

Meeting of:	Cabinet
Date of Meeting:	Thursday, 11 April 2024
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Use of the Chief Executive's Emergency Powers
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report on 25th January, 2024.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Chief Executive
Elected Member and Officer Consultation:	None required as the Constitution requires that any Emergency Powers approved be reported to Cabinet for information.
Policy Framework:	This is a matter for Executive decision by Cabinet. All actions fall within Paragraph 1 of the Chief Executive's Delegated Powers set out on page 322 of the Council's Constitution.

Executive Summary:

To advise Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report of 25th January, 2024.

The Council's Constitution at page 322 (delegated powers) states:

- 1. Power to act, after consulting the appropriate Cabinet Member and, in the case only of matters involving the Council in financial commitments, the Leader(s), Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:
- (a) requires immediate action; and
- (b) does not justify holding a special meeting of the body which would ordinarily consider the matter or is of such urgency or emergency as not to allow time for such a meeting; use of such delegated powers to be subsequently reported back to the Cabinet or Council as appropriate."

Recommendation

1. That the use of the Chief Executive's Emergency Powers be noted.

Reason for Recommendation

1. To inform Cabinet.

1. Background

1.1 The Emergency Powers Procedure was approved by Minute No. 95, 2012/13.

2. Key Issues for Consideration

- **2.1** To note the following use of the Chief Executive's Emergency Powers since the last report of 25th January, 2024.
 - (a) Cowbridge Leisure Centre Lift Refurbishment & Llantwit Major Leisure Centre Roof Repairs.

The lift at Cowbridge Leisure Centre had failed and required substantial works to bring it back into operation. It had been confirmed that the cost to undertake the works totalled £45k plus fees of £7k. It was requested to include the new scheme in the 2023/24 Capital Programme with a budget of £52k, to be funded from capital receipts.

The roof at Llantwit Leisure Centre was leaking and causing water ingress onto electrics in the newly refurbished gym. There was currently £60k unallocated in the Leisure Centre revenue maintenance budget. It had been confirmed that the cost to undertake the works totalled £15k inclusive of fees. It was requested to include the new scheme in the 2023/24 Capital Programme with a budget of £15k, to be funded from a contribution to Capital from the Leisure Centre Maintenance revenue budget.

The use of Emergency Powers was sought to progress works as a matter of urgency to ensure there was no loss of service.

(Scrutiny – Healthy Living and Social Care)

(b) Five Mile Lane Project – Land Compensation Claims – Request for Standstill Period.

The Council were processing land claims for the Five Mile Lane Road Improvement Project, through the legal team and land agent Bruton Knowles.

The land was acquired through a Compulsory Purchase Order, and claimants included those whose land was purchased, and also those who were affected by the project, e.g., change of field access, etc. Notice was served on Landowners at the end of 2017 and the construction phase for the realigned Five Mile Lane started in February 2018.

In accordance with the Statue of Limitations, the land claim process had a 6-year claim window, starting in February 2018, when the land was first occupied for construction, and was due to end on 5th February, 2024.

The use of Emergency Powers was sought to approve that a standstill period of 6-months be applied to ongoing land compensation claims to allow them to be processed in a reasonable and fair manner as well as requiring any outstanding claims to be submitted prior to 5th February, 2024 claim window.

(Scrutiny – Environment and Regeneration)

(c) Dinas Powys Primary School – Modular Classroom and Childcare Facility.

Funding had been secured from Welsh Government for the provision of a new childcare facility. This was being combined with a S106 funded temporary classroom replacement project to form a new stand-alone building at the Junior site of Dinas Powys Primary School. It was decided to undertake the works as a single combined project in one conjoined building due to economies of scale and clarity of responsibilities on site during building works. Following a tender process and detailed negotiations, a contractor could now be appointed to undertake the works, which could be delivered within available resources.

The use of Emergency Powers was sought in accordance with the requirements of Contracts Procurement Rule 18.15.2 (c)(iii), to appoint Wernick Building Ltd to undertake the work as set out above.

(Scrutiny – Learning and Culture)

(d) Centre for Learning and Wellbeing and Cowbridge Primary Contract Increases.

Derw Newydd (formerly known as CLWB) had completed and was handed over July 2023 to pupils and staff. Cowbridge also completed and was handed over in June 2023. Due to additional works that have been undertaken, and the school agreeing to pay for some additional elements, the Sustainable Communities for Learning team were required to review spend on all projects to ensure there was sufficient budget available.

The use of Emergency Powers was sought as follows:

CLWB

- That the CLWB stage 2 contract value increases from £7,336,064.76 to £7,657,091.51.
- To increase the CLWB budget by £105,733 to be funded from £53,967.40 revenue contribution from the school and a £51,765.60 virement from the Band B Whitmore High Scheme. The Whitmore scheme had completed with £95k left in the budget and had no further payments to make.

