, but that they had now received all the training that they needed. We have had a series of training programmes running on these issues and there is another one going on now. I wanted their personal assurances that the lessons had been learned and that their staff understood exactly what to do in the future.

[163] **Val Lloyd:** I would like to direct my question to the Assembly compliance officer. The national council submitted 21 individual contracts to the National Assembly for Wales seeking retrospective approval, of which details are given in table 1. Could you tell us what criteria you used in determining whether or not to grant that retrospective approval?

**Mr Powell:** My role as Assembly compliance officer involves considering requests for departing from set procurement rules both within the Assembly and also those which are submitted to me from Assembly sponsored public bodies because they are above their delegated limit. In making those decisions, I take advice from professionals in the Assembly procurement unit and, on occasions, elsewhere within the department. The things that I would look at and I would receive advice on in respect of is whether, because there is a request for a departure, the principles of regularity and propriety are still upheld. For instance, if there is a request for an extension of a

**Mr Martin:** Ni chwaraeodd unrhyw ran yn y broses ddisgyblu ffurfiol. Rhoddwyd y swydd honno—fel sy'n ofynnol gan y weithdrefn—i gadeiryddion y ddau bwyllgor adnoddau dynol.

A gaf fi ychwanegu un pwynt pwysig at y mater o'r camau gweithredu a gymerwyd? Cyn gynted ag yr oeddwn wedi cymathu ac ystyried yr adroddiad pellach gan y pennaeth archwilio mewnol am yr achosion eraill, anfonais yr adroddiad hwnnw at y cyfarwyddwyr perthnasol—er nad oeddynt yn gyfrifol ymhob achos am yr enghreifftiau o dor-amod. Anfonais hwnnw atynt a gofynnais iddynt oll am sicrwydd, nid yn unig fod y staff dan sylw yn deall beth a oedd wedi mynd o'i le a bod rhywun wedi siarad â hwy am yr achosion ac ati, ond eu bod bellach wedi derbyn yr holl hyfforddiant yr oedd ei angen arnynt. Yr ydym wedi cynnal cyfres o raglenni hyfforddi ar y materion hyn ac mae un arall yn cael ei chynnal ar hyn o bryd. Yr oeddwn eisiau eu sicrwydd personol bod gwersi wedi eu dysgu a bod eu staff yn deall yn union beth i'w wneud yn y dyfodol.

[163] **Val Lloyd:** Hoffwn gyfeirio fy nghwestiwn at swyddog cydymffurfio'r Cynulliad. Cyflwynodd y cyngor cenedlaethol 21 o gontractau unigol i Gynulliad Cenedlaethol Cymru yn gofyn am gymeradwyaeth ôl-weithredol, a cheir manylion am y rhain yn nhabl 1. A allech chi ddweud wrthym pa feini prawf a ddefnyddiwyd gennych i benderfynu ai rhoi cymeradwyaeth ôl-weithredol ai peidio?

**Mr Powell:** Mae fy rôl fel swyddog cydymffurfio'r Cynulliad yn cynnwys ystyried ceisiadau i wyro oddi wrth reolau caffael pendant o fewn y Cynulliad a hefyd y rheiny a gyflwynir i mi gan gyrff cyhoeddus a noddir gan y Cynulliad oherwydd eu bod dros y terfyn a ddirprwywyd iddynt. Wrth wneud y penderfyniadau hynny, fe'm cyngorir gan weithwyr proffesiynol o uned gaffael y Cynulliad ac, ar brydiau, gan eraill o'r adran. Y pethau y buaswn yn edrych arnynt ac yn derbyn cyngor arnynt mewn perthynas â hyn yw, oherwydd bod cais am wyro, a yw egwyddorion rheoleidd-dra a phriodoldeb yn parhau i gael eu cynnal. Er enghraifft, os bydd cais am estyn contract, a

contract is it right to grant that extension or should it be a separate package of work? Where there is a request not to accept the lowest tender on grounds of quality, I must determine whether that is borne out by the tender appraisal. Those are examples. The other aspect that I would consider in terms of approving the departure—again with procurement unit advice—is whether it represents value for money.

In the cases that were submitted to me, with six of them—as has already been mentioned—there were serious issues of irregularity in the sense that they breached European procurement rules and it would clearly not be appropriate to give retrospective approval in those circumstances. In eight other cases, the documentation that was submitted to me did not give me any clear view or justification for saying that value for money had been achieved. I think the key question with retrospective departures is that: given that there has already been a deviation from laid-down rules, had the case been submitted to you at the start, would there be a solid case for approving it? As I say, in six cases there was a clear breach of EU guidelines. In another eight, there was insufficient documentation available to say that it would be a correct judgment and decision on my part to actually approve them. In the remaining seven cases, given all the circumstances, I judged that there was sufficient reason to grant approval retrospectively in terms of value for money.

[164] **Dafydd Wigley:** I will ask a question arising from that. You say that, in six instances, you did not have sufficient documentation?

**Mr Powell:** Yes.

[165] **Dafydd Wigley:** Does that not cause some concern that, even at this stage, when we are considering retrospectively, the system does not throw up the documentation necessary to make important decisions such as this?

[166] **Alison Halford:** I think that he said eight.

yw'n briodol caniatáu'r estyniad hwnnw neu a ddylai fod yn becyn o waith ar wahân? Lle mae cais i beidio â derbyn y tendr isaf ar sail ansawdd, rhaid imi benderfynu a yw arfarniad y tendr yn cyfiawnhau hynny. Enghreifftiau yw'r rheiny. Yr agwedd arall y buaswn yn ei hystyried o ran cymeradwyo'r gwyro—eto gyda chyngor yr uned gaffael—yw a yw'n cynrychioli gwerth am arian.

Yn yr achosion a gyflwynwyd i mi, yr oedd chwech ohonynt—fel a grybwyllwyd eisoes—yn cynnwys materion difrifol o afreoleidd-dra o ran y ffaith eu bod yn torri rheolau caffael Ewropeaidd ac mae'n amlwg na fyddai'n briodol rhoi cymeradwyaeth ôl-weithredol dan yr amgylchiadau hynny. Mewn wyth achos arall, nid oedd y dogfennau a gyflwynwyd i mi yn rhoi unrhyw gyfiawnhad neu safbwynt clir i mi ddweud eu bod yn cyflawni gwerth am arian. Credaf mai'r cwestiwn allweddol am gymeradwyaethau ôl-weithredol yw: oherwydd bod gwyro oddi wrth reolau sefydlog eisoes wedi digwydd, pe bai'r achos wedi cael ei gyflwyno i chi o'r cychwyn, a fyddai achos cadarn o blaid ei gymeradwyo? Fel y dywedais, yr oedd canllawiau'r UE yn amlwg wedi eu torri mewn chwe achos. Mewn wyth arall, nid oedd dogfennau digonol ar gael i ddweud y byddai'n ddyfarniad a phenderfyniad cywir ar fy rhan i'w cymeradwyo. Yn y saith achos sy'n weddill, o gofio'r holl amgylchiadau, dyfernais fod rheswm digonol dros roi cymeradwyaeth ôl-weithredol o ran gwerth am arian.

[164] **Dafydd Wigley:** Gofynnaf gwestiwn yn deillio o hynny. Dywedwch nad oedd gennych ddogfennau digonol mewn chwe achos?

**Mr Powell:** Nac oedd.

[165] **Dafydd Wigley:** Onid yw'n peri peth pryder nad yw'r system, hyd yn oed ar yr adeg hon, pan ydym yn ystyried yn ôl-weithredol, yn cyflwyno'r dogfennaeth sydd ei hangen i wneud penderfyniadau pwysig fel y rhain?

[166] **Alison Halford:** Credaf iddo ddweud wyth.

[167] **Janice Gregory:** Was it six or seven?

[167] **Janice Gregory:** Ai chwech neu saith oedd ef?

[168] **Dafydd Wigley:** However many there were, the principle is what counts. Are you not a little perturbed at this stage, Mr Martin?

[168] **Dafydd Wigley:** Pa faint bynnag ohonynt oedd, yr egwyddor sy'n bwysig. Onid ydych ychydig yn anesmwyth erbyn hyn, Mr Martin?

**Mr Martin:** I am very perturbed, but we would not be generating ex post facto rationalisations. I believe that the information that had to be given was the information that would have been the basis for the taking of those decisions. One of the weaknesses that have been exposed here is that, clearly, some of those contracts were let without adequate documentation. I think that that is the problem, with which the compliance officer is left.

**Mr Martin:** Yr wyf yn anesmwyth iawn, ond ni fyddem yn cynhyrchu rhesymoliadau wedi'r ffaith. Credaf mai'r wybodaeth oedd yn rhaid ei rhoi oedd y wybodaeth a fyddai wedi bod yn sail i gymryd y penderfyniadau hynny. Un o'r gwendidau a amlygwyd yn y fan hon yw, mae'n amlwg, fod rhai o'r contractau hynny wedi cael eu gosod heb ddogfennaeth ddigonol. Credaf mai dyna'r broblem a adewir i'r swyddog cydymffurfio.

[169] **Dafydd Wigley:** They did not exist in the first place. Okay, point taken. Right, let us move on.

[169] **Dafydd Wigley:** Nid oeddynt yn bodoli yn y lle cyntaf. O'r gorau, mae'r pwynt wedi ei dderbyn. Iawn, gadewch i ni symud ymlaen.

[170] **Janice Gregory:** I think that Mr Powell has answered the first part of my question, Chair. However, I would like to ask Mr Martin, on what basis he is satisfied that the 21 contracts represented good value for money for the public purse, as indicated in paragraph 61 of Sir John Bourn's report?

[170] **Janice Gregory:** Credaf fod Mr Powell wedi ateb rhan gyntaf fy nghwestiwn, Gadeirydd. Fodd bynnag, hoffwn ofyn i Mr Martin, ar ba sail yr oedd yn fodlon bod y 21 o gontractau yn cynrychioli gwerth da am arian i bwrs y wlad, fel a nodir ym mharagraff 61 o adroddiad Syr John Bourn?

**Mr Martin:** Well, it is impossible to demonstrate value for money in every case to the ultimate. Unless you follow competitive procedures as the rules lay down, you cannot know whether you have achieved value for money. I do not know how much detail you want me to get into and how much time we have in which to do it, but I cannot give you a single answer. There are 21—

**Mr Martin:** Wel, mae'n amhosibl dangos gwerth am arian ymhob achos i'r eithaf. Oni bai eich bod yn dilyn gweithdrefnau cystadleuol fel mae'r rheolau yn eu nodi, ni allwch wybod a ydych wedi cyflawni gwerth am arian. Ni wn pa mor fanwl yr ydych am i mi fod a faint o amser sydd gennym i wneud felly, ond ni allaf roi un ateb yn unig i chi. Mae 21—

[171] **Dafydd Wigley:** You may send a supplementary memorandum if you are minded to do so.

[171] **Dafydd Wigley:** Gallwch anfon memorandwm atodol os dymunwch.

**Mr Martin:** Would it be helpful to the Committee for me to do that?

**Mr Martin:** A fyddai gwneud hynny o gymorth i'r Pwyllgor?

[172] **Dafydd Wigley:** Yes. It might be helpful.

[172] **Dafydd Wigley:** Byddai. Gallai fod o gymorth.

[173] **Janice Gregory:** I think it is important,

[173] **Janice Gregory:** Credaf ei fod yn

Chair, when we are talking about value for money, especially when it is relevant to the public purse, that we do have at least a comprehensive note if we cannot have a comprehensive verbal answer.

**Mr Martin:** May I just give you one or two quick points and then follow that up with a note? In a number of cases, a serious effort was made to get best value for money but I repeat that what you cannot demonstrate, in the absence of following these procedures properly, is that it was the very best value for money. That is the sort of point that I would like to bring out in some detail because I will not satisfy you with a vague, general answer nor have you time for the detailed one, I guess.

[174] **Dafydd Wigley:** No, but we would be grateful for such a note.

[175] **Jocelyn Davies:** Mr Martin, you mentioned earlier that the council has now taken measures—well, I hope that the council has now taken measures—to make sure that this does not reoccur. Will you briefly outline those?

**Mr Martin:** First of all, from the outset, we did prioritise this work and the introduction of the unified procurement procedures from January 2001, with all the associated training, was not a response to these problems. It was something that we had always planned. We certainly made sure that we did it. As soon as I knew in early January, we accelerated that even further—sorry, that was January 2002; I beg your pardon, I am slipping between years. Regarding the further action that we have taken, just to repeat a point that I referred to earlier, the key thing was to get a top-class procurement specialist in place, which we did. The permanent appointment was from October 2001. That was crucial. That person then took that responsibility. We have had a couple of rounds of training already for relevant staff. We have included it in all induction training. We are running a major course at the moment for all staff in the organisation about all the things that are involved in being an Assembly sponsored body and we intend to run that as often as we need to in the future because, as new people come on board, that is clearly very important.

bwysig, Gadeirydd, wrth sôn am werth am arian, yn enwedig pan fo'n berthnasol i arian cyhoeddus, fod gennym o leiaf nodyn cynhwysfawr os na chawn ateb llafar cynhwysfawr.

**Mr Martin:** A gaf fi roi un neu ddau bwynt cyflym i chi ac yna'u dilyn gyda nodyn? Mewn nifer o achosion, gwnaed ymdrech lew i gael gwerth gorau am arian ond ailadroddaf mai'r hyn na allwch ei ddangos, heb ddilyn y gweithdrefnau hyn yn briodol, yw mai hwn oedd y gwerth gorau posibl am arian. Dyna'r math o bwynt yr hoffwn ei drafod mewn cryn fanylder oherwydd ni wnaaf eich bodloni ag ateb cyffredinol, amwys ac nid oes gennyh yr amser am ateb manwl, am wn i.

