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# THE NATIONAL ASSEMBLY FOR WALES

## AUDIT COMMITTEE

Report presented to the National Assembly for Wales on 2 March 2004 in accordance with section 102(1) of the Government of Wales Act 1998

### The Disposal of the Mid Wales Hospital

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## Introduction

1. In this report, we examine the disposal of the Mid Wales Hospital at Talgarth by the Dyfed Powys Health Authority (the Health Authority), together with the subsequent leasing of part of the site by the Powys Health Care NHS Trust (the Trust). The Mid Wales Hospital was a substantial mental hospital, built at the turn of the nineteenth and twentieth centuries, that became surplus to NHS requirements in the 1990s because of changes in the provision of mental healthcare.
2. On 24 October 2002, on the basis of a report by the Auditor General for Wales on the disposal of the hospital<sup>1</sup>, our predecessor Committee took evidence<sup>2</sup> from Mrs Ann Lloyd, Director of NHS Wales, Neil Jones, Principal Estates Surveyor in the Assembly's Estates Division and Nigel Towns, Acting Chief Executive of Dyfed Powys Health Authority. During that evidence session, certain statements were made by the witnesses regarding the role of a retired official in relation to the documentation of the disposal<sup>3</sup>, the changes in land-use planning criteria affecting the site<sup>4</sup> and the purchaser's fax to the Secretary of State of 17 May 1999<sup>5</sup>. The Committee wished to follow-up these points. The Committee also received detailed allegations concerning the disposal process in extensive correspondence from members of the public, both immediately before and after the 24 October 2002 evidence session. These included an allegation that the purchaser had received improper rental payments of £80,000 from Powys Health Care NHS Trust in respect of the Trust's lease of part of the site immediately following the sale.
3. In the light of this situation, the Auditor General for Wales suggested that he should extend his review to address additional points of concern to the Committee. The Committee welcomed this proposal. Drawing on further examination work by staff of the National Audit Office Wales, the Auditor General for Wales presented a memorandum to the new Committee on 8 January 2004.
4. On the basis of this memorandum, on 15 January 2004 the Committee took further evidence<sup>6</sup> from Mrs Ann Lloyd, Director of NHS Wales, Andrew Williams, Chief Executive of Powys Local Health Board (successor body to Powys Health Care NHS Trust) and Allan Coffey, Chief Executive of Monmouth Local Health Board and former Director of Finance and Acting Chief Executive of Powys Health Care NHS Trust.
5. The Auditor General had concluded in his report of 16 October 2002 that the Health Authority's handling of the disposal was regular, was proper in so far as evidence was available and that overall it was conducive to achieving good value for money. However, he also found there to be certain

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<sup>1</sup> Auditor General for Wales (AGW) report, *The Disposal of the Mid Wales Hospital*, presented to the National Assembly for Wales on 16 October 2002.

<sup>2</sup> Annex A, 24 October 2002

<sup>3</sup> 24 October 2002 Q26

<sup>4</sup> 24 October 2002 Qs 105-119

<sup>5</sup> 24 October 2002 Qs 42,43, 45, 46, 60, 67 and 68

<sup>6</sup> Annex A, 15 January 2004

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departures from good practice in terms of ensuring propriety, failures to keep records to demonstrate proper practice and omissions that could have jeopardised value for money in other circumstances<sup>7</sup>. In his memorandum of 8 January 2004, the Auditor General found that, despite some additional explanations for the absence of documentation, the further work confirmed his original conclusions on the Health Authority's handling of the disposal. He also concluded that the Trust's handling of its lease fell short of good practice in a similar manner to the Health Authority's handling of the disposal. In particular, the Trust kept inadequate records of decisions and negotiations. Overall, however, the Auditor General was satisfied that, throughout the disposal process, officials of both the Health Authority and the Trust pursued the best interests of the NHS, and secured value for money without jeopardising the well-being of patients<sup>8</sup>.

6. This report sets out our main findings arising from our consideration of the evidence presented to us in the Auditor General's 16 October 2002 report, his 8 January 2004 memorandum and by the witnesses appearing before us on 24 October 2002 and 15 January 2004. We have also taken full account of the matters and views put to us by correspondents. We consider five major themes that run through the disposal and decommissioning process:

- the adequacy of guidance to NHS bodies concerning property disposals;
- the adequacy of record keeping by the Health Authority and the Trust;
- risk management issues;
- the need to maintain a demonstrably level "playing field" in dealing with business counterparts; and
- the proper roles of Chairs and senior officials.

We also consider the importance of notifying potentially novel and contentious transactions to the Assembly's NHS Department. Finally, we give our view on the overall value for money of the disposal and decommissioning process. Throughout this report, we set out our recommendations for the NHS Wales Department and individual NHS bodies across Wales.

## **The adequacy of guidance applying to NHS property disposals**

7. We are pleased that, since our first evidence session on this matter, the NHS Department has issued new guidance regarding the disposal of the NHS Estate<sup>9</sup>. The new guidance has endorsed the application of the Estatecode to all NHS bodies, as recommended by the Auditor General in his report of 16 October 2002<sup>10</sup>. The new guidance has also set out the detailed requirements on NHS

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<sup>7</sup> AGW 16 October 2002 report, Executive Summary paragraphs 4-11

<sup>8</sup> AGW 8 January 2004 memorandum paragraphs 51-54

<sup>9</sup> WHEL (02)09 and WHC(2002)130 (see Annex B)

<sup>10</sup> AGW 16 October 2002 report, Executive Summary paragraph 12

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bodies handling property disposals, such as the need for them to acquaint prospective advisers from the private sector with public accountability requirements, so as to ensure regularity, propriety and value for money in such transactions. It therefore also assists in addressing the Auditor General's eleven other recommendations. **We strongly recommend that NHS bodies should adhere rigidly to the requirements of WHC(2002)130 on property disposals.**

8. During our first evidence session, we became concerned that explicit guidance was not available to NHS bodies on ensuring that disposals were conducted so as to promote sustainable development, despite the requirements placed on these bodies by the Government of Wales Act 1998 (which came into force in January 2000)<sup>11</sup>. We were particularly concerned that this requirement was paid lip service but was not being fully met. We note that Mrs Lloyd, the Director of the Assembly's NHS Department, confirmed to us that future property disposals would fully take into account sustainable development factors, and that sustainable development would be included in new guidance that was to be issued<sup>12</sup>. We also note that the new guidance<sup>13</sup> issued by the Assembly's NHS Department refers to a full examination of sustainable development issues to be undertaken as part of the revision of the Estatecode for Wales by summer 2003. **We seek confirmation from the Assembly's NHS Department that, following this latest revision, the Estatecode for Wales now fully addresses sustainable development issues. We also recommend that the Assembly's NHS Department should review the efficacy of its guidance to NHS bodies on sustainable development and ensure that it is being properly adhered to.**

## The adequacy of record keeping

9. We were most concerned at the Auditor General's finding in his report of 16 October 2002 that there were four instances of the Health Authority not keeping records documenting major decisions regarding the disposal process. These were the decision to proceed with a split conveyance, the consideration and rejection of advice to obtain an independent valuation, the informing of potential purchasers of changes to land-use planning criteria since October 1998 and the consideration of clawback<sup>14</sup>. We were unimpressed by the Acting Chief Executive of Dyfed Powys Health Authority's reference to a meticulous former member of staff<sup>15</sup>. Likewise we were hardly reassured by his explanation that all records were kept in storage as secure items along with other records such as patient records<sup>16</sup>. We find the explanations, such as there are, identified in the Auditor General's 8 January memorandum plausible<sup>17</sup>. Nevertheless, we do not consider the explanations provided to us by various NHS officials to be justifications for these failings, and we view it as a dereliction of duty

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<sup>11</sup> 24 October 2002 Qs 3-12

<sup>12</sup> 24 October 2002 Q3

<sup>13</sup> WHC(2001)130, see Annex B

<sup>14</sup> AGW 16 October 2002 report, paragraph 2.40

<sup>15</sup> 24 October 2002 Q26

<sup>16</sup> 24 October 2002 Q136 and 137

<sup>17</sup> AGW 8 January memorandum, paragraphs 9 to 15

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that the Health Authority was unable to produce adequate records for review by the Auditor General's team<sup>18</sup>.

10. The Auditor General reported in his memorandum of 8 January 2004 that Powys Health Care NHS Trust did not retain a full record of a formal risk assessment to establish the cost of its early surrender of its lease on part of the hospital site<sup>19</sup>, and that negotiations with its landlord to secure an early surrender of that lease were not fully minuted<sup>20</sup>. These findings have deepened our concern that poor documentation of estates business may be endemic in NHS bodies across Wales. The documentation of business demonstrates the awareness of risks, gives assurance on probity and gives protection against subsequent allegations of impropriety. It is in the interests of both NHS bodies and individual members of staff to keep full and proper records of their actions. We therefore find it appropriate that that the Assembly's NHS Department's recent guidance (WHC(2002)130) reminds NHS bodies of the requirement under the Estatecode for all decisions and matters relating to property disposals, including telephone conversations and discussions at meetings, to be fully and clearly recorded<sup>21</sup>.
11. In the case of the costing of the early surrender of the lease, we note that District Audit retained a record of the Trust's estimates of the cost of surrendering the lease. Had District Audit not retained such a record, we would have had concerns that that these figures might have been invented by the Trust after the event<sup>22</sup>. However, we view such reliance on the records maintained by external auditors as inappropriate. The proper role of the auditor is to provide independent assurance on the accounting and use of public money; it is for the Trust to maintain adequate records of the basis for decisions taken.
12. Turning next to the lack of full minutes of the negotiations between the Trust and Chancefield Estates Ltd to surrender the lease on the site, we note the explanation of the former Finance Director of the Trust that this was because some of those meetings were of an informal nature<sup>23</sup>. However, we do not find this explanation acceptable. We cannot see how it could ever be appropriate when dealing with public funds to take such an informal approach to recording negotiations with a third party. **We recommend that the Assembly's NHS Department should make it explicit in guidance that meetings to negotiate commercial transactions should never be regarded as "informal", and that such meetings should always be minuted.**
13. In addition to our concerns at these failures to provide a full account of decisions for accountability purposes, we are also concerned that the inability of both the Health Authority and the Trust to

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<sup>18</sup> 24 October 2002 Q82

<sup>19</sup> AGW 8 January memorandum, paragraph 39

<sup>20</sup> AGW 8 January memorandum, paragraph 41

<sup>21</sup> 15 January 2004 Q3 and Annex C

<sup>22</sup> AGW 8 January memorandum, paragraph 47 and 15 January 2004 Q38

<sup>23</sup> 15 January 2004 Q44

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produce records of key decisions, or records of the fate of such documents, indicates that NHS bodies in Wales may find it difficult to comply with their obligations under the Freedom of Information Act 2000<sup>24</sup>. **We therefore recommend that the Assembly's NHS Department and all NHS bodies should review whether they have made adequate preparations for the commencement of the general right of access under the Freedom of Information Act in January 2005. Where they conclude their preparedness to be inadequate, they should take remedial action as a matter of urgency.**

## Risk management

14. All NHS bodies are required to have robust procedures in place for the identification, assessment and management of risk. For the most part (and notwithstanding the documentation failures referred to above), we are content that both the Health Authority and the Trust managed the risks associated with the disposal of the Mid Wales Hospital appropriately. However, we do consider that there were some significant risk management deficiencies at both organisations.
15. In respect of the Health Authority's disposal of the hospital, we appreciate that a valuation for disposal purposes is an estimate of market value and is not a substitute for actual exposure to the market<sup>25</sup>. We also recognise that market valuation will be difficult where there is a lack of comparable market information. However, we consider that obtaining an up to date valuation specifically for the purpose of disposal is a useful safeguard against the risk of selling property at substantially below market value, or later being accused of doing so. We therefore welcome the specific reference in the Assembly's NHS Department's recent guidance on disposals to the requirement in future to obtain formal and up to date valuations<sup>26</sup>.
16. On the Trust's agreement of its lease of part of the hospital site from the eventual purchaser, we note that photographic records may not capture underlying structural conditions<sup>27</sup>. We also accept that there are differences in professional opinion regarding the efficacy of photographic records as a means of preventing excessive claims for dilapidations<sup>28</sup>. However, we note that the Trust had prepared a photographic survey for its "own records"<sup>29</sup>, and we therefore suspect that there is less disagreement on this point in reality than was apparent amongst the witnesses at our evidence session on 15 January 2004. **We therefore recommend that NHS bodies that lease property should make use of schedules of condition, or at least visual records of the property, and in the case of the latter, where possible, agree them with their landlords, as a means of managing the risk of excessive claims for dilapidations.**

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<sup>24</sup> 24 October 2002 Qs 84 - 86

<sup>25</sup> 24 October 2002 Qs 21-25 and 32-37

<sup>26</sup> WHC (2002) 130, Annex B

<sup>27</sup> 15 January 2004 Q34

<sup>28</sup> 15 January 2004 Qs 29 and 30

<sup>29</sup> 15 January 2004 Q28

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## Maintaining a demonstrably level playing field in dealing with business counterparts

17. We were concerned at the absence of comprehensive documentary evidence to show that the Health Authority's agent had fulfilled its undertaking to inform all potential purchasers of proposed changes to the local land-use plan<sup>30</sup>. We are reassured that prospective purchasers were encouraged to contact the local planning authority regarding planning matters<sup>31</sup>. We also acknowledge that it is not practicable for NHS bodies or their agents to be conduits for all matters relating to planning, or to undertake to inform purchasers of every possible planning change (particularly in relation to proposed, as opposed to adopted, land-use planning criteria), as such representations may create considerable potential liability to the public purse. However, we remain concerned that, as with the handling of bids, the processes for communicating changes that are likely to affect value should ensure a "level playing field" and that they should demonstrate that this is the case. We consider that the best way of achieving this is to communicate such changes in writing to all prospective purchasers and to retain a full record of such communications. We are therefore pleased that in its recent guidance<sup>32</sup> the Assembly's NHS Department has required NHS bodies to make such communications in writing. **We recommend, for the avoidance of doubt, that NHS bodies handling disposals should retain full records of their communications with prospective purchasers of any changes likely to affect value.**
18. We were astonished to learn that the elementary precaution of requiring sealed, unmarked bids, to be opened in the presence of a witness, was not employed in the Health Authority's final attempt to sell the site in May 1999<sup>33</sup>. We found this departure from best practice especially surprising given that such procedures were used by the Health Authority in the first informal tendering process initiated in July 1998<sup>34</sup>. We have no doubt that an informal tendering approach was itself appropriate, given the modest commercial potential of the site<sup>35</sup> and the element of uncertainty regarding the time needed to relocate the remaining patients<sup>36</sup>. Also, in the light of the details of the bids received in May 1999, we find that there is no credible evidence to support the allegations of improper disclosure of bids<sup>37</sup>. However, we consider that it was wholly inappropriate to omit a precaution that would have safeguarded not only against improper disclosure of the details of bids but also substantially reduced the risk to the Health Authority of subsequent allegations of impropriety.
19. We recognise that it may be necessary for public sector bodies to explain to private sector agents that these precautions are necessary when dealing with public sector assets, as the particular expectations

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<sup>30</sup> AGW 16 October 2002 report, paragraph 2.30

<sup>31</sup> 24 October 2002 Q106 and AGW 8 January 2004 paragraph 12

<sup>32</sup> WHC (2002) 130, para 17 (Annex B)

<sup>33</sup> AGW 16 October 2002 report, Executive Summary paragraph 5, and 24 October 2002 Q54 to 55

<sup>34</sup> 24 October 2002 Q19 and AGW 16 October 2002 report, paragraph 2.34

<sup>35</sup> 24 October 2002 Q38

<sup>36</sup> 24 October 2002 Q43

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of public sector propriety do not necessarily apply within the private sector. We welcome the inclusion of a requirement in the Assembly’s NHS Department’s recent guidance on disposals<sup>38</sup> that NHS bodies ensure that all prospective private sector advisers are fully acquainted with public accountability requirements. **Nevertheless, we recommend that NHS bodies should draw the particular attention of private sector agents to the specific requirement for the sealed bids procedures when undertaking informal tenders.**

20. We became concerned during our evidence session on 24 October 2002 that the handling of bids had potentially been undermined by the receipt on 17 May 1999 of a fax from the eventual purchaser to the Secretary of State requesting an extension to the deadline, which was on that day<sup>39</sup>. The Director of NHS Wales assured us at our evidence session on 15 January 2004 that this had not been a late bid, in the sense of being received after the deadline, but rather a request for an extension of time for the submission of supporting information<sup>40</sup>. Although the purchaser made no actual use of the twelve-hour extension that was granted to her—the information was supplied on time—we consider that it was inappropriate for that extension to have been made to only one of the prospective purchasers. **We therefore recommend that the Welsh Assembly Government should draw to the attention of all public officials dealing with disposals the need to maintain and demonstrate a “level playing field” in their dealings with prospective purchasers.**

## The proper roles of NHS Chairs and senior officials

21. With regard to Powys Health Care NHS Trust’s surrender of its lease of part of the hospital site, we consider that the attendance of the Chair of the Trust at negotiations with Chancefield Estates Ltd was most unwise<sup>41</sup>. We note and concur with the Director of NHS Wales’ helpful exposition to us of the proper respective roles of the Chair and Chief Executive of an NHS body<sup>42</sup>.
22. We emphasise the Chair’s role in scrutiny. The primary role of the Chair is to lead the Board, which in turn scrutinises the decision-making of the executive managers and ensures that they are conducting the organisation’s business with probity and proper governance. The Chair has to ensure that the information and the issues discussed by the Board are appropriate and well-informed. As Mrs Lloyd put it to us, Chairs have to be the “conscience” of their organisations; they have to be able to assure themselves and their Boards, and the general public, that the business conducted by their organisations is open and above suspicion. Therefore, Chairs must not involve themselves in day-to-day executive operations. If they do so, they inevitably prejudice their ability to reach judgements with their non-executive Board colleagues about the actions and recommendations of executive managers within the organisation.

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<sup>37</sup> AGW 16 October 2002 report, paragraph 2.35

<sup>38</sup> WHC (2002) 130, para 9 (Annex B)

<sup>39</sup> 24 October 2002 Qs 60-80

<sup>40</sup> 15 January 2004 Q5



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23. By contrast, the Chief Executive is primarily responsible to the Board for the operations of the organisation and for the establishment and maintenance of robust management systems. As the Accountable Officer, they have the additional duty of making sure that adequate internal controls are in place, and making sure that the whole of the resource over which they exercise stewardship is used effectively. In this capacity of Accountable Officer, they are accountable directly to the Director of NHS Wales and to this Committee.
24. We note that over the past 18 months the Director of NHS Wales has taken action, through appraisals, and training and development activities, to make clear the proper roles of Chairs and Chief Executives<sup>43</sup>. We are pleased to have learned that in the past 18 months there has been no confusion of role on the scale that occurred at Powys Health Care NHS Trust in relation to the surrender of its lease of part of the Mid Wales Hospital. We also note the Director of NHS Wales' specific assurance to us that, where some minor confusions have arisen, she has dealt with them quickly<sup>44</sup>.
25. We were alarmed to learn from the Trust's former Finance Director and Acting Chief Executive his reasons for not informing the Auditor General of the payment of £120,000 for the surrender of the lease when given the opportunity to comment on the factual accuracy and completeness of a draft of the Auditor General's 16 October 2002 report<sup>45</sup>. In particular, it was most worrying to hear his statement that, having contacted District Audit in 2000 about the transaction, "in my mind I had already involved audit"<sup>46</sup>. In our view, this comment betrays a lack of understanding on his part of the role of the Auditor General in the audit and accountability processes of NHS Wales. In light of this, **we recommend that the Director of NHS Wales should use the appraisal process to ensure that her Accountable Officers have a proper understanding of the respective distinct roles of NHS appointed auditors and the Auditor General for Wales.**

## **The importance of notifying potentially novel and contentious transactions to the Assembly's NHS Department**

26. We note the failure of Powys Health Care NHS Trust to notify its proposed lease surrender transaction in accordance with the December 1998 guidance on novel and contentious transactions<sup>47</sup>. Such a referral would have helped the Trust to obtain appropriate guidance, as well as providing assurance to both the Trust and the Assembly's NHS Department on the propriety of the transaction. We recognise that the requirement to notify the Department of such transactions did not form part of

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<sup>41</sup> 15 January 2004 Q68

<sup>42</sup> 15 January 2004 Q67

<sup>43</sup> 15 January 2004 Q69

<sup>44</sup> 15 January 2004 Q72

<sup>45</sup> 15 January 2004 Q17

<sup>46</sup> 15 January 2004 Q19

<sup>47</sup> 15 January 2004 Q98

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the Trust's standing financial instructions of the time.<sup>48</sup> However, we entirely agree with the Director of NHS Wales that it would nevertheless have been wise for the Trust to have notified the NHS Department of the proposed transaction. **We recommend that the Director of NHS Wales should ensure that the standing financial instructions for NHS bodies place emphasis on the requirement to notify the Assembly's NHS Department of novel and contentious payments.**

27. We appreciate that the decision whether to notify the Department of a transaction requires the exercise of judgement by senior managers and, ultimately, by Accountable Officers. **However, we recommend that NHS bodies should err on the side of caution in deciding whether to refer, or inform, the Assembly's NHS Department of unusual transactions.**

## **Our overall view on the value for money of the disposal and decommissioning process**

28. We sought to establish whether the Trust's payment for the surrender of its lease of part of the hospital site effectively represented an unwarranted discount from the sale price<sup>49</sup>. We note and entirely accept the point made to us that the difficulties of achieving an orderly decommissioning process, which took proper account of the over-riding importance of safeguarding patients' needs, would have applied irrespective of the identity of the eventual purchaser and the level of sale proceeds<sup>50</sup>. We also recognise that maintaining the vacated site was a drain on resources and that, in being vulnerable to fire and vandalism, it presented a potentially very large financial risk to the public purse. We are therefore content that, taking these factors into account, and notwithstanding the poor documentation and handling of certain aspects, which left much to be desired, the overall disposal and decommissioning process was conducive to achieving value for money.

## **Recommendations**

29. In the light of these findings, we **recommend** that:
- i. **NHS bodies should adhere rigidly to the requirements of WHC(2002)130 on property disposals;**
  - ii. **the Assembly's NHS Department should review the efficacy of its guidance to NHS bodies on sustainable development and ensure that it is being properly adhered to;**

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<sup>48</sup> 15 January 2004 Q99

<sup>49</sup> 15 January 2004 Q17

<sup>50</sup> 15 January 2004 Q16

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- iii. **the Assembly’s NHS Department should make it explicit in guidance that meetings to negotiate commercial transactions should never be regarded as “informal”, and that such meetings should always be minuted;**
  - iv. **the Assembly’s NHS Department and all NHS bodies should review whether they have made adequate preparations for the commencement of the general right of access under the Freedom of Information Act in January 2005. Where they conclude their preparedness to be inadequate, they should take remedial action as a matter of urgency;**
  - v. **NHS bodies that lease property should make use of schedules of condition, or at least visual records of the property, and in the case of the latter, where possible, agree them with their landlords, as a means of managing the risk of excessive claims for dilapidations;**
  - vi. **for the avoidance of doubt, NHS bodies handling disposals should retain full records of their communications with prospective purchasers of any changes likely to affect value;**
  - vii. **NHS bodies should draw the particular attention of private sector agents to the specific requirement for the sealed bids procedures when undertaking informal tenders;**
  - viii. **the Welsh Assembly Government should draw to the attention of all public officials dealing with disposals the need to maintain and demonstrate a “level playing field” in their dealings with prospective purchasers;**
  - ix. **the Director of NHS Wales should use the appraisal process to ensure that her Accountable Officers have a proper understanding of the respective distinct roles of NHS appointed auditors and the Auditor General for Wales;**
  - x. **the Director of NHS Wales should ensure that the standing financial instructions for NHS bodies place emphasis on the requirement to notify the Assembly’s NHS Department of novel and contentious payments; and**
  - xi. **NHS bodies should err on the side of caution in deciding whether to refer, or inform, the Assembly’s NHS Department of unusual transactions.**

## **Concluding Comments**

30. We are satisfied that the disposal and decommissioning of the Mid Wales Hospital was regular, and that it was conducted without impropriety. However, there were several important departures from good practice, such as the failure to use sealed bid procedures in the final sale, the failure to keep

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records of key decisions and actions, and the attendance of the Chair of Powys Health Care NHS Trust at negotiations to terminate the lease on part of the site. We are content that, despite these failings, both the Dyfed Powys Health Authority and Powys Health Care NHS Trust in general conducted this business in a manner that was conducive to obtaining value for money and which took due account of the needs of patients.

31. We note that the Assembly's NHS Department has already taken the important step of issuing new guidance on the disposal of NHS property and that the expertise of the staff of Welsh Health Estates will in future be drawn on more extensively by NHS bodies. Public perceptions of the actions of NHS bodies are important, and we consider it crucial that the Director of NHS Wales continues to instil in all NHS staff a greater awareness of the need not only to act with propriety, but to be seen to do so.



**Cynulliad Cenedlaethol Cymru  
Pwyllgor Archwilio**

**The National Assembly for Wales  
Audit Committee**

**Gwaredu Ysbyty Canolbarth Cymru  
The Disposal of the Mid Wales Hospital**

**Cwestiynau 1-149  
Questions 1-149**

**Dydd Iau 24 Hydref 2002  
Thursday 24 October 2002**

*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; Lew Hughes, Swyddfa Archwilio Genedlaethol Cymru; Ceri Thomas, Swyddog Cydymffurfio Cynulliad Cenedlaethol Cymru; Mike Usher, Swyddfa Archwilio Genedlaethol Cymru.*

*Tystion: Ann Lloyd, Cyfarwyddwr, Cyfarwyddiaeth GIG Cynulliad Cenedlaethol Cymru; Neil Jones, Prif Syrffwr Ystadau, Is-adran Ystadau Cynulliad Cenedlaethol Cymru; Nigel Towns, Prif Weithredwr Dros Dro Awdurdod Iechyd Dyfed Powys.*

*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; Lew Hughes, National Audit Office Wales; Ceri Thomas, National Assembly for Wales Compliance Officer; Mike Usher, National Audit Office Wales.*

*Witnesses: Ann Lloyd, Director, NHS Directorate, National Assembly for Wales; Neil Jones, Principal Estates Surveyor, Estates Division, National Assembly for Wales; Nigel Towns, Acting Chief Executive, Dyfed Powys Health Authority.*

*Dechreuodd y sesiwn cymryd tystiolaeth am 2.05 p.m.  
The evidence-taking session started at 2.05 p.m.*

[1] **Dafydd Wigley:** Byddwn yn derbyn tystiolaeth ar waredu Ysbyty Canolbarth Cymru yn ystod y sesiwn hwn. Mae hyn yn deillio o geisiadau gan aelodau o'r cyhoedd. Bydd gennych gopi o'r adroddiad, 'Gwaredu Ysbyty Canolbarth Cymru', a baratowyd gan Swyddfa Archwilio Genedlaethol Cymru ar ran Archwilydd Cyffredinol Cymru ac a gyhoeddwyd ar 16 Hydref. Croesawaf ein tystion gan ofyn iddynt gyflwyno eu hunain i'r Pwyllgor.

**Ms Lloyd:** I am Ann Lloyd, the director of NHS Wales.

**Mr Jones:** I am Neil Jones from the Estates Division at the National Assembly for Wales.

**Mr Towns:** I am Nigel Towns, acting chief executive of Dyfed Powys Health Authority.

[2] **Dafydd Wigley:** Yr wyf yn ddiolchgar iawn ichi am ddod ger ein bron i ateb y cwestiynau sydd gennym. Gofynnaf y cwestiwn cyntaf i Ann Lloyd, gan gyfeirio at baragraffau 2.14 i 2.17 yn yr adroddiad. A oes gan y cyrff hynny a ddaw o fewn y

[1] **Dafydd Wigley:** We will be taking evidence on the disposal of the Mid Wales Hospital during this session. This arises from requests from members of the public. You will have a copy of the report, 'The Disposal of the Mid Wales Hospital', prepared by the National Audit Office Wales on behalf of the Auditor General for Wales, which was published on 16 October. I welcome our witnesses and ask them to introduce themselves to the Committee.

**Ms Lloyd:** Fi yw Ann Lloyd, cyfarwyddwr GIG Cymru.

**Mr Jones:** Fi yw Neil Jones o Is-adran Ystadau Cynulliad Cenedlaethol Cymru.

**Mr Towns:** Fi yw Nigel Towns, prif weithredwr dros dro Awdurdod Iechyd Dyfed Powys.

[2] **Dafydd Wigley:** I am very grateful to you for appearing before us to answer our questions. I will ask the first question to Ann Lloyd, referring to paragraphs 2.14 to 2.17 in the report. Do those bodies that come within the national health service have clear

gwasanaeth iechyd gwladol arweiniad clir i'w ddilyn ar gyfer gwarediadau?

**Ms Lloyd:** At the moment, the situation that is outlined in those paragraphs still stands. A Welsh health circular is just about to be issued that brings together all the latest guidance available to the NHS in Wales to ensure that there is a consistency of approach. As you will be aware from reading the Auditor General's helpful report, NHS trusts are already bound by *Estatecode*, but that was not applied consistently to the residual estate of health authorities. I expect that we shall be able to issue the complete guidance in the next six weeks.

[3] **Janet Davies:** I am coming in early with a question that I realise has policy implications, which we cannot look at. I fully accept that. However, it also has financial and social implications. As I understand it, the health service is bound by Treasury requirements to get the best price for any property that is sold. It seems to me that, if that is a requirement, it is a very formal requirement and demands absolute, down-the-line, strict adherence to recorded and formal procedures—which I am sure we will go into later on—including formal tendering. However, there is also what I would call, perhaps, some moral issue of benefit to the community arising out of the disposal of properties. Of course, these two clash pretty fundamentally. I accept the difficulties for Dyfed Powys Health Authority, in particular, on this. However, I have to ask whether there is a case for looking at the issue of community benefit. It is, perhaps, something that this Committee might possibly wish to think about recommending to higher authorities at the end, when we are producing our own report. I wonder, Ms Lloyd, if you would like to comment on that.

**Ms Lloyd:** You will be aware that, under the Government of Wales Act 1998 and since January 2000, the whole policy of sustainable development applies to the NHS as well. From that time, we have had to consider the benefits of our actions on the whole of the communities that we serve within the specific

guidance to follow on disposals?

**Ms Lloyd:** Ar hyn o bryd, mae'r sefyllfa a amlinellir yn y paragraffau hynny yn dal yn wir. Mae cylchlythyr iechyd Cymru ar fin cael ei gyhoeddi sy'n dwyn ynghyd yr holl ganllawiau diweddaraf i'r GIG yng Nghymru i sicrhau bod dulliau gweithredu'n gyson. Fel y byddwch yn ymwybodol o ddarllen adroddiad defnyddiol yr Archwilydd Cyffredinol, mae ymddiriedolaethau GIG eisoes wedi'u rhwymo gan *Estatecode*, ond ni weithredwyd hwnnw'n gyson i ystad weddilliol awdurdodau iechyd. Yr wyf yn disgwyl y byddwn yn gallu cyhoeddi'r canllawiau cyflawn yn y chwe wythnos nesaf.

[3] **Janet Davies:** Yr wyf am ofyn cwestiwn yn gynnar yn y sesiwn, a gwn fod ganddo oblygiadau polisi na allwn eu hystyried. Yr wyf yn derbyn hynny'n llwyr. Fodd bynnag, mae ganddo oblygiadau ariannol a chymdeithasol hefyd. Fel y deallaf, mae'r gwasanaeth iechyd wedi'i rhwymo gan ofynion y Trysorlys i sicrhau'r pris gorau am unrhyw eiddo a werthir. Os mai dyna'r gofyniad, mae'n ymddangos i mi ei fod yn ofyniad ffurfiol iawn ac yn gofyn am ymlyniad llwyr, manwl gywir, caeth i weithdrefnau ffurfiol a chofnodedig—y byddwn yn eu trafod yn ddiweddarach mae'n siŵr—gan gynnwys tendro ffurfiol. Fodd bynnag, mae yna hefyd yr hyn y byddwn i'n ei ddisgrifio, efallai, fel mater moesol budd i'r gymuned hefyd yn codi o waredu eiddo. Wrth gwrs, mae'r ddau beth yn gwrthdaro'n sylfaenol. Yr wyf yn derbyn bod hyn yn anodd i Awdurdod Iechyd Dyfed Powys yn benodol. Fodd bynnag, mae'n rhaid imi ofyn a ddylid ystyried mater budd cymunedol. Efallai y gallai'r Pwyllgor hwn ystyried ei argymhell i awdurdodau uwch ar y diwedd, pan fyddwn ni'n llunio ein hadroddiad ein hunain. Oes gennych chi sylwadau ar hyn tybed, Ms Lloyd?

**Ms Lloyd:** Byddwch yn ymwybodol, o dan Ddeddf Llywodraeth Cymru 1998, ac ers Ionawr 2000, fod yr holl bolisi o ddatblygu cynaliadwy yn berthnasol i'r GIG hefyd. Ers hynny, yr ydym wedi gorfod ystyried lles ein holl waith i'r holl gymunedau yr ydym yn eu gwasanaethu mewn lleoliadau penodol. Felly,

locations. So it is one of the tests that have to be applied and will be included within the guidance that is issued. Some long time ago, back in 1984, there was also a requirement that consideration should be given in regard to disposals of the impact on the community but that guidance was repealed in 1985. This particular transaction has fallen within that barren period. However, it is certainly something that is picked up in the guidance.

[4] **Janet Davies:** Right. So you are actually confirming that any future sales of property will have the sustainable development issue fully considered?

**Ms Lloyd:** Yes.

[5] **Alison Halford:** First of all, was Mr Jones around in 1997 to 1999 when all this happened?

**Mr Jones:** Yes.

[6] **Alison Halford:** You are the one person that we can lay hands on—feel your collar sort of thing. So, you were using the 1984 national health service handbook. I have a note here that slightly contradicts what Janet Davies is saying. It says that, where the district health authority decides that there is no further NHS use for land or buildings, it should consider how the disposal of the property will give the greatest benefit to its area. Well, that does not always mean economic benefit, does it?

[7] **Dafydd Wigley:** I think that Ann Lloyd referred to a change that took place in 1985, that overrode the 1984 guidance. Is that the case, Mr Jones?

**Mr Jones:** I understand that that is true, yes.

[8] **Alison Halford:** So what happened? The 1984 guidance went to 1995, and now it has changed again, in effect?

[9] **Dafydd Wigley:** No. It went to 1985; it only lasted for a year. May I take this on? It is an important consideration. Are there any circumstances in which it is permissible to

mae'n un o'r profion sy'n rhaid ei weithredu a bydd yn cael ei gynnwys yn y canllawiau a gyhoeddir. Beth amser yn ôl, yn 1984, yr oedd hefyd ofyniad i ystyried effaith gwaredu ar y gymuned ond diddymwyd y cyfarwyddyd hwnnw yn 1985. Mae'r gwerthiant hwn yn perthyn i'r cyfnod llwm hwnnw. Fodd bynnag, mae'r canllawiau yn sicr yn rhoi sylw pendant i hyn.

[4] **Janet Davies:** O'r gorau. Felly, yr ydych yn cadarnhau y bydd datblygu cynaliadwy yn cael ei ystyried yn llawn wrth werthu eiddo yn y dyfodol?

**Ms Lloyd:** Ydwyf.

[5] **Alison Halford:** Yn gyntaf oll, a oedd Mr Jones o gwmpas yn 1997 i 1999 pan ddigwyddodd hyn oll?

**Mr Jones:** Oeddwn.

[6] **Alison Halford:** Chi yw'r unig un y gallwn fynd i'r afael ag ef, fel petai. Felly, yr oeddech yn defnyddio llawlyfr 1984 y gwasanaeth iechyd gwladol. Mae gennyf nodyn yma sy'n gwrth-ddweud i raddau yr hyn y mae Janet Davies yn ei ddweud. Mae'n dweud y dylai awdurdod iechyd dosbarth ystyried sut y bydd gwaredu eiddo yn rhoi'r budd mwyaf i'r ardal pan fydd yn penderfynu nad yw tir neu adeiladau o ddefnydd pellach i'r GIG. Wel, nid yw hynny bob amser yn golygu budd economaidd, nac ydyw?

[7] **Dafydd Wigley:** Yr wyf yn meddwl bod Ann Lloyd yn cyfeirio at newid a ddigwyddodd yn 1985, a ddisodlodd gyfarwyddyd 1984. A yw hynny'n gywir, Mr Jones?

**Mr Jones:** Yr wyf yn deall bod hynny'n wir, ydy.

[8] **Alison Halford:** Felly beth ddigwyddodd? Parhaodd cyfarwyddyd 1984 tan 1995, ac yn awr mae wedi newid eto, i bob pwrpas?

[9] **Dafydd Wigley:** Na. Parhaodd tan 1985; dim ond am flwyddyn y bu mewn grym. A gaf i barhau â hyn? Mae'n ystyriaeth bwysig. A oes unrhyw amgylchiadau lle y caniateir



accept a lower price because the offer may be contributing to the wellbeing of the community, or to the needs of the local community, or towards other public policies which would not be achieved if just the highest price was accepted? Are there any mechanisms up to 2000—the period under consideration here—that could have been considered in making a decision on this property?

**Mr Jones:** My understanding is that, in order to do that, it would have to come before the Assembly for the Assembly to give its approval to a sale at less than the best price.

[10] **Dafydd Wigley:** Or before the Secretary of State for Wales up to July 1999, when the Assembly took over his powers?

**Mr Jones:** Yes.

[11] **Dafydd Wigley:** It was on that basis that you were acting?

**Ms Lloyd:** Yes.

[12] **Dafydd Wigley:** May I therefore ask whether the situation today, as referred to by Ann Lloyd a moment ago, is somewhat different? Is it the situation that the guidelines under which Welsh Health Estates is working are clearer today and that there would not be any room for the uncertainty that may have existed in the 1990s to be experienced in any disposals today?

**Ms Lloyd:** As I said, Chair, the formal circular will be issued in approximately the next six weeks. Certainly, it has to take into consideration the issue of the Welsh Assembly Government's policy on sustainable development since January 2000. This would be one of the considerations that would have to be given. The trusts were bound by the *Estatecode*, and all management of the disposal of their residual property is now handled by Welsh Health Estates, which has very clear guidance and processes in terms of the way in which it conducts its business.

