

Oddi wrth Swyddfa
Gweinyddwr Annibynnol Cwynion
Dŵr Daear

From the Office of
The Independent Groundwater
Complaints Administrator

THE CARDIFF BAY BARRAGE ACT 1993: GROUNDWATER PROTECTION PROVISIONS.

ANNUAL REPORT TO THE NATIONAL ASSEMBLY FOR WALES BY THE INDEPENDENT GROUNDWATER COMPLAINTS ADMINISTRATOR.

1st JUNE 1999 TO 31st MAY 2000

The Administrator is an appointee of the Secretary of State for Wales
under the provisions of Schedule 7 of the Cardiff Bay Barrage Act, 1993.

Penodwyd y Gweinyddwr gan Ysgrifennydd Gwladol Cymru o dan ddarpariaethau
Atodlen 7 Deddf Morglawdd Bae Caerdydd, 1993.



P.O. Box 40, Stroud, GLOS, GL6 6YU
Telephone and Facsimile 01222 470693

VAT No. 618 230 559

PLEASE NOTE
NEW FAX NO.
01453 762766

1. INTRODUCTION.

This sixth annual report records the main activities undertaken from 1st June 1999 to 31st May 2000 in managing the Office of the Independent Groundwater Complaints Administrator, responding to complaints received during that time, and the costs incurred.

2. BACKGROUND.

2.1. The Cardiff Bay Barrage Act 1993 ("the Act") which received the Royal Assent on 5th November 1993, contains comprehensive provisions (the "Groundwater Protection Scheme" or the "Scheme") for protection of buildings and gardens which may be affected by changes in the level of groundwater caused by the construction of the Cardiff Bay Barrage. From 5th November 1993 until the end March 2000, responsibility for the Scheme rested with the Cardiff Bay Development Corporation (the "Development Corporation").

At the end of March this year, responsibility for the barrage, outer harbour and inland bay, including its public spaces, leisure uses and the monitoring of water quality, passed to the newly formed Harbour Authority (the "Authority"), a dedicated authority run by Cardiff County Council under an Agreement made by virtue of Section 165 of the Local Government Planning and Land Act, 1980.

The Authority's remit also extends to a post impoundment survey programme of over 21,000 properties, which will take place two years after the impoundment of waters in the Bay. If required, further surveys will be carried out over a period of 20 years. Should any properties suffer damage due to a rise in groundwater levels, compensation will be paid, and the above mentioned Agreement provides for the National Assembly for Wales to cover the costs of such damage to the extent that they are proper, necessary and reasonable.

Therefore, following the Development Corporation's wind up, responsibility for responding to complaints now rests with the Authority in the first instance.

2.2. In accordance with Paragraph 27 of Schedule 7 to the Act, I was appointed as an Independent Groundwater Complaints Administrator (the "Administrator") by the Secretary of State for Wales, pursuant to the powers contained in that Schedule.

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2.3. The appointment was initially for a contractual period of three years, effective from 1st June 1994. In furtherance of the above powers, the Secretary of State has subsequently invited me to serve in my present capacity for a further term, ending on 31st May 2002. I respectfully submit the following report in compliance with Paragraph 4 of the Post Specification attaching to my Letter of Appointment.

2.4. The Administrator was independent of the Development Corporation, and is now independent of the newly formed Authority and has wide powers of investigation and direction. As a condition of appointment, I am required to assume personal and professional responsibility for my decisions.

2.5. My duties are to consider complaints about the way in which the Development Corporation carried out its functions under the Scheme, and now the way in which the Authority carries out its inherited duties.

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3. REMIT AND JURISDICTION.

3.1. A complaint is dissatisfaction with the manner in which the Development Corporation and subsequently the Authority has exercised its duties and functions under the Act. An outline of the main aspects of the Scheme upon which the Administrator is required to adjudicate is attached as Appendix I. This list is not exhaustive.

3.2. The Administrator cannot consider a complaint which amounts to a dispute required to be determined in accordance with Paragraph 25 of Schedule 7 to the Act, ie. by an independent expert, or to be referred to and determined by the Lands Tribunal.

4. ESTABLISHMENT OF POSITION AND PRESENCE.

4.1. Much of the time spent during the first two years in Office (1994-1996) was directed towards familiarisation with the Act generally and the groundwater protection provisions in particular; establishing, developing and maintaining links with responsible bodies and local communities, and gaining a working knowledge of the geography and environment of the protected property area and beyond.

4.2. In seeking to understand and meet the expectations associated with the role of Independent Groundwater Complaints Administrator, I have judged it both appropriate and desirable to ensure that all property owners and occupiers have easy and informal access to impartial advice and information about the complaints procedure, and to their entitlement under the Scheme.

4.3. In this respect, and with the support and co-operation of the independent Citizens' Advice Bureaux network in Butetown, Grangetown and the City Centre, community sessions continue to be held in Grangetown Library, Clydach Street Day Centre, Grangetown, Butetown Community Association and the CAB premises in Bridge Street on Mondays and Wednesdays of each week.

