Cynulliad Cenedlaethol Cymru

Pwyllgor Archwilio

The National Assembly for Wales

Audit Committee

Esgeulustod Clinigol yn y GIG yng Nghymru
Clinical Negligence in the NHS in Wales

Cwestiynau (1-90)
Questions (1-90)

Dydd Iau 8 Mawrth 2001
Thursday 8 March 2001

Aelodau o'r Cynulliad yn bresennol: Janet Davies (Cadeirydd), Jocelyn Davies, Alison Halford, Lynne Neagle, Karen Sinclair, Dafydd Wigley.

Swyddogion yn bresennol: Syr John Bourn, Archwilydd Cyffredinol Cymru; Gillian Body, Swyddfa Archwilio Genedlaethol Cymru; Dave Powell, Swyddog Cydymffurfio Cynulliad Cenedlaethol Cymru.

Tystion: Sarah Beaver, Pennaeth Is-adran Cyllid yr NHS, Cynulliad Cenedlaethol Cymru; Ian Biggs, Rheolwr Cronfa Risg Cymru; Gren Kershaw, Prif Weithredwr Ymddiriedolaeth NHS Conwy a Sir Ddinbych; Ann Lloyd, Cyfarwyddwr NHS Cymru; Alison Walcot, Gwasanaethau Cyfreithiol Iechyd Cymru.

Assembly Members present: Janet Davies (Chair), Jocelyn Davies, Alison Halford, Lynne Neagle, Karen Sinclair, Dafydd Wigley.

Officials present: Sir John Bourn, Auditor General for Wales; Gillian Body, National Audit Office Wales; Dave Powell, Compliance Officer of the National Assembly for Wales.

Witnesses: Sarah Beaver, Head of NHS Finance Division, National Assembly for Wales; Ian Biggs, Manager of the Welsh Risk Pool; Gren Kershaw, Chief Executive of Conwy and Denbighshire NHS Trust; Ann Lloyd, Director of NHS Wales; Alison Walcot, Welsh Health Legal Services.

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

[1] **Janet Davies:** Good afternoon. I welcome witnesses and members of the public to this evidence-taking session of the Audit Committee. The purpose of the meeting is to take evidence in connection with the National Audit Office report for the Auditor General of Wales, 'Clinigal Negligence in the NHS in Wales'. As Anne-Louise Ferguson of Welsh Health Legal Services is unable to attend, Alison Walcot is here instead. Will the witnesses introduce themselves?

Mrs Lloyd: I am Ann Lloyd, the new director of the national health service in Wales.

Mrs Beaver: I am Sarah Beaver, the head of the NHS Finance Division in the Assembly.

Mr Kershaw: I am Gren Kershaw, chief executive of the Conwy and Denbighshire NHS Trust and member of the Welsh Risk Pool management group.

[1] **Janet Davies:** Prynhawn da. Croesawaf y tystion ac aelodau o'r cyhoedd i'r sesiwn derbyn tystiolaeth hwn o'r Pwyllgor Archwilio. Pwrpas y cyfarfod yw derbyn tystiolaeth mewn cysylltiad ag adroddiad y Swyddfa Archwilio Genedlaethol i Archwilydd Cyffredinol Cymru, 'Esgeulustod Clinigol yn y GIG yng Nghymru'. Gan na all Anne-Louise Ferguson o Wasanaethau Cyfreithiol Iechyd Cymru fod yn bresennol, mae Alison Walcot yma yn ei lle. A wnaiff y tystion eu cyflwyno eu hunain?

Mrs Lloyd: Ann Lloyd wyf fi, cyfarwyddwr newydd y gwasanaeth iechyd gwladol yng Nghymru.

Mrs Beaver: Sarah Beaver wyf fi, pennaeth Is-adran Cyllid yr NHS yn y Cynulliad.

Mr Kershaw: Gren Kershaw wyf fi, prif weithredwr Ymddiriedolaeth NHS Conwy a Sir Ddinbych ac aelod o grwp rheoli Cronfa Risg Cymru.

Ms Walcot: I am Alison Walcot, of Welsh Health Legal Services.

Mr Biggs: I am Ian Biggs, the manager of the Welsh Risk Pool.

[2] **Janet Davies:** I give a special welcome to Ann Lloyd as the new director of the NHS Directorate in the Assembly. I also welcome Barry Edgar and Terry Woodhouse from the Northern Ireland Audit Office, who are visiting us today. I hope that they will feel able to take something back to Northern Ireland from us today. I remind you all that you may speak in Welsh or English. Translation equipment is available for those who do not understand Welsh.

This is an important session and one for which we have all been waiting for a long time. I do not want to waste any time as it is important that we get down to business straight away. I will begin by asking Ann Lloyd a question. I am pleased that the Committee now has the chance to consider this issue and its impact on the NHS in some detail. We understand that the potential bill facing the NHS for claims open at March 2000 was over £100 million. That would be enough to run all the health trusts in Wales for over three weeks. I hope that the Auditor General's report marks a significant step in terms of the NHS addressing this problem. It is a matter of concern to all of us, since money spent on settling claims is money that could have been used for patient care. How do you intend to give a higher priority than you have in the past to dealing with what seems to be the intractable problem of clinical negligence?

Ms Walcot: Alison Walcot wyf fi, o Wasanaethau Cyfreithiol Iechyd Cymru.

Mr Biggs: Ian Biggs wyf fi, rheolwr Cronfa Risg Cymru.

[2] **Janet Davies:** Rhoddaf groeso arbennig i Ann Lloyd fel cyfarwyddwr newydd Cyfarwyddiaeth yr NHS yn y Cynulliad. Croesawaf hefyd Barry Edgar a Terry Woodhouse o Swyddfa Archwilio Gogledd Iwerddon, sydd yn ymweld â ni heddiw. Gobeithiaf y byddant yn teimlo eu bod yn gallu mynd â rhywbeth yn ôl i Ogledd Iwerddon oddi wrthym ni heddiw. Fe'ch atgoffaf y cewch siarad yn y Gymraeg neu'r Saesneg. Mae offer cyfieithu ar gael i'r rhai nad ydynt yn deall y Gymraeg.

Mae hwn yn sesiwn pwysig ac yn un yr ydym oll wedi bod yn ei ddisgwyl ers amser hir. Ni ddymunaf wastraffu amser o gwbl gan ei bod yn bwysig inni fwrw iddi ar unwaith. Dechreuaf drwy ofyn cwestiwn i Ann Lloyd. Yr wyf yn falch bod gan y Pwyllgor gyfle'n awr i ystyried y mater hwn a'i effaith ar yr NHS yn eithaf manwl. Deallwn fod y bil a allai wynebu'r NHS am hawliadau a oedd yn agored ym Mawrth 2000 yn fwy na £100 miliwn. Byddai hynny'n ddigon i redeg yr holl ymddiriedolaethau iechyd yng Nghymru am dros dair wythnos. Gobeithiaf fod adroddiad yr Archwilydd Cyffredinol yn arwydd o gam pwysig o ran rhoi sylw i'r broblem hon gan yr NHS. Mae'n fater sydd yn peri pryder i bawb ohonom, gan fod arian a werir ar setlo hawliadau yn arian y gallesid bod wedi'i ddefnyddio ar gyfer gofal cleifion. Sut y bwriadwch roi blaenoriaeth uwch nag a wnaethoch yn y gorffennol i ymdrin â'r hyn a ymddengys yn broblem anhydrin o esgeulustod clinigol?

Mrs Lloyd: This is a really important report by the Auditor General. It gives the NHS a number of key levers for improving its performance, not only in reducing risk but in managing the risk with which it is faced. 'Putting Patients First', published in 1998, placed a great deal of importance upon the governance of the clinical practice within Wales. That has been followed up by a strong statement in the new plan for the NHS in Wales. This, together with the new performance management programme which I am to institute as part of the implementation of the new plan, will give us all a better indication of the way in which the NHS is managing risk within its clinical services, how it is dealing with those risks and what it is doing to manage complaints from patients and their relatives much better. At the moment, a clinical governance review of all trusts and health authorities in Wales is drawing to a conclusion. It will report to me on the state of the management of risk and on clinical quality in Wales. From that I will draw up an action plan to talk through and debate with the individual trusts and health authorities to ensure that we get very good performance management standards and good monitoring mechanisms, so that we can assess progress towards a reduction in clinical risk.

Mrs Lloyd: Mae hwn yn adroddiad gwirioneddol bwysig gan yr Archwilydd Cyffredinol. Mae'n rhoi nifer o liferi allweddol i'r NHS i wella ei berfformiad, nid yn unig wrth leihau risg ond wrth reoli'r risg sydd yn ei wynebu. Yr oedd 'Rhoi Cleifion yn Gyntaf', a gyhoeddwyd yn 1998, yn rhoi pwys mawr ar lywodraethu arfer clinigol oddi mewn i Gymru. Dilynwyd hynny â datganiad cadarn yn y cynllun newydd ar gyfer yr NHS yng Nghymru. Bydd hyn, ynghyd â'r rhaglen rheoli perfformiad newydd y byddaf yn ei sefydlu fel rhan o weithrediad y cynllun newydd, yn dangos yn well i bawb ohonom y modd y mae'r NHS yn rheoli risg oddi mewn i'w wasanaethau clinigol, sut y mae'n trafod y risgiau hynny a'r hyn y mae'n ei wneud i reoli cwynion oddi wrth gleifion a'u perthnasau'n well o lawer. Ar hyn o bryd, mae adolygiad llywodraethu clinigol o'r holl ymddiriedolaethau ac awdurdodau iechyd yng Nghymru yn tynnu at ei derfyn. Bydd yn adrodd i mi ar gyflwr rheoli risg ac ar ansawdd clinigol yng Nghymru. Ar sail hynny byddaf yn llunio cynllun gweithredu i'w drafod yn fanwl a dadlau yn ei gylch gyda'r ymddiriedolaethau a'r awdurdodau iechyd unigol i sicrhau y cawn safonau rheoli perfformiad da iawn a mecanweithiau monitro da, fel y gallwn asesu'r cynnydd tuag at leihau risg clinigol.

The second point that I would like to make is that running through this report is a real concern about an absence of information by which one can share practice and know what is happening, both in your own organisation and throughout Wales. That is of prime importance. The Auditor General has, very helpfully, pointed out ways in which the NHS could manage its information better and share it with others.

Yr ail bwynt yr hoffwn ei wneud yw bod pryder gwirioneddol yn rhedeg drwy'r adroddiad hwn ynghylch diffyg gwybodaeth y gellir rhannu arfer drwyddi a gwybod beth sydd yn digwydd, yn eich corff eich hun a ledled Cymru. Mae hynny o'r pwys mwyaf. Mae'r Archwilydd Cyffredinol, yn dra chymwynasgar, wedi nodi dulliau y gallai'r NHS reoli ei wybodaeth yn well drwyddynt a'i rhannu ag eraill.

The third theme is very much about the openness that is now a really important part of the way that we manage patients. We must be open and honest. We must clearly explain any risk that patients are likely to face when they come within our services, so that proper judgments can be made and so that we can provide better supervision of junior medical staff and other clinical staff and improve the information available both to them and our patients.

Mae'r drydedd thema'n ymwneud yn agos iawn â'r gweithredu agored sydd bellach yn rhan wirioneddol bwysig o'n dull o drafod cleifion. Rhaid inni fod yn agored ac yn onest. Rhaid inni esbonio'n glir unrhyw risg y mae cleifion yn debygol o'i wynebu pan ddônt o fewn ein gwasanaethau, fel y gellir gwneud dyfarniadau priodol ac fel y gallwn ddarparu gwell goruchwyliaeth ar staff meddygol iau a staff clinigol eraill a gwella'r wybodaeth sydd ar gael iddynt hwy ac i'n cleifion.

I think that there is a lot that we can do with the very helpful suggestions made in this report. Underpinning that must be a better performance management process than that we have had in the past.

Credaf fod llawer y gallwn ei wneud gyda'r awgrymiadau defnyddiol iawn a roddir yn yr adroddiad hwn. Yn sylfaen i hynny rhaid cael gwell proses rheoli perfformiad na'r hyn a fu gennym yn y gorffennol.

[3] **Janet Davies:** We will explore some of those issues further, particularly the second and third themes, later this afternoon. Can you give me some idea of the level of priority that you would see this as having? Clearly, there are many priorities in the national health service. What sort of importance would this particular issue have?

[3] **Janet Davies:** Byddwn yn archwilio rhai o'r materion hynny ymhellach, yn enwedig yr ail a'r drydedd thema, yn ddiweddarach y prynhawn yma. A allwch roi rhyw syniad imi o'r lefel o flaenoriaeth a roddech i hyn? Mae'n amlwg bod llawer o flaenoriaethau yn y gwasanaeth iechyd gwladol. Pa fath o bwys a roddid ar y mater arbennig hwn?

Mrs Lloyd: The NHS has a duty to care for the people it treats. It is of primary importance and an extremely high priority. Therefore, in determining the performance management standards on which I will be working with the service during the next year, I would place this in a very prominent position.

Mrs Lloyd: Mae dyletswydd ar yr NHS i ofalu am y bobl y mae'n eu trin. Mae o'r pwys mwyaf ac yn flaenoriaeth uchel iawn. Felly, wrth bennu'r safonau rheoli perfformiad y byddaf yn gweithio arnynt gyda'r gwasanaeth yn ystod y flwyddyn nesaf, rhoddwn le amlwg iawn i hyn.

[4] **Janet Davies:** Thank you. Dafydd Wigley will ask the next questions.

[4] **Janet Davies:** Diolch i chi. Dafydd Wigley fydd yn gofyn y cwestiynau nesaf.

[5] **Dafydd Wigley:** Yr wyf am droi at gost gynyddol esgeulustod clinigol. Mae crynodeb y cyfrifon yn dangos bod taliadau potensial iawndal am esgeulustod clinigol ym Mawrth 2000 yn £111 miliwn. Nid yw'r ffigur hwnnw ond yn adlewyrchu'r achosion hynny yr oedd y NHS yn ymwybodol ohonynt. Beth am y digwyddiadau hynny lle nad oedd cais am iawndal wedi dod i law pan wnaethpwyd y cyfrifon? A allwch roi sicrwydd inni nad oes costau sylweddol ychwanegol yn cuddio o dan yr wyneb?

[5] **Dafydd Wigley:** I want to turn to the increasing cost of clinical negligence. The summary of accounts shows that the potential compensation payments for clinical negligence stand at £111 million in March 2000. That figure only reflects those cases of which the NHS was aware. What about the incidents for which a claim for compensation had not been received when the accounts were drawn up? Can you give us an assurance that additional substantial costs are not lurking under the surface?

[6] **Karen Sinclair:** Chair, the translation is not working.

[6] **Karen Sinclair:** Gadeirydd, nid yw'r cyfieithu'n gweithio.

[7] **Dafydd Wigley:** Shall I start again?

[7] **Dafydd Wigley:** A ddymunwch imi ddechrau eto?

[8] **Janet Davies:** My headset was working alright.

[8] **Janet Davies:** Yr oedd fy nghlustffon i yn gweithio'n iawn.

[9] **Dafydd Wigley:** Gofynnaf y cwestiwn eto. Yr wyf am ofyn am y digwyddiadau lle nad oedd cais am iawndal wedi dod i law pan wnaethpwyd y cyfrifon. A allwch roi sicrwydd inni nad oes costau sylweddol ychwanegol yn cuddio o dan yr wyneb a allai achosi goblygiadau cyllidol o bwys i'r NHS yn y dyfodol?

[9] **Dafydd Wigley:** I will ask the question again. I want to ask about the incidents for which compensation claims had not been received when the accounts were drawn up. Can you give us an assurance that there are no substantial additional costs lurking under the surface that could have important budgetary implications for the NHS in the future?

Mrs Lloyd: As you have seen from the report, the claims that take longest to settle are usually the most complex ones. That means that assessment of damage cannot be gauged until a considerable period of time has passed. However, the majority of claims are known about within the three-year period. I think that we have become much better, throughout the country, in assessing what compensation is likely to be paid and what the likelihood of settlement is. From the Auditor General's report I gained an indication that he was satisfied with the process that we are going through.

Mrs Lloyd: Fel y gwelsoch o'r adroddiad, yr hawliadau y cymerir yr amser hwyaf i'w setlo yw'r rhai mwyaf cymhleth fel rheol. Golyga hynny na ellir mesur yr asesiad o niwed hyd nes y bydd cryn amser wedi mynd heibio. Fodd bynnag, gwyddys am y rhan fwyaf o'r hawliadau oddi mewn i'r cyfnod tair blynedd. Credaf inni ddod yn llawer gwell, ledled y wlad, wrth asesu pa faint o iawndal sydd yn debygol o gael ei dalu a'r tebygolrwydd o setlo. O adroddiad yr Archwilydd Cyffredinol, cefais arwydd ei fod yn fodlon ar y broses yr ydym yn mynd drwyddi.

Given that clinical risk management was not in an advanced state 10 to 15 years ago, one cannot ever be 100 per cent sure that there is nothing lurking and ready to spring out that might make our assessments inadequate. However, many of the unfortunate cases are already in our system, being managed and cared for. We know which cases those are and we can make an assessment, even if a claim has not yet been made. However, the vast majority would appear within the first five to 10 years because a claim—for the majority—must be made before the child is 18.

O ystyried nad oedd rheoli risg clinigol yn ddatblygedig 10 i 15 mlynedd yn ôl, ni ellir byth fod yn gwbl sicr nad oes dim yn cuddio ac yn barod i neidio allan a allai beri i'n hasesiadau fod yn annigonol. Fodd bynnag, mae llawer o'r achosion anffodus yn ein system eisoes, yn cael eu rheoli ac yn derbyn gofal. Gwyddom ba rai yw'r achosion hynny a gallwn wneud asesiad, hyd yn oed os na chyflwynwyd hawliad eisoes. Fodd bynnag, deuai'r rhan helaethaf ohonynt i'r golwg o fewn y pump i 10 mlynedd cyntaf oherwydd rhaid cyflwyno hawliad—yn achos y mwyafrif—cyn i'r plentyn gyrraedd 18 oed.

Therefore, I feel confident that we have accurately predicted the amounts that are outstanding, but we cannot be 100 per cent sure until our new risk management system and claims assessment system has run for the next three to four years.

Felly, teimlaf yn ffyddiog ein bod wedi rhagfynegi'r symiau sydd heb eu talu'n gywir, ond ni allwn fod yn gwbl sicr hyd nes y bydd ein system rheoli risg a'n system asesu hawliadau newydd wedi rhedeg am y tair i bedair blynedd nesaf.

[10] **Dafydd Wigley:** Byddaf am ddod yn ôl at hynny ychydig yn nes ymlaen, efallai. Fodd bynnag, cyn dod at y cwestiwn nesaf yr oeddwn am ei ofyn ichi—os caf bwyso arnoch—dim ond yr achosion lle mae cais wedi dod i law sydd wedi'u cynnwys yn y ffigur £111 miliwn? Nid oes unrhyw ychwanegiad o gwbl ar gyfer yr achosion y credwch y bydd cais yn dod i law, ond lle nad oes un wedi dod i law hyd yn hyn?

[10] **Dafydd Wigley:** I will want to return to that a little later on, perhaps. However, before coming on to the next question that I wanted to ask you—if I may press you—it is only those cases where a claim has been received that are included in the figure of £111 million? There is no additionality for those cases where you think a claim will be made but where one had not yet been made?

Mrs Lloyd: That is true. There is not a contingency for that yet.

Mrs Lloyd: Mae hynny'n wir. Nid oes darpariaeth ar gyfer hynny eto.