[174] **Dafydd Wigley:** Nac oes, ond byddem yn ddiolchgar am y cyfryw nodyn.

[175] **Jocelyn Davies:** Mr Martin, soniasoch yn gynharach bod y cyngor bellach wedi cymryd camau—wel, gobeithiaf fod y cyngor bellach wedi cymryd camau—i sicrhau nad yw hyn yn digwydd eto. A wnewch chi amlinellu'r rheiny'n fyr?

**Mr Martin:** Yn gyntaf oll, o'r cychwyn cyntaf, bu inni flaenoriaethu'r gwaith hwn ac nid ymateb i'r problemau hyn oedd cyflwyno'r gweithdrefnau caffael unedig o Ionawr 2001, gyda'i holl hyfforddiant cysylltiedig. Yr oeddem bob amser wedi bwriadu gwneud hynny. Yn bendant, bu inni sicrhau ein bod yn gwneud hynny. Cyn gynted ag y gwyddwn ddechrau Ionawr, cyflymasom hynny ymhellach byth—mae'n ddrwg gennyf, Ionawr 2002 oedd hynny; maddeuwch i mi, yr wyf yn cymysgu'r blynyddoedd. Ynglŷn â'r camau gweithredu pellach yr ydym wedi eu cymryd, i ailadrodd pwynt y cyfeiriais ato yn gynharach, y peth allweddol oedd penodi arbenigwr caffael o'r radd flaenaf, sefyr hyn a wnaethom. Yr oedd y penodiad parhaol o Hydref 2001. Yr oedd hynny yn hanfodol. Yna, ysgwyddodd yr unigolyn hwnnw y cyfrifoldeb hwnnw. Yr ydym eisoes wedi cynnal ambell i gyfres o hyfforddiant ar gyfer staff perthnasol. Yr ydym wedi ei gynnwys yn yr holl hyfforddiant sefydlu. Yr ydym yn cynnal cwrs pwysig ar hyn o bryd ar gyfer holl staff y sefydliad ynglŷn â'r holl elfennau sy'n

Also, things change and there are lessons, which come from the findings of committees such as this one and from other cases, that one needs to share. So, we have that in place.

I think that the thing I would like to add is that this is not something that you get right overnight. I have just received a further report from my head of audit because I asked him to go in, with the agreement of the audit and risk committee, and to do a follow-up report. I have just received that report to be shared with the NAO and so on in the normal way. That shows that we are getting the tendering right to the point where the specialist staff are now overwhelmed and we are having to look to strengthen that resource. We are also getting the business of contracting right. We are still not as tight as we should be, by any means, on contract management. There is a lot of staff training to do there to embed that universally. It is not bad all over the place—I would not want you to get that impression for a moment—but we also have a lot of work to do in terms of post-contract evaluation, which is another key requirement, to learn the lessons and make sure that you got value for money from it. So, I am giving you a very honest assessment, but we started—as I can now say with hindsight; I did not know this at the time—from a very, very low base in terms of understanding what was required, and indeed in terms of the operation of the legacy systems. It is only in those parts of the organisation that had previously been in the public sector that, for the most part, things were got right. However, even there, under the pressure of events, people got things wrong too.

[176] **Jocelyn Davies:** I just wondered at what date were you pretty confident that these breaches stopped? You did tell us earlier that you sought the personal assurance of your directors, so can I ask you whether the council has sought your personal assurance?

gysylltiedig â bod yn gorff a noddir gan y Cynulliad a bwriadwn gynnal y cwrs mor aml ag sydd yn rhaid yn y dyfodol oherwydd, wrth i bobl newydd ymuno â ni, mae hynny yn amlwg yn bwysig iawn. Yn ogystal, mae pethau'n newid ac mae gwersi, sy'n deillio o ganfyddiadau pwyllgorau megis hwn ac o achosion eraill, y mae angen eu rhannu. Felly, mae hynny ar waith gennym.

Credaf mai'r hyn yr hoffwn ei ychwanegu yw nad yw hwn yn rhywbeth yr ydych yn ei gael yn iawn dros nos. Yr wyf newydd gael adroddiad pellach gan fy mhennaeth archwilio oherwydd gofynnais iddo, gyda chytundeb y pwyllgor archwilio a risg, fynd i mewn a llunio adroddiad dilynol. Yr wyf newydd gael yr adroddiad hwnnw i'w rannu â'r SAG ac ati yn y modd arferol. Mae hynny'n dangos ein bod yn cael y tendro yn iawn i'r fath raddau fel y bo'n drech na'r staff arbenigol bellach ac mae'n rhaid i ni edrych ar wella'r adnodd hwnnw. Yr ydym hefyd yn cael y busnes o gontractio yn iawn. Nid ydym mor effeithiol ag y dylem fod eto, ar unrhyw gyfrif, o ran y gwaith rheoli contract. Mae angen rhoi llawer o hyfforddiant i staff i sefydlu hynny yn gyffredinol. Nid yw'n wael ledled y sefydliad—ni fuaswn am i chi gael yr argraff honno am eiliad—ond mae gennym hefyd llawer o waith i'w wneud o ran gwerthuso ôl-gontract, sy'n ofyniad allweddol arall, i ddysgu'r gwersi a sicrhau i chi gael gwerth am arian ohono. Felly, yr wyf yn rhoi asesiad gonest iawn i chi ond dechreuasom—fel y gallaf ddweud bellach o edrych yn ôl; ni wyddwn hyn ar y pryd—o sylfaen isel iawn, iawn o ran deall beth oedd ei angen, ac yn wir o ran gweithredu'r systemau a etifeddwyd. Dim ond yn y rhannau hynny o'r sefydliad a fu yn y sector cyhoeddus yn flaenorol, i raddau helaeth, y gwnaed pethau'n gywir. Fodd bynnag, hyd yn oed yn y rhannau hynny, dan bwysau digwyddiadau, gwnaed pobl bethau yn anghywir hefyd.

[176] **Jocelyn Davies:** Tybed ar ba ddyddiad yr oeddech chi'n weddol hyderus y daeth y torri amodau hyn i ben? Dywedasoeh wrthym yn gynharach i chi ofyn am sicrwydd personol eich cyfarwyddwyr, felly a gaf fi ofyn i chi a yw'r cyngor wedi gofyn am eich sicrwydd personol chi?

**Mr Martin:** Yes. I mean, I report regularly and attend the audit and risk committee and obviously all the council meetings as a council member, and the council is extremely vigilant on these matters. May I say that I do not think that there is any way in which you can give an absolute guarantee that there will never be a breach? I, personally, for instance, was very disappointed and alarmed to find that there had been a further breach in July 2002. It may be that Sir Jon or David Richards would want to comment on the wider picture—they see a much bigger scene than I do—but I cannot think of any organisation, however well regulated, where you employ 500 people, where it is possible to absolutely guarantee that there will not be a breach. What I can say is that the report that I have from my head of audit—the latest follow-up report—says that there has been a massive improvement. There are still things that need tightening; for instance, there are a few small cases of very low-value sponsorships where we have a very low level of delegated authority about which we have had to say to the Assembly, ‘these should have come to you’. They are sums of between £15,000 and £25,000. We have got to tighten up on all of that, but the head of audit is very confident that we are much tighter than we were, that we are on the right road, and that if we now tighten up on those remaining areas, and get the contract management right and get the post-contract evaluation right, we will have a very well-run system. He is not saying that the systems are wrong; it is the way in which they are being operated.

[177] **Jocelyn Davies:** May I just ask one or two questions to Jon Shortridge, please? Why was it that you decided to commission the Peat review into the national council’s overall control environment in May 2002?

**Sir Jon Shortridge:** It was in May that I learned and had evidence of the seriousness of what had gone wrong, and within days of hearing about that, I felt that I needed to have my own independent assurance of the governance arrangements within the council. In order to be able to do it immediately, I asked Adam Peat—who will be familiar, I think, to most, if not all, of the Committee—

**Mr Martin:** Ydy. Hynny yw, yr wyf yn adrodd yn rheolaidd a mynychaf y pwyllgor archwilio a risg ac yn amlwg holl gyfarfodydd y cyngor fel aelod o’r cyngor, ac mae’r cyngor yn hynod wylidwrus ar y materion hyn. A gaf fi ddweud na chredaf fod unrhyw ffordd y gallwch roi gwarant llwyr na fydd byth tor-rheol? Cefais i, yn bersonol, er enghraifft, siom a braw mawr i ganfod y bu tor-rheol pellach yng Ngorffennaf 2002. Efallai y byddai Syr Jon neu David Richards am roi sylwadau ar y darlun ehangach—maent yn gweld golygfa llawer mwy na mi—ond ni allaf feddwl am un sefydliad, pa mor dda bynnag y’i rheolir, lle yr ydych yn cyflogi 500 o bobl, lle mae’n bosibl gwarantu’n llwyr na fydd tor-rheol. Yr hyn y gallaf ei ddweud yw bod yr adroddiad sydd gennyf gan fy mhennaeth archwilio—yr adroddiad dilynol diweddaraf—yn dweud y bu gwelliant enfawr. Mae pethau sydd angen eu tynhau o hyd; er enghraifft, mae rhai achosion bach o nawdd gwerth isel iawn lle mae gennym lefel isel iawn o awdurdod wedi ei ddirprwyo ac yr ydym wedi gorfod dweud wrth y Cynulliad yn eu cylch, ‘dylai’r rhain fod wedi dod atoch chi’. Symiau o rhwng £15,000 a £25,000 ydynt. Rhaid i ni dynhau pethau o’r fath, ond mae’r pennaeth archwilio yn hyderus iawn ein bod yn well nag yr oeddem, ein bod ar y trywydd cywir, ac os gwnawn ni dynhau pethau yn y meysydd hynny sy’n weddill, a chael y gwaith rheoli contract yn iawn a chael y gwerthuso ôl-gontract yn iawn, bydd gennym system sy’n cael ei chynnal yn dda. Nid yw’n dweud bod y systemau yn anghywir; y modd y gweithredir hwy sy’n anghywir.

[177] **Jocelyn Davies:** A gaf fi ofyn cwestiwn neu ddau i Jon Shortridge, os gwelwch yn dda? Pam y bu i chi benderfynu comisiynu adolygiad Peat ar amgylchedd rheoli cyffredinol y cyngor cenedlaethol ym Mai 2002?

**Syr Jon Shortridge:** Ym mis Mai y dysgais ac y cefais dystiolaeth am ddifrifoldeb yr hyn oedd wedi mynd o’i le, ac o fewn dyddiau o glywed am hynny, teimlais fod angen i mi gael fy sicrwydd annibynnol fy hun am y trefniadau rheoli o fewn y cyngor. Er mwyn gallu ei wneud ar unwaith, gofynnais i Adam Peat—a fydd yn gyfarwydd, fe gredaf, i’r mwyafrif, os nad pawb, ar y Pwyllgor—

to go in and spend a week with the council, finding out everything that was going on and giving me that personal assurance. I chose Adam Peat because, as you may or may not know, he was the chief executive of Tai Cymru for the best part of 10 years. So he was available to me and he had all the knowledge and experience I needed to be able to get a quick report on which I could rely.

[178] **Jocelyn Davies:** But you knew in February. You told us earlier that you had actually become aware of this in February.

**Sir Jon Shortridge:** What I was in the process of saying was that, in February, I learned that there were some problems, which at that point had not been fully defined, so I was tuned into the fact that there might be an issue there, but until we had available to us the relevant report that set out all the details, or the light-touch details—it was only at that stage that I became aware of the potential seriousness of the situation, and then I acted very fast.

[179] **Jocelyn Davies:** So the report—is that the Bentley Jennison report that you are referring to there, or—

**Sir Jon Shortridge:** I get confused, was the first the Bentley Jennison report?

**Mr Martin:** Yes.

**Sir Jon Shortridge:** Yes.

[180] **Jocelyn Davies:** So it is that report, not the one commissioned, as it says in the Auditor General's report, because concerns were raised by officials because of the applications for retrospective approval? At paragraph 62 it says that you started the Peat review because of the concerns raised among your officials after they had received a letter in April asking for retrospective approval for applications. However, it was the Bentley Jennison report that had triggered—

dreulio wythnos gyda'r cyngor, gan ganfod popeth oedd yn mynd yn ei flaen a rhoi'r sicrwydd personol hwnnw i mi. Dewisais Adam Peat oherwydd, fel y gwyddoch o bosibl, bu'n brif weithredwr Tai Cymru am bron i 10 mlynedd. Felly yr oedd ar gael i mi ac yr oedd ganddo'r holl wybodaeth a phrofiad oedd eu hangen arnaf i allu cael adroddiad cyflym y gallwn ddibynnu arno.

[178] **Jocelyn Davies:** Ond yr oeddech yn gwybod ym mis Chwefror. Dywedasoeh wrthym yn gynharach eich bod mewn gwirionedd wedi dod yn ymwybodol o hyn ym mis Chwefror.

**Syr Jon Shortridge:** Yr hyn yr oeddwn wrthi'n dweud oedd, i mi ganfod ym mis Chwefror fod rhai problemau, ond nid oeddynt wedi eu diffinio'n llawn bryd hynny, felly yr oeddwn yn ymwybodol efallai fod testun pryder yno, ond tan i ni gael yr adroddiad perthnasol oedd yn nodi'r manylion, neu'r manylion nad ydynt yn ymwthiol—bryd hynny yn unig y deuthum yn ymwybodol o ddifrifoldeb posibl y sefyllfa, ac yna gweithredais yn gyflym iawn.

