



CONTINUING THE REGENERATION OF CARDIFF BAY



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EXECUTIVE SUMMARY

When the Cardiff Bay Development Corporation wound up its affairs at the end of March 2000, its assets, functions and associated liabilities were transferred to four successor organisations. These were Cardiff County Council, the Welsh Development Agency, the Countryside Council for Wales and the Vale of Glamorgan County Borough Council. This report examines the progress made by each of these organisations in taking forward the responsibilities which they inherited. The report also considers the ongoing role for the Assembly Government in the continuing regeneration of Cardiff Bay and the funding which it has provided to support the successor bodies with their new responsibilities.

All four successor organisations have made good progress in taking forward the respective responsibilities which they inherited. Cardiff County Council has completed a number of regeneration schemes that had been started by the Development Corporation. More significantly, through its Harbour Authority role, Cardiff County Council has taken forward in an effective manner the operation and day to day management of the Bay itself and the Cardiff Bay Barrage. The Council has completed two major capital projects that involved dredging the Bay and implementing an aeration system. In this way the Council successfully met the target of achieving freshwater impoundment by the spring of 2001. There remain a number of environmental issues about the operation of the Barrage and the management of the Bay itself. Over the past two years the Harbour Authority has worked with, and been supported by, the Environment Agency Wales in ensuring it meets its environmental responsibilities.

The Welsh Development Agency also inherited a wide range of responsibilities following the wind up of the Corporation. In common with its work throughout the rest of Wales, the Agency is working with, in this case Cardiff County Council and the Vale of Glamorgan County Borough Council, in their work to secure the continuing regeneration of the Cardiff Bay area. In terms of the specific responsibilities it inherited, the Agency has made good progress with the sale of the Corporation's residual development assets. Through its role as the public sector partner in the Bute Avenue PFI project, the Agency has worked with the private sector developer to ensure that all three aspects of the scheme - the road network, the commercial development and the residential development - have progressed either in line with or in advance of the timescales originally set for the project. The Agency has also put in place robust systems to ensure all other responsibilities are managed and administered in a proper manner.

The Countryside Council for Wales took ownership and responsibility for the completion and ongoing management of the Gwent Levels Wetlands Reserve. A key indicator for the success of the Reserve will be the achievement of Special Protection Area status within five years of the Reserve first opening. The Countryside Council is confident that Special Protection Area status will be achieved in that period.

In addition to a number of functions that reverted to the relevant local authorities, the Vale of Glamorgan County Borough Council also took on responsibility for delivering a key infrastructure project that the Corporation had not started prior to it being wound up. This was the construction of the Penarth link, a pathway running around the cliff face linking the southern end of the Cardiff Bay Barrage structure to Penarth Esplanade. Although work is still at an early stage, the Council together with its team of advisors plans to complete the link before the end of 2004-05.

The Development Corporation estimated that the four successor organisations would require funding from the Assembly Government of just under £100 million for the five-year period, 2000-01 to 2004-05, to deliver their new responsibilities. The Corporation also estimated that of this amount, £23 million would be required in the first year of operation, 2000-01. Against this, expenditure for 2000-01 has amounted to just under £22 million and over the same five-year period the total funding requirement is now estimated at £102 million, an amount broadly in line with the Corporation's original estimate.

As well as providing the required funding, the Assembly Government has a wider monitoring and overseeing role to play in relation to the successor arrangements that were put in place. The National Audit Office Wales has identified some issues that arose relating to the first year of operation of the arrangements, and the Assembly Government has reviewed and strengthened its staffing and has support structure in the light of these. Having this more robust structure in place will become increasingly important over the coming years particularly as the Assembly Government moves towards reviewing and agreeing funding arrangements for the Harbour Authority at the end of the initial five-year period. The funding of the Harbour Authority accounts for the bulk of the support that the Assembly Government provides to the four successor bodies.

PART 1 INTRODUCTION

- 1.1 This is the third report that I have prepared for the Assembly about the regeneration of Cardiff Bay. My first, *The Cardiff Bay Barrage*, was published in July 2000. It looked at the centrepiece of the activities of the Cardiff Bay Development Corporation, the construction of the Barrage and the creation in Cardiff Bay of a freshwater lake. My second report, *Securing the Future of Cardiff Bay*, was published in June 2001. It examined the management of the process that brought to a close the affairs of the Cardiff Bay Development Corporation on its wind up on 31 March 2000. That report was concerned in particular with establishing the extent to which those arrangements would secure the benefits flowing from the substantial investment in excess of £500 million by the Corporation within its designated area.
- 1.2 Building on my previous work, this new report examines the initial period of operation of the four successor bodies to the Development Corporation. These are Cardiff County Council, the Welsh Development Agency, the Countryside Council for Wales and the Vale of Glamorgan County Borough Council. **Figure 1.1** summarises the responsibilities that were transferred to each of the successor bodies with effect from 1 April 2000 under the legal agreements that each one concluded with the Development Corporation under Section 165 of the 1980 Local Government Planning and Land Act. These are referred to in the remainder of this Report as the Section 165 agreements.
- 1.3 The remainder of this report looks first at the role of the Assembly Government in funding and overseeing the relevant activities and responsibilities of the four successor bodies. The report then goes on to consider, in turn, for each of the successor bodies, the progress they have made in taking forward the various schemes and projects which they assumed responsibility for on the wind up of the Cardiff Bay Development Corporation.

Figure 1.1

Responsibilities transferred to the four successor bodies

Cardiff County Council

Through its responsibility for Cardiff Harbour Authority:

- statutory Harbour Authority role;
- operation and maintenance of the Barrage and the freshwater Bay;
- completion of Barrage related construction works; and
- promotion of bayside activities.

and through its wider local authority role:

- continuing regeneration activities around Cardiff Bay;
- completion of projects started by the Development Corporation; and
- the reversion of those local authority functions which the Development Corporation had been responsible for during its lifetime.

Welsh Development Agency

Responsibility for:

- disposal of the Development Corporation's remaining development assets;
- succeeding the Development Corporation as the public sector partner in the Bute Avenue Private Initiative (PFI) Scheme;
- environmental management of Plymouth Park;
- payment and monitoring of the Development Corporation's residual development grants; and
- collection of outstanding miscellaneous debtors and payment of sundry creditors.

Countryside Council for Wales

- the operation and management of the Gwent Levels Wetlands Reserve

Vale of Glamorgan County Borough Council

- the construction of the Penarth Link Walkway
- the reversion of those local authority functions which the Development Corporation had been responsible for during its lifetime.

Source: National Audit Office Wales

PART 2 THE ASSEMBLY GOVERNMENT'S ROLE

- 2.1 When the Cardiff Bay Development Corporation wound up its affairs on 31 March 2000, the role of the Assembly Government changed significantly. During its lifetime, the Corporation was funded through grant in aid provided by the Welsh Office and subsequently the Assembly Government. Although the Corporation enjoyed a significant degree of autonomy under the financial delegations and guidelines governing its activities, it had to seek Welsh Office and later Assembly Government approval for certain actions or decisions. This necessitated some involvement of officials in the affairs of the Corporation. Indeed, as my report *Securing the Future of Cardiff Bay* shows, the involvement of Assembly Government officials in the Corporation's affairs increased in the course of the wind up process.
- 2.2 Following the wind up of the Corporation there is a different relationship between the Assembly Government and the four successor bodies and, as a consequence, a shift in the nature of the Assembly Government's responsibilities. The Assembly Government remains responsible for funding the functions and liabilities of the Corporation that were transferred to the four successor organisations under the relevant Section 165 agreements. This includes underwriting financial risks and liabilities stemming from the functions and responsibilities transferred to the four successor organisations that were either unquantifiable or unforeseen when the Corporation was wound up. The Assembly Government also monitors and oversees the successor organisations in relation to the new responsibilities they took on when the Development Corporation wound up its affairs. In this context, the Assembly Government is responsible for ensuring that the resources made available to the successor organisations are used for the purposes intended and that these organisations undertake the obligations placed on them by the Section 165 agreements to the standard required.
- 2.4 When the Corporation wound up its affairs in March 2000, the strategic responsibility for the economic, social and environmental regeneration in its designated area reverted back to the relevant local authorities, Cardiff County Council and the Vale of Glamorgan County Borough Council, and the Welsh Development Agency. Thus the position for the Cardiff Bay area now reflects the role played by local authorities and the Agency elsewhere in Wales. This reversion of responsibility was set out in the Memoranda of Understanding signed in April 1999 between the then Secretary of State for Wales and the two local authorities.
- 2.5 Under its Memorandum of Understanding, Cardiff County Council is working in partnership with the Assembly Government and relevant public and private bodies to promote the continuing economic development of Cardiff Bay. Within this partnership framework, the Council and the Welsh Development Agency are working to an Understanding covering matters of mutual interest regarding the working arrangements. This includes:
- ▶ the full range of services available from the Agency to support local authorities and local partnerships throughout Wales;
 - ▶ the approach taken by the Agency in the management of assets and liabilities it has inherited from the Corporation;
 - ▶ the services available and working arrangements required to support investment by new and existing businesses in Cardiff Bay;
 - ▶ liaison on the implementation and management of the Bute Avenue PFI scheme.
- 2.6 The Assembly Government agreed to limited transitional funding arrangements for the first three years, to 31 March 2003, to secure the continuing regeneration of Cardiff Bay, particularly in relation to projects planned but not completed by the Corporation. In October 1999, in an Assembly Government statement on the wind up of the Development Corporation, the then First Secretary said that the Assembly Government 'must ensure that the achievements of the last 13 years are made secure and that the area continues to develop. That is in the best interests of the Cardiff area and of the whole of Wales. Having invested in the Barrage and other infrastructure we must now ensure that they are properly managed and exploited, in the best sense of that word, so as to maximise the potential benefits they bring'.

Facilitating continued regeneration

- 2.3 As part of its role of funding, monitoring and overseeing of the delivery of services and projects in accordance with the terms of the Section 165 agreements, the Assembly Government has another key role. This is to facilitate the continuing regeneration of Cardiff Bay with the aim of maximising the economic benefits arising from this for Wales. In this context it is important to note that the Assembly Government does not itself undertake regeneration schemes but relies instead on successor bodies to ensure that such schemes are delivered.

2.7 This reflected the original mission statement for the Development Corporation. This said that, as a knock on effect of achieving regeneration in Cardiff Bay, the image of Cardiff and Wales as a whole would be enhanced. The Assembly Government's interest was further cemented in March 2001 when, in response to the Audit Committee's recommendation for an economic appraisal of developments in Cardiff Bay, the Assembly Government acknowledged 'the need to secure maximum benefit from the existence of the freshwater lake'.

Funding

2.8 In March 2000 the Assembly Government agreed estimated funding profiles with the Corporation and the four successor organisations covering the five-year period 2000-01 to 2004-05. These envisaged that for this period total net expenditure would amount to £100 million. When the Corporation ceased to exist in June 2000, at the end of a short non-operational period following its wind up, the Development Corporation formulated a final estimate of likely succession costs for the five-year period. This final estimate of just under £100 million was broadly in line with the total of the funding profiles previously agreed by the Assembly Government, **Figure 2.1**. In arriving at its final estimate, the Corporation did, however, make some minor changes to the agreed funding profiles for the individual successor bodies. It is important to note that the successor organisations worked against the funding profiles agreed in March 2000. This was on the basis that the profiles were to be revised at a later date.