[13] **Dafydd Wigley:** Would you say that the guidance and processes that now exist—

derbyn pris is oherwydd bod y cynnig o bosibl yn cyfrannu at les y gymuned, neu at anghenion y gymuned leol, neu at bolisiau cyhoeddus eraill na fyddai'n cael eu cyflawni pe derbynnid y pris uchaf? A oes unrhyw fecanweithiau hyd at 2000—y cyfnod sy'n cael ei ystyried yma—y gellid bod wedi'u hystyried wrth benderfynu ar yr eiddo hwn?

**Mr Jones:** Er mwyn gwneud hynny, o'r hyn a ddeallaf, byddai'n rhaid iddo ddod gerbron y Cynulliad i'r Cynulliad roi sêl ei fendith i werthu am bris is na'r pris gorau.

[10] **Dafydd Wigley:** Neu gerbron Ysgrifennydd Gwladol Cymru hyd Orffennaf 1999, pan drosglwyddyd ei bwerau i'r Cynulliad?

**Mr Jones:** Ie.

[11] **Dafydd Wigley:** Ar y sail honno yr oeddech chi'n gweithredu?

**Ms Lloyd:** Ie.

[12] **Dafydd Wigley:** A gaf fi, felly, ofyn a yw'r sefyllfa bresennol, y soniodd Ann Lloyd amdani ychydig yn ôl, ryw faint yn wahanol? Ai'r sefyllfa yw bod y canllawiau y mae Ystadau Iechyd Cymru yn eu dilyn yn gliriach heddiw ac na fyddai unrhyw gyfle am yr ansicrwydd a allai fod wedi bodoli yn yr 1990au wrth waredu eiddo heddiw?

**Ms Lloyd:** Fel y dywedais, Gadeirydd, bydd y cylchlythyr ffurfiol yn cael ei gyhoeddi o fewn y chwe wythnos nesaf, fwy neu lai. Yn sicr, mae'n rhaid iddo ystyried polisi datblygu cynaliadwy Llywodraeth Cynulliad Cymru ers Ionawr 2000. Dyma un o'r ystyriaethau y byddai'n rhaid eu gwneud. Yr oedd yr ymddiriedolaethau wedi'u rhwymo gan yr *Estatecode*, ac Ystadau Iechyd Cymru sydd bellach yn rheoli'r holl broses o waredu eu heiddo gweddilliol, ac mae gan Ystadau Iechyd Cymru ganllawiau a phrosesau clir iawn ynglŷn â'r ffordd y mae'n cynnal ei fusnes.

[13] **Dafydd Wigley:** A ydych o'r farn y bydd y canllawiau a'r prosesau sy'n bodoli

whatever may happen over the next six weeks to develop these—will lead to a position where there is less risk of accusations being made of decisions being taken on bases that are not as acceptable, as appears to be the case in this instance?

**Ms Lloyd:** Since disposals have been managed by Welsh Health Estates, that gives us, and me in particular, a more powerful scrutiny role. Therefore, I would feel in a better position to be able to judge whether or not all due process had been undertaken in disposing of a property than I think anybody in my position was in 1999.

[14] **Dafydd Wigley:** In other words, you are identifying that the situation in 1999 was not totally satisfactory?

**Ms Lloyd:** Well, as we have public scrutiny of this, and some very helpful recommendations about how we tighten our procedures, then it was not as perfect as we intend it to be.

[15] **Dafydd Wigley:** I am grateful.

[16] **Ann Jones:** You have mentioned having this new scrutiny role, or more of a scrutiny role. What other actions will the NHS department and Welsh Health Estates take in order to ensure that public accountability requirements are made quite clear to any private sector advisers?

**Ms Lloyd:** Well, there are a number of things that we can do, and the recommendations of the National Audit Office are very helpful in this respect. First, we have to ensure that the guidance is absolutely clear, so that all NHS bodies disposing of property understand explicitly what they have to do in order to effectively dispose of their property. There are a whole host of issues about making quite clear the requirement to keep scrupulous records, to test the market effectively, to ensure that valuation is up to date and is practical and can be implemented, and that you start to market the property at the right level without undue aspirations. Also, it is important that my department—Mr Jones is part of my department—and Welsh Health Estates work very closely together to ensure

erbyn hyn—beth bynnag a all ddigwydd dros y chwe wythnos nesaf i ddatblygu'r rhain—yn arwain at sefyllfa lle mae llai o berygl o gyhuddiadau'n cael eu gwneud bod penderfyniadau'n cael eu gwneud ar seiliau nad ydynt yn dderbyniol, fel yr ymddengys sy'n wir yn yr achos hwn?

**Ms Lloyd:** Ers i Ystadau Iechyd Cymru ddechrau rheoli'r gwaith o waredu eiddo, mae gennym ni, a fi yn benodol, swyddogaeth archwilio fwy pwerus. Felly, byddwn i'n teimlo fy mod mewn gwell sefyllfa na rhywun yn fy sefyllfa i yn 1999, fe gredaf, i allu barnu a ddilynwyd y drefn briodol ai peidio wrth waredu eiddo.

[14] **Dafydd Wigley:** Mewn geiriau eraill, yr ydych yn dweud nad oedd y sefyllfa'n gwbl foddhaol yn 1999?

**Ms Lloyd:** Wel, gan fod archwiliad cyhoeddus o hyn, a rhai argymhellion defnyddiol iawn ar sut i dynhau ein gweithdrefnau, nid oedd pethau mor berffaith ag yr oeddem ni wedi'i fwriadu.

[15] **Dafydd Wigley:** Diolch yn fawr.

[16] **Ann Jones:** Yr ydych wedi sôn am gael y swyddogaeth archwilio newydd hon, neu fwy o swyddogaeth archwilio. Pa gamau eraill y bydd adran y GIG ac Ystadau Iechyd Cymru yn eu cymryd er mwyn sicrhau bod gofynion atebolrwydd cyhoeddus yn cael eu hegluro i ymgynghorwyr o'r sector preifat?

**Ms Lloyd:** Wel, mae nifer o bethau y gallwn eu gwneud, ac mae argymhellion y Swyddfa Archwilio Genedlaethol yn ddefnyddiol iawn yn hyn o beth. Yn gyntaf, mae'n rhaid i ni sicrhau bod y canllawiau yn gwbl glir, fel bod pob corff GIG sy'n gwaredu eiddo yn deall yn glir beth sy'n rhaid iddynt ei wneud er mwyn gwaredu eu heiddo'n effeithiol. Mae llu o faterion ynghylch nodi'n glir y gofyniad i gadw cofnodion manwl, profi'r farchnad yn effeithiol, sicrhau bod y prisiad yn gyfredol, yn ymarferol a bod modd ei weithredu, a'ch bod yn dechrau marchnata'r eiddo ar y lefel gywir heb ddyheadau gormodol. Hefyd, mae'n bwysig bod fy adran i—mae Mr Jones yn aelod o'r adran—ac Ystadau Iechyd Cymru yn cydweithio'n glòs i sicrhau bod yr holl weithdrefnau wedi'u

that all the procedures are properly outlined and that all partners understand what their role is, so that we can be quite clear that the codes of conduct and governance under which NHS organisations in Wales have to operate can be effectively operated.

[17] **Ann Jones:** Many thanks. How do you see that fitting in with chartered surveyors and the private companies and bodies that you will have to look towards? Do you feel that perhaps the less rigorous opening procedure adopted by the agent in May 1999, in this case, indicates that private sector professional advisers may not be as familiar with public sector accountability requirements as we expect public bodies to be? Do you think that there is a problem there?

**Ms Lloyd:** Well, I cannot answer for the whole of the private professional practice, but certainly we will be making sure that the organisations that are disposing of their property give very, very clear guidance to the private contractors about what they expect from them. In particular, in terms of the whole tendering process and the opening of tenders, it is routine in the NHS that tenders are opened as described within this document in terms of the first time that tenders were sought. We would not expect any professionals hired by us to undertake responsibilities on our behalf not to operate those procedures, and I think that it has been helpful actually that it has been highlighted here, because we can reinforce that guidance.

[18] **Ann Jones:** Okay, thanks.

[19] **Dafydd Wigley:** Were you surprised that that process was not followed the second time around?

**Ms Lloyd:** I have not known a process not to be followed in that way before.

[20] **Dafydd Wigley:** That is unique in your experience?

**Ms Lloyd:** Well, I fortunately have always worked in the NHS, and we have always followed a very tight procedure. Certainly, from the point of view of a chief executive within the NHS, one would have expected the

hamlinellu'n briodol a bod yr holl bartneriaid yn deall beth yw eu swyddogaeth, fel y gallwn fod yn glir bod modd gweithredu'n effeithiol y codau ymddygiad a llywodraethu y mae'n rhaid i sefydliadau GIG yn Nghymru lynu atynt.

[17] **Ann Jones:** Diolch yn fawr. Sut ydych chi'n gweld hynny'n gweithio gyda thirfesurwyr siartredig a'r cwmnïau a'r cyrff preifat y bydd yn rhaid i chi droi atynt? A ydych yn teimlo bod y weithdrefn agoriadol lai manwl o bosibl a fabwysiadwyd gan y gwerthwr ym Mai 1999, yn yr achos hwn, yn nodi nad yw ymgynghorwyr proffesiynol y sector preifat mor gyfarwydd, o bosibl, â gofynion atebolrwydd y sector cyhoeddus ag y disgwyliwn i gyrff cyhoeddus fod? A ydych chi'n credu bod problem o ran hynny?

**Ms Lloyd:** Wel, ni allaf ateb dros yr holl sector proffesiynol preifat, ond yn bendant byddwn yn sicrhau bod y sefydliadau sy'n gwaredu eu heiddo yn rhoi canllawiau clir iawn, iawn i gontractwyr preifat ar yr hyn sy'n ddisgwyliedig ganddynt. Yn benodol, o ran y broses dendro gyfan ac agor cynigion tendr, trefn arferol y GIG yw agor cynigion tendro fel y disgrifir yn y ddogfen hon o ran y tro cyntaf y gwahoddwyd tendrau. Ni fyddem yn disgwyl i unrhyw weithwyr proffesiynol a gyflogwyd gennym i gyflawni cyfrifoldebau ar ein rhan i beidio gweithredu'r gweithdrefnau hynny, ac yr wyf yn credu bod tynnu sylw at hyn yma wedi bod yn ddefnyddiol, gan y gallwn gadarnhau'r canllawiau hynny.

[18] **Ann Jones:** Iawn, diolch.

[19] **Dafydd Wigley:** A gawsoch chi'ch synnu na ddilynwyd y broses yr ail waith?

**Ms Lloyd:** Ni chefais brofiad tebyg o beidio dilyn proses.

[20] **Dafydd Wigley:** Mae hynny'n unigryw yn eich profiad chi?

**Ms Lloyd:** Wel, yn ffodus yr wyf wedi gweithio yn y GIG ar hyd fy oes, ac yr ydym bob amser wedi dilyn gweithdrefn dyn iawn. Yn bendant, o safbwynt prif weithredwr yn y GIG, byddai rhywun yn disgwyl i'r

private contractors to operate to our given standards.

[21] **Janice Gregory:** I will address my question to Nigel Towns, if I may, Mr Towns. I refer to paragraph 2.21 of the report. The report suggests that everyone followed the appropriate legal and professional advice and yet, if you read on further and look at the disparity between the figures, it would appear that a formal valuation for disposal purposes was not sought. Are you able to tell us what were the reasons for that?

**Mr Towns:** As you are probably aware, Chair, the person who dealt with this is no longer employed by us and has actually retired. We have been through the records and I think that a valuation was taken, in the outset, from a district valuer. I think, if the property had been on the market for a considerable amount of time, you would have been testing the market to make sure the valuation had not changed. We were in touch, obviously, with the agents who were appointed, who are expected to get the best price for us—in fact, it is in their interest to do so because they are paid commission on the sale price—and our organisation was also in touch with Welsh Health Estates. So, I think in this instance—and I think that is borne out by the eventual sale price and the offers that we had—that the valuation, which was around about the £350,000 mark, was current and valid. I think, if you were going for a long period of time, that you would keep testing the market. The other thing to bear in mind is that the site is sort of unattractive; I think it has been described as commercially unattractive. It is not in a large conurbation, where property values might change dramatically in a short period of time.

[22] **Dafydd Wigley:** Before you come back in, Janice, can I just press you a little further on what you said, Mr Towns? You said that, by virtue of the fact that the price obtained was of the order of the valuation, that indicated that the original valuation, several years before, was more or less right. Would it not have been the case that if guidance was being given that that was the ball park in which offers were invited, it was hardly surprising that the offers came in somewhere

contractwyr preifat weithio i'n safonau penodedig ni.

[21] **Janice Gregory:** Yr wyf am ofyn cwestiwn i Nigel Towns, os y caf fi, Mr Towns. Cyfeiraf at baragraff 2.21 yn yr adroddiad. Mae'r adroddiad yn awgrymu bod pawb wedi dilyn y cyngor cyfreithiol a phroffesiynol priodol, ac eto, os darllenwch chi ymlaen ac edrych ar y gwahaniaeth rhwng y ffigurau, ymddengys na ofynnwyd am brisiad ffurfiol at ddibenion gwaredu. A allwch ddweud wrthym beth oedd y rhesymau am hynny?

**Mr Towns:** Fel y gwyddoch mae'n siŵr, Gadeirydd, nid yw'r sawl a ddeliodd â hyn yn gweithio gyda ni mwyach ac mae wedi ymddeol. Yr ydym wedi bod drwy'r cofnodion ac yr wyf yn credu bod yr eiddo wedi'i brisio, ar y dechrau, gan brisiwr dosbarth. Pe bai'r eiddo wedi bod ar y farchnad am beth amser, byddech wedi bod yn profi'r farchnad i sicrhau nad oedd y prisiad wedi newid. Yr oeddem mewn cysylltiad, yn amlwg, gyda'r gwerthwyr a benodwyd, yr oedd disgwyl iddynt sicrhau'r pris gorau i ni—a dweud y gwir, mae hynny o fudd iddynt gan eu bod yn cael comisiwn ar y pris gwerthu—ac yr oedd ein sefydliad mewn cysylltiad hefyd ag Ystadau Iechyd Cymru. Felly, yn yr achos hwn—a chredaf yr adlewyrchir hynny yn y pris gwerthu terfynol a'r cynigion a gawsom—credaf fod y prisiad, oedd oddeutu £350,000, yn gyfredol ac yn ddilys. Credaf, pe byddai hyn yn parhau am gyfnod hir, y byddech yn profi'r farchnad yn barhaus. Y peth arall i'w gofio yw bod y safle yn eithaf anneniadol; yr wyf yn meddwl ei fod wedi'i ddisgrifio fel safle anneniadol yn fasnachol. Nid yw mewn cytref fawr, lle gall gwerth eiddo newid yn ddramatig mewn cyfnod byr.

[22] **David Wigley:** Cyn i chi ofyn cwestiynau pellach, Janice, a gaf i bwyso arnoch chi ymhellach ynglŷn â'r hyn a ddywedasoch, Mr Towns? Dywedasoch, drwy rinwedd y ffaith bod y pris a gafwyd yn ganlyniad i'r prisiad, fod hynny'n dangos bod y prisiad gwreiddiol, sawl blwyddyn ynghynt, fwy neu lai yn gywir. Onid yw'n wir dweud, os oedd canllawiau wedi'u rhoi ynglŷn â'r rhychwant cynigion oedd yn dderbyniol, nad ydoedd yn syndod o gwbl

in that ball park?

bod y cynigion a ddaeth i law o fewn y rhychwant hwnnw?

**Mr Towns:** I think that you could draw that conclusion, but there was very little interest in the site other than by the people who are outlined in the report.

**Mr Towns:** Yr wyf yn meddwl y gallech ddod i'r casgliad hwnnw, ond ychydig iawn o ddiddordeb a oedd yn y safle ac eithrio gan y sawl a amlinellwyd yn yr adroddiad.

[23] **Dafydd Wigley:** I am sure we will come back to that. Sorry, Janice.

[23] **Dafydd Wigley:** Yr wyf yn siŵr y byddwn yn dychwelyd at hynny. Mae'n ddrwg gen i, Janice.

[24] **Janice Gregory:** May I press you a little for the benefit of those who do not perhaps have the report in front of them? What was the original valuation you were discussing?

[24] **Janice Gregory:** A gaf fi bwysu arnoch chi ryw faint er mwyn y rhai nad oes ganddynt o bosibl gopi o'r adroddiad o'u blaenau? Beth oedd y prisiad gwreiddiol yr oeddech yn ei drafod?

**Mr Towns:** I think that it was £348,600—

**Mr Towns:** Yr wyf yn meddwl mai £348,600 ydoedd—

[25] **Janice Gregory:** Right, £348,600. And what was the actual sale price, at the time of the sale?

[25] **Janice Gregory:** Iawn, £348,600. A beth oedd y pris gwerthu, ar adeg y gwerthu?

**Mr Towns:** It was £355,000.

**Mr Towns:** Y pris oedd £355,000.

[26] **Janice Gregory:** That was the price at the time of the sale? So you are content, then, that everything that could have been done was done? I appreciate that you were not party to it at the time.

[26] **Janice Gregory:** Ai dyna'r pris ar adeg y gwerthu? Felly yr ydych yn fodlon bod popeth y gellid bod wedi'i wneud wedi cael ei wneud? Yr wyf yn derbyn nad oeddech yn gysylltiedig â'r mater ar y pryd.

**Mr Towns:** I think, as the report recommends—there are changes that it recommends and I think that we need to take those on board. Again, knowing the individual concerned, I cannot understand why some of these things were not undertaken. The individual concerned was meticulous and thorough and I cannot understand why some of these things were not recorded. Perhaps we cannot find the documentation for it. However, I think that we need to follow the recommendations to make sure that we do get the best value.

**Mr Towns:** Credaf, fel y mae'r adroddiad yn ei argymell—mae newidiadau y mae'n ei argymell a chredaf y dylem dderbyn yr argymhellion hynny. Eto, o adnabod yr unigolyn dan sylw, ni allaf ddeall pam na wnaethpwyd rhai o'r pethau hyn. Yr oedd yr unigolyn dan sylw yn drwyadl a thrylwyr ac ni allaf ddeall pam na chofnodwyd rhai o'r pethau hyn. Efallai nad ydym yn gallu dod o hyd i'r ddogfennaeth ar ei gyfer. Fodd bynnag, credaf fod angen i ni ddilyn yr argymhellion i sicrhau ein bod yn cael y gwerth gorau.

[27] **Dafydd Wigley:** Alison, you wanted to come in before we go on?

[27] **Dafydd Wigley:** Alison, yr oeddech chi am ddweud rhywbeth cyn i ni symud ymlaen?

[28] **Alison Halford:** I hope I am not cutting across somebody else's questions. I found this whole situation exceedingly complicated so please bear with me if I ask silly questions.

[28] **Alison Halford:** Yr wyf yn gobeithio nad wyf yn torri ar draws cwestiynau rhywun arall. Mae'r holl sefyllfa hon yn gymhleth iawn i mi felly byddwch yn amyneddgar os

Surely, Mr Towns, the site became much more attractive sometime in June 1997, did it not?

**Mr Towns:** That was with the planning?

[29] **Alison Halford:** Yes.

**Mr Towns:** I think that the planning was changed. We—both the Powys District Health Authority in 1995 and the Dyfed Powys Health Authority in 1996—objected to the local plan of the Brecon Beacons National Park. A Welsh Office inspector recommended changes to the planning in February 1998 and that was notified to us in October 1998, by the national park, to sort of free up the planning. What it was not going to do, as I understand it, was to make it a sort of wholesale development, like we have had on some hospital sites, where the whole site has been redeveloped and a considerable number of houses have been put on there. But the—

[30] **Alison Halford:** So what was the planning permission?

[31] **Dafydd Wigley:** May we come back to that? There is a later section on this. It does have a bearing, clearly, on the valuation and I accept that. I will call you back in when we come to this point a little later on. I want to stick to the valuation for the moment because I think that Val has a point that links into that.

[32] **Val Lloyd:** I think Ms Lloyd or Mr Towns would be best to answer this. Do you consider that not having a formal valuation exposed the authority to accusations of impropriety?

**Mr Towns:** I think that that is an accusation that people could make. However, once they have read the report, it says that things could have been done better, like the record keeping, but the conclusion of the report does not suggest impropriety.

[33] **Val Lloyd:** No. I very much hear what

ydwyf yn gofyn cwestiynau twp, os gwelwch yn dda. Afraid dweud, Mr Towns, i'r safle ddod yn fwy deniadol rywbryd ym Mehefin 1997?

**Mr Towns:** Gyda'r caniatâd cynllunio yr ydych yn ei feddwl?

[29] **Alison Halford:** Ie.

**Mr Towns:** Yr wyf yn meddwl i'r caniatâd cynllunio gael ei newid. Fe wrthwynebom ni—Awdurdod Iechyd Dosbarth Powys yn 1995 ac Awdurdod Iechyd Dyfed Powys yn 1996—gynllun lleol Parc Cenedlaethol Bannau Brycheiniog. Argymhellodd arolygydd o'r Swyddfa Gymreig newidiadau i'r caniatâd cynllunio yn Chwefror 1998 a chawsom ein hysbysu o hynny yn Hydref 1998, gan y parc cenedlaethol, er mwyn llacio'r caniatâd cynllunio. Yr hyn nad oedd am ei wneud, fel y deallaf, oedd ei wneud yn fath ar ddatblygiad cyfanwerthol, fel y gwelwyd gyda rhai safleoedd ysbytai, lle mae'r safle cyfan wedi'i ail-ddatblygu a nifer sylweddol o dai wedi'u codi yno. Ond—

[30] **Alison Halford:** Felly, beth oedd y caniatâd cynllunio?

[31] **Dafydd Wigley:** A gawn ddychwelyd at hynny? Mae adran ar hyn yn ddiweddarach. Mae'n dylanwadu, yn bendant, ar y prisiad ac yr wyf yn derbyn hynny. Galwaf arnoch i ofyn cwestiwn pan ddeuwn ni at y pwnt hwn maes o law. Yr wyf am aros gyda'r prisiad ar hyn o bryd gan fod gan Val bwynt sy'n gysylltiedig â hynny.

[32] **Val Lloyd:** Yr wyf yn meddwl mai Ms Lloyd neu Mr Towns fyddai'n gallu ateb hyn orau. A ydych yn ystyried bod peidio â chael prisiad ffurfiol yn golygu y gellid bod wedi cyhuddo'r awdurdod o weithredu'n amhriodol?

**Mr Towns:** Yr wyf yn meddwl bod hynny'n gyhuddiad y gallai pobl ei wneud. Fodd bynnag, unwaith y byddant wedi darllen yr adroddiad, mae'n dweud y gellid bod wedi gwneud pethau'n well, fel cadw cofnodion, ond nid yw'n dod i'r casgliad bod yr awdurdod wedi gweithredu'n amhriodol.

[33] **Val Lloyd:** Na. Yr wyf yn

you are saying but, of course, that is with hindsight, is it not? I suppose the whole of today's session is about hindsight, to some extent, but clearly there have been allegations made in the press that the hospital was sold at less than its market value. Do you feel, perhaps, that not having a formal valuation has meant that you have not been able to refute those allegations?

**Mr Towns:** I do not think so.

[34] **Dafydd Wigley:** May I press you further on that? Had you had valuations that confirmed the value or, indeed, set a new value, would that not have been a sounder basis on which to justify and defend the position?

**Mr Towns:** Of course, the valuations could have been lower as well.

[35] **Dafydd Wigley:** They might well have been lower, but in that case at least—the people had the right to know what the market valuation was. Do you want to come back in on this, Val?

[36] **Val Lloyd:** No, I was going to say more or less the same thing.

[37] **Dafydd Wigley:** Right. We come back to you, Alison, in that case.

[38] **Alison Halford:** Thanks very much indeed. Could you, for my benefit, and hopefully for the benefit of others, explain—I do not care who does it—what the difference is between a formal tender, an informal tender, a best and final offer and whatever other little jollies we have had in the Auditor General's report?

**Mr Jones:** If I may just try to explain some of those, at least, the formal tender is a tender which, when accepted, has to be followed through. So if a purchaser puts in a £350,000 bid, and it is accepted, he has to then go ahead. So he has to be very certain of the value of the property to him in that situation. That would mean that he would have to probably go through asbestos tests, and ground tests, and all the tests that would satisfy him that he could use the property for

gwerthfawrogi'r hyn yr ydych yn ei ddweud, ond wrth gwrs, onid yw hynny wrth edrych yn ôl? Mae'n debyg bod yr holl sesiwn heddiw yn ymwneud ag edrych yn ôl, i ryw raddau, ond fe wnaed cyhuddiadau yn y wasg fod yr ysbyty wedi'i werthu am bris is na'i werth ar y farchnad. A ydych yn teimlo, efallai, bod peidio â chael prisiad ffurfiol wedi golygu nad ydych wedi gallu gwrthbrofi'r cyhuddiadau hynny?

**Mr Towns:** Nid wyf yn meddwl hynny.

[34] **Dafydd Wigley:** A allaf eich pwysu ymhellach ar hynny? Pe baech wedi cael prisiadau a oedd yn cadarnhau gwerth yr ysbyty neu yn wir, yn pennu gwerth newydd, oni fyddai hynny wedi bod yn sail fwy cadarn i gyfiawnhau ac amddiffyn y sefyllfa?

**Mr Towns:** Wrth gwrs, gallai'r prisiadau fod wedi bod yn is hefyd.

[35] **Dafydd Wigley:** Efallai'n wir eu bod yn is, ond yn yr achos hwnnw o leiaf—yr oedd gan y bobl yr hawl i wybod beth oedd pris y farchnad. Ydych chi am ddod i mewn ar hyn, Val?

[36] **Val Lloyd:** Nag ydw, yr oeddwn yn mynd i ddweud mwy neu lai yr un peth.

[37] **Dafydd Wigley:** Iawn. Deuwn yn ôl atoch chi, Alison, felly.

[38] **Alison Halford:** Diolch yn fawr iawn. A allwch, er fy mwyn i, ac eraill gobeithio, egluro—nid oes wahaniaeth gennyf pwy sy'n gwneud—beth yw'r gwahaniaeth rhwng tendr ffurfiol, tendr anffurfiol, cynnig gorau a therfynol ac unrhyw bethau difyr eraill a nodwyd yn adroddiad yr Archwilydd Cyffredinol?

**Mr Jones:** Os caf geisio egluro rhai o'r pethau hynny, o leiaf, mae'r tendr ffurfiol yn dendr sy'n rhaid ei ddilyn trwodd ar ôl cael ei dderbyn. Felly, os yw prynwr yn gwneud cynnig o £350,000, sy'n cael ei dderbyn, mae'n rhaid iddo fynd ymlaen â'r gwaith wedyn. Felly, mae'n rhaid iddo fod yn sicr iawn o werth yr eiddo iddo ef yn y sefyllfa honno. Byddai hynny'n golygu y byddai'n rhaid iddo, mae'n debyg, wneud profion asbestos, a phroffion daear, a'r holl broffion a

his purposes. That comes at considerable cost and there are circumstances where it is certainly very appropriate. If you had a 100-acre site that had full residential development potential on it, it would cost a very small proportion of the value of the site to undertake all those tests.

An informal tender is one where someone can put in a bid in which, if it is accepted, the purchaser can then go through all those tests and possibly negotiate his way out of the bid at the end of the day. Quite often, informal tenders, when accepted, do not reach a conclusion. That is the risk that we take when we offer a property on the market under informal circumstances. It is my belief that if we had offered this particular property on the market on a formal basis we would not have had any bids at all.

[39] **Alison Halford:** So which one did you actually end up with then?

**Mr Jones:** With an informal tender.

[40] **Alison Halford:** Okay.

**Mr Jones:** You asked about best and final bids. If we have an informal tender which has a clear leader, which is substantially above any other bid, then we would not go to best and final bids. If, however, there are several bidders in the same ball court and we think that, with a little persuasion, they might offer more, or a more conclusive bidder may emerge, we can ask them for best and final bids.

[41] **Dafydd Wigley:** May I just ask you—sorry to cut across, Alison—how that rests with Ann Lloyd's earlier comments with regard to the formal system, which you quite clearly advocate?

**Mr Jones:** No, I do not think so. I think that the previous question still referred to an informal tender, but in sealed envelopes.

**Ms Lloyd:** You still have to go through the process.

[42] **Dafydd Wigley:** Right. So you accept

fyddai'n ei fodloni y gallai ddefnyddio'r eiddo i'w ddibenion ef. Mae hynny'n gost sylweddol ac mae amgylchiadau lle mae hynny'n briodol iawn. Yn sicr, pe bai gennych safle 100 erw â photensial llawn i ddatblygu cartrefi arno, cyfran fechan iawn o werth y safle fyddai'n rhaid ei thalu i wneud yr holl brofion hynny.

Tendr anffurfiol yw un lle y gall rhywun wneud cynnig, ac os yw'n cael ei dderbyn gall y prynwr wneud yr holl brofion hynny ac, o bosibl, dynnu ei enw o'r cynnig ar ôl trafod yn y pen draw. Yn eithaf aml, nid yw tendrau anffurfiol sy'n cael eu derbyn yn cael eu cwblhau. Dyma'r risg yr ydym yn ei gymryd wrth roi eiddo ar y farchnad dan amgylchiadau anffurfiol. Yn fy marn i, pe baem wedi cynnig yr eiddo hwn ar y farchnad ar sail anffurfiol ni fyddem wedi cael unrhyw gynigion o gwbl.

[39] **Alison Halford:** Felly, pa fath o dendr a gawsoch yn y pen draw?

**Mr Jones:** Tendr anffurfiol.

[40] **Alison Halford:** Iawn.

**Mr Jones:** Gofynnodd am gynigion gorau a therfynol. Os oes gennym dendr anffurfiol sydd ag arweinydd clir, sy'n sylweddol uwch nag unrhyw gynnig arall, yna ni fyddem yn mynd at gynigion gorau a therfynol. Fodd bynnag, os oes sawl cynigydd yn debyg i'w gilydd a'n bod yn credu y gallent gynnig mwy, gydag ychydig berswâd, neu y byddai cynigydd mwy pendant yn dod i'r fei, gallwn ofyn iddynt am gynigion gorau a therfynol.

[41] **Dafydd Wigley:** A gaf i ofyn i chi—mae'n ddrwg gen i dorri ar eich traws, Alison—sut mae hynny'n cyd-fynd â sylwadau cynharach Ann Lloyd ar y system ffurfiol, yr ydych yn amlwg o'i phlaid?

**Mr Jones:** Na, nid wyf yn credu hynny. Credaf fod y cwestiwn blaenorol yn dal i gyfeirio at dendr anffurfiol, ond mewn amlenni wedi eu selio.

**Ms Lloyd:** Mae'n rhaid i chi fynd drwy'r broses doed a ddél.

[42] **Dafydd Wigley:** Iawn. Felly yr ydych



that there could be informal tenders in sealed envelopes, and that the system could have been worked sealed although it would still be an informal—

**Mr Jones:** Absolutely. However, if I may make the point, in this case, we would not have had the final purchaser if we had insisted on it being in a sealed envelope because she approached us by fax.

[43] **Dafydd Wigley:** By fax? Right, so the question of how one handles fax in this day and age is something that is no doubt exercising you. Would you like to comment on that, Ann Lloyd?

**Ms Lloyd:** Yes, that is exercising us and that is why we are trying to ensure that we can get around that problem. There are ways of doing it, because it happens occasionally, but we still require formal or informal sealed tenders. May I just add something that did not come through in the Auditor General's report, which might help this situation? A formal tender is binding on both sides, and it must be remembered that when this property was offered for sale, there were patients in there. Although it states in figure 2 that Powys District Health Authority had said that the site would be vacated in 1997-98, it was not in fact—there were still 70 patients living in this hospital, and obviously our first concerns were for them. So we could not offer a formal tendering process because it would be binding on our side to remove the patients for completion of the sale. Therefore, I can imagine that the thought process was—I cannot say whether this is true or not; it is not documented—that you would go for an informal tendering process knowing that any formal tender would have to be binding on each side, and we had patients to look after there.

[44] **Dafydd Wigley:** That helps to clarify things.

[45] **Alison Halford:** I am not sure that it does for me, Chair, but thank you. So you have the informal tender and we think that the deadline was 17 May in some particular year. Is there any good reason why the safeguard of unmarked bids, simultaneously

yn derbyn y gallai fod tendrau anffurfiol mewn amlenni wedi'u selio, ac y gallai'r system fod wedi gweithio dan sêl er y byddai'n dal i fod yn dendr anffurfiol—

**Mr Jones:** Yn hollol. Fodd bynnag, os caf i wneud y pwynt, yn yr achos hwn, ni fyddem wedi cael y prynwr terfynol pe baem wedi mynnu cael y cynnig mewn amlen wedi ei selio gan ei bod wedi cyflwyno'r cynnig drwy'r ffacs.

[43] **Dafydd Wigley:** Drwy'r ffacs? Iawn, felly mae sut y mae rhywun yn trafod y ffacs yn yr oes sydd ohoni yn rhywbeth sy'n eich poeni. A fydddech yn hoffi rhoi sylwadau ar hynny, Ann Lloyd?

**Ms Lloyd:** Mae hynny'n destun pryder i ni a dyna pam yr ydym yn ceisio sicrhau ein bod yn gallu datrys y broblem honno. Mae ffyrdd o'i wneud, gan ei fod yn digwydd weithiau, ond mae tendrau ffurfiol neu anffurfiol wedi eu selio yn ofynnol o hyd. A gaf i ychwanegu rhywbeth nad oedd yn eglur yn adroddiad yr Archwilydd Cyffredinol a allai helpu'r sefyllfa hon? Mae tendr ffurfiol yn rhwymo'r ddwy ochr, ac mae'n rhaid cofio bod cleifion yn yr ysbyty pan roddwyd yr eiddo hwn ar werth. Er ei fod yn datgan yn ffigur 2 fod Awdurdod Iechyd Dosbarth Powys wedi dweud y byddai'r safle yn cael ei wacáu yn 1997-98, ni ddigwyddodd hynny—yr oedd 70 o gleifion yn dal i fyw yn yr ysbyty hwn, a hwy oedd ein blaenoriaeth wrth reswm. Felly, nid oeddem yn gallu cynnig proses dendro ffurfiol gan y byddai yn ein rhwymo i symud y cleifion er mwyn cwblhau'r gwerthiant. Felly, gallaf ddychmygu mai'r proses feddwl oedd—ni allaf ddweud a yw hyn yn wir ai peidio; nid yw wedi'i gofnodi—y bydddech yn mynd am broses dendro anffurfiol gan wybod y byddai unrhyw dendr ffurfiol yn gorfod rhwymo'r ddwy ochr, a bod gennym gleifion i ofalu amdanynt yno.

[44] **Dafydd Wigley:** Mae hynny'n gymorth i egluro pethau.

[45] **Alison Halford:** Nid wyf yn siŵr a yw'n egluro pethau i mi, Gadeirydd, ond diolch i chi. Felly, tendr anffurfiol ydoedd ac yr ydym yn credu mai 17 Mai o ryw flwyddyn oedd y dyddiad cau. A oes rheswm da pam na ellid gweithredu'r mesur

opened, should not be applied to best and final offer invitations? What is your answer to that, please? Here we have some people allegedly doing it the way that they think is the proper way, and then it would appear that somebody at the eleventh hour can fax the Secretary of State for Wales, and that is the bid that is carried. That strikes me as exceedingly odd.

**Mr Jones:** Yes, it is certainly very unusual for any bid to go to the Secretary of State for Wales. We had no control over where the bidder sent her bids, but we were prepared to accept her offer.

[46] **Alison Halford:** Were you not a little surprised by that? An agent was working with this, the health authority was working with this, and then somebody fires off a fax to the Secretary of State.

**Mr Jones:** It is most unusual.

[47] **Alison Halford:** How would they find out the number? In my world, I would not even know how to fax a Secretary of State, quite frankly.

[48] **Alun Cairns:** I want to press this point further. If I am buying a house through an estate agent—I am simplifying this so that I can understand it—the estate agent is usually quite strict and says that all offers must be made through the agency. Why was it different in this example?

**Mr Jones:** You are testing my memory. I know that she got in contact with the Secretary of State. I do not think that that was the bid that was accepted; the bid that reached us was accepted.

[49] **Alun Cairns:** Yes, but still, should it not have gone through the agents that were being used to sell the property?

**Mr Jones:** When I say 'us', I mean the disposal team, if you like, which included the agent.

diogelwch a ddefnyddir gyda chynigion heb eu marcio, sy'n cael eu hagor ar yr un pryd, i wahoddiadau cynnig gorau a therfynol? Allwch chi ateb hynny, os gwelwch chi'n dda? Mae gennym ni yma bobl sy'n gwneud pethau mewn ffordd sy'n briodol yn eu tŷb hwy, ac yna mae'n ymddangos y gall rhywun ffacsio Ysgrifennydd Gwladol Cymru ar yr unfed awr ar ddeg a bod y cynnig hwnnw'n cael ei dderbyn. Mae hynny'n fy nharo i yn rhyfedd iawn.

**Mr Jones:** Ydy, yn sicr, mae'n anarferol iawn i unrhyw gynnig fynd at Ysgrifennydd Gwladol Cymru. Nid oedd gennym reolaeth dros ble yr oedd y cynigydd yn anfon ei cheisiadau, ond yr oeddem yn barod i dderbyn ei chynnig.

[46] **Alison Halford:** Oeddech chi ddim wedi'ch synnu i ryw raddau gan hynny? Yr oedd gwerthwr yn gweithio ar hyn, yr oedd yr awdurdod iechyd yn gweithio ar hyn, ac yna mae rhywun yn anfon ffacs at yr Ysgrifennydd Gwladol.

**Mr Jones:** Mae'n anarferol iawn.

[47] **Alison Halford:** Sut y byddent yn dod o hyd i'r rhif? Yn fy mynd i, ni fyddwn i hyd yn oed yn gwybod sut i ffacsio Ysgrifennydd Gwladol, a dweud y gwir.

[48] **Alun Cairns:** Yr wyf am wthio'r pwynt hwn ymhellach. Os wyf yn prynu tŷ drwy werthwr tai—yr wyf yn symleiddio hyn fel y gallaf fi ei ddeall—mae'r gwerthwr tai fel rheol yn eithaf llym ac yn dweud fod yn rhaid gwneud pob cynnig drwyddynt hwy. Pam fod pethau'n wahanol yn yr enghraifft hon?