4.4. I am grateful to the Managers and Staff of the Bureaux, and to the staff of the Grangetown Library, Butetown Community Association and Clydach Street Day Centre for making me feel welcome in their premises on a regular basis.

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4.5. All activities to date have been monitored by the Economic Policy Division (Branch 2) of the National Assembly Office, to whom quarterly management reports are submitted (Ref. Paragraph 6 below).

4.6. Since April this year, meetings have been held with representatives of the Authority, in both the County Council offices and Authority offices, to consider and agree a way forward for resolving future complaints, and to finalise outstanding issues on complaints received prior to the winding up of the Development Corporation.

5. ADMINISTRATION.

5.1. In accordance with Paragraph 27(4) of Schedule 7 to the Act, the Development Corporation provided, where and when necessary, administrative and systems support to my Office, including the provision of accommodation within the Exchange Building in Mount Stuart Square. These administrative aids are continuing under the new regime.

5.2. In compliance with the Development Corporation's standing orders, delegated authority was given for me to purchase goods and services up to a limit of £3,000. The Development Corporation's nominated suppliers were used when it was cost effective and practicable to do so. This system will continue.

5.3. Complainants in the Cardiff area may telephone me at local call rates, by using the published telephone number (02920 470693) which is linked through to my practice address in Stroud, Gloucestershire.

5.4. I am currently available in Cardiff on Mondays and Wednesdays of each week, when I visit Grangetown, Butetown and Cardiff City Centre. By prior arrangement, I will visit complainants in their own homes. I am also available to give assistance and advice on the complaints process from my office accommodation in the Exchange Building, Mount Stuart Square (Room 162N), and from my practice address in Stroud.

5.5. The number of complaints received and considered over the past six years are as follows:

1994/1995 – 4	1995/1996 – 12	1996/1997 – 23
1997/1998 – 2	1998/1999 – 4	1999/2000 – 3

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5.6. Paragraph 27(4) of Schedule 7 to the Act provides, inter alia, that the Development Corporation (now a requirement on the Harbour Authority) shall provide such technical or other assistance as I may reasonably require for the purpose of exercising my functions. It has been agreed by the National Assembly Office that I may commission legal advice and services from an independent source.

5.7. A selection process was carried out during my first year in office, in compliance with the Development Corporation's selective tendering procedures, when quotations were invited from three legal practices outside the Cardiff area.

5.8. Accordingly, Messrs Reynolds Porter Chamberlain of 278-282 High Holborn, London, WC1V 7HA were appointed to act as legal advisors to my Office for a three year period, subject to an annual review.

5.9. The selective tendering process was then repeated and the term of appointment of Messrs Reynolds Porter and Chamberlain was extended to the end of May 2002.

5.10. A detailed analysis of operational and administration costs totalling £31,015.72 for the year ending 31st May 2000 is set out in Appendix II to this report.

5.11. Activity levels have not increased during this year. Uncertainty was expressed by a number of owner/occupiers as to their continuing rights under the Scheme once the Development Corporation had been wound up. In the six months prior to March 2000, therefore, I received approximately twenty enquiries along these lines, but was able to assure the individuals concerned that their rights under the Act to remedial works and compensation would not be affected by the hand-over of responsibilities to a successor body.

6. RELATIONSHIP WITH THE NATIONAL ASSEMBLY OFFICE.

6.1. In addition to reporting on an annual basis to the National Assembly, I am required under the terms and conditions of my appointment to submit quarterly summaries of complaints to Mr David Powell (recently retired) and now to Mr Keith Parsons, Economic Policy Division 2.

6.2. Performance is also monitored through meetings and telephone discussions about progress and issues of a political or sensitive nature.

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7. COMPLAINTS AND COMPLAINTS PROCEDURE.

7.1. A formal complaints procedure has been legally reviewed and published, in English and Welsh. It is also available in 11 other languages, namely Arabic, Bengali, Chinese, Greek, Gujarati, Hindi, Punjabi, Somali, Turkish, Urdu and Vietnamese. A Complaints Information Pack is enclosed with this report.

7.2. In establishing and reviewing this procedure, I have tried to ensure that property owners and occupiers are not deterred from pursuing a complaint through lack of knowledge of their rights under the protection provisions, or disadvantaged through an inability to express their concerns effectively. Specific provisions have been made to help and assist such potential complainants, including site visits and translation services.

7.3. Three formal complaints have been received during this sixth year with an increased number of general enquiries as set out in paragraph 5.11 above. Details of these complaints are included in Appendix 111 attached.

7.4. A Schedule of Complaints is attached as Appendix III. For ease of reference, I have included all complaints received during the first six years in office. This Schedule sets out the source and substance of each complaint, the time taken to reach a resolution, and any recommendation to the Development Corporation and subsequently to the Authority if the complaint was upheld.

7.5. In very general terms, the complaints so far received relate to:

- (i) The cost of obtaining a duplicate copy of a pre-impoundment survey report.
- (ii) Allegations of breach of the terms of the Code of Practice.

