

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

[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 guidance to follow on disposals?

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: 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 rwymo 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 siwr—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: 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 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?

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, 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:** 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 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.

[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 derbyn pris is oherwydd bod y cynnig o bosibl yn cyfrannu at les y gymuned, neu at anghenion y gymuned leol, neu at bolisiâu 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:** 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—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.

[12] **Dafydd Wigley:** A gaf fi, felly, ofyn a yw'r sefyllfa bresennol, y soniodd Ann Lloyd amdani ychydig yn ôl, rywfaint 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 ynglyn 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 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:** 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 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.

[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 lluo 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 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:** 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?

[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: 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 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

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 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. Cyfeirïaf 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 siwr, 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

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 in that ball park?

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.

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

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

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

Mr Towns: It was £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.

byr.

[22] **David Wigley:** Cyn i chi ofyn cwestiynau pellach, Janice, a gaf i bwysu arnoch chi ymhellach ynglyn â'r hyn a ddywedasoeh, Mr Towns? Dywedasoeh, 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 ynglyn â'r rhychwant cynigion oedd yn dderbyniol, nad ydoedd yn syndod o gwbl bod y cynigion a ddaeth i law o fewn y rhychwant hwnnw?

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

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

[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: Yr wyf yn meddwl mai £348,600 ydoedd—

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

Mr Towns: Y pris oedd £355,000.

[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.

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

[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. 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—

Mr Towns: Credaf, fel y mae'r adroddiad yn ei argymhell—mae newidiadau y mae'n ei argymhell 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, yr oeddech chi am ddweud rhywbeth cyn i ni symud ymlaen?

[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 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

[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 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.

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 pwynt 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 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:** 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 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

[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 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 gennyh safle 100 erw â photensial llawn i ddatblygu cartrefi arno,

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.

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: You still have to go through the process.

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

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

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

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 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.

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 siwr 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 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 tyb hwy, ac yna mae'n ymddangos y gall rhywun ffacio 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 byd i, ni fyddwn i hyd yn oed yn gwybod sut i ffacio Ysgrifennydd Gwladol, a dweud y gwir.

[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.

[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.

[48] **Alun Cairns:** Yr wyf am wthio'r pwynt hwn ymhellach. Os wyf yn prynu ty 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’, cyfeiriaf at y tîm gwaredu, os mynnwch, a oedd yn cynnwys y gwerthwr eiddo.

[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:** 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 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—

[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 hagor drwy ddamwain, byddem mewn trafferth mawr gyda'r archwilydd dosbarth. Mae'n anodd gen i gredu fod Llywodraeth Cymru, boed yn 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:** 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.

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

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

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.

Mr Towns: Ar 17 neu 18 Awst 1999.

[61] **Dafydd Wigley:** A ydych yn siwr 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 bwloch 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:** 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 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?

[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 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 phlediwyd 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: 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 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.

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 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:** 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.

[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.

[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:** 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:** 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.

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?

[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 siwr 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 siwr o greu eu rhesymau eu hunain, ac yr wyf yn credu ei bod hi'n hollol resymol iddynt wneud hynny.

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: 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: 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: 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 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: 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 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 thy yn benodol wedi'u gwerthu am £55,000, a dau ohonynt wedi'u gwerthu ymhellach am lawer mwy na hynny, sydd yn gadael, derbynïaf, 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: 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 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: 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 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 gyfanrwydd 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 siwr, 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: 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 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.

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 ailbwsleisio 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 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:** 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 be 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 the answers given already.

[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 ynglyn 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 barod.

[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?

[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: 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 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: 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 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: 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.

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

[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?

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

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

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

[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.

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, diweddaredig 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: Yr wyf yn meddwl ei bod hi, ond deallaf eich pwynt.

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

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

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

[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.

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

Mr Towns: I do not know whether 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?

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.

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 ynglyn 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:** Iawn, adeiladau presennol. Pa fath o ganran o'r arwynebedd llawr fyddai hynny?

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

[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: 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:** 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 discuss it in general terms.

[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 ailhysbysebu 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 gennych 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. Gallem ond ei drafod yn gyffredinol.

[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?

[120] **Alun Cairns:** I symud ymlaen, Ms Lloyd, a ydych yn teimlo, yng ngoleuni y profiad, fod gennych 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 orfiwrocraidaidd—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: 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 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.

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:

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:** 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 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.’

[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 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.’

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 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.

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 siwr, 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 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:** 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.

[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:** 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?

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

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

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

[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?

[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?

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.

[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 ynglyn â'r ffordd y gwerthwyd yr eiddo, neu a roddwyd hwy mewn lle diogel yn syth?

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:** Mewn lle diogel?

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

[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:** Gallaf. Cyfeirïaf 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: 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.

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

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:** Cwmpaf ar fy mai, 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:** 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 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.

[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 siwr 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 siwr o fod wedi ateb hynny.

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

[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, ynglyn 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. 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:** 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.

[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 ombudsman.

A gaf i nodi'n glir nad yw gwrandawriadau'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 cyd-destun 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.*