[179] **Jocelyn Davies:** Felly yr oedd yr adroddiad—ai adroddiad Bentley Jennison yr ydych yn cyfeirio ato, neu—

**Syr Jon Shortridge:** Yr wyf yn drysu, ai adroddiad Bentley Jennison oedd y cyntaf?

**Mr Martin:** Ie.

**Syr Jon Shortridge:** Ie.

[180] **Jocelyn Davies:** Felly yr adroddiad hwnnw, nid yr un a gomisiynwyd, fel y dywed yn adroddiad yr Archwilydd Cyffredinol, oherwydd mynegwyd pryderon gan swyddogion oblegid y ceisiadau am gymeradwyaeth ôl-weithredol? Ym mharagraff 62, dywedir i chi ddechrau adolygiad Peat oherwydd pryderon a fynegwyd o blith eich swyddogion ar ôl iddynt dderbyn llythyr ym mis Ebrill yn gofyn am gymeradwyaeth ôl-weithredol ar gyfer ceisiadau. Fodd bynnag, adroddiad Bentley Jennison oedd wedi sbarduno—



**Sir Jon Shortridge:** I am sure that the requests for retrospective approval were relevant but I and others had a meeting with the chair and certain members of the council in May, and it was immediately following that that I decided to take this action.

[181] **Jocelyn Davies:** Okay, thank you.

[182] **Alun Cairns:** May I come in very briefly? Mr Martin mentioned that he was disappointed that there was a breach of the procurement rules in July 2002, although the council was making very significant improvements. However, Mr Martin omitted to mention the one in November 2002 where the European regulations were broken. So what confidence does that give us when there has been such a recent breach?

**Mr Martin:** Sorry, which one are you referring to, Mr Cairns, in November 2002?

[183] **Alun Cairns:** I made notes on my papers so I must go back to the relevant paragraph. Do you want to come back to it, Cadeirydd?

[184] **Dafydd Wigley:** We will come back to it in a moment. Janet, would you like to ask a question now?

[185] **Janet Davies:** It is a question to Mr Martin. You referred a few minutes ago to training staff in the requirements of Assembly sponsored bodies and said that you are achieving massive improvements and are on the right road. Paragraph 42 refers to the statement on internal control that you sign off in the published accounts. In that you refer to a number of serious control weaknesses within the corporate governance arrangements and final management procedures of the national council. Do you anticipate having to make a similar comment in your statement on this year's accounts, or has the corrective action taken by the national council been adequate to prevent that?

**Mr Martin:** As I said earlier, I have just received a planned follow-up report to check on the actions. We still have a way to go. There are one or two things that we need to

**Syr Jon Shortridge:** Yr wyf yn siŵr fod y ceisiadau am gymeradwyaeth ôl-weithredol yn berthnasol ond cefais i ac eraill gyfarfod â chadeirydd y cyngor a rhai o'i aelodau ym mis Mai, a phenderfynais gymryd y camau gweithredu hyn yn union ar ôl hwnnw.

[181] **Jocelyn Davies:** Iawn, diolch.

[182] **Alun Cairns:** A gaf fi gyfrannu'n fyr iawn? Crybwyllodd Mr Martin ei fod wedi ei siomi bod rheolau caffael wedi eu torri yng Ngorffennaf 2002, er bod y cyngor yn gwneud gwelliannau sylweddol. Fodd bynnag, ni chrybwyllodd Mr Martin yr achos yn Nhachwedd 2002 pan dorrwyd rheoliadau Ewropeaidd. Felly pa hyder y mae hynny yn ei roi i ni pan fu tor-rheol mor ddiweddar?

**Mr Martin:** Mae'n ddrwg gennyf, at ba un y cyfeiriwch ato, Mr Cairns, yn Nhachwedd 2002?

[183] **Alun Cairns:** Gwneuthum nodiadau ar fy mhapurau felly rhaid i mi ddychwelyd at y paragraff perthnasol. A ydych am ddod yn ôl ato, Gadeirydd?

[184] **Dafydd Wigley:** Deuwn yn ôl ato mewn munud. Janet, a hoffech chi ofyn cwestiwn yn awr?

[185] **Janet Davies:** Cwestiwn i Mr Martin yw hwn. Cyfeiriasoch ychydig funudau yn ôl at hyfforddi staff ynghylch gofynion cyrff a noddir gan y Cynulliad a dywedasoch eich bod yn llwyddo i wneud gwelliannau enfawr a'ch bod ar y trywydd cywir. Cyfeiria paragraff 42 at y datganiad ar reolaeth fewnol yr ydych yn ei lofnodi yn y cyfrifon a gyhoeddir. Ynddo, cyfeiriwch at nifer o wendidau rheoli difrifol o fewn trefniadau rheoli corfforaethol a gweithdrefnau rheoli terfynol y cyngor cenedlaethol. A ydych yn rhagweld gorfod gwneud sylw tebyg yn eich datganiad ar gyfrifon eleni, neu a yw'r camau gweithredu a gymerwyd gan y cyngor cenedlaethol i unioni'r rheini wedi bod yn ddigonol i atal hynny?

**Mr Martin:** Fel y dywedais yn gynharach, yr wyf newydd dderbyn adroddiad dilynol cynlluniedig i wirio'r camau gweithredu. Mae gennym bellter eto i fynd. Mae angen i

tighten up, with a timetable to be implemented over the next couple of months. My head of audit advises me that if we get those right—they are important but they are not major issues for us to address—he will be able to give positive assurance about the operation of the systems, which will not lead to that kind of qualifying remark in my statement on internal control.

[186] **Janet Davies:** So, you are saying that you do not think so, but you cannot be absolutely certain at the moment.

**Mr Martin:** I am saying that we are quite rightly—this is why I asked the head of audit to do this further work. I am not leaving this to chance; I have the advice of my head of internal audit, who is saying to me, ‘yes, this is going pretty well; there are those things that you need to make sure are addressed and tightened up; if you get those right over the next couple of months then you will get your statement of positive assurance’. I think that that is a responsible way to approach this problem.

May I say also that we have a three-year audit strategy—it is deliberately a three-year strategy? You cannot do everything at once. The auditors are still doing work this year on a number of inherited areas—for instance youth training, work-based learning and so on—where we have carried on running the TEC systems. We have kept them going and so on. The head of audit does believe that there may be some important weaknesses there—not ones that will not enable him to give positive assurance but there will be things that will need to be addressed.

Secondly, we are in a number of high-risk areas still, which will require a lot of audit attention. We have new financial systems that are still bedding down; that is always a high-risk area. We have got to pay a lot of attention to that. We are on the point—we have just had the Minister’s response—of getting in to the detailed implementation of the most fundamental thing the national council has done, which is new, comprehensive planning and funding arrangements. I have actually appointed the

ni dynhau un neu ddau beth, gydag amserlen i’w gweithredu dros yr ychydig fisoedd nesaf. Mae fy mhennaeth archwilio yn fy nghynghori os y gwnawn ni’r rheini yn iawn—maent yn bwysig ond nid ydynt yn faterion pwysig i ni fynd i’r afael â hwy—y bydd yn gallu rhoi sicrwydd cadarnhaol am y gwaith o weithredu’r systemau, na fydd yn arwain at y math hwnnw o sylw amodol yn fy natganiad ar reolaeth fewnol.

[186] **Janet Davies:** Felly, yr ydych yn dweud nad ydych yn meddwl hynny, ond na allwch fod yn hollol bendant ar hyn o bryd.

**Mr Martin:** Yr wyf yn dweud ein bod yn berffaith gywir—dyna pam y gofynnais i’r pennaeth archwilio wneud y gwaith pellach hwn. Nid wyf yn gadael hyn i ffawd; mae gennyf gyngor fy mhennaeth archwilio mewnol, sy’n dweud wrthyf, ‘ydy, mae pethau’n mynd yn eithaf da; dyna’r pethau sydd angen i chi sicrhau eich bod yn mynd i’r afael â hwy ac yn eu datrys; ac os y cewch chi hynny’n iawn dros y misoedd nesaf, yna fe gewch chi eich datganiad o sicrwydd cadarnhaol’. Credaf mai dyna’r ffordd gyfrifol o fynd i’r afael â’r broblem hon.

A gaf fi ddweud hefyd bod gennym strategaeth archwilio tair blynedd—sef strategaeth tair blynedd fwrriadol? Ni allwch wneud popeth ar unwaith. Mae’r archwilwyr yn parhau i weithio eleni ar nifer o feysydd a etifeddwyd—megis hyfforddiant ieuenctid, dysgu ar sail gwaith ac ati—lle yr ydym wedi parhau i gynnal systemau y TEC. Yr ydym wedi eu cadw i fynd ac yn y blaen. Mae’r pennaeth archwilio yn credu y gall fod rhai gwendidau pwysig—nid rhai na fyddant yn ei alluogi i roi sicrwydd cadarnhaol ond bydd pethau y bydd angen mynd i’r afael â hwy.

Yn ail, yr ydym yn parhau i ymdrin â nifer o feysydd risg uchel a fydd angen llawer o sylw mewn archwiliad. Mae gennym systemau ariannol newydd sy’n dal yn eu dyddiau cynnar; ac mae llawer o risg ynghlwm wrth hynny bob amser. Mae’n rhaid i ni dalu llawer o sylw i hynny. Yr ydym ar fin—yr ydym newydd gael ymateb y Gweinidog—trin a thrafod yn fanwl un o’r pethau mwyaf hanfodol y mae’r cyngor cenedlaethol wedi’i weithredu, sef y trefniadau cynllunio ac ariannu cynhwysfawr, newydd. Yr wyf wedi

deputy chief auditor to be the project manager for that. It is so important to get the audit right that I have put her on to that work full time.

Finally, we do still face important constraints in terms of our running costs, in terms of the further organisational changes we will need to make to operate those new planning and funding arrangements—all of those things are high-risk. We have to plan our audit programme around that.

I have given you that very full answer because you cannot give a bald answer and say that everything is all tickety-boo and tidy. This is an organisation that is still implementing incredibly rapid change. That is a high-risk environment and that is where the audit attention will be concentrated.

[187] **Janet Davies:** I think we will be looking forward to the future on that, those of us who will still be here. Chair, may I ask a question on something that has been niggling at the back of my mind all afternoon?

[188] **Dafydd Wigley:** I would hate for you to leave without having an answer to it, Janet.

[189] **Janet Davies:** Thank you. It is to Sir Jon Shortridge rather than to Mr Martin—it would be unfair to ask him this. When you talk about corporate governance, there is a chair of the national council. What is the chair's role and how aware has the chair been of what has been happening? What action has been taken at that level? I remember the early days of this Committee when we met representatives of the Further Education Funding Council for Wales. My memory tells me that, at that time, we met not only the chief executive/accounting officer, but also the chair.

**Sir Jon Shortridge:** Bear with me a moment and I may be able to turn up a document that will help. I cannot find it quickly. However, may I just say that the role of the chair of the council is set out clearly in the management

penodi'r dirprwy brif archwilydd i fod yn rheolwraig prosiect ar gyfer hwnnw. Mae'n hynod bwysig cael yr archwiliad yn iawn, ac yr wyf wedi'i phenodi i weithio arno'n llawn amser.

Yn olaf, yr ydym yn parhau i wynebu cyfyngiadau pwysig o ran ein costau cynnal, o ran bwrw ymlaen â'r newidiadau cyfundrefnol pellach sydd eu hangen i roi'r trefniadau cynllunio ac ariannu newydd hynny ar waith—yr holl bethau sydd ag elfen o risg sylweddol. Mae'n rhaid i ni gynllunio ein rhaglen archwilio o amgylch hynny.

Yr wyf wedi rhoi'r ateb llawn iawn hwnnw i chi oherwydd na allwch roi ateb moel a dweud fod popeth yn fêl i gyd. Dyma sefydliad sy'n parhau i weithredu newidiadau ar raddfa ryfeddol o gyflym. Mae hynny'n faes sydd â llawer o beryglon, a dyma fydd prif destun sylw'r archwilydd.

[187] **Janet Davies:** Credaf y byddwn yn edrych ymlaen tua'r dyfodol ar hynny, y rheiny ohonom a fydd yn dal yma. Gadeirydd, a gaf fi ofyn cwestiwn am rywbeth sydd wedi bod yng nghefn fy meddwl drwy'r prynhawn?

[188] **Dafydd Wigley:** Byddai'n gas gennyf feddwl eich bod yn gadael heb gael ateb iddo, Janet.

[189] **Janet Davies:** Diolch. Ar gyfer Syr Jon Shortridge yn hytrach na Mr Martin mae hwn—byddai'n annheg i mi ei holi ef. Wrth i chi sôn am lywodraethu corfforaethol, mae gan y cyngor cenedlaethol gadeirydd. Beth yw swyddogaeth y cadeirydd a pha mor ymwybodol mae'r cadeirydd wedi bod o'r hyn sydd wedi digwydd? Pa gamau sydd wedi'u cymryd ar y lefel hynny? Mae gennyf gof o ddyddiau cynnar y Pwyllgor hwn pan fu i ni gyfarfod â chynrychiolwyr Cyngor Cyllido Addysg Bellach Cymru. Ar y pryd, yr wyf yn cofio inni gwrdd â nid yn unig y prif weithredwr/swyddog cyfrifo, ond hefyd y cadeirydd.

**Syr Jon Shortridge:** Maddeuwch i mi am ennyd, efallai y gallaf gael gafaél ar ddogfen a all fod o gymorth. Ni allaf gael hyd iddi yn gyflym. Er hynny, a gaf fi ddweud bod swyddogaeth cadeirydd y cyngor wedi'i

statement and/or in the financial memorandum and that she does have an appointment letter. Perhaps the simplest thing would be for me to put in a note that simply quotes the precise words from the control document. Would that be helpful?