2.9 The Corporation profiled this amount over the individual financial years 2000-01 to 2004-05. It estimated that in 2000-01 the required funding for the four successor bodies would be £22.7 million. **Figure 2.2** shows that against this estimate the net costs in 2000-01 were £21.8 million, an amount in total close to the Corporation's final estimate. The individual successor bodies' financial performance compared with the corporation's final estimate is examined in more detail in Parts three to six of this report. Taking into account the actual first year costs (and now that more detail is known about the operational performance of the successor bodies) Assembly Government officials estimate that the revised five-year funding requirements will be £102 million, an amount very close to that estimated by the Corporation. This figure might be reduced by up to £2 million through the savings achieved by Cardiff Council on the installation of the aeration systems in Cardiff Bay.

Figure 2.1

Total of five-year estimate of funding profiles for successor bodies

	£ million
Cardiff County Council	72.8
Welsh Development Agency ¹	17.0
Vale of Glamorgan County Borough Council	7.5
Countryside Council for Wales	2.5
Total estimated funding for successor bodies	99.8

NOTES

- 1 The Assembly Government is committed to underwriting the cost of the annual unitary charge of the Bute Avenue PFI scheme until 2025. This will also include the cost of widening of the Herbert Street Bridge, which could add about £1m to the unitary charge if the Assembly Government chose to fund it in that way.
- 2 In addition to the funding earmarked for the individual successor bodies for 2000-01 to 2004-05, there are some elements that the Assembly Government is funding directly. These are: £1.9 million non-operational costs and pension contributions relating to the Corporation that were incurred in 2000-01; £0.6 million grant per annum to Techniquest and £3 million capital grant for the replacement of the Welsh Industrial and Maritime Museum.

Source: Cardiff Bay Development Corporation

2.10 In addition to the firm estimate for the first five years of the succession arrangements which is subject to regular review, the Assembly Government is also committed to the continuing funding of certain activities after the end of this period. These will include:

- ▶ the running costs of Cardiff Harbour Authority;
- ▶ the running costs of the Gwent Levels Wetlands Reserve; and
- ▶ the management costs of Plymouth Park.

In addition, the Assembly Government is committed to the payment of an annual unitary charge of £5.4 million over the twenty-five year life of the Bute Avenue PFI scheme. Details of the Bute Avenue scheme are included in Part four of this report.

Figure 2.2

Estimated and actual funding for 2000-01 for the successor bodies

	Cardiff County Council	Welsh Development Agency (net receipts)	Countryside Council for Wales	Vale of Glamorgan	Total of all Successor arrangements
	£ million	£ millions	£ millions	£ millions	£ millions
Corporation's final estimate	25.8 ¹	(5.3)	1.7	0.5	22.7
Actual net receipts-payments	18.6	(5.6)	1.7	0.5	15.2
Net receipts & payments carried forward to later years ^{2&3}	7.7	(1.1) ³	-	-	6.6
Total of actual and carried forward receipts & payments	26.3	(6.7)	1.7	0.5	21.8
Actual financial performance compared with final estimate⁴	(0.5)	1.4	-	-	0.9

NOTES

- 1 The Corporation's estimate of £25.8 million for 2000-01 was reduced by Assembly Government officials by £4.7 million on the assumption that this would be spent in a later year. Hence, the estimate for 2000-01 given in my report *Securing the Future of Cardiff Bay* for responsibilities taken on by the County Council from the Development Corporation was reported as £21.1 million.
- 2 A number of individual receipts and payments that were estimated to occur in 2000-01 did not actually take place. These payments will still be incurred and receipts still received in future years. To ensure, therefore, financial performance is measured on a like for like basis, these carried forward amounts are included in this analysis.
- 3 The Agency completed the sale of two properties in 2000-01 that the Development Corporation had anticipated would be sold in later years. The proceeds from these sales amounted to just over £1 million. The carried forward figures have been adjusted to reflect this and to ensure that the financial performance for 2000-01 is measured on a consistent basis.
- 4 Figures in brackets show an overspend against the final estimate formulated by the Corporation

Source: National Audit Office Wales' analysis of information provided by the National Assembly for Wales

Monitoring and overseeing

2.11 In the course of the National Audit Office Wales' examination, the Assembly Government continued to develop arrangements for monitoring and overseeing the four successor organisations. The relevant divisions of the Assembly Government assumed responsibility for overseeing the new obligations inherited by the Agency and the Countryside Council as part of their wider monitoring role of these sponsored public bodies. The sponsor division that oversaw the work of the Development Corporation has had its staff numbers reduced but remains in place to monitor the work of Cardiff County Council/Harbour Authority and the Vale of Glamorgan County Borough Council. **Figure 2.3** shows in more detail the key aspects of the monitoring and overseeing role now undertaken by the Assembly Government.

2.12 As **Figure 2.3** indicates, establishing appropriate structures to support the monitoring of the two local authorities was always going to be a challenge for the Assembly Government. This was due in particular to the novel and complex five-year contractual commitment which the Development Corporation entered into with Cardiff County Council for carrying out Harbour Authority responsibilities. Consequently, it is not surprising that some short term issues have arisen. These are attributable, at least in part, to the way in which the Assembly Government has undertaken its monitoring and overseeing role. These issues are described in **Figure 2.4**.

Figure 2.3

The Assembly Government's responsibilities for the succession arrangements in Cardiff Bay

In terms of all successor bodies, the Assembly Government aims to:

- Ensure that funding is spent within the ambit and the amount of the annual budgets approved by the Assembly Government;
- Apply financial and other management controls sufficient to safeguard public funds and ensures that those applied by the successor bodies conform with the requirements both of propriety and good financial management; and
- Approve all claims to cover the costs of additional expenditure.

More specifically in relation to Cardiff Harbour Authority and Cardiff County Council the Assembly Government seeks to ensure that:

- Conditions attached to the grant payments conform with the Section 165 agreement requirements and with the terms of the approved budgets and that arrangements are in place to monitor compliance with those conditions;
- The Council provides information to support its financial plans and a Business Plan containing relevant performance targets and outputs, (including economic and environmental ones) for the succeeding year and the following 2 years;
- The Council submits within 9 months of the end of the period to which it relates, an Annual Report outlining the Council's main activities and performance in respect of its functions under the Section 165 Agreements during the previous financial year - together with the Council's financial account of expenditure;
- The Council seeks the Assembly Government's prior approval to dispose of Assets transferred to the Council under the Section 165 agreements;
- The Council will review its services provided in respect of its activities carried out under the Section 165 agreement in accordance with its Best Value duty; and
- As set out in the Section 165 agreement, the Assembly Government and the County Council shall review the arrangements on the expiration of the initial five-year period.

Source: National Assembly for Wales

Figure 2.4

Key issues that have arisen

Unspent grant

The Section 165 agreement with the Harbour Authority provides for the parties to agree grant payment arrangements for identifying costs incurred and for securing timely claims and payments. Grant payment arrangements were discussed and implemented with the first payment made in April 2000. In March 2001, at the end of the first of the three-year operational period of the Harbour Authority, the Council drew down a large amount of grant. To Assembly Government officials this seemed justified to fund major capital projects including bay dredging and oxygenation. As part of the year end monitoring and control mechanism, Assembly Government officials have established that the Harbour Authority had not spent most of a sum of £3.3 million which Cardiff County Council had drawn down in March 2001. It became apparent to the officials also that there were no immediate plans to spend this amount. At the time that this report was being finalised Assembly Government officials were still discussing grant draw-down arrangements with Council officials. Consequently payment of the Council's grant claims for December 2001 and for January and February 2002 had been withheld pending settlement. Grant payments to the Council resumed in March 2002 on the basis of ensuring that the Council had sufficient resources to meet current and immediate needs.

The final costs for the first year of operation

One of the key roles of the Assembly Government relates to financial monitoring and overseeing and, in particular, establishing the actual costs of the succession arrangements on an annual basis. To do this, Assembly Government officials have to obtain detailed financial information from each successor body. Some of this financial data for the 2000-01 financial year was not available from the successor bodies until January 2002. To discharge its responsibilities effectively the Assembly Government needs timely information. It is reasonable to expect that the Assembly Government obtains final outturn information on the costs of successor bodies within six months of the end of the relevant financial year.

Finalising the financial memorandum with the Harbour Authority

Whilst the respective roles and responsibilities of the Assembly Government and the Harbour Authority are set out in the Section 165 agreement, other important monitoring and overseeing mechanisms need to be in place to support and supplement the terms of that agreement. One of those mechanisms is the Memorandum of Conditions of Funding that will set out the detailed financial framework within which the Harbour Authority is operating. Due mainly to the interpretation of the provision relating to the treatment of VAT, the financial memorandum has yet to be finalised.

Source: National Audit Office Wales

2.13 Following the first year of operation and in the light of the issues that had arisen, the Assembly Government reviewed and strengthened its staffing and support structure. The National Audit Office Wales welcomed this development as it is clearly important that the Assembly Government has appropriate staffing and support structures in place

to facilitate the effective monitoring and overseeing of the activities of the four successor organisations. This will become increasingly important over the coming years, particularly as the Assembly Government moves towards reviewing and agreeing funding arrangements for the Harbour Authority at the end of the initial five-year period.

Evaluation

- 2.14 Another important aspect of the Assembly Government's role to facilitate the successful completion of the regeneration of Cardiff Bay is the need to assess and evaluate what has been achieved. The Cardiff Bay Development Corporation had established a set of regeneration targets against which it measured its performance. However on the wind up of the Corporation, the Section 165 agreements did not place an obligation on successor bodies to collect the data that would allow the continued measuring of progress against these targets.
- 2.15 It is, however, open to the Assembly Government to commission an independent review of the progress made in regenerating the Cardiff Bay area since the wind up of the Corporation. Indeed when the Audit Committee considered my report, *Securing the Future of Cardiff Bay*, the Assembly's Permanent Secretary said that, subject to receiving the necessary approval, he would wish the Assembly Government to undertake a thorough evaluation of how regeneration of Cardiff Bay has progressed, both overall but, more particularly, in terms of what has been achieved since the Development Corporation wound up. He also said that he saw the assessment of the extent to which the targets set for and by the Corporation have been achieved as a key aspect of any holistic evaluation.
- 2.16 Given this, there will be a need at some point to undertake an overall evaluation of the regeneration of Cardiff Bay. It will be particularly important that an exercise of this kind enables the Assembly Government to demonstrate conclusively that value for money from the considerable investment of resources in Cardiff Bay has been, and continues to be achieved.

3.1 Cardiff County Council concluded two Section 165 agreements with the Cardiff Bay Development Corporation. The first agreement related to Cardiff Harbour Authority. The Harbour Authority was created on the wind up of the Development Corporation and is part of Cardiff County Council. On 1 April 2000, the Harbour Authority assumed wide-ranging responsibilities. These included:

- ▶ completing the construction of the Cardiff Bay Barrage and associated contracts together with securing freshwater impoundment in the Bay;
- ▶ implementing the groundwater protection and compensation measures;
- ▶ completing a number of schemes around the Bay that the Development Corporation had not completed; and
- ▶ the day to day management and operation of the Barrage and the Bay, in particular ensuring that the requirements of the 1993 Cardiff Bay Barrage Act and those of the Environment Agency are met.