8. SUMMARY.

8.1. This report sets set out my main activities during my sixth year in office, and analyses complaints received and responses given during that time.

8.2. The National Assembly is respectfully invited to note the position.

E Marie Lee,
Independent Groundwater Complaints Administrator.
JUNE 2000.

THE CARDIFF BAY BARRAGE ACT 1993.

**POSSIBLE AREAS OF COMPLAINT UNDER
THE GROUNDWATER PROTECTION SCHEME.**

1. Alleged failure initially by the Development Corporation and subsequently by the Authority to comply with notice requirements, for example, notice of the right to surveys of property owners.
2. The way in which surveys of buildings both within and outside the protected property area are carried out, including whether they have been undertaken within the appropriate time limits.
3. Disputes as to the existence or otherwise of rights to a survey.
4. Complaints about arrangements for the supply of copies of survey reports to owners or occupiers of buildings which have been surveyed.
5. Complaints about the availability of information to the public relating to the groundwater monitoring programme.
6. Complaints arising from the execution of remedial works, such as the time taken; the behaviour of contractors including their overall tidiness and steps taken to respect the privacy and convenience of owners and occupiers. The Scheme also provides for other complaints to be resolved by referral to an independent expert.
7. Complaints arising from the exercise by the Development Corporation (and subsequently the Authority) of its compulsory powers of survey, or about statements by the successor body in its literature and notices about the extent of such powers.
8. Complaints arising from the way in which details of the status of a building outside the protected property area have been notified on the local land charges register.
9. Any alleged failure on the part of the Development Corporation (subsequently the Authority) to determine disputes by referral to an appropriately qualified and experienced person.
10. Complaints about the way in which the Code of Practice has been published and updated, or the consultation exercise undertaken.
11. General complaints about the handling of the administration of the Groundwater Protection Scheme, and the manner in which the Authority's employees or agents deal with complainants.

**THE CARDIFF BAY BARRAGE ACT 1993:
GROUNDWATER PROTECTION PROVISIONS.**

FEES AND ADMINISTRATION COSTS FOR THE YEAR ENDING 31ST MAY 2000.

In the year ending 31st May 2000, the following professional and administrative costs were incurred.

	<u>1999/2000</u>	<u>1998/9</u>	<u>1997/8</u>	<u>1996/7</u>
Professional Fees				
- Administrator (including secretarial support)	21,672.00	20,782.00	19,573.00	19,285.00
- Legal advisors	2,881.11	1860.00	2,115.00	5,334.30
- Travel and subsistence (including Bridge tolls and car parking charges)	4,879.70	4782.40	5,329.80	4,534.03
Office Expenses				
- Provision of office equipment & stationery	900.00	900.00	900.00	900.00
- Telephone	21.19	17.55	38.07	53.96
- Postage	17.72	17.42	17.42	20.11
- Printing costs	114.00	186.80	251.56	172.39
- Room hire (Butetown Community Association)	530.00	520.00	460.00	280.00
TOTAL	31,015.72	29,066.17	28,684.85	£30,579.79

NOTE 1: The above costs do not include Value Added Tax.

NOTE 2: Certain expenses such as the cost of providing, heating and lighting a small office in the Exchange Building, Mount Stuart Square, are met directly by the Authority.

NOTE 3: No office equipment was purchased in this year.

THE CARDIFF BAY BARRAGE ACT 1993: GROUNDWATER PROTECTION PROVISIONSSECOND ANNUAL REPORT OF THE INDEPENDENT GROUNDWATER COMPLAINTS ADMINISTRATORSCHEDULE OF COMPLAINTS1ST JUNE 1994 - 31ST MAY 2000

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Cardiff Residents against the Barrage (CRAB))	001/94	1.06.94	(I) Inaccuracy of statutory notice giving date of commencement of construction of the barrage	UNSUPPORTED	12.08.94
			(ii) Confusion created by slippage in anticipated commencement of construction date from March until May 1994.	UPHELD	12.08.94

RECOMMENDATION: (i) Development Corporation to write to all owners and occupiers outside protected property area by end October, 1994 giving date of commencement of construction and final date for pre-impoundment survey requests.
(ii) Development Corporation to advertise in local media approximately two months before deadline, to remind affected owners and occupiers of statutory date.

ACTION TAKEN:(a) Letters sent to owners and occupiers outside protected property area in November 1994.
(b) Reminder notices incorporated into general information given in local press on 20th and 21st April 1995, subsequently forming the basis of Complaint No 004/95

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Cardiff Residents against the Barrage (CRAB)	002/94	27.08.94	(i) Misrepresentation within Paragraph 2.3 of the Code of Practice of the undertaking known as "5.3"	OUTSIDE JURISDICTION	27.10.94
			(ii) Failure to include within Paragraph 2.3 of the Code of Practice a statement that owners and occupiers of parts of buildings outside the protected property area but within the remainder of the City of Cardiff and the communities of Llandough and Penarth may individually request surveys to be carried out, and	UNSUPPORTED BUT CBDC AGREED TO FURTHER CLARIFICATION OF CODE WHEN NEXT REVISED	27.10.94
			(iii) Failure to undertake a comprehensive consultation exercise prior to publication of the Code of Practice as required under Paragraph 26 (2) of Schedule 7 to the Act.	UNSUPPORTED	27.10.94

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr A L	003/94	16.09.94	Alleged rudeness by a member of CBDC staff during telephone enquiry.	REFERRED TO CBDC UNDER PROVISIONS OF CUSTOMER CHARTER	–

NOTE: Mr L subsequently met with Mr David Crompton, Director of Engineering Operations for the Cardiff Bay Development Corporation and , I am informed, was satisfied with the outcome.