**Mr Jones:** Yr ydych yn profi fy nghof. Gwn ei bod wedi cysylltu â'r Ysgrifennydd Gwladol. Nid wyf yn meddwl mai dyna'r cynnig a dderbyniwyd; y cynnig a'n cyrhaeddodd ni a dderbyniwyd.

[49] **Alun Cairns:** Ie, ond yr un fath, oni ddylai fod wedi mynd drwy'r gwerthwyr a oedd yn cael eu defnyddio i werthu'r eiddo?

**Mr Jones:** Pan yr wyf yn sôn amdanom 'ni', cyfeiriai at y tîm gwaredu, os mynnwch, a oedd yn cynnwys y gwerthwr eiddo.

[50] **Dafydd Wigley:** Am I not right in saying that the approach to the Secretary of State was to get an extension of the time and that, in fact, she may have put the application in on the previous day—the day before the final extension that was sought—but was it not surprising that an approach would be made to the Secretary of State for an extension of the time?

**Mr Jones:** We were very surprised. The application would normally have come to us.

[51] **Alun Cairns:** Is it usual for the Secretary of State to receive bids on other sorts of issues?

**Mr Jones:** Not at all.

[52] **Alun Cairns:** Did it surprise you that something might—

**Mr Jones:** It surprised us, yes.

[53] **Alun Cairns:** Did you think that there might be some—

**Mr Jones:** I would say that the person in question seemed to know quite a lot of people, and was frequently in contact with many people during this disposal. However, we actually took no notice of those contacts. You have a record of it, but we took no notice of it.

[54] **Janet Davies:** I have to say that I find this absolutely amazing. I have a fair bit of experience of being involved in opening tenders at two different levels—one at a very low level in government in Wales, which is my local village community council. I feel that Dyfed Powys Health Authority was quite a way up the hierarchy—if you are prepared to admit that such a thing exists—above a local community council. Yet, if we went out to tender for something of quite a small sum, and did not do it right down the line, with sealed bids, marked on the outside of the envelope as tenders so that they would not be opened by accident, we would be in deep trouble with the district auditor. I find it difficult to believe that the Government of Wales, whether as the Welsh Office, or later

[50] **Dafydd Wigley:** Onid yr wyf yn iawn i ddweud ei bod hi wedi mynd at yr Ysgrifennydd Gwladol i gael estyniad ar yr amser a'i bod, o bosibl, wedi cyflwyno'r cais ar y diwrnod blaenorol—y diwrnod cyn gofyn am yr estyniad terfynol—ond onid oedd hi'n syndod bod rhywun yn mynd at yr Ysgrifennydd Gwladol i gael estyniad ar yr amser?

**Mr Jones:** Yr oeddem wedi ein synnu'n fawr. Byddai'r cais wedi dod atom ni fel arfer.

[51] **Alun Cairns:** A yw'n arferol i'r Ysgrifennydd Gwladol dderbyn cynigion ar faterion eraill?

**Mr Jones:** Dim o gwbl.

[52] **Alun Cairns:** A oedd hi'n syndod i chi y gallai rhywbeth—

**Mr Jones:** Yr oedd hi'n syndod i ni, oedd.

[53] **Alun Cairns:** A oeddech yn credu y gallai fod rhyw—

**Mr Jones:** Byddwn i'n dweud ei bod yn ymddangos fod yr unigolyn dan sylw yn adnabod llawer o bobl, ac mewn cysylltiad cyson â llawer o bobl yn ystod y gwaredu hwn. Fodd bynnag, ni wnaethom gymryd sylw o'r cysylltiadau hynny. Mae gennyh chi gofnod ohono, ond ni wnaethom gymryd sylw ohono.

[54] **Janet Davies:** Mae'n rhaid i mi ddweud fy mod i'n gweld hyn yn hollol rhyfeddol. Mae gennyf dipyn o brofiad o fod yn rhan o drefniadau agor tendrau ar ddwy lefel—un ar lefel isel iawn o lywodraeth yng Nghymru, sef cyngor cymuned fy mhentref lleol. Teimlaf fod Awdurdod Iechyd Dyfed Powys yn eithaf uchel ar yr hierarchiaeth—os ydych yn barod i gyfaddef fod y cyfryw beth yn bodoli—uwchben cyngor cymuned lleol. Eto, pe baem yn gwahodd tendrau am rywbeth o swm cymharol isel, a heb wneud hynny'n gywir, gyda chynigion wedi'u selio, a'u marcio ar y tu allan i'r amlen fel tendrau fel na fyddai neb yn eu hagog drwy ddamwain, byddem mewn trafferth mawr gyda'r archwilydd dosbarth. Mae'n anodd gen i gredu fod Llywodraeth Cymru, boed yn

as the National Assembly, seems to have skipped that. It seems to have escaped notice, both at the Welsh Government level and at the health authority level, that there were such legal requirements. To be perfectly honest, I am gobsmacked.

**Mr Jones:** I cannot speak for the health authority rules, but I understand that it was acceptable to the health authority rules.

[55] **Dafydd Wigley:** So you were a little surprised—

[56] **Janet Davies:** Perhaps Nigel Towns would like to come in on that.

**Mr Towns:** We have standing orders that state the tendering process. In fact, my understanding is that in July 1998, when the bids came in, they were opened—this is from the file records—as per our standing financial instructions, which state that they must be recorded in a book and that there is a division of duties and so on. That is the way in which it was done. When we got to the later dates and had the other bids in, that procedure was not followed.

[57] **Dafydd Wigley:** So you acknowledge that procedures were not followed and, Mr Jones, you recognise this as being a highly unusual way of dealing with things?

**Mr Jones:** It was unusual, and certainly the approach to the Secretary of State was very unusual.

[58] **Eleanor Burnham:** So let us get this right then, because I am obviously learning like many of us. Mr Towns, you mentioned that you had bids in June, did you say?

**Mr Towns:** July.

[59] **Eleanor Burnham:** I am looking at figure 2 now. Does that coincide with what you have just said?

**Mr Towns:** They were asked for in July; they came in in August.

Swyddfa Gymreig, neu'r Cynulliad Cenedlaethol wedi hynny, fel pe bai wedi hepgor hynny. Mae gofynion cyfreithiol o'r fath fel pe baent wedi'u hanwybyddu ar lefel Llywodraeth Cymru ac ar lefel awdurdod iechyd. I fod yn berffaith onest, yr wyf yn gegrwth.

**Mr Jones:** Ni allaf siarad am reolau'r awdurdod iechyd, ond deallaf ei fod yn dderbyniol i reolau'r awdurdod iechyd.

[55] **Dafydd Wigley:** Felly yr oeddech wedi'ch synnu fymryn—

[56] **Janet Davies:** Efallai y byddai Nigel Towns yn hoffi siarad am hyn.

**Mr Towns:** Mae gennym reolau sefydlog sy'n nodi'r broses dendro. A dweud y gwir, yn ôl yr hyn a ddeallaf, pan ddaeth y cynigion i law yng Ngorffennaf 1998 fe'u hgorwyd yn unol â'n cyfarwyddiadau ariannol sefydlog ni—daw hyn o'r cofnodion—sy'n datgan bod yn rhaid eu cofnodi mewn llyfr a bod dyletswyddau wedi'u rhannu ac ati. Dyna'r ffordd y gwnaed pethau. Pan gyraeddasom y dyddiadau diweddarach ac i'r cynigion eraill ddod i law, ni ddilynwyd y weithdrefn honno.

[57] **Dafydd Wigley:** Felly yr ydych yn cydnabod na ddilynwyd y gweithdrefnau a, Mr Jones, yr ydych yn cydnabod hyn fel ffordd hynod anarferol o ddelio â phethau?

**Mr Jones:** Yr oedd yn anarferol, ac yn sicr yr oedd mynd at yr Ysgrifennydd Gwladol yn anarferol iawn.

[58] **Eleanor Burnham:** Felly gadewch i ni gael hyn yn iawn, gan fy mod yn amlwg yn dysgu fel llawer ohonom. Mr Towns, fe sonioch eich bod wedi cael cynigion ym Mehefin, ddywedoch chi?

**Mr Towns:** Gorffennaf.

[59] **Eleanor Burnham:** Yr wyf yn edrych ar ffigur 2 yn awr. A yw hynny'n cyfateb i'r hyn yr ydych newydd ei ddweud?

**Mr Towns:** Gofynnwyd amdanynt yng Ngorffennaf; daethant i law yn Awst.

[60] **Eleanor Burnham:** Right. When did this bidder bid to the Secretary of State by fax?

**Mr Towns:** That was on 17 or 18 August in 1999.

[61] **Dafydd Wigley:** Are you sure of those dates?

[62] **Eleanor Burnham:** I am just getting the dates right. Is it all right to ask that, Chair?

[63] **Dafydd Wigley:** Was it not May 1999? Am I not right in saying that?

**Mr Towns:** Yes, sorry, it was May 1999.

[64] **Eleanor Burnham:** So there is a considerable time gap, apart from anything else. This is quite incredible.

**Mr Towns:** There was a change in the relaxation of the planning rules, which came through in October 1998.

[65] **Dafydd Wigley:** We will undoubtedly want to come back to that, but there are other questions. Do you have anything else before we move on, Alison?

[66] **Alison Halford:** We need to clarify this, Chair, if you will bear with me. You go down the informal tender route, which means that all bids should be opened at a particular time. Do you agree with that?

**Mr Towns:** Yes.

[67] **Alison Halford:** Quite suddenly, the officials receive a fax from the Secretary of State?

**Mr Jones:** No.

[68] **Alison Halford:** So how do you know that the Secretary of State has been faxed?

**Mr Jones:** I think, if my memory serves me correctly, that we were advised by the Secretary of State's office that a contact had

[60] **Eleanor Burnham:** Iawn. Pryd y gwnaeth y cynigydd hwn ei chynnig dros y ffacs i'r Ysgrifennydd Gwladol?

**Mr Towns:** Ar 17 neu 18 Awst 1999.

[61] **Dafydd Wigley:** A ydych yn siŵr o'r dyddiadau hynny?

[62] **Eleanor Burnham:** Yr wyf am sicrhau bod y dyddiadau cywir gennym. A yw hi'n iawn gofyn hynny, Gadeirydd?

[63] **Dafydd Wigley:** Onid Mai 1999 oedd y dyddiad? Ydw i'n iawn yn dweud hynny?

**Mr Towns:** Ie, mae'n ddrwg gen i, Mai 1999 ydoedd.

[64] **Eleanor Burnham:** Felly mae bwlch amser sylweddol, heblaw unrhywbeth arall. Mae hyn yn eithaf anhygoel.

**Mr Towns:** Cafwyd newid o ran llacio'r rheolau cynllunio, a ddaeth i rym yn Hydref 1998.

[65] **Dafydd Wigley:** Byddwn yn sicr am ddod yn ôl at hynny, ond mae cwestiynau eraill. A oes gennych rywbeth arall i'w ddweud cyn i ni symud ymlaen, Alison?

[66] **Alison Halford:** Maddeuwch i mi, Gadeirydd, mae angen i ni gael eglurhad ar hyn. Yr ydych yn dilyn y llwybr tendr anffurfiol, sy'n golygu y dylid agor yr holl gynigion ar adeg benodol. A gytunwch â hynny?

**Mr Towns:** Cytunaf.

[67] **Alison Halford:** Yn sydyn, mae'r swyddogion yn derbyn ffacs gan yr Ysgrifennydd Gwladol?

**Mr Jones:** Na.

[68] **Alison Halford:** Felly sut yr ydych yn gwybod fod yr Ysgrifennydd Gwladol wedi cael ffacs?

**Mr Jones:** Yr wyf yn credu, os y cofiaf yn iawn, i swyddfa'r Ysgrifennydd Gwladol roi gwybod i ni fod cyswllt wedi'i dderbyn, er

been received, much to his embarrassment as well.

[69] **Dafydd Wigley:** Was that a request for the time to be put back?

**Mr Jones:** No, it was advice that that contact had been received and that it was for our consideration and no-one else's.

[70] **Dafydd Wigley:** So the question was passed over to you, although it was not advocated?

**Mr Jones:** Absolutely.

[71] **Alison Halford:** Has the correspondence between the successful purchaser and the Secretary of State been made available to the Auditor General?

**Mr Jones:** I think that the answer is—I am receiving a nod—'yes'.

[72] **Dafydd Wigley:** Yes, I believe it has as well, from an earlier discussion.

[73] **Alison Halford:** So the informal tender is—can we say—rudely, crudely, rather thrown out of the window because the Secretary of State steps in, or is that far too critical?

**Mr Jones:** I think that would be actually the wrong conclusion.

[74] **Alison Halford:** Right, so what is the right conclusion?

**Mr Jones:** That we were invited to accept a late bid and agreed to do so.

[75] **Jocelyn Davies:** May I ask if this bidder knew the Secretary of State, or was just in contact with him? The reason that I am asking is that, surely, if you are in contact with a lot of people and you are in a process like this and you know people, you actually take more precautions to make sure that it is seen as being clean.

**Mr Jones:** The answer is that I believe that

mawr embaras iddo yntau hefyd.

[69] **Dafydd Wigley:** Ai cais i gael mwy o amser oedd hynny?

**Mr Jones:** Nage, yr oedd yn datgan bod cyswllt wedi'i dderbyn ac mai ni a neb arall oedd i'w ystyried.

[70] **Dafydd Wigley:** Felly trosglwyddwyd y cwestiwn i chi, er na phleidiwyd drosto?

**Mr Jones:** Yn hollol.

[71] **Alison Halford:** A ddarparwyd yr ohebiaeth a fu rhwng y brynwraig lwyddiannus a'r Ysgrifennydd Gwladol i'r Archwilydd Cyffredinol?

**Mr Jones:** Yr wyf yn meddwl mai'r ateb yw—yr wyf yn derbyn cadarnhad—'do'.

[72] **Dafydd Wigley:** Ie, yr wyf yn meddwl hynny hefyd, o drafodaeth gynharach.

[73] **Alison Halford:** Felly, os cawn ni ddweud, mae'r tendr anffurfiol yn cael ei daflu'n ddiseremoni ac yn ddi-sut allan o'r ffenestr gan fod yr Ysgrifennydd Gwladol yn camu i mewn, neu a yw hynny'n llawer yn rhy feirniadol?

**Mr Jones:** Credaf y byddai hynny mewn gwirionedd yn gasgliad anghywir.

[74] **Alison Halford:** Iawn, felly beth yw'r casgliad cywir?

**Mr Jones:** Ein bod ni wedi ein gwahodd i dderbyn cynnig hwyr ac wedi cytuno i wneud hynny.

[75] **Jocelyn Davies:** A gaf i ofyn a oedd y cynigydd yn adnabod yr Ysgrifennydd Gwladol, neu ddim ond mewn cysylltiad ag ef? Y rheswm yr wyf yn gofyn yw, y byddech, mewn gwirionedd, yn cymryd mwy o ofal i sicrhau fod popeth yn cael ei weld yn ddilwgr os ydych mewn cysylltiad â llawer o bobl ac mewn proses fel hwn ac yn adnabod pobl, siawns.

**Mr Jones:** Credaf ei bod o bosibl wedi

she may have shaken hands with the Secretary of State on an occasion but I do not believe for one minute that she knew the Secretary of State.

[76] **Dafydd Wigley:** That is a matter that is difficult for us to know one way or another. There is an open question there: the degree to which she was acquainted with the Secretary of State.

[77] **Alun Cairns:** Did you feel pressured to accept the advice given by the Secretary of State?

**Mr Jones:** Not at all.

[78] **Alun Cairns:** Did you feel that you were giving fair play to the other informal closed bids then?

**Mr Jones:** Yes, I did.

[79] **Alun Cairns:** But you still persisted in carrying on because you thought, 'Well, the Secretary of State's office has given it', but you were not pressured at all?

**Mr Jones:** Not at all.

[80] **Dafydd Wigley:** But, in fact, the bid did come in on the day, despite the fact that the request had been made for a day's extension?

**Mr Jones:** That is quite right.

[81] **Dafydd Wigley:** May I therefore ask Mr Towns particularly, bearing in mind everything that has been said this afternoon, and what, indeed, you have indicated, what reasons or even mitigating circumstances are there for the authority not to have recorded all the decisions in relation to the disposal in detail?

**Mr Towns:** I think that, again, with hindsight, Chair, we normally would have done that. I find, again, with this—I was not involved myself with this but I do find it extremely worrying that this individual, whom I know as being meticulous, was involved and yet this was not recorded. I cannot believe it really.

ysgwyd llaw â'r Ysgrifennydd Gwladol ar ryw achlysur ond nid wyf yn meddwl am eiliad ei bod hi'n ei adnabod.

[76] **Dafydd Wigley:** Mae hwn yn fater anodd i ni wybod ai'r naill neu'r llall sy'n wir. Mae cwestiwn agored yma: i ba raddau yr oedd hi'n adnabod yr Ysgrifennydd Gwladol.

[77] **Alun Cairns:** Oeddech chi'n teimlo dan bwysau i dderbyn y cyngor a gafwyd gan yr Ysgrifennydd Gwladol?

**Mr Jones:** Ddim o gwbl.

[78] **Alun Cairns:** Oeddech chi'n teimlo eich bod yn deg â'r cynigion caeëdig anffurfiol eraill felly?

**Mr Jones:** Oeddwn.

[79] **Alun Cairns:** Ond fe fynnoch chi ddal ati gan eich bod chi'n credu, 'Wel, mae hyn wedi dod o swyddfa'r Ysgrifennydd Gwladol', ond nid oeddech dan bwysau o gwbl?

**Mr Jones:** Ddim o gwbl.

[80] **Dafydd Wigley:** Ond, mewn gwirionedd, fe ddaeth y cynnig i law y diwrnod hwnnw, er gwaethaf y ffaith fod cais wedi'i wneud am ddiwrnod o estyniad?

**Mr Jones:** Mae hynny'n wir.

[81] **Dafydd Wigley:** A gaf i felly ofyn i Mr Towns yn benodol, gan gofio'r holl bethau sydd wedi'u dweud y prynhawn yma, a'r hyn yr ydych chi, yn wir, wedi dweud, pa resymau neu amgylchiadau lliniarol hyd yn oed sydd yna i gyfiawnhau nad oedd yr awdurdod wedi cofnodi'n fanwl yr holl benderfyniadau ar waredu?

**Mr Towns:** Unwaith eto, o edrych yn ôl, Gadeirydd, fe fyddem ni fel rheol wedi gwneud hynny. Unwaith eto gyda hyn hefyd—nid oeddwn yn rhan o hyn ond yr wyf yn teimlo'n bryderus iawn fod yr unigolyn yma, sydd fel arfer mor drwyadl, yn rhan o'r mater ond na chofnodwyd hynny. Ni allaf gredu'r peth a dweud y gwir.

[82] **Dafydd Wigley:** It was a dereliction of duty not to have recorded this?

**Mr Towns:** I think that all these things—there must be an audit trail, and these things should have been recorded.

[83] **Dafydd Wigley:** Indeed.

[84] **Jocelyn Davies:** It was on that point actually, Dafydd, that I wanted to ask some questions. Now, of course, very shortly there will be the commencement of the Freedom of Information Act 2000, giving the general right of access to information. Does that cause you any concern?

**Mr Towns:** No, not at all.

[85] **Jocelyn Davies:** Of course, you can only have access to information if it has been recorded, and it is a long-established principle, I think, of public boards stretching back probably more than 20 years, that public bodies should give reasons for the decisions they have made. How can a public body satisfy that duty if it did not record the decisions in the beginning? How do you then give reasons?

**Mr Towns:** I think in this case it is extremely difficult, but we have got the Auditor General's report before us, and the conclusions he has drawn. We do need to pick up these recommendations. I am an accountant by training so I do understand the need for an audit trail and I am extremely surprised, as I said, and repeat, knowing the individual concerned—and people have gone back through the records—that this was not recorded.

[86] **Jocelyn Davies:** I think you would have to agree with us, though, would you not, that the failure to record the reasons is bound to lead to the public saying, 'this stinks'? It is bound to. If you cannot give the public reasons for decisions you have made because they were not recorded at the time, then the public is bound to create its own reasons, and I think it is perfectly reasonable that it would do so.

[82] **Dafydd Wigley:** Oedd peidio â chofnodi hyn yn esgeuluso dyletswydd?

**Mr Towns:** Yr wyf yn credu y dylai'r holl bethau hyn—fe ddylid cael llwybr archwilio, ac fe ddylid fod wedi cofnodi'r pethau hyn.

[83] **Dafydd Wigley:** Dylid.

[84] **Jocelyn Davies:** Ar y pwynt hwnnw, Dafydd, yr oeddwn i am holi cwestiynau. Nawr, wrth gwrs, bydd Deddf Rhyddid Gwybodaeth 2000 yn cael ei gweithredu yn fuan, a fydd yn rhoi hawl cyffredinol i bobl gael mynediad i wybodaeth. Ydy hynny'n destun pryder i chi?

**Mr Towns:** Na, dim o gwbl.

[85] **Jocelyn Davies:** Wrth gwrs, dim ond gwybodaeth a gofnodwyd y gallwch gael mynediad iddi, ac mae'r egwyddor y dylai cyrff cyhoeddus roi rhesymau dros eu penderfyniadau yn egwyddor sydd wedi'i hen sefydlu ac yn ymestyn yn ôl dros 20 mlynedd. Sut gall corff cyhoeddus fodloni'r dyletswydd hwnnw os na chofnododd y penderfyniadau i ddechrau? Sut ydych chi wedyn yn rhoi rhesymau?

**Mr Towns:** Yr wyf yn meddwl ei bod hi'n anodd iawn yn yr achos hwn, ond mae gennym adroddiad yr Archwilydd Cyffredinol o'n blaenau, a'r casgliadau y daeth iddynt. Rhaid i ni ystyried yr argymhellion hyn. Cefais fy hyfforddi fel cyfrifydd felly yr wyf yn deall yr angen am lwybr archwilio ac wedi fy synnu'n fawr, fel y dywedais ac yr wyf yn ei ddweud eto, o adnabod yr unigolyn dan sylw—ac mae pobl wedi mynd yn ôl drwy'r cofnodion—na chafodd hyn ei gofnodi.

[86] **Jocelyn Davies:** Yr wyf yn meddwl y byddech chi'n cytuno â ni, serch hynny, oni fyddech chi, bod y methiant i gofnodi'r rhesymau yn siŵr o arwain at gyhuddiad gan y cyhoedd fod hyn yn drewi? Mae hynny'n anochel. Os na allwch chi roi rhesymau i'r cyhoedd am benderfyniadau a wnaethoch oherwydd na chofnodwyd hwy ar y pryd, yna mae'r cyhoedd yn siŵr o greu eu rhesymau eu hunain, ac yr wyf yn credu ei bod hi'n hollol resymol iddynt wneud hynny.



**Mr Towns:** I think that is why we have had an Auditor General's report.

[87] **Jocelyn Davies:** But how could the Auditor General investigate when there were no recorded reasons for decisions?

**Mr Towns:** He has reported and he has drawn his conclusions and there are recommendations in the report which we have to take on board to make sure that this does not happen in the future.

[88] **Jocelyn Davies:** Well, Dafydd, I find it very difficult to believe that the Auditor General had a very easy time investigating this when there were no reasons recorded for decisions that were made; even if, on occasion, he has concluded that the outcome was arrived at fairly, we have nothing to prove that those decisions were properly taken.

[89] **Dafydd Wigley:** Quite so. The Auditor General obviously can only act within the information that is available to him and his team, and that may lead to an unsatisfactory position where questions may be unanswered and allegations unproven and still hanging in the air. That is the nature of the unsatisfactory position arising from a lack of detailed recording. I think that you are right. Janet, do you want to take on the aspects of value for money, which I think is a very important aspect of this whole inquiry?

[90] **Janet Davies:** Right. If we turn to the issue of preparing a business case—it is in paragraph 3.5, if it helps to go through it—I would like to ask Nigel Towns about this. Could you tell us what reasons the authority had for not preparing a business case for disposal, other than the big, high, strategic case?

**Mr Towns:** The Powys District Health Authority actually produced a business case when it was deciding on the future direction for mental health services. So, when it decided, and that went out to public consultation, and everything was agreed on

**Mr Towns:** Yr wyf yn meddwl mai dyna pam y cawsom ni adroddiad gan yr Archwilydd Cyffredinol.

[87] **Jocelyn Davies:** Ond sut y gallai'r Archwilydd Cyffredinol ymchwilio pan nad oedd cofnod o'r rhesymau dros y penderfyniadau a wnaed?

**Mr Towns:** Mae wedi cyflwyno adroddiad a dod i gasgliadau ac mae argymhellion yn yr adroddiad sy'n rhaid i ni eu hystyried i sicrhau nad yw hyn yn digwydd yn y dyfodol.

[88] **Jocelyn Davies:** Wel, Dafydd, yr wyf yn ei chael hi'n anodd iawn credu bod yr Archwilydd Cyffredinol wedi cael amser hawdd yn ymchwilio i hyn pan na chofnodwyd rhesymau dros y penderfyniadau a wnaed; hyd yn oed os daeth i'r casgliad, ar brydiau, bod y penderfyniad wedi'i wneud yn deg, nid oes gennym ddim i brofi fod y penderfyniadau hynny wedi'u cymryd yn briodol.

[89] **Dafydd Wigley:** Yn hollol. Yn amlwg, ni all yr Archwilydd Cyffredinol ond gweithredu ar sail y wybodaeth sydd ar gael iddo ef a'i dîm, a gallai hynny arwain at sefyllfa anfoddfaol gyda chwestiynau heb eu hateb a chyhuddiadau heb eu profi yn parhau. Dyna yw natur y sefyllfa anfoddfaol sy'n codi o ddiffyg cofnodi manwl. Yr wyf yn meddwl eich bod yn iawn. Janet, ydych chi am drafod agweddau ar werth am arian, sydd yn fy marn i yn agwedd bwysig iawn ar yr holl ymchwiliad hwn?

[90] **Janet Davies:** Iawn. Os edrychwn ni ar fater paratoi achos busnes—paragraff 3.5, os yw hynny o gymorth i ni fynd drwyddo—fe fyddwn i'n hoffi holi Nigel Towns am hyn. Allech chi ddweud wrthym pa resymau oedd gan yr awdurdod dros beidio â pharatoi achos busnes ar gyfer gwaredu, heblaw'r achos strategol mawr, pwysig?

**Mr Towns:** Lluniodd Awdurdod Iechyd Dosbarth Powys achos busnes pan oedd yn penderfynu ar gyfeiriad y gwasanaethau iechyd meddwl yn y dyfodol. Felly, pan benderfynodd, a phan oedd hynny'n destun ymgynghoriad cyhoeddus, ac y cytunwyd ar

how the new services would be, on that basis, it then declared, according to the rules and regulations, that property to be surplus to requirements. So the business case would have been done as part of the strategic direction of the mental health service, in line with the then Welsh Office and Government policy.

[91] **Janet Davies:** Yes, but that does not actually look at the details of the disposal does it, as an individual case? For example, if it had been decided that demolition was the most cost-effective option, the authority would have spent a year pursuing the wrong option, would it not?

**Mr Towns:** Yes.

[92] **Janet Davies:** If you look again, if there had been a decision to sell in separate lots—although it comes over very clearly in the report that there would then have been, or could have been, difficulties in disposing of the main building—from information that has been coming through it would appear that, in particular, three houses were sold for £55,000, and two of them have then been sold on for a great deal more than that, leaving, I accept, the main building. However, it does seem to me that there was a need for an individual business plan for disposal to actually deal with and record the reasons for the way in which the property was disposed of.

**Mr Towns:** I understand that, at the time, the decision was taken to sell the property as a whole and not to split it up because it would achieve a better price overall. That is my understanding, and, again, the site itself was regarded as being commercially unattractive. It was not in an area such as the sites of some of the other hospitals in Wales that had been disposed of, on which there had been considerable development. It was in a national park, where there are strict development rules, and the other thing, which Ann Lloyd has already mentioned, is that there were patients in the hospital—in fact 70 patients were in there until six months after the hospital was sold. We had to put their interests first. We needed to resettle these patients—elderly patients—and, therefore, their considerations came first. Therefore, the

y gwasanaethau newydd, ar y sail honno, aeth ymlaen i ddatgan, yn ôl y rheolau a'r rheoliadau, nad oedd angen yr eiddo bellach. Felly, byddai'r achos busnes wedi'i wneud fel rhan o gyfeiriad strategol y gwasanaeth iechyd meddwl, yn unol â pholisi'r Swyddfa Gymreig a'r Llywodraeth ar y pryd.

[91] **Janet Davies:** Ie, ond nid yw hynny'n edrych ar fanylion y gwaredu fel achos unigol, ydy e? Er enghraifft, os penderfynwyd mai dymchwel yr eiddo oedd y dewis mwyaf cost effeithiol, oni fyddai'r awdurdod wedi treulio blwyddyn yn dilyn y dewis anghywir?

**Mr Towns:** Byddai.

[92] **Janet Davies:** Os edrychwch chi eto, os cafwyd penderfyniad i werthu rhannau ar wahân—er bod yr adroddiad yn nodi'n glir y gallai neu y byddai anawsterau wedyn o ran gwaredu'r prif adeilad—o'r wybodaeth sydd wedi dod i'r amlwg byddai'n ymddangos bod tri thŷ yn benodol wedi'u gwerthu am £55,000, a dau ohonynt wedi'u gwerthu ymhellach am lawer mwy na hynny, sydd yn gadael, derbynaf, y prif adeilad. Fodd bynnag, mae'n ymddangos i mi fod angen cynllun busnes unigol ar gyfer gwaredu i ddelio mewn gwirioendd â'r ffordd yr oedd yr eiddo'n cael ei waredu, ac i gofnodi'r rhesymau dros hynny.

**Mr Towns:** Deallaf fod penderfyniad wedi'i wneud ar y pryd i werthu'r eiddo yn gyfan a pheidio a'i rannu gan y byddai'n sicrhau gwell pris yn gyffredinol. Dyna yw fy nealltwriaeth i, ac, unwaith eto, yr oedd y safle ei hun yn cael ei ystyried yn anneniadol yn fasnachol. Nid oedd mewn ardal debyg i safleoedd rhai o'r ysbytai eraill yng Nghymru a waredwyd, lle gwelwyd datblygu sylweddol. Yr oedd mewn parc cenedlaethol, lle mae rheolau datblygu caeth, a'r mater arall, a grybwyllwyd eisoes gan Ann Lloyd, oedd bod cleifion yn yr ysbyty—yr oedd 70 o gleifion yno hyd chwe mis ar ôl i'r ysbyty gael ei werthu. Yr oedd yn rhaid i ni roi eu buddiannau hwy yn gyntaf. Yr oedd angen i ni ail-leoli'r cleifion hyn—cleifion oedrannus—ac, felly, yr oedd eu hystyriaethau hwy yn dod yn gyntaf. Felly, yr

whole disposal of this was very difficult, but commercially I understand that the advice was—and Powys District Health Authority had gone out to tender to get agents in—that that was the best way to sell it.

[93] **Janet Davies:** Right. Both you and Ann Lloyd have referred to the issue of patients still being in there. Would it not have been possible—anyone who bought Talgarth Hospital as a whole would actually have been involved in quite a lot of preparatory work, and I do not necessarily mean building work, but things such as getting planning permission, which, from my knowledge of public life, I am sure would almost certainly have taken them a lot longer than six months. In fact, it would not necessarily have affected those 70 patients. I am not talking about going in and banging down the building next to where they were; I am talking about earlier preparatory work.

**Mr Towns:** I understand that they thought that the patients might well be in there for a period of up to 18 months from the date of completion. However, in the event, they were rehoused and resettled, some in hospital accommodation and some in the community, by the end of March or the beginning of April 2000.

[94] **Janet Davies:** Ms Lloyd, this failure to produce a business case covering the disposal seems to be the result of unclear guidance for national health service bodies. Has any action been taken, or is it about to be taken to remedy that?

**Ms Lloyd:** Yes. Within the guidance we are about to issue, the whole question of disposal and business cases for disposal will be covered, particularly since we now have to undertake the test for the sustainable development policy to re-emphasise that all options for the future use of any property must be taken into consideration so that a balance can be shown, in a transparent way, in terms of leading to the decision that an organisation then takes.

[95] **Janet Davies:** I turn to paragraph 3.19 on the updated valuation. Do you consider

oedd y broses waredu yn anodd iawn, ond yn fasnachol yr wyf yn deall mai'r cyngor oedd—ac yr oedd Awdurdod Iechyd Dosbarth Powys wedi gwahodd tendrau i gael gwerthwyr eiddo—mai dyma'r ffordd orau o'i werthu.

[93] **Janet Davies:** Iawn. Yr ydych chi ac Ann Lloyd wedi cyfeirio at y ffaith bod cleifion yn dal yn yr ysbyty. Oni fyddai wedi bod yn bosibl—byddai'r sawl oedd yn prynu Ysbyty Talgarth yn ei gyfarwydd wedi gwneud llawer o waith paratoi, ac nid wyf yn cyfeirio at waith adeiladu o reidrwydd, ond pethau fel cael caniatâd cynllunio, y byddai, o'm profiad i o fywyd cyhoeddus, mae'n siŵr, wedi cymryd llawer hwy na chwe mis. A dweud y gwir, ni fyddai o angenrheidrwydd wedi effeithio ar y 70 o gleifion. Nid wyf yn sôn am fynd i mewn a dymchwel yr adeilad oedd agosaf atynt hwy; yr wyf yn sôn am waith paratoi cynharach.

**Mr Towns:** Deallaf eu bod yn meddwl y byddai'r cleifion yno am gyfnod o hyd at 18 mis o'r dyddiad cwblhau. Fodd bynnag, fel y bu hi, cawsant eu symud a'u hail-leoli, rhai mewn ysbytai a rhai yn y gymuned, erbyn diwedd Mawrth neu ddechrau Ebrill 2000.

[94] **Janet Davies:** Ms Lloyd, mae'r methiant hwn i lunio achos busnes ar gyfer y gwaredu yn ymddangos fel pe bai o ganlyniad i gyfarwyddyd aneglur i gyrff y gwasanaeth iechyd gwladol. A gymerwyd unrhyw gamau, neu a oes rhai ar fin cael eu cymryd i wneud yn iawn am hynny?

**Ms Lloyd:** Oes. Yn y cyfarwyddyd yr ydym ar fin ei gyhoeddi, rhoddir sylw i'r holl gwestiwn o waredu ac achosion busnes dros waredu, yn enwedig gan fod yn rhaid i ni nawr wneud prawf y polisi datblygu cynaliadwy er mwyn ailbwysleisio bod yn rhaid ystyried yr holl ddewisiadau ar gyfer defnyddio eiddo yn y dyfodol fel y gellir dangos cydbwysedd, mewn ffordd eglur, o ran arwain at y penderfyniad mae sefydliad yn ei gymryd wedyn.

[95] **Janet Davies:** Yr wyf am gyfeirio at baragraff 3.19 ar y prisiad diweddaraf. A

that it is acceptable not to obtain an updated valuation when a property is exposed to the market?

**Ms Lloyd:** Independent updated valuations can actually cost a lot of money and I think it all depends on when you had your last valuation, when you seek an update, but I think it is good practice so to do.

[96] **Janet Davies:** I would like to go a bit to one side to look not only at the property, but at the plant and equipment that was within the property. I have not been able to find out anything about what happened to that plant and equipment—whether it was put up for sale by tender, disposed of privately or just binned. Could you, or someone else, give any information on that?

**Mr Jones:** I cannot think of any plant and equipment that was there, other than that which belonged to the health authority—medical equipment that would have been moved on to other health premises. I am not aware of anything that we should have disposed of separately.

[97] **Janet Davies:** Perhaps Mr Towns could confirm that.

**Mr Towns:** That would have been the Powys NHS Health Care Trust. I do not know, but I presume that some of the beds and fittings and so on, the non-fixed items, would have been used elsewhere within the Powys NHS trust.

[98] **Janet Davies:** So you can say that that definitely happened?

**Mr Towns:** I could not, because it was Powys NHS trust that occupied the building and it was its equipment. We can give the Committee a note about that.

[99] **Dafydd Wigley:** I would be grateful if you could provide a note to confirm that, because it is obviously a material question.

Ann, did you want to ask a question? Your question may have been partially covered in

ydych o'r farn ei bod hi'n dderbyniol peidio â diweddarau prisiad wrth roi eiddo ar y farchnad?

**Ms Lloyd:** Gall diweddarau prisiad yn annibynnol gostio llawer o arian ac yr wyf yn credu bod y cyfan yn dibynnu ar pryd gawsoch chi'r prisiad diwethaf, wrth ofyn am ddiweddariad, ond credaf ei fod yn arfer da gwneud hynny.

[96] **Janet Davies:** Hoffwn wyro i un ochr i edrych nid yn unig ar yr eiddo, ond ar y peiriannau a'r offer oedd yn yr eiddo. Nid wyf wedi medru dod o hyd i wybodaeth am beth ddigwyddodd i'r peiriannau a'r offer—a gynigiwyd hwy i'w gwerthu drwy dendr, eu gwaredu'n breifat neu eu taflu? Allwch chi, neu rywun arall, roi unrhyw wybodaeth am hynny?

**Mr Jones:** Ni allaf feddwl am unrhyw beiriannau ac offer oedd yno, heblaw'r rhai oedd yn perthyn i'r awdurdod iechyd—offer meddygol a fyddai wedi'i symud i safle iechyd arall. Nid wyf yn ymwybodol o ddim a ddylid fod wedi'i waredu ar wahân.

[97] **Janet Davies:** Efallai y gallai Mr Towns gadarnhau hynny.

**Mr Towns:** Ymddiriedolaeth GIG Gofal Iechyd Powys fyddai wedi gwneud hynny. Nid wyf yn gwybod, ond yr wyf yn cymryd y byddai rhai o'r gwelyau a'r offer ac ati, yr eitemau symudol, wedi'u defnyddio mewn mannau eraill yn ymddiriedolaeth GIG Powys.

[98] **Janet Davies:** Felly allwch chi ddweud fod hynny wedi digwydd yn bendant?

**Mr Towns:** Na, gan mai ymddiriedolaeth GIG Powys oedd yn defnyddio'r adeilad a bod yr offer yn perthyn iddi. Gallwn roi nodyn i'r Pwyllgor ynglŷn â hynny.

[99] **Dafydd Wigley:** Byddwn yn ddiolchgar pe gallech ddarparu nodyn i gadarnhau hynny, gan ei fod yn amlwg yn gwestiwn perthnasol.