3.2 Under the Section 165 agreement, the arrangements for the Harbour Authority shall be reviewed after five years when the Assembly Government and the County Council can agree alternative terms or end the agreement. This review has to take place within one year of the expiration of the initial five-year period or within a longer period agreed by both the Assembly Government and the County Council. It also stipulates that if notice were not given to review the arrangements within these timescales then the County Council would retain in perpetuity responsibility for the Bay and the Barrage. At that point there would be no further scope to review, alter or terminate the terms of the Section 165 agreement.

3.3 The second Section 165 agreement was concerned with the transfer to the Council of three broad areas of responsibility:

- ▶ taking forward transitional regeneration measures in Cardiff Bay;
- ▶ completing other unfinished projects; and
- ▶ the continuing maintenance of assets such as roads, footpaths, walkways and public open spaces that the Corporation had funded and put in place.

Financial performance

3.4 The Corporation estimated that, over the five-year period 2000-01 to 2004-05, Cardiff County Council would require funding of £72.8 million to meet the responsibilities placed on it by the two Section 165 agreements. In 1999-2000 the County Council received from the Corporation £500,000 towards the cost of setting up the Harbour Authority and a one-off payment of just under £6 million to cover the cost of maintaining infrastructure such as roads and pathways in the Cardiff Bay area.

3.5 For 2000-01, based on the Corporation's estimate, the funding requirement for Cardiff County Council was £21.1 million. This amount was formulated after taking account of total estimated expenditure of £25.8 million less an amount of £4.7 million that would be spent in later years. **Figure 3.1 overleaf** shows how the £25.8 million estimate was divided across the various responsibilities that the County Council inherited. It also shows that taking account of transactions for the year and commitments relating to 2000-01 that have been carried forward to future years there was a net overspend of £0.5 million.

3.6 Most of this overspend is attributable to the costs incurred in completing the Barrage project. These are costs that the Assembly Government is obliged to underwrite and is not a reflection on how the Harbour Authority is managing its functions. As such, running costs for the Harbour Authority were lower than anticipated in the first year of operation, and as a result some of the overspend on the Barrage project, has been offset by these savings. The costs associated with completing the Barrage project are examined in more detail below.

3.7 Part of the net overspend can be attributed to the fact that some costs were incurred earlier than expected. Taking account of the timing differences, the costs incurred in 2000-01 and re-estimated costs for future years, over the five-year period 2000-01 to 2004-05 the funding requirement for Cardiff County Council stands at £73.9 million. This might be reduced by up to £2 million, as the Harbour Authority has opted to install a different method of maintaining dissolved oxygen levels in the Bay than had been proposed by the Corporation (paragraph 3.29). This represents a relatively small increase in funding over the original estimate of £72.8 million. It is important to note that these estimates cover only the liabilities that were foreseen and quantifiable at the time that the

Figure 3.1

Financial analysis for 2000-01

	Harbour Authority running costs	Completion of the Barrage Project	Unfinished Corporation projects ²	Memorandum of understanding ³ expenditure	Total for the County Council
	£ millions	£ millions	£ millions	£ millions	£ millions
Corporation's final estimate	12.7	10.8	1.3	1.0	25.8 ¹
Actual payments	5.4	9.6	2.1	1.5	18.6
Net receipts & payments carried forward to later years ⁴	3.9	4.9	(0.6)	(0.5)	7.7
Total of actual and carried forward receipts & payments ⁴	9.3	14.5	1.5	1.0	26.3
Actual financial performance compared with final estimate	3.4	(3.7)	(0.2)	0.0	(0.5)

NOTES

- 1 The Corporation's estimate of £25.8 million for 2000-01 was reduced by Assembly Government officials by £4.7 million on the assumption that this would actually slip and be spent in a later year. Hence, the estimate for 2000-01 given in my report *Securing the Future of Cardiff Bay* for responsibilities taken on by the County Council from the Development Corporation was reported as £21.1 million.
- 2 The Section 165 agreement covering the formation of the Harbour Authority, made provision for the County Council to complete a number of projects that the Corporation had already started. The Assembly Government underwrote these costs.
- 3 This relates to the three year transitional funding arrangements agreed with the County Council as set out in the memorandum of understanding signed in April 1999 between the leader of the County Council and the then Secretary of State for Wales.
- 4 A number of individual receipts and payments that were estimated to occur in 2000-01 did not actually take place. These payments will still be incurred and receipts will still be received in future years. To ensure, therefore, financial performance is measured on a like for like basis, these carried forward amounts are included in this analysis.

Source: National Audit Office Wales' analysis of information provided by the Assembly Government

Section 165 agreements were signed. Like the additional costs that have been borne in relation to the Barrage project there may be other future costs in excess of those estimated that the Assembly Government would also have to bear. Conversely where the Harbour Authority underspends in some areas there might be a saving for the Assembly Government.

3.8 It was always envisaged that the financial requirements placed on Cardiff County Council by the Section 165 agreement for the Harbour Authority would be underpinned by a Memorandum of Conditions of Funding between the Assembly Government and the Council. At the time of the examination undertaken by the National Audit Office Wales, this document had not been finalised (Figure 2.4). In particular the delay centred on the saving that would arise because of the County Council's local authority VAT status. Under the terms of the Harbour Authority Section 165 Agreement this cost saving is to be shared equally between the Assembly Government and the Council. The annual saving is expected to be

less than £0.5 million. The Council is entitled to use its share of these savings in connection with functions, duties and areas of the Harbour Authority and this will be an additional financial liability to be funded by the Assembly Government.

3.9 In addition to its own monitoring, it was intended that the Assembly Government should be able to draw comfort from the independent audit that would be carried out by the County Council's own Audit Commission appointed auditor, District Audit. This audit would be conducted against a programme of tests developed by the Audit Commission in conjunction with Assembly Government officials. However, because the Memorandum of Conditions of Funding has yet to be signed the Audit Commission is unable to finalise its programme of tests. As such, to date there has not been a specific audit of the Harbour Authority's first year expenditure, to ensure that the funding provided has been used for the purpose intended. Assembly Government Officials are confident that this audit will be completed in the near future.

Ongoing regeneration

3.10 Of the total estimated five-year funding for the County Council amounting to £72.8 million, around £12 million was earmarked to meet transitional funding measures broadly comprising of:

- ▶ a £6.1 million Regeneration Fund payable over the three years 2000-01 to 2002-03, based upon the Corporation's estimate of maintaining the operation of certain functions over three years;
- ▶ a £4.6 million Project Fund based on the Corporation's estimates to finance developments in the Bay area mainly related to schemes planned but not completed by the Corporation and contractual commitments, including Hamadryad Park, enhanced Barrage landscaping and the Access Road to the Yacht Club; and
- ▶ a net £1.4 million estimated requirement, which has had to be increased to around £2 million to complete projects that had already been started by the Corporation including the Oval Basin Piazza, Widowlands landscaping and Graving Docks flood protection.

Apart from these transitional funding measures the Assembly Government made it clear to the Council that it would not enjoy levels of special funding previously paid to the Corporation.

3.11 Of this £12 million net transitional funding that is payable over three years, the Corporation estimated that the net requirement for 2000-01 was around £8.5 million. In the course of that year, the County Council incurred expenditure of around £1.5 million on activities or projects included in the Development Corporation's funding forecasts. These are set out in **Figure 3.2**. The Council also used £5.5 million of the resources provided by the funds towards the purchase of the site that the Development Corporation had owned at Ferry Road, which the Council regarded as an essential part of its plans for regenerating that area of Cardiff Bay.

3.12 The remainder of this estimated £8.5 million went towards funding those projects that the Corporation has started but had not finished by the time it was wound up. The County Council has made good progress towards completing them.

Figure 3.2

2000-01 expenditure on projects and activities originally earmarked for the regeneration fund and the project fund

	£ 000s
Access road to Cardiff Yacht Club	480
Cardiff marketing	200
Hamadryad Park	820
Total	1,500

Source: Assembly Government for Wales

3.13 It is important to note in this context that Cardiff County Council decides on how it will use the resources made available to it through the Regeneration and Project Funds. As part of this process, the County Council consults Assembly Government Officials about its future plans. In the case of the Regeneration fund there is a requirement for the Council to develop a programme that has to be agreed by the Assembly Government. The Council decided to combine the residual funding from both funds into one regeneration programme, which will be agreed with the Assembly Government in due course.

3.14 Assembly Government Officials told the National Audit Office Wales that the Council plans for spending its Regeneration and Project Fund resources were disrupted by other more important operational priorities. At the time of this examination, Cardiff County Council has been reviewing its plans for regeneration. The schemes being considered include:

- ▶ Implementing the Corporation's original scheme for a Wetlands Reserve in Cardiff Bay, and construction of a broadwalk and viewpoint;
- ▶ Developing the Graving Docks to promote tourism and public access in the Bay area;
- ▶ Constructing a walkway around as much of the edge of the Bay that would incorporate cycleways and disabled access where possible; and
- ▶ a contribution to the planned access road to the Barrage.

3.15 Assembly Government officials are satisfied that these plans include meeting a number of commitments made by the Corporation and that they are all consistent with the regeneration of the Cardiff Bay area. Clearly as officials discuss evolving plans with the Council it is important that they establish the rationale underpinning them. Particular attention should be focused upon the contribution that the County Council envisages that its changes to the Development Corporation's original proposals will make to the continuing regeneration of Cardiff Bay.

The Harbour Authority

3.16 The Harbour Authority came into existence on 1 April 2000 following the wind up of Cardiff Bay Development Corporation. Its key tasks are:

- ▶ to operate and manage the Cardiff Bay Barrage and the Inner Harbour;
- ▶ to maintain and monitor water and other environmental standards in and immediately around the Bay; and
- ▶ to promote the Bay as a recreational and business asset in consultation with all interested bodies.

3.17 My report, *The Cardiff Bay Barrage*, provides the background to the construction of the Barrage and the creation of the inland freshwater lake: the project that constituted the centrepiece of the activities of the Development Corporation. The significance of this project and the arrangements needed to manage it on completion are reflected in the expenditure forecasts for the Harbour Authority for the five-year period 2000-01 to 2004-05. These envisage that Cardiff County Council will require net funding of some £58.7 million for the costs that the Harbour Authority will incur in managing, operating and maintaining the Barrage and the Bay.

3.18 The Harbour Authority itself is a committee of Cardiff County Council and its membership includes 12 County Councillors. The Harbour Authority includes two nominees who represent the views of the private sector. These are nominated by the Cardiff Chamber of Commerce.

The Harbour Authority employs some eighty people to discharge its responsibilities. In addition in carrying out its operations, the Harbour Authority can draw on other Council services. It also makes use of the Council's common services such as those provided by the finance, human resources and information technology departments. In finalising the Section 165 agreement for the Harbour Authority, Cardiff County Council emphasised the contribution that this approach would make to enable the Harbour Authority to operate economically.