[11] **Dafydd Wigley:** Felly, uwchben y £111 miliwn, o reidrwydd fe fydd swm ychwanegol ar gyfer y cyfran o hawliadau sydd yn debyg o ddod i law, ond sydd heb ddod hyd yma?

[11] **Dafydd Wigley:** Therefore, on top of the £111 million, of necessity there will be an additional sum for the proportion of claims that are likely to be received, but which have not yet been recieved?

Mrs Lloyd: Yes.

Mrs Lloyd: Bydd.

[12] **Dafydd Wigley:** Yn eich barn chi, pam mae cymaint o gynnydd yng nghost esgeulustod clinigol dros y blynyddoedd diwethaf?

Mrs Lloyd: I think that case law has increased lawyers' knowledge of the charges that can be vested against clinical incidents in the NHS. I think that people are much more aware of their rights, and therefore they will make claims. We also treat very many more patients than we did in the past. The type of cases that can now be treated in the NHS is much more extensive and complex than it was in the past. That is why risk assessment is so critical to us all. That is why there has been an increase. However, we have to try to obviate those claims that could be eliminated by changing our practice.

[13] **Dafydd Wigley:** Os ydych yn cymryd camau i weithredu mewn modd sydd yn dileu'r rheswm sylfaenol dros unrhyw gais am esgeulustod, mae hynny i'w groesawu oherwydd ei fod yn well i'r claf. Fodd bynnag, a ydych hefyd yn ceisio lleihau'r hawl sydd gan y claf i wneud cais am iawndal? A yw hynny'n rhan o'r strategaeth?

Mrs Lloyd: No**,** we have a duty of care to our patients. They have a right to compensation if we have done anything, or if they have suffered any mistreatment or injury in our care.

[14] **Dafydd Wigley:** Mae'r ffigur sydd yn adroddiad yr Archwilydd Cyffredinol yn dangos cynnydd o 400 y cant dros y pedair blynedd ddiwethaf. A ydych yn rhagweld y patrwm hwn o gynnydd yn parhau?

[12] **Dafydd Wigley:** In your opinion, why is there so great an increase in the cost of clinical negligence over recent years?

Mrs Lloyd: Credaf fod cyfraith achosion wedi cynyddu gwybodaeth cyfreithwyr am y cyhuddiadau y gellir eu dwyn mewn perthynas â digwyddiadau clinigol yn yr NHS. Credaf fod pobl yn llawer mwy ymwybodol o'u hawliau, ac felly byddant yn cyflwyno hawliadau. Yr ydym hefyd yn trin mwy o lawer o gleifion nag a buom yn y gorffennol. Mae'r math o achosion y gellir eu trin yn awr yn yr NHS yn llawer mwy eang a chymhleth nag yr oedd yn y gorffennol. Dyna pam y mae asesu risg mor allweddol i bawb ohonom. Dyna pam y bu cynnydd. Fodd bynnag, rhaid inni geisio osgoi'r hawliadau hynny y gellid eu dileu drwy newid ein harfer.

[13] **Dafydd Wigley:** If you are taking steps to act in a way that abolishes the basic reason for any application for clinical negligence, that is to be welcomed because it is better for the patient. However, are you also trying to curtail the right of the patient to make an application for compensation? Is that part of the strategy?

Mrs Lloyd: Nac ydyw, mae arnom ddyletswydd gofal at ein cleifion. Mae ganddynt hawl i dderbyn iawndal os gwnaethom rywbeth, neu os cawsant unrhyw gamdriniaeth neu anaf o dan ein gofal.

[14] **Dafydd Wigley:** The figure in the Auditor General's report shows an increase of 400 per cent over the past four years. Do you foresee that pattern of increase continuing?

Mrs Lloyd: No, I do not. In the past two years a large number of very longstanding cases have been settled. With our better ways and methodologies of assessing risks, we should be very able to assess what the burden on the NHS purse will be in the future. The number of cases is not rising. So there is not an increasing trend in the number of cases. However, I have settled a very large number of very expensive cases, occurring at least 10 years ago, in the past year.

[15] **Dafydd Wigley:** O edrych arni felly, a'ch bod yn ymwybodol bod rhai o'r achosion drutaf wedi cael eu datrys yn ddiweddar, a ydych yn proffwydo y bydd lleihad yn y gost, os nad yn y nifer o achosion, dros y flwyddyn neu ddwy nesaf?

Mrs Lloyd: I think it would be prudent to go with the Auditor General's judgment on this, in terms of his assessment of what we have put in our books to meet the estimated cost of clinical negligence. I would go with his judgment.

[16] **Janet Davies:** Lynne, would you continue on this line?

[17] **Lynne Neagle:** The Auditor General's report states that the Woolf reforms, in the recent court of appeal ruling, will increase the total cost of claims in the short term. Have you discerned whether this has been the case so far?

Mrs Lloyd: Not so far; we have no evidence to show that. However, if we are going for a much faster resolution of claims and alternative methods of looking at how to manage claims, it is likely that there will be a bulge in the settlement before it recedes again.

Mrs Lloyd: Nac ydwyf. Yn y ddwy flynedd diwethaf setlwyd nifer mawr o achosion hen iawn. Gyda'r dulliau a'r methodolegau gwell sydd gennym, dylem fod yn gymwys iawn i asesu'r baich a fydd ar bwrs yr NHS yn y dyfodol. Nid yw nifer yr achosion yn codi. Felly nid oes tuedd cynyddol yn nifer yr achosion. Fodd bynnag, setlais nifer mawr iawn o achosion drud iawn, a ddigwyddodd o leiaf 10 mlynedd yn ôl, yn y flwyddyn a aeth heibio.

[15] **Dafydd Wigley:** Looking at it from that angle therefore, and as you are aware that some of the most expensive cases have been solved recently, do you predict that there will be a reduction in cost, if not in the number of cases, over the next year or two?

Mrs Lloyd: Credaf mai doeth fyddai cyd-fynd â barn yr Archwilydd Cyffredinol ar hyn, o ran ei asesiad o'r hyn a roesom yn ein llyfrau i dalu cost amcangyfrifedig esgeulustod clinigol. Byddwn yn cyd-fynd â'i farn ef.

[16] **Janet Davies:** Lynne, a wnewch chi barhau ar y trywydd hwn?

[17] **Lynne Neagle:** Mae adroddiad yr Archwilydd Cyffredinol yn datgan y bydd diwygiadau Woolf, yn y dyfarniad yn y llys apêl yn ddiweddar, yn cynyddu cyfanswm cost hawliadau yn y tymor byr. A welsoch a fu felly hyd yn hyn?

Mrs Lloyd: Nid hyd yn hyn; nid oes gennym dystiolaeth i ddangos hynny. Fodd bynnag, os ydym am geisio penderfynu hawliadau'n llawer cynt a chael dulliau eraill o ystyried sut i reoli hawliadau, mae'n debygol y bydd ymchwydd yn y setliad cyn iddo gilio eto.

[18] **Lynne Neagle:** Could I ask Alison Walcot what impact the court of appeal ruling to increase damages by up to 30 per cent will have on clinical negligence costs?

Mrs Walcot: It will have some impact on general damages, but it will have little impact on small claims. The 30 per cent increase in general damages applies to larger claims. It is a tapered percentage and so it will have little impact on smaller claims.

[19] **Lynne Neagle:** When the health authorities are abolished in April 2003, who will take over the responsibility for managing the claims that are outstanding against them?

Mrs Lloyd: That question has not yet been addressed but I will be able to provide you with an answer in the next three months, when the structural task and finish group that I chair will report. However, the last time there was any change in legislation to the bodies governing the NHS, liability tended to stay with those that had incurred the liability or their successor. That is one of the matters that we will be considering. I am sorry that I cannot give you detail on that today.

[20] **Janet Davies:** We now move on to the second section, on how claims are managed. I address my questions to you, Mrs Lloyd. The Auditor General found that a third of clinical negligence claims involved errors that were not related to clinical judgment or skill, and that such errors cost the NHS £4.2 million in 1999-2000. Before this report came out, to what extent was it recognised that poor records and communication were such a contributory factor?

[18] **Lynne Neagle:** A gaf ofyn i Alison Walcot am yr effaith a gaiff dyfarniad y llys apêl i gynyddu iawndal o hyd at 30 y cant ar gostau esgeulustod clinigol?

Mrs Walcot: Caiff rywfaint o effaith ar iawndal cyffredinol, ond ychydig o effaith a gaiff ar hawliadau bach. Mae'r 30 y cant o gynnydd mewn iawndal cyffredinol yn ymwneud â hawliadau mwy. Mae'n ganran daprog ac felly ni chaiff lawer o effaith ar hawliadau llai.

[19] **Lynne Neagle:** Pan ddiddymir yr awdurdodau iechyd yn Ebrill 2003, pwy fydd yn ymgymryd â chyfrifoldeb dros reoli'r hawliadau sydd ar ôl yn eu herbyn?

Mrs Lloyd: Ni wynebwyd y cwestiwn hwnnw eto ond byddaf yn gallu rhoi ateb i chi yn y tri mis nesaf, pan fydd y grwp gorchwyl a gorffen strwythurol yr wyf yn gadeirydd arno yn adrodd. Fodd bynnag, y tro diwethaf y bu unrhyw newid mewn deddfwriaeth i'r cyrff sydd yn rheoli'r NHS, yr oedd tuedd i'r atebolrwydd aros gyda'r rhai a oedd wedi cael yr atebolrwydd neu eu holynydd. Dyna un o'r materion y byddwn yn eu hystyried. Mae'n ddrwg gennyf na allaf roi manylion i chi ar hynny heddiw.

[20] **Janet Davies:** Awn ymlaen yn awr at yr ail adran, ynghylch y dull o reoli hawliadau. Cyfeiriaf fy nghwestiynau atoch chi, Mrs Lloyd. Canfu'r Archwilydd Cyffredinol fod un rhan o dair o hawliadau esgeulustod clinigol yn ymwneud â chamgymeriadau nad oeddent yn ymwneud â barn neu fedr clinigol, a bod camgymeriadau o'r fath wedi costio £4.2 miliwn i'r NHS yn 1999-2000. Cyn i'r adroddiad hwn ddod i law, i ba raddau y gwelwyd bod cofnodion a chyfathrebu gwael yn ffactor a oedd yn cyfrannu cymaint?

Mrs Lloyd: I think that throughout the NHS in general there has been rising concern about the number of complaints and claims received that have arisen from poor record keeping and poor communication. In my discussions next week with the chief executives of the health authorities and trusts, in conjunction with the Welsh Risk Pool standards, I shall draw their attention to the necessity of ensuring that the breaking of bad news improves and ensuring good communication between patients and their clinical providers. That is absolutely essential and we would wish to see an improvement in it. In addition, we wish to take forward the standard of record keeping to ensure that medical records do not get lost or are inadequately completed.

Much of that is being addressed in terms of junior medical and nursing training with changes in the year five curriculum to ensure that the very junior doctors understand the importance of communicating with patients and to ensure that they have a number of methods through which they can impart information and have a true discussion with patients. We should really avoid those problems. That is one of the key challenges that the NHS will face in the next couple of years. Patients have a right to expect that we can communicate with them well and manage their medical records competently.

[21] **Janet Davies:** You mentioned the issue of reporting claims. In the *British Medical Journal* last week it was pointed out that this was very important and that it was difficult to persuade staff to report claims. One trust was mentioned where the threat of disciplinary measures had been raised. Clearly that would not be the best of ways to address it. Have you any ideas about how you would propose to address that particular issue?

Mrs Lloyd: Credaf fod pryder cynyddol wedi bod drwy'r NHS yn gyffredinol ynghylch nifer y cwynion a'r hawliadau a dderbyniwyd sydd yn ganlyniad i gadw cofnodion gwael a chyfathrebu gwael. Yn fy nhrafodaethau'r wythnos nesaf gyda phrif weithredwyr yr awdurdodau iechyd a'r ymddiriedolaethau, mewn cysylltiad â safonau Cronfa Risg Cymru, byddaf yn tynnu eu sylw at yr angen i sicrhau gwelliant wrth dorri newyddion drwg a sicrhau cyfathrebu da rhwng cleifion a'u darparwyr clinigol. Mae hynny'n gwbl hanfodol a dymunwn weld gwelliant yn hynny. At hynny, dymunwn yrru ymlaen â safon cadw cofnodion er mwyn sicrhau na fydd cofnodion meddygol yn cael eu colli neu eu cwblhau'n annigonol.

Ymdrinnir â llawer o hynny yn nhermau hyfforddiant staff meddygol iau a nyrsio gyda newidiadau yng nghwricwlwm blwyddyn pump i sicrhau bod y meddygon ifanc iawn yn deall mor bwysig yw cyfathrebu â chleifion a sicrhau bod ganddynt nifer o ddulliau y gallant eu defnyddio i gyflwyno gwybodaeth a chael trafodaeth wirioneddol â chleifion. Dylem osgoi'r problemau hynny mewn gwirionedd. Dyna un o'r heriau allweddol y bydd yr NHS yn eu hwynebu yn ystod y blynyddoedd nesaf. Mae gan gleifion hawl i ddisgwyl y gallwn gyfathrebu â hwy'n dda a thrafod eu cofnodion meddygol yn fedrus.

[21] **Janet Davies:** Soniasoch am fater adrodd am hawliadau. Yn y *British Medical Journal* yr wythnos diwethaf nodwyd bod hyn yn bwysig iawn a'i bod yn anodd darbwyllo staff i adrodd am hawliadau. Crybwyllwyd un ymddiriedolaeth lle y codwyd y bygythiad o gamau disgyblu. Mae'n amlwg nad hynny fyddai'r dull gorau o ymdrin â hyn. A oes gennych unrhyw syniadau ynghylch y modd y bwriadwch ymdrin â'r mater arbennig hwnnw?

Mrs Lloyd: In my experience it is a matter of culture. We have an ideal opportunity now with the reform of the complaints procedures within the NHS, to instil a culture of no blame and ensure that adverse clinical incidents are properly recorded and managed and dealt with so that we learn from them and do not just blame people so that they therefore start to cover up, which is human nature. I think that as part of the NHS complaints reform, we must give guidance to the service and training to its staff on how to institute a no-blame culture so that there is a rise in the reporting of incidents that occur during everyday life on wards and in the community. We can then act on them properly. If you do not know what is happening you cannot possibly train people to avoid it reoccurring in the future.

Mrs Lloyd: O'm profiad i mae'n fater o ddiwylliant. Mae gennym gyfle delfrydol yn awr gyda diwygio'r gweithdrefnau cwynion oddi mewn i'r NHS, i feithrin diwylliant o beidio â bwrw bai a sicrhau y caiff digwyddiadau clinigol adfydus eu cofnodi a'u rheoli a'u trafod yn briodol fel ein bod yn dysgu oddi wrthynt ac nid yn bwrw'r bai ar bobl yn unig fel eu bod felly'n dechrau cuddio bai, sydd yn rhan o'r natur ddynol. Fel rhan o'r diwygiad ynghylch cwynion yn yr NHS, credaf fod yn rhaid inni roi arweiniad i'r gwasanaeth a hyfforddiant i'w staff ynghylch y modd i sefydlu diwylliant o beidio â bwrw bai fel bod cynnydd yn yr adrodd am ddigwyddiadau sydd yn digwydd yn ystod bywyd bob dydd yn y wardiau ac yn y gymuned. Wedyn gallwn gymryd camau priodol yn eu cylch. Os na wyddoch beth sydd yn digwydd, nid oes modd o gwbl ichi hyfforddi pobl i'w atal rhag digwydd eto yn y dyfodol.

[22] **Janet Davies:** The Auditor General refers to reducing the incidence of what he calls 'non-clinical errors' by a third. Do you think that is a reasonable level of reduction to aim for and when do you think you might manage to achieve it, bearing in mind that people suffer from errors?

[22] **Janet Davies:** Mae'r Archwilydd Cyffredinol yn cyfeirio at leihau mynychder yr hyn a eilw'n 'gamgymeriadau anghlinigol' o un rhan o dair. A gredwch fod hynny'n lefel resymol o ostyngiad i anelu ati a pha bryd y credwch y gallech lwyddo i'w chyrraedd, o gofio bod pobl yn dioddef oherwydd camgymeriadau?

Mrs Lloyd: I think that it is reasonable as a start. Obviously, if we are going to place a very high priority on this important area it will probably take, if most claims come in within two years, two years to see the benefits of it. Nevertheless, in the meantime, I will be carefully monitoring the chief executives' actions within their trusts and the health authorities to ensure that better communication is part of the training programme and that they pay real attention to it. In addition, they must improve, with the Welsh Risk Pool assessors, the standard of record keeping. Therefore, I think that it is a good start and I would hope to better it in the future.

Mrs Lloyd: Credaf ei fod yn rhesymol fel man cychwyn. Wrth gwrs, os byddwn yn rhoi blaenoriaeth uchel iawn i'r maes pwysig hwn bydd yn cymryd dwy flynedd yn ôl pob tebyg, os daw'r rhan fwyaf o hawliadau i mewn o fewn dwy flynedd, i weld yr enillion oddi wrth hynny. Er hynny, yn y cyfamser, byddaf yn monitro'n ofalus y camau y mae'r prif weithredwyr yn eu cymryd oddi mewn i'w hymddiriedolaethau a'r awdurdodau iechyd i sicrhau bod gwell cyfathrebu'n rhan o'r rhaglen hyfforddi a'u bod yn rhoi sylw gwirioneddol iddo. Ar ben hynny, rhaid iddynt wella safon cadw cofnodion, gydag aseswyr Cronfa Risg Cymru. Felly, credaf fod

hyn yn ddechrau da a gobeithiwn ragori arno yn y dyfodol.

[23] **Karen Sinclair:** I would like to follow up on your observations about record keeping and communications, and how imperative it is that these are done properly in order to get a historical view of what has gone on. You mentioned how imperative it is that that is a part of nursing and medical training. What will you do to address the training needs of existing staff, such as nurses who are now on the wards, who will need that training? Will it also be a part of some sort of induction course for nurse returners?

[23] **Karen Sinclair:** Hoffwn ddilyn trywydd eich sylwadau am gadw cofnodion a chyfathrebu, ac mor hanfodol ydyw gwneud y rhain yn iawn er mwyn cael golwg hanesyddol ar yr hyn a ddigwyddodd. Soniasoch mor hanfodol ydyw i hyn fod yn rhan o hyfforddiant nyrsio a meddygol. Beth a wnewch i roi sylw i anghenion hyfforddi'r staff presennol fel nyrsys sydd yn y wardiau ar hyn o bryd, y bydd arnynt angen yr hyfforddiant hwnnw? A fydd hefyd yn rhan o ryw fath o gwrs cyflwyno i rai sydd yn dychwelyd i nyrsio?

Mrs Lloyd: That is an extremely good suggestion. I would expect that all staff have a responsibility to keep up-to-date, and that the employer has a responsibility to give them the time and encouragement to do so. The importance of good communications and good record keeping is now part of the professional responsibility. Many good things have been done, within and without Wales, to train existing staff to communicate well and to keep their records well. However, to ensure that that improvement is being effected, we need to continuously audit whether or not the message has sunk in and whether there is real change.

Mrs Lloyd: Mae hynny'n awgrym da iawn. Disgwyliwn fod cyfrifoldeb gan yr holl staff i fod yn ymwybodol o'r arfer diweddaraf, a bod gan y cyflogwr gyfrifoldeb i roi'r amser a'r anogaeth iddynt wneud hynny. Mae pwysigrwydd cyfathrebu da a chadw cofnodion da yn rhan o'r cyfrifoldeb proffesiynol bellach. Gwnaethpwyd llawer o bethau da, yng Nghymru a thu hwnt i Gymru, i hyfforddi'r staff presennol i gyfathrebu'n dda a chadw eu cofnodion yn dda. Fodd bynnag, er mwyn sicrhau bod gwelliant yn digwydd, mae angen inni archwilio o hyd i ganfod a yw'r neges wedi gwneud argraff neu beidio ac a oes newid gwirioneddol.