Ann, oeddech chi am ofyn cwestiwn? Efallai fod eich cwestiwn wedi'i ateb yn rhannol yn

the answers given already.

[100] **Ann Jones:** I am working off a different sheet of questions, but I think it has been covered.

[101] **Dafydd Wigley:** Yes, Ann Lloyd referred to updated valuation earlier.

[102] **Ann Jones:** That is fine, it has been covered.

[103] **Dafydd Wigley:** In which case, Alun, may I call you in at this stage?

[104] **Alun Cairns:** Yes. I have a question that is directed at Mr Towns and Mr Jones, and I would like each of you to answer in turn, if possible. Bearing in mind the unique nature of the property, how important is marketing it positively in terms of gaining a fair price for the taxpayer?

**Mr Towns:** I think that it is very important indeed.

**Mr Jones:** I would not argue with that. Obviously the appointment of the right agent to do the job is an important part of the disposal team's work. It was selected for its marketing ability.

[105] **Alun Cairns:** So, Mr Jones, were you satisfied with the way in which the property was marketed?

**Mr Jones:** Yes, I think I was. I cannot think of any point of dissatisfaction.

[106] **Alun Cairns:** How would you reconcile the changes in the planning permission, or potential changes in the development rights of the property, with your comment that you were satisfied?

**Mr Jones:** This is possibly more a question of what was noted in the records rather than what actually happened. The property was offered for sale with quite a bit of information about the planning situation that existed when it first came up for sale. We would not be undertaking to be a conduit for all matters relating to planning for each individual potential purchaser. I stress that

barod.

[100] **Ann Jones:** Yr wyf yn dilyn taflen gwestiynau wahanol, ond credaf fod y cwestiwn wedi'i ateb.

[101] **Dafydd Wigley:** Do, cyfeiriodd Ann Lloyd at brisiadau diweddar yn gynharach.

[102] **Ann Jones:** Mae hynny'n iawn, mae wedi cael sylw.

[103] **Dafydd Wigley:** Felly, Alun, a gaf i alw arnoch chi nawr?

[104] **Alun Cairns:** Iawn. Mae gennyf gwestiwn i Mr Towns a Mr Jones, a hoffwn i'r ddau ohonoch ateb yn eich tro, os yn bosibl. Gan gofio natur unigryw yr eiddo, pa mor bwysig yw ei farchnata'n gadarnhaol o ran sicrhau pris teg i'r trethdalwr?

**Mr Towns:** Credaf fod hynny'n bwysig iawn.

**Mr Jones:** Ni fyddwn yn dadlau â hynny. Yn amlwg, mae penodi'r gwerthwr cywir i'r swydd yn rhan bwysig o waith y tîm gwaredu. Fe'i dewiswyd am ei allu marchnata.

[105] **Alun Cairns:** Felly, Mr Jones, oeddech chi'n fodlon gyda'r ffordd y cafodd yr eiddo ei farchnata?

**Mr Jones:** Oeddwn, yr wyf yn meddwl fy mod. Ni allaf feddwl am unrhyw beth yr oeddwn i'n anfodlon yn ei gylch.

[106] **Alun Cairns:** Sut y byddech yn cysoni'r newidiadau yn y caniatâd cynllunio, neu'r newidiadau posibl yn hawliau datblygu'r eiddo, gyda'ch sylw eich bod chi'n fodlon?

**Mr Jones:** Mae'r cwestiwn hwn o bosibl yn fwy i wneud â beth a nodwyd yn y cofnodion yn hytrach na beth ddigwyddodd mewn gwirionedd. Rhoddwyd yr eiddo ar werth gyda thipyn o wybodaeth am y sefyllfa gynllunio a oedd yn bodoli pan ddaeth ar werth am y tro cyntaf. Ni fyddem yn barod i fod yn gyfrwng gwybodaeth am bob mater yn ymwneud â chynllunio i bob darpar brynwr

because, if we do undertake to tell the purchasers everything but we fail to do so, we become liable for any misunderstanding that they have. What we did was to encourage them at all times to be talking to the local planning authority. Each of the bidders had a totally different scheme. I do not think that two schemes were similar in many ways at all. So each one's interest in what the planning situation was and in talking to the planners was wildly different. That is the way that we would normally want to do business. We are not there to make sure that they are clear on every change in the planning circumstance. Having said that, I am sure that every purchaser would have been made aware that it was worth them talking to the planners when a significant change took place. Sorry, that was a bit long.

[107] **Dafydd Wigley:** Before Alun comes back on that, I just want to pick up one point from paragraph 3.35 of the report, which includes the definition that:

‘The best price reasonably obtainable is that provided by a fully informed open market.’

I emphasise the words ‘fully informed’. If the market—which means potential bidders as well as those who have already made a bid—is not fully informed as to a possible change in the planning status, does that not mean that the market was not fully informed and therefore it could not have been the best price?

**Mr Jones:** What I am suggesting is that we did that by encouraging them to go frequently and talk to the planners about their bids.

[108] **Dafydd Wigley:** So you were telling people who had already got in touch. Was there, at any stage in this last bid, an advert put out that indicated the revised, updated planning status that existed in 1999?

**Mr Jones:** Not as far as I am aware.

[109] **Dafydd Wigley:** So the market in general was not aware of that.

unigol. Yr wyf yn pwysleisio hyn oherwydd pe byddem yn addo dweud popeth wrth brynwyr ond yn methu gwneud hynny, byddem yn atebol am unrhyw gamddealltwriaeth ar eu rhan. Yr hyn a wnaethom oedd eu hannog i siarad yn gyson â'r awdurdod cynllunio lleol. Yr oedd gan bob un o'r cynigwyr gynllun hollol wahanol. Nid wyf yn meddwl bod yr un o'r cynlluniau yn debyg i'w gilydd. Felly yr oedd diddordeb pob un yn y sefyllfa gynllunio ac o ran siarad â'r cynllunwyr yn gwbl wahanol. Dyna sut y byddem am wneud busnes fel rheol. Nid ydym yno i sicrhau eu bod yn deall pob un newid yn y sefyllfa gynllunio. Wedi dweud hynny, yr wyf yn sicr y byddai pob prynwr yn ymwybodol ei bod hi'n werth iddynt siarad â'r cynllunwyr ar adeg o newid sylweddol. Mae'n ddrwg gen i am roi ateb a oedd braidd yn hir.

[107] **Dafydd Wigley:** Cyn i Alun ymateb, yr wyf am sôn am un pwynt o baragraff 3.35 yr adroddiad, sy'n cynnwys y diffiniad mai:

‘Y pris gorau y gellid yn rhesymol ei gael yw'r un a ddarperir gan farchnad agored hyddysg iawn.’

Yr wyf yn pwysleisio'r geiriau ‘hyddysg iawn’. Os nad yw'r farchnad—sy'n golygu darpar gynigwyr yn ogystal â'r rhai sydd eisoes wedi gwneud cynnig—yn hyddysg iawn ynghylch newid posibl yn y statws cynllunio, onid yw hynny'n golygu nad oedd y farchnad yn hyddysg iawn ac felly na allai'r pris fod y pris gorau?

**Mr Jones:** Yr hyn yr wyf yn ei awgrymu yw ein bod wedi gwneud hynny drwy eu hannog i drafod eu cynigion yn rheolaidd gyda'r cynllunwyr.

[108] **Dafydd Wigley:** Felly yr oeddech yn sôn wrth bobl oedd eisoes wedi cysylltu. A roddwyd hysbyseb, yn ystod unrhyw gam yn y cynnig diwethaf, yn nodi'r statws cynllunio diwygiedig, diweddaedig oedd yn bodoli yn 1999?

**Mr Jones:** Ddim hyd y gwn i.

[109] **Dafydd Wigley:** Felly nid oedd y farchnad yn gyffredinol yn ymwybodol o

hynny.

**Mr Jones:** I think it probably was, but I take your point.

**Mr Jones:** Yr wyf yn meddwl ei bod hi, ond deallaf eich pwynt.

[110] **Alun Cairns:** May I couple that with Mr Jones's previous answer, Mr Towns? Do you think that it was marketed effectively and that everyone was aware of the changes in development potential?

[110] **Alun Cairns:** A gaf i gymryd hynny gydag ateb blaenorol Mr Jones, Mr Towns? Ydych chi'n credu ei bod wedi'i marchnata'n effeithiol a bod pawb yn ymwybodol o'r newidiadau yn y potensial i ddatblygu?

**Mr Towns:** The answer to the question is that I do not know; I was not involved with it.

**Mr Towns:** Yr ateb i'r cwestiwn yw nad wyf yn gwybod; nid oeddwn yn rhan ohono.

[111] **Alun Cairns:** No, but with the benefit of hindsight, would you conduct another sale in a similar way?

[111] **Alun Cairns:** Na, ond o allu edrych yn ôl, a fyddech chi'n gwerthu eiddo arall mewn ffordd debyg?

**Mr Towns:** I think that we have to pick up the recommendations in the report and—

**Mr Towns:** Yr wyf yn meddwl bod yn rhaid i ni roi sylw i argymhellion yr adroddiad a—

[112] **Alun Cairns:** I am trying to tease out a difference now, in relation to the answer that Mr Jones gave, because it seems that Mr Jones is quite satisfied with the role of the agent in marketing the property.

[112] **Alun Cairns:** Yr wyf yn ceisio gweld a oes gwahaniaeth yn awr, yng nghyd-destun yr ateb a roddodd Mr Jones, gan ei bod hi'n ymddangos bod Mr Jones yn eithaf bodlon â rôl y gwerthwr wrth farchnata'r eiddo.

**Mr Towns:** I think that the report identifies that we asked the agent, or the agent was notified and knew about the change. There is no evidence one way or the other to say whether it did market it to a wider audience than those bids that they had already had. But I think that what you would do, if there is a change—let us be clear what the change was: the change was not to allow housing development on the whole of the site; it was to use, as I understand it, the existing buildings, the existing hospital, for conversion into residential accommodation.

**Mr Towns:** Yr wyf yn meddwl bod yr adroddiad yn nodi ein bod ni wedi gofyn i'r gwerthwr, neu fod y gwerthwr wedi'i hysbysu ac yn gwybod am y newid. Nid oes tystiolaeth y naill ffordd na'r llall i ddweud a wnaeth farchnata'r eiddo i gynulleidfa ehangach na'r cynigion hynny a oedd eisoes wedi dod i law. Ond yr wyf yn meddwl mai'r hyn fydddech chi'n ei wneud, pe bai yna newid—gadewch i ni fod yn glir ynglŷn â beth oedd y newid: y newid oedd peidio â chaniatáu datblygu tai ar y safle cyfan; y bwriad, yn ôl yr hyn a ddeallaf, oedd defnyddio'r adeiladau presennol, yr ysbyty presennol, a'u troi yn llety preswyl.

[113] **Alun Cairns:** Okay, existing buildings. What sort of percentage of the floor space would that amount to?

[113] **Alun Cairns:** Iawn, adeiladau presennol. Pa fath o ganran o'r arwynebedd llawr fyddai hynny?

**Mr Towns:** I do not know whether Mr Jones—

**Mr Towns:** Nid wyf yn gwybod a yw Mr Jones—

[114] **Dafydd Wigley:** Are we not talking about 95 per cent of something about 200,000 sq ft, which would be about 180,000 sq ft, which, if I am right, amounts to about 4.5 acres? Am I right?

[114] **Dafydd Wigley:** Onid ydym yn sôn am 95 y cant o rywbeth sydd tua 200,000 troedfedd sgwâr, a fyddai tua 180,000 troedfedd sgwâr, sydd, os ydw i'n gywir, tua 4.5 erw? A wyf yn iawn?

**Mr Jones:** Yes, that is right.

[115] **Alun Cairns:** Is it fair to say, or can we make the assumption, that that is quite significant?

**Mr Jones:** It is a significant amount of space, yes. However, there is not a significant market for that much accommodation in rural mid Wales.

[116] **Dafydd Wigley:** With respect, how do you know that if it was not advertised? Is it not the case that, in October 1998, the Brecon Beacons National Park Authority notified the selling agents of the proposed changes in the deposit local plan, and that in March the authority decided to readvertise, but it appears that that did not become part of the readvertisement, which seems extremely strange?

**Mr Jones:** If that is the sequence, then it does seem strange.

[117] **Alun Cairns:** So, going back to your previous answer, would you say that the marketing was flawed?

**Mr Jones:** I would have to say that the circumstances just described are flawed, yes.

[118] **Alun Cairns:** Okay. You also mentioned in your previous answer, Mr Jones, that you would expect serious bidders—I recognise that I am paraphrasing slightly—to liaise with the planning authorities to satisfy themselves, because you said that the responsibility falls to them. If you are seeking to gain the best market price for a property, do you think that just passing bidders on to planning departments is the most effective way of dealing with this?

**Mr Jones:** In many ways, yes, I do.

[119] **Alun Cairns:** So you would prefer conservative planners to market and advise on the purchase of a property?

**Mr Jones:** No, I just think that it is important that the detail of what they want to do is discussed with the planners. We could only

**Mr Jones:** Ydych, mae hynny'n iawn.

[115] **Alun Cairns:** Mae'n deg dweud, neu a allwn dybio, fod hynny'n eithaf sylweddol?

**Mr Jones:** Mae'n lle mawr, ydi. Fodd bynnag, nid oes marchnad sylweddol ar gyfer cymaint â hynny o lety yng nghefn gwlad canolbarth Cymru.

[116] **Dafydd Wigley:** Gyda phob parch, sut ydych chi'n gwybod hynny os na chafodd ei hysbysebu? Onid oedd Awdurdod Parc Cenedlaethol Bannau Brycheiniog wedi hysbysu'r gwerthwyr yn Hydref 1998 o'r newidiadau arfaethedig i'r cynllun gwaredu lleol, a bod yr awdurdod wedi penderfynu aillhysbysebu ym Mawrth, ond mae'n debyg na ddaeth yn rhan o'r ail hysbyseb, sy'n ymddangos yn beth rhyfedd iawn?

**Mr Jones:** Os mai dyna fel y digwyddodd pethau, yna mae'n ymddangos yn rhyfedd.

[117] **Alun Cairns:** Felly, i ddychwelyd at eich ateb blaenorol, a fyddech chi'n dweud bod y marchnata'n ddiffygiol?

**Mr Jones:** Byddai'n rhaid i mi ddweud bod yr amgylchiadau sydd newydd eu disgrifio yn ddiffygiol, byddai.

[118] **Alun Cairns:** Iawn. Fe sonioch hefyd yn eich ateb blaenorol, Mr Jones, y byddech chi'n disgwyl i gynigwyr o ddifrif—yr wyf yn cydnabod fy mod yn aralleirio rhywfaint—drafod gyda'r awdurdodau cynllunio er mwyn bodloni eu hunain, gan eich bod yn dweud mai hwy sy'n gyfrifol. Os ydych yn ceisio cael pris gorau'r farchnad am eiddo, ydych chi'n credu mai trosglwyddo cynigwyr i adrannau cynllunio yw'r ffordd fwyaf effeithiol o ddelio â hyn?

**Mr Jones:** Ydw, mewn llawer o ffyrdd.

[119] **Alun Cairns:** Felly byddai'n well gennyh i gynllunwyr ceidwadol farchnata a chynghori ar brynu eiddo?

**Mr Jones:** Na, yr wyf yn meddwl ei bod hi'n bwysig eu bod yn trafod â'r cynllunwyr fanylion yr hyn y maent am ei wneud.



discuss it in general terms.

[120] **Alun Cairns:** To move on, Ms Lloyd, do you feel that, in light of the experience, you have any suggestions on how NHS bodies could ensure that marketing is presented in a more productive way in the future?

**Ms Lloyd:** I think that certainly there needs to be an absolute clarity about the planning environment in which the property is being marketed. I think that we need to ensure that best practice, in terms of marketing, is followed at all times. The NHS is not a property development organisation. Nevertheless, we would wish to be assured in my department now that every opportunity has been explored to ensure that we are getting the best value for money and that everybody interested, or possibly interested, in acquiring the property for whatever reason is absolutely aware of the changes in circumstances, or the proper circumstances and potential of the site. That is why I think that a business case—although we do not want to get overly bureaucratic—for disposal is really essential.

[121] **Alun Cairns:** I have one final question, Cadeirydd, with your permission. Bearing in mind the unusual mode of bidding—through the fax machine to the Secretary of State's office—and the lack of information over planning changes, Ms Lloyd, do you accept that this could look fishy, albeit that that may just be a perception?

**Ms Lloyd:** May I just remind the Committee that no bid was sent to the Secretary of State. It was a request for an extension of time only. He quite rightly did not deal with it. However, I think that anything that, in the light of the transparency in which we wish to conduct our affairs, gives the public cause for concern that value for money has not been obtained, must be rectified in terms of the way in which we manage our affairs in the future.

[122] **Dafydd Wigley:** Before I call Alison, may I draw your attention to the contents of a letter that has come to our attention, which was sent to Mr Martin Shipton of the *Wales on Sunday* by the eventual purchaser. She

Gallem ond ei drafod yn gyffredinol.

[120] **Alun Cairns:** I symud ymlaen, Ms Lloyd, a ydych yn teimlo, yng ngoleuni y profiad, fod gennyh awgrymiadau ar sut gallai cyrff y GIG sicrhau bod marchnata'n cael ei gyflwyno mewn ffordd fwy cynhyrchiol yn y dyfodol?

**Ms Lloyd:** Yr wyf yn meddwl bod angen bod yn hollol glir am yr amgylchedd cynllunio y caiff yr eiddo ei farchnata ynddo yn sicr. Credaf fod angen i ni sicrhau yr arferion marchnata gorau bob amser. Nid yw'r GIG yn sefydliad sy'n datblygu eiddo. Serch hynny, hoffai fy adran dderbyn sicrwydd yn awr fod pob cyfle wedi'i archwilio i sicrhau ein bod yn cael y gwerth gorau am arian a bod pawb sydd â diddordeb, neu â diddordeb posibl, mewn caffael yr eiddo am ba reswm bynnag yn hollol ymwybodol o'r newidiadau mewn amgylchiadau, neu amgylchiadau a photensial priodol y safle. Dyna pam y credaf fod achos busnes—er nad ydym am fynd yn orfiwrocraidd—yn gwbl hanfodol ar gyfer gwaredu.

[121] **Alun Cairns:** Mae gennyf un cwestiwn olaf, Gadeirydd, i'w ofyn â'ch caniatâd. O gofio'r dull cynnig anarferol—dros y ffacs i swyddfa'r Ysgrifennydd Gwladol—a'r diffyg gwybodaeth am newidiadau cynllunio, Ms Lloyd, a fyddech chi'n derbyn y gallai hyn edrych yn amheus, er mai canfyddiad yn unig fyddai hynny o bosibl?

**Ms Lloyd:** A gaf i atgoffa'r Pwyllgor nad anfonwyd cynnig at yr Ysgrifennydd Gwladol. Cais am ymestyn amser yn unig ydoedd. Ni ddeliodd ef, yn hollol gywir, â'r mater o gwbl. Fodd bynnag, yn sgîl ein dymuniad i weithredu'n agored, credaf fod unrhyw beth sy'n destun pryder i'r cyhoedd o ran peidio â chael gwerth am arian, angen ei unioni o ran y ffordd yr ydym yn rheoli ein gwaith yn y dyfodol.

[122] **Dafydd Wigley:** Cyn i mi alw Alison, a gaf i dynnu eich sylw at gynnwys llythyr sydd wedi dod i law, a anfonwyd at Mr Martin Shipton o'r *Wales on Sunday*, gan y brynwraig derfynol. Fe ddywed yn ei llythyr:

says in this letter:

‘Knight Frank said that it was too late to put in another bid because decisions had been made and recommendations were being put to the health authority within a week or so. I asked the price of their offer which was about to be accepted and was told £350,000.’

That was before she put her bid in. I understand that her position may have changed slightly in the evidence that she gave to the Auditor General, but is it not outrageous that a potential bidder could have asked what the price was—the best price that was running—be told it, and put in a bid herself some £5,000 higher?

**Ms Lloyd:** As I understand from the Auditor General’s report, the actual highest bid was not £350,000 at that time and, as I understand from his report, what the agent provided her with was the estimate of what the value of that property was.

[123] **Dafydd Wigley:** I understand also that that is the evidence that was given to the Auditor General. However, I come back to the letter, a copy of which I have before me, written by her in the first person:

‘I asked the price of their offer’—

that was the best offer that was standing—

‘which was about to be accepted and was told £350,000.’

Now, for a person to put that in black and white, fairly soon after the event, certainly raises questions.

**Ms Lloyd:** If that was the case, then, in my opinion, that breaches professional standards.

[124] **Dafydd Wigley:** Indeed. I think we would very much agree with that. Alison, would you like to ask a question?

[125] **Alison Halford:** Yes. I do not think that this has been covered and, bearing in mind that the word ‘fishy’ has been used, you

Dywedodd Knight Frank ei bod hi’n rhy hwyr i wneud cynnig arall gan fod penderfyniadau wedi’u gwneud ac argymhellion yn cael eu gwneud i’r awdurdod iechyd ymhen tua wythnos. Gofynnais beth oedd pris eu cynnig a oedd ar fin cael ei dderbyn a rhoddwyd pris o £350,000 i mi.

Yr oedd hynny cyn iddi gyflwyno ei chynnig. Deallaf y gallai ei sefyllfa fod wedi newid ychydig yn y dystiolaeth a roddodd i’r Archwilydd Cyffredinol, ond onid ydyw’n warthus y gallai darpar gynigydd fod wedi gofyn beth oedd y pris—y pris gorau ar y pryd—cael y wybodaeth, a gwneud cynnig o £5,000 yn uwch ei hun?

**Ms Lloyd:** Yn ôl yr hyn a ddeallaf o adroddiad yr Archwilydd Cyffredinol, nid £350,000 oedd y cynnig uchaf ar y pryd ac, yn ôl yr hyn a ddeallaf o’i adroddiad, yr hyn y rhoddodd y gwerthwr iddi oedd amcangyfrif o werth yr eiddo.

[123] **Dafydd Wigley:** Deallaf hefyd mai dyna’r dystiolaeth a roddwyd i’r Archwilydd Cyffredinol. Fodd bynnag, dychwelaf at y llythyr, y mae copi ohono gennyf yma, a ysgrifennwyd ganddi yn y person cyntaf:

Gofynnais beth oedd pris eu cynnig—

sef y cynnig gorau ar y pryd—

oedd ar fin cael ei dderbyn a rhoddwyd pris o £350,000 i mi.

Nawr, mae’r ffaith fod rhywun wedi rhoi hynny ar ddu a gwyn, yn gymharol fuan wedi’r digwyddiad, yn codi cwestiynau.

**Ms Lloyd:** Os dyna a ddigwyddodd, yna, yn fy marn i, mae hynny’n torri safonau proffesiynol.

[124] **Dafydd Wigley:** Yn wir. Yr wyf yn meddwl y byddem yn cytuno’n llwyr â hynny. Alison, a ydych am ofyn cwestiwn?

[125] **Alison Halford:** Ydw. Nid wyf yn credu bod hyn wedi cael sylw ac, o gofio fod y gair ‘amheus’ wedi’i ddefnyddio, efallai yr

might like to look at paragraph 2.40. I will read a part of it for those who do not have the report, if you would indulge me, Chair.

‘The Authority kept a substantial body of records, but not all decisions were fully documented. As already mentioned it did not keep a record of: its decision to proceed with a split conveyance; its consideration and rejection of the advice that it received from the Welsh Office Estates Department in November 1995 to obtain an updated valuation independent of its agent; its actions to ensure that all potential purchasers were informed of the proposed changes in planning restrictions on part of the site from October 1998.’

We know that the planning decision took place in 1997. Do you not agree that not to record these three rather fundamental aspects was somewhat fishy? I do not mind who answers. It may be that Mr Jones was around at the time.

**Mr Jones:** There is really no excuse for not having the records clear for everybody to see now. I would not offer an explanation for that.

[126] **Alison Halford:** But we have heard, have we not, about meticulous people making notes, and yet three—in fact four, but we will talk about clawback later—major items were not recorded?

[127] **Dafydd Wigley:** I think that they have accepted that this is a major deficiency that cannot possibly be justified.

**Ms Lloyd:** That is right.

[128] **Alison Halford:** But for the good of the public—the public would like some sort of comment, I am sure, Chair.

[129] **Dafydd Wigley:** Yes. That is now on record and will be borne in mind when we come to draw up our report. Jocelyn, would you like to come in on this before I call Val?

[130] **Jocelyn Davies:** Yes. On this point, we are told that this particular official was normally meticulous in record keeping—the

hoffech edrych ar baragraff 2.40. Ddarllenaf ran ohono i'r rhai nad oes ganddynt gopi o'r adroddiad, os caf i, Gadeirydd.

‘Cadwodd yr Awdurdod gorff sylweddol o gofnodion, ond ni chafodd pob penderfyniad ei ddogfennu'n llawn. Fel y soniwyd eisoes ni chadwodd gofnod o: ei benderfyniad i fwrw ymlaen â thrawsgludo wedi ei rannu; ei ystyriaeth a'i wrthodiad o'r cyngor a gafodd gan Adran Ystadau'r Swyddfa Gymreig ym mis Tachwedd 1995 i gael y prisiad diweddaraf yn annibynnol ar ei asiant; ei weithredoedd i sicrhau bod pob darpar brynwr yn cael ei hysbysu o'r newidiadau arfaethedig yn y cyfyngiadau cynllunio ar ran o'r safle o fis Hydref 1998.’

Gwyddom fod y penderfyniad cynllunio wedi'i wneud yn 1997. A gytunwch fod peidio â chofnodi'r dair agwedd hynod sylfaenol yma rywfaint yn amheus? Nid oes wahaniaeth gennyf pwy sy'n ateb. Efallai fod Mr Jones o gwmpas ar y pryd.

**Mr Jones:** Nid oes esgus mewn gwirionedd am beidio â chael cofnodion clir i bawb eu gweld yn awr. Ni fyddwn yn cynnig esboniad am hynny.

[126] **Alison Halford:** Ond onid ydym wedi clywed am bobl drwyadl yn gwneud nodiadau, ac eto ni chofnodwyd tair—na, pedair, ond siaradwn am adfachu wedyn—eitem bwysig?

[127] **Dafydd Wigley:** Credaf eu bod wedi derbyn fod hyn yn ddiffyg mawr na ellir ei gyfiawnhau o gwbl.

**Ms Lloyd:** Mae hynny'n wir.

[128] **Alison Halford:** Ond er lles y cyhoedd—byddai'r cyhoedd yn hoffi rhyw fath o sylw, yr wyf yn siŵr, Gadeirydd.

[129] **Dafydd Wigley:** Byddent. Mae hynny bellach wedi'i gofnodi a bydd yn cael ei ystyried wrth lunio ein hadroddiad. Jocelyn, ydych chi am ddod i mewn yma cyn i mi alw ar Val?

[130] **Jocelyn Davies:** Hoffwn. Ar y pwynt hwn, dywedwyd bod y swyddog penodol hwn yn drwyadl iawn o ran cadw

official has been described as meticulous about two or three times, I think. So were these records never made or have they been lost?

[131] **Alun Cairns:** Or destroyed.

[132] **Jocelyn Davies:** Or destroyed. Is there any evidence that records were made but were not sufficient to cover these points? Were they never found? Have they been lost since?

**Mr Towns:** We have the records and we have made a search of the records. Obviously, some of them were with Powys District Health Authority—the earlier ones, which record the majority of this, about the split conveyancing and the 1995 issue, would have been Powys District Health Authority files. The later issue, in 1998, would have been on the Dyfed Powys Health Authority files. My information is that searches were made for this information, and it was not found. There were a number of other matters, which are identified in the report—reasons for the clawback and things like that—that were not recorded. I find it, as I have said, unacceptable, and it should have been recorded.

[133] **Jocelyn Davies:** But as this is coming from an official who was normally meticulous, do we know whether these records were never made or is it just that they have never been found?

**Mr Towns:** We do not know. The individual retired.

[134] **Jocelyn Davies:** We do not know, even given a meticulous record keeper.

[135] **Dafydd Wigley:** Janet do you want to say something on that very quickly? I want to move on to the clawback.

[136] **Janet Davies:** Yes. Very specifically on that, these complaints started coming in—I do not know when people began to be aware of them—but did anybody have access to those records once it was known that complaints were being made about the way that the sale was handled, or were they put in a safe and secure place immediately?

cofnodion—disgrifiwyd y swyddog fel unigolyn drwyadl, ddwy neu dair gwaith, yr wyf yn meddwl. Felly a wnaed y cofnodion hyn o gwbl neu a ydynt wedi mynd ar goll?

[131] **Alun Cairns:** Neu eu difa.

[132] **Jocelyn Davies:** Neu eu difa. A oes tystiolaeth fod cofnodion wedi'u gwneud ond nad oeddynt yn ddigonol i gwmpasu'r pwyntiau hyn? Oni chafwyd hyd iddynt o gwbl? A gollwyd hwy ers hynny?

**Mr Towns:** Mae'r cofnodion gennym ac yr ydym wedi eu harchwilio. Yn amlwg, yr oedd rhai ohonynt gan Awdurdod Iechyd Dosbarth Powys—byddai'r rhai cynharaf, sy'n cofnodi'r rhan fwyaf o hyn, am y trawsgludo wedi ei rannu a mater 1995, yn ffeiliau Awdurdod Iechyd Dosbarth Powys. Byddai'r mater diweddarach, yn 1998, wedi bod ar ffeiliau Awdurdod Iechyd Dyfed Powys. O'r wybodaeth sydd gen i, fe chwiliwyd am y wybodaeth hon, ond ni ddaethpwyd o hyd iddi. Yr oedd nifer o faterion eraill, a nodwyd yn yr adroddiad—rhesymau dros adfachu a phethau felly—na chafodd eu cofnodi. Mae'r cyfan, fel y dywedais, yn annerbyniol, ac fe ddylid fod wedi'i gofnodi.

[133] **Jocelyn Davies:** Ond gan fod hyn yn dod oddi wrth swyddog a oedd yn drwyadl fel arfer, a ydym yn gwybod na wnaed y cofnodion hyn o gwbl neu na ddaethpwyd o hyd iddynt o gwbl?

**Mr Towns:** Nid ydym yn gwybod. Mae'r unigolyn dan sylw wedi ymddeol.

[134] **Jocelyn Davies:** Nid ydym yn gwybod, er ei fod yn gofnodwr drwyadl.

[135] **Dafydd Wigley:** Janet, a ydych am ddweud rhywbeth am hynny'n gyflym iawn? Yr wyf am symud ymlaen i drafod adfachu.

[136] **Janet Davies:** Ydw. Yn benodol ar hynny, dechreuodd y cwynion hyn gyrraedd—nid wyf yn gwybod pryd y dechreuodd pobl fod yn ymwybodol ohonynt—ond a oedd gan rywun fynediad i'r cofnodion hynny unwaith ei bod hi'n hysbys bod cwynion yn cael eu gwneud ynglŷn â'r ffordd y gwerthwyd yr eiddo, neu a roddwyd

hwy mewn lle diogel yn syth?

**Mr Towns:** They would have been in storage with lots of our other records, which we have to keep—patient records and so on.

**Mr Towns:** Byddent wedi'u storio â llawer o'n cofnodion eraill, sy'n rhaid i ni eu cadw—cofnodion cleifion ac ati.

[137] **Dafydd Wigley:** Secure storage?

[137] **Dafydd Wigley:** Mewn lle diogel?

**Mr Towns:** They are all kept as secure items, yes.

**Mr Towns:** Maent i gyd yn cael eu cadw fel eitemau diogel, ydynt.

[138] **Dafydd Wigley:** I want to move on as we are squeezed for time. The question of clawback is very important. Can you take that on, Val?

[138] **Dafydd Wigley:** Yr wyf am symud ymlaen gan fod amser yn brin. Mae cwestiwn adfachu yn bwysig iawn. A allwch chi drafod hynny, Val?

[139] **Val Lloyd:** Yes. I will refer to paragraph 3.26. I know that clawback was mentioned earlier, and I will probably come back to that. This question is probably best directed at Ms Lloyd. Were the circumstances that made clawback unrealistic for this disposal unusual or do they apply to other properties?

[139] **Val Lloyd:** Gallaf. Cyfeiriaf at baragraff 3.26. Yr wyf yn gwybod i adfachu gael ei grybwyll yn gynt, ac mae'n debyg y byddaf yn dychwelyd at hynny. Ms Lloyd yw'r unigolyn gorau i ateb y cwestiwn hwn fwy na thebyg. A oedd yr amgylchiadau a oedd yn gwneud adfachu yn afrealistig yn yr achos gwaredu hwn yn anarferol neu a ydynt yn berthnasol i eiddo arall?

**Mr Jones:** It is always a question of judgment as to whether you apply clawback. In most cases, we would apply clawback. Here, we had a large, listed, difficult building, which we had already decided could not be sold without some of the cherries that existed on the site, that is, some of the houses that have since been sold off. There was clear planning guidance as to what was to be allowed on the site. Taking all that into account, it was felt that we would put too many people off if we were also going to claim any gains that they could possibly make on the planning side.

**Mr Jones:** Mae bob amser yn gwestiwn o farn a ddylid gweithredu'r broses adfachu ai peidio. Yn y rhan fwyaf o achosion, byddem yn gwneud hynny. Yma, yr oedd gennym adeilad mawr, rhestredig, anodd, y penderfynwyd eisoes na ellid ei werthu heb rai o'r atyniadau ychwanegol ar y safle, hynny yw, rhai o'r tai sydd wedi'u gwerthu ers hynny. Yr oedd cyfarwyddyd clir ar yr hyn a ganiateid ar y safle. O ystyried hynny, teimlwyd y byddai gormod o bobl yn cael eu llesteirio pe baem yn hawlio hefyd y gallent efallai wneud enillion ar yr ochr gynllunio.

The fact that it was not recorded is mystifying to me because I am aware that it was discussed between the health authority and the agent and, indeed, they also specifically asked for my opinion. I came in especially to give that opinion to them at a meeting. In fact, it was also the very last thing that I can remember discussing before the property went on the market. So, again, there is no excuse for it being absent from the files. However, it was a point that was discussed in detail and it is an arguable point.

Mae'r ffaith na chafodd ei gofnodi yn ddirgelwch i mi gan fy mod yn ymwybodol fod y mater wedi'i drafod gan yr awdurdod iechyd a'r gwerthwr ac, yn wir, fe ofynnwyd i mi, yn benodol, am fy marn. Mynychais gyfarfod i gyflwyno fy marn yn benodol iddynt. A dweud y gwir, dyna'r peth olaf yr wyf yn cofio ei drafod cyn i'r eddo fynd ar y farchnad. Felly, eto, nid oes esgus dros ei absenoldeb o'r ffeiliau. Fodd bynnag, yr oedd yn bwynt a drafodwyd yn fanwl ac mae'n bwynt dadleuol.

[140] **Val Lloyd:** I stand to be corrected,

[140] **Val Lloyd:** Cwmpaf ar fy mai,

Chair, because we have had a lot of papers on this matter, but I would like to take up this point. From my memory, there was not a listed building there. The buildings were not listed.

**Mr Jones:** Did I say 'listed'? I am sorry. I beg your pardon.

[141] **Val Lloyd:** Yes, as one of the reasons for not having clawback.

**Mr Jones:** I beg your pardon. It was not a listed building. It was a building in a conservation area.

[142] **Val Lloyd:** I would like to take issue with two other matters. Originally, clawback was part of the proposal, particularly for bidder A. When the planning changes came about, I would have thought that that might have been a time to reconsider whether clawback was of value here.

**Mr Jones:** I think it was reconsidered at that point.

[143] **Dafydd Wigley:** But we have no record of it?

**Mr Jones:** Apparently not.

[144] **Jocelyn Davies:** So it is from memory that you recollect that, or do you have notes from that meeting?

**Mr Jones:** No, I probably do not have notes from that meeting.

[145] **Jocelyn Davies:** So, it is from memory then.

**Mr Jones:** Yes, from memory.

[146] **Eleanor Burnham:** I think that Val has already covered my question, but I will ask the question, and, if it has been covered, I am sure that Mr Jones will tell me. Were the circumstances that made clawback unrealistic for the Mid Wales Hospital unusual or do they apply to other NHS properties? I think that you probably might have answered that.

**Mr Jones:** They do apply to others, but, in

Gadeirydd, gan ein bod wedi cael llawer o bapurau ar y mater hwn, ond hoffwn barhau ar y pwynt hwn. O'r hyn yr wyf yn ei gofio, nid oedd adeilad rhestredig yno. Nid oedd yr adeiladau'n rhai rhestredig.

**Mr Jones:** A ddywedais 'rhestredig'? Mae'n ddrwg gen i. Yr wyf yn ymddiheuro.

[141] **Val Lloyd:** Do, fel un o'r rhesymau dros beidio ag adfachu.

**Mr Jones:** Yr wyf yn ymddiheuro. Nid oedd yn adeilad rhestredig. Yr oedd yn adeilad mewn ardal gadwraeth.

[142] **Val Lloyd:** Hoffwn drafod dau fater arall. Yn wreiddiol, yr oedd adfachu yn rhan o'r cynnig, yn benodol i gynigydd A. Pan gafwyd y newidiadau i'r trefniadau cynllunio, fe fyddwn wedi meddwl mai dyna'r amser i ailystyried a oedd adfachu o werth yma.

**Mr Jones:** Yr wyf yn meddwl iddo gael ei ailystyried bryd hynny.

[143] **Dafydd Wigley:** Ond nid oes gennym gofnod ohono?

**Mr Jones:** Mae'n ymddangos felly.

[144] **Jocelyn Davies:** Felly ydych chi'n cofio hynny o'ch cof, neu a oes gennych nodiadau o'r cyfarfod hwnnw?

**Mr Jones:** Na, mae'n debyg nad oes gennyf nodiadau o'r cyfarfod hwnnw.

[145] **Jocelyn Davies:** Felly, mae'r cyfan yn dod o'ch cof.

**Mr Jones:** Ydy, o' nghof.

[146] **Eleanor Burnham:** Credaf fod Val wedi gofyn fy nghwestiwn eisoes, ond gofynnaf y cwestiwn, ac, os yw'r mater wedi cael sylw, yr wyf yn siŵr y dywed Mr Jones wrthyf. A oedd yr amgylchiadau a oedd yn gwneud adfachu yn afrealistig i Ysbyty Canolbarth Cymru yn anarferol neu a ydynt yn berthnasol i eiddo arall y GIG? Credaf eich bod siŵr o fod wedi ateb hynny.