[190] **Janet Davies:** Thank you very much. I will look forward to receiving it.

[191] **Dafydd Wigley:** Alun, do you have a question that you want to return to?

[192] **Alun Cairns:** Mr Martin, I can advise you that the breach of the European procurement directives is mentioned in paragraph 57; it is in the very last sentence. I hate to make this comment but should your lack of familiarity with that not undermine our confidence still further? It is on page 50 of the report.

**Mr Martin:** Page 50? Bear with me while I find the relevant reference.

[193] **Dafydd Wigley:** Do you have the same version of the report? It may not be the same.

[194] **Alun Cairns:** It is in paragraph 57 on page 50.

**Mr Martin:** Yes. It was a breach that occurred in September 2001.

[195] **Alison Halford:** So?

**Mr Martin:** It was identified in November 2002.

[196] **Alun Cairns:** Well, the paragraph reads:

‘In November 2002, one additional contract that had been awarded by the National Council in September 2001 was found to be in breach of European procurement directives, giving a final total of 21 contracts’.

Therefore, my interpretation of that is that, if that breach came to light in November 2002, can we not expect any more?

nodi'n glir yn y datganiad rheoli a/neu yn y memorandwm ariannol a bod ganddi lythyr penodi. Efallai mai'r peth hawsaf fyddai i mi gynnwys nodyn yn dyfynnu'r union eiriau sydd yn y ddogfen rheoli? A fyddai hynny o gymorth?

[190] **Janet Davies:** Diolch yn fawr iawn. Edrychaf ymlaen at ei dderbyn.

[191] **Dafydd Wigley:** Alun, a oes gennych gwestiwn yr ydych am ddychwelyd ato?

[192] **Alun Cairns:** Mr Martin, gallaf eich cynghori bod cyfeiriad at dorri amodau cyfarwyddbau caffael Ewrop ym mharagraff 57; mae yn y frawddeg olaf un. Mae'n flin gennyf orfod dweud hyn, ond oni ddylai eich diffyg gwybodaeth am y mater hwnnw danseilio ein hyder eto fyth? Mae ar dudalen 50 yr adroddiad.

**Mr Martin:** Tudalen 50? Arhoswch am funud tan fy mod yn cael hyd i'r cyfeiriad perthnasol.

[193] **Dafydd Wigley:** A oes gennych yr un fersiwn o'r adroddiad? Efallai nad yr un fersiwn ydyw.

[194] **Alun Cairns:** Mae ym mharagraff 57 ar dudalen 50.

**Mr Martin:** Ie. Tor-rheol a ddigwyddodd ym Medi 2001 ydoedd.

[195] **Alison Halford:** Felly?

**Mr Martin:** Cafodd ei nodi ym mis Tachwedd 2002.

[196] **Alun Cairns:** Wel, mae'r paragraff yn darllen fel a ganlyn:

‘Ym mis Tachwedd 2002, darganfuwyd bod un contract ychwanegol a ddyfarnwyd gan y Cyngor Cenedlaethol ym mis Medi 2001, yn mynd yn groes i gyfarwyddbau caffael Ewropeaidd, gan arwain at gyfanswm o 21 contract’.

Felly, fy nehongliad i o'r sefyllfa yw, os daeth y tor-rheol hwnnw i'r amlwg yn Nhachwedd 2002, oni allwn ni ddisgwyl rhagor?

**Mr Martin:** All I can say is that we have now conducted a finer and finer net trawl. That is what picked up that one at that point. I have an assurance from the head of internal audit, in the light of the further work that I commissioned from him, that he does not anticipate finding any further breaches. However, I can understand the Committee's concern that it took so long to find those breaches, and I think it does underline the very low base from which we were building in getting these new arrangements working.

[197] **Dafydd Wigley:** I am sure that we hope that nothing else crawls from under a stone, do we not? I move on to a matter of some concern to this Committee as, indeed, other issues have been. It involves the use of confidentiality clauses in the departure settlement for one particular employee. Mr Martin, why did the national council elect to use a confidentiality clause in its departure settlement with Anthony Drew, and also in its redundancy agreements with over 100 staff?

**Mr Martin:** First of all, may I say that had I known that such a clause was inserted—which happened at the very last moment on legal advice—I would have stopped it. Indeed, when I learned of it, I withdrew that clause—the human resources director has written to Mr Drew and the staff involved and has withdrawn it. I do not think that confidentiality clauses are at all appropriate in the public sector. I do not think that they are effective in any case, even if you could justify their use. The particular confidentiality clause that was used, however, was non-exclusive. It made it clear that Mr Drew and the other staff were in no way restricted from disclosing the details of their settlements to anyone with a legitimate interest. For the avoidance of doubt, it says in the letters that were sent to them that that included the National Assembly, the Inland Revenue and some other bodies that I cannot remember—and the National Audit Office.

[198] **Dafydd Wigley:** I am sure, but that is

**Mr Martin:** Y cyfan y gallaf ei ddweud yw ein bod yn awr wedi archwilio'r mater â chrib hynod fân. Dyna a ddaeth â'r mater i'n sylw yn y lle cyntaf. Yn sgîl y gwaith pellach a gomisiynais i'r archwilydd mewnol, yr wyf wedi cael sicrwydd ganddo nad ydyw'n rhagweld dod o hyd i unrhyw dor-amod arall. Er hynny, gallaf ddeall pryderon y Pwyllgor iddi gymryd cyhyd i ganfod y tor-rheolau hynny, ac yr wyf yn credu ei fod yn tanlinellu'r sylfaen isel iawn yr oeddem yn gweithio arni wrth roi'r trefniadau newydd hyn ar waith.

[197] **Dafydd Wigley:** Yr wyf yn sicr ein bod yn gobeithio na fydd dim byd arall yn dod i'r amlwg, onid ydym? Symudaf ymlaen i fater sy'n peri peth pryder i'r Pwyllgor hwn, yn wir, fel y mae materion eraill wedi creu pryder. Y mae'n ymwneud â defnyddio cymalau cyfrinachedd yn setliad ymadawiad un gweithiwr penodol. Mr Martin, pam benderfynodd y cyngor cenedlaethol ddewis cymal cyfrinachedd yn ei setliad ymadawiad ag Anthony Drew, a hefyd yn ei gytundebau diswyddo gyda thros 100 o weithwyr?

**Mr Martin:** Yn gyntaf oll, a gaf fi ddweud pe bawn i'n gwybod bod cymal o'r fath wedi'i gynnwys—a ddigwyddodd ar y funud olaf un ar ôl cyngor cyfreithiol—y buaswn wedi ei atal. Yn wir, ar ôl dod i wybod amdano, diddymais y cymal—mae'r cyfarwyddwr adnoddau dynol wedi ysgrifennu at Mr Drew a'r staff perthnasol ac wedi ei ddiddymu. Nid wyf yn credu bod cymalau cyfrinachedd yn briodol o gwbl yn y sector cyhoeddus. Nid wyf yn credu eu bod yn effeithiol beth bynnag, hyd yn oed os y gallwch ddadlau o blaid eu defnyddio. Serch hynny, nid oedd y cymal cyfrinachedd penodol a gafodd ei ddefnyddio yn anghyfyngol. Yr oedd yn nodi'n glir nad oedd Mr Drew a'r staff eraill yn cael eu hatal mewn unrhyw fodd rhag datgelu manylion eu setliad i rywun oedd â diddordeb cyfiawn. Er mwyn osgoi unrhyw amheuan, mae'r llythyrion a gafodd eu hanfon atynt yn dweud bod hynny'n cynnwys y Cynulliad Cenedlaethol, Cyllid y Wlad a rhai cyrff eraill na allaf eu cofio—a'r Swyddfa Archwilio Genedlaethol.

[198] **Dafydd Wigley:** Efallai'n wir, ond nid

not the point that I am going after. Surely, you were aware of this Committee's earlier recommendation, which was accepted by the Assembly Government, that such clauses are inappropriate for public bodies in Wales?

**Mr Martin:** I agree with you. I agreed the terms—

[199] **Dafydd Wigley:** You were aware of that?

**Mr Martin:** I was certainly aware of it. I agree with the Committee wholeheartedly. I feel quite strongly, as I am sure colleagues will testify, not just here, that they are not helpful. Indeed, I made the point to the NAO.

[200] **Dafydd Wigley:** May I just cut across? I am sorry to interrupt. You were aware of it, but that information had not been conveyed down the line.

**Mr Martin:** I think that there was a genuine—the lawyers that we were using believed that the type of confidentiality clause that they had proposed was not one which was regarded as unacceptable. I take a different view. I agreed the terms under which Mr Drew and the staff left. I did not crawl over the contract letters that were issued to all of them. Had I known that this was happening, I would have stopped it because I disagree with these clauses.

[201] **Dafydd Wigley:** But, you accept that you knew about this and that it is the Assembly Government's policy as well as this Committee's policy?

**Mr Martin:** Absolutely. I actually was not working in Government at the time that these things happened, but I read the newspaper, and I was well aware of the case and I was well aware of this Committee's views.

[202] **Dafydd Wigley:** May I just turn to Sir Jon? If Mr Martin knew that from the newspapers, it does beg a question as to the responsibility that we have as an Assembly to

dyna'r pwynt yr wyf yn ei drafod. Does bosibl eich bod yn ymwybodol o argymhelliad blaenorol y Pwyllgor hwn, a gafodd ei dderbyn gan Lywodraeth y Cynulliad, sef bod cymalau o'r fath yn amhriodol i gyrff cyhoeddus Cymru?

**Mr Martin:** Yr wyf yn cytuno â chi. Fi bennodd y telerau—

[199] **Dafydd Wigley:** Yr oeddech yn ymwybodol o hynny?

**Mr Martin:** Yr oeddwn yn sicr yn ymwybodol ohono. Yr wyf yn cytuno'n llwyr â'r Pwyllgor. Yr wyf yn teimlo'n gryf iawn ynglŷn â'r mater, fel y bydd fy nghydweithwyr yn tystio yr wyf yn siŵr, ac nid yma'n unig, nad ydynt o fudd. Yn wir, dywedais hynny wrth y SAG.

[200] **Dafydd Wigley:** A gaf fi dorri ar eich traws am eiliad? . Ymddiheuraf am ymyrryd. Yr oeddech yn ymwybodol o hynny, ond nad oedd yr wybodaeth honno wedi'i throsglwyddo i'r gweddill.

**Mr Martin:** Credaf fod mewn gwirionedd—yr oedd y cyfreithwyr yr oeddem yn eu defnyddio yn credu nad oedd y math o gymal cyfrinachedd a argymhellwyd ganddynt yn annerbyniol. Nid dyna fy marn i. Fi a bennodd y telerau ar gyfer ymadawiad Mr Drew a'r staff. Ni fŷm drwy'r llythrau cytundeb a gafodd eu hanfon atynt â chrib fân. Pe bawn i wedi gwybod bod hyn yn digwydd, buaswn wedi ei atal gan fy mod yn anghytuno â'r cymalau hyn.

[201] **Dafydd Wigley:** Ond, yr ydych yn derbyn eich bod yn gwybod am hyn ac mai dyna yw polisi Llywodraeth y Cynulliad yn ogystal â pholisi'r Pwyllgor hwn?

**Mr Martin:** Yn bendant. Mewn gwirionedd, nid oeddwn yn gweithio i'r Llywodraeth pan ddigwyddodd hyn i gyd, ond yr wyf yn darllen y papurau newydd, ac yr oeddwn yn ymwybodol iawn o'r achos a hefyd o farn y Pwyllgor hwn.

[202] **Dafydd Wigley:** A gaf fi droi at Syr Jon? Os oedd Mr Martin yn gwybod hynny o'r papurau newydd, mae'n rhaid holi ynghylch ein cyfrifoldeb ni fel Cynulliad o

inform sponsored bodies of the requirements flowing from Cabinet responses to this Committee's reports.

**Sir Jon Shortridge:** Yes, indeed. We do have a very thorough process in place for making sure that all the various actions and commitments that are given in Cabinet responses to the Committee's recommendations are followed through and implemented. In this case, because I have looked at the audit trail, I think we could have done better, okay? One of the things that I will be wanting to do as a result of these events is to ensure that, for the future, financial memoranda explicitly refer to this matter. At the moment, they do not explicitly refer to it; we have drawn the attention of ASPBs to this matter in a number of ways, and we certainly sent two letters to accounting officers following that particular hearing—or at least one immediately after the NAO report and the other after this Committee's report. However, having read those letters, I do not think that they made the point as explicitly as they could and should have done. It is the case, though, that all accounting officers do get given to them the Treasury's booklet on regularity and propriety, which refers to this issue. It is also the case that, in February of this year, we again wrote around—sorry, February of last year—to all accounting officers drawing their attention to this and other matters, which I then discussed with them at a meeting of accounting officers in May of last year. Therefore, the message has got across, but I think, at the time, we could have got it across more explicitly than we did, and I think it would be very important to make sure that, in future reviews of financial memoranda, we make the point explicitly.

[203] **Janet Davies:** Just to follow up on that, Mr Martin, you said that it was a late insertion on legal advice. Who gave the legal advice?

**Mr Martin:** It was Eversheds.

[204] **Janet Davies:** Who also gave the legal advice in the previous case of the National Museums and Galleries of Wales.

roi gwybod i'r cyrff a noddir o'r gofynion sy'n deillio o ymatebion y Cabinet i adroddiadau'r Pwyllgor hwn.