[24] **Alison Halford:** Hello, Mrs Lloyd. I am sure that this Committee wishes you well in the difficult job that you have in front of you. I will pick up on Karen's theme of communication. It is fine to train junior staff, but from previous experience, I know that you can train the youngsters and then put them into the canteen culture of those who do not believe in training. How will you handle the perceived arrogance of the senior clinicians?

[24] **Alison Halford:** Helô, Mrs Lloyd. Yr wyf yn sicr bod y Pwyllgor hwn yn dymuno'n dda i chi yn y gwaith anodd sydd gennych o'ch blaen. Dilynaf thema Karen ar gyfathrebu. Mae'n ddigon teg hyfforddi staff iau, ond o'm profiad blaenorol, gwn y gallwch hyfforddi'r rhai ifanc a'u rhoi wedyn yn niwylliant ffreutur y rhai nad ydynt yn credu mewn hyfforddiant. Sut y byddwch yn trin trahauster canfyddedig y clinigwyr hyn?

Mrs Lloyd: I think that, in my experience, I have found that what senior clinicians, and all clinicians, find most difficult is breaking bad news and giving bad messages. Many trusts throughout the country are now having mandatory training programmes for their clinicians, once they are no longer juniors, on breaking bad news and communicating with patients. I think that that is very important. I have found that most clinicians are very receptive to it. It is clear from the General Medical Council that communicating well with patients and what should be done about that is now part of the professional responsibility. That has been an important message from the General Medical Council. Therefore, I would expect to be seeing from the trusts what arrangements they are making to ensure that their clinical colleagues can match the GMC's expectation.

Mrs Lloyd: O'm profiad i, credaf imi ddarganfod mai'r hyn y mae clinigwyr hyn, a'r holl glinigwyr, yn ei chael yn fwyaf anodd yw torri newyddion drwg a rhoi negeseuon drwg. Mae llawer o ymddiriedolaethau ledled y wlad bellach yn cynnal rhaglenni hyfforddi gorfodol i'w clinigwyr, wedi iddynt beidio â bod yn glinigwyr iau, ar dorri newyddion drwg a chyfathrebu â chleifion. Credaf fod hynny'n bwysig iawn. Cefais fod y rhan fwyaf o glinigwyr yn barod iawn i'w dderbyn. Mae'r Cyngor Meddygol Cyffredinol wedi rhoi ar ddeall bod cyfathrebu'n dda â chleifion a'r hyn y dylid ei wneud ynghylch hynny yn rhan o'r cyfrifoldeb proffesiynol bellach. Yr oedd hynny'n neges bwysig oddi wrth y Cyngor Meddygol Cyffredinol. Felly, disgwyliwn i'r ymddiriedolaethau ddangos y trefniadau y maent yn eu gwneud i sicrhau y gall eu cydweithwyr clinigol gyflawni disgwyliad y Cyngor Meddygol Cyffredinol.

[25] **Janet Davies:** I will pick up on one thing that Alison said. There is clearly a difference between communicating with patients and communicating well with patients. There was a time when, perhaps, patients were told very little, and sometimes, perhaps, they are told things rather too briskly and openly. Will you take that on board as well?

[25] **Janet Davies:** Dilynaf un o'r pethau a ddywedodd Alison. Mae'n amlwg bod gwahaniaeth rhwng cyfathrebu â chleifion a chyfathrebu'n dda â chleifion. Yr oedd adeg pan ddywedid ychydig iawn wrth gleifion, efallai, ac weithiau, efallai, dywedir pethau wrthynt braidd yn rhy swta ac agored. A ydych yn derbyn hynny hefyd?

Mrs Lloyd: Yes. That is vital. You are quite right to make that distinction. As clinicians are now required to work in teams much more than previously, I would expect the whole team to address the issue of communication with patients, because it is no longer a question of one doctor sitting in front of one patient. It is a question of the whole team understanding what care it can provide to that patient and listening to the patient's needs as well.

Mrs Lloyd: Ydwyf. Mae hynny'n holl bwysig. Yr ydych yn llygad eich lle yn gwahaniaethu felly. Gan ei bod yn ofynnol yn awr i glinigwyr weithio mewn timau i raddau llawer mwy nag o'r blaen, disgwyliwn i'r tîm cyfan roi sylw i fater cyfathrebu â chleifion, oherwydd nid yw'n fater o un meddyg yn eistedd o flaen un claf bellach. Mae'n fater o'r tîm cyfan yn deall pa ofal y gall ei roi i'r claf hwnnw a gwrando ar anghenion y claf yn ogystal.

[26] **Lynne Neagle:** The number of claims in Wales is rising, yet claims managers in trusts have had relatively little formal training. What are you doing to ensure that trusts, and in particular, claims managers, are properly equipped to handle a growing workload?

[26] **Lynne Neagle:** Mae nifer yr hawliadau yng Nghymru ar gynnydd, ac eto cymharol ychydig o hyfforddiant ffurfiol a gafodd rheolwyr hawliadau mewn ymddiriedolaethau. Beth yr ydych yn ei wneud i sicrhau bod ymddiriedolaethau, ac yn enwedig rheolwyr hawliadau, yn gymwys fel y dylent fod i drafod baich gwaith cynyddol?

Mrs Lloyd: They are a vitally important resource. As you can see from the Auditor General's report, the workload is growing. Many are part time, and few have had training. I am grateful to the Welsh Risk Pool for addressing that problem vigorously by establishing its Risk Managers Network and by putting on good quality training courses for them. I think that the network will be important in terms of sharing experience and enabling them to provide support to each other. I would expect, as claims become more complex, and as we move towards suggestions about arbitration and non-litigious ways of managing claims in the future, that we will need to have more claims management experience in each organisation.

Mrs Lloyd: Maent yn adnodd holl bwysig. Fel y gallwch weld o adroddiad yr Archwilydd Cyffredinol, mae'r baich gwaith yn cynyddu. Mae llawer yn rhan amser, ac ychydig ohonynt sydd wedi'u hyfforddi. Yr wyf yn ddiolchgar i Gronfa Risg Cymru am ymdrin yn egnïol â'r broblem honno drwy sefydlu ei Rhwydwaith Rheolwyr Risg a drwy gynnal cyrsiau hyfforddi o ansawdd da ar eu cyfer. Credaf y bydd y rhwydwaith yn bwysig o ran rhannu profiad a'u galluogi i gynorthwyo'i gilydd. Byddwn yn disgwyl, wrth i'r hawliadau fynd yn fwy cymhleth, ac wrth inni symud tuag at awgrymiadau am gyflafareddu a dulliau anghyfreithgar o reoli hawliadau yn y dyfodol, y bydd angen inni gael rhagor o brofiad o reoli hawliadau ym mhob corff.

[27] **Lynne Neagle:** Welsh Health Legal Services effectively has a monopoly on providing legal advice to trusts and since the Assembly has now decided to fund Welsh Health Legal Services directly, it falls to us to ensure that it provides good value for money. The report states that Welsh Health Legal Services is currently seeking a system of self-assessment or accreditation. Could you tell us what that involves and when the system will be in place?

[27] **Lynne Neagle:** Mae gan Wasanaethau Cyfreithiol Iechyd Cymru fonopoli i bob pwrpas ar roi cyngor cyfreithiol i ymddiriedolaethau a chan fod y Cynulliad bellach wedi penderfynu ariannu Gwasanaethau Cyfreithiol Iechyd Cymru'n uniongyrchol, ein lle ni yw sicrhau ei fod yn rhoi gwerth da am arian. Dywed yr adroddiad fod Gwasanaethau Cyfreithiol Iechyd Cymru yn chwilio ar hyn o bryd am system hunanasesu neu achredu. A allech ddweud wrthym beth y mae hynny'n ei olygu a pha bryd y bydd y system ar waith?

Mrs Lloyd: I will ask Mr Kershaw to answer that because he could provide you with more details, if that is acceptable, Chair?

Mrs Lloyd: Gofynnaf i Mr Kershaw ateb hynny oherwydd gallai roi mwy o fanylion i chi, os yw hynny'n dderbyniol, Gadeirydd?

[28] **Janet Davies:** Yes, that is fine.

Mr Kershaw: We are concerned that we get good value for money and quality from Welsh Health Legal Services. I think that the report points out that, in 1994, we undertook a pilot scheme using a private set of lawyers to look after claims from a particular part of Wales, which happened to be Mid Glamorgan. The outcome of that work suggested that, for approximately twice the cost, there was no discernible difference in the outcome of the cases that were handled, albeit that it is particularly difficult to be clear about the quality of outcomes. We have considered whether the service should be put out to tender, but at the moment we are going down the road of accrediting Welsh Health Legal Services. We recently put out to tender for organisations to examine the service, and I am pleased to say that that contract has been awarded and will start very shortly. The details are that this organisation will come in to look at the practices within Welsh Health Legal Services to ensure that they are up-to-date and conform to what are called 'lexcel standards', which are promoted by the Law Society.

In addition to that, part of the review of the claims that we are undertaking in Wales will involve looking at 20 cases from their origin, including the risk management, through to the claims coming through, how they were handled, and what the outcomes were. Part of that review will be to consider the legal advice that we got half way through the process. We are going to set up a peer group review to look at how we manage those claims, so we are being intrusive in the approach that Welsh Health Legal Services is taking.

[28] **Janet Davies:** Ydyw, mae hynny'n iawn.

Mr Kershaw: Mae'n bwysig i ni ein bod yn cael gwerth da am arian ac ansawdd gan Wasanaethau Cyfreithiol Iechyd Cymru. Credaf fod yr adroddiad yn nodi ein bod, yn 1994, wedi ymgymryd â chynllun peilot gan ddefnyddio set breifat o gyfreithwyr i ofalu am hawliadau o ran arbennig o Gymru, sef Morgannwg Ganol fel yr oedd yn digwydd. Yr oedd canlyniad y gwaith hwnnw'n awgrymu, am tua dwywaith y gost, nad oedd unrhyw wahaniaeth canfyddadwy, yng nghanlyniad yr achosion a drafodwyd, er ei bod yn arbennig o anodd bod yn bendant ynghylch ansawdd canlyniadau. Yr ydym wedi ystyried a ddylid gosod y gwasanaeth ar dendr, ond ar hyn o bryd yr ydym yn dilyn llwybr achredu Gwasanaethau Cyfreithiol Iechyd Cymru. Yn ddiweddar gosodasom dendr i gyrff i archwilio'r gwasanaeth, ac yr wyf yn falch o ddweud bod y contract hwnnw wedi'i ddyfarnu ac y bydd yn dechrau'n fuan iawn. Y manylion yw y bydd y corff hwn yn dod i mewn i edrych ar yr arferion oddi mewn i Wasanaethau Cyfreithiol Iechyd Cymru i sicrhau eu bod yn gyfoes ac yn cydymffurfio â'r hyn a elwir yn 'safonau *lexcel*', a hyrwyddir gan Gymdeithas y Gyfraith.

Yn ogystal â hynny, bydd rhan o'r adolygiad o'r hawliadau yr ydym yn ymgymryd ag ef yng Nghymru yn golygu edrych ar 20 o achosion o'u dechreuad, gan gynnwys y rheolaeth risg, hyd at yr adeg pan fydd yr hawliadau'n dod drwodd, sut y trafodwyd hwy, a beth oedd y canlyniadau. Rhan o'r adolygiad hwnnw fydd ystyried y cyngor cyfreithiol a gawsom hanner ffordd drwy'r broses. Byddwn yn sefydlu adolygiad grwp cymheiriaid i edrych ar y modd yr ydym yn rheoli'r hawliadau hynny, felly yr ydym yn ymwthiol o ran y dull gweithredu y mae Gwasanaethau Cyfreithiol Iechyd Cymru yn ei ddilyn.

[29] **Lynne Neagle:** I would like to ask Alison Walcot how confident she is that Welsh Health Legal Services' systems are working well and provide value for money.

Ms Walcot: I think that the answer to that would be that we are very confident at the moment.

[30] **Karen Sinclair:** The Auditor General reports that claims are taking, on average, four and a half years from the date of the incident to settlement. That is quite a long time is it not? The Woolf reforms now impose a faster procedure for dealing with claims. What steps have you taken to ensure that the NHS will be able to meet these timetables and that claimants will receive their compensation more promptly?

Mrs Lloyd: As you know from the Auditor General's report, claimants will take up to two years before making a claim, so that is two years gone. I am not yet sure how I can reduce those two years, but certainly through our patients' forum, we will explore how people might make their claims or concerns known earlier. In terms of the rest of the time that it takes, that is very much vested in a much slicker handling of the risk and claims management systems. That is where the training and development that we give the risk managers and other staff in the trust comes in. The training should explain their role clearly and ensure that we are not bogged down in bureaucratic processes. It should also ensure that when an incident has been reported, all the clinical information that we will need in order to assess whether or not a claim has any justification can be gathered at a much earlier stage so that people can receive recompense at an earlier stage, if it is proven that they are entitled to it.

[29] **Lynne Neagle:** Hoffwn ofyn i Alison Walcot pa mor ffyddiog ydyw hi fod systemau Gwasanaethau Cyfreithiol Iechyd Cymru'n gweithio'n dda ac yn rhoi gwerth am arian.

Ms Walcot: Credaf mai'r ateb i hynny fyddai ein bod yn ffyddiog iawn ar hyn o bryd.

[30] **Karen Sinclair:** Mae'r Archwilydd Cyffredinol yn adrodd bod hawliadau, ar gyfartaledd, yn cymryd pedair blynedd a hanner o ddyddiad y digwyddiad hyd at eu setlo. Mae hynny'n gyfnod eithaf hir, onid yw? Mae diwygiadau Woolf bellach yn gorfodi gweithdrefn gyflymach ar gyfer trafod hawliadau. Pa gamau a gymerasoch i sicrhau y bydd yr NHS yn gallu cwrdd â'r amserlenni hyn ac y bydd hawlwyr yn derbyn eu hiawndal yn fwy prydlon?

Mrs Lloyd: Fel y gwyddoch o adroddiad yr Archwilydd Cyffredinol, gall hawlwyr gymryd hyd at ddwy flynedd cyn cyflwyno hawliad, felly dyna ddwy flynedd wedi mynd. Nid wyf yn sicr eto sut y gallaf gwtogi ar y ddwy flynedd hynny ond, yn sicr, drwy ein fforwm cleifion byddwn yn ystyried sut y gallai pobl roi gwybod am eu hawliadau neu eu pryderon yn gynt. O ran gweddill yr amser y mae'n ei gymryd, mae hynny'n dibynnu'n fawr ar drafod y systemau rheoli risg a hawliadau'n fwy deheuig. Dyna lle y bydd yr hyfforddi a datblygu a rown i'r rheolwyr risg a'r staff eraill yn yr ymddiriedolaeth yn cyfrannu. Dylai'r hyfforddiant egluro eu rôl yn fanwl a sicrhau nad ydym yn cael ein llethu gan brosesau biwrocrataidd. Dylai sicrhau hefyd, pan roddwyd gwybod am ddigwyddiad, fod modd casglu'r holl wybodaeth glinigol y bydd arnom ei hangen er mwyn asesu a oes cyfiawnhad dros hawliad neu beidio yn gynt o lawer fel y gall pobl dderbyn iawndal yn gynt, os profir bod ganddynt hawl i'w dderbyn.

As I said previously, the cases that take the longest on many occasions depend on assessments that can only be undertaken, as you understand, a very long way down the track. I do not see a way of settling those very much earlier. However, we could consider what sort of recompense is appropriate in the meantime and how to manage the patients and their relatives more appropriately. I would like time to think about that particular difficult problem.

[31] **Karen Sinclair:** Thank you. What about deadlines imposed for handling claims? Has the NHS paid any financial penalties so far?

Mrs Lloyd: Not to my knowledge, but I could submit a note on that. Nobody has reported that to me yet.

[32] **Karen Sinclair:** Alison, if I may call you Alison, what assistance can you offer trusts to speed up the progress of cases and minimise the risk of incurred penalties?

Ms Walcot: The management of the claims and the recent civil procedure reforms that have come through the court are helping to impact, and are having an impact on timing. We will not know the true benefit of those until the end of this year perhaps. However, they are helping to prevent any delays and to ensure that other methods are used in part of the management of the claims. The court is taking a very active role in the management of the claims and that may well help to speed up the process.

Fel y dywedais eisoes, mae'r achosion sydd yn cymryd yr amser hwyaf yn dibynnu lawer gwaith ar asesiadau na ellir ond ymgymryd â hwy, fel y deallwch, yn hwyr iawn yn y broses. Ni welaf fodd i setlo'r rheini'n llawer cynt. Fodd bynnag, gallem ystyried pa fath o iawndal sydd yn briodol yn y cyfamser a sut i drafod y cleifion a'u perthnasau'n fwy priodol. Hoffwn gael amser i fyfyrio ynghylch y broblem anodd arbennig honno.

[31] **Karen Sinclair:** Diolch. Beth am derfynau amser ar gyfer trafod hawliadau? A yw'r NHS wedi talu unrhyw gosbau ariannol hyd yn hyn?

Mrs Lloyd: Nid hyd y gwn i, ond gallwn gyflwyno nodyn ar hynny. Nid oes neb wedi adrodd hynny imi eto.

[32] **Karen Sinclair:** Alison, os caf eich galw'n Alison, pa gymorth y gallwch ei gynnig i ymddiriedolaethau i gyflymu hynt achosion a lleihau'r risg o gosbau a osodir?

Ms Walcot: Mae'r dull o reoli'r hawliadau a'r diwygiadau diweddar yn yr weithdrefn sifil a ddaeth drwy'r llys yn helpu i gael effaith, ac maent yn effeithio ar amseru. Ni fyddwn yn gwybod gwir fantais y rheini tan ddiwedd y flwyddyn yma efallai. Fodd bynnag, maent yn helpu i atal unrhyw oedi a sicrhau defnyddio dulliau eraill mewn rhan o'r dull o reoli'r hawliadau. Mae'r llys yn cymryd rôl weithredol iawn wrth reoli'r hawliadau ac mae'n bosibl iawn y bydd hynny o gymorth i gyflymu'r broses.

[33] **Karen Sinclair:** Figure 3.10 on page 24 of the Auditor General's report highlights that the two measures that trusts consider most likely to reduce the time taken to resolve claims are proactive investigation of incidents and better co-operation from clinicians. How do you intend to improve these aspects of claims management?

[33] **Karen Sinclair:** Mae ffigur 3.10 ar dudalen 24 o adroddiad yr Archwilydd Cyffredinol yn pwysleisio mai'r ddau fesur y mae'r ymddiriedolaethau'n credu eu bod yn fwyaf tebygol o leihau'r amser a gymerir i benderfynu ar hawliadau yw archwilio digwyddiadau'n rhagweithiol a gwell cydweithrediad gan glinigwyr. Sut y bwriadwch wella'r agweddau hyn ar y dull o reoli hawliadau?

Mrs Lloyd: I intend to ask the chief executives, when I meet with them next Tuesday, what their views are on how the better involvement of clinicians, more co-operation—if that is how it is judged—and the proactive investigation of complaints might be improved this year. Again, that might involve training and education programmes and a much better relationship between claims management and the clinical people with whom they need to work. I will take that up with the chief executives and expect a report back from them within the next three months.