**Mr Jones:** Maent yn berthnasol i eraill, ond,

the majority of cases—we always seek to put in clawback. The decision is not to put it in, if you know what I mean.

[147] **Eleanor Burnham:** It concerns me that there are so many gaps and that no records were kept on these circumstances. It is really very concerning.

My last question is, in order to demonstrate propriety, would you not expect full consideration of clawback to be the rule, even for hospitals in rural areas such as this one?

**Mr Jones:** Absolutely.

[148] **Dafydd Wigley:** We have heard several times this afternoon that decisions, which, at the time, seemed reasonable and obvious, were not fully recorded. In the light of the serious allegations that have been made about the propriety of the disposal, can you tell us your thoughts on the importance of full recording? Can you also tell us of any new steps that you are taking, or might consider taking in the light of this consideration today, or of any other lessons that you have learnt about this episode from the work of the Auditor General and his team, and, in particular, your intentions to take on board all 12 of the recommendations made by the National Audit Office, plus some others that may arise from this afternoon's deliberations?

**Ms Lloyd:** The recording of decisions taken is absolutely vital, as is the reporting of why the decisions are taken in the light of public transparency. We have deliberately held back the publication of the Welsh health circular pending the outcome of the Auditor General's report, so that we could properly encompass all his recommendations within that guidance, and clearly set out draft or model procedures for organisations to follow, in the case of the disposal of any of their assets for the future. So this has been particularly helpful to us in moulding that guidance, and I think that this represents a salutary experience for any health organisation, or any public organisation, aiming to dispose of its assets for the future to make absolutely sure that it is clearly documented why they are taking the

yn y mwyafrif o achosion—ceisiwn adfachu bob tro. Y penderfyniad yw peidio â'i weithredu, os ydych yn deall.

[147] **Eleanor Burnham:** Mae'n destun pryder i mi bod cymaint o fylchau ac na chadwyd cofnodion ar yr amgylchiadau hyn. Mae hyn yn destun pryder mawr.

Fy nghwestiwn olaf yw, er mwyn gweithredu'n briodol, oni fydddech yn disgwyl bod adfachu yn cael ei ystyried yn llawn, hyd yn oed mewn ysbytai mewn ardaloedd gwledig fel yr ysbyty hwn?

**Mr Jones:** Yn hollol.

[148] **Dafydd Wigley:** Yr ydym wedi clywed sawl gwaith y prynhawn yma na chofnodwyd penderfyniadau, a oedd, ar y pryd, yn ymddangos yn rhesymol ac amlwg. Yn sgîl y cyhuddiadau difrifol a wnaed am briodoldeb y gwaredu, a allwch chi roi eich sylwadau i ni ar bwysigrwydd cofnodi llawn? Allwch chi ddweud wrthym hefyd am unrhyw gamau newydd yr ydych yn eu cymryd, neu yn ystyried eu cymryd yn sgîl y drafodaeth hon heddiw, neu am unrhyw wersi eraill yr ydych wedi'u dysgu am hyn o waith yr Archwilydd Cyffredinol a'i dîm, ac, yn arbennig, eich bwriadau i ystyried pob un o 12 argymhelliad y Swyddfa Archwilio Genedlaethol, ynghyd â rhai eraill a allai godi o drafodaethau'r prynhawn?

**Ms Lloyd:** Mae cofnodi penderfyniadau a wnaed yn hollol hanfodol, fel y mae adrodd pam fod penderfyniadau'n cael eu gwneud fel eu bod yn eglur i'r cyhoedd. Yr ydym wedi oedi cyn cyhoeddi cylchlythyr iechyd Cymru yn fwriadol tra'n aros am ganlyniad adroddiad yr Archwilydd Cyffredinol, fel y gallwn gwmpasu ei holl argymhellion yn briodol yn y cyfarwyddyd hwnnw, a gosod gweithdrefnau drafft neu fodel clir i sefydliadau eu dilyn, ynglŷn â gwaredu unrhyw rai o'u hasedau yn y dyfodol. Felly mae hyn wedi bod yn ddefnyddiol iawn i ni o ran llunio'r cyfarwyddyd hwnnw, a chredaf fod hyn yn brofiad llesol i unrhyw sefydliad iechyd, neu sefydliad cyhoeddus, sy'n ceisio gwaredu ei asedau yn y dyfodol i wneud yn hollol sicr fod y rhesymau dros eu penderfyniadu wedi'u dogfennu'n glir.

decisions. They do really have to prove that they have obtained best value for their property and that they satisfy now the Welsh Assembly Government's requirements on sustainable development as well.

[149] **Dafydd Wigley:** I am grateful. I conclude this agenda item by observing that this report has confirmed a significant number of weaknesses in the system that existed at that time, which justifies the considerable amount of work that has been put into this report, and also the fact that members of the public brought it to our attention, for which I thank them. There are, inevitably, some aspects of the allegations that were made which it has not been possible for the National Audit Office to substantiate. It is always difficult to prove a negative, or indeed to impugn motivation, but there may well be some aspects that have arisen from this afternoon's inquiry that Sir John Bourn and his team will want to revisit—as he has every right to do if he believes that there are matters that need to be followed up further. Also, some matters fell outside the jurisdiction of the Auditor General and some of these, I know, are being followed up through other channels, such as the ombudsman.

May I make it clear that Audit Committee hearings are not a court of law? What we consider are systematic weaknesses and what steps can be taken to improve systems so that we do not have to relive mistakes that have been made in the past. In that context, this inquiry has been valuable, and this Committee will formulate its report on the basis of what has been said today as well as the report prepared by the Auditor General.

Hoffwn, felly, ddiolch i'r tystion am eu hymatebion llawn ac adeiladol i'r cwestiynau. Bydd trawsgrifiad drafft yn cael ei baratoi fel y gellir cadarnhau cywirdeb ffeithiol, ac fe'i hanfonir atoch cyn ei gyhoeddi fel rhan o'r cofnodion. Pan gyhoeddir adroddiad y Pwyllgor, cynhwysir y trawsysgrif fel atodiad.

Mae'n rhaid iddynt brofi eu bod yn awr wedi sicrhau'r gwerth gorau am eu heiddo a'u bod yn bodloni gofynion datblygu cynaliadwy Llywodraeth Cynulliad Cymru hefyd.

[149] **Dafydd Wigley:** Yr wyf yn ddiolchgar. Clof yr eitem hon ar yr agenda drwy sylwi bod yr adroddiad hwn wedi cadarnhau nifer sylweddol o wendidau yn y system a oedd yn bodoli ar y pryd, sy'n cyfiawnhau'r gwaith helaeth a wnaed mewn perthynas â'r adroddiad hwn, a'r ffaith fod aelodau'r cyhoedd wedi dod â'r mater i'n sylw, a diolchaf iddynt am hynny. Yn anochel, mae rhai agweddau ar y cyhuddiadau a wnaed nad oedd modd i'r Swyddfa Archwilio Genedlaethol eu profi. Mae bob amser yn anodd profi cymhelliad negyddol, neu i amau cymhelliad, ond efallai y bydd Syr John Bourn a'i dîm am ailedrych ar rai agweddau sydd wedi codi yn sgîl ymchwiliad y prynhawn yma—mae ganddo bob hawl i wneud hynny os yw'n credu bod materion sydd angen eu trafod ymhellach. Hefyd, yr oedd rhai materion nad oeddynt yn dod o fewn awdurdod yr Archwilydd Cyffredinol, ac mae rhai o'r rhain, yr wyf yn gwybod, yn cael eu dilyn drwy sianeli eraill, megis yr ombwdsman.

A gaf i nodi'n glir nad yw gwrandawiadau'r Pwyllgor Archwilio yn llys barn. Yr hyn yr ydym yn ei ystyried yw gwendidau systematig a pha gamau y gellir eu cymryd i wella systemau fel nad oes yn rhaid i ni ail-fyw camgymeriadau'r gorffennol. Yn y cyddestun hwnnw, mae'r ymchwiliad hwn wedi bod yn werthfawr, a bydd y Pwyllgor hwn yn llunio ei adroddiad ar sail yr hyn a ddywedwyd yma heddiw yn ogystal ag ar sail adroddiad yr Archwilydd Cyffredinol.

I would therefore like to thank the witnesses for their full and constructive responses to the questions. A draft transcript will be prepared in order to ensure factual accuracy, and will be sent to you before it is published as part of the minutes. When the Committee's report is published, the transcript will be appended.

*Daeth y sesiwn cymryd tystiolaeth i ben am 3.16 p.m.  
The evidence-taking session ended at 3.16 p.m.*





**Cynulliad Cenedlaethol Cymru  
Pwyllgor Archwilio**

**The National Assembly for Wales  
Audit Committee**

**Archwiliad Pellach o Faterion yn Deillio o Waredu Ysbyty  
Canolbarth Cymru  
Further Examination of Matters Arising from the Disposal  
of the Mid Wales Hospital**

**Cwestiynau 1-105  
Questions 1-105**

**Dydd Iau 15 Ionawr 2004  
Thursday 15 January 2004**

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

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

*Tystion: Ms Ann Lloyd, Cyfarwyddwr GIG Cymru; Allan Coffey, Prif Weithredwr Bwrdd Iechyd Lleol Sir Fynwy; Andy Williams, Prif Weithredwr Bwrdd Iechyd Lleol Powys.*

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

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

*Witnesses: Ann Lloyd, Director, NHS Wales; Allan Coffey, Chief Executive, Monmouthshire Local Health Board; Andy Williams, Chief Executive, Powys Local Health Board.*

*Dechreuodd y sesiwn cymryd tystiolaeth am 11.15 a.m.  
The evidence-taking session began at 11.15 a.m.*

[1] **Janet Davies:** The second hearing of this morning's Committee is a further examination of matters arising from the disposal of the Mid Wales Hospital. Before we go into it—and I will ask Sir John Bourn to give us a background—I inform people who were not here for the first session that there are headsets through which you will get a translation from Welsh and through which you will be able to hear more easily if you have difficulty in hearing. Sir John, could you set the context for this report?

**Sir John Bourn:** Thank you, Chair. When the Committee discussed the report that we had prepared in October 2002, it became clear, during the Committee's session, that there were further issues to be followed up. It was brought out very clearly, and I think very usefully, that this was so. I therefore suggested to the Committee that I should do further work on these issues, particularly in the areas of documentation, in the areas of planning criteria and clawback and in relation to a mysterious fax sent to the Secretary of State. This request, or suggestion, with which the Committee agreed, also enabled us to pick up subsequent allegations made that

[1] **Janet Davies:** Archwiliad pellach o faterion yn deillio o waredu Ysbyty Canolbarth Cymru yw ail wrandawriad y Pwyllgor y bore yma. Cyn i ni ddechrau arni—a byddaf yn gofyn i Syr John Bourn roi cefndir i ni—hoffwn atgoffa pobl nad oeddent yn bresennol yn y sesiwn gyntaf fod clustffonau ar gael i'ch galluogi i gael cyfieithiad o'r Gymraeg a'ch galluogi i glywed yn haws os ydych yn cael trafferth clywed. Syr John, a allwch roi cyd-destun yr adroddiad hwn?

**Syr John Bourn:** Diolch, Gadeirydd. Pan drafododd y Pwyllgor yr adroddiad yr oeddem wedi ei baratoi ym mis Hydref 2002, daeth yn amlwg, yn ystod sesiwn y Pwyllgor, fod materion pellach i'w trafod. Dangoswyd yn glir iawn, ac mewn modd buddiol iawn yn fy marn i, mai felly yr oedd hi. Felly awgrymais wrth y Pwyllgor y dylwn wneud rhagor o waith ar y materion hyn, yn enwedig o ran y dogfennau, ym maes meini prawf cynllunio ac adfachu ac o ran rhyw ffacs dirgel a anfonwyd at yr Ysgrifennydd Gwladol. Yr oedd y cais hwn, neu'r awgrym hwn, y cytunodd y Pwyllgor ag ef, yn ein galluogi hefyd i roi sylw i honiadau a wnaed

Powys Healthcare NHS Trust had improperly paid rent for its occupancy of the site after the sale. So, the further work that we have done picks up the points that came out in the Committee's first discussion of the issue and takes account of other points that had come out in our further research. What we have sought to do, Chair, is to put before the Committee a consolidated account of the issues that are outstanding for your examination.

[2] **Janet Davies:** Thank you, Sir John. I think that the Committee feels that this session should give us the opportunity to get a fuller understanding of the disposal process. Mrs Lloyd, would you and the other witnesses introduce yourselves?

**Ms Lloyd:** I am Ann Lloyd, the Director of the NHS in Wales.

**Mr Coffey:** I am Allan Coffey, chief executive of Monmouthshire Local Health Board.

**Mr Williams:** My name is Andy Williams; I am chief executive of Powys Local Health Board.

[3] **Janet Davies:** Thank you and welcome to this hearing.

I will start the questions. I would like to refer to paragraphs 7-15 of the report, where further reasons are given for not keeping full records. Mrs Lloyd, these paragraphs confirm that full and proper records were not kept. In your experience, do the gaps in documentation identified typify the standard of national health service business documentation in Wales?

**Ms Lloyd:** Certainly not now, Chair. I was not working in Wales at the time of this particular set of transactions, so I am afraid that I am at a loss to be able to explain whether or not this was common practice then. However, since the very helpful report of the National Audit Office back in October 2002, we have issued a number of documents, as I said I would at that hearing, to ensure that there is proper probity in the management of records, in proper audit trails

wedi hynny fod Ymddiriedolaeth GIG Gofal Iechyd Powys wedi talu rhent yn amhriodol am fod â'r safle yn ei meddiant ar ôl ei werthu. Felly, mae'r gwaith pellach yr ydym wedi ei wneud yn rhoi sylw i'r pwyntiau a godwyd y tro cyntaf y trafododd y Pwyllgor y mater ac yn ystyried pwyntiau eraill a ddaeth i'r amlwg yn ein hymchwil bellach. Yr hyn yr ydym wedi ceisio ei wneud, Gadeirydd, yw rhoi gerbron y Pwyllgor adroddiad sy'n cyfuno'r materion sydd heb eu trafod fel y gallwch eu harchwilio.

[2] **Janet Davies:** Diolch, Syr John. Credaf fod y Pwyllgor yn teimlo y dylai'r sesiwn hon roi cyfle i ni ddeall y broses waredu yn well. Mrs Lloyd, a wnewch chi a'r tystion eraill gyflwyno'ch hunain?

**Ms Lloyd:** Ann Lloyd, Cyfarwyddwr y GIG yng Nghymru, wyf fi.

**Mr Coffey:** Allan Coffey, prif weithredwr Bwrdd Iechyd Lleol Sir Fynwy, wyf fi.

**Mr Williams:** Andy Williams yw fy enw i; fi yw prif weithredwr Bwrdd Iechyd Lleol Powys.

[3] **Janet Davies:** Diolch a chroeso i'r gwrandawriad hwn.

Dechreuaf y cwestiynau. Hoffwn gyfeirio at baragraffau 7-15 yn yr adroddiad, lle y rhoddir rhesymau pellach dros beidio â chadw cofnodion llawn. Mrs Lloyd, mae'r paragraffau hyn yn cadarnhau na chadwyd cofnodion llawn a chywir. Yn eich profiad chi, a yw'r bylchau a nodwyd yn y dogfennau yn nodweddiadol o safon dogfennau busnes y gwasanaeth iechyd gwladol yng Nghymru?

**Ms Lloyd:** Nac ydynt erbyn hyn yn bendant, Gadeirydd. Nid oeddwn yn gweithio yng Nghymru adeg y gyfres benodol hon o drafodion, felly mae arnaf ofn na allaf egluro a oedd hyn yn arfer cyffredin bryd hynny ai peidio. Fodd bynnag, ers adroddiad defnyddiol iawn y Swyddfa Archwilio Genedlaethol ym mis Hydref 2002, yr ydym wedi cyhoeddi nifer o ddogfennau, fel y dywedais y byddwn yn gwneud yn y gwrandawriad hwnnw, i sicrhau bod

being undertaken in the disposal of property, and a mandatory requirement for the Welsh Health Estates Service to provide proper professional advice to individual organisations, which are thinking of disposing or acquiring property, thereby ensuring that a mandatory framework is placed on the NHS in Wales to ensure that it keeps accurate and good records of its transactions. It can be of no comfort to any of us to be in the position of having to defend actions of some years ago, where there has been really inadequate record-keeping of the nature described in the Auditor General's report. It is in everybody's best interest that the NHS is able to prove at every step that it has taken all its decisions with a good analysis of the risks surrounding the transaction and to ensure that proper probity can be safeguarded at all times.

[4] **Janet Davies:** Thank you, Mrs Lloyd. Denise?

[5] **Denise Idris Jones:** Thank you. Good morning. Paragraph 23 on page 8 of the report refers quite clearly to the fact that Mrs Bailey made her bid on 12 May and that her fax on 17 May was not a late bid. In fact, Mrs Bailey's fax of 17 May seems to have led to a lot of allegations, when it appears to have been a simple request for some extra time to supply supporting documentation. Can you confirm that she did make her bid on 12 May and that she supplied the requested information by 17 May—that is, that she did not receive any preferential treatment?

**Ms Lloyd:** She did not receive preferential treatment; she faxed to ask for an extension.

[6] **Denise Idris Jones:** A 12-hour extension?

**Ms Lloyd:** Yes, a 12-hour extension, which, indeed, she did not take up. It was dealt with, as you can see. The information provided by the officials to the Secretary of State at the time is quite clearly stated. Added to the evidence that I gave at our last hearing about this issue, it certainly was not a late bid; late bids are not accepted.

gonestrwydd priodol wrth reoli cofnodion, fod trywyddau archwilio priodol yn cael eu dilyn wrth waredu eiddo, a'i bod yn orfodol bod Gwasanaeth Ystadau Iechyd Cymru yn darparu cyngor proffesiynol priodol i sefydliadau unigol, sy'n ystyried gwaredu neu gaffael eiddo, a thrwy hynny sicrhau bod fframwaith gorfodol yn cael ei gyflwyno i'r GIG yng Nghymru i sicrhau ei fod yn cadw cofnodion cywir a da o'i drafodion. Ni all fod yn fawr o gysur i neb ohonom orfod amddiffyn camau a gymerwyd rai blynyddoedd yn ôl, lle y bu cofnodi hollol annigonol o'r math a ddisgrifir yn adroddiad yr Archwilydd Cyffredinol. Mae er budd pawb fod y GIG yn gallu profi ym mhob cam ei fod wedi gwneud ei holl benderfyniadau gyda dadansoddiad da o'r risgiau sy'n gysylltiedig â'r trafodion gan sicrhau bod modd diogelu'r gonestrwydd priodol bob amser.

[4] **Janet Davies:** Diolch, Mrs Lloyd. Denise?

[5] **Denise Idris Jones:** Diolch. Bore da. Mae paragraff 23 ar dudalen 8 yn yr adroddiad yn nodi'n eithaf clir i Mrs Bailey wneud ei chynnig ar 12 Mai ac nad cynnig hwyr oedd ei ffacs ar 17 Mai. Mewn gwirionedd, mae'n ymddangos bod ffacs Mrs Bailey ar 17 Mai wedi arwain at lu o honiadau, er ei bod yn ymddangos mai cais syml am ragor o amser i gyflwyno dogfennau ategol ydoedd. A allwch gadarnhau iddi wneud ei chais ar 12 Mai ac iddi gyflwyno'r wybodaeth y gofynnwyd amdani erbyn 17 Mai—hynny yw, na chafodd hi ffafriaeth?

**Ms Lloyd:** Ni chafodd ffafriaeth; anfonodd ffacs i ofyn am estyniad.

[6] **Denise Idris Jones:** Estyniad 12-awr?

**Ms Lloyd:** Ie, estyniad 12-awr, ond, yn wir, ni fanteisiodd ar yr estyniad hwnnw. Deliwed â'r mater, fel y gallwch weld. Mae'r wybodaeth a ddarparwyd gan y swyddogion i'r Ysgrifennydd Gwladol ar y pryd wedi ei nodi'n glir. O'i hychwanegu at y dystiolaeth a roddais yn ein gwrandawriad diwethaf am y mater hwn, nid cynnig hwyr ydoedd yn bendant; ni dderbynnir cynigion hwyr.

[7] **Denise Idris Jones:** Would it therefore not be better if everyone was given the same amount of time, and then this kind of allegation would not happen again?

**Ms Lloyd:** Absolutely. Everybody is entitled to ask for a delay in providing us with information, but it is quite unusual that that should be done; it has to be done in a very open and honest manner, and the same accommodation has to be offered to all other bidders.

[8] **Denise Idris Jones:** Was it not known, therefore, that they could ask for this extra time?

**Ms Lloyd:** I am afraid that I cannot answer that question; I do not have that information available to me.

[9] **Janet Davies:** Thank you. Alun?

[10] **Alun Cairns:** Thank you, Cadeirydd. Just to come back on the question that Denise Idris Jones asked, Ms Lloyd: if you do not have the information, who does?

**Ms Lloyd:** I can certainly investigate further with the NAO into the precise details that it acquired through its investigation—this obviously is a report of that investigation—on whether or not it was able, from the evidence available, to track down, to audit whether or not the same accommodation was extended to others, but I would have to go back to Sir John to ask for his opinion on whether or not he found that evidence.

[11] **Alun Cairns:** Thank you. I want to refer to—

[12] **Janet Davies:** Alun, can I stop you there for a second, because this is something that we can clear up here and now rather than let it drift on for a week or so.

**Sir John Bourn:** I wonder if I could ask Mr Usher to take that point.

**Mr Usher:** Certainly. Mrs Bailey made a request by fax to the Secretary of State for the 12-hour extension and that was granted,

[7] **Denise Idris Jones:** Oni fyddai'n well felly pe bai pawb yn cael yr un faint o amser, yna ni fyddai honiad o'r math hwn yn digwydd eto?

**Ms Lloyd:** Yn hollol. Mae gan bawb yr hawl i ofyn am ragor o amser i ddarparu gwybodaeth i ni, ond mae'n bur anarferol i hynny ddigwydd; rhaid ei wneud mewn modd agored a gonest, a rhaid cynnig yr un hyblygrwydd i bob cynigydd arall.

[8] **Denise Idris Jones:** Onid ydoedd yn hysbys, felly, fod modd iddynt ofyn am yr amser ychwanegol hwn?

**Ms Lloyd:** Mae arnaf ofn na allaf ateb y cwestiwn hwnnw; nid yw'r wybodaeth honno gennyf.

[9] **Janet Davies:** Diolch. Alun?

[10] **Alun Cairns:** Diolch, Gadeirydd. A dod yn ôl at gwestiwn Denise Idris Jones, Ms Lloyd: os nad yw'r wybodaeth gennych chi, gan bwy y mae?

**Ms Lloyd:** Yn sicr, gallaf ymchwilio ymhellach gyda'r SAG i'r union fanylion a gasglodd drwy ei hymchwiliad—adroddiad yr ymchwiliad hwnnw yw hwn yn amlwg — ynghylch a fu modd iddi, yn ôl y dystiolaeth a oedd ar gael, ddarganfod, archwilio a gafodd yr un hyblygrwydd ei gynnig i eraill ai peidio, ond byddai'n rhaid i mi ddychwelyd at Syr John i ofyn iddo a ddaeth o hyd i'r dystiolaeth honno ai peidio yn ei farn ef.

[11] **Alun Cairns:** Diolch. Yr wyf am gyfeirio at—

[12] **Janet Davies:** Alun, a gaf fi dorri ar eich traws am eiliad, oherwydd mae hyn yn rhywbeth y gallwn ei ddatrys ar unwaith yn hytrach na gadael iddo lusgo am ryw wythnos.

**Syr John Bourn:** Ys gwn i a allwn ofyn i Mr Usher drafod y pwynt hwnnw?

**Mr Usher:** Wrth gwrs. Gwnaeth Mrs Bailey gais drwy ffacs i'r Ysgrifennydd Gwladol am yr estyniad 12-awr a rhoddwyd hwnnw, fel y

as the witness has said. That accommodation was not offered to other bidders, so she was, in that sense, placed at an advantage over other bidders.

[13] **Janet Davies:** Thank you.

[14] **Alun Cairns:** Mr Coffey, I would like to refer to paragraphs 30 and 31 of the Auditor General's report. It might be useful if I summarise it for people observing, or maybe to clarify my understanding that £355,000 was agreed as a sale price for the premises when the sale was completed in October 1999, together with a peppercorn rent for five years, with certain surrender arrangements built into that process. However, in March 2000, the trust had agreed a payment of £120,000 in order to buy itself out of its lease commitment, which was at a peppercorn rent. So, effectively, the £355,000 does not seem to be much, although it might well have been the market value at the time, but the trust effectively had to refund £120,000 on top.

**Mr Coffey:** If I can just describe the process of the arrangements for the buy-out of the lease. The sale was transacted and completed, as you say, in October 1999. As part of the sale and the benefits of the sale to the eventual owner, we had to insist upon a lease being inserted into that sale document because we still had 70 patients on the mid Wales site. So, by selling the property, we could sell it subject to us having the ability to lease back for a maximum period of five years at the time, until such time as we had relocated the patients back into other NHS property.

Now, the decision to buy out the lease was taken when we were able to relocate the elderly, long-stay patients. There are two tranches of patients. The first tranche of adult acute patients were transferred fairly rapidly and were subject to a separate lease, which was about a month long. The patients were transferred and the lease expired. The second lease, which related to the elderly, long-stay patients, which was the five-year lease, with the 12-month break clause, was there for two reasons really. The 12-month break clause

dywedodd y tyst. Ni chynigiwyd yr hyblygrwydd hwnnw i'r cynigwyr eraill, felly yr oedd ganddi, yn hynny o beth, fantais ar y cynigwyr eraill.

[13] **Janet Davies:** Diolch.

[14] **Alun Cairns:** Mr Coffey, hoffwn gyfeirio at baragraffau 30 a 31 yn adroddiad yr Archwilydd Cyffredinol. Efallai y byddai'n ddefnyddiol pe bawn yn ei grynhoi ar gyfer y bobl sy'n arsylwi, neu efallai i egluro fy nealltwriaeth bod £355,000 wedi ei dderbyn fel pris gwerthu'r eiddo pan gwblhawyd y gwerthiant ym mis Hydref 1999, ynghyd â rhent rhad am bum mlynedd, a rhai trefniadau ildio yn rhan o'r broses honno. Fodd bynnag, ym mis Mawrth 2000, yr oedd yr ymddiriedolaeth wedi cytuno ar daliad o £120,000 i'w rhyddhau ei hun o'i hymrwymiad i'r brydles, a oedd am rent rhad. Felly, i bob pwrpas, nid yw'r £355,000 yn ymddangos yn llawer, er ei bod yn eithaf posibl mai dyna oedd y gwerth marchnadol ar y pryd, ond bu'n rhaid i'r ymddiriedolaeth ad-dalu £120,000 ar ben hynny i bob pwrpas.

**Mr Coffey:** Os caf fi ddisgrifio proses y trefniadau ar gyfer prynu gweddill y brydles. Trafodwyd a chwblhawyd y gwerthiant, fel yr ydych chi'n dweud, ym mis Hydref 1999. Fel rhan o'r gwerthiant a buddiannau'r gwerthiant i'r perchennog yn y pen draw, yr oedd yn rhaid i ni fynnu bod prydles yn cael ei chynnwys yn nogfen y gwerthiant hwnnw oherwydd bod gennym 70 o gleifion ar y safle yn y Canolbarth o hyd. Felly, drwy werthu'r eiddo, gallem ei werthu ar yr amod ein bod ni'n gallu ei brydlesu yn ôl am gyfnod o hyd at bum mlynedd ar y pryd, nes ein bod wedi symud y cleifion yn ôl i rywle arall sy'n eiddo i'r GIG.

Yn awr, penderfynwyd prynu gweddill y brydles pan oeddem yn gallu symud y cleifion hirdymor, oedrannus. Mae dau grŵp o gleifion. Trosglwyddwyd y grŵp cyntaf o gleifion aciwt mewn oed yn eithaf cyflym ac yr oeddent yn destun prydles ar wahân, a oedd yn para tua mis. Symudwyd y cleifion a daeth y brydles i ben. Yr oedd dau reswm mewn gwirionedd dros yr ail brydles, a oedd yn ymwneud â'r cleifion oedrannus, arhosiad hir, sef y brydles bum mlynedd, gyda'r cymal toriad 12-mis. Pwrpas y cymal toriad 12-mis

was to limit the trust's financial liability, so, at any point within that five-year lease, we could instigate the 12-month break clause, and that would be the real extent of our financial commitment. In our judgment, that was a realistic amount of time, given the state of play and the vagaries around transferring patients, and what could hinder that process because, obviously, relatives have views and judicial reviews can be called. However, with a fair wind, we felt that we could relocate those patients within 12 months and, so, a 12-month termination was deemed viable, acceptable and reasonable. The five years was to protect the patients so that, should something untoward happen, we had the option to go up to the five years.

Now, the other thing to understand in all of this is that, while a peppercorn rent would be paid by us, the actual running costs of the hospital, in terms of the heating, maintenance, security, overheads and so on, would continue. So, had we continued with the lease for five years, we would have had to maintain that property, because another clause in the lease was to maintain the fabric of the building as at the point that it was completed and transferred to the ownership of Mrs Bailey. So, in order to do that, we could not just shut it down and so on. There were ongoing significant financial liabilities and, equally and opposite if you like, for the owner to take on those liabilities earlier, clearly it would be a major financial commitment to her. So, it was done in that light.

[15] **Alun Cairns:** But, if I go back to the original report provided by the Auditor General, and to figure 3, it states that in the bid of £355,000, there were no conditions. So, I assume that this lease arrangement was arranged at the convenience of the trust. So, in the simplest terms, what effectively happened was that the health authority received £355,000 as a sale of the premises, but the trust then paid back £120,000 in order to buy itself out of the lease. Did that happen because of the lack of planning and foresight on behalf of the trust and the health authority

oedd cyfyngu ar gyfrifoldeb ariannol yr ymddiriedolaeth, fel bod modd inni, ar unrhyw adeg yn ystod y brydles bum mlynedd honno, weithredu'r cymal egwyl 12-mis, a dyna fyddai gwir faint ein hymrwymiad ariannol. Yn ein barn ni, yr oedd hynny'n gyfnod realistig, o ystyried y sefyllfa a'r ansicrwydd sy'n gysylltiedig â symud cleifion, a'r hyn a allai lesteirio'r broses honno oherwydd bod gan berthnasau eu barn, mae'n amlwg, a gellir gofyn am adolygiadau barnwrol. Fodd bynnag, gyda thamaid bach o lwc, yr oeddem yn teimlo y gallem symud y cleifion hynny o fewn 12 mis ac, felly, tybid bod terfyniad 12 mis yn bosibl, yn dderbyniol ac yn rhesymol. Pwrpas y pum mlynedd oedd diogelu'r cleifion fel bod gennym yr opsiwn, pe bai rhywbeth annisgwyl yn digwydd, i aros hyd at bum mlynedd.

Yn awr, y pwynt arall i'w ddeall yn hyn i gyd yw, tra byddem ni'n talu rhent rhad, byddai costau gwirioneddol cynnal yr ysbyty, o ran y gwres, cynnal a chadw, diogelwch, costau cyffredinol ac yn y blaen, yn parhau. Felly, pe baem wedi parhau â'r brydles am bum mlynedd, byddem wedi gorfod cynnal yr eiddo hwnnw, oherwydd cymal arall yn y brydles oedd cynnal strwythur yr adeilad fel yr oedd pan gafodd ei gwblhau a'i drosglwyddo i berchenogaeth Mrs Bailey. Felly, er mwyn gwneud hynny, ni allem ei gau ac yn y blaen, a dyna ddiwedd arni. Yr oedd cyfrifoldebau ariannol sylweddol yn parhau ac, yn yr un modd ac i'r gwrthwyneb os hoffwch, byddai wedi bod yn ymrwymiad ariannol mawr, yn amlwg, i'r perchennog ysgwyddo'r cyfrifoldebau hynny yn gynharach. Felly, gweithredwyd ar y sail honno.

[15] **Alun Cairns:** Ond, os dychwelaf at yr adroddiad gwreiddiol a ddarparwyd gan yr Archwilydd Cyffredinol, ac at ffigur 3, mae'n nodi nad oedd amodau yn y cynnig o £355,000. Felly, yr wyf yn tybio i'r trefniant hwn o ran y brydles gael ei drefnu er hwylustod i'r ymddiriedolaeth. Felly, yn y termau symlaf, yr hyn a ddigwyddodd i bob pwrpas oedd i'r awdurdod iechyd dderbyn £355,000 drwy werthu'r adeiladau, ond wedyn ad-dalodd yr ymddiriedolaeth £120,000 i'w rhyddhau ei hun o'r brydles. Ai oherwydd diffyg cynllunio a rhagweld ar ran

in working together?

**Mr Coffey:** No, the trust and the health authority worked together in the sale of the hospital. It was predominantly within the remit of the health authority, whose property it was to sell. The health authority actually wrote in the five-year lease in terms of one of the conditions of the sale of the property. So, the sale of the property was together with a five-year lease; it was not a separate lease negotiated after the sale of the property. It was incumbent in the sale of the property that anybody who bought it had to afford the trust a five-year lease, because there were 70 patients still there.

[16] **Alun Cairns:** Yes, but that condition and that request was made by the trust and the health authority on purchasing the property, but then, because of the lack of foresight and planning, just a short number of months later, from October 1999 to March 2000, we end up paying back £120,000 in order to buy ourselves out of the commitment that we forced the purchaser to accept.

**Mr Coffey:** The reason the five-year lease was insisted upon in the original sale is because there were 70 patients in the hospital. Those 70 patients could, in theory, take up to five years, if not more, to get out of the hospital. Had there been a judicial review, as there has been in other instances in the NHS, the hospital closure could have been forestalled, and those patients could have been in for a longer time. Our prime motivation was the protection of those patients, some of whom had lived there for in excess of 30 or 40 years, and their homes, so there had to be a proviso within the sale to accommodate the interests of the patients. So that was an absolute requirement. The fact that we then negotiated a break clause of 12 months was entirely due to our limiting our financial liability. They are two different things. It was one lease, but, in terms of financial contribution, in terms of the financial liability to the trust, we could invoke that lease at any time. We invoked it as soon as we knew that it was likely that we could resettle or relocate the patients within a

yr ymddiriedolaeth a'r awdurdod iechyd wrth weithio gyda'i gilydd y digwyddodd hynny?

**Mr Coffey:** Na, bu'r ymddiriedolaeth a'r awdurdod iechyd yn gweithio gyda'i gilydd wrth werthu'r ysbyty. Yr oedd o fewn cylch gorchwyl yr awdurdod iechyd yn bennaf, a hwnnw oedd yn gwerthu'r eiddo. Mewn gwirionedd, yr awdurdod iechyd a ychwanegodd y brydles bum mlynedd fel un o amodau gwerthu'r eiddo. Felly, yr oedd yr eiddo yn cael ei werthu gyda phrydles bum mlynedd; nid prydles ar wahân wedi'i negodi ar ôl gwerthu'r eiddo ydoedd. Yr oedd yn rheidrwydd wrth i'r eiddo gael ei werthu fod unrhyw un a oedd yn ei brynu yn rhoi prydles bum mlynedd i'r ymddiriedolaeth, oherwydd bod 70 o gleifion yno o hyd.

[16] **Alun Cairns:** Iawn, ond gwnaed yr amod hwnnw a'r cais hwnnw gan yr ymddiriedolaeth a'r awdurdod iechyd wrth i'r eiddo gael ei brynu, ond wedyn, oherwydd diffyg rhagweld a chynllunio, ychydig fisoedd yn ddiweddarach, o fis Hydref 1999 tan fis Mawrth 2000, yr ydym yn gorfod adalu £120,000 er mwyn ein rhyddhau ein hunain o'r ymrwymiad yr oeddem wedi gorfodi'r prynwr i'w dderbyn.

**Mr Coffey:** Y rheswm dros fynnu cael y brydles bum mlynedd yn y gwerthiant gwreiddiol oedd bod 70 o gleifion yn yr ysbyty. Gallai'r 70 claf hynny, yn ddamcaniaethol, gymryd hyd at bum mlynedd, os nad mwy, i adael yr ysbyty. Pe bai adolygiad barnwrol wedi ei gynnal, fel sydd wedi digwydd mewn achosion eraill yn y GIG, gallai hynny fod wedi atal cau'r ysbyty, a gallai'r cleifion hynny fod wedi bod yn yr ysbyty yn hwy. Ein prif gymhelliad oedd diogelu'r cleifion hynny, rhai ohonynt yn byw yno ers dros 30 neu 40 mlynedd, a'u cartrefi, felly rhaid oedd cael amod yn y gwerthiant i ystyried lles y cleifion. Felly yr oedd hynny'n ofyniad pendant. Yr unig reswm y bu i ni negodi cymal toriad 12 mis wedyn oedd ein bod am gyfyngu ar ein cyfrifoldeb ariannol. Maent yn ddau beth gwahanol. Un brydles ydoedd, ond, o ran cyfraniad ariannol, o ran cyfrifoldeb ariannol yr ymddiriedolaeth, gallem roi'r brydles honno mewn grym ar unrhyw adeg. Bu i ni ei rhoi mewn grym cyn gynted ag yr oeddem yn gwybod ei bod yn debygol y gallem



12-month period, and that we did. However, in order for us to buy ourselves out of the lease—the lease does not come without cost—the implication for the owners is that they would take on the liability that much earlier than they thought they would. Therefore, it would cost them a lot more money because they would have to take up the heating, lighting, maintenance, security, and so on, earlier than they had planned for in their business. Similarly to us, the equation to us was to say that, having given notice for 12 months—we had seven months remaining when we eventually transferred the patients—we had seven months' worth of direct costs of running that, which we estimated at the time to be around £90,000, and so, even if we had just stayed there, transferred the patients, retained the lease and paid the owner nothing, it would have cost us about £90,000.

So, the difference between the £90,000 and the eventual settlement was our estimate of the balance of risk, because it is a huge sprawling site—I do not know whether you are familiar with the site, but it is very large, comprising many buildings, and it is very remote and very prone to vandalism, and it was a high security risk. The replacement cost of the property was worth millions, and we were liable, as a trust, to make good any dilapidations in the condition of that entire estate that had been sold and which we had on leasehold. So, it was our judgment that we could either stay in it for seven months—it would cost us £90,000 to do that anyway—so, what was it worth to us to buy out that risk of the potential of vandalism, fire, theft and all the rest of it, and that comprised the £120,000 payment.