Cardiff Residents against the Barrage (CRAB)	004/95	26.04.95	(l) Publication in local newspapers of misleading and inaccurate information relating to:		
			(a) Consequences to owners and occupiers of properties outside the protected property area of failing to require a pre-impoundment survey before 24 May 1995 and	UPHELD	17.07.95
			(b) Likelihood of rise in groundwater levels as a result of the construction of the barrage.	UNDER ACTIVE CONSIDERATION (LATER DECISION UNSUPPORTED)	5.10.95

RECOMMENDATION: (i) That the Development Corporation undertakes to me that if I find that any particular owner or occupier of a property outside the protected property area was misled as to his or her rights in the light of the documentation issued by the Development Corporation, the latter will accept my recommendation and, notwithstanding the expiry of the relevant time limit, allow the particular owner or occupier a pre-impoundment survey, subject to there being sufficient time to make the necessary arrangements before the commencement of impoundment.

ACTION TAKEN: Recommendation accepted and implemented by the Development Corporation.

1ST JUNE 1995 - 31ST MAY 1996

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
J Trevor & Webster (Managing Agents for Windsor Court, Queen Street, Cardiff.)	005/95	17.10.95	Complainant incorrectly informed as to location of Windsor Court, later determined as outside protected property area after statutory deadline for requesting inclusion within protection scheme.	UPHELD	19.10.96
<u>ACTION TAKEN:</u> Development Corporation has included Windsor Court within Scheme.					
King Sturge & Co (Managing Agents for Park House, Greyfriars Road)	006/95	19.10.95	Complainant did not apply for Park House to be included within Scheme - due to misdirection of mail to Pearl House. Complainant has not responded to two requests from my office for further information	INCONCLUSIVE	-
Mr J S Lisvane	007/95	26.10.95	Complainant was working abroad at the relevant time, and therefore not aware of statutory deadline for including his property (in the Cathays area) within the particular scheme.	UNSUPPORTED	28.11.95

DECISION: This complaint has been considered under the decisions reached in complaint ref: 004/95 (see above), whereby an owner or occupier outside the protected property area may request a survey after the deadline has passed, if she/he believes that the literature distributed by the Development Corporation was misleading as to the consequences of not requiring a survey and I agree with that view. Complainant did not claim to have been misled.

ACTION TAKEN: Development Corporation has nevertheless agreed to include complainant's property within the scheme.

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr I M Pontcanna	008/95	6.11.95	Complainant incorrectly believed his property to be within protected property area.	UNSUPPORTED	30.11.95
<u>ACTION TAKEN:</u>	Complainant was not misled as to his rights under the Scheme, but the Development Corporation has included his property within the protection programme.				
Miss A W Splott	009/96	12.01.96	Complainant's property is situated close to protected property line. Complainant has been advised by a Consulting Engineer to apply for inclusion of property within the Scheme.	UNSUPPORTED	15.01.96
<u>DECISION:</u>	Complainant was not misled as to her rights under the Scheme but the				
<u>ACTION TAKEN:</u>	Development Corporation has included complainant's property within the protection provisions.				
Co-ordinating Committee of Cardiff Residents against the Barrage (CRAB)	010/96	19.01.96 (part) 12.02.96 (remainder)	Complaint relates to: (i) non-statutory literature produced by the Development Corporation at the commencement of the pre-impoundment property survey programme, and (ii) the survey process as detailed below.		
(a) the information requested of an occupier by an appointed surveyor within Section 2 (Building General) ("the Questionnaire") of the Property Survey Form could be prejudicial to the interests of both the occupier, and, in certain circumstances, to the non-resident private landlord, should a claim for repair or compensation be made after impoundment, and				UPHELD	8.04.96