Mrs Lloyd: Bwriadaf ofyn i'r prif weithredwyr, pan gyfarfyddaf â hwy ddydd Mawrth nesaf, am eu barn ar y modd i gael gwelliant eleni yn y rhan a gymerir gan glinigwyr, mewn cydweithrediad cynyddol— os mai felly y'i bernir—ac mewn archwilio cwynion yn rhagweithiol. Unwaith eto, gallai hynny gynnwys rhaglenni hyfforddiant ac addysg a gwell perthynas o lawer rhwng rheolwyr hawliadau a'r gweithwyr clinigol y mae angen iddynt weithio â hwy. Codaf hynny gyda'r prif weithredwyr a disgwyliaf dderbyn adroddiad yn ôl ganddynt o fewn y tri mis nesaf.

[34] **Janet Davies:** Do you want to ask anything else, Karen?

[34] **Janet Davies:** A ddymunwch ofyn unrhywbeth arall, Karen?

[35] **Karen Sinclair:** Not at the moment.

[35] **Karen Sinclair:** Nid ar hyn o bryd.

[36] **Janet Davies:** I turn to the issue of the availability of information, which seems to be a very serious problem. We know that clinical negligence is costing the NHS substantial sums each year and that the costs appear to be rising. There is a lack of basic information at trust and Assembly level to inform the handling of claims. How can you tackle clinical negligence effectively without that information?

[36] **Janet Davies:** Trof at fater argaeledd gwybodaeth, yr ymddengys ei fod yn broblem ddifrifol iawn. Gwyddom fod esgeulustod clinigol yn costio symiau sylweddol i'r NHS bob blwyddyn a'i bod yn ymddangos bod y costau'n cynyddu. Mae diffyg gwybodaeth sylfaenol ar lefel yr ymddiriedolaethau a'r Cynulliad i oleuo'r dull o drafod hawliadau. Sut y gallwch fynd i'r afael ag esgeulustod clinigol yn effeithiol heb yr wybodaeth honno?

Mrs Lloyd: The Welsh risk management standards and the detailed information that we receive from that will be extremely useful to us in the next two years to ensure that the clinical governance requirements placed on trusts and health authorities might be effected. I will also have better information when the clinical governance review has completed its work and reported to me. I agree that, without the basic tools in place, it is extraordinarily difficult to manage oneself out of a situation where one does not really know what is going on. We are co-operating with England on the adverse clinical incident reporting mechanisms because it is really important to have an overview of trends across the whole of the United Kingdom. We really need to reach a situation that ensures that we have proper benchmarking. The key to our success in gathering and using information more effectively will be the widespread publication of the outcome of the Welsh Risk Pool accreditation and management standards. We will be able to compare them in part with the controls assurance standards in England, which have also just been published for the first time.

[37] **Janet Davies:** Hindsight is a wonderful thing.

Mrs Lloyd: It is.

[38] **Janet Davies:** How long has it been since people realised that the information was lacking? In Tuesday's Plenary debate on the NHS human resources strategy, I noticed that there was a problem with lack of information on a much broader level than on clinical negligence, though that is the issue we are addressing at the moment.

Mrs Lloyd: Bydd safonau rheoli risg Cymru a'r wybodaeth fanwl a dderbyniwn o hynny yn ddefnyddiol dros ben i ni yn y ddwy flynedd nesaf er mwyn sicrhau y gellir cyflawni'r gofynion llywodraethu clinigol a roddir ar ymddiriedolaethau ac awdurdodau iechyd. Bydd gennyf well gwybodaeth hefyd pan fydd yr adolygiad llywodraethu clinigol wedi cwblhau ei waith ac wedi adrodd i mi. Cytunaf, os na fydd yr arfau sylfaenol yn eu lle, ei bod yn eithriadol o anodd llwyddo i ddod allan o sefyllfa lle nad yw rhywun yn gwybod beth sydd yn mynd ymlaen mewn gwirionedd. Yr ydym yn cydweithredu â Lloegr ar y mecanweithiau adrodd digwyddiadau clinigol adfydus am ei bod yn wirioneddol bwysig cael arolwg ar dueddiadau ledled y Deyrnas Unedig. Mae gwir angen inni gyrraedd sefyllfa sydd yn sicrhau bod gennym feincnodi priodol. Yr allwedd i'n llwyddiant wrth gasglu a defnyddio gwybodaeth yn fwy effeithiol fydd cyhoeddi canlyniad safonau achredu a rheoli Cronfa Risg Cymru'n eang. Byddwn yn gallu eu cymharu'n rhannol â'r safonau sicrwydd rheolaethau yn Lloegr, sydd newydd eu cyhoeddi am y tro cyntaf hefyd.

[37] **Janet Davies:** Mae ôl-ddoethineb yn beth rhyfeddol.

Mrs Lloyd: Ydyw.

[38] **Janet Davies:** Ers pa bryd y mae pobl yn sylweddoli bod yr wybodaeth yn brin? Yn y ddadl yn y Cyfarfod Llawn ddydd Mawrth ar strategaeth adnoddau dynol yr NHS, sylwais fod problem ynghylch diffyg gwybodaeth ar lefel ehangach o lawer nag ar esgeulustod clinigol, er mai hynny yw'r mater yr ydym yn ymdrin ag ef ar y funud.

Mrs Lloyd: That is difficult for me to answer, but the problem is not unique to Wales. I think that the problems have been highlighted very much since the publication in 1998 of 'Putting Patients First'. Since then, there has been an increasing emphasis on the requirement for us to benchmark our services against best practice. In doing that, we have discovered where the holes in the information were. Some of those have been put right, but we have some way to go. I hope that my performance management framework will institute a much better gathering, use and publication of information throughout the country.

Mrs Lloyd: Mae'n anodd imi ateb hynny, ond nid yw'r broblem yn unigryw i Gymru. Credaf fod y problemau wedi derbyn llawer o sylw ers cyhoeddi 'Rhoi Cleifion yn Gyntaf' yn 1998. Ers hynny, bu pwyslais cynyddol ar y gofyniad inni feincnodi ein gwasanaethau yn ôl yr arfer gorau. Drwy wneud hynny, darganfuasom ym mhle'r oedd y bylchau yn yr wybodaeth. Cywirwyd rhai o'r rheini, ond mae peth gwaith i'w wneud o hyd. Gobeithiaf y bydd fy fframwaith rheoli perfformiad yn rhoi cychwyn i lawer gwell casglu, defnyddio a chyhoeddi gwybodaeth ledled y wlad.

[39] **Janet Davies:** You are saying, therefore, that although you are taking some steps, there are still some gaps in information. Have you any particular ideas on how to try to fill those gaps?

[39] **Janet Davies:** Yr ydych yn dweud, felly, er eich bod yn cymryd rhai camau, fod rhai bylchau yn yr wybodaeth o hyd. A oes gennych unrhyw syniadau penodol am y modd i geisio llenwi'r bylchau hynny?

Mrs Lloyd: In terms of medical negligence, our key must come from the outcome of the Welsh Risk Pool standards accreditation. You can see on the helpful chart provided in this paper where many trusts have a lower score, such as 43 per cent in medical records, whereas compliance with the complaints procedure is about 80 to 90 per cent. It is in those areas that we need to start working with the trusts, through the Welsh Risk Pool and its assessors and trainers, to improve our information systems. I think that the losses and special payments register will help. That will be a useful tool for us all to gather centrally information against which trusts can benchmark their own performance. There have been problems in terms of confidentiality of clinical information, but we believe that we have ways in which those problems and rightful concerns can be overcome. I will be asking the Welsh Risk Pool to advise me on the methodologies that it would wish to use with trusts to improve the information where it has seen serious gaps.

Mrs Lloyd: O ran esgeulustod meddygol, rhaid i'n hallwedd ddod o ganlyniad achrediad safonau Cronfa Risg Cymru. Gallwch weld yn y siart ddefnyddiol a ddarperir yn y papur hwn lle y mae gan lawer o ymddiriedolaethau sgôr is, fel 43 y cant ar gyfer cofnodion meddygol, fod y cydymffurfiad â'r weithdrefn cwynion, er hynny, tua 80 i 90 y cant. Y meysydd hynny yw'r rhai y mae angen inni ddechrau gweithio ynddynt gyda'r ymddiriedolaethau, drwy Gronfa Risg Cymru a'i haseswyr a'i hyfforddwyr, i wella ein systemau gwybodaeth. Credaf y bydd y gofrestr colledion a thaliadau arbennig o gymorth. Bydd honno'n arf defnyddiol i bawb ohonom i gasglu gwybodaeth yn ganolog y gall yr ymddiriedolaethau feincnodi eu perfformiad eu hunain yn ei herbyn. Bu problemau o ran cyfrinachedd gwybodaeth glinigol, ond credwn ein bod yn meddu ar y dulliau i oresgyn y problemau a'r pryderon priodol hynny. Byddaf yn gofyn i Gronfa Risg Cymru roi gwybod i mi am y methodolegau y dymunai eu defnyddio

gyda'r ymddiriedolaethau i wella'r wybodaeth lle y canfu fylchau difrifol.

[40] **Dafydd Wigley:** Yr oeddech yn cyfeirio eiliad yn ôl at LaSPaR, sef, os yr wyf yn cofio'n iawn, *the losses and special payments register*—nid wyf yn siwr a wyf yn defnyddio'r terminoleg iawn. Pryd yr ydych yn meddwl y bydd y gronfa ddata hon yn llwyr weithredol?

[40] **Dafydd Wigley:** You referred a moment ago to LaSPaR, namely, if I remember correctly, the losses and special payments register—I am not sure if I have the right terminology. When do you think this database will be fully operational?

Mrs Lloyd: As you know, we started our pilot scheme in January 2000 and I think we were slightly ambitious in terms of getting it fully up to date. It is scheduled to be fully implemented this year, but we must ensure that trusts are willing and able to use that system and persuade them to do so. Sarah Beaver and her team are currently assessing the availability of the information database and the trusts' ability to use that database. We should have a result from LaSPaR at the end of this financial year.

Mrs Lloyd: Fel y gwyddoch, cychwynasom ein cynllun peilot yn Ionawr 2000 a chredaf inni fod braidd yn uchelgeisiol o ran ei gael yn gwbl gyfoes. Fe'i hamserlennwyd i'w roi ar waith yn llawn eleni, ond rhaid inni sicrhau bod yr ymddiriedolaethau'n barod ac yn gallu defnyddio'r system honno a'u darbwyllo i wneud hynny. Ar hyn o bryd mae Sarah Beaver a'i thîm yn asesu argaeledd y gronfa ddata o wybodaeth a gallu'r ymddiriedolaethau i ddefnyddio'r gronfa ddata honno. Dylem gael canlyniad o'r gofrestr colledion a thaliadau arbennig ddiwedd y flwyddyn ariannol hon.

[41] **Dafydd Wigley:** Dywedwch y byddai'r ymddiriedolaethau yn fodlon defnyddio'r system. Credaf mai '*willing*' oedd y gair a ddefnyddioch. A oes arwyddion, felly, fod anfodlonrwydd i ddefnyddio'r wybodaeth hon?

[41] **Dafydd Wigley:** You say that the trusts would be willing to use the system. I think that 'willing' was the word you used. Are there signs, therefore, that there is an unwillingness to use this information?

Mrs Lloyd: Certain trusts have been very concerned about patient confidentiality. We are now in a position to reassure them about that. That is the major concern that they have been expressing. All trusts like to know how they are performing against others. This will be a really good tool to enable them to assess themselves against others, along with the outcomes of the risk pool standards.

Mrs Lloyd: Bu rhai ymddiriedolaethau'n brydrus iawn ynghylch cyfrinachedd cleifion. Yr ydym bellach mewn sefyllfa i roi sicrwydd iddynt ynghylch hynny. Dyna'r prif bryder a fynegasant. Mae'r holl ymddiriedolaethau'n hoffi gwybod sut y maent yn perfformio ochr yn ochr ag eraill. Bydd hwn yn arf gwirioneddol dda i'w galluogi i'w hasesu eu hunain mewn perthynas ag eraill, ynghyd â chanlyniadau'r safonau cronfa risg.

[42] **Dafydd Wigley:** More league tables.

[42] **Dafydd Wigley:** Rhagor o dablau cynghrair.

Mrs Lloyd: It is not a league table.

Mrs Lloyd: Nid tabl cynghrair ydyw.

[43] **Dafydd Wigley:** Trof yn awr at Mr Kershaw. Sylwaf fod Cronfa Risg Cymru yn bwriadu dadansoddi hawliadau yn fanylach. Fodd bynnag, noda'r adroddiad nad yw 20 hawliad y flwyddyn ond yn gyfran fechan o'r achosion sydd eisoes yn y system. A yw sampl mor fach â hyn yn ddigonol fel sail i ddadansoddiad ystadegol?

[43] **Dafydd Wigley:** I now turn to Mr Kershaw. I notice that the Welsh Risk Pool intends to analyse claims in greater detail. However, the report notes that 20 claims a year is only a small proportion of the cases already in the system. Is such a small sample a sufficient basis for statistical analysis?

Mr Kershaw: The sample of 20 claims starts this year. It is the first time that an attempt has been made in Wales to look at how we manage claims right from the origin—the risk management, if you like—when the claim was registered, how it was managed in the trust, what legal advice was given and what was the actual out-turn of that, in other words, what compensation was paid. The Welsh Risk Pool has never been funded previously to be able to do that. I am pleased to say that, this year, we have taken on an additional member of staff with the primary function of looking at the analysis of 20 cases. I think it would be fair to say that we need to evaluate how successful that is over the next year. If it looks like we should examine a higher number of cases, I think that we should do that next year. We are picking the 20 cases so that there is at least one from each trust, and cases from orthopaedics, obstetrics or whatever, so that we get a quite rounded look at it. We will learn from what we do this year and move it on next year if necessary.

Mr Kershaw: Mae'r sampl o 20 o hawliadau'n dechrau eleni. Dyma'r tro cyntaf y gwnaethpwyd ymgais yng Nghymru i edrych ar y modd yr ydym yn rheoli hawliadau o'u dechreuad—y rheolaeth risg, os y mynnwch—pan gofrestrwyd yr hawliad, sut y'i rheolwyd yn yr ymddiriedolaeth, pa gyngor cyfreithiol a roddwyd a beth oedd gwir alldro hynny, mewn geiriau eraill, pa iawndal a dalwyd. Nid yw Cronfa Risg Cymru erioed wedi'i hariannu o'r blaen fel y gallai wneud hynny. Yr wyf yn falch o ddweud ein bod wedi cyflogi aelod o staff ychwanegol eleni sydd â'r brif swyddogaeth o edrych ar y dadansoddiad o 20 o achosion. Credaf y byddai'n deg dweud bod angen inni werthuso pa mor llwyddiannus y bydd hynny dros y flwyddyn nesaf. Os ymddengys y dylem archwilio nifer uwch o achosion, credaf y dylem wneud hynny y flwyddyn nesaf. Yr ydym yn dethol yr 20 o achosion fel bod un o leiaf o bob ymddiriedolaeth, ac achosion o orthopedeg, obstetreg neu beth bynnag, fel y gallwn gymryd golwg gweddol gynhwysfawr. Byddwn yn dysgu o'r hyn a wnawn eleni ac yn ei symud ymlaen y flwyddyn nesaf os bydd angen.

[44] **Dafydd Wigley:** Sut y byddwch yn defnyddio canlyniadau Cronfa Risg Cymru, yn arbennig o ran ymddiriedolaethau'r NHS?

[44] **Dafydd Wigley:** How will you use the Welsh Risk Pool results, specifically in terms of the NHS trusts?

Mr Kershaw: If the question is about how we would use the results from the 20 cases, one of the important things that we have to do is to learn from the things that we do not get right. It has already been mentioned that there is a Risk Managers Network, and I think that it is quite clear that it should manage those cases and pass the information on to others. We have also set up a website for Welsh Health Legal Services, and we are increasingly going to use that to advise trusts about particular changes in law or particular incidents that they should know about. We will get better information from the analysis of those 20 cases to educate and inform other trusts.

Mr Kershaw: Os yw'r cwestiwn yn ymwneud â sut y defnyddiem y canlyniadau o'r 20 achos, un o'r pethau pwysig y mae'n rhaid inni ei wneud yw dysgu o'r pethau nad ydym yn eu cael yn iawn. Soniwyd eisoes fod Rhwydwaith Rheolwyr Risg, a chredaf ei bod yn eithaf amlwg y dylai reoli'r achosion hynny a throsglwyddo'r wybodaeth i eraill. Yr ydym hefyd wedi sefydlu gwefan ar gyfer Gwasanaethau Cyfreithiol Iechyd Cymru, a byddwn yn defnyddio honno fwyfwy i roi gwybod i'r ymddiriedolaethau am newidiadau penodol yn y gyfraith neu ddigwyddiadau penodol y dylent wybod amdanynt. Cawn well gwybodaeth drwy ddadansoddi'r 20 achos hynny er mwyn addysgu a goleuo ymddiriedolaethau eraill.

[45] **Dafydd Wigley:** Mae'r ymddiriedolaethau, hyd y gwyddoch, yn fodlon ac yn awyddus i gydweithio â chi yn y defnydd hwn o'r wybodaeth?

[45] **Dafydd Wigley:** The trusts, as far as you know, are willing and keen to co-operate with you in this use of the information?

Mr Kershaw: Absolutely. There is no doubt, certainly in my conversations with all trusts, that risk management and reducing claims for clinical negligence is extremely high on their agenda. I do not have any doubt that people wish to learn lessons from things going wrong. I absolutely believe that there is a change in culture within the clinical fraternity as well to do that. There is a sea change in understanding that we must improve by learning from what does not quite go right. I am quite confident that we will be able to do so.

Mr Kershaw: Ydynt, yn ddi-os. Nid oes amheuaeth, yn sicr yn fy sgyrsiau â'r holl ymddiriedolaethau, fod rheoli risg a lleihau nifer yr hawliadau am esgeulustod clinigol yn uchel dros ben ar eu hagenda. Nid wyf yn amau o gwbl bod pobl yn dymuno dysgu gwersi o'r pethau sydd yn mynd o'i le. Llwyr gredaf fod newid mewn diwylliant ymysg y frawdoliaeth glinigol hefyd i wneud hynny. Mae gweddnewidiad o ran deall bod rhaid inni wella drwy ddysgu o'r hyn nad yw'n llwyddo cystal. Yr wyf yn eithaf ffyddiog y byddwn yn gallu gwneud hynny.

[46] **Dafydd Wigley:** Deallaf, o'r ateb hwnnw, y byddwch yn edrych hefyd ar ba wersi a ddaw o'r 20 achos hyn, o ran sut y mae Cronfa Risg Cymru ei hun yn gweithio.

[46] **Dafydd Wigley:** I take it, from that answer, that you will also look at what lessons can be learnt from these 20 cases, in terms of how the Welsh Risk Pool itself works.

Mr Kershaw: Absolutely. There is never an assumption that we do everything perfectly in terms of how the claim is managed by the pool. We are, actually, only a reimbursement organisation. The two functions of the pool are to reimburse and to advise on risk management. The decision about whether a claim is justified or not rests with the individual trust. However, I feel quite confident that the pool will become more influential on how claims are managed in their totality. I think that it has an important function in that.

[47] **Dafydd Wigley:** Yr wyf am drafod baich y gwaith. Mae'n amlwg ei fod yn cynyddu yn y maes hwn. Mae nifer yr achosion sydd yn dal ar agor yn cynyddu yn y rhan fwyaf o ymddiriedolaethau. Dim ond pedair o'r 15 sydd wedi llwyddo i leihau nifer yr achosion y maent wedi gorfod ymdrin â hwy yn 1999-2000. Pa gamau sydd yn cael eu cymryd yn yr 11 ymddiriedolaeth arall i glirio'r llwyth wrth gefn o achosion sydd yn dal ar agor?