[17] **Alun Cairns:** I do not want to pursue this any further, other than to say that what it has effectively meant is that the net receipt to the health service in Wales was £235,000 rather than the £355,000 that was agreed at the outset, because we had to pay back that sum. I want to move on to ask you why this information was not made available to the Auditor General during his original investigation?

ailgartrefu neu adleoli'r cleifion o fewn cyfnod o 12 mis, a dyna a wnaethom. Fodd bynnag, er mwyn i ni allu ein rhyddhau ein hunain o'r brydles—ni ddaw'r brydles heb gost—y goblygiad i'r perchenogion yw y byddai'n rhaid iddynt ysgwyddo'r cyfrifoldeb yn llawer cynt nag yr oeddent wedi ei ddisgwyl. Felly, byddai'n costio llawer mwy iddynt oherwydd byddai'n rhaid iddynt dalu am y gwres, y golau, cynnal a chadw, diogelwch ac yn y blaen yn gynt nag yr oeddent wedi bwriadu yn eu busnes. Yn debyg i ni, y sefyllfa gyffelyb i ni oedd dweud, ar ôl rhoi rhybudd o 12 mis—yr oedd gennym saith mis yn weddill pan fu i ni symud y cleifion yn y diwedd—fod gennym werth saith mis o gostau cynnal uniongyrchol, y bu i ni amcangyfrif ar y pryd eu bod oddeutu £90,000, ac felly, hyd yn oed pe baem wedi aros yno, symud y cleifion, cadw'r brydles a thalu dim i'r perchennog, byddai wedi costio rhyw £90,000 i ni.

Felly, y gwahaniaeth rhwng y £90,000 a'r setliad yn y pen draw oedd ein hamcangyfrif ni o'r cydbwysedd risg, oherwydd y mae'n safle eang enfawr—ni wn a ydych yn gyfarwydd â'r safle, ond mae'n fawr iawn, gyda llawer o adeiladau, ac mae'n anghysbell iawn ac yn agored iawn i fandaliaeth, ac yr oedd yn risg sylweddol o ran diogelwch. Byddai'n costio miliynau i ailadeiladu'r safle, ac yr oeddem yn gyfrifol, fel ymddiriedolaeth, am unioni unrhyw ddadfeiliad yng nghyflwr yr ystad gyfan a oedd wedi ei gwerthu ac yr oeddem yn ei phrydlesu. Felly, ein barn ni oedd y gallem naill ai aros ynddi am saith mis—byddai'n costio £90,000 i ni wneud hynny beth bynnag—felly, beth oedd y gwerth i ni o brynu rhyddid rhag y risg honno oherwydd posibilrwydd fandaliaeth, tân, lladrata ac yn y blaen, a dyna oedd y taliad o £120,000.

[17] **Alun Cairns:** Nid wyf am fynd ar ôl hyn ymhellach, heblaw dweud mai'r hyn y mae wedi ei olygu i bob pwrpas yw bod y gwasanaeth iechyd yng Nghymru wedi derbyn swm net o £235,000 yn hytrach na'r £355,000 a gytunwyd ar y dechrau, oherwydd i ni orfod ad-dalu'r swm hwnnw. Yr wyf am symud ymlaen i ofyn i chi pam na threfnwyd bod y wybodaeth hon ar gael i'r Archwilydd Cyffredinol yn ystod ei ymchwiliad gwreiddiol?

**Mr Coffey:** That was for several reasons. The first reason was that I was not aware of the audit. I was not aware of the Auditor General's audit into the sale of the Mid Wales Hospital.

[18] **Alun Cairns:** When did you become aware of it?

**Mr Coffey:** I became aware of it when I was sent the draft NAO report in September 2002.

[19] **Alun Cairns:** Forgive me, but it was quite widely reported in the *Wales on Sunday* and outside in the press thereafter.

**Mr Coffey:** Well, I do not take the *Wales on Sunday*, and I did not see it in the *Wales on Sunday*. I was not aware that there was an audit going on into the hospital. It was with the health authority; it was not with us. We had no inclusion in that audit in terms of the scoping. The National Audit Office did not talk to us about whether we could contribute to that, so I was not aware of it. I had, during the process when I was negotiating the payment to Mrs Bailey of £120,000, engaged the district audit service in terms of the district audit manager for Powys Healthcare NHS Trust to inform him of our actions, to check with him whether they represented value for money for the health service, and to check for probity. So, I suppose, in my mind I had already involved audit—district audit, external audit—in this process. Audit did not flag up to me at the time that I needed to cross check this prior audit report. So it did not occur to me, because I did not know about it and even when I did know about it I did not link the two particularly because I thought that they were quite separate items.

[20] **Alun Cairns:** With the greatest respect, Mr Coffey, this was quite a significant news item within the health service because of the actions of the Auditor General in terms of his investigation, because of the wild

**Mr Coffey:** Yr oedd sawl rheswm dros hynny. Y rheswm cyntaf yw nad oeddwn yn ymwybodol o'r archwiliad. Nid oeddwn yn ymwybodol o archwiliad yr Archwilydd Cyffredinol i werthu Ysbyty Canolbarth Cymru.

[18] **Alun Cairns:** Pryd y daethoch chi'n ymwybodol ohono?

**Mr Coffey:** Deuthum yn ymwybodol ohono pan anfonwyd adroddiad drafft y SAG ataf ym mis Medi 2002.

[19] **Alun Cairns:** Maddeuwch i mi, ond cafodd lawer o sylw yn y *Wales on Sunday* ac yng ngweddill y wasg wedi hynny.

**Mr Coffey:** Wel, nid wyf yn cael y *Wales on Sunday*, ac ni welais ef yn y *Wales on Sunday*. Nid oeddwn yn ymwybodol bod archwiliad o'r ysbyty yn digwydd. Gyda'r awdurdod iechyd yr oedd; nid oedd gyda ni. Nid oeddem yn rhan o'r archwiliad hwnnw o ran pennu ei gwmpas. Ni siaradodd y Swyddfa Archwilio Genedlaethol â ni ynghylch a allem gyfrannu at hynny, felly nid oeddwn yn ymwybodol ohono. Yn ystod y broses pan oeddwn yn negodi'r taliad o £120,000 i Mrs Bailey, yr oeddwn wedi cysylltu â'r gwasanaeth archwilio dosbarth drwy reolwr archwilio dosbarth Ymddiriedolaeth GIG Gofal Iechyd Powys i'w hysbysu am ein gweithredoedd, i edrych a oeddent yn werth yr arian i'r gwasanaeth iechyd yn ei olwg ef ac i gadarnhau gonestrwydd. Felly, mae'n debyg gennyf fy mod yn fy meddwl i wedi cynnwys archwiliad—archwiliad dosbarth, archwiliad allanol—yn y broses hon eisoes. Ni chefais fy hysbysu gan yr archwiliad ar y pryd fod angen i mi groeswiro'r adroddiad archwilio blaenorol hwn. Felly ni chroesodd hynny fy meddwl, oherwydd nid oeddwn yn gwybod amdano a hyd yn oed pan oeddwn yn ymwybodol ohono, ni chysylltais y ddau yn arbennig oherwydd fy mod yn credu eu bod yn ddau beth hollol ar wahân.

[20] **Alun Cairns:** Gyda phob parch, Mr Coffey, yr oedd hon yn eitem newyddion eithaf pwysig yn y gwasanaeth iechyd oherwydd gweithredoedd yr Archwilydd Cyffredinol o ran ei ymchwiliad, oherwydd

allegations—some accurate, some inaccurate—that had been made by members of the public. I am very surprised that you had not heard of it from your colleagues within the health service, bearing in mind the senior position that you hold.

**Mr Coffey:** I can only say that, if I was aware of it, it was very tangential. I was not aware of it as a mainstream issue that concerned the dealings of the trust.

[21] **Alun Cairns:** Is it fair to say then, that operations within the NHS are so compartmentalised that one department does not talk to another?

**Mr Coffey:** Well, no, it is the opposite, in fact, in that had any officials in Dyfed Powys Health Authority at the time who were being audited felt that it would have been useful to engage the trust as the continuing users of the hospital, then I guess that they would have done, and they did not. District audit did not flag up a link between the trust's dealings with Mrs Bailey and this previous audit. A connection was not made. They were two entirely different things. My understanding, when I did find out about the audit report, was that it was concerned solely with the disposal of the hospital.

[22] **Alun Cairns:** Ms Lloyd, can I ask you about the awareness or lack of awareness within the health service as a whole of the Auditor General's report? Would you say that senior personnel within the health service would generally be aware of general auditing of any division within the health service?

**Ms Lloyd:** I would expect all accountable officers and accounting officers to be well aware of any of the reports coming from the National Audit Office, because they will inform good practice and it will allow them to audit their own practice.

yr honiadau gwyllt—rhai ohonynt yn gywir, rhai ohonynt yn anghywir—a oedd wedi eu gwneud gan aelodau o'r cyhoedd. Yr wyf yn synnu'n fawr nad oeddech wedi clywed amdano gan eich cydweithwyr yn y gwasanaeth iechyd, o gofio eich bod mewn swydd uchel.

**Mr Coffey:** Ni allaf ond dweud, os oeddwn yn ymwybodol ohono, mai mater ymylol iawn ydoedd. Nid oeddwn yn ymwybodol ohono fel mater prif ffrwd a oedd yn ymwneud â busnes yr ymddiriedolaeth.

[21] **Alun Cairns:** A yw'n deg dweud felly, fod gweithrediadau o fewn y GIG wedi eu rhannu yn adrannau i'r fath raddau nad yw'r naill adran yn siarad â'r llall?

**Mr Coffey:** Wel, na, i'r gwrthwyneb, mewn gwirionedd, oherwydd pe bai unrhyw un o swyddogion Awdurdod Iechyd Dyfed Powys ar y pryd a oedd yn cael eu harchwilio yn credu y byddai wedi bod yn ddefnyddiol cynnwys yr ymddiriedolaeth fel y rhai a oedd yn parhau i ddefnyddio'r ysbty, yna tybiaf y byddent wedi gwneud hynny, ac ni wnaethant. Ni thynnodd yr archwiliad dosbarth sylw at gysylltiad rhwng ymwneud yr ymddiriedolaeth â Mrs Bailey a'r archwiliad blaenorol hwn. Ni welwyd cysylltiad. Yr oeddent yn ddau beth hollol wahanol. Yr hyn yr oeddwn i'n ei ideall, pan gefais wybod am yr adroddiad archwilio, oedd ei fod yn ymwneud â gwaredu'r ysbty yn unig.

[22] **Alun Cairns:** Ms Lloyd, a gaf fi ofyn i chi am yr ymwybyddiaeth neu'r diffyg ymwybyddiaeth o fewn y gwasanaeth iechyd yn ei gyfanrwydd o adroddiad yr Archwilydd Cyffredinol? A fydddech yn dweud y byddai uwch bersonél yn y gwasanaeth iechyd ar y cyfan yn ymwybodol o archwilio cyffredinol yn unrhyw un o is-adrannau'r gwasanaeth iechyd?

**Ms Lloyd:** Byddwn yn disgwyl i bob swyddog atebol a swyddog cyfrifo fod yn gwbl ymwybodol o unrhyw adroddiadau gan y Swyddfa Archwilio Genedlaethol, oherwydd byddant yn llywio arferion da ac yn eu galluogi i archwilio eu harferion eu hunain.

[23] **Alun Cairns:** Thank you, I am grateful for that answer. Mr Williams and Mr Coffey, and this is my final question, really—

[23] **Alun Cairns:** Diolch, yr wyf yn ddiolchgar am yr ateb hwnnw. Mr Williams a Mr Coffey, a dyma fy nghwestiwn olaf, mewn gwirionedd—

[24] **Janet Davies:** Before you go on to that last question, could I just bring in Leighton?

[24] **Janet Davies:** Cyn i chi ofyn y cwestiwn olaf hwnnw, a gaf fi alw ar Leighton?

[25] **Alun Cairns:** Yes, of course.

[25] **Alun Cairns:** Cewch, wrth gwrs.

[26] **Leighton Andrews:** I just want to be clear about your reasons for what you said earlier, Mr Coffey. Paragraph 31 of the Auditor General's report says that the trust did not bring these issues to the NAO's attention because it felt that the scope of the NAO's inquiry related only up to the period of the sale in October 1999, which is slightly different to what you have just said to us. You are saying that you were not aware of it.

[26] **Leighton Andrews:** Yr wyf am fod yn glir am eich rhesymau dros yr hyn a ddywedasoch yn gynharach, Mr Coffey. Dywed paragraff 31 yn adroddiad yr Archwilydd Cyffredinol na wnaeth yr ymddiriedolaeth hysbysu'r SAG am y materion hyn oherwydd ei bod yn credu mai hyd at gyfnod y gwerthiant yn Hydref 1999 yn unig yr oedd cwmpas ymchwiliad y SAG, sydd fymryn yn wahanol i'r hyn yr ydych newydd ei ddweud wrthym ni. Yr ydych yn dweud nad oeddech yn ymwybodol ohono.

**Mr Coffey:** No, I think it is consistent with what I said. When we received the draft report in September, I circulated it within the trust for comment. The auditor was asking for our views on its completeness, accuracy and so on. It was officers within the trust at the time who received the report—and I cannot speak for them, as to whether it was their first knowledge of the audit or not—but, in terms of what the reference in that paragraph relates to, we did not make the connection between the two.

**Mr Coffey:** Na, credaf ei fod yn gyson â'r hyn a ddywedais. Pan dderbyniasom yr adroddiad drafft ym mis Medi, bu i mi ei ddsbarthu o amgylch yr ymddiriedolaeth i gael sylwadau arno. Yr oedd yr archwilydd yn gofyn am ein barn ynghylch pa mor gyflawn, pa mor gywir ac yn y blaen ydoedd. Swyddogion yn yr ymddiriedolaeth ar y pryd a gafodd yr adroddiad—ac ni allaf siarad drostynt, ai dyna pryd y daethant i wybod am yr archwiliad am y tro cyntaf ai peidio—ond, o ran yr hyn y mae'r cyfeiriad yn y paragraff hwnnw yn ymwneud ag ef, ni welsom y cysylltiad rhwng y ddau.

[27] **Janet Davies:** Okay. Alun?

[27] **Janet Davies:** O'r gorau. Alun?

[28] **Alun Cairns:** Thank you, Cadeirydd. That surprised me, even more than previous answers maybe. To begin with, Mr Coffey, you mentioned the risk that the trust would have faced if it had not surrendered the lease—or if it had not terminated the lease, I should say. That was because of the maintenance and so on of the buildings; there was an obligation to maintain the buildings in the condition in which you originally accepted them. Would it not have been sensible to have taken at least photographic evidence of some sort to protect the interests of the trust?

[28] **Alun Cairns:** Diolch, Gadeirydd. Cefais fy synnu gan hynny, hyd yn oed yn fwy nag atebion blaenorol efallai. I ddechrau, Mr Coffey, soniasoch am y risg y byddai'r ymddiriedolaeth wedi ei hwynebu pe na bai wedi ildio'r brydles—neu, yn hytrach, pe na bai wedi terfynu'r brydles. Yr oedd hynny oherwydd cynnal a chadw yr adeiladau ac yn y blaen; yr oedd rhwymedigaeth i gynnal a chadw'r adeiladau yn y cyflwr y cawsoch hwy yn wreiddiol. Oni fyddai wedi bod yn synhwyrol cymryd tystiolaeth ffotograffig o ryw fath o leiaf i ddiogelu buddiannau'r ymddiriedolaeth?

**Mr Coffey:** We did take a photographic survey of the site for our own records. We did not undertake a full structural survey: we considered that and our professional advice—my professional advice—from the estates department in the trust, which also consulted the health authority whose decision on this matter it was, and Welsh Health Estates, as to whether a full structural survey would serve any purpose in terms of the protection of the trust against future claims for dilapidation. The advice from all three bodies was that it would be prohibitively expensive to undertake such a survey given the nature of the site—it is an absolutely huge site, with many buildings. A photographic survey would not identify things such as rot, and so on, in wooden structures; it would be a very superficial account of the quality of the structure of the buildings, and it would not indicate damp, potentially. We therefore took the decision that, even had we commissioned an extremely expensive survey—and our estimates at the time were that that would cost us around £50,000—it would not have protected us against any future claims for dilapidation. It would not offer us a cast-iron guarantee that people could not come back and make claims for dilapidation that they could claim had occurred after the date of completion.

[29] **Alun Cairns:** In his report, the Auditor General accepts the issue about a full structural survey, but I did not mention that purposely because of the Auditor General's comments. However, would it not have been sensible to have had a detailed photographic record in order to protect the interests of the trust, rather than some photographs, as you mentioned? It is quite clear from the Auditor General's suggestion in his report that the photographic evidence was insufficient.

**Mr Coffey:** I think that the Auditor General went to a firm of surveyors that suggested that some sort of video record—which again is photographic, is it not—of the site may have protected the trust. However, I would say again that that is his professional view: our professional advice was contrary to that.

**Mr Coffey:** Gwnaethom arolwg ffotograffig o'r safle ar gyfer ein cofnodion ni ein hunain. Ni chynhaliwyd arolwg strwythurol llawn gennym: bu i ni ystyried hynny a'n cyngor proffesiynol—fy nghyngor proffesiynol i—gan adran ystadau'r ymddiriedolaeth, a fu hefyd yn ymgynghori â'r awdurdod iechyd a oedd yn gyfrifol am y penderfyniad ar y mater hwn, ac Ystadau Iechyd Cymru, ynghylch a fyddai arolwg strwythurol llawn o unrhyw fudd o ran amddiffyn yr ymddiriedolaeth rhag hawliadau am ddadfeiliad yn y dyfodol. Cyngor y tri chorff oedd y byddai'n afresymol o ddrud cynnal arolwg o'r fath o ystyried natur y safle—mae'n safle gwirioneddol enfawr, gyda llawer o adeiladau. Ni fyddai arolwg ffotograffig yn dod o hyd i bethau fel pydredd, ac yn y blaen, mewn strwythurau pren; cofnod arwynebol iawn a fyddai o ansawdd strwythur yr adeiladau, ac ni fyddai'n dangos lle y gallai lleithder fod. Felly, penderfynasom, hyd yn oed pe baem wedi comisiynu arolwg hynod ddrud—a'n hamcangyfrifon ar y pryd oedd y byddai'n costio tua £50,000 i ni—na fyddai wedi ein diogelu rhag unrhyw hawliadau am ddadfeiliad yn y dyfodol. Ni fyddai'n rhoi sicrwydd perffaith i ni na allai pobl ddod yn ôl a gwneud hawliadau am ddadfeiliad y gallent honni ei fod wedi digwydd ar ôl y dyddiad cwblhau.

[29] **Alun Cairns:** Yn ei adroddiad, mae'r Archwilydd Cyffredinol yn derbyn y ddatl ynglŷn ag arolwg strwythurol llawn, ond ni soniais am hynny yn fwriadol oherwydd sylwadau'r Archwilydd Cyffredinol. Fodd bynnag, oni fyddai wedi bod yn synhwyrol cael cofnod ffotograffig manwl er mwyn diogelu buddiannau'r ymddiriedolaeth, yn hytrach na rhai ffotograffau, fel y soniasoch? Mae'n hollol amlwg yn ôl awgrym yr Archwilydd Cyffredinol yn ei adroddiad nad oedd y dystiolaeth ffotograffig yn ddigonol.

**Mr Coffey:** Credaf i'r Archwilydd Cyffredinol fynd at gwmni o syrfewyr a awgrymodd y gallai rhyw fath o gofnod fideo—sydd eto yn ffotograffig, onid ydyw—o'r safle fod wedi diogelu'r ymddiriedolaeth. Fodd bynnag, byddwn yn dweud eto mai ei farn broffesiynol ef yw hynny: yr oedd ein cyngor proffesiynol ni yn groes i hynny.

[30] **Alun Cairns:** Mr Williams, do you want to express your view on that question?

**Mr Williams:** Only to say that, when I took up post, I was invited to submit evidence as part of the Auditor General's investigation, and the advice available to me at the time was as Allan has described. It remained the professional view within the organisation that a photographic record would not be appropriate for the reasons that Allan described. Subsequently, of course, this report has suggested a different course of action, and I suspect that that is now something that all accountable officers will review in the light of the Auditor General's report. However, the advice that I was given when I assumed responsibility as accountable officer was exactly the same: a photographic record was not deemed to be a measure that would protect the organisation from charges of dilapidation.

[31] **Jocelyn Davies:** May I just come in there? One of the greatest dangers, and one of the biggest risks, that you cited earlier was vandalism. A photographic record, of course, would have been very useful should the buildings have been subject to vandalism, rather than just rotting and so on. You would have been able to capture vandalism.

**Mr Coffey:** Yes, and that would not have been in dispute; you would not need a survey. I guess that it would have assisted in that.

[32] **Jocelyn Davies:** It was one of the things that you cited earlier as being the biggest risk.

**Mr Coffey:** Yes, and it was the biggest risk in the sense that, had vandalism occurred, it would be down to the trust to make that good. In terms of instances of vandalism or fire—major impacts on the quality of the estate—we had a photographic record of the estate that would have taken account of acts like that, but it would not have gone down to the detail of what windowsills needed replacing, whether there was damp in rooms and stuff like that, which may not seem a lot, but which would cost an awful lot to repair. Had

[30] **Alun Cairns:** Mr Williams, a ydych am fynegi eich barn ar y cwestiwn hwnnw?

**Mr Williams:** Dim ond dweud, pan ddechreuais ar y swydd, fy mod wedi cael gwahoddiad i gyflwyno tystiolaeth fel rhan o ymchwiliad yr Archwilydd Cyffredinol, a'r cyngor a oedd ar gael i mi ar y pryd oedd yr hyn y mae Allan wedi ei ddisgrifio. Y farn broffesiynol yn y sefydliad o hyd oedd na fyddai cofnod ffotograffig yn briodol am y rhesymau a ddisgrifiodd Allan. Wedi hynny, wrth gwrs, mae'r adroddiad hwn wedi awgrymu ffordd wahanol o weithredu, a thylbiaf fod hynny yn awr yn rhywbeth y bydd pob swyddog atebol yn ei adolygu yn sgîl adroddiad yr Archwilydd Cyffredinol. Fodd bynnag, yr oedd y cyngor a gefais pan ysgwyddais gyfrifoldeb fel swyddog atebol yr un peth yn union: nid ystyrid bod cofnod ffotograffig yn gam a fyddai'n diogelu'r sefydliad rhag hawliadau am ddadfeiliad.

[31] **Jocelyn Davies:** A gaf fi ddod i mewn yn y fan hon? Un o'r peryglon mwyaf, ac un o'r risgiau mwyaf, y bu i chi gyfeirio ati yn gynharach oedd fandaliaeth. Byddai cofnod ffotograffig, wrth gwrs, wedi bod yn ddefnyddiol iawn pe byddai fandaliaeth, yn hytrach na phydredd ac yn y blaen, wedi effeithio ar yr adeiladau. Byddech wedi gallu cael fandaliaeth.

**Mr Coffey:** Byddem, ac ni fyddai dadlau wedi bod am hynny; ni fyddai arnoch angen arolwg. Yr wyf yn tybio y byddai wedi bod o gymorth gyda hynny.

[32] **Jocelyn Davies:** Dyna oedd un o'r pethau y bu i chi gyfeirio ato yn gynharach fel y risg fwyaf.

**Mr Coffey:** Ie, a dyna oedd y risg fwyaf am mai cyfrifoldeb yr ymddiriedolaeth, pe bai fandaliaeth wedi digwydd, fyddai unioni hynny. O ran achosion o fandaliaeth neu dân—fyddai'n cael effaith fawr ar ansawdd yr ystad—yr oedd gennym gofnod ffotograffig o'r ystad a fyddai wedi ystyried gweithredoedd fel hynny, ond ni fyddai wedi rhoi manylion am ba siliau ffenestr yr oedd angen eu newid, a oedd ystafelloedd yn llaith a phethau felly, nad ydynt yn ymddangos yn bethau o bwys efallai, ond a fyddai'n costio

a wing burnt down or been vandalised, then, clearly, the difference in state would be fairly obvious.

[33] **Alun Cairns:** With the greatest respect, Mr Coffey, I feel that the position is moving in that, on the one hand, you tell us that photographic evidence would not be helpful, and then, following Jocelyn Davies's question, you say that yes, quite clearly, it would be helpful. Which is it, and why, effectively, did we not have detailed photographic evidence? However, I want to leave that separate, because you partly answered the last question. Can you tell us: would photographic evidence have been helpful or not?

**Mr Coffey:** It would have been helpful for obvious major damage, clearly, but then—

[34] **Alun Cairns:** And that would have protected the interests of the trust to a certain extent?

**Mr Coffey:** No, because it would indicate that vandalism had taken place and we would have had to repair it. It is the opposite way round, really. It would not have protected our interests, I believe, because if vandalism had caused a room to be totally violated—windows smashed and so on—that would obviously be a clear change in the nature of the building. I think that the survey that we were talking about at the time of the photographic evidence was more concerned with the basic infrastructure of the building, with the condition of the woodwork, the roof, damp—a surveyor's report like you would have for a house. For anything that was outside of that and major, including vandalism and fire, it would be obvious to both parties that it was a change in the condition. I do not think that photographic evidence—

[35] **Alun Cairns:** But unless you know the original position, you do not then know about deterioration that has happened subsequently, possibly partly due to vandalism.

llawer iawn i'w hatgyweirio. Pe bai adain wedi llosgi'n ulw neu wedi ei fandaleiddio, yna, yn amlwg, byddai'r gwahaniaeth yn ei chyflwr yn eithaf amlwg.

[33] **Alun Cairns:** Gyda phob parch, Mr Coffey, credaf fod eich safbwynt yn newid oherwydd, ar y naill llaw, dywedwch wrthym na fyddai tystiolaeth ffotograffig yn ddefnyddiol, ac yna, yn sgîl cwestiwn Jocelyn Davies, dywedwch y byddai, yn hollol amlwg, yn ddefnyddiol. Pa un ydyw, a pham, i bob pwrpas, na chawsom dystiolaeth ffotograffig fanwl? Fodd bynnag, yr wyf am roi hynny o'r neilltu, oherwydd atebasoch y cwestiwn diwethaf yn rhannol. A allwch ddweud wrthym: a fyddai tystiolaeth ffotograffig wedi bod yn ddefnyddiol ai peidio?

**Mr Coffey:** Byddai wedi bod yn ddefnyddiol ar gyfer difrod mawr amlwg, yn ddiamau, ond wedyn—

[34] **Alun Cairns:** A byddai hynny wedi diogelu buddiannau'r ymddiriedolaeth i ryw raddau?

**Mr Coffey:** Na, oherwydd byddai'n dangos bod fandaliaeth wedi digwydd a byddem wedi gorfod wedi ei atgyweirio. Y gwrthwyneb sy'n wir, mewn gwirionedd. Ni fyddai wedi diogelu ein buddiannau, yn fy marn i, oherwydd pe bai ystafell wedi ei difrodi'n llwyr gan fandaliaeth—fffenestri wedi eu torri ac yn y blaen—byddai hynny'n amlwg yn newid clir yn natur yr adeilad. Credaf fod yr arolwg yr oeddem yn sôn amdano adeg y dystiolaeth ffotograffig yn ymwneud mwy ag adeiladwaith sylfaenol yr adeilad, â chyflwr y gwaith coed, y to, lleithder—adroddiad syrfêwr fel y byddech yn ei gael ar gyfer tŷ. O ran unrhyw beth mawr ar wahân i hynny, gan gynnwys fandaliaeth a thân, byddai'n amlwg i'r ddau barti ei fod yn newid yn y cyflwr. Ni chredaf y byddai tystiolaeth ffotograffig—

[35] **Alun Cairns:** Ond oni bai eich bod yn gwybod beth oedd y cyflwr gwreiddiol, yna ni fyddwch yn gwybod am ddirywiad sydd wedi digwydd ar ôl hynny, yn rhannol yn sgîl fandaliaeth o bosibl.

**Mr Coffey:** Well, no.

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

[37] **Janet Davies:** Chris, you have some questions?

[38] **Christine Gwyther:** Thank you very much, Chair. I would like to concentrate on quite mainstream record keeping and the lack of it at the time around the lease surrender. Paragraph 39 of the Auditor General's memorandum refers to this. It states that the trust did not have a record of the formal risk assessment to establish the cost of the early lease surrender. I would like to ask you whether such an assessment was actually undertaken.

**Mr Coffey:** Yes, we did undertake a risk assessment in that we were faced with two choices. When it was apparent that we could move the last patients out in April, which was seven months before the lease expired, we had two choices. One was to retain the lease, with all its attendant costs and risks for the period, which was a clear option. The other option was to seek to buy ourselves out of that risk, and I have already explained our rationale for doing that. In doing that, the whole exercise implies a risk assessment. It was a judgment. I had to weigh up the pros and cons and the cost of maintaining the lease within the trust for a further seven months to determine how much that would cost us anyway. As I said previously, that would be £90,000 plus any indeterminate element of risk to make good vandalism, fire and so on. I discussed that balance of risk with the district auditor at the time to check whether my reading and my judgment of the situation was the best course of action for the trust. That was for the trust to buy itself out of the risk for the sum of £120,000, with around £30,000 representing the value of the risk transferred back to Mrs Bailey. I think that it is useful to remember the value of the open-ended liability on the trust at the time—again, this is a very large, sprawling, remote site—was potentially millions of pounds. Had the place been burnt down, had people got into it and set it on fire, it would have cost the health service millions of pounds. So, that was in my mind. We had a seven-month period when that could have happened and to

**Mr Coffey:** Wel, na.

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

[37] **Janet Davies:** Chris, mae gennych gwestiynau?

[38] **Christine Gwyther:** Diolch yn fawr iawn, Gadeirydd. Hoffwn ganolbwyntio ar gofnodi eithaf prif ffrwd a diffyg hynny adeg ildio'r brydles. Cyfeiria paragraff 39 ym memorandwm yr Archwilydd Cyffredinol at hyn. Mae'n nodi nad oedd gan yr ymddiriedolaeth gofnod o'r asesiad risg ffurfiol i ddangos faint y byddai ildio'r brydles yn gynnar yn ei gostio. Hoffwn ofyn i chi a gynhaliwyd asesiad o'r fath ai peidio.

**Mr Coffey:** Do, bu i ni gynnal asesiad risg oherwydd ein bod yn wynebu dau ddewis. Pan ddaeth yn amlwg y gallem symud y cleifion olaf allan yn Ebrill, sef saith mis cyn i'r brydles ddod i ben, yr oedd gennym ddau ddewis. Un oedd cadw'r brydles, gyda'r holl gostau a risgiau oedd yn gysylltiedig drwy gydol y cyfnod, a oedd yn opsiwn clir. Yr opsiwn arall oedd ceisio talu i'n rhyddhau ein hunain o'r risg honno, ac yr wyf eisoes wedi egluro ein sail resymegol dros wneud hynny. Wrth wneud hynny, mae hynny i gyd yn golygu asesiad risg. Yr oedd yn rhaid barnu. Yr oedd yn rhaid i mi bwysu a mesur manteision ac anfanteision a chost cynnal y brydles o fewn yr ymddiriedolaeth am saith mis arall i benderfynu faint y byddai hynny'n ei gostio i ni beth bynnag. Fel y dywedais o'r blaen, byddai hynny'n £90,000 ynghyd ag unrhyw elfen benagored o risg i unioni difrod gan fandaliaeth, tân ac yn y blaen. Trafodais y cydbwysedd risg hwnnw gyda'r archwilydd dosbarth ar y pryd i gadarnhau ai fy nehongliad i a'm barn i ynghylch y sefyllfa oedd y dull gorau i'r ymddiriedolaeth weithredu. Byddai hynny'n golygu bod yr ymddiriedolaeth yn talu swm o £120,000 i'w rhyddhau ei hun o'r risg, a thua £30,000 yn cynrychioli gwerth y risg a oedd yn cael ei throsglwyddo yn ôl i Mrs Bailey. Credaf ei bod yn werth cofio y gallai gwerth cyfrifoldeb penagored yr ymddiriedolaeth ar y pryd—eto, mae hwn yn safle anghysbell, eang a mawr iawn—fod yn filiynau o bunnoedd o bosibl. Byddai wedi costio miliynau o bunnoedd i'r gwasanaeth iechyd



my mind it was protecting the public purse to pay slightly over the odds of what it would have cost us anyway to transfer that risk to Mrs Bailey. That is what we did with the advice of the district audit service.

[39] **Christine Gwyther:** Right, thank you. In any risk assessment that I have been involved with, if I can just finish this point, Chair, there has been a very detailed justification of exactly how that decision was arrived at, and, really, you have not given me an answer, Mr Coffey, as to where that note—that detailed note, as it should have been—has actually got to.

**Mr Coffey:** No. I would accept that that thought process and that decision process was not adequately documented, and it should have been.

[40] **Christine Gwyther:** Sorry, Chair. I just wanted to pursue that.

[41] **Janet Davies:** Carl just wants to come in here, and then I will bring you back in.

[42] **Carl Sargeant:** You described how you established the £30,000 risk element, and you say that the site was particularly vulnerable to vandalism or fire. Have you any detail of specific threats to the establishment as it was?

**Mr Coffey:** No, there were no specific threats; there were no people threatening to do it. It was just that these things happen. When buildings are entirely shut down, with no presence there apart from, perhaps, security guards, it is highly likely—and it happens all the time—that they are vandalised, windows are smashed, people get in and squatters move in. Such buildings are highly vulnerable, particularly in remote areas. So, it was something that was more than likely to happen in my view.

pe bai'r lle wedi llosgi'n ulw, pe bai pobl wedi mynd yno a'i roi ar dân. Felly yr oedd hynny ar fy meddwl. Yr oedd gennym gyfnod o saith mis pan allai hynny fod wedi digwydd ac, yn fy marn i, yr oedd talu ychydig yn fwy na'r hyn y byddai wedi ei gostio i ni beth bynnag i drosglwyddo'r risg honno i Mrs Bailey yn diogelu arian y cyhoedd. Dyna'r hyn a wnaethom gyda chyngor y gwasanaeth archwilio dosbarth.

[39] **Christine Gwyther:** O'r gorau, diolch. Mewn unrhyw asesiad risg yr wyf i wedi ymwneud ag ef, os caf orffen y pwynt hwn, Gadeirydd, bu cyfiawnhad manwl iawn o sut y daethpwyd i'r penderfyniad hwnnw yn union, ac, mewn gwirionedd, nid ydych wedi rhoi ateb i mi, Mr Coffey, ynglŷn ag i ble yr aeth y nodyn hwnnw—a ddylai fod wedi bod yn nodyn manwl—mewn gwirionedd.

**Mr Coffey:** Na. Byddwn yn derbyn na chafodd y broses ystyried honno na'r broses benderfynu honno ei dogfennu'n briodol, a dylai hynny fod wedi digwydd.

[40] **Christine Gwyther:** Mae'n ddrwg gennyf, Gadeirydd. Yr oeddwn am fynd ar drywydd hynny.

[41] **Janet Davies:** Mae Carl am gyfrannu yn y fan hon, ac yna byddaf yn eich galw yn ôl.

[42] **Carl Sargeant:** Bu i chi ddisgrifio sut y bu i chi benderfynu ar yr elfen risg o £30,000, a dywedwch fod y safle yn arbennig o agored i fandaliaeth neu dân. A oes gennych fanylion ynglŷn â bygythiadau penodol i'r sefydliad fel ag yr oedd?

**Mr Coffey:** Na, ni chafwyd bygythiadau penodol; nid oedd pobl yn bygwth gwneud hynny. Ond mae'r pethau hyn yn digwydd. Pan gaiff adeiladau eu cau'n llwyr, heb neb yn bresennol yno oni bai am, efallai, warchodwyr, mae'n dra thebygol—ac mae'n digwydd drwy'r amser—eu bod yn cael eu fandaleiddio, caiff ffenestri eu torri, mae pobl yn cael mynediad ac mae sgwatwyr yn symud i mewn. Mae'r cyfryw adeiladau yn ddiamddiffyn iawn, yn enwedig mewn ardaloedd anghysbell. Felly, yr oedd yn rhywbeth a oedd yn fwy na thebyg o ddigwydd yn fy marn i.

[43] **Carl Sargeant:** Okay. Thank you, Chair.

[43] **Carl Sargeant:** O'r gorau. Diolch, Gadeirydd.

[44] **Christine Gwyther:** I have a second question on record keeping, or the lack of it. Paragraph 41 in the Auditor General's memorandum talks about either the non-retention or non-production of records of meetings after 7 January that involved the trust's chief executive and finance director with Chancefield Estates Ltd. I would like to ask probably Andy Williams and Allan Coffey why the trust did not retain any records of the meetings, if indeed any records were made at the time.

[44] **Christine Gwyther:** Mae gennyf ail gwestiwn am gofnodi, neu'r diffyg cofnodi. Dywed paragraff 41 memorandwm yr Archwilydd Cyffredinol naill ai na chafodd cofnodion cyfarfodydd ar ôl 7 Ionawr rhwng prif weithredwr a chyfarwyddwr cyllid yr ymddiriedolaeth a Chancefield Estates Cyf eu cadw neu na chawsant eu cynhyrchu. Hoffwn ofyn i Andy Williams ac Alan Coffey mae'n siŵr pam na chadwodd yr ymddiriedolaeth unrhyw gofnodion o'r cyfarfodydd, os yn wir y gwnaed unrhyw gofnodion ar y pryd.

**Mr Coffey:** I will start on this. It is correct to say that no records were taken of the meetings between myself, the chief executive and Mrs Bailey and her colleagues in the sense of minutes of meetings. I hope that the Committee understands that the meetings were infrequent and informal and involved probably three or four people. They were not the type of meetings that you would normally formally minute. When anything significant and substantial came out of those meetings, certainly when agreements came out of those meetings, they were always recorded by way of letters. So, I would write to Mrs Bailey saying 'Further to our meeting, for clarification, can you please agree that we agreed the following: a, b, c, d, e, f, and g?'. So, in that sense, any material facts or agreements that emanated from those meetings were recorded, are documented, and they are in files for people to inspect. What we did not retain was notes of the meeting as you would have notes of this meeting. I think that that is probably general practice when you have informal meetings—you do not note them. I think, in hindsight, it would have been useful for us to take file notes of the meeting, just so that it is easier, when looking back, to see who said what at the time. However, those records were not kept, no.