COMPLAINT REF: 010/96

SUMMARY OF COMPLAINT

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(b)	the Development Corporation is acting contrary to the requirements of the Act by asking occupiers to complete such document, and	UNSUPPORTED	8.04.96
(c)	the Development Corporation should be required to ensure that owners and occupiers, when giving information to surveyors, are made aware that records will be kept of all information given, and that this information will be taken into consideration if a claim for repair or compensation is made after impoundment, and	UPHELD	8.04.96
(d)	contrary to the requirements of Paragraph 1.4(iii) of the Code of practice ("the Code"), the Development Corporation has failed to arrange public meetings prior to impoundment to explain the workings of the Code and the provisions of Schedule 7 to the Act, insofar as these relate to the survey programme. The complainant has noted that the Corporation plans to hold community meetings for the above purpose, but is of the opinion that this does not constitute public meetings within the meaning of Paragraph 1.4(iii) of the Code, and	UNSUPPORTED	8.04.96
(e)	the Development Corporation has failed to make provision to record any differences in opinion which may arise between non-resident private landlords and occupiers of a property, and in particular to take into account any conflicting preferences for using the BRE method of determining moisture content, and	UNSUPPORTED	8.04.96
(f)	the Development Corporation has failed to meet an undertaking given to the House of Lords Select Committee to "send a notice to every local owner and every occupier both before construction begins and on impoundment". (Ref. Para 10 of the Minutes of Evidence taken before the Committee on Tuesday 16th March 1993), and	OUTSIDE JURISDICTION	8.04.96
(g)	the property surveys, as intended to be carried out, do not comply with Paragraph I, Section (1) to Schedule 7 of the Act and Annex 4 to the Code in the following aspects:-		
A.	the general structural condition of a building cannot be ascertained by confining the survey to ground floor levels of a building (Ref. Page 1 of the General Information Leaflet) and Annex 4 to the Code (Page 30), and	UNSUPPORTED	8.04.96
B.	the survey findings as to the general structural condition of a building will be inaccurate if no record is kept of tidal conditions pertaining at the time of the survey(s), and	UNSUPPORTED	8.04.96

COMPLAINT REF: 010/96

SUMMARY OF COMPLAINT

DECISION

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C.	no provision has been made for spirit levels to be taken of all properties, and	UNSUPPORTED	8.04.96
(h)	assurances given by the Development Corporation in the above Leaflet as to non-disturbance of furniture and fittings cannot be met in the light of the minimum survey requirements (voids) set out on Page 30 to Annex 4 of the Code, and	UNSUPPORTED	8.04.96
(l)	Section Three of the survey pro forma does not make clear who will determine the condition of a void if there is no means of access on the day of the survey, and	UPHELD	8.04.96
(j)	non-resident private owners and occupiers have not been given an opportunity to challenge the accuracy of the findings of the survey. The complainant is of the opinion that the owner/occupier should be asked to sign a Certificate of Satisfaction with the way in which the survey has been conducted, and	UNSUPPORTED	8.04.96
(k)	in the final Question/Answer section of the Leaflet referred to above, the Development Corporation has not explained properly its obligations under Sections 21 and 22 of Schedule 7 to the Act to carry out a survey of the building, regardless of the wishes of the owner/occupier, and	UNSUPPORTED	8.04.96
(l)	the Development Corporation is not complying with Section 3 of Annex 3 to the Code with regard to supervision of assistants when a building is being surveyed, and	UNSUPPORTED	8.04.96
(m)	there is no provision in the survey pro forma covering outbuildings, garages, workshops, etc.	UPHELD	8.04.96

ADDITIONAL INFORMATION ON COMPLAINT REF 010/96

Towards the end of March, the former Cardiff City Council wrote to me, expressing general support of the above complaint by the Co-ordinating Committee of the Cardiff Residents against the Barrage (CRAB), and bringing forward other matters of concern.

The successor body (Cardiff County Council) is considering whether it wishes to pursue these matters through the formal complaints procedure, or whether it will discuss directly with the Development Corporation those items which have not been included within my response to Complaint No 010/96.

AWAITING
RESPONSE FROM
CARDIFF COUNTY
COUNCIL

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr J P Canton	011/96	9.02.96	Complainant owns a ground floor flat in Pontcanna, but has worked abroad for the past 4 years. Tenants have not forwarded literature to him, and he was unaware of statutory deadline.	UPHELD	19.02.96

DECISION: Development Corporation has relied upon tenants to forward mail to non-resident private landlords which clearly will not always be done.

ACTION TAKEN: Development Corporation has included complainant's property in Pontcanna within Scheme.

Mrs L M Tremorfa	012/96	23.02.96	Complainant did not respond to CBDC literature as she was caring for her terminally ill parent.	UNSUPPORTED	4.03.96
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DECISION: Complainant was not misled as to her rights under the Scheme.

ACTION TAKEN: Development Corporation has nevertheless included complainant's property within the protection provisions.

Mrs H R Riverside	013/96	17.04.96	Procedure agreed with CBDC arising from complaint Ref. 010/96, for introducing and explaining the questionnaire component of pre-impoundment survey pro forma not implemented.	UPHELD	23.04.96
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RECOMMENDATION: Development Corporation to ensure that all owner/occupiers receive the agreed information as per Complaint Ref 010/96, and to take steps to ensure that all occupiers of property where surveys have already been carried out are able to retract or correct information given, if they so wish.

ACTION TAKEN: Recommendation being implemented.

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Cardiff Residents against the Barrage (CRAB)	014/96	25.04.96	This complaint arises out of my adjudication on complaint 010/96 and relates to: (a) information given to owner/occupier by the surveyor at the time of a survey, and (b) contact with non-English speaking owners and occupiers by surveyor.	UNSUPPORTED	9.05.96
				UNSUPPORTED	9.05.96

DECISION: Complaint not supported.