Mr Kershaw: This is really about trusts being very proactive in clearing out some of those cases, which are not necessarily cases where damages are paid. It is about clearing out those cases where, how can I put it, the claim is really not justified. That is a discipline that we need to push on trusts to make sure that, where there is no further action on a claim, something is done to close it. Some of the Welsh trusts have been more aggressive in that approach than others.

Mr Kershaw: Byddwn, yn ddi-os. Nid oes byth ragdybiaeth ein bod yn gwneud popeth yn berffaith o ran y modd y rheolir yr hawliad gan y gronfa. Mewn gwirionedd, nid ydym yn fwy na chorff ad-dalu. Dwy swyddogaeth y gronfa yw ad-dalu a chynghori ar reoli risg. Lle'r ymddiriedolaeth unigol yw penderfynu a yw hawliad yn gyfiawn ai peidio. Fodd bynnag, teimlaf yn eithaf ffyddiog y daw'r gronfa'n fwy dylanwadol ynghylch y modd y rheolir hawliadau yn eu cyfanrwydd. Credaf fod iddi swyddogaeth bwysig yn hynny o beth.

[47] **Dafydd Wigley:** I want to discuss the workload. It is obviously increasing in this area. The number of cases that are still open are increasing in the majority of trusts. Only four of the 15 have succeeded in reducing the number of cases with which they have had to deal in 1999-2000. What measures are being taken in the 11 other trusts to clear the backlog of cases that are still open?

Mr Kershaw: Mae hyn yn ymwneud mewn gwirionedd â gweithredu rhagweithiol iawn gan ymddiriedolaethau wrth glirio rhai o'r achosion hynny, nad ydynt o reidrwydd yn achosion lle y telir iawndal. Mae'n ymwneud â chlirio'r achosion hynny, sut y gallaf ddweud, lle nad yw'r hawliad yn un cyfiawn mewn gwirionedd. Mae honno'n ddisgyblaeth y mae angen inni ei chymell ar ymddiriedolaethau i sicrhau, lle nad oes gweithredu pellach ar hawliad, y gwneir rhywbeth i'w gau. Bu rhai o ymddiriedolaethau Cymru'n fwy ymosodol yn y dull gweithredu hwnnw nag eraill.

[48] **Dafydd Wigley:** A fyddech yn dweud mai dyna pam mae pedair ohonynt â ffigurau mwy llwyddiannus na'r 11 arall: hynny yw, eu bod yn cau achosion na ddylent ddod ymlaen? Mae'n amlwg bod hynny o fantais i bawb: os ydych yn gwastraffu llai o amser ar yr achosion hynny, yr ydych yn gallu canolbwyntio ar yr achosion sydd yn haeddu amser. A deimlwch fod digon o waith yn cael ei wneud yn yr 11 ymddiriedolaeth arall i gau'r achosion hynny? Beth y gallwch ei wneud i symud hyn ymlaen?

Mr Kershaw: I am not sure. Obviously, trusts may have different approaches about how aggressively they close down cases, but your point is interesting. Perhaps, through the Welsh Risk Pool, we can pass the message on to trusts that we need to be a little more demanding in that area.

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

[50] **Janet Davies:** You are saying that you are confident now that the trusts are moving towards better practice. It is certainly apparent that, at the centre—in the Assembly, at the Welsh Health Legal Services, and the Welsh Risk Pool level—there is an understanding of the issues and that you are trying to grapple with this problem. However, I know that any report that we get is always, to a certain extent, beginning to be out of date by the time that we consider it and that things may move forward quite rapidly on the ground. However, I am still concerned that the national health service trusts do not have the expertise or the systems at the moment to carry through these good intentions. Could you give us any further assurance on whether they have the will and the ability to do what is needed and a real understanding of the problem?

[48] **Dafydd Wigley:** Would you say that that is why four of them have more successful figures than the other 11: that is, that they close cases that should not be continued? It is obvious that that is advantageous to everyone: if you waste less time on those cases, you can concentrate on the cases that deserve to have time spent on them. Do you feel that enough work is being done in the other 11 trusts to close down those cases? What can you do to take this forward?

Mr Kershaw: Nid wyf yn siwr. Mae'n amlwg y gallai'r ymddiriedolaethau fod â gwahanol ddulliau gweithredu ynghylch pa mor ymosodol ydynt wrth gau achosion, ond mae'ch pwynt yn ddiddorol. Efallai, drwy Gronfa Risg Cymru, y gallwn gyfleu'r neges i'r ymddiriedolaethau bod angen inni fod ychydig yn fwy awdurdodol yn y maes hwnnw.

[49] **Dafydd Wigley:** Thank you very much.

[50] **Janet Davies:** Yr ydych yn dweud eich bod yn ffyddiog yn awr fod yr ymddiriedolaethau'n symud tuag at arfer gwell. Mae'n sicr yn amlwg, yn y canol—yn y Cynulliad, yng Ngwasanaethau Cyfreithiol Iechyd Cymru, ac ar lefel Cronfa Risg Cymru—fod dealltwriaeth o'r materion a'ch bod yn ceisio mynd i'r afael â'r broblem hon. Fodd bynnag, gwn fod unrhyw adroddiad a dderbyniwn bob tro'n dechrau dyddio, i ryw raddau, erbyn yr adeg pan ydym yn ei ystyried ac y gallai pethau symud ymlaen yn eithaf cyflym ar lawr gwlad. Fodd bynnag, yr wyf yn bryderus o hyd nad yw ymddiriedolaethau'r gwasanaeth iechyd gwladol yn meddu ar yr arbenigedd na'r systemau ar hyn o bryd i gyflawni'r bwriadau da hyn. A allech roi unrhyw sicrwydd pellach i ni ynghylch a oes ganddynt yr ewyllys a'r gallu i wneud yr hyn sydd ei angen a dealltwriaeth wirioneddol o'r broblem?

Mrs Lloyd: The best evidence that I will be able to give the Assembly is when the clinical governance review is completed and reports back to me. It has looked very seriously at the state of the management of clinical governance in each trust in Wales. It is about management of claims and complaints because the two are inextricably linked. As a consequence of the review undertaken by my quality division, I will discuss—as part of my reviews of the management of the NHS trusts and health authorities—the processes, numbers of staff and training that they will put into place to manage this very important interface with the public in a better way, given the lessons that we will have been able to provide to them.

Mrs Lloyd: Y dystiolaeth orau y byddaf yn gallu ei rhoi i'r Cynulliad yw honno a fydd gennyf ar ôl i'r adolygiad llywodraethu clinigol ddod i ben ac adrodd yn ôl i mi. Mae wedi edrych o ddifrif ar gyflwr rheolaeth llywodraethu clinigol ym mhob ymddiriedolaeth yng Nghymru. Mae'n ymwneud â rheoli hawliadau a chwynion oherwydd mae cyswllt anorfod rhwng y ddau. O ganlyniad i'r adolygiad yr ymgymerwyd ag ef gan fy adran ansawdd, byddaf yn trafod—fel rhan o'm hadolygiadau o reolaeth ymddiriedolaethau'r NHS a'r awdurdodau iechyd—y prosesau, y niferoedd staff a'r hyfforddiant y byddant yn eu sefydlu i reoli'n well y rhyngwyneb pwysig iawn hwn â'r cyhoedd, ar sail y gwersi y byddwn wedi gallu eu darparu iddynt.

[51] **Janet Davies:** I will ask one fairly technical question; I do not know who is best placed to answer it. I understand that IT systems are being introduced far more widely in the national health service at the moment but that there is some concern about software compatibility, and about how the new programmes will link into paper records. Obviously we do not want to see things dropping through the middle.

[51] **Janet Davies:** Gofynnaf un cwestiwn eithaf technegol; ni wn pwy sydd yn y sefyllfa orau i'w ateb. Deallaf fod systemau TG yn cael eu cyflwyno'n llawer mwy eang yn y gwasanaeth iechyd gwladol ar y funud ond bod peth pryder ynghylch cydweddoldeb meddalwedd, ac ynghylch y modd y bydd y rhaglenni newydd yn cysylltu â chofnodion papur. Mae'n amlwg nad ydym yn dymuno gweld pethau'n disgyn drwy'r canol.

Mrs Lloyd: I would agree with that. There is a review going on of information technology and its management within the Assembly. I will have to submit a note on the date by which I expect that to be completed. However, you are absolutely right that there are many places now that are moving towards electronic patient records. We must ensure that those records can be appropriately shared throughout a community and that the information gathered does not conflict with any other information system that we use to gather either financial or management information. I would include this area in management information. Therefore, if I may

Mrs Lloyd: Byddwn yn cytuno â hynny. Mae adolygiad yn mynd ymlaen o dechnoleg gwybodaeth a'r dull o'i rheoli oddi mewn i'r Cynulliad. Bydd yn rhaid imi gyflwyno nodyn ar y dyddiad pan ddisgwyliaf i hynny gael ei gwblhau. Fodd bynnag, yr ydych yn llygad eich lle wrth ddweud bod llawer o leoedd yn awr sydd yn symud tuag at gofnodion cleifion electronig. Rhaid inni sicrhau y gellir rhannu'r cofnodion hynny'n briodol drwy gymuned ac nad yw'r wybodaeth a gesglir yn mynd yn groes i unrhyw system wybodaeth arall a ddefnyddiwn i gasglu naill ai gwybodaeth ariannol neu wybodaeth rheoli. Byddwn yn cynnwys y maes hwn mewn

provide you with a more detailed note on the intentions of the review and when we expect it to be completed, I hope that you would find that helpful.

[52] **Janet Davies:** I presume that you have a dedicated section concentrating on it?

Mrs Lloyd: Yes, I do. I have not met them yet.

[53] **Janet Davies:** You can foresee an absolute nightmare situation if things went wrong?

Mrs Lloyd: Absolutely.

[54] **Janet Davies:** We will now move on to the last part of this evidence session, which is concerned with reducing the incidence of clinical negligence. I will again begin asking the questions.

There are substantial inroads being made to reduce the burden of clinical negligence. However, it is clear that the trusts need to reduce the likelihood of negligence incidents arising in the first place. It is better to stop them happening than learn how to handle them well: to be one step ahead. The Welsh risk management standards are an important plank in bringing this about. It seems disappointing that only five of the 15 trusts have achieved the benchmark of 75 per cent compliance with the standards last year. Have you any ideas on bringing the other 10 trusts up to the required standard?

gwybodaeth rheoli. Felly, os caf roi nodyn manylach i chi ar fwriadau'r adolygiad a pha bryd y disgwyliwn iddo gael ei gwblhau, gobeithiaf y byddech yn ei gael yn ddefnyddiol.

[52] **Janet Davies:** Cymeraf fod gennych is-adran benodol sydd yn canolbwyntio arno?

Mrs Lloyd: Oes, mae gennyf. Nid wyf wedi'u cyfarfod eto.

[53] **Janet Davies:** Gallwch ragweld sefyllfa gwbl hunllefus os âi pethau o'i le?

Mrs Lloyd: Yn sicr.

[54] **Janet Davies:** Awn ymlaen yn awr at ran olaf y sesiwn tystiolaeth hwn, sydd yn ymwneud â lleihau mynychder esgeulustod clinigol. Dechreuaf fi ofyn y cwestiynau unwaith eto.

Gwneir cynnydd sylweddol wrth leihau baich esgeulustod clinigol. Fodd bynnag, mae'n amlwg bod angen i'r ymddiriedolaethau leihau'r tebygolrwydd i ddigwyddiadau o esgeulustod godi yn y lle cyntaf. Gwell eu hatal rhag digwydd na dysgu sut i'w trafod yn dda: bod un cam ar y blaen. Mae safonau rheoli risg Cymru'n elfen bwysig wrth wireddu hyn. Ymddengys yn siomedig mai dim ond pump o'r 15 o ymddiriedolaethau a gyrhaeddodd y feincnod o 75 y cant o gydymffurfiad â'r safonau y llynedd. A oes gennych unrhyw syniadau ynghylch codi'r 10 ymddiriedolaeth arall at y safon ofynnol?

Mrs Lloyd: These standards are not easy to meet. They would be no use at all if they were easy to meet because then we would get a false picture of the state of readiness and standards within the NHS. As a consequence of the risk assessment and as part of the performance management system, we will go through the action plans that trusts have to improve their compliance with the standards in time for the next round of assessment, which will take place in a year's time. We would expect to see an improvement.

Mrs Lloyd: Nid yw'r safonau hyn yn rhai hawdd eu cyrraedd. Ni fyddent o ddefnydd o gwbl pe byddent yn hawdd eu cyrraedd oherwydd wedyn caem ddarlun ffug o'r parodrwydd a'r safonau oddi mewn i'r NHS. O ganlyniad i'r asesiad risg ac fel rhan o'r system rheoli perfformiad, byddwn yn mynd drwy'r cynlluniau gweithredu sydd gan yr ymddiriedolaethau er mwyn cydymffurfio'n well â'r safonau mewn pryd ar gyfer y cylch asesu nesaf, a fydd yn digwydd ymhen blwyddyn. Disgwyliem weld gwelliant.

[55] **Janet Davies:** Do you think that the standard of 75 per cent compliance is set high enough?

[55] **Janet Davies:** A ydych o'r farn fod y safon o 75 y cant o gydymffurfiad wedi'i gosod yn ddigon uchel?

Mrs Lloyd: I think that that standard was set because we felt that it was achievable by some, not all. We wanted people to take this as a really serious exercise. Sometimes, if you set percentage standards too high, people almost give up before they start. We believe that this is a reasonable standard as a first step. We want all trusts in Wales to comply with this standard and we would expect those that have a good history of performance, which have not probably had quite as much disruption as others, to be able to exceed that standard. It is an ever-moving sliding scale. We expect the standards to become more purposeful and to improve how we collect the evidence to match the standards that must improve. We would expect a year-on-year improvement for individual trusts and for the corporate NHS throughout Wales and for the standards to increase and compliance with them to improve.

Mrs Lloyd: Credaf fod y safon wedi'i gosod am ein bod yn teimlo y gallai rhai ei chyrraedd, ac nid pawb. Yr oeddem yn dymuno i bobl dderbyn hwn fel ymarfer gwirioneddol o ddifrif. Weithiau, os gosodwch safonau canran yn rhy uchel, mae pobl bron â rhoi'r gorau iddi cyn iddynt ddechrau. Credwn fod hon yn safon resymol fel cam cyntaf. Dymunwn i'r holl ymddiriedolaethau yng Nghymru gydymffurfio â'r safon hon a byddem yn disgwyl i'r rhai sydd â hanes perfformiad da, nad amharwyd gymaint arnynt ag eraill yn ôl pob tebyg, allu rhagori ar y safon honno. Mae'n raddfa symudol sydd yn newid o hyd. Disgwyliwn i'r safonau ddod yn fwy bwriadol a gwella ein dull o gasglu'r dystiolaeth er mwyn cyfateb i'r safonau y mae'n rhaid iddynt wella. Disgwyliem welliant yn yr ymddiriedolaethau unigol a'r NHS corfforaethol ledled Cymru flwyddyn ar ôl blwyddyn, ac i'r safonau godi ac i'r cydymffurfiad â hwy wella.

[56] **Janet Davies:** So, we are looking at another process not an event?

[56] **Janet Davies:** Felly, yr ydym yn edrych ar broses arall ac nid digwyddiad?

Mrs Lloyd: Yes, absolutely. The trouble with standards is that we must ensure that we never get into the habit of thinking 'this comes around once a year, what can we do to get all the evidence together, we have a month to do it' and 'thank goodness we have got that over for another year'. As part of the performance management programme and process that I will institute in the next financial year, there will be an ongoing dialogue with trusts about these really important issues for patients and for the staff themselves to ensure that there is a constant spotlight placed on the standard of care that we provide to patients and their relatives.

Mrs Lloyd: Ydym, yn hollol. Y drafferth gyda safonau yw bod yn rhaid inni sicrhau na fyddwn byth yn mynd i'r arfer o feddwl 'daw hyn unwaith y flwyddyn, beth y gallwn ei wneud i gasglu'r holl dystiolaeth, mae gennym fis i wneud hynny' a 'diolch byth fod hynny drosodd am flwyddyn arall'. Fel rhan o'r rhaglen a phroses rheoli perfformiad a sefydlaf yn y flwyddyn ariannol nesaf, bydd deialog barhaus â'r ymddiriedolaethau am y materion gwirioneddol bwysig hyn i gleifion ac i'r staff eu hunain i sicrhau bod pwyslais cyson ar safon y gofal a roddwn i gleifion a'u perthnasau.

[57] **Janet Davies:** I will refer to three risk management standards. The Auditor General mentions that where overall compliance across Wales with the risk management standards was lowest—on the supervision of junior staff, communications between doctor and patients, and patient records—these correspond to the non-clinical errors that were found to be the prime reason behind quite a large proportion of negligence claims. Do you agree that this should give the national health service added reason to tackle these issues as a matter of urgency?

[57] **Janet Davies:** Cyfeiriaf at dair safon rheoli risg. Dywed yr Archwilydd Cyffredinol, lle yr oedd y cydymffurfiad cyffredinol â'r safonau rheoli risg ar ei isaf ledled Cymru—ar oruchwylio staff iau, cyfathrebu rhwng y meddyg a'r cleifion, a chofnodion cleifion—eu bod yn cyfateb i'r camgymeriadau anghlinigol y cafwyd eu bod yn brif reswm y tu ôl i gyfran eithaf mawr o'r hawliadau esgeulustod. A gytunwch y dylai hynny roi rheswm ychwanegol i'r gwasanaeth iechyd gwladol fynd i'r afael â'r materion hyn fel mater brys?

Mrs Lloyd: Indeed I do. Although they are technically non-clinical standards, they are very much wrapped up in the way in which clinical teams operate. Clinical staff have a duty of supervision of junior medical staff. I think that it can be seen that much of the General Medical Council's guidance to its clinical teams now has a very heavy emphasis on supervision, particularly of junior medical staff. That is why the contracts for junior medical staff have changed. The contract that is signed with a postgraduate dean for the training of junior staff has also changed to ensure that supervision, teaching and training of junior staff is fundamental to why they are with us in the first

Mrs Lloyd: Cytunaf, yn wir. Er mai safonau anghlinigol ydynt yn dechnegol, maent ynghlwm i raddau helaeth wrth ddull y timau clinigol o weithredu. Mae dyletswydd ar staff clinigol i oruchwylio staff meddygol iau. Credaf y gellir gweld bod gan lawer o arweiniad y Cyngor Meddygol Cyffredinol i'w dimau clinigol bwyslais cryf iawn yn awr ar oruchwylio, yn enwedig mewn perthynas â staff meddygol iau. Dyna pam y mae'r contractau i staff meddygol iau wedi newid. Mae'r contract a arwyddir â deon ôl-raddedigion ar gyfer hyfforddi staff iau wedi newid hefyd i sicrhau bod goruchwylio, dysgu a hyfforddi staff iau yn rhan sylfaenol o'r rheswm y maent gyda ni yn y lle cyntaf. Bydd

place. That will also be the case with the training of nurses and staff in professions allied to medicine.

I have already mentioned that communication between patient and doctor is of critical importance. Some really good work to improve that is going on throughout Wales. However, we need to bring everyone up to the same standard. We must be able to communicate in a way that can be received and responded to by the patient.

Patients' records are kept in variable forms in variable places. The patient's record is not seamless. That is why there is a section in the new plan for the NHS in Wales about improving access to records, improving electronic records and coming up with one record per patient for the future, rather than having a variety of records relating to the same patient scattered around the country, both in primary and secondary care. We need a comprehensive system. We will be working through the new plan to ensure that the standard of patient records is improved and that we have comprehensive patient records in the future. In the meantime, completing patients' records must be given priority.