**Mr Coffey:** Yr wyf am ddechrau ateb y cwestiwn hwn. Mae'n wir dweud na chymerwyd cofnodion o'r cyfarfodydd rhyngof i, y prif weithredwr a Mrs Bailey a'i chydweithwyr o ran cofnodion cyfarfod. Gobeithiaf fod y Pwyllgor yn deall na chynhaliwyd y cyfarfodydd yn aml a'u bod yn gyfarfodydd anffurfiol a oedd yn cynnwys tri neu bedwar unigolyn yn ôl pob tebyg. Nid oeddent y math o gyfarfodydd y byddech fel arfer yn cymryd cofnodion ffurfiol ohonynt. Pan oedd rhywbeth arwyddocaol a sylweddol yn deillio o'r cyfarfodydd hynny, yn sicr pan oedd cytundebau yn deillio o'r cyfarfodydd hynny, yr oeddynt bob amser yn cael eu cofnodi drwy lythyrau. Felly, byddwn yn ysgrifennu at Mrs Bailey yn dweud 'Yn dilyn ein cyfarfod, er eglurhad, a allwch gadarnhau i ni gytuno ar y canlynol: a, b, c, ch, d, dd ac e?'. Felly, yn yr ystyr hwnnw, cafodd unrhyw ffeithiau materol neu gytundebau a oedd yn deillio o'r cyfarfodydd hynny eu cofnodi, maent wedi eu dogfennu, ac maent mewn ffeiliau i bobl eu harchwilio. Yr hyn na chadwasom oedd nodiadau o'r cyfarfod yn yr un modd ag y byddai gennych nodiadau o'r cyfarfod hwn. Credaf fod hynny yn arfer cyffredinol yn ôl pob tebyg pan eich bod yn cynnal cyfarfodydd anffurfiol—nid ydych yn gwneud nodyn ohonynt. Credaf, o edrych yn ôl, y byddai wedi bod yn ddefnyddiol i ni gymryd nodiadau ffeil o'r cyfarfod, fel ei bod yn haws, wrth edrych yn ôl, gweld pwy a ddywedodd beth ar y pryd. Fodd bynnag, na, ni chadwyd y cofnodion hynny.

[45] **Christine Gwyther:** Thank you. Given the climate surrounding this disposal and decommissioning, I find that extremely

[45] **Christine Gwyther:** Diolch. O ystyried hinsawdd y gwaredu a'r dadgomisiynu hyn, mae hynny yn fy synnu'n fawr ac mae'n

surprising and regrettable. Do you think that you would make it your policy in the future to make a record of every meeting, whether you consider it informal, formal or whatever?

**Mr Coffey:** I think, in those circumstances, definitely; where it involved a third party and a commercial transaction, yes.

[46] **Christine Gwyther:** Okay. Thank you, Chair.

[47] **Janet Davies:** Mark, you have some questions?

[48] **Mark Isherwood:** Yes. I refer to paragraph 42, which states that mothballing was considered by some trust officials as an alternative to the early end of the lease. Mr Coffey, given that occupancy of the site was shared and that, by November 1999, some parts were already occupied by Mrs Bailey, was the mothballing of the site, mentioned in paragraph 42, really a credible alternative to ending the lease early?

**Mr Coffey:** It was credible. We would have had to remove Mrs Bailey from the hospital to do that, but she was there on a grace-and-favour basis. So, yes, we could have mothballed the site, and that was our declared intention should she not have been agreeable to terminating the lease earlier. In that case, we would have mothballed the site; that was our intention.

[49] **Mark Isherwood:** So how likely would it have been for mothballing to have led to expensive litigation, had you taken that route?

**Mr Coffey:** Well, it comes back to the balance of risk. Had we mothballed the site, that would imply that we would maintain minimum heating to protect the fabric of the building, and we would have had to employ security—people to give it 24-hour security. We would have incurred those costs identified earlier in the mothballing in one shape or another. We would have had to have continually monitored the site to protect it

destun cryn ofid. A ydych yn credu y byddwch yn ei wneud yn bolisi i chi yn y dyfodol i gadw cofnod o bob cyfarfod, waeth eich bod yn ei ystyried yn gyfarfod anffurfiol, ffurfiol neu beth bynnag?

**Mr Coffey:** Credaf, dan yr amgylchiadau hynny, yn bendant; lle yr oedd yn cynnwys trydydd parti a thrafodiad masnachol, byddwn.

[46] **Christine Gwyther:** O'r gorau. Diolch, Gadeirydd.

[47] **Janet Davies:** Mark, mae gennych gwestiynau?

[48] **Mark Isherwood:** Oes. Cyfeiriaf at baragraff 42, sy'n nodi i rai o swyddogion yr ymddiriedolaeth ystyried gosod y safle o'r neilltu fel opsiwn arall yn lle terfynu'r brydles yn gynnar. Mr Coffey, o ystyried bod meddiannaeth o'r safle wedi ei rhannu ac, erbyn mis Tachwedd 1999, fod Mrs Bailey eisoes yn meddiannu rhai rhannau, a oedd gosod y safle o'r neilltu, a grybwyllir ym mharagraff 42, yn opsiwn mwy ymarferol na therfynu'r brydles yn gynnar mewn gwirionedd?

**Mr Coffey:** Yr oedd yn ymarferol. Byddem wedi gorfod symud Mrs Bailey o'r ysbyty i wneud hynny, ond yr oedd hi yno ar sail gras a ffafwr. Felly, mae'n wir, gallem fod wedi gosod y safle o'r neilltu, a hynny oedd ein bwriad datganedig pe na byddai wedi cytuno i derfynu'r brydles yn gynharach. Yn yr achos hwnnw, byddem wedi gosod y safle o'r neilltu; dyna oedd ein bwriad.

[49] **Mark Isherwood:** Felly pa mor debygol oedd hi y byddai gosod y safle o'r neilltu wedi arwain at gyfreitha drud, pe baech wedi dilyn y llwybr hwnnw?

**Mr Coffey:** Wel, mae'n dod yn ôl at gydbwysedd risg. Pe baem wedi gosod y safle o'r neilltu, byddai hynny'n awgrymu y byddem yn cadw'r gwres ar y lefel isaf bosibl i ddiogelu strwythur yr adeilad, a byddai'n rhaid i ni fod wedi cyflogi gwarchodwyr—pobl i'w ddiogelu 24 awr y dydd. Byddem wedi gorfod talu'r costau hynny a nodwyd yn gynharach a oedd yn gysylltiedig â gosod y safle o'r neilltu mewn un ffordd neu'r llall.

from all of the dangers that I have outlined. However, yes, we could have done that, and we would have had to have done that.

[50] **Mark Isherwood:** Was the chair of the trust misguided in thinking that mothballing was a credible alternative rather than just a bargaining position?

**Mr Coffey:** The chair of the trust did not want the officers of the trust to pursue the mothballing alternative because that would involve the removal of Mrs Bailey from the premises. Our line in terms of mothballing, in terms of our negotiating line and line in how we would implement it, would be that, in order to mothball it, we could not allow any occupation of the site for security purposes, so we could not have Mrs Bailey and people in her employ visiting and coming and going to the site because we could not then make it secure. So to make it secure, it had to be closed down, fenced, patrolled and all the rest of it. That would involve her removal from the site. The chairman did not want that to happen because he was keen for Mrs Bailey to continue her operations there and to get on and start up the businesses that she aspired to start there.

[51] **Mark Isherwood:** Can I just ask, for my understanding, what area of the hospital, or proportion of the total area, was leased to the trust in the five-year agreement?

**Mr Coffey:** It was the main building as you approach the hospital—the facade, the ballroom, sorry, the boardroom, offices—it was the main block.

[52] **Mark Isherwood:** Okay. Thank you.

[53] **Jocelyn Davies:** Can I come in on that question?

[54] **Janet Davies:** Yes, certainly.

[55] **Jocelyn Davies:** What you told us

Byddai'n rhaid i ni fod wedi monitro'r safle yn barhaus i'w ddiogelu rhag yr holl beryglon yr wyf wedi eu hamlinellu. Fodd bynnag, mae'n wir, gallem fod wedi gwneud hynny, a byddai wedi bod yn rhaid i ni wneud hynny.

[50] **Mark Isherwood:** A oedd cadeirydd yr ymddiriedolaeth dan gamargraff wrth feddwl bod gosod y safle o'r neilltu yn ddewis ymarferol yn hytrach nag yn offeryn bargeinio yn unig?

**Mr Coffey:** Nid oedd cadeirydd yr ymddiriedolaeth am i swyddogion yr ymddiriedolaeth fynd ati i osod y safle o'r neilltu oherwydd byddai hynny'n golygu symud Mrs Bailey o'r safle. Ein safbwynt o ran gosod y safle o'r neilltu, o ran ein safbwynt negodi a'n safbwynt o ran sut y byddem yn ei weithredu, fyddai, er mwyn ei osod o'r neilltu, na allem ganiatáu unrhyw feddiannaeth o'r safle am resymau diogelwch, fellu ni allem gael Mrs Bailey a phobl a gyflogir ganddi yn ymweld â'r safle ac yn mynd a dod oddi yno oherwydd wedyn ni fyddai modd i ni ei wneud yn ddiogel. Felly i'w wneud yn ddiogel, yr oedd yn rhaid ei gau, ei ffensio, ei batrolio ac yn y blaen. Byddai hynny'n cynnwys ei symud o'r safle. Nid oedd y cadeirydd am i hynny ddigwydd oherwydd yr oedd yn awyddus i Mrs Bailey barhau â'i gweithredoedd yno a bwrw ymlaen a sefydlu'r busnesau yr oedd yn awyddus i'w sefydlu yno.

[51] **Mark Isherwood:** A gaf fi ofyn, er mwyn fy nealltwriaeth, pa arwynebedd o'r ysbyty, neu gyfran o'r arwynebedd cyfan, a gafodd ei brydlesu i'r ymddiriedolaeth yn y cytundeb pum mlynedd?

**Mr Coffey:** Y prif adeilad ydoedd, wrth i chi nesáu at yr ysbyty—yr wyneb, y ddawnsfa, mae'n ddrwg gennyf, yr ystafell fwrdd, swyddfeydd—y prif flocc ydoedd.

[52] **Mark Isherwood:** O'r gorau. Diolch.

[53] **Jocelyn Davies:** A gaf fi ddod i mewn ar y cwestiwn hwnnw?

[54] **Janet Davies:** Cewch, wrth gwrs.

[55] **Jocelyn Davies:** Yr hyn a ddywedaso

earlier was that the provision of £120,000, which you felt was the best course of action, included £30,000 to transfer the risk to Mrs Bailey. You described that as paying over the odds, but you thought that it was worth it in order to transfer the risk to Mrs Bailey. However, we have just heard that it was entirely for Mrs Bailey's convenience that you did not mothball the site because she was on site. So we pay over the odds to the individual who we are accommodating for their own convenience so that they can remain on the site. Can you understand why the public might think that this is bizarre?

**Mr Coffey:** Well, no. I think that there are two different issues. The question was: would Mrs Bailey let us terminate the lease agreement early? She was saying that she did not want to do that because it would involve substantial costs for her—she quoted £315,000. So she did not want to do that. So we said that we would pay her an amount that was reasonable and that we could justify—given that these were public funds or public money—and agree with the district auditor for us to relinquish all of our liabilities to the site and hand it over to her. The fact that she was in the building did not inhibit that, in a sense; it only inhibited us getting her out because she was already there, but she had no right to be there. So we said that we would mothball it, and, if she would not let us terminate the lease earlier, she would need to remove her operation and conduct it elsewhere.

[56] **Jocelyn Davies:** Yes, but you just told us that the chief considerations for not mothballing were for her convenience. You just said that the chair—

**Mr Coffey:** Well, that was the chair's view; that was not—

[57] **Jocelyn Davies:** The chair's view was that he did not want to inconvenience Mrs Bailey, who was actually getting quite a bargain.

wrthym yn gynharach oedd bod y ddarpariaeth o £120,000, sef y cam gweithredu gorau yn eich barn chi, yn cynnwys £30,000 i drosglwyddo'r risg i Mrs Bailey. Bu i chi ddisgrifio hynny fel talu mwy na'r gwir gost, ond yr oeddech o'r farn bod trosglwyddo'r risg i Mrs Bailey yn werth yr arian. Fodd bynnag, yr ydym newydd glywed mai er cyfleustra Mrs Bailey yn gyfan gwbl y bu i chi beidio â gosod y safle o'r neilltu oherwydd ei bod hi ar y safle. Felly yr ydym yn talu mwy na'r disgwyl i'r unigolyn yr ydym yn ei gynorthwyo er ei gyfleustra fel y gall barhau ar y safle. A allwch ddeall pam y gallai'r cyhoedd feddwl bod hyn yn rhyfedd?

**Mr Coffey:** Wel, na. Credaf fod dau fater gwahanol. Y cwestiwn oedd: a fyddai Mrs Bailey yn caniatáu i ni derfynu'r cytundeb prydles yn gynnar? Yr oedd yn dweud nad oedd am wneud hynny oherwydd byddai'n golygu costau sylweddol iddi—rhoddodd amcan bris o £315,000. Nid oedd am wneud hynny. Felly dywedasom y byddem yn talu swm a oedd yn rhesymol ac y gallem ei gyfiawnhau iddi—o gofio mai cronfeydd cyhoeddus neu arian y cyhoedd a oedd y rhain—ac yn cytuno gyda'r archwilydd dosbarth i ni ildio'n holl gyfrifoldebau dros y safle a'i drosglwyddo iddi. Nid oedd y ffaith ei bod yn yr adeilad yn rhwystro hynny, ar ryw ystyr; yr oedd ond yn ein rhwystro ni rhag ei chael hi allan oherwydd ei bod yno'n barod, ond nid oedd ganddi hawl i fod yno. Felly dywedasom y byddem yn gosod yr adeilad o'r neilltu, a, phe na bai Mrs Bailey yn ein caniatáu i derfynu'r brydles yn gynharach, byddai angen iddi symud ei gweithredoedd a'u cynnal yn rhywle arall.

[56] **Jocelyn Davies:** Iawn, ond yr ydych newydd ddweud wrthym mai'r prif ystyriaethau dros beidio â gosod y safle o'r neilltu oedd er ei chyfleustra hi. Yr ydych newydd ddweud bod y cadeirydd—

**Mr Coffey:** Wel, barn y cadeirydd oedd honno; nid honno oedd—

[57] **Jocelyn Davies:** Barn y cadeirydd oedd nad oedd am beri trafferth i Mrs Bailey, a oedd yn cael tipyn o fargen mewn gwirionedd.

**Mr Coffey:** That was the chair's view; that was not the executive's view.

[58] **Jocelyn Davies:** But you did not mothball it; you allowed her to stay and paid her for the transfer of the risk.

**Mr Coffey:** No, no. When we transferred the risk, we got out of the site in April, and it was entirely hers then. Our risk was gone in April.

[59] **Jocelyn Davies:** But you did describe paying £30,000 for transferring the risk to her as paying over the odds. I think that those were the very words that you used.

**Mr Coffey:** I did not mean paying over the odds; what I meant was that that was an estimate of the cost of the financial worth to the trust of transferring the risk. There are another seven months to run from April, so by transferring all of the liabilities to Mrs Bailey from April, it was worth at least £30,000 for the trust to do that.

[60] **Jocelyn Davies:** I will check the verbatim record on that, Chair.

**Mr Coffey:** Sorry, can I just clarify that? What I meant to say was that we were paying over the direct cost. This was a cost that you could not calculate; it was a judgment of the value of the transfer of the risk. I did not say, or intend to say, that we were paying more than we should have done.

[61] **Jocelyn Davies:** Perhaps I misunderstood. So that amount was a judgment call?

**Mr Coffey:** Yes, absolutely.

[62] **Jocelyn Davies:** Thank you.

[63] **Janet Davies:** Leighton, you have some questions.

[64] **Leighton Andrews:** Before I ask Ms Lloyd about the role of chairs, can I just understand, Mr Coffey, for what period you were the finance director of the trust?

**Mr Coffey:** Barn y cadeirydd oedd honno; nid honno oedd barn y gweithgor.

[58] **Jocelyn Davies:** Ond ni osodasoch y safle o'r neilltu; bu i chi ganiatáu iddi aros a'i thalu am drosglwyddo'r risg.

**Mr Coffey:** Na, na. Pan y bu i ni drosglwyddo'r risg, yr oeddem wedi gadael y safle ym mis Ebrill, a'i safle hi ydoedd yn gyfan gwbl wedyn. Nid oedd risg i ni yn Ebrill.

[59] **Jocelyn Davies:** Ond bu i chi ddisgrifio talu £30,000 am drosglwyddo'r risg iddi fel talu mwy na'r gwir gost. Credaf mai'r rheini a oedd yr union eiriau i chi eu defnyddio.

**Mr Coffey:** Nid oeddwn yn golygu talu mwy na'r gwir gost; yr hyn yr oeddwn yn ei olygu oedd mai amcangyfrif o gost y gwerth ariannol i'r ymddiriedolaeth o drosglwyddo'r risg oedd hwnnw. Mae saith mis arall yn weddill ar ôl Ebrill, felly drwy drosglwyddo pob cyfrifoldeb i Mrs Bailey o fis Ebrill, yr oedd yn werth o leiaf £30,000 i'r ymddiriedolaeth wneud hynny.

[60] **Jocelyn Davies:** Byddaf yn gwirio'r cofnod gair am air ar hynny, Gadeirydd.

**Mr Coffey:** Mae'n ddrwg gennyf, a gaf egluro hynny? Yr hyn yr oeddwn yn golygu ei ddweud oedd ein bod yn talu mwy na'r gost uniongyrchol. Nid oedd hon yn gost y gallech ei chyfrifo; yr oedd yn benderfyniad am werth trosglwyddo'r risg. Ni ddywedais, neu nid oeddwn yn bwriadu dweud, ein bod yn talu mwy nag y dylasem fod wedi ei dalu.

[61] **Jocelyn Davies:** Efallai i mi gamddeall. Felly mater o farn oedd y swm hwnnw?

**Mr Coffey:** Ie, yn bendant.

[62] **Jocelyn Davies:** Diolch.

[63] **Janet Davies:** Leighton, mae gennych gwestiynau.

[64] **Leighton Andrews:** Cyn i mi ofyn i Ms Lloyd am swyddogaeth cadeiryddion, a gaf fi ddeall, Mr Coffey, am ba gyfnod yr oeddech yn gyfarwyddwr cyllid yr ymddiriedolaeth?

**Mr Coffey:** From April 1999.

[65] **Leighton Andrews:** Until?

**Mr Coffey:** Until the trust was dissolved, but I was acting chief executive as well for the last six months.

[66] **Leighton Andrews:** So what was the date please, roughly? Was it 31 March last year?

**Mr Coffey:** No, it was 31 December 2002.

[67] **Leighton Andrews:** Okay. May I ask you a couple of questions relating to the role of the chairs of these trusts, Ms Lloyd? I think that there is often confusion in the public mind about the role of the chair of an Assembly sponsored public body and the relationship between the chair and the chief executive. Can you set out for me what you see as the proper role of the chair of an NHS body?

**Ms Lloyd:** The primary responsibility of the chair is to lead the board itself, and the board itself has to scrutinise the decision making of the executives and ensure that they are conducting their transactions according to proper probity and proper governance and are taking the right information into consideration. So the chair has to ensure that the information and the issues discussed by the board are appropriate and well-informed. They also have to be almost the conscience of the organisation in that, at the end of the day, they have to be able to assure themselves and their board, and the general public, that the business conducted by the organisation is open and above suspicion, has been conducted on the basis of full information, and that all the policies of the Welsh Assembly Government, and whichever other policies come through, are effected within that organisation in making its decisions. They also, of course, have to be an ambassador for the organisation and its services with the general public, and they have a primary responsibility for assessing the performance and operation of the chief executive. They do not involve themselves in day-to-day management and operational business because, basically, they are the last

**Mr Coffey:** O Ebrill 1999.

[65] **Leighton Andrews:** Tan?

**Mr Coffey:** Tan i'r ymddiriedolaeth gael ei diddymu, ond yr oeddwn hefyd yn brif weithredwr dros dro am y chwe mis olaf.

[66] **Leighton Andrews:** Felly pa ddyddiad oedd hynny os gwelwch yn dda, yn fras. Ai 31 Mawrth y llynedd ydoedd?

**Mr Coffey:** Nage, 31 Rhagfyr 2002 ydoedd.

[67] **Leighton Andrews:** O'r gorau. A gaf fi ofyn rhai cwestiynau i chi ynglŷn â swyddogaeth cadeiryddion yr ymddiriedolaethau hyn, Ms Lloyd? Credaf fod swyddogaeth cadeirydd corff cyhoeddus a noddir gan y Cynulliad a'r berthynas rhwng y cadeirydd a'r prif weithredwr yn aml yn peri penbleth i'r cyhoedd. A allwch ddweud wrthyf beth yw swyddogaeth briodol cadeirydd corff y GIG yn eich tyb chi?

**Ms Lloyd:** Prif gyfrifoldeb y cadeirydd yw arwain y bwrdd ei hun, a rhaid i'r bwrdd ei hun graffu sut y mae swyddogion gweithredol yn gwneud penderfyniadau a sicrhau eu bod yn cynnal eu trafodion yn unol â gonestrwydd priodol a llywodraethu priodol a'u bod yn ystyried y wybodaeth gywir. Felly rhaid i'r cadeirydd sicrhau bod y wybodaeth a'r materion a drafodir gan y bwrdd yn briodol a chytbwys. Rhaid iddynt hefyd fod yn gydwybod i'r sefydliad, i raddau helaeth, oherwydd, yn y pen draw, rhaid iddynt allu sicrhau eu hunain a'u bwrdd, a'r cyhoedd, bod y busnes a weithredir gan y sefydliad yn agored ac uwchlaw amheuaeth, a'i fod wedi ei weithredu ar sail yr holl wybodaeth, a bod holl bolisiau Llywodraeth Cynulliad Cymru, a pha bynnag bolisiau eraill a weithredir, yn cael eu gweithredu yn y sefydliad hwnnw wrth iddo wneud ei benderfyniadau. Rhaid iddynt hefyd, wrth gwrs, fod yn llysgennad i'r sefydliad a'i wasanaethau gyda'r cyhoedd, a hwy sy'n bennaf gyfrifol am asesu perfformiad a gwaith y prif weithredwr. Nid ydynt yn ymwneud â busnes gweithredol a rheoli o ddydd i ddydd oherwydd, yn y bôn, hwy yw'r llinell amddiffyn olaf wrth graffu. Felly rhaid iddynt beidio ag ymwneud â'r gweithredu o ddydd i ddydd oherwydd

line of defence in scrutiny. So they must not involve themselves in day-to-day operation because they would place themselves in a prejudicial position if they were having to make a judgment with their non-executive directors about the actions and recommendations of executives.

The chief executive is primarily responsible to the board for the operation of the organisation, for the establishment of good management systems, for being the accountable officer, and, in that, they have to make sure that the internal controls are right and that the whole of the resource over which they act as steward is used effectively, and, including clinical governance, they must ensure that risk assessment is undertaken effectively. For all of that, they are accountable directly to me, and I am accountable, through the National Assembly for Wales and the Permanent Secretary, to the Treasury. So, it is a slightly different line, but, usually, the boards and I act in unison, in terms of overseeing the probity and regularity of an organisation.

They have to ensure that their organisation can maintain financial viability and advise the board appropriately. They have to make sure, particularly in Wales, that they deliver and develop effective partnerships in order to effect the policies of the Government, and they have to implement the board's decisions. So there are very distinct roles, and the chair and the chief executive's relationship needs to be very clear-cut and distinct because there are dangers if either starts to adopt somebody else's responsibilities.

[68] **Leighton Andrews:** So would you agree with the Auditor General's conclusion in paragraph 50 that the attendance of the chair of the trust at negotiations with Mrs Bailey was undesirable?

**Ms Lloyd:** I think that it was very unwise because it put him in a position that prejudiced his own position.

[69] **Leighton Andrews:** Do you think then that, as a result of this, we need to give greater clarification to chairs of NHS bodies about their roles?

byddent yn rhoi eu hunain mewn sefyllfa anffafriol pe baent yn gorfod gwneud dyfarniad gyda'u cyfarwyddwyr anweithredol am gamau gweithredu ac argymhellion swyddogion gweithredol.

Mae'r prif weithredwr yn bennaf atebol i'r bwrdd am weithredu'r sefydliad, am sefydlu systemau rheoli da, am fod yn swyddog atebol, a, thrwy hynny, rhaid iddynt sicrhau bod yr holl fesurau rheoli mewnol yn gywir a bod yr holl adnoddau y maent yn gweithredu fel stiward drostynt yn cael eu defnyddio'n effeithiol, a, chan gynnwys llywodraethu clinigol, rhaid iddynt sicrhau bod asesu risg yn cael ei gyflawni'n effeithiol. Mewn perthynas â hynny oll, maent yn uniongyrchol atebol i mi, ac yr wyf fi yn atebol, drwy Gynulliad Cenedlaethol Cymru a'r Ysgrifennydd Parhaol, i'r Trysorlys. Felly, mae fymryn yn wahanol, ond, fel arfer, mae'r byrddau a minnau yn gweithredu fel un, o ran goruchwyllo gonestrwydd a rheoleidd-dra sefydliad.

Rhaid iddynt sicrhau bod eu sefydliad yn gallu cynnal hyfywedd ariannol a rhoi cyngor i'r bwrdd yn briodol. Rhaid iddynt sicrhau, yn enwedig yng Nghymru, eu bod yn darparu ac yn datblygu partneriaethau effeithiol er mwyn gweithredu polisiau'r Llywodraeth, a rhaid iddynt weithredu penderfyniadau'r bwrdd. Felly mae swyddogaethau unigryw iawn, a rhaid i berthynas y cadeirydd a'r prif weithredwr fod yn ddiamwys ac yn bendant iawn oherwydd mae peryglon os yw'r naill neu'r llall yn dechrau ysgwyddo cyfrifoldebau rhywun arall.

[68] **Leighton Andrews:** Felly a fydddech yn cytuno â chasgliad yr Archwilydd Cyffredinol ym mharagraff 50 nad oedd yn briodol i gadeirydd yr ymddiriedolaeth fod yn bresennol mewn trafodaethau â Mrs Bailey?

**Ms Lloyd:** Credaf mai annoeth iawn oedd ei roi mewn sefyllfa a oedd yn niweidio ei sefyllfa ef ei hun.

[69] **Leighton Andrews:** A ydych o'r farn felly, o ganlyniad i hyn, bod angen i ni roi mwy o eglurhad i gadeiryddion cyrff y GIG ynglŷn â'u swyddogaethau?



**Ms Lloyd:** Action has already been taken on that. We were fortunate that we were in the position last year of appointing a large number of chairs to the newly established statutory bodies. The Minister had already tightened accountabilities between myself and chief executives, and herself and chairs, because it was her desire, when I came into post nearly three years ago, that that should be done. Therefore, last year, the Minister and I conducted appraisals with all chairs in post at that time against the criteria for the operation, and the effective operation, of the chair.

Over the last 18 months as well, we have been discussing, through our training and development programmes, with both chairs and chief executives—particularly of LHBs as they came into post—the appropriate responsibilities of chairs and chief executives. I have personally given seminars to chief executives about what being an accountable officer actually means in practice, peppering my lectures with practical experience of what can happen when things go slightly wrong and how, at the end of the day, the accountable officer has to put in place measures through which he or she is able to protect their position and protect the reputation of the organisation. Following extensive discussions with the organisations concerned, the Minister, in time for the next round of performance reviews of chairs—and I will do the chief executives’—is issuing very detailed guidance on precisely how performance assessment might be undertaken against the requirements of both chairs and chief executives.

[70] **Leighton Andrews:** Okay. May I ask you then, what would you expect a chief executive to do in the context of an occasion like this, where a chair has become, clearly, very involved in an operational matter?

**Ms Lloyd:** With their accountable officer hat on, I would expect them to advise a chair in unequivocal terms of the danger that was being run by chairs becoming involved in operational issues such as this—particularly transactions with third parties—because of

**Ms Lloyd:** Mae camau eisoes wedi eu cymryd mewn perthynas â hynny. Buom yn ffodus i fod yn y sefyllfa y llynedd o benodi sawl cadeirydd ar gyfer y cyrff statudol sydd newydd eu sefydlu. Yr oedd y Gweinidog eisoes wedi tynhau cyfrifoldebau rhyngof fi a’r prif weithredwyr, a rhyngddi hithau a chadeiryddion, oherwydd mai ei dyhead, pan ddechreuais fy swydd dair blynedd yn ôl, oedd y dylid gwneud hynny. Felly, y llynedd, bu i’r Gweinidog a minnau gynnal gwerthusiadau gyda phob cadeirydd a oedd yn weithredol bryd hynny ar sail y meini prawf ar gyfer gweithredu, a gweithredu effeithiol, gan y cadeirydd.

Yn ystod y 18 mis diwethaf hefyd, yr ydym wedi bod yn trafod, drwy ein rhaglenni hyfforddi a datblygu, gyda chadeiryddion a phrif weithredwyr—yn enwedig rhai BILl wrth iddynt ddechrau yn eu swyddi—gyfrifoldebau priodol cadeiryddion a phrif weithredwyr. Yr wyf i yn bersonol wedi cynnal seminarau gyda phrif weithredwyr ynglŷn â’r hyn y mae bod yn swyddog atebol yn ei olygu yn ymarferol mewn gwirionedd, gan fritho fy narlithoedd â phrofiad ymarferol o’r hyn a all ddigwydd pan fo pethau’n mynd ychydig o chwith a sut, yn y pen draw, mae’n rhaid i’r swyddog atebol roi mesurau ar waith sy’n ei alluogi neu ei galluogi i ddiogelu ei swydd ac amddiffyn enw da y sefydliad. Yn dilyn trafodaethau helaeth â’r sefydliadau dan sylw, mae’r Gweinidog, mewn pryd ar gyfer y cylch nesaf o adolygiadau o berfformiadau cadeiryddion—a byddaf yn gwneud rhai y prif weithredwyr—yn cyhoeddi canllawiau manwl iawn ar sut yn union y gellid asesu perfformiad yn erbyn gofynion cadeiryddion a phrif weithredwyr.

[70] **Leighton Andrews:** O’r gorau. A gaf fi ofyn i chi felly, beth y byddech yn disgwyl i brif weithredwr ei wneud yng nghyd-destun achlysur fel hwn, lle y mae cadeirydd, yn amlwg, wedi ymwneud yn helaeth â mater gweithredol?

**Ms Lloyd:** O weithredu fel swyddog atebol, byddem yn disgwyl iddynt roi cyngor diflewyn ar dafod i gadeirydd ar y perygl sy’n codi pan fo cadeiryddion yn ymwneud â materion gweithredol fel hwn—yn enwedig trafodion gyda thrydydd partion—oherwydd

the importance of the position of the chair in being able to scrutinise effectively the actions, decisions and recommendations of the executives. If the chair was unwilling to accept such advice, I would expect the accountable officer to report that to me, and I would deal with it, in the knowledge of the Minister—I would tell the Minister what I was going to do, obviously.

[71] **Leighton Andrews:** Okay. On this occasion, clearly, the chief executive did not take that view.

**Ms Lloyd:** I have to assume that he did not, because I cannot find any evidence that he did. I was not the accountable officer at the time.

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

**Ms Lloyd:** However, certainly, where there has been, in the past 18 months, any question of any possible confusion of roles, they have been sorted out there and then, with a quick exchange between accountable officers and myself. This has been very, very minor stuff—nothing like transactions with third parties.

[73] **Leighton Andrews:** Are you satisfied that, within the NHS, you have the right framework in place to allow people to blow the whistle where that is necessary? I mean NHS staff.

**Ms Lloyd:** Yes. A huge amount of work has been done on this very important area because, as you will know yourself, there was a huge amount of publicity around the smothering of potential whistleblowers within the service. That does nobody any good; it destroys public confidence, and it creates the wrong environment to actually effect changes in the way in which organisations might operate. Very clear guidance has been given to all organisations about the management of whistleblowers, and, as part of our annual audits, we will—given the balanced score card now—be auditing the effectiveness of those whistleblowing policies and procedures. Certainly, far more people are reporting directly through to management their

pwysigrwydd sefyllfa'r cadeirydd wrth allu craffu camau gweithredu, penderfyniadau ac argymhellion y swyddogion gweithredol yn effeithiol. Pe bai'r cadeirydd yn anfodlon derbyn y cyfryw gyngor, byddwn yn disgwyl i'r swyddog atebol fy hysbysu am hynny, a byddwn yn delio â'r sefyllfa, a byddai'r Gweinidog yn ymwybodol o hynny—byddwn yn dweud wrth y Gweinidog beth yr oeddwn yn mynd i'w wneud, yn amlwg.

[71] **Leighton Andrews:** Iawn. Ar yr achlysur hwn, yn amlwg, nid dyna oedd barn y prif weithredwr.

**Ms Lloyd:** Rhaid i mi dybio felly, oherwydd ni allaf ddod o hyd i unrhyw dystiolaeth o hynny. Nid fi oedd y swyddog atebol ar y pryd.

[72] **Leighton Andrews:** O'r gorau.

**Ms Lloyd:** Fodd bynnag, yn sicr, lle y bu, yn ystod y 18 mis diwethaf, unrhyw amheuaeth o unrhyw ddryswch posibl am swyddogaethau, maent wedi eu datrys yn y fan a'r lle, gyda thrafodaeth gyflym rhwng swyddogion atebol a minnau. Materion dibwys iawn, iawn oedd y rhain—dim byd tebyg i drafodion â thrydydd partïon.

[73] **Leighton Andrews:** A ydych yn fodlon bod gennych, o fewn y GIG, y fframwaith cywir i alluogi pobl i chwythu'r chwiban pan fo angen gwneud hynny? Cyfeiriaf at staff y GIG.

**Ms Lloyd:** Ydw. Mae llawer iawn o waith wedi ei wneud yn y maes pwysig hwn oherwydd, fel y byddwch yn gwybod eich hun, bu llawer iawn o gyhoeddusrwydd ynglŷn â rhoi taw ar ddatgelwyr camarfer posibl yn y gwasanaeth. Nid yw hynny'n gwneud lles i unrhyw un; mae'n difetha hyder y cyhoedd, ac mae'n creu'r amgylchedd anghywir i fynd ati i newid y modd y gallai sefydliadau weithredu. Mae pob sefydliad wedi cael canllawiau clir iawn ar reoli datgelwyr camarfer, ac, fel rhan o'n harchwiliadau blynyddol, byddwn—o ystyried y cerdyn sgorio cytbwys yn awr—yn archwilio pa mor effeithiol yw'r polisïau a'r gweithdrefnau chwythu'r chwiban hynny. Yn sicr, mae mwy o bobl o lawer yn adrodd eu pryderon yn uniongyrchol i'r rheolwyr, ac

concerns, and chief executives constantly keep me advised of such incidences. That does not mean to say that aggrieved individuals will not go straight to the press and the public, but there should be—and we are, again, auditing this—very good processes in place through which patients or staff who are concerned might receive a hearing from their own organisation before feeling the necessity of going outside. I think that what we have to do, though, with all such things, is to ensure that the culture of the organisation becomes very open and transparent so that people do gain confidence that they are able to blow the whistle appropriately within their own organisation.

[74] **Leighton Andrews:** Do you have confidential phone lines and so on for people to use?

**Ms Lloyd:** Some of the organisations do, and that is why we are conducting the audit of good practice.

[75] **Janet Davies:** Thank you. Alun, do you still want to ask a brief question on this?

[76] **Alun Cairns:** Yes. It is, possibly, to sum up some of the statements that have been made. It is commendable, obviously, that strong and clear guidance has already been given to chairs and chief executives of trusts and boards to prevent the chairs from putting themselves in compromising positions. If, indeed, you do receive a call from a chief executive about the actions of a chair, which may well compromise the chair's position, what powers do you—you mentioned that you would obviously discuss it with the Minister—and/or the Minister have to intervene in that situation? What I am getting at is this: is this a term of employment?

**Ms Lloyd:** A term of whose employment?

[77] **Alun Cairns:** A term or condition of employment of chairs.

**Ms Lloyd:** No, it is not, but I do not think that that interferes with an ability to exercise the accountable officer role, which is a very

mae prif weithredwyr yn fy hysbysu'n gyson am y cyfryw ddigwyddiadau. Nid yw hynny'n golygu na fydd pobl sydd wedi dioddef yn mynd yn syth at y wasg a'r cyhoedd, ond dylai—ac yr ydym, eto, yn archwilio hyn—prosesau fod ar waith i alluogi cleifion neu staff sy'n gofidio i gael gwrandawriad gan eu sefydliad eu hunain efallai cyn teimlo'r angen i fynd y tu allan. Credaf mai'r hyn sy'n rhaid i ni ei wneud, fodd bynnag, gyda'r holl gyfryw faterion, yw sicrhau bod diwylliant y sefydliad yn datblygu'n agored ac yn dryloyw fel bod pobl yn magu hyder eu bod yn gallu chwythu'r chwiban yn briodol yn eu sefydliad eu hunain.

[74] **Leighton Andrews:** A oes gennych linellau ffôn cyfrinachol ac yn y blaen y gall pobl eu defnyddio?

**Ms Lloyd:** Mae gan rai o'r sefydliadau, a dyna pam yr ydym yn cynnal yr archwiliad o arferion da.

[75] **Janet Davies:** Diolch. Alun, a ydych dal am ofyn cwestiwn byr am hyn?

[76] **Alun Cairns:** Ydw. Mae, o bosibl, i grynhoi rhai o'r datganiadau a wnaed. Mae'n ganmoladwy, yn amlwg, bod canllawiau cadarn a chlr eisoes wedi eu rhoi i gadeiryddion a phrif weithredwyr ymddiriedolaethau a byrddau i rwystro cadeiryddion rhag rhoi eu hunain mewn sefyllfaoedd sy'n eu cyfaddawdu. Os, yn wir, yr ydych yn derbyn galwad gan brif weithredwr am gamau gweithredu cadeiryddion, a allai, yn ddigon posibl, gyfaddawdu swydd y cadeirydd, pa bwerau sydd gennych chi—bu ichi grybwyll y byddech yn amlwg yn ei drafod gyda'r Gweinidog—a/neu'r Gweinidog i ymyrryd yn y sefyllfa honno? Yr hyn yr wyf yn ceisio ei ddweud yw: a yw hwn yn un o'r telerau cyflogaeth?