Mr D G Roath	015/96	25.04.96	Complainant purchased his property in May 1995, ie less than 3 weeks before the expiry of the statutory deadline. He had no prior knowledge of protection scheme.	UPHELD	3.05.96
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RECOMMENDATION: Complainant moved into new home so near to statutory deadline that it is unlikely that he would have been aware of the nature of protection scheme.

ACTION TAKEN: Development Corporation has included complainant's property within scheme.

Mrs V D Grangetown	016/96	29.05.96	Complainant has not received a copy of her survey report, some two months after the pre-impoundment survey has taken place.	UPHELD	3.06.96
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ACTION TAKEN: Development Corporation has experienced considerable difficulty in operating its computer software programmes, which has led to such delays. Remedial action is being taken, and complainant has now received a copy of her survey report.

1ST JUNE 1996 - 31ST MAY 1997

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr G J Pontcanna	017/96	10.07.96	Mr J, whose property lies outside the protected property area, did not apply for inclusion within the protection scheme, as his wife was ill with cancer during the relevant period.	UNSUPPORTED	17.07.96

ACTION TAKEN: CBDC agreed to survey the property.

Mrs V D Grangetown	018/96	12.07.96	Mrs D had earlier complained that she had not received her survey report, some two months after the pre-impoundment survey had taken place. Having later received a copy of the report, Mrs D believed that there were some inaccuracies, and wished to know how to proceed.	UPHELD	17.07.96
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ACTION TAKEN: The matter was referred to Mr David Crompton (CBDC), who agreed to authorise another surveyor from a different practice to re-survey Mrs Ds' property. This matter is ongoing, due to considerable difference between the two survey reports.

Mr T M Roath	019/96	15.07.96	Mr M bought his present property, which lies outside the protected property line, in March 1995, ie after the statutory deadline, but was not informed of the provisions of the Act by either the former owner or his Solicitor. Mr M moved to Cardiff from outside the area.	UPHELD	17.07.96
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ACTION TAKEN: CBDC agreed to include this property within the scheme.

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr J O'B Grangetown	020/96	15.07.96	This was a further complaint regarding the delay in receiving a report following the pre-impoundment survey, which was carried out on 25th March, ie some four months' delay.	UPHELD	17.08.96
<u>ACTION TAKEN:</u>	Mr O'B received this report that same week, and an apology from CBDC.				
Mr B P Tremorfa	021/96	19.09.96	Mr K did not apply for inclusion within the survey programme at the appropriate time as he was working away from home, and his elderly mother, who lives at the above address, was seriously ill.	UPHELD	27.09.96
<u>ACTION TAKEN:</u>	CBDC agreed to survey the property.				
Mr P O'R Splott	022/96	24.09.96	General provision notices sent out to first named male at addresses on register of electors, and with regard to the above address, were sent to Mr O'Rs son. Documents were not found until the bedroom was cleared out.	UPHELD	28.09.96
<u>ACTION TAKEN:</u>	CBDC agreed to survey the property.				

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr & Mrs S G Llandaff	023/96	01.10.96	Mr & Mrs G moved into their present property on 9th August 1996, and were not aware of survey programme or its statutory timetable. Section 5(2) to Schedule 7 of the Act provides that any owner or occupier who takes up residence after statutory deadline may exercise the right to join in the protection scheme, provided that sufficient time remains before impoundment to make all necessary arrangements.	UPHELD	01.10.96
<u>ACTION TAKEN:</u> CBDC to survey the property.					
Messrs Roger James, Clements and Panting on behalf of Miss A S L Ely Bridge	024/96	15.10.96	Solicitors acting for complainant requested a survey as a condition of re-mortgage imposed by a local branch of the Alliance and Leicester Building Society.	UPHELD	23.10.96
<u>ACTION TAKEN:</u> CBDC agreed to include property within survey programme, and to discuss the matter further with local building society managers.					

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Mr R P Grangetown	025/97	10.02.97	During his property survey, Mr P requested a BRE test to determine the moisture content of masonry in his property, and subsequently received a letter from CBDC giving further information on the test conditions, and a proposed timetable. Mr P was uncertain as to some aspects of the method, and showed his correspondence to Mr Glyn Paul (CRAB), who subsequently informed me that Mr P wished to complain that the information given was misleading. Mr P, who is in his seventies, later visited Grangetown Library, and informed me that he was quite happy to continue with the test, and understood the implications. He did not wish to complain, and that had never been his intention.		COMPLAINT WITHDRAWN

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Miss T S Grangetown	026/97	13.02.97	An article was published in the South Wales Echo on 12th February 1997, outlining progress on the pre-impoundment property survey programme. I was asked by the newspaper for a resume of the complaints received to date in that connection, and a brief analysis, which was given. When reading that article, Miss S realised that she had not yet received her survey report. Her property had been surveyed in June 1996.	UPHELD	07.03.97

ACTION TAKEN: The report has now been sent to complainant.