[58] **Janet Davies:** Yes, there were some examples of where things had gone badly wrong in the report—I mean examples in the report, not the report itself going badly wrong. I would like to raise one point. It seems that we hear over and over again about how patients do not take in bad news when they are initially told about it. Is the need to give further opportunities and tell people the same thing several times perhaps being taken on board?

hynny'n wir hefyd am hyfforddi nyrsys a staff mewn proffesiynau sydd yn gysylltiedig â meddygaeth.

Yr wyf wedi sôn eisoes fod cyfathrebu rhwng y claf a'r meddyg yn holl bwysig. Mae gwaith gwirioneddol dda i wella hynny'n mynd ymlaen ledled Cymru. Fodd bynnag, mae angen inni godi pawb i'r un safon. Rhaid inni allu cyfathrebu mewn modd y gall y claf ei dderbyn ac ymateb iddo.

Cedwir cofnodion cleifion ar wahanol ffurfiau mewn gwahanol leoedd. Nid yw cofnod y claf yn ddiasiad. Dyna pam y mae adran yn y cynllun newydd ar gyfer yr NHS yng Nghymru am wella mynediad at gofnodion, gwella cofnodion electronig a chreu un cofnod am bob claf ar gyfer y dyfodol, yn hytrach na chael amryw o gofnodion yn ymwneud â'r un claf ar wasgar o amgylch y wlad, mewn gofal sylfaenol a gofal eilaidd. Mae arnom angen system gynhwysfawr. Byddwn yn gweithio drwy'r cynllun newydd i sicrhau gwelliant yn safon cofnodion cleifion a bod gennym gofnodion cleifion cynhwysfawr yn y dyfodol. Yn y cyfamser, rhaid rhoi blaenoriaeth i gwblhau cofnodion cleifion.

[58] **Janet Davies:** Ie, yr oedd rhai enghreifftiau lle yr oedd pethau wedi mynd yn ddrwg o'i le yn yr adroddiad—enghreifftiau yn yr adroddiad, yr wyf yn ei feddwl, nid yr adroddiad ei hun yn mynd yn ddrwg o'i le. Hoffwn godi un pwynt. Ymddengys ein bod yn clywed drosodd a thro am y modd nad yw cleifion yn amgyffred newyddion drwg pan ddywedir wrthynt yn y lle cyntaf. A ddeellir yr angen i roi cyfleoedd pellach a dweud yr un peth wrth bobl sawl gwaith efallai?

Mrs Lloyd: Yes, indeed. I think that the growth in the importance of the clinical team is allowing us to manage this particularly difficult aspect better. With the whole team involved in care, the whole team knows what the message will be. There are pilot schemes that have been most successful and have been rolled out throughout Wales in terms of how you ensure the patient is given a second opportunity to hear the message. The growth in the number of counsellors and specialist nurses has really improved the situation for patients. However, we must ensure that communication is consistent, and that everyone in Wales has access to a second chance to hear the message. I know that the trusts are working hard to ensure that they have back-up mechanisms. I think that all of us have had the experience, as patients as well as as staff, of not understanding the message because it is too complex and is something that you do not want to hear. In that case, you just grasp a bit of the message. We understand the problem. I know that an enormous amount of time and effort is being spent, particularly with the nursing staff, in ensuring that there is a back-up mechanism of which patients are aware and that 24-hour helplines and bereavement counsellors are in place to be able to deal with patients' inquiries.

[59] **Janet Davies:** Thank you. Karen, you wanted to ask a supplementary question on this.

[60] **Karen Sinclair:** Yes. Janet mentioned that this is a process, rather than an event. However, five hospitals have reached the benchmark, presumably. What goals will you be setting them? I have visions of those hospitals sitting there saying, 'We are up to our 75 per cent'. There must be a process for them as well.

Mrs Lloyd: Deellir, yn wir. Credaf fod y cynnydd ym mhwysigrwydd y tîm clinigol yn caniatáu inni reoli'n well yr agwedd arbennig o anodd hon. A'r tîm cyfan yn gysylltiedig â gofal, mae'r tîm cyfan yn gwybod beth fydd y neges. Mae cynlluniau peilot a fu'n llwyddiannus dros ben ac a estynnwyd ledled Cymru o ran y modd yr ydych yn sicrhau y caiff y claf ail gyfle i glywed y neges. Mae'r cynnydd yn nifer y cynghorwyr a'r nyrsys arbenigol wedi gwella'r sefyllfa'n wirioneddol i gleifion. Fodd bynnag, rhaid inni sicrhau bod y cyfathrebu'n gyson, ac y caiff pawb yng Nghymru ail gyfle i glywed y neges. Gwn fod yr ymddiriedolaethau'n gweithio'n galed i sicrhau bod ganddynt fecanweithiau wrth gefn. Credaf fod pawb ohonom wedi cael y profiad, fel cleifion a hefyd fel staff, o beidio â deall y neges am ei bod yn rhy gymhleth ac yn rhywbeth na ddymunwch ei glywed. Yn yr achos hwnnw, nid ydych ond yn amgyffred rhan o'r neges. Deallwn y broblem. Gwn fod llawer iawn o amser ac ymdrech, yn enwedig gan y staff nyrsio, yn mynd at sicrhau bod mecanwaith wrth gefn y mae'r cleifion yn gwybod amdano a bod llinellau cymorth 24 awr a chynghorwyr galar ar waith i allu trafod ymholiadau'r cleifion.

[59] **Janet Davies:** Diolch. Karen, yr oeddech yn dymuno gofyn cwestiwn atodol ar hyn.

[60] **Karen Sinclair:** Oeddwn. Dywedodd Janet mai proses yw hon, yn hytrach na digwyddiad. Fodd bynnag, mae pum ysbyty wedi cyrraedd y feincnod, yn ôl pob tebyg. Pa nodau y byddwch yn eu gosod iddynt hwy? Gallaf weld yr ysbytai hynny'n eistedd yno gan ddweud, 'Yr ydym wedi cyrraedd y 75 y cant'. Rhaid cael proses ar eu cyfer hwy hefyd.

Mrs Lloyd: Yes. Those hospitals will go through the same process. We would expect them to be making the same leaps forward as others that have not achieved the 75 per cent benchmark. There will be standards at which they are not quite so good and we will expect them to improve their markings against those. Of course, the better you get, the less you have to pay into the Welsh Risk Pool. Although that is a minute incentive, it is, nevertheless, a recognised incentive for them. However, it is a continuing process. We want to make progress every year and not just let people sit on their laurels. Most people who do well always want to improve anyway.

[61] **Karen Sinclair:** So it will be clear?

Mrs Lloyd: It will be very clear.

[62] **Alison Halford:** You can have a rest, Mrs Lloyd; Mr Kershaw is coming in to bat for a while. Mr Kershaw, you say that your outfit is a reimbursement one and gives advice on risk management. When you reimburse, do you ever use confidentiality clauses in the settlements?

Mr Kershaw: May I ask my colleague to reply? I am not aware that we use confidentiality clauses.

Ms Walcot: No. Confidentiality clauses are very hard to enforce and are not normally written into many of these settlements. I think that there have been some, but we are not able to enforce them anyway. Therefore, in general, they do not get written in to all settlements.

[63] **Alison Halford:** Does that cause any concern to patients or yourselves? Some of these settlements are pretty hefty, are they not?

Mrs Lloyd: Yn wir. Bydd yr ysbytai hynny'n mynd drwy'r un broses. Disgwyliem iddynt gymryd yr un camau bras ymlaen ag eraill nad ydynt wedi cyrraedd y feincnod o 75 y cant. Bydd safonau nad ydynt lawn cystal ynddynt a byddwn yn disgwyl iddynt wella eu marciau yn erbyn y rheini. Wrth gwrs, po gorau y byddwch, lleiaf y byddwch yn gorfod ei dalu i Gronfa Risg Cymru. Er mai anogaeth fach iawn yw honno, mae'n anogaeth gydnabyddedig iddynt, er hynny. Fodd bynnag, mae'n broses barhaus. Dymunwn wneud cynnydd bob blwyddyn ac nid gadael i bobl orffwys ar eu bri yn unig. Mae'r rhan fwyaf o bobl sydd yn gwneud yn dda yn dymuno gwella, beth bynnag.

[61] **Karen Sinclair:** Bydd yn eglur, felly?

Mrs Lloyd: Bydd yn eglur iawn.

[62] **Alison Halford:** Cewch seibiant, Mrs Lloyd; mae Mr Kershaw yn dod i fatio am ychydig. Mr Kershaw, dywedwch fod eich cwmni yn un ar gyfer ad-dalu a'i fod yn rhoi cyngor ar reoli risg. Pan ad-dalwch, a ydych yn defnyddio cymalau cyfrinachedd yn y setliadau o gwbl?

Mr Kershaw: A gaf ofyn i'm cydweithiwr ateb? Nid wyf yn ymwybodol ein bod yn defnyddio cymalau cyfrinachedd.

Ms Walcot: Na fyddwn. Mae cymalau cyfrinachedd yn anodd iawn eu gorfodi ac ni chynhwysir hwy mewn llawer o'r setliadau hyn fel rheol. Credaf fod rhai wedi bod, ond ni allwn eu gorfodi, beth bynnag. Felly, yn gyffredinol, ni chynhwysir hwy yn yr holl setliadau.

[63] **Alison Halford:** A yw hynny'n peri pryder o gwbl i gleifion neu i chi eich hunain? Mae rhai o'r setliadau hyn yn eithaf sylweddol, onid ydynt?

Mr Kershaw: I am not aware that that issue has been raised.

[64] **Alison Halford:** I am just interested because other organisations use confidentiality clauses and Sir John Bourne has frowned on this practice, which can be used to cover up bad management practices and so on. It must be bourne in mind that you are quite big payers when it comes to compensation. I was just curious about making a comparison.

Mr Kershaw: I would be more that happy to go back and check that for you. I am not aware that it has been an issue.

[65] **Alison Halford:** Mr Biggs, you are nodding. Do you want to add something?

Mr Biggs: I do not think that I have anything to add.

[66] **Alison Halford:** Go on, speak to me. You are very quiet.

Mr Biggs: That is a very kind offer. I think that confidentiality clauses are more in the realm of the advice given by Welsh Health Legal Services, which gives advice to trusts, as opposed to the clear function of the pool. While I was nodding in terms of my past experience as a claims manager, my other experience with the Welsh Risk Pool is that it has a slightly different function.

[67] **Alison Halford:** Mr Kershaw, what does the Welsh Risk Pool intend to do to bring up poorer performing trusts to the benchmark standard, particularly for those important risk management standards where compliance across Wales was lowest?

Mr Kershaw: Nid wyf yn ymwybodol bod y mater hwnnw wedi'i godi.

[64] **Alison Halford:** Yr unig reswm am fy niddordeb yw bod cyrff eraill yn defnyddio cymalau cyfrinachedd ac mae Syr John Bourne wedi gwgu ar yr arfer hwn, y gellir ei ddefnyddio i guddio arferion rheoli gwael ac yn y blaen. Rhaid cofio eich bod yn dalwyr eithaf mawr pan ddaw'n fater o iawndal. Nid oeddwn ond yn chwilfrydig ynghylch cymharu.

Mr Kershaw: Byddwn yn falch iawn o fynd yn ôl a gwirio hynny i chi. Nid wyf yn ymwybodol iddo fod yn fater o dan sylw.

[65] **Alison Halford:** Mr Biggs, yr ydych yn nodio'ch pen. A ddymunwch ychwanegu rhywbeth?

Mr Biggs: Nid wyf yn credu bod gennyf unrhyw beth i'w ychwanegu.

[66] **Alison Halford:** Dewch ymlaen, siaradwch â mi. Yr ydych yn ddistaw iawn.

Mr Biggs: Mae hynny'n gynnig caredig iawn. Credaf fod cymalau cyfrinachedd yn perthyn yn agosach i'r cyngor a roddir gan Wasanaethau Cyfreithiol Iechyd Cymru, sydd yn cynghori ymddiriedolaethau, yn hytrach na swyddogaeth amlwg y gronfa. Er fy mod yn nodio fy mhen yn nhermau fy mhrofiad blaenorol fel rheolwr hawliadau, y profiad arall sydd gennyf gyda Chronfa Risg Cymru yw bod iddi swyddogaeth fymryn yn wahanol.

[67] **Alison Halford:** Mr Kershaw, beth y mae Cronfa Risg Cymru'n bwriadu ei wneud i godi'r ymddiriedolaethau sydd yn perfformio'n waelach i safon y feincnod, yn enwedig yn achos y safonau rheoli risg pwysig hynny lle yr oedd y cydymffurfiad ledled Cymru ar ei isaf?

Mr Kershaw: It is not the clear responsibility of the Welsh Risk Pool to increase the performance of trusts. That rests with the director of the NHS in Wales. What I can say is that publication of what the performance is, would, I hope, influence trusts to improve performance. I would like to add that we have the comprehensive Welsh risk management standards, which are contained in the blue folder on the table. This follows on from a point that was made earlier. I would never envisage that a trust would have 100 per cent compliance with those standards because they will always change. As we treat patients in different ways and as the law changes, those standards become more onerous. Trusts will therefore constantly strive to improve performance but against an ever-moving target. However, I think that the management of the performance of trusts against those standards is the responsibility of the director of the NHS in Wales.

Mr Kershaw: Nid yw hybu perfformiad ymddiriedolaethau yn gyfrifoldeb clir ar Gronfa Risg Cymru. Cyfarwyddwr yr NHS yng Nghymru sydd yn gyfrifol am hynny. Yr hyn y gallaf ei ddweud yw y byddai cyhoeddi'r hyn yw'r perfformiad yn dylanwadu ar yr ymddiriedolaethau, yr wyf yn gobeithio, i wella'u perfformiad. Hoffwn ychwanegu bod y safonau rheoli risg Cymreig cynhwysfawr gennym yn y ffolder glas ar y bwrdd. Mae hyn yn dilyn pwynt a wnaethpwyd yn gynharach. Ni ragwelwn byth y byddai ymddiriedolaeth yn cydymffurfio 100 y cant â'r safonau hynny oherwydd byddant yn newid o hyd. Wrth inni drin cleifion mewn gwahanol ffyrdd ac wrth i'r gyfraith newid, bydd y safonau hynny'n mynd yn drymach. Felly bydd yr ymddiriedolaethau'n ymdrechu'n gyson i wella'u perfformiad ond yn erbyn targed sydd yn symud o hyd. Fodd bynnag, credaf fod rheoli perfformiad ymddiriedolaethau yn ôl y safonau hynny yn gyfrifoldeb i gyfarwyddwr yr NHS yng Nghymru.

Alison Halford: Is it fair to pass all of the parcel back to Mrs Lloyd when you said earlier, while giving evidence, that you have responsibility for giving advice on risk management?

Alison Halford: A yw'n deg rhoi'r cwbl o'r parsel yn ôl i Mrs Lloyd a chithau wedi dweud yn gynharach, wrth roi tystiolaeth, fod gennych gyfrifoldeb i roi cyngor ar reoli risg?

[68] **Mr Kershaw:** We mentioned earlier that our role in risk management is to encourage, train and support trusts in improving their risk management approaches. We do that partly through an assessment of those standards so that they know where they are. We also do that through the Risk Managers Network, which we set up a couple of years ago to encourage trusts to do things better, and through the training programme that we set up a year ago for risk managers. All of that did not exist two years ago. We are very much aware that we have a responsibility to promote risk management in trusts. The point that I was making was that the actual responsibility for managing the

[68] **Mr Kershaw:** Dywedasom yn gynharach mai ein rôl mewn rheoli risg yw annog, hyfforddi a chynorthwyo ymddiriedolaethau wrth wella eu dulliau rheoli risg. Gwnawn hynny'n rhannol drwy asesiad o'r safonau hynny fel eu bod yn gwybod ym mha le y maent. Gwnawn hynny hefyd drwy'r Rhwydwaith Rheolwyr Risg, a sefydlasom rai blynyddoedd yn ôl er mwyn annog yr ymddiriedolaethau i wneud pethau'n well, a drwy'r rhaglen hyfforddi a sefydlasom flwyddyn yn ôl ar gyfer rheolwyr risg. Nid oedd dim o hynny'n bodoli ddwy flynedd yn ôl. Yr ydym yn ymwybodol iawn bod gennym gyfrifoldeb i hyrwyddo rheoli risg mewn ymddiriedolaethau. Y pwynt yr oeddwn yn ei

performance rests with the director of the NHS in Wales.

[69] **Alison Halford:** I am going to be beastly now, Mr Kershaw—something for which I am not known. As you have such a handle on the expertise needed to cope with these matters, why is your own trust below the benchmark? I cannot put it in a nicer way.

Mr Kershaw: I am very much aware of that. There is no doubt that my trust has to do better on these matters. We are a standards-driven organisation. We have been very preoccupied with other accreditation schemes over the last year—we have been involved in the health quality service, we have just received a third renewal of the charter mark for our acute services, and we are investors in people accredited. Therefore, we are very much a standards-driven organisation. We have had a slight disadvantage in that Mr Ian Biggs is shared between the Welsh Risk Pool and my own trust. Clearly, that was not sustainable. The work of the Welsh Risk Pool has grown enormously over the last two or three years, and we have now split the post so that we have a full time Welsh Risk Pool manager and a full-time manager for my own trust. Therefore, the answer to the question is that my trust is not performing as well as it should at the moment, but I hope that it will improve.

wneud oedd mai cyfarwyddwr yr NHS yng Nghymru sydd â chyfrifoldeb gwirioneddol dros reoli'r perfformiad.

[69] **Alison Halford:** Yr wyf am fod yn annifyr yn awr, Mr Kershaw—rhywbeth nad wyf yn adnabyddus amdano. Gan fod gennych y fath afael yn yr arbenigedd sydd ei angen i ymdrin â'r materion hyn, pam y mae eich ymddiriedolaeth eich hun o dan y feincnod? Ni allaf ei eirio'n fwy caredig.

Mr Kershaw: Yr wyf yn ymwybodol iawn o hynny. Nid oes amheuaeth bod yn rhaid i'm hymddiriedolaeth wneud yn well ar y materion hyn. Yr ydym yn gorff a yrrir gan safonau. Rhoesom lawer o'n sylw i gynlluniau achredu eraill dros y flwyddyn ddiwethaf—buom yn ymwneud â'r gwasanaeth ansawdd iechyd, mae'r nod siarter i'n gwasanaethau aciwt newydd ei hadnewyddu am y trydydd tro, ac fe'n hachredwyd yn fuddsoddwyr mewn pobl. Felly yr ydym yn gorff a yrrir gan safonau i raddau helaeth iawn. Buom o dan ychydig o anfantais am fod Mr Ian Biggs wedi'i rannu rhwng Cronfa Risg Cymru a'm hymddiriedolaeth i. Yr oedd yn amlwg na ellid parhau â hynny. Mae gwaith Cronfa Risg Cymru wedi tyfu'n aruthrol dros y ddwy neu dair blynedd diwethaf, ac yr ydym bellach wedi rhannu'r swydd fel bod gennym reolwr llawn amser ar Gronfa Risg Cymru a rheolwr llawn amser ar fy ymddiriedolaeth i. Felly, yr ateb i'r cwestiwn yw nad yw fy ymddiriedolaeth yn perfformio cystal ag y dylai ar y funud, ond gobeithiaf y bydd yn gwella.

[70] **Alison Halford:** We need to press you a little on this. You tell us, quite rightly, that you have charter marks and such things, but you are still not hitting the benchmark. Therefore, can we put any faith in the areas of excellence that you are giving yourself? What is the point of an investors in people accreditation, or whatever, if you are failing to match a benchmark?