3.19 The Harbour Authority agreed in April 2001 its business plan for the five-year period 2000-01 to 2004-05 and published it in December 2001. Amongst other things this document sets out the key aims of the Harbour Authority (Figure 3.3). The Assembly's Economic Development Committee considered the document in January 2002. At this meeting a number of Assembly members expressed concern and disappointment about the delay in producing the plan.

Figure 3.3

Key aims of the Harbour Authority

- ▶ To ensure that all statutory obligations are met - principally those set out in the Cardiff Bay Barrage Act but also those associated with its status as a Harbour Authority;
- ▶ To achieve and maintain public confidence in the Bay, the Barrage and the Harbour Authority;
- ▶ To ensure that flooding of Cardiff does not occur as a result of the construction of the Barrage;
- ▶ To make the most effective use of the assets controlled by the Harbour Authority;
- ▶ To achieve the best environmental standards possible throughout the Harbour Authority area;
- ▶ To contribute to the well being of the whole of the Severn Estuary and its associated environs; and
- ▶ To maximise the benefits for all stakeholders arising from the Bay.

Source: Cardiff Harbour Authority business plan

Harbour Authority costs

3.20 Harbour Authority costs were estimated at £58.7 million over the five-year period 2000-01 to 2004-05. Of this total it was estimated that £12.7 million would be incurred in 2000-01. Against this estimate, the actual costs incurred in running the Harbour Authority, in its first year of operation, stood at £9.3 million. This represents an underspend of £3.4 million. Now that the first year costs are known and there is more of an understanding of the Harbour Authority's operations, Assembly Government officials have revised estimated five-year running costs, which are now lower, at £55.5 million. This amount still includes the full fixed cost allowance and it has been reduced because Assembly Government officials anticipated that variable costs will be lower. It is important to note that in this context Assembly Government Officials are discussing revised funding profiles with the County Council in respect of 2001-02 to 2004-05 and these will be kept under regular review. As such, these might be subject to further changes from time to time.

3.21 In December 1999 the then First Secretary announced that the County Council, in its capacity as the Harbour Authority, would use its own workforce to manage, operate and maintain the Barrage and freshwater lake as opposed to letting a facilities management contract, the Corporation's favoured option. A key factor in reaching the decision was the County Council's guarantee that they would undertake the work for a sum of £3 million less than that submitted by the Corporation's preferred bidder. This guarantee was cemented in the Section 165 agreement. That agreement capped the amount that the County Council could spend on these activities at £19.3 million. In recognition of the risk taken on it was agreed that, subject to those relating to the capital costs of oxygenation equipment, any savings would accrue to the Council and would be employed for the general benefit of the Bay.

3.22 At the time of finalising this report, Assembly Government officials were working with the County Council to determine the level of costs incurred in the first year that related to the services that would have been provided under a facilities management contract. Officials are confident that provisional estimates indicate that the Council is on course to deliver more than the £3m saving. A further saving could materialise through the installation of a different method of maintaining dissolved oxygen levels in the Bay (paragraph 3.29).

Completing the Barrage project and achieving freshwater impoundment

3.23 When the Development Corporation wound up its affairs, although the construction of the Barrage was substantially completed there were a number of significant unresolved issues. These in turn placed significant demands on the Harbour Authority management. The Barrage operating systems were not fully functional and the Harbour Authority had to rectify operational difficulties with the barrage sluice gates and the fish pass. It also had to arrange for the installation of a saline sump to minimise saline intrusion into the Inland Bay and complete two major capital projects in order to achieve freshwater impoundment by 31 March 2001. These two projects were dredging and the installation of an aeration system to maintain water quality in the Inland Bay.

3.24 The Development Corporation had estimated that it would cost around £8 million to complete the Barrage project (Figure 3.4). In my report, *The Cardiff Bay Barrage* (paragraph 2.19), I noted that at June 2000 the total approved cost of the project stood at £213.4 million and rose to £220 million when additional capital expenditure of £7 million for maintaining water quality in the Bay was included.

Figure 3.4

Estimated costs of completing the Barrage project

	£million
Construction contract	1.8
Dredging (including enhanced dredging)	5.5
Drainage	3.1
Landscaping	0.9
Other	(3.3) ¹
	8.0

NOTE

1 Other costs related to the barrage project have been shown net of £4.3 million due from Welsh Water in 2005 in respect of a contribution towards the costs of drainage works associated with the project.

General It was anticipated that the expenditure relating to this net estimate would be incurred over the five-year period 2000-01 to 2004-05.

Source: Estimates prepared by Cardiff Bay Development Corporation in conjunction with the Assembly Government

3.25 The Section 165 agreement relating to the Harbour Authority also made provision for an additional £5.5 million to provide equipment to maintain oxygen levels. This amount formed part of a capped capital allowance of just over £8 million. Under the Section 165 agreement the Assembly Government is underwriting costs arising from the completion of the Barrage project and, therefore, any unforeseen expenditure has to be funded by the Assembly Government. Conversely, if costs were lower than the capped £8 million any saving would accrue to the Assembly. Assembly Government officials confirmed that the current estimate of the final outturn cost of the Barrage Project remains very close to the £220 million cap. However, the actual final cost is unlikely to be known until 2004-05. Once known, the National Audit Office Wales will assess and report on the reasons for any increase above the £220 million cap.

Dredging

3.26 One of the objectives of the Development Corporation had been to achieve freshwater impoundment in Cardiff Bay before it was wound up in March 2000. During November 1999, the Assembly Government began to have serious concerns about the feasibility of the Development Corporation achieving this. Whilst dredging the Bay had not been started by the Corporation, it had requested authorisation to let a contract. The Assembly Government was particularly concerned about the ability of the Corporation to let, monitor and complete by 31 March 2000 a £5.4 million dredging contract. A contract that would have met only the minimum requirements of the Barrage Act and was essential for securing freshwater impoundment. On 7 December 1999, the First Secretary announced that freshwater impoundment would be delayed to 31 March 2001.

3.27 The Development Corporation's remaining budget provision for this minimum dredging was £4 million. It also had a budget of £1.5 million for deeper, enhanced dredging to increase the range of water sports that could be undertaken. This raised the total budget provision for dredging to £5.5 million. With the approval of the Assembly Government, the Harbour Authority let a contract that included enhanced dredging in October 2000 and the work was completed within the contract deadline of 31 March 2001. Whilst costs for the work are yet to

be finalised, the estimated outturn is in the region of £7.3 million, £2.8 million more than the financial provision estimated by the Corporation. It is important to note that the contract let by the Harbour Authority was more extensive than that anticipated by the Corporation. It is understood that it included dredging to allow a wider range of water uses and dredging of the Graving Docks. The increased cost was borne by the Council from the savings made on the lower than expected first year costs of the Harbour Authority.

The Aeration System

3.28 Another critical aspect of achieving freshwater impoundment was the installation of equipment that would maintain dissolved oxygen at a minimum of five milligrams per litre of water, the level prescribed in the Cardiff Bay Barrage Act 1993. To meet this standard the Development Corporation had envisaged a method of oxygenation that involved the procurement of a specially designed vessel referred to as a 'bubbler'. This vessel would have pumped oxygenated water into the areas of the Bay liable to fall below the prescribed standard. Two smaller oxygenation units would have supported the 'Bubbler' in maintaining dissolved oxygen levels. The Harbour Authority expenditure forecasts were based on the use of this method of oxygenation.

3.29 The delay in freshwater impoundment gave the Harbour Authority the opportunity to assess other methods of ensuring the required dissolved oxygen level. Subsequently the Harbour Authority opted for a different system from that proposed by the Development Corporation. Known as an aeration system it involved laying a system of underwater pipes around the Bay that mixes the water so that dissolved oxygen is distributed through the depths of the Bay. The Harbour Authority, in consultation with the Environment Agency, installed the system in spring 2001 and brought it into operation in May 2001. The cost of this system is in the region of £3.5 million, some £2 million less than the Corporation's estimated cost of the 'Bubbler' option. This saving, which under the Section 165 agreement would accrue to the Assembly Government might be less if additional capital investment in aeration, oxygenation or other equipment is required.

3.30 The Harbour Authority and the Environment Agency are working together to ensure that the statutory dissolved oxygen standard is achieved on an ongoing basis. Harbour Authority officials understand that the process could continue indefinitely as it can never be certain that the system will deal with every combination of environmental variation that could affect the level of oxygen. The Harbour Authority's management of its environmental responsibilities is discussed in more detail in paragraphs 3.34 to 3.47.

Sluice Gates

3.31 The technical problems the Harbour Authority inherited from the Corporation with the sensors controlling the automatic operation of the Barrage's sluice gates are nearing resolution. However, the Environment Agency Wales is not in a position to finally 'sign off' the Barrage's equipment as operational. The Council has from 1 April 2000 been operating the sluice gates manually on a 24-hour basis in order for the Barrage to be operated in a way that was acceptable in terms of flood risk. This enabled the Agency to give the Harbour Authority conditional approval for the operation of the Barrage from this date.

3.32 The Harbour Authority has completed improvements to the automatic sluice gates including changes to optimise flows for fish passage and is ready to commence physical testing of the automatic operation. This represents a third phase of testing. It has been agreed that this will commence in May 2002 when river flows are expected to be generally low. The Environment Agency told the National Audit Office Wales that it welcomed the improvements that the Harbour Authority had made to the automatic system for operating the Barrage. However, the testing of the sluice gates might have to extend for some time. The Agency said that it was unable to approve the automatic system until a reasonable period of confidence testing has elapsed and that this could be between six months and several years.

3.33 Overall the Harbour Authority has made substantial progress since it took on the responsibility for completing the Barrage project and, in particular, it successfully secured freshwater impoundment in

spring 2001. However, it might be several years before the sluice gates are finally signed off and the aeration system is proven to maintain dissolved oxygen levels. The Harbour Authority is working with the Environment Agency towards rectifying outstanding issues.

Environmental responsibilities

3.34 The Cardiff Bay Barrage Act 1993 contains a number of important provisions to ensure the safe operation and management of the Barrage and the Inland Bay. The Harbour Authority is required to manage the Inland Bay and Outer Harbour to ensure that the quality of water meets the statutory standards or a standard that might reasonably be specified by the Environment Agency. It has to comply with reasonable directions of the Environment Agency in order to:

- ▶ protect water quality and fish in the Inland Bay;
- ▶ prevent or alleviate flooding; and
- ▶ allow the passage of migratory fish.

Conscious of the high risks, not only to the environment but of the substantial public investment in the area, the Environment Agency Wales has adopted a proactive partnership and supportive role in working with the Harbour Authority, whilst at the same time not compromising its regulatory duties.

Water quality

3.35 There are a number of aspects that need to be managed in the Bay to protect water quality. These include dissolved oxygen, algae disposal and salinity.

Dissolved Oxygen

3.36 On water quality, paragraphs 3.28 to 3.30 described the aeration system that the Harbour Authority has put in place to meet the statutory requirement on dissolved oxygen levels. The Environment Agency is particularly concerned with dissolved oxygen, because the consequence of such failures could have a detrimental environmental impact.

3.37 Water quality and dissolved oxygen levels are monitored by means of data transmitted from buoys situated throughout the Bay. According to this data there have been incidents of dissolved oxygen failure in the Bay. The Environment Agency Wales commented that a number of these incidents were in fact attributable to data collection equipment problems, arising from their ongoing maintenance. Nevertheless, since the Harbour Authority took on responsibility for the Bay there have been two major incidents when the level of dissolved oxygen fell well below the statutory requirement.