Mr P S Canton	027/97	13.02.97	Please refer to summary of complaint No. 026/97 given above, as the circumstances are identical.	UPHELD	07.03.97
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ACTION TAKEN: Mr S has now received his report.

Mrs A Grangetown	028/97	17.03.97	Non-receipt of survey report, some 3-4 months after survey was undertaken.	UPHELD	21.03.97
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ACTION TAKEN: Survey report despatched promptly after the matter was drawn to CBDC's attention.

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr C Grangetown	029/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mr & Mrs G Grangetown	030/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mr & Mrs G Grangetown	031/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mr H Grangetown	032/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mr K Grangetown	033/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mrs P Grangetown	034/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				
Mr & Mrs P Grangetown	035/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97
<u>ACTION TAKEN:</u>	Please refer to Complaint Ref: 028/97 above.				

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr & Mrs P Grangetown	036/97	17.03.97	Please refer to Complaint Ref: 028/97 above.	UPHELD	21.03.97

ACTION TAKEN: Please refer to Complaint Ref: 028/97 above.

Brian Dadd Commercial Essex	037/97	16.04.97	Messrs Brian Dadd Commercial are the property agents for a holiday company occupying No 29 The Hays and 191 Cowbridge Road East. The complainant has expressed the view that the Development Corporation should meet the costs incurred by his firm in verifying the results of the pre- impoundment survey on his client's two properties, and cites the Party Wall Act 1996 in support of this view. This matter is under active consideration.	UNSUPPORTED	04.07.1997
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Mr C A Butetown	038/97	23.04.97	Mr A visited Butetown Community Association and informed me that although his property was surveyed some 2- 3 months previously, he was still awaiting a copy of the survey report. In addition, he had had two further visits in the evenings from surveyors, attempting to survey the property again.	UPHELD	30.04.97
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ACTION TAKEN: Mr A has now received his survey report and a satisfying explanation as to the additional visits.

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Mr P K Pontcanna	039/97	16.05.97	Mr K has lived in his present property in Pontcanna (which lies outside the protected property area) since July 1994, which is well within the statutory notice period. He has no knowledge of the protection scheme, but now wishes to sell his property, and believes that a survey report will assist the sale.	UNSUPPORTED	04.06.97

ACTION TAKEN:

Although complainant is outside the statutory timetable, and gave no clear explanation as to why he was not aware of the protection scheme details, CBDC has agreed to survey his property, on payment of a £40 fee.

<u>COMPLAINANT</u>	<u>COMPLAINT REF NO</u>	<u>DATE RECEIVED</u>	<u>SUMMARY OF COMPLAINT</u>	<u>DECISION</u>	<u>DATE OF PUBLICATION</u>
Mr I W Adamsdown	040/97	17.06.97	Possible complaint over the late receipt of Survey Report. Complainant did not wish to pursue the matter	WITHDRAWN	
Mrs C D Grangelown	041/97	17.06.97	Complainant is the owner of a first floor flat, formerly a council property, which was not tenanted at the time of the pre-impoundment property survey. She did not receive a copy of the survey of communal areas. CBDC as a matter of routine sends reports on communal areas to all owners/occupiers of properties at floor level, but did not have a record of the ownership of Mrs D's flat, therefore were unable to send the report to her. Mrs D has since received the report.	UNSUPPORTED	
Cardiff Residents Against the Barrage (CRAB)	042/98	04.07.98	Cardiff Residents Against the Barrage complained that the Cardiff Bay Development Corporation was not complying fully with its duties to monitor groundwater as required under Section 11 to Schedule 7 of the Cardiff Bay Barrage Act 1993, and in accordance with Paragraph 10 and Annex 2 to	UPHELD	24.06.99

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the Code of Practice. In particular, the information gathering exercise was not sufficiently well spread or accurate to ensure an efficient base measurement post impoundment of waters in the Bay, with many of the measuring instruments failing to measure accurately at all. A document entitled "Cardiff Bay Barrage – Groundwater Monitoring – Factual Report of Monitoring Data, July to December 1997" by Ove Arup and Partners (Consulting Engineers appointed by the Development Corporation) was submitted in support of this complaint.

ACTION TAKEN:

This complaint has been the subject of investigation and discussion involving the Highway and Transportation Services Department of the Cardiff County Council and its advisor, Professor JW Lloyd; the Welsh Office; and Professor RF Stoner; who was also requested to advise the Development Corporation and Welsh Office on ground monitoring procedures. As a result of these investigations, the Development Corporation has undertaken to install thirty one additional boreholes, and problems encountered with the monitoring equipment have been substantially resolved, with data retrieval on target. Professors Lloyd and Stoner have recorded their satisfaction with the additional monitoring works.