**Syr Jon Shortridge:** Ie, yn wir. Y mae gennym broses drwyadl iawn ar waith i sicrhau bod yr holl weithredoedd a'r ymrwymadau a roddir yn ymatebion y Cabinet i argymhellion y Pwyllgor yn cael eu dilyn a'u gweithredu. Yn yr achos hwn, gan fy mod i wedi bwrw golwg ar lwybr yr archwiliad, credaf y gallem fod wedi gwneud pethau'n well, iawn? Un o'r pethau y byddaf eisiau ei wneud yn dilyn y digwyddiadau hyn yw sicrhau, i'r dyfodol, fod y memoranda ariannol yn cyfeirio'n uniongyrchol at y mater hwn. Ar hyn o bryd, nid ydynt yn cyfeirio'n uniongyrchol ato; yr ydym wedi tynnu sylw'r CCNC at y mater mewn sawl modd, ac anfonwyd dau lythyr gennym yn sicr at y swyddogion cyfrifo yn dilyn y gwrandawriad arbennig hwnnw—neu o leiaf yn syth wedi adroddiad SAG a'r llall ar ôl adroddiad y Pwyllgor hwn. Wedi darllen y llythyrau hynny, fodd bynnag, ni chredaf iddynt wneud y pwynt mor glir ag y gallasant ac y dylasant fod wedi ei wneud. Y pwynt, fodd bynnag, yw bod yr holl swyddogion cyfrifo yn cael copi o lyfryn rheoleidd-dra a phriodoldeb y Trysorlys, sy'n cyfeirio at y mater hwn. Yn hyn o beth hefyd, ym mis Chwefror eleni, bu inni ysgrifennu eto oddeutu—mae'n ddrwg gennyf, fis Chwefror y llynedd—at y swyddogion cyfrifo i gyd gan dynnu eu sylw at hyn a materion eraill, a thrafodais y rhain wedyn gyda hwy mewn cyfarfod o'r swyddogion cyfrifo fis Mai y llynedd. Felly, cafodd y neges ei throsglwyddo, ond credaf, ar y pryd, y gallem fod wedi cyfleu'r neges yn gliriach nag y gwnaethom, a chredaf y byddai'n bwysig iawn ein bod yn pwysleisio'r pwynt yn gwbl glir, wrth gynnal adolygiadau o femoranda ariannol yn y dyfodol.

[203] **Janet Davies:** I barhau â hynny, Mr Martin, dywedasoch i chi gynnwys hynny'n hwyr ar ôl cael cyngor cyfreithiol. Pwy a roddodd y cyngor cyfreithiol?

**Mr Martin:** Eversheds.

[204] **Janet Davies:** Sef y cwmni hefyd a roddodd y cyngor cyfreithiol yn achos blaenorol Amgueddfeydd ac Orielau

Cenedlaethol Cymru.

**Mr Martin:** I do not know if it was the same solicitor. I would not know that.

[205] **Janet Davies:** I am just commenting on that; I am not asking for a reply to it. If I could go on to the issue of the value for money of the departure settlement for Anthony Drew—and could I mention that I do not know Anthony Drew; I have never met him so I am coming purely from the situation of this report—on what basis did the national council conclude that the terms of the departure settlement for Anthony Drew represented good value for money for the public purse?

**Mr Martin:** The principal consideration was his contractual entitlement. You will recall that I was explaining earlier that we had had to leave certain posts vacant. The way in which the recruitment of the director was handled was that the requirement laid down by the Assembly Government was that there was to be a competition among the top people if they wanted to play a part in the new organisation. As a result of that, we had vacancies and the north Wales office was one of those to which we did not make an appointment. Anthony Drew, very kindly, agreed to postpone his departure; he was entitled to a departure on particular terms and to receive equivalent benefits when he left us. Therefore, he was doing us a favour, frankly, at a very difficult time. He also took on some very important work in terms of taking forward our work on business services. So, what we did—and all of this was put to the Assembly and approved by the Assembly; we did not have the delegated authority to do this—was to keep him for a further period, until we had made permanent appointments and give him such benefits, as it were, as those to which he would have been entitled, under the TEC redundancy terms, so that he was not disadvantaged compared to the situation he would have been in had he simply left on 31 March 2001.

[206] **Dafydd Wigley:** Before you take this on, Janet, I must make it absolutely clear that there is no criticism whatsoever of Mr Drew in this report.

**Mr Martin:** Ni wnai'r un cyfreithiwr ydoedd. Ni fuaswn yn gwybod hynny.

[205] **Janet Davies:** Dim ond gwneud sylw ar y peth yr wyf i; nid gofyn am ateb iddo. Os caf barhau i drafod mater gwerth am arian o setliad ymadawiad Anthony Drew—ac a gaf fi ddweud nad wyf yn adnabod Anthony Drew; nid wyf wedi cwrdd ag ef erioed felly yr wyf yn siarad o safbwynt yr adroddiad hwn yn unig—ar ba sail y cytunodd y cyngor cenedlaethol bod telerau setliad ymadawiad Anthony Drew yn cynrychioli gwerth am arian i'r pwr cyhoeddus?

**Mr Martin:** Y brif ystyriaeth oedd ei hawliau cytundebol. Fe gofiwch i mi esbonio'n gynharach ein bod ni wedi gorfod cadw swyddi arbennig yn wag. Yr oedd y dull o recriwtio cyfarwyddwr wedi'i bennu gan Lywodraeth y Cynulliad, sef y byddai cystadleuaeth o blith y bobl ar y brig os oeddynt eisiau bod yn rhan o'r sefydliad newydd. O ganlyniad, yr oedd gennym swyddi gwag ac yr oedd swyddfa'r gogledd yn un o'r lleoedd na chafodd neb ei benodi gennym. Cytunodd Anthony Drew, yn garedig iawn, i ohirio ei ymadawiad; yr oedd ganddo'r hawl i ymadael ar delerau penodol yn ogystal â derbyn buddion cyfwerth pan ymadawodd â ni. Felly, yr oedd yn gwneud ffafr â ni mewn cyfnod anodd iawn mewn gwirionedd. Ymgwymerodd hefyd â rhywfaint o waith pwysig dros ben o ran bwrw ymlaen â'n gwaith ar wasanaethau busnes. Yr hyn a wnaethom, felly—a chafodd hyn i gyd ei roi gerbron y Cynulliad a derbyniodd sêl bendith y Cynulliad; nid oedd gennym yr awdurdod dirprwyedig i wneud hyn—oedd ei gadw am gyfnod pellach, nes inni benodi rhywun yn barhaol a rhoi'r cyfryw fuddion iddo, fel pe bai, fel y rhai y byddai wedi gallu eu hawlio, yn unol â thelerau diswyddo'r TEC, fel nad oedd o dan unrhyw anfantais o gymharu â'i sefyllfa pe bai wedi gadael y TEC yn y lle cyntaf ar 31 Mawrth 2001.

[206] **Dafydd Wigley:** Cyn i chi ymateb, Janet, hoffwn ddweud yn hollol glir nad oes unrhyw feirniadaeth o gwbl ar Mr Drew yn yr adroddiad hwn.



[207] **Janet Davies:** Yes, perhaps we should have read that little bit out. You say that, to an extent, you had to—I do not know whether ‘bend over backwards’ is too strong a phrase—but you had to get Mr Drew to agree to stay on. Would that be the reason why you agreed to meet his business telephone expenses for three months after he left? Could that not have been quite a major liability? To what business did these telephone expenses relate?

**Mr Martin:** He did actually carry on, for instance, with board membership of Business Connect Wales for that period. He was no longer working for the national council, because we had made permanent appointments. We judged that it was better for the people who had now been permanently recruited to take on this work. We could not know when we would get them, of course, when we took him on for the extra period. We felt that it was right—and, certainly, I do not think that he would have come on other terms—that he should not be disadvantaged. He had a right to go and he would have received an equivalent settlement when he had left the TEC. We took him on for a contract for a period of a year and, apart from the extra pension benefits that he accrued, in all other respects this was a settlement entirely equivalent to that which he would have received had he left the TEC on 31 March 2001. My judgment then, and I do not have a different judgment now, was that it was an essential appointment to make in the interests of business continuity. We would have had a huge hole in the organisation for a period of months. It was not, I think—relying on memory—until August 2001 that we had a north Wales director appointed permanently, and it was not until a further period that Mr Drew completed the work that we needed to be done on the other areas to which I asked him to attend during that period to make sure that we did not drop things while we were settling in.

[208] **Janet Davies:** Could I ask you, did you offer the telephone expenses, tell him that he could keep his company Land Rover and then buy it three months later, and have outplacement counselling? Did that come from you, or was it a request from Mr Drew?

[207] **Janet Davies:** Ie, efallai y dylem fod wedi darllen y tamaid bach hwnnw yn uchel. Dywedwch eich bod, i raddau, wedi gorfod—ni wn os yw ‘mynd allan o’ch ffordd’ yn rhy gryf—ond eich bod wedi gorfod cael Mr Drew i gytuno i aros. Ai dyna’r rheswm pam y bu ichi gytuno chi i dalu ei dreuliau ffôn busnes am dri mis ar ôl iddo adael? Oni allasai hynny fod yn ymrwymiad eithaf mawr? I ba fusnes yr oedd y treuliau ffôn hynny yn berthnasol?

**Mr Martin:** Parhaodd ef mewn gwirionedd, er enghraifft, yn aelod o fwrdd Cyswllt Busnes Cymru am y cyfnod hwnnw. Nid oedd yn gweithio mwyach i’r cyngor cenedlaethol, oherwydd i ni benodi pobl yn barhaol. Yr oeddem yn credu ei bod yn well i’r sawl a gafodd eu recriwtio’n barhaol erbyn hyn i ymgymryd â’r gwaith hwn. Ni wyddem pryd y byddent yn ymuno â ni, wrth gwrs, pan benodwyd ef gennym am y cyfnod ychwanegol. Yr oeddem yn credu ei bod yn iawn—ac, yn bendant, nid wyf yn credu y byddai wedi dod ar delerau eraill—na ddylai fod ar ei golled. Yr oedd ganddo’r hawl i fynd a byddai wedi derbyn setliad cyfwerth wrth adael y TEC. Bu inni roi contract blwyddyn iddo ac, heblaw am y buddion pensiwn ychwanegol a grynhowyd ganddo, ym mhob modd arall yr oedd hwn yn setliad a oedd yn gwbl gyfwerth â’r hyn a fyddai wedi’i dderbyn pe bai wedi gadael y TEC ar 31 Mawrth 2001. Fy marn i ar y pryd, ac nid oes gennyf farn wahanol nawr, oedd ei fod yn benodiad hanfodol er budd parhad y busnes. Byddai gennym fwlch enfawr yn y sefydliad am fisoedd. Ni phenodwyd, mi gredaf—gan ddibynnu ar y cof—gyfarwyddwr parhaol yn y gogledd tan fis Awst 2001, a bu rhaid aros am gyfnod pellach tan i Mr Drew gwblhau’r gwaith yr oedd ei angen arnom ar feysydd eraill, y gofynnais iddo ymgymryd â hwy yn ystod y cyfnod hwnnw i sicrhau nad oeddem yn anghofio am bethau wrth inni ymroi i’r gwaith.

[208] **Janet Davies:** A gaf fi ofyn, a wnaethoch chi gynnig y treuliau ffôn, a dweud wrtho y gallai gadw Land Rover y cwmni a’i brynu dri mis yn ddiweddarach, a chael cyngor ynghylch diswyddo? Ai chi a gynigiodd hynny, ynteu ai cais gan Mr Drew

ydoedd?

**Mr Martin:** It was Mr Drew's, I think, reasonable request that he should not be disadvantaged compared with the terms that he would have had when he left the TEC. Since we had taken him on for a year, at a time when we had great uncertainty about how long it would be before we made permanent appointments and before other people could assume this work, I think that it would have been unfair to him to have sought to change those terms. Indeed I do not believe that he would have accepted appointment on that basis. However, he must comment on that. That is not something that I can say any more about.

[209] **Janet Davies:** Given that the Auditor General's report states that the terms of the Drew settlement are consistent with the terms of employment that he enjoyed with the north Wales TEC—you have more or less said that as well—does this mean that other departing senior TEC staff received similar settlements?

**Mr Martin:** There were two other cases, again with Assembly Government approval—all of these cases, I stress, were put to the Assembly Government and approved. There was a temporary director in mid Wales and a temporary director of national operations, both of whom only stayed with us for a period of a few months, a much shorter period than in the case of Mr Drew. They received the equivalent benefits, yes. I cannot remember the exact timing of that, but they were not disadvantaged. They had a right to leave the TEC and take those benefits and they left us on exactly the same terms. However, there was no question of a period of notice in that case. They were taken on for a certain period, they finished that period, they left. There was no question of any further benefits.

[210] **Janet Davies:** Thank you, Mr Martin. Sir Jon, do you think that that is a defensible use of Assembly funding?

**Sir Jon Shortridge:** My understanding is that the settlement that Mr Drew received was entirely within his contractual arrangements. Therefore, it was one to which

**Mr Martin:** Cais rhesymol Mr Drew, yn fy marn i, oedd na ddylai fod o dan anfantais o gymharu â'r telerau y byddai wedi'u cael pan adawodd y TEC. Oherwydd i ni ei benodi am flwyddyn, ar adeg o ansicrwydd mawr ynghylch pa mor hir y byddai'n cymryd i ni benodi gweithwyr parhaol a chyn y gallai eraill fod wedi cychwyn ar y gwaith hwnnw, credaf y byddai wedi bod yn annheg arno i geisio newid y telerau hynny. Yn wir, ni chredaf y byddai wedi derbyn y penodiad ar y sail honno. Serch hynny, ef a ddylai roi sylw ar y mater hwnnw. Nid yw'n rhywbeth y gallaf i ddweud rhagor amdano.