3.38 One incident was in August 2000 and the other in July 2001. During the high summer tides of 2000, prolonged periods of poor water quality occurred. It is important to note that this first instance took place well in advance of the achievement of freshwater impoundment. The second incident in July 2001, occurred in conjunction with very heavy rainfall, which led to discharges into the Inland Bay. With this incident the dissolved oxygen level locally fell below the five milligrams per litre standard for a period of one week, to under two milligrams per litre of water. The Harbour Authority is in discussion with Welsh Water and the Environment Agency to understand and consider how to deal with such incidences in the future.

3.39 Ongoing monitoring and reporting of the dissolved oxygen levels is important in order for the Environment Agency to be satisfied that the statutory requirements are achieved by the Harbour Authority. The Environment Agency also requires the Harbour Authority to consider other contingency measures, for example the need to deploy mobile oxygenation units when there are likely to be instances of dissolved oxygen failures. The Harbour Authority is investigating alternative contingency measures in conjunction with the Environment Agency.

Algal Problems

3.40 In addition there are other aspects of the management of water quality that are now the responsibility of the Harbour Authority. These encompass a range of issues that were not resolved by the Corporation, including salinity and algal problems. My report, *The Cardiff Bay Barrage*, noted the need for measures to remove algal scum from the Bay and so prevent the build up of potentially hazardous algae that can be a danger to

health. Algal scums in the freshwater lake usually occurs in spring, summer and autumn although only small amounts occurred in the first year of freshwater impoundment. A contract was put in place to dispose of 4,000 m³ of algae within a 48-hour period to a landfill site. This contract expired in October 2001 and the Harbour Authority has revised arrangements in place together with the necessary vessels and equipment to collect and dispose of algal scum at a registered waste disposal site. Against this background the Environment Agency Wales wants to agree the longer term options with the Harbour Authority.

Salinity

3.41 Saline intrusion is a threat to the freshwater nature of the Bay particularly around the lock gates of the Barrage. One of the aims of the dredging contract was to build a sump at the Bay side of the lock gates so that any seawater intrusions could be collected and flushed back out to sea. The Environment Agency Wales confirmed that the Harbour Authority had finalised the construction of the saline sump prior to freshwater impoundment. However, the Agency went on to say that the operation of the sump continued to be unsatisfactory. The Harbour Authority has considered a major redesign of the sump and supplied the Agency with the options considered to address salinity issues in the Bay. Liaison on this issue is ongoing.

Flood defence

3.42 Under the 1993 Cardiff Bay Barrage Act and the 1995 Environment Act, the Environment Agency Wales is responsible for the oversight of matters relating to flood defence in Cardiff Bay. In its comments to the National Audit Office Wales, the Agency highlighted two issues. These related to the manual operation of the sluice gates and live flood storage volumes.

3.43 On the operation of the Barrage's sluice gates, the automatic operation system failed from the time that the Bay was first impounded in November 1999, when under the control of the Corporation. Since that time they have operated manually. The water level in the Bay was initially reduced to four metres, to reduce the risk of flooding and increased to 4.5 metres in late 2000 when the Agency were satisfied with the Harbour Authority's management of the operation.

3.44 Another aspect of flood defence relates to the Bay's capacity to maintain a higher than normal water volume. This is known as the live flood storage volume. This volume is reduced as more structures are built around the Bay area. As such, the Environment Agency Wales considers that the Harbour Authority should evaluate this aspect of flood defence at least every two years. In response, the Harbour Authority has agreed that in addition to the normal planning constraints, aerial photographs should be used to monitor structures that will effect storage volumes. The County Council has already undertaken an aerial survey to coincide with the census results. Harbour Authority wardens also have been tasked with keeping a monitoring brief on this issue.

Fisheries

3.45 Another requirement of the 1993 Cardiff Bay Barrage Act is that the Harbour Authority should ensure a free passage for fish. When the Harbour Authority took over from Cardiff Bay Development Corporation there were existing problems with the Barrage's fish pass. The Environment Agency noted in their report that the Harbour Authority managed to make the pass operational by May 2000 in time for the seasonal movement of fish but some technical problems remained. As the National Audit Office Wales was finalising this report, the Harbour Authority had completed the modifications necessary to one of the gates and it expected work on the other two to be finished by spring 2002.

3.46 Under a side agreement to the Cardiff Bay Barrage Act, the Development Corporation and subsequently the Harbour Authority arranged to fund the Environment Agency to monitor the passage of fish. It also provided for the Environment Agency to carry out interim mitigation for Barrage impact in the form of the stocking of young salmon. Monitoring has been ongoing since 1990 and follows a plan agreed between the Development Corporation and the Agency's predecessor, the National Rivers Authority. Stocking of fish is also an agreed strategy for mitigation of presumed or measured impact of the Barrage. In September 2001, the Environment Agency Wales initiated the design and procurement of a video fish counting system. The Barrage Act requires the Harbour Authority to install and maintain equipment to monitor the passage of fish.

The current target date for the Harbour Authority to complete installation of the fish counter and associated equipment is the summer of 2002.

Groundwater Damage Protection Scheme

3.47 On the wind up of the Corporation, the Harbour Authority inherited responsibility for the administration of the Groundwater Damage Protection Scheme. The Scheme was established under the 1993 Cardiff Bay Barrage Act and "makes provision for ascertaining and preventing or repairing damage to property resulting from any alteration of groundwater levels which may occur in consequence of the construction of the Barrage". The Scheme remains in force until November 2019, twenty years following the first day of impoundment. The Assembly Government has to underwrite the costs of potential liabilities arising from such damage to properties and gardens. In taking its responsibility forward in this area, the Harbour Authority has a number of roles to fulfil:

- ▶ to undertake a comprehensive scheme of post impoundment property surveys;
- ▶ to monitor groundwater levels in the areas covered by the statutory scheme; and
- ▶ to investigate notifications regarding possible cases of ground water damage.

3.48 Broadly, the Act provides for three types of surveys to determine the condition of properties in relation to groundwater levels. Such surveys are conducted in a specified protected area and can also be conducted, on request, in other areas of South Cardiff and beyond. The three types of surveys are pre-impoundment, post-impoundment and additional surveys, although it is recognised that there are different circumstances depending on whether the property is within the protected area or not. Prior to impoundment in November 1999, the Development Corporation arranged pre-impoundment surveys of properties within the protected area, plus, on request and payment of £40, properties outside the protected area. The Cardiff Bay Barrage Act requires a second tranche of surveys to be undertaken between two to three years after impoundment. These are referred to as post-impoundment surveys. In addition, owners and occupiers who have had both pre and post impoundment surveys can request further surveys up until 2019.

3.49 In November 2001 the Harbour Authority started the post-impoundment surveys of some 25,000 properties. These are due for completion in November 2002. Once completed, the Harbour Authority will provide a copy of the survey report to the owner/ occupier. This report compares the pre and post-impoundment survey results. If the property has suffered groundwater damage they then need to notify the Harbour Authority within six months of receiving the survey report. Disputes as to "justifiable concern" are then dealt with by an independent surveyor.

3.50 The Harbour Authority has appointed an independent consultant to oversee and validate the ground-water level monitoring reports by providing a view on the accuracy and reliability of the data recorded by the monitors located throughout South Cardiff. Rainfall, estuary, Bay and river levels are also recorded to ensure that the sources of changes in groundwater level are appropriately identified and attributed, so that the Assembly Government would only pay for claims proven to be attributable to the construction of the Barrage.

3.51 To February 2002, the Harbour Authority has received a total of 138 notifications from owners and occupiers regarding possible groundwater damage cases. Each of these has been investigated and only one is believed to be due to groundwater damage associated with the impoundment of Cardiff Bay. This property is undergoing further monitoring. No costs have been incurred to date from groundwater damage notifications and surveys.

3.52 In accordance with the 1993 Act, the Harbour Authority funds the work of the Independent Groundwater Complaints Administrator. It is important to note that the appointment of the Administrator is made by the Assembly Government following open competition. The Administrator's role is to consider complaints made concerning the Harbour Authority's administration of the Groundwater Damage Protection Scheme. From inception in 1994, the Administrator has dealt with a total of 51 complaints. Although, three complaints were received in the twelve months to May 2001, the Groundwater Administrator commented that the number of complaints is increasing as a result of the post-impoundment survey programme.

3.53 Against this background the Harbour Authority's independent consultant has stated that:

"...the period from 4th November 2000 until 30th June 2001 has been sufficient to allow confidence in the conclusion that ground water level rise and ground water flooding is not a problem within the context of the measures of ground water control implemented."

Although the independent consultant has concluded that the risk of large claims needing to be funded by the Assembly Government has been reduced over the 18 month period that has passed since the Bay was first impounded, it remains essential that the Harbour Authority continues to monitor and obtain both complete and accurate data on groundwater levels.

Harbour Authority comment

3.54 When finalising this report the Harbour Authority expressed the view to the National Audit Office Wales that the effective marketing and promotion of Cardiff Bay is an important issue that will need to be reviewed by the Assembly and the relevant successor bodies in the current and future years.

4.1 On the wind up of the Development Corporation, the Welsh Development Agency assumed a wide range of new responsibilities. These were set out in the Section 165 agreement concluded between the Agency and the Corporation and are summarised in **Figure 4.1**. To assist with the new responsibilities seven members of staff, comprising four chartered surveyors and three support staff, transferred from the Corporation to the Agency. In addition, the Agency also assumed a more general role, as elsewhere in Wales, of working with, in this case Cardiff County Council and the Vale of Glamorgan County Borough Council on the continuing regeneration of the Cardiff Bay area.

Figure 4.1

Summary of functions transferred to the Welsh Development Agency

- ▶ The disposal of the Development Corporation's remaining development assets
- ▶ Succeeding the Development Corporation as the public sector partner in the Bute Avenue Private Finance Initiative (PFI) scheme
- ▶ The environmental management of Plymouth Park
- ▶ The payment and monitoring of the Development Corporation's residual development grants
- ▶ Collection of outstanding miscellaneous debtors and payment of sundry creditors

Source: National Audit Office Wales' analysis of the Section 165 agreement

Financial performance

4.2 The Corporation estimated that over the five-year period 2000-01 to 2004-05 the responsibilities taken on by the Agency would require net funding of around £17 million. It forecast that in 2000-01 the Agency would raise net income of some £5.3 million. This was based on the assumption that the Agency would achieve a specified level of sales of development assets. Offset against this expected level of income were the expenses that the Corporation expected the Agency would incur in discharging the other responsibilities that it had taken on.

4.3 **Figure 4.2 overleaf** shows that after taking account of items of income and expenditure that were estimated to occur in 2000-01 but will now occur in later years, the Agency is forecast to raise an additional £1.4 million net income compared with the Corporation's estimate. In the years 2001-02 to 2004-05, this additional income will be offset by higher than anticipated costs related to other responsibilities inherited. However, over the full five-year period 2000-01 to 2004-05 the net costs of the responsibilities inherited by the Agency remain at £17 million, the same amount as that estimated by the Corporation. By the end of this period the Agency is likely to hold a small number of development assets. These will be sold at a time when their market valuation has increased and more income can be achieved.