[70] **Alison Halford:** Mae angen inni bwyso arnoch ychydig ar hyn. Yr ydych yn dweud wrthym, yn gwbl briodol, fod gennych nodau siarter a phethau o'r fath, ond yr ydych yn dal i beidio â chyrraedd y feincnod. Felly, a allwn ymddiried yn y meysydd rhagoriaeth yr ydych yn eu rhoi i chi eich hun? Beth yw diben achrediad buddsoddwyr mewn pobl, neu beth bynnag, os ydych yn methu â chyrraedd meincnod?

Mr Kershaw: There is a whole range of standards that trusts must meet, not just risk management standards or controls assurance standards. This is an approach to improve the manner in which we do things. I would never suggest that the actual clinical services within the trust are better or worse than anywhere else. We must aspire to these standards, and I have said that we really need to improve on those.

Mr Kershaw: Mae amrediad eang o safonau y mae'n rhaid i ymddiriedolaethau eu cyrraedd, nid safonau rheoli risg neu safonau sicrwydd rheolaethau yn unig. Mae hyn yn ddull o wella'r modd yr ydym yn gwneud pethau. Ni fyddwn byth yn awgrymu bod y gwasanaethau clinigol presennol oddi mewn i'r ymddiriedolaeth yn well neu'n waeth nag yn unman arall. Rhaid inni anelu at y safonau hyn, ac yr wyf wedi dweud bod gwir angen inni wella ar y rheini.

[71] **Alison Halford:** The fact that you have employed another person gives you greater capacity to do more and therefore improve your own performance perhaps?

[71] **Alison Halford:** Mae'r ffaith eich bod wedi cyflogi rhywun arall yn rhoi mwy o allu ichi wneud rhagor ac felly wella eich perfformiad eich hun efallai?

Mr Kershaw: As the Committee is aware, the trusts went through some complicated mergers—a reconfiguration, I think, in Wales—and there is no doubt that some of the trusts, and I think that this is stated in the report, were slightly disturbed during that period. I think that my trust, along with a number of others, has to improve.

Mr Kershaw: Fel y gwyr y Pwyllgor, aeth yr ymddiriedolaethau drwy rai cyfuniadau cymhleth—ailgyfluniad, yr wyf yn credu, yng Nghymru—ac nid oes amheuaeth bod rhai o'r ymddiriedolaethau, a chredaf fod yr adroddiad yn nodi hyn, wedi'u hanhrefnu ychydig yn ystod y cyfnod hwnnw. Credaf fod yn rhaid i'm hymddiriedolaeth i wella, ynghyd â nifer o rai eraill.

[72] **Alison Halford:** We were told that the Welsh risk management standards—that trips off the tongue, does it not—would take effect from January 2001. Are they? Are they in place?

[72] **Alison Halford:** Dywedwyd wrthym y byddai safonau rheoli risg Cymru—mae hynny'n hawdd ei ddweud, onid yw—yn dod i rym o Ionawr 2001. A ydynt? A ydynt ar waith?

Mr Kershaw: Yes. Those standards are now in place. Trusts will be assessed against those standards in June this year. We will also be employing an assessor this summer to assess all the trusts against those standards. The assessment period in question is between January and March 2001, and the assessment takes place in June.

[73] **Alison Halford:** Sir John Bourne's report gives £2.7 million as an illustration of potential savings arising from improved risk management standards—this figure is given on page 32, paragraph 4.19 of the report. In your view, what is the realistic level of savings that might accrue? Can we get a realistic level of savings?

Mr Kershaw: I am not certain in my own mind that there is a direct correlation between an improvement in the standards and a financial saving as a result of claims. One reason for that is that, as we have already heard this afternoon, the average time that it takes for a claim to be dealt with is four and a half years in totality. Therefore, what we do today to improve our services and systems may well not be seen for some time in the future, depending on the length of the claim. I would probably agree that there is absolutely no doubt that improving risk management within health care organisations can ultimately only help to reduce the risk of damaged patients. I think that that is the really important issue. I am not sure whether I have a clearer view about the absolute amount of financial savings that would go with that.

Mr Kershaw: Ydynt. Mae'r safonau hynny ar waith yn awr. Asesir yr ymddiriedolaethau yn ôl y safonau hynny ym Mehefin eleni. Byddwn hefyd yn cyflogi aseswr yr haf hwn i asesu'r holl ymddiriedolaethau yn ôl y safonau hynny. Mae'r cyfnod asesu dan sylw rhwng Ionawr a Mawrth 2001, a bydd yr asesiad ym Mehefin.

[73] **Alison Halford:** Mae adroddiad Syr John Bourne yn rhoi £2.7 miliwn fel enghraifft o'r arbedion posibl yn codi o well safonau rheoli risg—rhoddir y ffigur hwn ar dudalen 32, paragraff 4.19 yr adroddiad. Yn eich barn chi, beth yw lefel realistig yr arbedion a allai ddod o hynny? A allwn gael lefel realistig o arbedion?

Mr Kershaw: Nid wyf yn sicr yn fy meddwl fy hun fod cydberthynas uniongyrchol rhwng gwelliant yn y safonau ac arbediad ariannol o ganlyniad i hawliadau. Un rheswm am hynny, fel y clywsom eisoes y prynhawn yma, yw mai'r amser y mae'n ei gymryd i ddelio â hawliad ar gyfartaledd yw pedair blynedd a hanner i gyd. Felly mae'n ddigon posibl na welir canlyniad yr hyn a wnawn heddiw i wella ein gwasanaethau am beth amser i ddod, gan ddibynnu ar hyd amser yr hawliad. Byddwn yn cytuno, yn ôl pob tebyg, nad oes amheuaeth o gwbl y gall gwella rheoli risg oddi mewn i gyrff gofal iechyd wneud dim yn y pen draw ond helpu i leihau'r perygl o niwed i gleifion. Credaf mai hwnnw yw'r mater gwirioneddol bwysig. Nid wyf yn sicr a oes gennyf farn fwy clir am holl swm yr arbedion ariannol a fyddai'n mynd law yn llaw â hynny.

[74] **Alison Halford:** This is my last question. We have been told that trusts that achieve the benchmark of 75 per cent compliance with the risk management standards benefit from a discount of £5,000. Given the cost of putting in place robust procedures in areas of risk, is that a sufficient incentive for trusts to take the necessary steps to improve their whole management systems?

[74] **Alison Halford:** Dyma fy nghwestiwn olaf. Dywedwyd wrthym fod ymddiriedolaethau sydd yn cyrraedd y feincnod o 75 y cant o gydymffurfiad â'r safonau rheoli risg yn cael gostyngiad o £5,000. O ystyried cost sefydlu gweithdrefnau cadarn mewn meysydd risg, a yw hynny'n ddigon o anogaeth i'r ymddiriedolaeth gymryd y camau angenrheidiol i wella eu holl systemau rheoli?

Mr Kershaw: The mechanism is that for each claim that the trust might make against the Welsh Risk Pool for reimbursement, the trust will have a differential excess on that according to its position on the table of compliance with the standards. A trust could find that quite punitive in financial terms if it had a number of claims in a particular year. I cannot find a table to show you at the moment, but you will see that there are three different ranges according to how punitive that differential excess is. At the moment, and this is the first year that the Welsh Risk Pool has instigated this, we think that it is a good mechanism to encourage trusts to improve their performance against the standards. As a management group of the Welsh Risk Pool, we review that approach annually and that is already in our plans for this year.

Mr Kershaw: Y mecanwaith yw y codir tâl dros ben gwahanredol ar yr ymddiriedolaeth am bob hawliad y gallai ei gyflwyno i Gronfa Risg Cymru am ad-daliad, yn ôl ei safle yn y tabl cydymffurfiad â'r safonau. Gallai ymddiriedolaeth gael bod hynny'n eithaf cosbol yn ariannol os câi nifer o hawliadau mewn blwyddyn arbennig. Ni allaf ddod o hyd i dabl i ddangos hynny i chi ar y funud, ond byddwch yn gweld bod tri gwahanol amrediad yn ôl pa mor gosbol yw'r tâl dros ben gwahanredol hwnnw. Ar hyn o bryd, a hon yw'r flwyddyn gyntaf i Gronfa Risg Cymru roi hyn ar waith, credwn ei fod yn fecanwaith da er mwyn annog ymddiriedolaethau i wella eu perfformiad yn ôl y safonau. Fel grwp rheoli Cronfa Risg Cymru, yr ydym yn adolygu'r dull gweithredu hwnnw bob blwyddyn ac mae hynny eisoes yn ein cynlluniau ar gyfer y flwyddyn hon.

[75] **Alison Halford:** This really is my last question. Is there anything else that you need to do, if you say that it can be fairly punitive to trusts? What would you like to recommend?

[75] **Alison Halford:** Hwn yw fy nghwestiwn olaf, yn wir. A oes rhywbeth arall y mae angen ichi ei wneud, os dywedwch y gall fod yn eithaf cosbol i ymddiriedolaethau? Beth hoffech ei argymell?

Mr Kershaw: There is a balance between encouraging, motivating and enthusing trusts to improve performance, and putting them in what could almost be described as financial distress. That is one of the reasons why we related part of the premium that the trust pays to the claims history over the last four years. It is only about 15 per cent of the addition that they pay every year. If we were to increase that there is the great potential that if a trust were to have, for example, two brain-damaged baby cases in one year, which might have had a gestation period of 15 years ago, it could suddenly be faced with a huge increase in the cost of the Welsh Risk Pool. For the director of the NHS in Wales, that might destabilise the financial position of some trusts. The balance is about doing things that will encourage and motivate trusts, adding a little spice of financial damages, but without destabilising them. Sometimes, that is quite a fine balance.

Mr Kershaw: Mae cydbwysedd rhwng annog, symbylu a thanio brwdfrydedd ymddiriedolaethau i wella eu perfformiad, a'u rhoi yn yr hyn y gellid bron ei ddisgrifio'n gyni ariannol. Dyna un o'r rhesymau pam y cysylltasom ran o'r premiwm y mae'r ymddiriedolaeth yn ei dalu â'r hanes o hawliadau dros y pedair blynedd cynt. Nid yw ond tua 15 y cant o'r ychwanegiad y maent yn ei dalu bob blwyddyn. Pe baem yn cynyddu hwnnw, mae posibiliad mawr, pe bai ymddiriedolaeth yn cael, er enghraifft, ddau achos o fabanod â niwed i'w hymennydd mewn un flwyddyn, a'r rheini wedi cymryd 15 mlynedd i ddod i'w terfyn, y gallai wynebu cynnydd anferth yn sydyn yng nghost Cronfa Risg Cymru. O safbwynt cyfarwyddwr yr NHS yng Nghymru, gallai hynny ddadsefydlogi sefyllfa ariannol rhai ymddiriedolaethau. Mae'r cydbwysedd yn ymwneud â gwneud pethau a fydd yn annog ac yn symbylu ymddiriedolaethau, ychwanegu ychydig o flas o gosbau ariannol, ond heb eu dadsefydlogi. Weithiau, mae'r cydbwysedd hwnnw'n eithaf tringar.

[76] **Janet Davies:** We are a bit ahead of time, but it would probably be a good idea to finish the evidence session before we have a coffee break. I think that everybody would prefer that.

[76] **Janet Davies:** Yr ydym ychydig o flaen amser, ond byddai'n syniad da gorffen y sesiwn tystiolaeth cyn inni gael egwyl goffi, yn ôl pob tebyg. Credaf y byddai hynny'n well gan bawb.

[77] **Jocelyn Davies:** I would like to ask about the reporting of the adverse incidents. Having a robust system is important by way of providing trusts with early warnings of potential incidents of negligence. In Wales, two trusts had not implemented such a system at the time of the field work for this report. Can you confirm that all trusts, including those two, have now implemented the system?

[77] **Jocelyn Davies:** Hoffwn holi ynghylch adrodd am y digwyddiadau adfydus. Mae cael system gadarn yn bwysig o ran rhoi rhybuddion cynnar i ymddiriedolaethau am ddigwyddiadau posibl o esgeulustod. Yng Nghymru, yr oedd dwy ymddiriedolaeth heb weithredu system o'r fath ar adeg y gwaith maes ar gyfer yr adroddiad hwn. A allwch gadarnhau bod yr holl ymddiriedolaethau, gan gynnwys y ddwy hyn, wedi gweithredu'r system bellach?

Mrs Lloyd: It is my understanding, given the briefing that I have had, that they have implemented the systems. I shall see all trusts in the next two months and I will meet with the chief executives of the trusts on Tuesday and I will establish once and for all whether or not they are complying with the reporting systems that we expect them to comply with.

Mrs Lloyd: Yr wyf yn deall, ar sail y cyfarwyddyd a gefais, eu bod wedi gweithredu'r systemau. Byddaf yn gweld yr holl ymddiriedolaethau yn y ddau fis nesaf a byddaf yn cyfarfod â phrif weithredwyr yr ymddiriedolaethau ddydd Mawrth a byddaf yn cadarnhau unwaith ac am byth a ydynt yn cydymffurfio â'r systemau adrodd y disgwyliwn iddynt gydymffurfio â hwy ai peidio.

[78] **Jocelyn Davies:** You talked earlier about being able to share information. Can you tell me what progress the Assembly has made in developing a standardised database for the reporting of adverse incidents?

[78] **Jocelyn Davies:** Soniasoch yn gynharach am allu rhannu gwybodaeth. A allwch ddweud wrthyf pa gynnydd a wnaeth y Cynulliad wrth ddatblygu cronfa ddata safonol ar gyfer adrodd am ddigwyddiadau adfydus?

Mrs Lloyd: We are working with England at the moment on using the same sort of database that it will use to report adverse incidents because we feel that it is important that there is a standardised system across the United Kingdom so that we can share information on a wider scale. Those discussions are taking place at the moment. In the meantime, I have asked the trusts to advise me explicitly of their implementation programmes against the organisation with the memory, which has been rolled out throughout the country. The clinical governance review, to which I referred earlier, will give me chapter and verse on where all trusts now stand in terms of being able to input their information into the wider national clinical assessment authority that is being established, to ensure that we are compliant with that.

Mrs Lloyd: Yr ydym yn gweithio gyda Lloegr ar hyn o bryd ar ddefnyddio'r un math o gronfa ddata â hi i adrodd am ddigwyddiadau adfydus oherwydd teimlwn ei bod yn bwysig bod system safonol ledled y Deyrnas Unedig fel y gallwn rannu gwybodaeth ar raddfa ehangach. Mae'r trafodaethau hynny'n digwydd ar hyn o bryd. Yn y cyfamser, gofynnais i'r ymddiriedolaeth roi gwybod imi'n benodol am eu rhaglenni gweithredu mewn perthynas â'r drefniadaeth â'r cof, sydd wedi'i hymestyn ledled y wlad. Bydd yr adolygiad o lywodraethu clinigol, y cyfeiriais ato'n gynharach, yn rhoi pennod ac adnod i mi ynghylch sefyllfa bresennol yr holl ymddiriedolaethau o ran eu gallu i fewnbynnu eu gwybodaeth i'r awdurdod asesu clinigol cenedlaethol ehangach a sefydlir, i sicrhau ein bod yn cydymffurfio â hynny.

[79] **Jocelyn Davies:** I will now move on to ask about the Risk Managers Network. It is a useful forum for disseminating information and sharing best practice. However, the group's remit extends to all risk management issues, not just clinical negligence. Given the enormous scope for trusts to learn from each other's experience in preventing and handling clinical negligence, is this network sufficiently focused?

[79] **Jocelyn Davies:** Af ymlaen yn awr i holi ynghylch y Rhwydwaith Rheolwyr Risg. Mae'n fforwm defnyddiol ar gyfer lledaenu gwybodaeth a rhannu'r arfer gorau. Fodd bynnag, mae cylch gwaith y grwp yn cynnwys yr holl faterion rheoli risg, nid esgeulustod clinigol yn unig. O ystyried y cyfle enfawr i'r ymddiriedolaethau ddysgu o brofiadau ei gilydd wrth atal a thrafod esgeulustod clinigol, a yw ffocws y rhwydwaith hwn yn ddigonol?

Mrs Lloyd: I believe that it is. The issue of other types of risk—risk of danger and injury to staff—has been reasonably well established for a number of years, particularly through the health and safety inspections to which the NHS has been subjected over the past 10 years. I think that I will be asking the Welsh Risk Pool to assess whether or not that network is the competent organisation to share that information. However, I would certainly expect the Welsh Risk Pool itself to be networking with all trusts to ensure that they are receiving information pertinent to them, in terms of both clinical and non-clinical risk, and risk to staff.

Mrs Lloyd: Credaf ei fod. Mae mater y mathau eraill o risg—risg o berygl ac anaf i staff—wedi'i sefydlu'n weddol dda ers rhai blynyddoedd, yn enwedig drwy'r arolygiadau iechyd a diogelwch ar yr NHS dros y 10 mlynedd diwethaf. Credaf y byddaf yn gofyn i Gronfa Risg Cymru asesu ai'r rhwydwaith hwnnw yw'r corff cymwys i rannu'r wybodaeth honno ai peidio. Fodd bynnag, byddwn yn sicr yn disgwyl i Gronfa Risg Cymru ei hun rwydweithio â'r holl ymddiriedolaethau i sicrhau eu bod yn derbyn gwybodaeth sydd yn berthnasol iddynt, o ran risg clinigol a risg anghlinigol, a risg i staff.

[80] **Jocelyn Davies:** Could we talk a little now about alternative remedies? The Auditor General has mentioned the lack of channels of communication between clinicians and patients and also the secretive culture that some say exists in the NHS. Obviously, that is a barrier to learning from each other's mistakes. What have you done to ensure a more open culture?

[80] **Jocelyn Davies:** A allem sôn ychydig yn awr am feddyginiaethau amgen? Mae'r Archwilydd Cyffredinol wedi crybwyll y diffyg cyfryngau cyfathrebu rhwng clinigwyr a chleifion a hefyd y diwylliant cyfrinachgar y mae rhai'n dweud ei fod yn bodoli yn yr NHS. Mae'n amlwg bod hynny'n rhwystr rhag dysgu o gamgymeriadau ei gilydd. Beth a wnaethoch i sicrhau diwylliant mwy agored?

Mrs Lloyd: As a consequence of the review of medical negligence and the review of the complaints system that has been going on during the past year, trusts have been encouraged to adopt a no blame culture, as I explained earlier. As part of the performance management system, we will be able to establish how far along the track they have got. One would expect the number of clinical incidents reported to rise but to change in their nature, in that possibly less serious incidents start to be reported, which incidents can be avoided and will be included in staff training. However, I cannot give you an assessment of how far we have progressed along that track until I have received the clinical governance report.

Mrs Lloyd: O ganlyniad i'r adolygiad o esgeulustod meddygol a'r adolygiad o'r system cwynion a fu'n mynd ymlaen yn ystod y flwyddyn a aeth heibio, anogwyd yr ymddiriedolaethau i fabwysiadu diwylliant o beidio â bwrw bai, fel yr eglurais yn gynharach. Fel rhan o'r system rheoli perfformiad, byddwn yn gallu canfod pa mor bell yr aethant ar hyd y ffordd. Byddai rhywun yn disgwyl i nifer y digwyddiadau clinigol a adroddir gynyddu ond iddynt newid o ran eu natur, i'r graddau y dechreuir adrodd am ddigwyddiadau a allai fod yn llai difrifol, pa ddigwyddiadau y gellir eu hosgoi ac a gynhwysir mewn hyfforddiant staff. Fodd bynnag, ni allaf roi asesiad i chi o ba mor bell yr aethom ar hyd y ffordd honno hyd nes y byddaf wedi derbyn yr adroddiad llywodraethu clinigol.

[81] **Jocelyn Davies:** The alternative remedies such as mediation and ex gratia payments offer the prospect of resolving claims in a mutually satisfactory way for all involved. They also prevent costly legal proceedings. After all, some people say that all they wanted was an apology. What have you done to encourage the scope for that?