[209] **Janet Davies:** O gofio bod adroddiad yr Archwilydd Cyffredinol yn nodi bod telerau setliad Drew yn gydnaws â'r telerau cyflogi a gafodd gyda TEC gogledd Cymru—yr ydych chi wedi dweud hynny fwy neu lai hefyd—a yw hyn yn golygu bod uwch staff eraill TEC a ymadawodd wedi derbyn setliadau tebyg?

**Mr Martin:** Yr oedd dau achos arall, eto gyda sêl bendith Llywodraeth y Cynulliad—cafodd yr holl achosion hyn, yr wyf am bwysleisio, eu rhoi gerbron Llywodraeth y Cynulliad a'u cymeradwyo. Yr oedd cyfarwyddwr dros dro yn y Canolbarth a chyfarwyddwr dros dro i'r gwaith cenedlaethol, ac arhosodd y ddau gyda ni am ychydig fisoedd yn unig, sef cyfnod llawer byrrach nag yn achos Mr Drew. Cawsant y buddion cyfwerth, do. Ni allaf gofio union amseriad hynny, ond ni fuont ar eu colled. Yr oedd ganddynt yr hawl i adael y TEC a chymryd y buddion hynny a'n gadael ni ar yr union delerau hynny. Er hynny, nid oedd unrhyw sôn am gyfnod o rybudd yn yr achos hwnnw. Cawsant eu penodi am gyfnod penodol, daeth y cyfnod i ben, a gadawsant. Nid oedd unrhyw sôn am fuddion pellach.

[210] **Janet Davies:** Diolch i chi, Mr Martin. Syr Jon, a ydych yn credu bod hynny'n ddefnydd cyfiawn o arian y Cynulliad?

**Syr Jon Shortridge:** Yn ôl yr hyn a ddeallaf, yr oedd y setliad a gafodd Mr Drew yn unol yn llwyr â'i drefniadau cytundebol. Felly, dyma'r hyn yr oedd ganddo'r hawl iddo.

he was entitled.

[211] **Jocelyn Davies:** Mr Shortridge, Eversheds advised that the confidentiality clause should be included in the contract. From whom does the Assembly take advice on employment matters?

**Sir Jon Shortridge:** Currently from Eversheds.

[212] **Jocelyn Davies:** Currently from Eversheds. So it advises us.

**Sir Jon Shortridge:** Sorry, I am being whispered to by David Richards.

[213] **Jocelyn Davies:** Mr Richards can tell me if he likes.

**Mr Richards:** We have just finished retendering our legal services contract. The contract for the Assembly is switching from Eversheds to Morgan Cole.

[214] **Jocelyn Davies:** So you have switched from Eversheds?

**Mr Richards:** Yes.

[215] **Dafydd Wigley:** We will not read too much into that in the context of this report, perhaps.

**Mr Richards:** Oh, no. It was simply the end of the period of the contract.

[216] **Jocelyn Davies:** But that is recent, but Eversheds would probably have known of this policy of no confidentiality clauses by being our legal advisers previously?

[217] **Dafydd Wigley:** Yes. [*Laughter.*]

**Sir Jon Shortridge:** It certainly knows my views very clearly on the matter now. I think that it had genuinely misinterpreted the situation. I think that it felt that, provided the clauses guaranteed openness and the fact that the Assembly and certain other important people would have access to the information, that met the Committee's requirements. It

[211] **Jocelyn Davies:** Mr Shortridge, cyngor Eversheds oedd y dylid cynnwys y cymal cyfrinachedd yn y contract. Cyngor pwys mae'r Cynulliad yn ei gael ar faterion cyflogaeth?

**Syr Jon Shortridge:** Eversheds ar hyn o bryd.

[212] **Jocelyn Davies:** Eversheds ar hyn o bryd. Ef, felly, sydd yn ein cynghori.

**Syr Jon Shortridge:** Mae'n ddrwg gennyf, mae David Richards yn sibrdw yn fy nghlust.

[213] **Jocelyn Davies:** Gall Mr Richards ddweud wrthyf os yw'n dymuno.

**Mr Richards:** Yr ydym newydd orffen aildendro ein contract am wasanaethau cyfreithiol. Mae contract y Cynulliad yn newid o gwmi Eversheds i Morgan Cole.

[214] **Jocelyn Davies:** Felly, yr ydych wedi newid o Eversheds?

**Mr Richards:** Ydym.

[215] **Dafydd Wigley:** Ni wnawn fôr a mynydd o hynny yng nghyd-destun yr adroddiad hwn, o bosibl.

**Mr Richards:** O, na. Diwedd cyfnod y contract ydoedd yn unig.

[216] **Jocelyn Davies:** Ond yn ddiweddar y bu hynny, ond mae'n debygol y byddai Eversheds yn gwybod am y polisi hwn o beidio â chynnwys cymalau cyfrinachedd yn rhinwedd eu gwaith fel ymgynghorwyr cyfreithiol i ni o'r blaen?

[217] **Dafydd Wigley:** Byddent. [*Chwerthin.*]

**Syr Jon Shortridge:** Yn sicr, mae'n gwybod fy marn i ar y mater yn gwbl glir bellach. Credaf ei fod wedi camddechongli'r sefyllfa. Credaf ei fod yn teimlo, cyn belled bod y cymalau yn gwarantu eglurder a'r ffaith y byddai'r Cynulliad a phwysigion penodol eraill yn gallu cyrchu'r wybodaeth, fod hynny'n bodloni gofynion y Pwyllgor. Y

understands that that is not my interpretation.

[218] **Dafydd Wigley:** And you have stressed that this will be tightened up in future.

**Sir Jon Shortridge:** Yes.

[219] **Dafydd Wigley:** Alison, would you like to ask a question?

[220] **Alison Halford:** I think, Chair, that my questions have been asked. However, I will ask a few questions in the last final seconds. There is nothing on Mr Drew's web page, which is still in existence, as the chief executive of the North Wales Training and Enterprise Council, CELTEC—which possibly, from a housekeeping point of view, should be removed; I will give you a copy of that, Mr Martin—to say that he worked for Business Connect. Perhaps that was before; he was still the chief executive of CELTEC then, perhaps.

**Mr Martin:** He was carrying out that role during his time with us. I cannot comment on what was happening under CELTEC; I would have to check.

[221] **Alison Halford:** Fine. Very quickly again, who actually scrutinised the TECs before you took over responsibility for them?

**Mr Martin:** We did not take over the TECs, well, yes, I suppose that we have. We are handling their residual affairs, but the TECs, in terms of public funding, as it were, ceased to do business from 31 March. The responsibility for TECs before that was a contractual one with the Assembly Government. So, if I may, I will turn to my colleague on my right.

**Sir Jon Shortridge:** The relationship that the National Assembly—and the Welsh Office before that—had with the TECs was a contractual relationship, so we were contracting with bodies that were in the private sector, who were, effectively, providing a service for the public. I think that a lot of people felt that that was not a particularly satisfactory arrangement, and that is one of the reasons, I am sure, why the

mae'n deall nad dyna fy nehongliad i.

[218] **Dafydd Wigley:** Ac yr ydych wedi pwysleisio y bydd hyn yn cael ei dynhau yn y dyfodol.

**Syr Jon Shortridge:** Ydw.

[219] **Dafydd Wigley:** Alison, a hoffech chi ofyn cwestiwn?

[220] **Alison Halford:** Credaf, Gadeirydd, fod fy nghwestiynau wedi cael eu gofyn. Er hynny, gofynnaf ychydig o gwestiynau yn yr eiliadau olaf. Nid oes dim byd ar wefan Mr Drew, sydd ar y we o hyd, fel prif weithredwr Cyngor Hyfforddiant a Menter y Gogledd, CELTEC—a ddylai, efallai, o safbwynt cadw trefn, gael ei ddileu; rhoddaf gopi i chi o hwnnw, Mr Martin—i ddweud y bu'n gweithio i Gyswllt Busnes. Efallai fod hynny o'r blaen; efallai mai ef oedd prif weithredwr CELTEC o hyd bryd hynny.

**Mr Martin:** Yr oedd yn ymgymryd â'r swyddogaeth honno yn ystod ei gyfnod gyda ni. Ni allaf wneud sylw ar yr hyn a oedd yn digwydd yn CELTEC; byddai'n rhaid i mi edrych ar y mater.

[221] **Alison Halford:** Iawn. Yn gyflym iawn eto, pwy yn hollol a archwiliodd y TEC cyn i chi gymryd cyfrifoldeb drostynt?

**Mr Martin:** Ni wnaethom gymryd cyfrifoldeb dros y TEC, wel, do, mae'n debyg ein bod ni wedi gwneud hynny. Ni sy'n trafod eu materion dros ben, ond daeth y TEC, o ran arian cyhoeddus, fel pe bai, i ben ar 31 Mawrth. Cyn hynny, yr oedd y cyfrifoldeb dros y TEC ar sail contract gyda Llywodraeth y Cynulliad. Felly, os caf fi, troaf at fy nghydweithiwr ar y dde i mi.

**Syr Jon Shortridge:** Yr oedd y berthynas fu gan y Cynulliad Cenedlaethol—a'r Swyddfa Gymreig cyn hynny—â'r TEC yn berthynas gytundebol, felly yr oeddem yn contractio â chyrff yn y sector preifat, a oedd, i bob pwrpas, yn darparu gwasanaeth i'r cyhoedd. Credaf fod llawer o'r farn nad oedd hynny'n drefniant arbennig o foddhaol, a dyna un o'r rhesymau, mae'n siŵr gennyf, pam bod y gwaith wedi'i gynnwys dan fantell cyngor

work has been drawn into ELWa council. However, it does mean that when you are in that situation, there is not an accounting officer relationship with the chief executive of the TEC in the same way as I have an accounting officer relationship with the chief executive of ELWa council. Therefore, the whole panoply of public accountability controls did not, and does not, apply in those circumstances. The nature of the control that we can exercise is through the detail of the contract that we had with them.

[222] **Alison Halford:** This is my very final question. I hope that it is not below the belt, but it is mentioned in the report. Is there anything that you wish to say, bearing in mind that we have had a hard and probing afternoon, Mr Martin, on the fact that you were given a bonus for something or other?

**Mr Martin:** First, the headline figures, I think I should explain, relate to my work for two councils. I do not get paid that much by each of them. In terms of the bonus, that is not something that is determined by me. The national council, as indeed the higher education council, has a remuneration committee. I am set targets at the beginning of the year. The assessment of the bonus is determined by my performance against those targets. I think, possibly, that the only thing that is appropriate for me to say is that, in the case of the vast majority of the national council's targets in its first year, it either met them or exceeded them. There were some issues that did not go well, and not just this one. Not everything was perfect. It was a very tough period to run any organisation, and that was doubtless reflected in its judgments, because I certainly did not get a 100 per cent bonus.

[223] **Dafydd Wigley:** Which bonus year is referred to?

**Mr Martin:** It was for the period 2000-01. That is the one that would be included in the figures in this annual report.

[224] **Alison Halford:** Presumably, the bonus achievement did not refer to the contracts that were—

ELWa. Er hynny, mae hynny'n golygu pan ydych yn y sefyllfa honno, nad oes perthynas swyddog cyfrifo â phrif weithredwr y TEC yn yr un modd â'r berthynas swyddog cyfrifo sydd gennyf â phrif weithredwr cyngor ELWa. O'r herwydd, nid oedd, ac nid yw'r holl rychwant mesurau rheoli atebolrwydd cyhoeddus yn berthnasol dan yr amgylchiadau hynny. Mae natur y rheolaeth y gallwn ei gweithredu yn deillio o fanylion y contract a oedd gennym gyda hwy.

[222] **Alison Halford:** Dyma fy nghwestiwn olaf un. Yr wyf yn gobeithio nad yw braidd yn annheg, ond mae cyfeiriad ato yn yr adroddiad. A oes unrhyw beth yr hoffech ei ddweud, o gofio ein bod wedi cael prynhawn caled o holi a stilio, Mr Martin, am y ffaith i chi gael bonws am rywbeth neu'i gilydd?

**Mr Martin:** Yn gyntaf, mae'r prif ffigurau, y tybiaf y dylwn eu hesbonio, yn ymwneud â'm gwaith i ddau gyngor. Nid wyf yn derbyn cymaint â hynny o dâl gan y naill na'r llall. O ran y bonws, nid rhywbeth a gafodd ei bennu gennyf i ydyw. Mae gan y cyngor cenedlaethol, a'r cyngor addysg uwch yn wir, bwyllgor taliadau. Gosodir targedau ar fy nghyfer ar ddechrau'r flwyddyn. Mae'r bonws yn cael ei asesu drwy gymharu fy mherfformiad â'r targedau hynny. Credaf, o bosibl, mai'r unig beth priodol i mi ei ddweud yw, yn achos y mwyafrif helaeth o dargedau'r cyngor cenedlaethol yn ei flwyddyn gyntaf, iddo naill ai eu bodloni neu eu pasio. Yr oedd rhai materion na aethant yn rhy dda, ac nid hwn yn unig. Nid oedd popeth yn berffaith. Yr oedd yn gyfnod anodd iawn i redeg unrhyw sefydliad, a chafodd hynny'n sicr ei adlewyrchu yn ei benderfyniadau, oherwydd yn sicr ni chefais fonws gant y cant.

[223] **Dafydd Wigley:** Pa flwyddyn bonws y cyfeirir ati?