Development assets

4.4 At 31 March 2000 when it was wound up, the Development Corporation owned 21 sites in the Cardiff Bay area that had commercial or residential development potential. These sites were transferred to the Agency together with the responsibility for disposing of them. In formulating estimates of the initial operating costs of the Corporation's successor bodies, Assembly Government officials on the advice of the Corporation assumed that in 2000-01 the sale of 15 of these sites would generate £7.1 million. The Corporation also forecast that the proceeds from the sale of all 21 sites would be in the region of £11 million, although the valuation placed on the sites by the Agency's independent surveyors during the wind up process was nearer to £10 million.

4.5 In 2000-01, the Agency sold seven of the sites raising some £6.5 million of which £1.7 million was received in 2001-02. Although the number of sales did not reach the level that had previously been assumed by the Corporation, the amount raised was three per cent more than the Corporation's valuation of the assets that were sold. The Agency believes that many of the remaining sites will be sold by the end of 2002-03 and that this will raise income that will, at least, equal the amount originally included in the Corporation's funding forecasts for the successor arrangements.

Figure 4.2

Breakdown of the estimated and actual funding for 2000-01

	Sale of Development Assets	Bute Avenue PFI Scheme	Plymouth Park	Development Grants	Miscellaneous receipts and running costs	Total for the Agency
	£ millions	£ millions	£ millions	£ millions	£ millions	£ millions
<i>Final estimate</i>	(8.1)	2.2	0.5	1.3	(1.2)	(5.3)
Actual net receipts - payments	(5.8)	2.4	0.2	0.3	(2.7)	(5.6)
Net receipts & payments carried forward to later years^{1&2}	(2.4)	-	0.6	0.7	-	(1.1)
Total of actual and carried forward receipts & payments¹	(8.2)	2.4	0.8	1.0	(2.7)	(6.7)
Actual financial performance compared with final estimate	0.1	(0.2)	(0.3)	0.3	1.5	1.4

NOTES

- 1 A number of individual receipts and payments that were estimated to occur in 2000-01 did not actually take place. These payments will still be incurred and receipts still received in future years. To ensure, therefore, financial performance is measured on a like for like basis, these carried forward amounts are included in this analysis.
- 2 Similarly to Note 1, the Agency completed the sale of some properties in 2000-01 that were anticipated would be sold in later years. The carried forward figures have been adjusted to reflect this and ensure that the financial performance for 2000-01 is measured on a consistent basis.
- 3 Figures in brackets show an overspend against the final estimate formulated by the Corporation

Source: National Audit Office Wales' analysis of information provided by the National Assembly for Wales

4.6 In addition to disposing of these development assets, the Agency also assumed responsibility for collecting income that is due either under contracts covering previous sales by the Corporation of development assets or under other development agreements concluded by the Corporation. The relevant provisions are often referred to as overage clauses. The way these work is explained in more detail in **Figure 4.3**. Basically they allow the public sector to share in the profits of the private sector partner.

4.7 Overall, for 2000-01 the level of receipts secured from these overage arrangements was nearly £0.4 million, around 60 per cent of the amount estimated by the Corporation. The Agency believes that it will achieve the forecast level of income in later years. The National Audit Office Wales confirmed that the Agency has in place the necessary systems supported by an appropriate staffing structure to monitor and collect all income as it becomes due under these arrangements. In this regard, in particular, the Agency is making effective use of the expertise of the staff who transferred from the Development Corporation.

Figure 4.3

Illustration of how overage clauses can operate in practice

The Corporation sold many parcels of land to various building companies that specialised in the development of private residential housing for sale. Some of these agreements included an overage clause. Basically this allows the private sector developer to earn a level of profit after certain specified costs and enables the public sector to share in any profits above this level. The level of profit allowed took account of market conditions prevailing at the time when the sale was completed and the associated risk that the developer was taking. If, however, the developer was able to achieve profits above those specified in the agreement, as a result for example of a greater than expected increase in house prices, the overage clause was triggered. This had the effect of sharing the excess profits between the Corporation and the developer, thus encouraging the developer to maximise its profits but with the public sector sharing in its success.

Source: National Audit Office Wales

4.8 One of the most significant development agreements put in place by the Development Corporation was with Associated British Ports (ABP). A summary of the details of this agreement is shown in **Figure 4.4**. The Welsh Development Agency is now responsible for monitoring this agreement.

Figure 4.4

Summary of the Development Agreement between the Cardiff Bay Development Corporation and Associated British Ports (ABP)

- The Agreement was approved by the Welsh Office and signed in March 1991. It remains in force until June 2005. It established a framework for the development of 174 acres of land within the Corporation's designated area.
- The principal terms of the Agreement provided that the Corporation undertook not to exercise its compulsory purchase powers against ABP and in exchange ABP undertook to:

 - pay to the Corporation a proportion of the uplift in land value arising on development;
 - pay to the Corporation a percentage of any surplus arising after ABP has achieved an initial capital profit on what the agreement defined as development expenditure;
 - bring forward development in line with the Corporation's planning framework; and
 - carry out a minimum development of 400,000 square feet prior to May 1995.

Source: National Audit Office Wales' analysis of information provided by the Welsh Development Agency and Associated British Ports.

4.9 In March 1997 under the terms of this agreement, the Corporation received an initial payment of £2 million. To date no other payments have become due. One of the key factors for this is that the agreement was finalised at a time when land and property prices were rising quickly. Subsequently property prices in Cardiff fell sharply. The valuation of the land covered by the agreement reflected the high property prices of the late 1980s and although prices have since recovered, the base value of the land covered by the agreement has not reached the valuations included in the agreement. The agreement remains in force until June 2005. In accordance with the arrangements provided for in the agreement the

Agency monitors ongoing development and capital expenditure projects through quarterly development liaison committee meetings with Associated British Ports. In order that any future payments are properly determined, the agreement gives the Agency access to the relevant books and records of Associated British Ports.

The Bute Avenue Private Finance Initiative Scheme

4.10 The Bute Avenue scheme was conceived early in the life of the Corporation to meet one of its key infrastructure aims set for it by the then Secretary of State, that of reuniting Cardiff's city centre with the waterfront. The Development Corporation accordingly developed a scheme to make the waterfront more accessible for pedestrians. This original scheme also envisaged the removal of the Bute branch railway line that ran along a heavy embankment parallel to the proposed Bute Avenue. In its place would run an electrically driven Light Rapid Transport (LRT) system. In 1995 the Development Corporation submitted a planning application for this scheme and secured its approval.

4.11 The Welsh Office required the Corporation to use the Private Finance Initiative (PFI) to finance the scheme's construction and the original PFI scheme included the first phase of the LRT system linking between Cardiff Bay, Cardiff Central Station and Queen Street station. However, the Welsh Office did not approve this first phase because of the high cost of including the LRT system. Therefore, the scheme was altered. The revised scheme maintained all aspects of the original with the exception of the removal of the railway embankment and its subsequent replacement with a LRT system. Because of this, the Development Corporation had to reapply for planning approval. The resulting approval was subject to an agreement under section 136 of the Local Government Planning and Land Act 1980. This has the effect of placing certain obligations on the public sector body applying for the approval. The potential implications of this are considered below in paragraphs 4.18 to 4.20.

4.12 As **Figure 4.5** illustrates, following these changes, the Bute Avenue PFI scheme now consists of three main elements:

- ▶ the construction of a road network;
- ▶ a commercial office development; and
- ▶ a residential development.

Figure 4.5

The key components of the Bute Avenue PFI scheme

The road network

There are two main aspects to this component of the scheme. First, the private sector partner would be required to construct and maintain for 25 years a road network to form what will be known as Bute Square, south of the main London to Swansea railway line at the bottom of St Mary's Street in Cardiff city centre. Secondly, there was a requirement to construct and maintain for 25 years a dual carriageway of one kilometre running north-south from Herbert Street to the Atlantic Wharf leisure complex in Cardiff Bay. Once the 25 years has elapsed the roads will become the responsibility of Cardiff County Council.

The commercial office development

The private sector partners are required to develop a commercial office block of at least 120,000 square feet in the newly formed Bute Square area. This is required to be completed within 18 months of the contractual completion date of the road network. This office development will remain in the ownership of the private sector partner and consequently they will be entitled to the subsequent rental income. There is a further obligation to develop 337,000 square feet across a number of sites in the area. The obligation to build further developments is triggered when there is a 80 percent pre-let for the next building. This obligation is passed on from building to building.

The residential development

The private sector partner is also required to develop housing on the east side of the new dual carriageway. There is an obligation on the developer to complete 40 housing units within six months of the contractual completion date of the road and a further 265 units within five years of the contractual date for the completion of the road.

Source: The Welsh Development Agency

4.13 To facilitate the construction of the project, the Corporation embarked on a compulsory purchase order scheme. Approximately 300 parcels of land and buildings have been acquired and their ownership is in the process of being transferred to the private sector partner. In total, these cover approximately 20 acres of land. At the time of the wind up of the Development Corporation the compulsory purchase order scheme was

approximately 80 per cent complete. The Agency is now responsible for the administration of the remaining 20 per cent.

The main parties involved

4.14 With any PFI agreement there has to be both a public and private sector partner. In April 2000 the public sector partner role transferred from the Corporation to the Agency. In addition to its role in the completion of the compulsory purchase order scheme, the Agency is also responsible for making the payments due to the private sector partner under the PFI deal in return for the development of the scheme. These are referred to as unitary payments because, with the exception of any adjustment to reflect inflation, the size of the payments, which are made monthly, remain constant throughout the life of the 25 year scheme. The private sector partner in the Bute Avenue scheme is a company called City Link (Cardiff) Limited, set up specifically for the scheme by Norwest Holst and MEPC who jointly own this company in equal proportions. **Figure 4.6** lists all the parties involved in the scheme.

The cost of the scheme

4.15 Over the 25-year period that the PFI agreement covers, total payments will amount to £128 million. This figure is linked to the retail price index and actual payments will, therefore, be higher. The Assembly Government has underwritten the whole cost of the scheme. Currently the known liabilities are the payments due to City Link under the deal for the discharge of their development obligations. The actual costs incurred in 2000-01 were broadly in line with the funding estimates. However, there are three factors that may impact on the eventual cost of the scheme. These relate to the final cost of the compulsory purchase orders; the potential consequences of the Section 136 Agreement between the Development Corporation and Cardiff County Council; and the operation of the overage clauses included in the PFI agreement.

4.16 The cost of the compulsory purchase orders for the acquisition of the land required for the scheme will be reimbursed by City Link up to an initial ceiling of £9.9 million. The PFI agreement allows that in return for an increase in the unitary payment, City Link will also reimburse the Agency for costs of up to 25 per cent above this £9.9 million, thus making a secondary ceiling of £12.375 million. As the National Audit Office Wales

Figure 4.6

Key parties now involved in the Bute Avenue PFI scheme

Organisation	Key roles
Welsh Development Agency	The public sector partner with responsibility for: <ul style="list-style-type: none"> • Completion of the compulsory purchase order scheme • Payment of unitary payments to the private sector partner • Overall monitoring role for the scheme
City Link (Cardiff) Limited	The special purpose vehicle jointly owned by Norwest Holst and MEPC that will undertake the private sector partner's obligations: <ul style="list-style-type: none"> • Completion of the road scheme • Development of the commercial office scheme • Completion of the residential development
Norwest Holst Construction	This company is the main contractor that will discharge City Link's obligations to construct the road network.
MEPC	This is the developer who will discharge City Link's obligations in respect of the commercial development.
Beazer & Wimpy Builders	These companies have entered into a private arrangement to discharge City Link's obligations in respect of the residential development.