[81] **Jocelyn Davies:** Mae'r meddyginiaethau amgen fel cyfryngu a chydnabyddiaethau'n cynnig y gobaith o benderfynu ar hawliadau mewn modd sydd yn foddhaol i bawb sydd yn gysylltiedig. Maent hefyd yn atal achosion cyfreithiol drud. Wedi'r cyfan, dywed rhai mai'r cwbl yr oedd arnynt ei angen oedd ymddiheuriad. Beth a wnaethoch i hybu'r cyfle ar gyfer hynny?

Mrs Lloyd: In the complaints procedure that exists at the moment, let alone the one that is about to come into being, clinical staff in the round have a responsibility and duty to provide an apology and an explanation if an incident arises. That is now a requirement of their professional bodies. That has certainly been encouraged in terms of the process that patients must go through in the complaints procedure, in that independent reviews cannot be accepted and instituted unless an explanation has been offered to the patient. There are some patients who wish to go to independent review without that. However, there are now certain processes in place which allow patients to seek the

Mrs Lloyd: Yn yr weithdrefn cwynion sydd yn bodoli ar hyn o bryd, heb sôn am yr un sydd ar fin dod i fodolaeth, mae gan yr holl staff clinigol gyfrifoldeb a dyletswydd i roi ymddiheuriad ac eglurhad os yw digwyddiad yn codi. Mae hynny'n ofyniad bellach gan eu cyrff proffesiynol. Hybwyd hynny'n sicr o ran y broses y mae'n rhaid i gleifion ei dilyn yn yr weithdrefn cwynion, i'r graddau na ellir derbyn a chychwyn adolygiadau annibynnol oni bai fod eglurhad wedi'i gynnig i'r claf. Mae rhai cleifion sydd yn dymuno troi at adolygiad annibynnol heb hynny. Fodd bynnag, mae prosesau penodol ar waith bellach sydd yn caniatáu i gleifion geisio'r wybodaeth y mae arnynt ei hangen er

information that they require in order to make a judgment in the first instance and for our staff to provide them with a proper explanation, and an apology where that is appropriate. There has been a considerable increase in the use of those techniques.

mwyn gwneud dyfarniad yn y lle cyntaf ac i'n staff roi eglurhad iawn iddynt, ac ymddiheuriad lle y bo hynny'n briodol. Bu cynnydd sylweddol yn y defnydd o'r technegau hynny.

The health service has always been somewhat nervous about ex gratia payments, in that I think it has always been quite nervous about whether or not it would be able to justify them as an appropriate use of the public purse's resources. Nevertheless, there is a growing incidence of ex gratia payments being used where, on thorough investigation within the organisation, fault is identified. Instead of putting the patient and the organisation through a tortuous legal process, an ex gratia payment for distress, pain or injury is offered to the individual. I would prefer it to be that way. I think that it is much better to face up to mistakes, deal with them proactively, see the patient and his or her relatives, admit where a mistake has been made and provide a proper explanation than to make the patient go through very difficult processes in order to get proper recompense. Do you want me to say something about mediation?

Mae'r gwasanaeth iechyd braidd yn nerfus erioed ynghylch cydnabyddiaethau, i'r graddau ei fod yn eithaf nerfus erioed, yr wyf yn credu, ynghylch a allai eu cyfiawnhau fel defnydd priodol o adnoddau'r pwrs cyhoeddus ai peidio. Er hynny, defnyddir cydnabyddiaethau'n fwy mynych lle, ar ôl ymchwiliad trwyadl oddi mewn i'r corff, y canfyddir bai. Yn lle gorfodi'r claf a'r corff i ddilyn proses gyfreithiol drofaus, cynigir cydnabyddiaeth oherwydd gofid, poen neu anaf i'r unigolyn. Byddai'n well gennyf pe bai felly. Credaf ei bod yn well o lawer wynebu camgymeriadau, eu trafod yn rhagweithiol, gweld y claf a'i berthnasau, cyfaddef lle y gwnaethpwyd camgymeriad a chynnig eglurhad iawn yn hytrach na gorfodi'r claf i ddilyn prosesau anodd iawn er mwyn cael iawndal priodol. A ddymunwch imi ddweud rhywbeth am gyfryngu?

[82] **Jocelyn Davies:** If you like.

[82] **Jocelyn Davies:** Os dymunwch.

Mrs Lloyd: There is a scheme taking place in England, as has been described in the Auditor General's report, where mediation is offered on all claims. We should get the results of that in June 2001. In Wales, we decided that we would await the results of that fairly comprehensive exercise. We are working closely with the NHS litigation authority on that. We will therefore be able to form a judgment after June when the results of the experiments and pilot scheme are known to us, to roll out mediation and other forms of managing patients' complaints better.

Mrs Lloyd: Mae cynllun yn digwydd yn Lloegr, fel y'i disgrifiwyd yn adroddiad yr Archwilydd Cyffredinol, lle y cynigir cyfryngu ar bob hawliad. Dylem gael canlyniadau hynny ym Mehefin 2001. Yng Nghymru, penderfynasom y byddem yn disgwyl canlyniadau'r ymarfer eithaf cynhwysfawr hwnnw. Yr ydym yn gweithio'n agos gydag awdurdod ymgyfreitha'r NHS ar hynny. Felly byddwn yn gallu ffurfio barn ar ôl mis Mehefin pan fyddwn yn gwybod canlyniadau'r arbrofion a'r cynllun peilot, er mwyn ymestyn cyfryngu a dulliau eraill o reoli cwynion cleifion yn well.

[83] **Jocelyn Davies:** I have one last question on managing patients' complaints better. I am sure that you are aware of *The Observer* article last July that said that beleaguered doctors were threatening to sue patients who complained for defamation and that the threat of the prosecution was being used by doctors in an attempt to hit back at the rising tide of complaints. Those findings emerged from a survery by the Association of Community Health Councils. It found that in more than 20 per cent of health authorities doctors had threatened to sue patients for libel or slander for daring to complain. The survey found dozens of cases where patients had withdrawn complaints following the threat of legal action. In fact, it had warned off many patients. Would you expect patients to go down the route of the alternative remedy, where they are unprotected by a solicitor, I think, if they run the risk of being threatened with legal proceedings? It is a much more informal route. If you decide to sue, at least you then have the protection of a solicitor. How common—this is a survey done by the Association of Community Health Councils so it has some legitimacy—is it for people in Wales who dare to complain to be threatened with legal action themselves?

[83] **Jocelyn Davies:** Mae gennyf un cwestiwn olaf ar reoli cwynion cleifion yn well. Yr wyf yn sicr y gwyddoch am yr erthygl yn *The Observer* fis Gorffennaf diwethaf a ddywedodd fod meddygon dan warchae yn bygwth erlyn cleifion a gwynai am ddifenwi a bod meddygon yn defnyddio'r bygythiad o erlyn mewn ymgais i daro'n ôl yn erbyn y llif cynyddol o gwynion. Daeth y canfyddiadau hynny o arolwg gan Gymdeithas y Cynghorau Iechyd Cymuned. Canfu fod meddygon mewn mwy na 20 y cant o awdurdodau iechyd wedi bygwth erlyn cleifion am enllib ac athrod am feiddio cwyno. Darganfu'r arolwg ddwsinau o achosion lle'r oedd cleifion wedi tynnu cwynion yn ôl ar ôl bygythiad o achos cyfreithiol. Mewn gwirionedd, yr oedd wedi bod yn rhybudd i lawer o gleifion gadw draw. A fyddech yn disgwyl i gleifion ddilyn llwybr y feddyginiaeth amgen, lle nad ydynt wedi'u hamddiffyn gan gyfreithiwr, yr wyf yn credu, os ydynt yn mentro'r bygythiad o achos cyfreithiol? Mae'n llwybr mwy anffurfiol o lawer. Os penderfynwch erlyn, o leiaf wedyn y cewch eich amddiffyn gan gyfreithiwr. Pa mor gyffredin—arolwg a wnaethpwyd gan Gymdeithas y Cynghorau Iechyd Cymuned yw hwn felly mae iddo gryn ddilysrwydd—ydyw i bobl yng Nghymru sydd yn meiddio cwyno gael bygythiad o achos cyfreithiol eu hunain?

Mrs Lloyd: There are a number of issues in your question. In terms of how common it is in Wales, I have not seen the results of any Welsh survey independently undertaken. I will ask our Association of Community Health Councils for its view on that, and provide you with its response. I think that the action described by *The Observer* is entirely unacceptable and I am sure that it would be unacceptable to the Assembly. If we are to deal properly with the concerns and complaints of individuals, we must be honest and open about it and we must engender a culture of openness and admitting mistakes where they

Mrs Lloyd: Mae nifer o faterion yn eich cwestiwn. O ran pa mor gyffredin ydyw yng Nghymru, ni welais ganlyniadau unrhyw arolwg yng Nghymru a ymgymerwyd yn annibynnol. Byddaf yn gofyn i'n Cymdeithas Cynghorau Iechyd Cymuned am ei barn ar hynny, ac yn rhoi ei hymateb i chi. Credaf fod y camau a ddisgrifiwyd yn *The Observer* yn gwbl annerbyniol ac yr wyf yn sicr y byddai'n annerbyniol i'r Cynulliad. Os ydym i ymdrin yn briodol â phryderon a chwynion unigolion, rhaid inni fod yn onest ac yn agored yn ei gylch a rhaid inni feithrin diwylliant o weithredu agored a

occur. There are some complainants who really have had the answer and had it more than once, who will pursue their complaint. Basically the best way of dealing with them is to offer them an independent review so that the suspicion that the individual dealing with them might be covering up for his or her organisation can then be tested in a more independent way. However, I would be very concerned indeed if we found that hitting back at patients was a prevalent trend in Wales. I will be interested to see the findings of the Welsh Association of Community Health Councils, and will take up any concerns that I have, arising from its information, with the trusts concerned.

chyfaddef pan ddigwydd camgymeriadau. Mae rhai achwynwyr sydd wedi cael yr ateb mewn gwirionedd a hynny fwy nag unwaith, a fydd yn dilyn eu cwyn. Yn y bôn, y dull gorau o'u trafod yw cynnig adolygiad annibynnol iddynt fel y gellir rhoi prawf mwy annibynnol ar yr amheuaeth bod yr unigolyn sydd yn delio â hwy yn cuddio bai dros ei gorff. Fodd bynnag, byddwn yn bryderus dros ben os caem fod taro'n ôl yn erbyn cleifion yn duedd cyffredin yng Nghymru. Bydd o ddiddordeb imi weld canfyddiadau Cymdeithas Cynghorau Iechyd Cymuned Cymru, a byddaf yn codi unrhyw bryderon sydd gennyf, ar sail ei gwybodaeth, gyda'r ymddiriedolaethau dan sylw.

[84] **Jocelyn Davies:** Could I ask Alison, from the legal services point of view, whether she is aware of ever having offered the advice to anyone who has come to the service that he or she may threaten to sue for slander or defamation?

[84] **Jocelyn Davies:** A gaf ofyn i Alison, o safbwynt y gwasanaethau cyfreithiol, a yw'n ymwybodol o fod wedi cynnig cyngor erioed i rywun a ddaeth at y gwasanaeth y gallai ef neu hi fygwth erlyn am athrod neu ddifenwi?

Ms Walcot: No, I am not aware of any such cases.

Ms Walcot: Nac ydwyf, ni wn am unrhyw achosion o'r fath.

[85] **Jocelyn Davies:** Thank you.

[85] **Jocelyn Davies:** Diolch i chi.

[86] **Dafydd Wigley:** I just have a couple of points. Picking up on a term that was used—'mediation services'—are you looking at the possibility of a mediation service on an all-Wales level? To what extent is it more likely that you could achieve successful mediation if that process were taken away from the trust itself? There will always be a feeling of wanting to avoid blame or guilt; it is only natural that that should be the case. If you could settle those cases where there is a 90 per cent chance of having to settle, and do so out of court quickly, there might be a saving to be made. I do not know whether you are thinking of going down that road.

[86] **Dafydd Wigley:** Nid oes gennyf ond dau bwynt. Gan ddilyn term a ddefnyddiwyd—'gwasanaethau cyfryngu'—a ydych yn ystyried y posibiliad o wasanaeth cyfryngu ar lefel Cymru gyfan? I ba raddau y mae'n fwy tebygol y gallech sicrhau cyfryngu llwyddiannus os gallech gymryd y broses honno oddi wrth yr ymddiriedolaeth ei hun? Bydd teimlad bob amser o ddymuno osgoi bai neu euogrwydd; nid yw ond yn naturiol i hynny fod yn wir. Os gallech setlo'r achosion hynny lle y mae 90 y cant o debygolrwydd o orfod setlo, a gwneud hynny'n gyflym y tu allan i'r llys, mae'n bosibl y gellid cael arbediad drwy hynny. Ni wn a ydych yn ystyried dilyn y llwybr hwnnw.

Mrs Lloyd: I think that mediation is tremendously skilled. To provide training to the thousands of staff who might be involved in mediation would probably cost a fortune and might not be as effective. I think that, arising from the experiment that is going on in England, we need to think through how best we could operate mediation in a very professional and open way. Your suggestion is quite sensible and one that we would wish to take forward and test.

[87] **Dafydd Wigley:** Thank you. As a matter of interest, are you seeing any increase in lawyers being involved in cases on a 'no-win, no-fee' basis? We see adverts on television all the time, with due deference to the lawyers who are present here, which seem to encourage people to want to chase cases to law. Everybody should have their rights of course, but if things can be settled without recourse to law, that would obviously be in everybody's interest. Are you seeing any greater involvement of lawyers on that basis?

Mrs Lloyd: I think that Alison could probably answer that.

Ms Walcot: There is a change in the funding for claimants bringing claims. There has been some phasing out of legal aid. There are claims that are now run on a conditional fee basis and there is legal insurance protection so that claimants may bring their claims under that if they are not eligible for legal aid. I am not sure what the actual figures are. They are obviously quite new claims, so I do not know at present how much of an impact they will have.

Mrs Lloyd: Credaf fod cyfryngu'n waith aruthrol o fedrus. Byddai darparu hyfforddiant i'r miloedd o staff a allai fod yn gysylltiedig â chyfryngu'n costio arian mawr yn ôl pob tebyg ac efallai na fyddai mor effeithiol. Credaf, ar sail yr arbrawf sydd yn mynd ymlaen yn Lloegr, fod angen inni ystyried yn ofalus sut y gallem weithredu cyfryngu orau mewn modd proffesiynol ac agored iawn. Mae'ch awgrym yn synhwyrol iawn ac yn un y dymunem fwrw ymlaen ag ef a rhoi prawf arno.

[87] **Dafydd Wigley:** Diolch i chi. Fel mater o ddiddordeb, a ydych yn gweld unrhyw gynnydd yn y rhan a gymerir gan gyfreithwyr mewn achosion ar sail 'dim ennill, dim ffi'? Gwelwn hysbysebion ar y teledu drwy'r amser, gyda phob dyledus barch i'r cyfreithwyr sydd yn bresennol yma, yr ymddengys eu bod yn cymell pobl i ddymuno mynd ag achosion i gyfraith. Dylai pawb gael ei hawliau wrth gwrs, ond os gellir setlo pethau heb droi at y gyfraith, mae'n amlwg y byddai hynny er budd pawb. A ydych yn gweld unrhyw gynnydd yn y rhan a gymerir gan gyfreithwyr ar y sail honno?

Mrs Lloyd: Credaf y gallai Alison ateb hynny, yn ôl pob tebyg.

Ms Walcot: Mae newid yn yr ariannu i hawlwyr sydd yn cyflwyno hawliadau. Bu rhywfaint o ddiddymu graddol o gymorth cyfreithiol. Mae hawliadau'n awr a redir ar sail ffi amodol ac mae amddiffyniad yswiriant cyfreithiol fel y gall hawlwyr gyflwyno'u hawliadau o dan hynny os nad ydynt yn gymwys i dderbyn cymorth cyfreithiol. Nid wyf yn sicr beth yw'r union ffigurau. Mae'n amlwg eu bod yn hawliadau eithaf newydd, felly ni wn ar hyn o bryd faint o effaith a gânt.

[88] **Dafydd Wigley:** My worry is that there could be a mushrooming of claims. Heaven forbid that we go down the road of the United States where everybody resorts to legal action at the drop of a hat. That is why I am glad to hear about the mediation service. If that gets a good reputation, it will hopefully lead to legal action being avoided.

[88] **Dafydd Wigley:** Yr hyn sydd yn fy mhoeni i yw y gallai hawliadau dyfu dros nos. Na ato Duw inni ddilyn llwybr yr Unol Daleithiau lle y mae pawb yn troi at achos cyfreithiol ar yr esgus lleiaf. Dyna pam y mae'n dda gennyf glywed am y gwasanaeth cyfryngu. Os caiff hwnnw enw da, gobeithiaf y bydd yn arwain at osgoi achosion cyfreithiol.

[89] **Karen Sinclair:** Just to pick up on what Dafydd said, we have all watched with horror the 'where there is blame, there is a claim' advertisements on the television. They are horrendous. However, on a 'no-fee' basis, I would think that companies would be very careful about what cases they would be prepared to take on. I think that it is an awful way of doing it—taking a percentage of the outcome—but I would have thought that companies would be very careful and would not pick up a case, if they did not think that it was a fairly solid one. That is the only solace you have on that.

[89] **Karen Sinclair:** Gan ddilyn yr hyn a ddywedodd Dafydd, yr ydym oll wedi gwylio gydag arswyd yr hysbysebion 'lle y mae bai, y mae hawliad' ar y teledu. Maent yn arswydus. Fodd bynnag, ar sail 'dim ffi', tybiaf y byddai cwmnïau'n dra gofalus ynghylch pa achosion y byddent yn barod i ymgymryd â hwy. Credaf fod hynny'n ffordd ofnadwy i'w wneud—cymryd canran o'r canlyniad—ond byddwn yn credu y byddai cwmnïau'n dra gofalus ac yn peidio a chymryd achos, os nad oeddent yn credu ei fod yn un eithaf cadarn. Dyna'r unig gysur sydd gennych ar hynny.

Ms Walcot: Yes, I would agree.

Ms Walcot: Ie, byddwn yn cytuno.

[90] **Janet Davies:** I thank all the witnesses for their very full and helpful answers. This has been a very important session on an issue of increasing importance and concern. I am sure that we will re-visit this matter. Indeed, I will ask the Committee later whether, if we can fit it in, it would be willing to meet some representatives from trusts to discuss their points of view and the problems that they perceive. My view of the Audit Committee is that it exists not so much to apportion blame as to try to get better answers and improved practices. At the end of the day, that is more important than shouting at people and trying to say that they are at fault.

[90] **Janet Davies:** Diolchaf i'r holl dystion am eu hatebion llawn a defnyddiol iawn. Bu hwn yn sesiwn pwysig iawn ar fater o bwys a phryder cynyddol. Yr wyf yn sicr y byddwn yn dod yn ôl at y mater hwn. Yn wir, byddaf yn gofyn i'r Pwyllgor yn ddiweddarach, os gallwn gael lle iddo, a fyddai'n barod i gyfarfod â chynrychiolwyr o'r ymddiriedolaethau i drafod eu safbwyntiau a'r problemau a welant. Yn fy marn i mae'r Pwyllgor Archwilio'n bodoli nid yn gymaint i roi bai ond i geisio cael gwell atebion a gwell arferion. Yn y pen draw, mae hynny'n bwysicach na gweiddi ar bobl a cheisio dweud bod bai arnynt.

Daeth y sesiwn gymryd tystiolaeth i ben am 3.25 p.m.
The evidence-taking session ended at 3.25 p.m.