**Mr Martin:** Y cyfnod 2000-01. Dyna'r un a fyddai'n rhan o ffigurau'r adroddiad blynyddol hwn.

[224] **Alison Halford:** Yr wyf yn tybio nad oedd y bonws cyflawni yn cyfeirio at y contractau a oedd—

[225] **Dafydd Wigley:** I think that we will assume that that is not for us.

Yr ydym yn tynnu at ddiwedd y rhan hon o'n gwaith. Bu'n brynhawn trwm iawn, ac mae'r materion a fu o dan sylw yn rhai difrifol. Mae'n bosibl y bydd gennych wybodaeth bellach yr ydych am i ni ei hystyried, ac y mae rhai pwyntiau penodol yr ydych wedi cyfeirio atynt y byddwch yn ysgrifennu atom amdanynt. Buasem yn falch iawn o gael unrhyw wybodaeth ysgrifenedig bellach gennych.

Fel y dywedais, mae gwersi i'w dysgu o'r materion dan sylw. Yr wyf yn gobeithio y caiff y gwersi hynny eu dysgu o fewn eich cyfundrefn chi ac o fewn y gyfundrefn addysg yn gyffredinol. Fodd bynnag, mae'n bosibl bod sefyllfaoedd eraill lle y bydd newid sdrwythur gwasanaethau cyhoeddus yn arwain at yr un math o gwestiynau, er enghraifft y newidiadau a fydd yn digwydd yn y sector iechyd o fis Ebrill ymlaen. Yr wyf yn siŵr y byddwch yn gwyllo â llygad barcud am bosibiliadau o bethau'n mynd o le yn y fan honno.

Bu'n rhaid inni fod yn weddol lawdrwm arnoch heddiw oherwydd y camgymeriadau a wnaed, a'r rhai yr ydych wedi eu cydnabod. Fodd bynnag, yr wyf am i staff ELWa sylweddoli ein bod yn gwerthfawrogi'r gwaith addysgiadol sy'n cael ei gyflawni ganddynt ac ni ddylai'r saga anffodus hon dynnu oddi ar hynny mewn unrhyw ffordd.

Diolchaf ichi am ateb ein cwestiynau a diolchaf hefyd i'r tîm o'r Swyddfa Archwilio Genedlaethol am ei waith dyfal iawn ac i Syr John Bourn. Bydd trawsgrifiad drafft o'r trafodaethau hyn yn cael ei anfon atoch er mwyn ichi wirio'r ffeithiau cyn iddo gael ei gyhoeddi fel rhan o'r cofnodion. Caiff y trawsgrifiad ei gynnwys fel atodiad i'r adroddiad pan gaiff ei gyhoeddi. Diolch yn fawr ichi.

[225] **Dafydd Wigley:** Credaf y gallwn dybio nad yw hwnnw'n fater i ni.

We are nearing the end of this part of our work. It has been a very heavy afternoon, and the matters that have been under consideration are serious ones. It is possible that you will have further information that you wish us to consider, and there are some specific points to which you have referred which you will write to us about. We would be very grateful for any further written information from you.

As I said, there are lessons to be learned from the matters under consideration. I hope that those lessons will be learned within your system and within the education system in general. However, it is possible that there are other situations whereby changes to the structure of public services will lead to the same kind of questions, for example, the changes that will take place in the health sector from April onwards. I am sure that you will keep a close lookout for possibilities of things going wrong there.

We have had to be fairly heavy-handed with you today because of the mistakes made, and those that you have acknowledged. However, I want ELWa staff to realise that we do appreciate the educational work that is being achieved by them and that this unfortunate saga should not detract from that in any way.

I thank you for answering our questions and I also thank the National Audit Office team for its hard work, as well as thanking Sir John Bourn. A draft transcript of these discussions will be sent to you for you to verify the facts before it is published as part of the minutes. The transcript will be included as an annex to the report when it is published. Thank you very much.

*Daeth y sesiwn cymryd tystiolaeth i ben am 4.57 p.m.  
The evidence-taking session ended at 4.57 p.m.*

The Clerk  
Audit Committee  
National Assembly for Wales  
Crickhowell House  
Cardiff Bay  
CARDIFF

**Annex B**  
Cynulliad Cenedlaethol Cymru  
National Assembly for Wales  
Jon Shortridge  
Ysgrifennydd Parhaol  
Permanent Secretary

18 March 2003

Dear Claire

AC-01-03 EVIDENCE TAKING SESSION – NATIONAL COUNCIL FOR EDUCATION AND TRAINING WALES: ACCOUNTS FOR THE PERIOD ENDING 31 MARCH 2002

During the course of the evidence given at the hearing on 23 January 2003 I undertook to provide notes on four topics. These are set out below:

**1. What Cabinet Office guidance existed on the setting up of non-departmental public bodies (NDPBs), including whether that guidance made recommendations about shadow-running.**

Mr Alun Cairns [Q15] asked whether there is Treasury guidance that recommends shadow running for a new NDPB. The Committee Chair correctly identified [Q22-23] the Cabinet Office guidance ‘**Non Departmental Public Bodies – A Guide for Departments**’ issued in March 2000 as the key document. This guidance was provided to all Assembly Sponsor Divisions and was available to the Education and Training Action Plan project. The Guidance offers **options**, one of which is Shadow Running, which it says **may** be adopted when establishing new ASPBs.

As explained in the evidence session, in the light of the Assembly’s decision, officials were concerned to put in place appropriate new arrangements as quickly as possible whilst maintaining business as usual. As part of the process of establishing the practical details, a comprehensive project structure was introduced. This enabled the staff who would be taking functional responsibility for business passing to the National Council to be fully involved in the shaping of successor arrangements. The project also provided for other key stakeholders to be involved in the Assembly’s partnership approach to policy development and implementation. The project thus performed many of the functions that might otherwise have been undertaken during a lengthy period of shadow operation, and in some respects went further.

In any event, conventional shadow operation was not an option open to the Assembly because of the timescale necessary to appoint the Chairman, Members and senior staff of the Council following enactment of the enabling legislation. The legislation was not enacted until the project had begun so such a shadow period, leading up to the establishment of the Council in April 2001 in accordance with the resolution of the Assembly, could not apply. The Assembly Government’s position on this was set out in response to two recent Written Assembly Questions from Helen Mary Jones. I have enclosed a copy at Annex A. This may be of assistance to the Committee in putting together its report.<sup>2</sup> Details of correspondence from John Taylor to Neil

Thomas regarding concerns over financial management in NCETW, and to what extent the warnings in that correspondence were taken into account.

Mr John Taylor, the outgoing Chief Executive of TEC South East Wales, wrote to Mr Neil Thomas, Project Director for ETAP Implementation, on 26 March 2001 enclosing a letter of 23 March 2001 to Mr Steve Martin, Chief Executive of the Councils setting out various operational issues that, in Mr Taylor's opinion, needed to be addressed by the National Council when it became fully operational on 1 April 2001. Mr Taylor was also critical of staffing and organisational matters within the National Council. Mr Martin replied to Mr Taylor's letter on 29 March 2001 and Mr Thomas received a copy of that reply on 2 April 2001. Copies of the relevant correspondence are attached.

Mr Taylor's letters did not raise any issues that had not already been considered by the Project Management Board and been put in hand by the senior management team of the National Council. Mr Martin's letter of 29 March 2001, which confirmed to Mr Taylor that all the actions listed in his letter were being addressed, was received in the Assembly following the transfer of Training and Enterprise Councils (TEC) functions to the National Council and Mr Taylor's departure to take up appointment as Chief Executive of ACAS.

3. The Assembly's position regarding Work Connect (paragraphs 36 and 37 of the Auditor General's report) and whether this matter would be resolved by 31 March 2003

Janice Gregory [Q84] raised the issue of the vires of the National Council taking a financial interest in Work Connect.

Following the Committee hearing both the National Council and Assembly officials have considered this issue further. The Council has confirmed that the voluntary novation of the contract covering CELTEC's interest in the Work Connect joint venture came within the scope of the Council's vires. Assembly officials concurred with this view.

A scheme under section 93 of the Learning and Skills Act 2000 (referred to in paragraph 13 of the AGW's report) provides for certainty in respect of transfers of interest between former TECs and the National Council. The scheme that was made by the Assembly on 29 March 2001 transferred known assets and interests of the TECs to the Council. Interests in joint ventures were excluded from the scheme because the Assembly Government had understood there to be no such remaining interests to transfer.

Although interests in joint ventures were not included in the section 93 transfer, neither the Assembly Government nor the Council is aware of any reason why the Council may not become a partner in such ventures. The Council has confirmed that the interests of the former CELTEC company in the Work Connect joint venture come within scope of the Council's vires. I am advised that the NAO agrees that the issue has been resolved.

4. Assembly guidance (Management Statement and Financial Memorandum and other guidance) to ASPBs on the roles and responsibilities of the Chair of the ASPB.



The role of the Chair of the National Council is set out in:

- The National Council's Management Statement;
- The Assembly's Guidelines for Members of the National Council; and
- The Assembly's Guidance on Codes of Practice for the Council Members of Assembly Sponsored Public Bodies.

Relevant extracts from these documents are in the enclosed Annex B.

I am copying this letter to Steve Martin and the Auditor General for Wales.

Yours sincerely

**JON SHORTRIDGE**

## Questions to the Minister for Education and Lifelong Learning

23 January 2003

### National Council for Education and Training for Wales

**Helen Mary Jones:** When was the decision taken no to establish the National Council for Education and Training for Wales as a shadow body, prior to it becoming fully operational? (WAQ22108)

**Helen Mary Jones:** Will the Minister confirm whether the decision not to establish the National Council for Education and Training for Wales as a shadow body prior to it becoming fully operational was taken at ministerial level? (WAQ22109)

**The Minister for Education and Lifelong Learning (Jane Davidson):** The National Council for Education and Training for Wales was established in autumn 2000 prior to becoming operational on 1 April 2001. All the relevant ministerial decisions were taken to support measured progress towards achieving the transfer of functions and operational capacity to the council. The Assembly debated the recommendations of the Post 16 Education and Training Committee regarding implementation of the education and training action plan on 1 February 2000. The motion approved during that Plenary debate instructed that the necessary work should be put in hand with the training and enterprise councils and Further Education Funding Council for Wales, so as to implement the new arrangements for post 16 education and training by 1 April 2001.

The timescale took account of the prospective progress of the then Learning and Skills Bill towards Royal Assent (which itself duly conditioned the timing of the council's establishment). It also took account of the Committee's recommendation that there should be a staged approach towards the assumption by the National Council – ELWa of the full range of its operational functions.

Subsequently, the Post 16 Education and Training Committee considered guidance on the roles of community consortia for education and training and the regional committees of the National Council-ELWa, which itself contributed towards the preparations for the new arrangements. Augmented support for other preparatory work was constituted by the education and training action plan transition project machinery established in March 2000 which included representatives of all of the bodies involved directly in the transfer of functions as well as other external stakeholders. The project steering committee monitored the progress of the project throughout the transition period and kept the issues associated with the project under regular review.

The National Council-ELWa came into being in November 2000 with the appointment of its chairman and chief executive. Its other Members and senior staff were appointed subsequently and the council met in full for the first time in February 2001. The appointment of the chair and members of the council were made in accordance with the relevant Assembly procedures. The council was fully committed to taking up its operational responsibilities from 1 April 2001.

Upon appointment, the senior staff of the council ( who had been undertaking key roles within the project management machinery) took over responsibility for organisational planning within it, drawing on information and advice prepared as part of the project arrangements.

My predecessor and I received regular progress reports – indeed the project's progress was fully charted through its newsletter 'Ymlaen-Ahead' and other documents that were routinely made available to assembly Members and the public on the Assembly's website – and at no point were we given advice that the timetable for the transfer of functions was unachievable.

**In line with the principles established by the Post-16 Education and Training Committee, certain aspects of the education and training action plan recommendations have been phased because they required a longer period of preparation. In particular, the transfer of responsibility for sixth-form funding from local education authorities to the National Council-ELWa was deferred until 1 April 2002, and the National Council-ELWa's review of post-16 planning and funding arrangements commenced last year and has yet to be concluded.**

## **Management Statement**

**Paragraph 2.4.1.** The Chairperson of the Council is appointed by the Minister for Education and Lifelong Learning under Section 30 of the Learning and Skills Act 2000, and, together with other Council members, is responsible for the overall direction and management of the Council within the policy framework set by the Assembly.

**Paragraph 2.4.2.** The Chairperson is expected to make the time commitment to Council activities specified in the terms of appointment issued by the Assembly, and as may be varied in writing from time to time, and to attend all Council meetings. The Chairperson shall lead and direct members of the Council, and will be the primary contact with the Minister for Education and Lifelong Learning or the sponsor division on behalf of the Minister, raising issues which he/she considers appropriate, or as directed by members of the Council.

**Paragraph 2.4.3.** The Chairperson bears a personal responsibility to the Assembly for propriety in the conduct of the Council's affairs and for ensuring that its policies are compatible with those of the Assembly.

## **Guidelines for the Members of the National Council for Education and Training for Wales**

- **Paragraph 7.** The Chair of the Council is responsible, together with other Council members, for the overall direction and management of the Council within the provisions of the Learning and Skills Act 2000 and the policy framework set by the Assembly. The Chair leads and directs the Council and acts as the main point of contact between the Assembly and the Council. The Chair bears a personal responsibility to the Assembly for the legality and probity in the conduct of the Council's affairs and for ensuring that its policies are compatible with those of the Assembly.