Source: Welsh Development Agency

was finalising this report, the Agency estimated that the likely outturn for the cost of the compulsory purchase orders would be £11.25 million. Together with Assembly Government officials, the Agency has decided to directly fund any additional costs above £9.9 million rather than increase the unitary payment. The Assembly Government has agreed to meet this additional cost. The final cost of land acquisition under the compulsory purchase order scheme is not yet known as the relevant negotiations have not been completed.

4.17 Paragraph 4.11 noted that planning permission for the scheme had certain conditions attached to it under the Section 136 agreement between Cardiff County Council and the Corporation. This agreement placed a number of obligations on the Corporation, the most substantial of which related to the possible removal of the heavy railway embankment, a proposal included in the original scheme that had initially received planning approval. On the wind up of the Corporation these obligations fell to the Agency and under the terms of its Section 165 agreement with the Development Corporation, all liabilities arising from the Bute Avenue scheme will be underwritten

by the Assembly Government. The Section 136 agreement placed one of two obligations on the Corporation, either:

- the removal of the heavy railway embankment that runs parallel to Bute Street; or
- the removal of the current and anticipated restrictions created by the narrowness of the Herbert Street railway bridge - in practice this would require the widening of the actual bridge.

Either one of the obligations is required to be commenced by 31 December 2002 and completed by 31 December 2003, or at a later date agreed with Cardiff County Council. If, however, the works are not carried out in accordance with the agreement, the County Council reserves the right to undertake the necessary works itself and recharge the costs to the Agency. Assembly Government officials are currently reviewing options on the second phase of the Bute Avenue scheme. They are using civil engineering consultants that specialise in rail transport to assess the options available. As this report was being finalised they were waiting for the consultants' report. Whatever the outcome of the consultants' work, the Assembly Government is committed to maintaining a rail link with the Bay.

4.18 There may, however, be circumstances that will result in sums of money being repayable by the private sector partner, City Link. This is because the PFI agreement contains overage clauses in respect of both the residential and commercial developments. The agreement allows for City Link to achieve a specified percentage level of profits for both developments. If after deducting allowable expenditure the percentage level of profit is above that specified in the agreement, the excess is split between the private and public sector partners. The proportion of the split between the two parties is 60 per cent to 40 per cent in favour of the public sector. The Agency believes that it is more likely that the overage clause in respect of the residential development will be triggered, given the buoyancy of the current housing market in Cardiff. With this type of agreement it is essential that the robust monitoring procedures that the Agency currently has in place be maintained throughout the lifetime of the agreement to ensure that amounts due to the public sector are collected.

The scheme's progress

4.19 At the time of the National Audit Office Wales examination, good progress was being made with the Bute Avenue PFI scheme. As **Figure 4.7** shows, by the end of 2001 all aspects of the scheme were ahead of schedule.

Environmental management of Plymouth Park

4.20 The area that is now known as Plymouth Park is situated close to the Penarth Marina development towards the southern end of the Barrage structure. Previously the area had been a disused dock that had been owned by the then Vale of Glamorgan Borough Council and was used as a landfill site.

4.21 To enable the development of the surrounding area, the Development Corporation had acquired the site. Because of its former use, there was no commercial or residential development potential for the site. In addition, because of the decomposition of its contents, the site required (and continues to require) constant environmental monitoring. On the Corporation's wind up, the Vale of Glamorgan County Borough Council did not want to take the site back. Because the Assembly Government was not in a position to force the issue, responsibility for the management of the site passed to the Agency.

4.22 As **Figure 4.8** shows, the management of the Plymouth Park site involves two key operational issues. Because the Agency has no direct experience of this type of work, it has outsourced the operational management of the site to a company that specialises in the management of landfill sites.

Figure 4.7

Current position in respect of the Bute Avenue PFI scheme

	Target	Current status
Road development	Completion by March 2001	Completed December 2000 with Bute Avenue being re-named as Lloyd George Avenue.
Commercial development	Phase 1 office building of at least 120,000 square feet. To be completed within 18 months of the contractual completion date of the road network.	Actual phase 1 office building to be approximately 180,000 square feet gross. The construction is currently ahead of schedule and a significant proportion of the building has been pre-let.
Residential development	Construction of 40 housing units within 6 months, and a further 265 units within five years of contractual completion date of the road network.	The residential development is running approximately 50 percent ahead of schedule.

Source: National Audit Office Wales's analysis of data supplied by the Welsh Development Agency

Figure 4.8

Operational issues faced in the management of Plymouth Park

- Monitoring and maintaining a safe level of the methane being produced by the decomposing refuse. The methane is being extracted via a series of boreholes. To ensure that the gas is contained within the site boundary it is proposed that more boreholes be drilled.
- Removal of leachate¹ from residual fluids released through the refuse before it enters the normal sewage system. This currently requires pumping away the fluids into a tanker to allow it to be treated away from the site. The Agency is currently reviewing methods of adopting a more cost-effective treatment of leachate by undertaking treatment on site. This will allow the fluids to be released directly into the main sewage system after on-site treatment.

NOTE

- 1 The official government definition of leachate is 'The result of liquid seeping through a landfill and by so doing extracting substances from the deposited waste'.

Source: Welsh Development Agency

4.23 In its funding forecasts, the Corporation estimated that annual costs of managing the site would be in the region of £117,000 and capital costs for the completion of the landscaping of the site would be approximately £350,000. In 2000-01, the actual running costs were in the region of £163,000. The associated capital costs will be incurred in the 2002-03 financial year. At around £420,000, these again are likely to be higher than forecast. This takes into account the additional work that will allow the treatment of leachate on-site. Looking to the future, the Agency estimates that ongoing running costs of the site will be around £150,000 excluding inflation. Under the terms of the Section 165 agreement the Assembly Government is committed to funding these costs permanently. Given this, once all the capital works have been completed and on-site treatment of leachate can be undertaken, the Assembly Government may wish to consider whether it remains appropriate for the Agency to retain responsibility for the management of the Plymouth Park site.

Development grants

4.24 During its lifetime, the Cardiff Bay Development Corporation had powers to award development grants to support socio-economic regeneration in its designated area. When it wound up its affairs, the Corporation was committed to the award of a number of development grants but had either paid only part of the grant or had not made any payments to the recipients. Under its Section 165 agreement with the Corporation, the Agency is now responsible for the administration of these grants.

4.25 The Corporation's estimated funding requirement for 2000-01 was based on the assumption that seven grants totalling £1.7 million would be payable by the Agency. **Figure 4.9** shows that payments or other benefits given in lieu of grant amounted to £350,000 in 2000-01 with further payments amounting to £212,000 made by the end of 2002. The remaining grants will either be paid in a later year or the Agency has decided that no further amounts will become payable.

Figure 4.9

Summary of current position in respect of development grants

	Value of grants - £000s
Development grants transferred on wind up	1,728
less	
Grants where it has been determined that no payments are required	(280)
Payments made or benefits given in lieu of grant in 2000-01	(350)
Payments made by 31 December 2001 during the 2001-02 financial year	(690)
Amount to be paid in later years	408

Source: National Audit Office Wales's analysis of data supplied by the Welsh Development Agency/ Assembly Government Officials.

4.26 The Agency is continuing to monitor the position in respect of all of the outstanding grant payments that need to be made. As in the case of the payment of all the other liabilities inherited from the Corporation, the Agency has put in place appropriate controls. Grant payments are only made when the recipient has incurred a certain level of expenditure. The Agency has retained the services of a local accountant to audit the recipient's expenditure. This is to ensure that only relevant expenditure allowed by the grant conditions attracts the payment of development grant by the Agency. The accountant retained previously undertook similar assignments for the Corporation and, therefore, has experience of this work.

4.27 The majority of development grants paid by the Corporation had certain conditions attached to them. One of the key reasons for these was to ensure that the grants awarded furthered the regeneration aims of the Corporation. The conditions took various forms, for example the development of a certain size building or the creation of a certain number of jobs. These conditions were usually linked to the grant for a certain period following its payment. This is known as the clawback period. The monitoring of a recipient's compliance with the conditions attached to grants paid by the Corporation was another important responsibility in respect of the development grants that were transferred to the Agency upon wind up.

4.28 The Agency has put in place arrangements with an outside contractor to undertake this monitoring work on its behalf. Where a recipient has failed to comply with the grant conditions, the Agency will review the case and may opt to recover a proportion of the grant. However this decision will only be made after an assessment of the long-term effects that any such recovery may have on the grant recipient. The funding estimated by the Corporation anticipated the clawback of a proportion of two grants previously paid by the Corporation. The estimated amount of this clawback was in the region of £650,000 payable in 2000-01. The Agency is continuing to monitor both of these schemes and expects that the clawback of grant will amount to around £550,000 but spread over a longer timescale.

Sundry debtors and creditors

4.29 With the dissolution of an organisation of the size and complexity of the Corporation there will always be a need for another organisation, such as the Agency, to complete sundry accounting matters. As such, the Corporation left in excess of £1 million in sundry debtors to be collected by the Agency. Through its work with the Agency, the National Audit Office Wales has confirmed that appropriate procedures and controls were implemented for the effective collection of these debtors. As a result, all of the debtors have now been collected and a small amount (just under £7,000) written off.

4.30 The Agency also had transferred to it a number of the Corporation's sundry creditors that needed to be paid. The National Audit Office Wales confirmed that the Agency had put in place appropriate controls to ensure that invoices were only paid after it was confirmed that goods and services had previously been received by the Corporation during its operational lifetime.

5.1 Under the Section 165 agreement concluded between Cardiff Bay Development Corporation and the Countryside Council for Wales, the Countryside Council took on responsibility for the Gwent Levels Wetlands Reserve. My report, *The Cardiff Bay Barrage*, described the construction of the reserve at the Gwent Levels and its relevance to the continuing regeneration of Cardiff Bay.

Background

5.2 The Taff/Ely Estuary was a Site of Special Scientific Interest and a critical component of the wider Severn Estuary Site of Special Scientific Interest and Special Protection Area. Prior to the construction of the Cardiff Bay Barrage and freshwater impoundment in the Bay, it provided a unique habitat for migratory waterfowl and other birds. One of the measures that the United Kingdom government had to take to comply with the European Birds Directive and the Habitats Directive of the European Union was to provide compensation for the loss of this environment. The main compensation scheme was a 410 hectare wetland habitat for wading birds and wildfowl, an area twice the size of the freshwater lake created by the Barrage.

5.3 The works to create the wetland reserve had to be substantially completed before freshwater was impounded in Cardiff Bay. In the event, the Development Corporation, with the assistance of the Countryside Council for Wales, the Welsh Development Agency's Land Division and the Welsh Office/ Assembly Government ensured that this condition was achieved before impoundment in November 1999. The Countryside Council managed the Reserve for the Corporation under an interim arrangement before formally taking on responsibility for the Reserve in April 2000.