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Cardiff Residents Against The Barrage (CRAB)	043/98	10.98	The complainant alleged that the Development Corporation had not carried out its duties under Paragraph 7.6(ii) of the Code of Practice, and had failed to "offer to carry out surveys on a regular monthly basis of a selected number (not less than 12) of properties over a period of twelve to eighteen months in the period between commencement of construction and impoundment"	UPHELD	22.06.99
<u>ACTION TAKEN</u>	<p>The Development Corporation, in accordance with Annex 6 to the Code of Practice, consulted the outside bodies mentioned therein, and amended Paragraph 7.6 (ii) to read as follows:</p> <p>"7.6 (ii) The Development Corporation will "offer to carry out monitoring on a regular monthly basis of a selected number (not less than 12) of properties over a period of twelve months, commencing a minimum of four months prior to impoundment."</p> <p>23 properties have been selected to take part in this programme, and the survey specification has been agreed with representatives from Cardiff Residents Against the Barrage.</p>				
Cardiff Residents Against the Barrage (CRAB)	044/98	11.98	The complainant alleged that the Chief Executive of the Development Corporation, in a letter to one of the former's representatives, dated 21 st May 1998, stated that impoundment of the water in the Bay could not commence as the appropriate groundwater measures were not in place. The letter from the Chief Executive made it clear that impoundment will only happen	UNSUPPORTED	22.06.99

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when groundwater control measures are in place. The complaint arose from a misinterpretation of the wording in the above letter.

ACTION TAKEN:

No further action necessary

Mrs C D
Grangetown

045/98

24.11.98

Mrs D., on behalf of her widowed mother-in-law, queried the cost of obtaining a duplicate copy of a pre-impoundment property survey report from the Development Corporation (via its nominated surveyors). The original document had been inadvertently destroyed shortly after the death of Mrs D's father-in-law. The fee to a surveyor for a duplicate survey report varies between £15.00 and £25.00., but an owner/occupier is generally required to pay £25.00. A breakdown of the fee was requested, but considered to be excessive and unjustifiable.

UPHELD

21.06.98

ACTION TAKEN:

I have no authority to require a reduction in this fee, but have written an Article in a local community news sheet suggesting that residents may wish to take great care of their copies of the Survey Report, to avoid paying high duplication costs.

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Mrs E.B. Grangetown	046/99	18.10.99	In June 1999 Mrs E.B. undertook substantial renovation works to her property after a pre-impoundment property survey was completed, and requested the Development Corporation to carry out a further survey in accordance with the agreed procedure. Despite a number of telephone calls to the Development Corporation's Offices during July, August and September, and assurances that the work was in hand and would be carried out shortly, no survey was undertaken.	UPHELD	26.10.99

ACTION TAKEN

The Development Corporation apologised to Mrs E.B. for an administrative oversight, and a second pre-impoundment survey of her property was carried out on 21st October 1999, to Mrs E.B's satisfaction.

Cardiff Residents Against the Barrage ("CRAB")	047/99	6.12.99	CRAB complained that: 1) The Statutory Notice giving the date of impoundment as 4 th November 1999, published by the Development Corporation on 4 th November 1999, and letters sent to owners and occupiers of buildings within the City of Cardiff and the	UNSUPPORTED	24.03.2000
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communities of Penarth and Llandough were null and void, and should be rescinded. Impoundment had not taken place as defined within the Code of Practice for the following reasons:

- i) "impoundment" as defined within the recently revised Paragraph 4.1 of the Code of Practice had not taken place as the waters in the Bay were not being maintained at a constant level; and
- ii) an assurance had been given by the Chief Executive of the Development Corporation to Miss Kate Hunter (a member of CRAB) that impoundment would not take place until such time as effective groundwater monitoring systems were in place, and, in the view of the complainant, this was not the case, and
- iii) a Direction dated 3rd December 1999, issued by the Environment Agency to the Development Corporation supported the view that waters in the bay had not been impounded as the Direction required that the tidal flows should not be impeded.

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DECISIONS REACHED

Impoundment of the waters in the Bay, as defined in the Code of Practice, validly occurred on 4th November 1999, as the definition rested on a “constant level” of water being created and maintained in the Bay, The word “constant” was not, however, defined. Therefore, the Development Corporation did not act unlawfully in publishing notices to the effect that impoundment had taken place on 4th November 1999.

Unfortunately, the remainder of the complaint, relating to the efficacy of the groundwater monitoring system, and recommendations to remedy the uncertainty surrounding the definition of impoundment, were not addressed prior to the winding up of the Development Corporation at the end of March. Discussions continue on these matters with the Authority, and the legal office of the Cardiff County Council. I have put forward a suggestion for a further amendment to the Code of Practice, and am awaiting the outcome of their deliberations.

Ms K.H. Pontcanna	048/99	06.12.99	Ms H. complained that, on receipt of a copy of her pre-impoundment property survey, she had raised a number of issues of concern and inaccuracies with the Development Corporation on repeated occasions, but had received no response.		
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ACTION TAKEN:

The Development Corporation carried out a second pre-impoundment survey of Ms H's property just before the date of impoundment (4th November 1999) and it was agreed that the second survey would be taken as the base line survey. Ms H's property is also being monitored on a regular basis as part of a pilot scheme.