## **Guidance on Codes of Practice for council Members of Assembly Sponsored Public Bodies**

**Paragraph 4.** The Chair has particular responsibility for providing effective strategic leadership on matters such as:

- Formulating the Council's strategy for discharging its statutory duties;
- Encouraging high standards of propriety, and promoting the efficient and effective use of staff and other resources throughout the organisation;
- Ensuring that the Council, in reaching decisions, takes proper account of guidance provided by the Assembly;
- Representing the views of the Council to the general public; and
- Providing an assessment of performance of individual Council members, on request, when they are being considered for reappointment to the Council or the appointment to the Council of some other public body.

**Paragraph 5.** The Chair should ensure that the Council meets at regular intervals throughout the year and that the minutes of meetings accurately record the decisions taken and, where appropriate, the views of individual Council members.

**Paragraph 6.** Communications between the Council and the appropriate Minister will normally be through the Chair except where the Council has agreed that an individual member should act on his behalf. Nevertheless, an individual member has the right of access to the Assembly on any matter which he or she believes raises important issues relating to his or her duties as a member of the Council. In such cases, the agreement of the rest of the Council should normally be sought. The main point of contact between the body and the Assembly on day-to-day matters will normally be the Chief Executive or another member of staff who is authorised to act on behalf of the body.

**Paragraph 7.** The Chair should ensure that all members of the Council, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities. The Chair and other members of the Council should each have a copy of the Code of Practice for the body concerned; other relevant background material such as the body's Management Statement and Financial Memorandum; its latest Corporate Plan and Annual Reports and Accounts; the Assembly's memorandum, "The Responsibilities of an ASPB Accounting Officer"; the Treasury handbook, "Regularity and Propriety"; notes describing the body's organisational structure basis of operation; and the rules and procedures of the Council. The Chair should encourage new Council members to attend an induction course on the duties of Council members of public bodies or some other suitable form of induction programme.

Our ref: JEG/JCF/5982 26 March 2001

TEC  
South East Wales 0 De Ddwyrain Cymru

Ty'r Afon  
Heol Bedwas  
Bedwas  
Caerfilli  
CF83 8W1

John E Taylor  
Chief Executive/Prif Weithredwr  
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Mr Neil Thomas  
The National Assembly for Wales Cathays Park  
Cardiff  
CF10 3NQ

Dear Neil

#### **TRANSITION INTO ELWa**

**Please find enclosed a copy of a letter that I have sent recently to Steve Martin setting out our concerns at what still needs to be done with 5 working days remaining.**

I am copying this letter to you so that you are up to date with our actions but also because I do not want blame or unjustified criticism levelled at the TEC's senior management if ELWa goes awry in its early days.

I am confident that where we are in direct control that the operational side of the TEC will be handed over in full working order to David Morgan and his ELWa team. I am much less confident in those areas where ELWa have still to work out the boundaries between its virtual Head Office and its Regions. This is particularly so for finance and control matters and the wherewithal to wind up the TEC.

The staffing situation is a mess brought about by ELWa's erratic approach to recruitment to cope with the compressed timetable. It sits ill at ease with the promise issued by Tom Middlehurst on "best practice" for TEC staff. It is indeed ironic that it is only ELWa who are in breach of the Personnel Protocol. I sincerely hope that my next contact is not through my new position at ACAS.

I am very happy to discuss this note if it would be helpful.

Kind regards.

Yours sincerely  
**J E TAYLOR, CHIEF EXECUTIVE**

Our ref: JET/LMPW/928e/5971 23 March 2001

Steve Martin Esq Chief Executive  
ELWa  
Linden Court The Orchard  
Ty Glas Avenue Llanishen  
CARDIFF CF4 5DZ

## OUTSTANDING TASKS

**At a recent meeting of my senior management team, we took stock of what we believe still needs to be done post 31 March 2001 to effect the transfer and eventual wind up of TEC South East Wales in ELWa.**

Some of these actions will be common to the other TECs and indeed the Further Education Funding Council. Some are unique to TEC South East Wales and it will be important for you and your team to discuss with the relevant person here at the TEC before they leave. We have already initiated handover action but for your ease I have brigaded the various issues under the lead person at the TEC:

- Response to Corus/contractor/supply chain redundancies including consultation with the DTI on state Aids; John Taylor
- New Deal developments; John Taylor
- Closure of three pension schemes; Jon Sheppard
- Formal wind up process including Board resignations, transfer of ownership, all legal issues and handling of final due diligence report; Jon Sheppard
- Disposal of Cleppa Park and finalisation of lease and latest defects at Bedwas; Jon Sheppard
- Year end accounts and documentation to Companies House; Jon Sheppard
- Cheque signing and authorisation; Jon Sheppard
- Disposal of the Technocentre; Rob Halford
- Longer term inward investment projects discussed I confidence with the WDA Rob Halford

On the people front you need to be aware that we are experiencing a number of resignations from key individuals who have decided that their future lies elsewhere. They will be taking with them a wealth of experience and range of contacts which will be difficult to replace. I also believe, given the haphazard and inconsistent approach applied to the recruitment process to date, that ELWa is likely to face some constructive dismissal cases which are very likely to succeed. Even at this very late point in the process these may be avoided if some selective redundancies are allowed by the National Assembly.

Finally, you or Enid may wish to consider individual approaches to Members of my Board to see if they will be prepared to apply to serve on the Regional Committees. A 2 to 3 month drift between the abolition of the Board and the creation of the Committee will inevitably lead to dissipation of interest.

I wish you and ELWa well for the future.

**Kind regards.**

**J E TAYLOR CHIEF EXECUTIVE**

**cyngor cenedlaethol cymru dros addysg a hyffordiant  
national council for education and training for wales**

Mr John Taylor  
Chief Executive  
South East Wales TEC  
Bedwas Road, Caerphilly  
Mid Glamorgan  
CF83 8WT

29 March 2001

**OUTSTANDING TASKS**

I got your letter of 23 March, which you mentioned to me on Tuesday morning, when I got back to the office later that day. It doesn't appear to have been e-mailed to me on the previous Friday, as you suggested it had been.

I have doubled-checked with relevant directors and all the actions in your list are well in hand.

I disagree strongly with some of your comments in the first paragraph of page two of your letter, in which you allege that an haphazard and inconsistent approach has been applied to the recruitment process. On the contrary, we have sought to follow the principles laid down by the former National Assembly Secretary, Tom Middlehurst, and, in particular, the Staff Protocol agreed with the trades unions.

The first and most senior appointments were made from the identified cohort of the twenty-nine top managers of the predecessor organisations who were not deemed eligible by the National Assembly to transfer on TUPE terms. As a result, I'm delighted that we have been able to retain the services of really excellent people.

With the help and involvement of senior management, we've subsequently changed and implemented entire management structures across all divisions and regions and made appointments in accordance with the Staff Protocol.



Senior management gave the job content, in a common format, to around fifty internal job advertisements, each of which carried the salary range consistent with their grade. Well over 100 interviews have taken place, as a result of which further appointments are being made daily. By 1 April we will have staffed, in their entirety, the management structures in Finance and IT, HR and Quality, Participations and Communications, Mid Wales, North Wales and South West Wales. The only remaining vacancies are the handful of senior posts we decided to advertise externally, and for which we will shortly be interviewing. Transitional appointments have been made from amongst existing staff in the predecessor organisations until the posts are filled permanently. The Corporate Policy and Strategy management structure will also be substantially staffed.

In South East Wales we pursued the same organisation design and recruitment process as elsewhere, using the expertise of those of your senior management who elected to stay with ELWa, and your HR professionals.

The majority of management roles in the structure have been filled. There have been a few instances, unique to South East Wales, where individuals have turned down roles offered to them. Whether or not these are the employees who might seek constructive dismissal you do not make clear in your letter. As you know, we have and are making strenuous efforts to retain individuals and their skills; the senior management team who will be running the South East Wales operation feel strongly that every effort has been made, and continues to be made, to discuss with these employees alternative positions in accordance with the Staff Protocol.

As a minimum, the individuals concerned will be employed in ways compatible with their current roles from 1 April 2001, with no diminution to their terms and conditions. We would hope to persuade them to consider other opportunities.

The remainder of vacancies unfilled in South East Wales at this time tend to have resulted from internal moves to units such as Europe, Future Skills Wales, and from labour turnover. I'm obviously disappointed to lose any people of quality but a degree of turnover is probably unavoidable given the transition; you have, as Chief Executive of TECSEW, been reporting high turnover for the last 12 months. Where vacancies are to be filled, I'm confident that the positive reception ELWa is receiving, both internally and externally, will result in good candidates presenting themselves for employment.

On the matter of redundancies, our view remains that it would be wrong to **contemplate such a step before we've** had the chance to assess resource and skill availability against future needs.

Turning to the regional committee, we are making a determined effort to get top class people to put themselves forward. You may have seen the advertisement in today's **Western Mail**. We're also writing to a wide range of organisations and individuals to draw their attention to this important opportunity.

I'm grateful to you for your good wishes to ELWa and to me personally for the future. As you know, I wish you every success in your exciting new role.

I understand from Neil Thomas that you copied your letter to him, I'm therefore sending him a copy of this.

cc

David-Evans

Richard Hirst

Paul Humpherson

Richard Thomas

Cadeirydd: Enid Rowlands

Prif Weithredwyr: Steve Martin

Chairman: Enid Rowlands

Chief Executive: Steve Martin

<b>Contract</b>	<b>Purpose</b>	<b>Outcomes/Value for money</b>
1	Operational (not corporate) strategy and plan preparation process	The outcome was a comprehensive, internally coherent operational plan. The consultancy facilitated the bringing together of diverse inherited operational planning systems and practices.
2	Organisation reshaping and running cost reduction	The project encompassed organisation design, change management, identification of skills shortages, work on business processes and developing project management arrangements. The rates charged were the government S-cat rates less a 3% discount. 36 days were not charged for.
3	Developing software	Cheapest of two options already in use in-house for claims processing software for SW Wales. Retrospective Assembly approval given.
4	Job sizing, market positioning and reward structure review	Integrated pay and benefits system introduced, replacing a variety of inherited systems. Job sizing and competency based performance appraisal systems introduced. Continuity of arrangement originally entered into by SE Wales TEC to ensure relevant expertise deployed quickly.
5	National funding system	Consultants produced a major report in a very short timescale following initial lack success in recruiting staff in time to take forward this priority work and also the inability of local authorities to second expert staff as originally planned. The rates charged were government S-cat rates less a 3% discount. 16.5 days were not charged for.
6	Management of Innovation and Development Fund	Consultants project-managed urgent investment of significant innovative funding which became available late in the financial year once there was clarity about expenditure inherited from the TECs. Staff resources to do this were not available because of the imminence of major redundancies, which meant that vacancies had to be left unfilled, and to safeguard other priorities. The rates charged were government S-cat rates less a 3% discount.
7	MAYTAS Trainee Tracking system	Costs related to the maintenance and development of a legacy claims system operating in SE and North Wales, originally competitively procured by the TECs. Retrospective Assembly approval given.
8	Marketing	Contract objectives met in full through the development of the Learning Works theme, with supporting work on the development of TV commercials, literature and press advertising.
9	Marketing and participation:	Enabled fully functioning, bilingual ELWa website to be developed, together with development

<b>Contract</b>	<b>Purpose</b>	<b>Outcomes/Value for money</b>
	website	intranet. Daily rate less than that previously paid by TEC.
10	Broadcast advertising	Commercials and associated marketing successfully delivered. No competitive rates available as only Welsh language broadcaster. Retrospective Assembly approval given.
11	Advertising coverage	Provision of posters on buses for Learning Works and other campaigns. No competitive rates available as only supplier. Retrospective Assembly approval given.
12	Advertising coverage	Prominent newspaper advertising and supplements in only daily newspaper able to reach wide target audience throughout the country. No competitive rates available. Retrospective Assembly approval given.
13	Advertising (through media buying agency)	Extensive advertising campaigns in press, radio and TV for campaigns such as Adult Learners Week, Be Smart, Be Skilled. 20% discount on all media purchased.
14	Recruitment of agency staff	Provision of staff of a good standard within the necessary timescales. When the contract was retendered the company won the contract at the same rate as they had previously charged. Retrospective Assembly approval given.
15	Recruitment of agency staff	One-off contract to provide and train call centre staff, for which the company was a specialist provider. Retrospective Assembly approval given.
16	IT system	ILA database set up and implemented. Contract let by SE Wales TEC before 1 April 2001.
17	Operating lease for photocopiers	Provision of seven leased photocopiers. Extension and partial upgrade of contract inherited from North Wales TEC.
18	Professional legal services	Firm used because of good up-to-date knowledge of Assembly/ASPB issues. Advised on redundancy process which resulted in no tribunal claims.
19	Provision of dedicated internet access	Effective internet link and website hosting, cheaper than at direct purchase rates.
20	Provision of dedicated internet access	See 19 above.
21	Marketing and	Design and artwork for number of successful campaigns, e.g. for modern apprenticeships, redundancy

<b>Contract</b>	<b>Purpose</b>	<b>Outcomes/Value for money</b>
	communications	action fund. Chosen from tender exercise involving four firms on the basis of their ability to deliver effectively against the requirements.

### 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 21<sup>st</sup> March 2002:

Dafydd Wigley (Plaid Cymru) - Chair  
Alan Cairns (Conservative)  
Janet Davies (Plaid Cymru)  
Jocelyn Davies (Plaid Cymru)  
Alison Halford (Labour)  
Ann Jones (Labour)  
Val Lloyd (Labour)  
Janice Gregory (Labour)  
Eleanor Burnham (Liberal Democrat)

Further information about the Committee can be obtained from:

Claire Bennett  
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National Assembly for Wales  
Cardiff Bay  
CF99 1NA  
Tel: 02920 898155  
Email: [Audit.comm@wales.gsi.gov.uk](mailto:Audit.comm@wales.gsi.gov.uk)