5.4 As a result of the construction of the Barrage and freshwater impoundment in Cardiff Bay, the two principal bird species lost from the Taff/Ely Estuary Site of Special Scientific Interest were Redshank and Dunlin, which occurred in nationally important numbers in Winter. As a compensation measure, the Gwent Levels Wetlands Reserve has the objective of supporting a significant number of diverse habitats, designed with the aim of sustaining nationally important numbers of at least two species of wintering waterfowl, Wigeon and Shoveler. In addition, in line with the commitment made by the Secretary of State in June 1996, the

Reserve as a whole is to be developed so that within five years of its completion it will qualify for Special Protection Area status alongside the Severn Estuary.

5.5 In my report, *The Cardiff Bay Barrage*, I noted that the final cost of constructing the Reserve was likely to be in excess of £10.4 million, a figure almost £5 million more than originally expected. The initial provision for the Reserve was £5.7 million. This was the estimated cost of the original reserve at Wentloog that Parliament subsequently rejected, which would have been about a tenth of the size of the Gwent Levels. The estimate was transferred as a budget to fund a different scheme at a different location. The proposal for the Gwent Levels Wetlands Reserve was to establish three different habitats and assumed that much of the wet grassland that would be needed for the Reserve would still be used for grazing for most of the year. As a result landowners would be paid a fee for the use of their land.

5.6 After the plan had been approved by the European Commission not all the relevant landowners wanted to enter into an agreement with the Development Corporation. Consequently, the Corporation had to ask the Land Authority for Wales to assist through compulsory purchase to obtain the land it needed for the Reserve. This led to a full public inquiry into creating the Reserve. So it was not until November 1997, after the Welsh Office Planning Inspector had made his recommendations, that the Secretary of State was able to give the go ahead for the scheme to create the Reserve. The effect of selecting a different scheme at a different location, the planning inquiry and the acquisition of all the land which was not originally envisaged, was to increase the estimated cost of the compensation measures above the £10.4 million figure. The current estimate is £11.3 million.

5.7 I also noted that in my report, *The Cardiff Bay Barrage*, that the estimated running cost for the Reserve for 2000-01 was £317,000. In addition, the Countryside Council for Wales was pleased with the standard of the Reserve. It was also confident that the Reserve would ultimately achieve the targets set for it. The following paragraphs describe the progress made by the Countryside Council for Wales in completing the Reserve and managing it since April 2000.

Completing construction of the Reserve

- 5.8 On the wind up of the Development Corporation on 31 March 2000, the Countryside Council assumed responsibility of ensuring that the contractor that undertook the construction of the Reserve had corrected any defects identified with the original work. The Countryside Council also became responsible for settling final contractual obligations subject to approval by the Assembly Government.
- 5.9 Progress with the correction of these defects has been slower than planned because of the outbreak of Foot and Mouth Disease during 2001. As a result of the outbreak, movement within the Reserve's boundaries was very limited and consequently this had an adverse impact on the progression of these correction works. The Countryside Council currently forecasts that all these will be completed by the spring of 2002.
- 5.10 By the time the Development Corporation had wound up its affairs in March 2000, it had spent £9 million on the construction of the Reserve. The Corporation estimated that the final provision required for 2000-01 was £1.7 million. This provision included an allocation to settle final claims relating to the Reserve's construction. In the course of that year the Countryside Council spent £1.7 million in relation to the Reserve, in line with the Corporation's estimate.
- 5.11 A significant amount of management time was spent dealing with the settlement of the main contractor's final account for the construction of the Reserve. On the basis of the advice of independent consultants and with the approval of the Welsh Assembly Government the Countryside Council agreed the contractor's final account at £3.9 million. Of this amount around £3 million had already been paid by the Corporation, with only the balance being payable by the Countryside Council.
- 5.12 With the finalisation of the contractor's final account in March 2001, the Countryside Council now estimates that the overall cost of the Reserve will be £11.3 million. There remains some uncertainty about the precise level of the final

outturn. This is because the claims associated with the compulsory purchase order have not yet been finalised. The National Audit Office Wales understands that it could take several years to settle these. The Welsh Development Agency's Land Division is dealing with this issue on behalf of the Countryside Council for Wales.

Day to day management of the Reserve

- 5.13 The actual outturn for the cost of running the Reserve during 2000-01 was broadly in line with the estimated £317,000. The estimated running cost for the Reserve for the period 2001-02 to 2004-05 is £200,000 a year.
- 5.14 The Reserve's Steering Group advises the Countryside Council on its work in this area. This Group consists of representatives from the Countryside Council, the Royal Society for the Protection of Birds and Newport County Borough Council. The Countryside Council employs three permanent field staff at the Reserve together with one full time and one part time support staff. The field staff are also helped by 23 voluntary wardens.
- 5.15 Underpinning the Countryside Council's work at the Reserve is a five-year management plan which is intended to help secure the ultimate objective of the Reserve attaining designation as a Special Protection Area. **Figure 5.1** sets out the main objectives for the Reserve and the key features of its management arrangements.
- 5.16 To achieve Special Protection Area status within five years, the Reserve is required to attract nationally important numbers of over-wintering shoveler and wigeon. The Reserve has already exceeded the target of 100 set for shoveler. As for wigeon, the highest count to date is 473 birds against a target of 3,000. The Countryside Council is confident that over the remainder of the five-year period the target number of wigeon will be achieved and the Reserve will secure designation as a Special Protection Area.

Figure 5.1

Main features and objectives for the Gwent Levels Wetlands Reserve

- To attract and subsequently maintain nationally important populations of wintering wildfowl, important Welsh populations of breeding wildfowl, waders and reedbed species, and regionally important populations of nationally declining seed-eating passerines;
- To maintain and enhance the aquatic plant and invertebrae assemblage of the reens and ditches;
- To create and subsequently maintain a mosaic of 153.5 hectares of lowland wet grassland habitats in favourable condition to attract the typical assemblage of wintering waterfowl and breeding meadow birds;
- To develop and subsequently maintain a 58 hectare area of reed-swamp in favourable condition; and
- To ensure that the area of foreshore is managed in accordance with the Severn Estuary Management Plan and the Reserve plays a full role with the Severn.

Underpinning these are the Plan's main management prescriptions of:

- Summer grazing, by cattle and sheep, and mowing of the grassland to produce a suitable sward for key wintering wildfowl and breeding waders and wildfowl;
- Manage the wet reed-swamp by cutting and excavating to prevent succession to drier habitats and provide optimum feeding opportunities for key reedbed bird species;
- Manage encroaching scrub in wetland habitats;
- Cast the field ditches rotationally to provide a mosaic of stages of seral succession;
- Monitor water levels, water quality, sward structure, development of the created habitat and key fauna and flora by standard methods;
- Maintain good relations with the local community, stakeholders in the reserve and statutory bodies; and
- Maintain the Reserve infrastructure.

Source: Countryside Council for Wales

5.17 The Steering Group has appointed the Wildfowl and Wetlands Trust to advise on issues such as access to the Reserve. In their report prepared in Spring 2001, the Wildfowl and Wetlands Trust commented that it was 'cautious to assume that the Gwent Levels Wetlands Reserve could attract 40,000 - 50,000 visitors per annum if visitor facilities were to be developed'. However, the report recognised that this potential number was largely dependent on the levels of promotion and attraction development at the Reserve. The report recognised that any developments and subsequent increase in visitor numbers would have to be managed closely and sensitively to ensure that they do not have an adverse effect on bird numbers.

5.18 The report also recommended construction of visitor and education facilities together with hides and viewing areas across the Reserve. It is important to note that the Welsh Assembly Government has no financial commitment arising out of the Section 165 agreement to fund any of this subsequent development of the Reserve.

PART 6 THE VALE OF GLAMORGAN COUNTY BOROUGH COUNCIL

- 6.1 Because part of the designated area for which the Cardiff Bay Development Corporation was responsible lay within the boundaries of the Vale of Glamorgan County Borough Council, it was always envisaged that on the Development Corporation's wind up some of its responsibilities would transfer to the Vale of Glamorgan. Under the terms of the Section 165 agreement concluded between the Corporation and the Vale of Glamorgan, the Vale took on two areas of responsibility. These were:
- ▶ the continuing maintenance of open spaces and various pieces of infrastructure that the Development Corporation had constructed or developed and that lay within the boundaries of the Vale of Glamorgan County Borough Council; and
 - ▶ the construction of the Penarth Link walkway from the southern edge of the Cardiff Bay Barrage at the Penarth Marina housing development around the cliff face to the esplanade at Penarth.
- 6.2 To support the work which the Vale of Glamorgan needed to undertake to inspect and maintain the open spaces and pieces of infrastructure which it inherited from the Development Corporation, a lump sum payment of just over £260,000 was made to the Vale in March 2000. The Vale of Glamorgan now undertakes any work needed in relation to the open spaces and pieces of infrastructure as part of the similar activities that it carries out on a county-borough wide basis. Any additional costs arising from unforeseeable risks associated with assets and liabilities inherited from the Corporation will, in accordance with the terms of the Section 165 agreement, also be funded by the Assembly Government if properly, reasonably and necessarily incurred by the Council. However, no unforeseen risks have arisen to date.
- 6.3 In comparison, the construction of the Penarth Link walkway is a much more significant project. The Development Corporation had always viewed the construction of the walkway as an integral part of the project to build the Cardiff Bay Barrage and create a freshwater lake in Cardiff Bay and the Penarth Link featured as a discrete schedule within the 1993 Cardiff Bay Barrage Act. To finance the construction of the Link the Assembly Government has earmarked funding capped at £7.5 million payable over the five-year period 2000-01 to 2004-05.
- 6.4 The Vale of Glamorgan has put together a multi-disciplinary team to oversee the design stage of the project. And since April 2000, it has undertaken a significant amount of preparatory work to develop a suitable design that takes account of the exposed terrain in the area and other related environmental concerns. This has involved the employment of external consultants to examine geo-technical, shoreline management and environmental issues. Currently, architects and civil engineers appointed by the Vale of Glamorgan are designing the structure of the Link.
- 6.5 Preliminary designs for the project were available in early 2002. Now that these designs are available, and because of significant interest in the project, the Vale of Glamorgan has held a series of public consultation exercises on the Penarth Link. The Vale is also seeking to ensure that other stakeholders are kept informed of the progress of the project. As the National Audit Office Wales was finalising this report the Vale of Glamorgan was preparing detailed plans for the Link with the aim of securing planning approval by mid 2002 and completing the construction of the Link before the end of 2004-05.
- 6.6 With the exception of the completion of the Cardiff Bay Barrage and the Bute Avenue PFI project, the construction of the Penarth Link was the largest regeneration project not completed by the Development Corporation. As such it transferred as part of the arrangements for winding up the Corporation's activities on 31 March 2000. It was also the largest project planned but not started by the Development Corporation prior to its wind up. Consequently, Assembly Government officials are taking a close interest in its progress. They attend meetings of the Penarth Link Working Party, which are arranged by the local authority. The Assembly Government has also received an independent unqualified audit opinion from the District Auditor on the proper application of the funds that it has made available to the Vale of Glamorgan for the project in 2000-01. A similar independent opinion will be sought on an annual basis for the duration of the project.