**Ms Lloyd:** Un o delerau cyflogaeth pwy?

[77] **Alun Cairns:** Un o delerau neu amodau cyflogaeth cadeiryddion.

**Ms Lloyd:** Na, nac ydyw, ond ni chredaf fod hynny'n amharu ar allu i gyflawni swyddogaeth swyddog atebol, sy'n

powerful and strong role, and one which has to be exercised well and effectively. It is in the interest of the individual and the organisation itself that probity, regularity and transparency are exercised well and effectively. The NHS boards, through the accountability framework, are responsible—I am responsible for ensuring that they do exercise their judgment, their recommendations and their decisions in an open, transparent way, in which full probity can be assured to the general public.

[78] **Janet Davies:** Thank you. Mick?

[79] **Mick Bates:** Thank you, Chair. Mr Coffey, I would like to return to the issue of the estimate of retaining the lease, in paragraph 46. Trust officials have estimated that retaining the lease would have cost the trust some £90,000. Given that the trust did not retain full records of the cost of retaining the lease, what confidence can we have that this figure of £90,000 is correct?

**Mr Coffey:** At the time, I ascertained the direct costs that would be involved with finance colleagues and others within the trust and discussed those with audit. The key components were: security—that was £32,000, based on three security guards providing 24-hour cover around the site, boiler maintenance—we had quite detailed budgetary figures worked up, and that was £38,000, and maintenance—an estimate based on seven twelfths of the maintenance budget of the Talgarth Mid Wales Hospital, which was £20,000. That comes to £90,000. Again, while a record was not maintained at the time, records must have been in place for me to discuss it with audit, clearly, to get its go-ahead that the £120,000 represented value for money. Again, these records could be corroborated by a retrospective costing analysis—you can get the budget reports of the hospitals and see what would be necessary expenditure, should it continue for seven months. So, it is a fairly transparent process to produce these costs.

[80] **Mick Bates:** Thank you for the breakdown of the £90,000. That is very welcome. However, if I understand your

swyddogaeth bwerus a chryf, ac yn un sy'n rhaid ei chyflawni'n dda ac yn effeithiol. Mae gweithredu gonestrwydd, rheoleidd-dra a thryloywder yn dda ac yn effeithiol o fudd i'r unigolyn a'r sefydliad ei hun. Byrddau'r GIG, drwy'r fframwaith atebolrwydd, sy'n gyfrifol—fi sy'n gyfrifol am sicrhau eu bod yn gweithredu eu barn, eu hargymhellion a'u penderfyniadau mewn modd agored, tryloyw, lle gellir sicrhau gonestrwydd llawn i'r cyhoedd.

[78] **Janet Davies:** Diolch. Mick?

[79] **Mick Bates:** Diolch, Gadeirydd. Mr Coffey, hoffwn ddychwelyd at y mater o'r amcangyfrif o gadw'r brydles, ym mharagraff 46. Mae swyddogion yr ymddiriedolaeth wedi amcangyfrif y byddai cadw'r brydles wedi costio rhyw £90,000 i'r ymddiriedolaeth. O ystyried na chadwodd yr ymddiriedolaeth gofnodion llawn o gost cadw'r brydles, pa mor hyderus y gallwn fod bod y ffigur hwn o £90,000 yn gywir?

**Mr Coffey:** Ar y pryd, bu i mi bennu'r costau uniongyrchol a fyddai'n gysylltiedig â hynny gyda chydweithwyr cyllid ac eraill yn yr ymddiriedolaeth a thrafod y rheini gyda'r adran archwilio. Y cydrannau allweddol oedd: diogelwch—yr oedd hwnnw'n £32,000, yn seiliedig ar dri gwarchodwr yn darparu diogelwch 24 awr ar draws y safle, cynnal a chadw'r boeler—cawsom ffigurau cyllidebol eithaf manwl wedi eu cyfrifo, ac yr oedd hynny'n £38,000, a chynnal a chadw—amcangyfrif ar sail saith rhan o ddeuddeg cyllideb cynnal a chadw Ysbyty Canolbarth Cymru Talgarth, a oedd yn £20,000. Daw hynny i £90,000. Eto, er na chadwyd cofnod ar y pryd, rhaid bod cofnodion wedi bodoli er mwyn i mi ei drafod gyda'r adran archwilio, yn amlwg, i gael ei chaniatâd bod y £120,000 yn werth da am arian. Eto, gellid cefnogi'r cofnodion hyn gan ddadansoddiad prisio ôl-weithredol—gallwch gael adroddiadau cyllideb yr ysbytai a gweld beth fyddai'r gwariant angenrheidiol, pe bai'n parhau am saith mis. Felly, mae cynhyrchu'r costau hyn yn broses gymharol dryloyw.

[80] **Mick Bates:** Diolch am y dadansoddiad o'r £90,000. Mae hwnnw i'w groesawu'n fawr. Fodd bynnag, os wyf wedi deall yn

correctly, Mr Coffey, there is not a record during these proceedings that that was the breakdown of the £90,000?

**Mr Coffey:** Apparently, audit could not find a record, no.

[81] **Mick Bates:** Apparently it could not find a record? Presumably, then, you could identify the source of this information—the estates department or wherever?

**Mr Coffey:** Yes. The source of the information, when I first talked to audit about it, was my memory of it, and my checking back with the planning and development manager, who would have informed me of what costs would be incurred and what would not, and then by costing them up.

[82] **Mick Bates:** Did you talk to these people to corroborate your recollection?

**Mr Coffey:** Yes, I did.

[83] **Mick Bates:** I am sorry, but I have not found that in the report. Are there witnesses, and is there a statement to that effect within this?

**Mr Coffey:** No, I do not think so.

[84] **Mick Bates:** There is not?

**Mr Coffey:** No.

[85] **Mick Bates:** So, there is a whole area of doubt here, which leads me to believe that the whole process was not transparent. How could you convince me that these figures—albeit that they may be factual—were not actually put together after the event?

**Mr Coffey:** Because you can work back—you can construct the figures after the event from evidence. The evidence is still there. If an auditor visited Powys trust now and asked, ‘Can you give me an estimate of the costs of running that hospital for seven months?’, somebody in the management accounts department would look through the budgets and come up with figures like these. It is a matter of record. They will be there, but reporters reported the fact that there was not a

gywir, Mr Coffey, nid oes cofnod yn ystod y trafodion hyn mai dyna oedd y dadansoddiad o’r £90,000?

**Mr Coffey:** Mae’n debyg na lwyddodd yr adran archwilio i ddod o hyd i gofnod, na.

[81] **Mick Bates:** Mae’n debyg na lwyddodd i ddod o hyd i gofnod? Gellid tybio, felly, y gallech nodi ffynhonnell y wybodaeth hon—yr adran ystadau neu le bynnag?

**Mr Coffey:** Gallwn. Ffynhonnell y wybodaeth, pan siaradais â’r adran archwilio amdani y tro cyntaf, oedd fy nghof ohoni, a minnau’n gwirio gyda’r rheolwr datblygu a chynllunio, a fyddai wedi fy hysbysu o ba gostau a fyddai’n berthnasol a pha rai na fyddai’n berthnasol, ac yna eu cyfrifo.

[82] **Mick Bates:** A fu i chi siarad â’r bobl hyn i gadarnhau eich atgof?

**Mr Coffey:** Do, gwneuthum hynny.

[83] **Mick Bates:** Mae’n ddrwg gennyf, ond nid wyf wedi dod ar draws hynny yn yr adroddiad. A oes tystion, ac a oes datganiad i’r perwyl hwnnw yn hwn?

**Mr Coffey:** Nac oes, nid wyf yn meddwl hynny.

[84] **Mick Bates:** Nac oes?

**Mr Coffey:** Na.

[85] **Mick Bates:** Felly, mae’n faes yn llawn amheuaeth, sy’n gwneud i mi gredu nad oedd y broses gyfan yn dryloyw. Sut y gallech fy narbwylllo na chafodd y ffigurau hyn—er efallai eu bod yn ffeithiol—eu rhoi at ei gilydd ar ôl y digwyddiad mewn gwirionedd?

**Mr Coffey:** Oherwydd y gallwch weithio yn ôl—gallwch bennu’r ffigurau ar ôl y digwyddiad gan ddefnyddio tystiolaeth. Mae’r dystiolaeth yno o hyd. Pe bai archwilydd yn ymweld ag ymddiriedolaeth Powys heddiw ac yn gofyn, ‘A allwch roi amcangyfrif i mi o gostau cynnal yr ysbyty hwnnw am saith mis?’, byddai rhywun yn yr adran cyfrifon rheoli yn edrych drwy’r cyllidebau ac yn rhoi ffigurau fel y rhain. Mater o gofnod ydyw. Byddant yno, ond

piece of paper saying, 'Here is a risk analysis, here are the costs; they add up to £90,000'. However, audit similarly concluded that these estimates were reliable and reasonable.

[86] **Mick Bates:** They may have concluded that, but I am still curious as to why there was no record, given that you must have taken advice as to the costs that you have given us now—this breakdown of £32,000, £38,000 and £20,000. Why is there not a record?

**Mr Coffey:** I do not know. There must have been a record at the time, because I discussed them with district audit, so I do not know why a record of these figures cannot be found. However, we must have assessed them at the time to have that conversation with the district auditor.

[87] **Mick Bates:** Yes. One would assume, given that you say that they were discussed, that somebody would have a recollection, even if there were not a record, and that does not appear to be the case.

**Mr Coffey:** The district auditor recalls it, I recall it, and people within the trust would recall it.

[88] **Mick Bates:** But there is no record of that?

**Mr Coffey:** No.

[89] **Mick Bates:** So you can understand my lack of confidence in the transfer—

**Mr Coffey:** Well, I think that a record must have existed, but the record cannot be found.

[90] **Mick Bates:** Okay, thank you. I will leave it there. Thank you, Chair.

[91] **Janet Davies:** Thank you. Looking at the question that Carl was due to ask, I think that that has already been asked and, Val, possibly yours has also been asked, or is there anything else that you want to ask?

adroddodd gohebwy'r y ffaith nad oedd darn o bapur yn dweud, 'Dyma ddadansoddiad risg, dyma'r costau; maent yn rhoi cyfanswm o £90,000'. Fodd bynnag, daeth yr adran archwilio i gasgliad tebyg bod yr amcangyfrifon hyn yn ddibynadwy ac yn rhesymol.

[86] **Mick Bates:** Efallai eu bod wedi dod i'r casgliad hwnnw, ond yr wyf yn chwilfrydig o hyd ynglŷn â pham nad oedd cofnod, o gofio bod yn rhaid eich bod wedi derbyn cyngor ar y costau yr ydych wedi eu rhoi i ni yn awr—dadansoddiad hwn o £32,000, £38,000 a £20,000. Pam nad oes cofnod?

**Mr Coffey:** Ni wn. Mae'n rhaid bod cofnod ar y pryd, oherwydd i mi eu trafod gyda'r adran archwilio dosbarth, felly ni wn pam na ellir canfod cofnod o'r ffigurau hyn. Fodd bynnag, mae'n rhaid ein bod wedi eu hasesu ar y pryd i gael y sgwrs honno gyda'r archwilydd dosbarth.

[87] **Mick Bates:** Rhaid. Byddai dyn yn tybio, o gofio eich bod yn dweud iddynt gael eu trafod, y byddai gan rywun gof, hyd yn oed pe na bai cofnod, ac nid yw'n ymddangos mai hynny yw'r achos.

**Mr Coffey:** Mae'r archwilydd dosbarth yn ei gofio, yr wyf i yn ei gofio, a byddai pobl yn yr ymddiriedolaeth yn ei gofio.

[88] **Mick Bates:** Ond nid oes cofnod o hynny?

**Mr Coffey:** Nac oes.

[89] **Mick Bates:** Felly gallwch ddeall fy niffyg hyder yn y trosglwyddo—

**Mr Coffey:** Wel, credaf fod yn rhaid bod cofnod wedi bodoli, ond ni ellir dod o hyd i'r cofnod.

[90] **Mick Bates:** O'r gorau, diolch. Yr wyf am orffen yn y fan honno. Diolch, Gadeirydd.

[91] **Janet Davies:** Diolch. Gan edrych ar y cwestiwn yr oedd Carl yn mynd i'w ofyn, credaf fod hwnnw eisoes wedi cael ei ofyn a, Val, mae'n bosibl bod eich un chi wedi cael ei ofyn hefyd, neu a oes rhywbeth arall yr ydych am ei ofyn?

[92] **Val Lloyd:** I think that it has already been dealt with by Alun and Carl and somebody else—Christine, I think.

[93] **Janet Davies:** Sorry about that.

[94] **Val Lloyd:** That is all right. I think that it was probably better that it was taken at that time. It fitted in.

[95] **Janet Davies:** Jocelyn, do you want to come in?

[96] **Jocelyn Davies:** Yes, I wanted to ask Mrs Lloyd a question. Do you consider the payment of the early surrender of the lease to be novel and contentious?

**Ms Lloyd:** I do.

[97] **Jocelyn Davies:** Why?

**Ms Lloyd:** We issue guidance to the service that any payment like this—which was not anticipated, and which certainly was not within any business case upon which agreement would have been given—which is above about £50,000, but anyway it was substantial enough, and it would have affected a business case at the end of the day, should be reported in, so that guidance can be given and so that we know about it and can assure ourselves that a proper value-for-money exercise was conducted into its payment and into why it was being paid, and to ensure, ourselves, that the situation had been properly risk-assessed.

[98] **Jocelyn Davies:** Of course, the Auditor General for Wales agrees with you that it was novel and contentious, and the relevant department should have been informed. Do you think that the guidance on that is clear enough?

**Ms Lloyd:** There was guidance issued in December 1998 on losses and special payments, which draws attention to novel and contentious payments. Also, there was the estates code guidance, although the Auditor General rightly pointed out in 2002 that that was out of date, and that was why we revised it and issued it again six weeks later.

[92] **Val Lloyd:** Credaf fod Alun a Carl a rhywun arall—Christine, dybiwn i—eisoes wedi delio ag ef.

[93] **Janet Davies:** Mae'n ddrwg gennyf am hynny.

[94] **Val Lloyd:** Popeth yn iawn. Credaf ei bod yn well iddo gael ei gynnwys bryd hynny. Yr oedd yn berthnasol.

[95] **Janet Davies:** Jocelyn, a ydych am gyfrannu?

[96] **Jocelyn Davies:** Ydw, yr oeddwn am ofyn cwestiwn i Ms Lloyd. A ydych yn ystyried y taliad i ildio'r brydles yn gynnar yn anarferol ac yn ddadleuol?

**Ms Lloyd:** Ydw.

[97] **Jocelyn Davies:** Pam?

**Ms Lloyd:** Yr ydym yn rhoi canllawiau i'r gwasanaeth y dylai unrhyw daliad fel hwn—nad oedd wedi ei ddisgwyl, ac nad oedd yn bendant o fewn unrhyw achos busnes y byddai caniatâd wedi ei roi ar ei sail—sy'n fwy na thua £50,000, ond yr oedd yn ddigon mawr beth bynnag, a byddai wedi effeithio ar achos busnes yn y pen draw, gael ei adrodd, fel y gellir rhoi canllawiau ac fel ein bod yn gwybod amdano ac yn gallu sicrhau'n hunain bod proses gywir i bennu gwerth da am arian wedi ei chynnal mewn perthynas â'i dalu a pham yr oedd yn cael ei dalu, ac i sicrhau, ein hunain, bod asesiad risg cywir o'r sefyllfa wedi ei gyflawni.

[98] **Jocelyn Davies:** Wrth gwrs, mae Archwilydd Cyffredinol Cymru yn cytuno â chi ei fod yn anarferol ac yn ddadleuol, a dylid bod wedi hysbysu'r adran berthnasol. A ydych o'r farn bod y canllawiau ar hynny yn ddigon clir?

**Ms Lloyd:** Cyhoeddwyd canllawiau ym mis Rhagfyr 1998 ar golledion a thaliadau arbennig, sy'n tynnu sylw at daliadau anarferol a dadleuol. Yn ogystal, cafwyd y canllawiau cod ystadau, er i'r Archwilydd Cyffredinol nodi'n gywir yn 2002 nad oeddynt yn berthnasol bellach, a dyna pam y bu i ni eu hadolygu a'u cyhoeddi eto chwe

However, I believe that there was sufficient information available at the time for individuals within organisations to recognise a novel and contentious payment and to seek advice.

[99] **Jocelyn Davies:** Well, we know that the trust did not seek advice, but how do you feel about the reasons given for not notifying the Assembly about this transaction? Do you think that they are valid?

**Ms Lloyd:** I can understand that, if the trust looked at its standing financial instructions at the time, there was sufficient delegated authority given to the chief executive at that time to be able to underwrite, I think, anything up to £500,000. So I can understand its believing from its standing financial instructions, which are usually its bible, that it had the authority to do this. I can understand that.

[100] **Jocelyn Davies:** What would you regard, then, as a good reason for not notifying the Assembly?

**Ms Lloyd:** It was because, I think, that the trust believed that it was acting within its own standing financial instructions, a script of which is provided by the Welsh Assembly Government.

[101] **Jocelyn Davies:** But you think, looking at the guidance at the time, that it would have at least been wise to ask for advice?

**Ms Lloyd:** I think that it would have been wise, because this was not an expected payment.

[102] **Jocelyn Davies:** Okay. I will leave it there, Chair.

[103] **Janet Davies:** Finally, Mrs Lloyd, would there be improvements in the disposal and decommissioning of significant national health sites in the future and, if so, could you give some indication of how it would be improved?

**Ms Lloyd:** Well, we have already taken certain actions since the publication of the

wythnos yn ddiweddarach. Fodd bynnag, yr oedd digon o wybodaeth ar gael ar y pryd yn fy marn i i unigolion o fewn sefydliadau allu adnabod taliad anarferol a dadleuol a gofyn am gyngor.

[99] **Jocelyn Davies:** Wel, gwyddom na ofynnodd yr ymddiriedolaeth am gyngor, ond beth yw eich barn ar y rhesymau a roddwyd dros beidio â hysbysu'r Cynulliad am y trafodiad hwn? A ydynt yn ddilys yn eich barn chi?

**Ms Lloyd:** Gallaf ddeall, pe bai'r ymddiriedolaeth yn edrych ar ei chyfarwyddiadau ariannol sefydlog ar y pryd, bod digon o awdurdod wedi ei ddirprwyo i'r prif weithredwr ar y pryd i allu tanysgrifennu, yn fy nhyb i, unrhyw beth hyd at £500,000. Felly gallaf ddeall ei bod wedi credu ar sail ei chyfarwyddiadau ariannol sefydlog, sef ei beibl fel arfer, bod ganddi'r hawl i wneud hyn. Gallaf ddeall hynny.

[100] **Jocelyn Davies:** Beth fyddech yn ei ystyried, felly, yn rheswm da dros beidio â hysbysu'r Cynulliad?

**Ms Lloyd:** Yr oedd, yn fy marn i, oherwydd bod yr ymddiriedolaeth yn credu ei bod yn gweithredu o fewn ei chyfarwyddiadau ariannol sefydlog ei hun, a darperir sgript o'r rheini gan Lywodraeth Cynulliad Cymru.

[101] **Jocelyn Davies:** Ond a ydych yn credu, gan edrych ar y canllawiau ar y pryd, y byddai o leiaf wedi bod yn ddoeth gofyn am gyngor?

**Ms Lloyd:** Credaf y byddai wedi bod yn ddoeth, oherwydd nid oedd hwn yn daliad disgwylidig.

[102] **Jocelyn Davies:** O'r gorau. Yr wyf am orffen yn y fan honno, Gadeirydd.

[103] **Janet Davies:** Yn olaf, Mrs Lloyd, a fyddai gwelliannau yn y gwaith o waredu a dadgomisiynu safleoedd iechyd gwladol pwysig yn y dyfodol ac, os felly, a allwch roi rhyw syniad o sut y byddai'n cael ei wella?

**Ms Lloyd:** Wel, yr ydym eisoes wedi cymryd camau penodol ers cyhoeddi'r adroddiad



first report. We have issued Welsh health circulars to advise on the disposal and the acquiring of property. We have ensured that Welsh Health Estates provides all the professional advice, and it is given the responsibility now of disposing of surplus property. It is mandatory on the health service that these processes are used. We have re-issued the estates code, which is highly complicated, but, to make things easier, we have also issued a guidance note to chief executives on the management of property within the NHS to ensure that they are well aware of the issues that they need to consider when disposing of property or, indeed, when constructing a business case on which the disposal of property is resting. So we have done all that. Additionally, because I believe that the management of capital, the management of the estate, needed to be put into a strategic context, I have established a capital investment board that now looks at all business cases and all capital investment programmes for which I have a responsibility, which includes the disposal of estates. To underpin that, we have established an estates investment panel of experts who can advise us thoroughly. I have a senior officer now in charge of all estates issues, who works very closely with my estates department and with Welsh Health Estates. In that way, I think that we have managed to tighten, and to give better guidance as well, to the service to ensure that it can effect a good estates disposal process.

To make estates issues more live, you will recall that, when we had evidence about the overarching report by the Auditor General on the disposal of estates throughout the NHS in Wales, the conclusion reached was that estate surplus was almost a free good. Well, from this year, the Minister has decided that capital charges will become a live issue. They will not just be a top up; they will actually be part of the revenue allocation. So that would encourage organisations within the NHS in Wales to really regard surplus property as a real resource that has to be managed very effectively, otherwise, they will not be using their resources and moneys effectively. I think that that should cause a change in behaviour from that which we have seen in the past.

cyntaf. Yr ydym wedi cyhoeddi cylchlythyron iechyd Cymru i roi cyngor ar waredu a chaffael eiddo. Yr ydym wedi sicrhau bod Ystadau Iechyd Cymru yn darparu'r holl gyngor proffesiynol, a rhoddir y cyfrifoldeb iddo bellach o waredu eiddo dros ben. Mae'n ofynnol i'r gwasanaeth iechyd ddefnyddio'r prosesau hyn. Yr ydym wedi ailgyhoeddi'r cod ystadau, sy'n dra chymhleth, ond, i hwyluso pethau, yr ydym hefyd wedi cyhoeddi nodyn canllaw i brif weithredwyr ar reoli eiddo yn y GIG i sicrhau eu bod yn hollol ymwybodol o'r materion sy'n rhaid iddynt eu hystyried wrth waredu eiddo neu, yn wir, wrth ddatblygu achos busnes y mae gwaredu eiddo yn dibynnu arno. Felly yr ydym wedi gwneud hynny i gyd. Yn ogystal, oherwydd yr oedd angen rhoi rheoli cyfalaf, rheoli'r ystâd, mewn cyddestun strategol yn fy marn i, yr wyf wedi sefydlu bwrdd buddsoddi cyfalaf sydd bellach yn edrych ar yr holl achosion busnes a'r holl raglenni buddsoddi cyfalaf yr wyf yn gyfrifol amdanynt, sy'n cynnwys gwaredu ystadau. I gefnogi hynny, yr ydym wedi sefydlu panel buddsoddi ystadau o arbenigwyr sy'n gallu ein cynghori'n drylwyr. Mae gennyf uwch swyddog bellach sy'n gyfrifol am holl faterion ystadau, sy'n gweithio'n agos iawn gyda'm hadran ystadau a chyda Ystadau Iechyd Cymru. Yn y modd hwnnw, credaf ein bod wedi llwyddo i dynhau, a rhoi canllawiau gwell hefyd, i'r gwasanaeth i sicrhau ei fod yn gallu gweithredu proses gwaredu ystadau dda.

I wneud materion ystadau yn fwy byw, fe gofiwch, pan gawsom dystiolaeth am yr adroddiad trosfwaol gan yr Archwilydd Cyffredinol ar waredu ystadau ledled y GIG yng Nghymru, y casgliad y daethpwyd iddo oedd bod gormodedd ystadau bron yn nwydd am ddim. Wel, gan ddechrau eleni, mae'r Gweinidog wedi penderfynu y bydd taliadau cyfalaf yn fater byw. Nid ychwanegiad yn unig y byddant; byddant yn rhan o'r referniw a ddyrennir. Felly byddai hynny'n annog sefydliadau yn y GIG yng Nghymru i ystyried eiddo dros ben fel adnodd go iawn sy'n rhaid ei reoli'n effeithiol iawn, neu fel arall, ni fyddant yn defnyddio'u hadnoddau a'u harian yn effeithiol. Credaf y dylai hynny achosi newid o'r ymddygiad hwnnw yr ydym wedi ei weld yn y gorffennol.

[104] **Janet Davies:** Thank you, Mrs Lloyd.

[104] **Janet Davies:** Diolch, Mrs Lloyd.

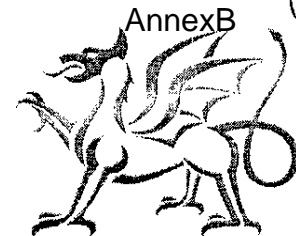
**Ms Lloyd:** However, there are other things that I could do—if you would like me to say?

**Ms Lloyd:** Fodd bynnag, mae pethau eraill y gallwn eu gwneud—os hoffech i mi ddweud?

[105] **Janet Davies:** I think that we will probably leave it at that for the moment. Perhaps you would like to give us a note on the other things that you feel you could do. I thank Mr Coffey and Mr Williams. Before the transcript of the proceedings is published, you will receive a draft, so that you can come back if you feel that anything is incorrect. I am afraid that it is not possible to change what you have said because you do not agree with it, or may have had another thought, but you do have a chance to see that it is correct.

[105] **Janet Davies:** Credaf y gwnawn ni mae'n debyg orffen yn y fan honno am y tro. Efallai yr hoffech roi nodyn i ni am y pethau eraill y credwch y gallech eu gwneud. Diolchaf i Mr Coffey a Mr Williams. Cyn y cyhoeddir trawsgrifiad o'r trafodion, byddwch yn derbyn drafft, fel y gallwch ein hysbysu os ydych o'r farn bod rhywbeth yn anghywir. Mae arnaf ofn na allwch newid yr hyn i chi ei ddweud oherwydd nad ydych yn cytuno ag ef, neu efallai eich bod wedi ailfeddwl, ond cewch gyfle i weld ei fod yn gywir.

*Daeth y sesiwn cymryd tystiolaeth i ben am 12.24 p.m.  
The evidence-taking session ended at 12.24 p.m.*



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Rt. Hon Dafydd Wigley  
Chair  
National Assembly Audit Committee  
Cardiff Bay  
CARDIFF CF99 1NA

Mrs Ann Lloyd  
Director, NHS Wales

Eich cyf . Your ref:  
Ein cyf . Our ref: AL/ml/HIMTE/012/1287

30<sup>th</sup> December 2002

Dear *Mrs Wigley*.

When I appeared before you on October 24<sup>th</sup> to give evidence in support of the NAO Report into the Disposal of the Mid Wales Hospital, I made several references to a Welsh Health Circular that was soon to be released to the service covering a range of points also covered in the report.

The Circular was released on 9<sup>th</sup> December and is attached for your reference.

The purpose of the Circular is to remind NHS Wales' property holding bodies of their responsibilities, specifically in relation to managing disposal processes, and it specifically responds to a number of the recommendations coming out of the NAO report.

You will recall that the NAO report, and the Committee hearing, spent time considering issues such as record keeping, formal valuation, professional advice, tender procedures, business cases, acquainting private sector advisers with public sector requirements, communication of planning policy, and sustainable development issues. All of these areas are specifically referred to within this Circular which also mandates the Estatecode guidance as the primary source of guidance for all property holding bodies to follow when engaged in the process of disposal.

I trust you will find this useful and look forward to receiving your full report in due course.

Yours sincerely

*Ann Lloyd*

ANN LLOYD  
Director, NHS Wales  
Att.

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# WELSH HEALTH CIRCULAR



**Issue Date:** 9th December 2002  
**Status:** ACTION

Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

**Title:** Disposal of the NHS Estate

**For Action by:** Chief Executives, NHS Trusts;  
Chief Executives, Health Authorities;  
Director, Welsh Health Estates

**Action required:** See Paragraphs  
6 - 22

**For Information to:** See attached list

**Sender:** Mrs Pat Tempest, Head of Capital & Estates, NHS Wales Department

**National Assembly Contact for matters of Policy:** Pat Tempest, Head of Capital & Estates, NHS Wales Department, Welsh Assembly Government, Cathays Park, Cardiff, CF10 3NQ.

**Welsh Health Estates Contact for Technical Advice :** Gareth Roberts, Welsh Health Estates, PO Box 182, Bevan House, 25-30 Lambourne Crescent, Llanishen, Cardiff, CF14 5GS

**Enclosure(s):** None



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## **DISPOSAL OF THE NHS ESTATE**

### **Summary**

1. The purpose of this circular is to remind NHS Wales' property holding bodies of their responsibilities as guardians of public assets to ensure that all disposals are managed in accordance with the highest standards of probity and in accordance with best practice guidance.
2. The circular identifies the key strategic guidance to be used by the NHS when disposing of property and reminds the Service of the importance of obtaining appropriate professional advice.

### **Background**

3. A number of recent independent audits have been undertaken into NHS disposals and whilst identifying many aspects of good practice have also identified weaknesses in this area. The Auditor General for Wales conducted the two most notable investigations and copies of The Renewal and Disposal of Property held by the National Health Service in Wales and The Disposal of the Mid Wales Hospital reports can be accessed from <http://www.agw.wales.gov.uk/index.htm>. Both these reports were the subject of National Assembly Audit Committee Hearings.
4. The Renewal and Disposal of Property held by the National Health Service in Wales report dealt mainly with issues of strategic asset management and will help inform the policy statements currently being developed by the Assembly in respect of Procurement and Design and Property Management. These will be issued shortly.
5. The Disposal of the Mid Wales Hospital concentrated mainly on issues more specific to individual property disposal. This circular seeks to promulgate the findings of this report and provides the Service with further clarity in this important area.

### **Action**

#### **General**

6. The service should be clear on best practice guidance and Government procedures to be followed in the disposal of surplus property particularly relating to regularity, propriety and value for money.

#### **Regularity and Propriety**

7. Following WHEL (02)09 property management guidance for all NHS bodies is contained within Estatecode (2001 Edition). Whilst the document is written primarily for NHS in England the principles contained within the document are relevant to all disposals.

8. All NHS bodies in Wales should make compliance with Estatecode guidance a mandatory requirement for their staff in the management of the Residual Estate including its disposal taking due account of the differences, both in terms of health policy and organisational structure, between NHS Wales and the NHS in England.

9. NHS bodies must ensure as part of their appointment procedures that all prospective private sector advisers are fully acquainted with public accountability requirements. These are contained within the 1995 Codes of Conduct and Accountability and the 1998 Corporate Governance Framework. All NHS bodies must reflect the public service values of Accountability, Probity and Openness. In order to fully comply with these codes the chairman, board members and staff involved in a disposal need to ensure that they:

- do not use their position to further their private interests;
- avoid incurring obligations to contracting parties, for example, through accepting significant hospitality;
- ensure proper stewardship of public funds

10. NHS bodies should ensure that a formal valuation is obtained at an early stage in the disposal process.

11. NHS bodies must take account of all professional advice they obtain whether from the private or public sector. Good reasons for not following advice must be recorded. (e.g. a sufficient change in circumstances or a second professional opinion). Any action taken which is contrary to professional advice requires the approval of the Department.

12. NHS bodies are reminded that Estatecode requires a property valuation independent of the selling agent where a sale is complex or unusual, the potentially most valuable use is unclear, or the value is likely to be in excess of £5 million.

13. Tender procedures (whether informal or formal) must comply with the NHS body's financial and standing orders and should follow good practice in respect of tender administration. This should require bids to be submitted in sealed envelopes, without marks identifying the purchaser, which should be opened simultaneously in the presence of a witness. NHS bodies should require their agents to follow the same good practice.

14. NHS bodies are reminded that Estatecode requires that all decisions and matters relating to a disposal must be fully and clearly recorded. This should include reasons for decisions made, all relevant correspondence, telephone conversations and discussions at meetings. This will provide a comprehensive audit trail to demonstrate that an NHS body has acted properly.

### **Value For Money In Disposals**

15. All disposals should be fully supported by a clear business case for the transaction. The business reasons for disposal and the costs and benefits of alternative approaches should be analysed in a separate business case if these issues are not addressed in the

business case process for the re-provision of services. These considerations will include costs and benefits of different sale strategies such as a sale as a single site, sale in phases or lots, approach to planning issues, the costs of ongoing maintenance and financial viability of demolition.

16. NHS bodies should obtain up to date valuations following any material change in circumstances which professional advice indicates is likely to affect value or where the disposal process has covered an extended period.

17. When disposing of property NHS bodies should ensure that all potential purchasers are made fully aware, through written communication, of changes likely to affect value including changes in planning policy and criteria.

18. NHS bodies should give full and formal consideration to reserving the right to further payments for disposal sites if certain circumstances occur - known as overage or clawback. These arrangements should be used where professional advisers are not satisfied that a property is being sold with the best planning permission that might be obtainable in the future. Such agreements will ensure that the NHS benefits from subsequent development profit and value arising from a better planning consent in the future. Consideration of clawback and the reasons for its inclusion or exclusion should be formally recorded.

19. NHS bodies are reminded of the need to consider whether surplus land and property is required by another NHS organisation or public body. Sale to such bodies should be at open market value. Only in very exceptional circumstances outlined below should surplus property be sold at less than open market value.

20. Generally the disposal price of surplus property must not be less than the best price reasonably obtainable in the open market. In certain circumstances it may be reasonable to consider wider issues including sustainable development and accept a price lower than Open Market Value for the public benefit. Estatecode requires that this should only be done if the NHS body's Accountable Officer is prepared to defend it as a deliberate concession. In these cases the benefits that are expected to result from the disposal must be clearly identified to demonstrate that value for money criteria have been met. Approval will be required from the Health Minister through the NHS Wales Department.

21. An overage (clawback) provision must be included in all concessionary sales unless there are exceptional circumstances whereby its inclusion would prevent best value being obtained.

22. The Government in Wales Act 1998 introduced the consideration of sustainable development for public bodies in Wales and a full examination of sustainable development issues will be undertaken as part of the revision of Estatecode for Wales to be undertaken by summer 2003.

23. Enquiries on this circular on matters of policy should be addressed to Pat Tempest, Head of Capital & Estates Branch (Tel No.029 2082 5695 or e-mail Patricia.Tempest@wales.gsi.gov.uk) while issues of a technical or professional nature should be addressed to Gareth Roberts, Welsh Health Estates (Tel No.029 2031 5527 or e-mail Gareth.Roberts@whe.wales.nhs.uk).

Yours sincerely,

A handwritten signature in black ink that reads "Pat Tempest". The signature is written in a cursive style with a large initial 'P'.

Patricia Tempest  
Head of Capital and Estates Branch  
NHS Wales Department  
Welsh Assembly Government



## **Distribution List**

### **Action Recipients**

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Chief Executives	Health Authorities
Director	Welsh Health Estates

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Information Officer	Wales Council for Voluntary Action
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Chairman	Institute of Health Care Management
Secretary	British College of Optometrists
Chief Executive	Association of Optometrists
Training and Development Officer	Association of Optometrists
	Audit Commission
	Scottish Executive Health Department
Director of Finance	SHSCW
	Primary Care Support Unit



Llywodraeth Cynulliad Cymru  
Welsh Assembly Government

Janet Davies AM  
Chair - Audit Committee  
National Assembly for Wales  
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Mrs Ann Lloyd  
Director, NHS Wales

Eich cyf . Your ref:  
Ein cyf . Our ref: AJL/FN/HIF

10<sup>th</sup> February 2004

Dear Ms Davies

You asked me to write to you following the most recent evidence relating to the disposal of Talgarth Hospital.

I had advised the Committee at that hearing of the action I had taken as a consequence of the recommendations reached by the Auditor General in October 2002.

However, I also agreed to provide a note of the action that I shall take as a consequence of the latest set of recommendations. This will be as follows: -

- I shall use this case as part of the education and training development packages for the Service to provide an example for them of the importance of governance and risk management;
- I shall ensure that the issue of the estate and its management form part of the resources part of the balanced score card;
- The Minister has already published a framework of accountability and performance assessment for the Chair and I have published a similar document for Chief Executive Officers against which their performance will be measured and monitored and which clearly shows the differences in responsibility and accountability of the two roles;
- I shall be writing to the Service, upon the publication of your final report on this matter, drawing attention to this case as highlighting the importance of good record keeping and the maintenance of audit trails for decisions, that all decisions must be logged properly and that there should be active risk management to underpin those decisions. I will, of course, at the same time draw attention to all the conclusions and recommendations of the Audit Committee;

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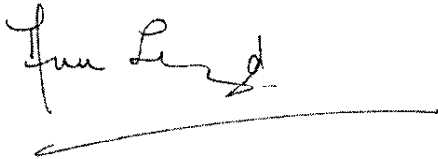
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- As I advised the Committee, I am currently undertaking an audit of the effectiveness of the whistle blowing policies in the NHS in Wales;
- I shall be reinforcing with the Service the importance of accurate planning in the resettlement of patients/clients so that the project management of a scheme of any complexity involving the moving of patients from one location to another is accurate and effective;
- Following completion of your recommendations I shall be reviewing the evidence thoroughly, in consultation with the Auditor General, to establish whether or not I can retain confidence for the future in those who were acting as accountable officers at the time

I shall write to you with a report on progress in six months' time.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ann Lloyd', with a long horizontal line underneath it.

**ANN LLOYD**  
Director, NHS Wales

**THE AUDIT COMMITTEE**

The National Assembly's Audit Committee ensures that proper and thorough scrutiny is given to the Assembly's expenditure. In broad terms, its role is to examine the reports on the accounts of the Assembly and other public bodies prepared by the Auditor General for Wales; and to consider reports by the Auditor General for Wales on examinations into the economy, efficiency and effectiveness with which the Assembly has used its resources in discharging its functions. The responsibilities of the Audit Committee are set out in detail in Standing Order 12.

The membership of the Committee as appointed on 3 June 2003:

Janet Davies (Plaid Cymru) - Chair  
Leighton Andrews (Labour)  
Mick Bates (Liberal Democrat)  
Alan Cairns (Conservative)  
Jocelyn Davies (Plaid Cymru)  
Christine Gwyther (Labour)  
Denise Idris-Jones (Labour)  
Mark Isherwood (Conservative)  
Val Lloyd (Labour)  
Carl Sargeant (Labour)

Further information about the Committee can be obtained from:

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