Cowbridge

• That Cowbridge stage 2 order value be increased from £6,427,421.69 to £6,528,138.43, to ensure sufficient budget to make payments.

(Scrutiny – Learning and Culture)

(e) Unregistered Placement of Child F.

The child required a specially adapted environment, and the placement was in an Authority owned property which was designed and built specifically for their needs. The child would remain at the property until completion of the registration process.

The use of Emergency Powers was sought to ensure that the placement of a child in an unregistered placement was given proper consideration and sign off

(Scrutiny – Healthy Living and Social Care)

(f) A Fairer Tax.

Welsh Government launched a two-stage consultation on reforming Council Tax in August 2022. Stage 1 was raised at that time with a deadline for responses of 4th October and sought high level views on design principles including frequency of revaluation, number of Council Tax Bands and the range of discounts and exemptions on place.

The 2nd stage Consultation was launched in November 2024 and brought forward more detailed and expanded proposals which the Vale of Glamorgan Council were required to respond to.

The use of Emergency Powers was sought to meet Welsh Government deadline of 6th February, 2024 to respond to the 2nd Stage of the 'A Fairer Tax' consultation.

(Scrutiny – Corporate Performance and Resources)

(g) Ysgol Y Deri Temporary Accommodation (Portakabin and McAvoy).

In March 2021 and August 2022, it was agreed that the Council would fund the McAvoy classroom unit and Portakabin temporary accommodation until the Ysgol y Deri scheme had completed.

It was requested that the order be increased to cover an additional 25 months to ensure payments until September 2025.

The use of Emergency Powers was sought to increase the contract value and extend the period to have the temporary accommodation present on site with approval to be supported through the education pressure reserves.

(Scrutiny – Learning and Culture)

(h) Housing Care Fund Objective 3 - Disabled Facilities Grants Funding & Tele Care.

Additional funding had been secured in respect of two amounts from the Regional Partnership Board.

Disabled Facilities Grant Funding - Pod Use

This funding was to improve speed of response to large adaptations – the grant funding to support this work totalled £52k.

Small Adaptations Needs

An element of funding had been awarded for minor adaptations due to increase in demand and the need to support Care and Repair to enable funding the required adaptations – the grant funding to support this work totalled £63k.

Tech Enabled Care

This funding had been granted to invest in a variety of technologies that could be used in resident's homes to enable them to stay in their own environment – the grant funding to support this work totalled £34k.

The use of Emergency Powers was sought to include these schemes in the 2023/24 Capital Programme as soon as possible as the grant funding terms and conditions stated that the funding must be spent by 31st March, 2024.

(Scrutiny – Homes and Safe Communities / Healthy Living and Social Care)

(i) Decarbonisation Schemes – 2024/25 to 2028/29.

A variety of energy reduction measures and renewable energy installations had been identified across several assets within the Council's portfolio. In light of recommendations from the Property team, the delivery of the decarbonisation schemes had been re-assessed.

There was currently £650k approved in the Decarbonisation budget in the 2023/24 Capital Programme with a further £250k each year in the 2024/25 to 2028/29 Capital Programme. Proposals had been brought forward for several schemes to be allocated from the budget but there were some changes in costs to some of the schemes.

As only £354k was to be utilised in this current financial year, it was requested to carry forward the underspend of £296k into the 2024/25 Capital Programme. Thes proposal had been circulated to the Project Zero Board who had given their support to the proposals outlined.

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(Scrutiny – Corporate Performance and Resources)

(j) Disposal of Land to Wales & West Housing Association Extra Care Facility (part of Penarth Older Persons Housing with Care Complex project).

A key part of the project was the proposed physical and financial delivery by WWHA of a multi-million pounds state of the art Extra Care facility. The facility would be located on 2.7 acres of the Council's vacant development site next to Oak Court. WWHA would purchase the site for the facility from the Council by virtue of a 999-years lease. The land had been independently valued by consultants to satisfy the Council's statutory

and fiduciary obligations to secure best consideration by virtue of S123 of the Local Government act 1972.

The use of Emergency Powers was sought to authorise:

- a) the Head of Housing and Building Services (in liaison with the Project Board) and the Monitoring Officer/Head of Legal and Democratic Services and Head of Finance/S151 officer, to grant a 999-years Lease to Wales and West Housing for the revised site boundary; and
- b) the acceptance of the surrender by Wales and West Housing Association of a small area of land to the Council; and
- c) the updated Project Board with delegated powers granted by Cabinet Minutes C855 will be the Leader, Cabinet Member for Public Sector Housing and Tenant Engagement, Director of Environment and Housing, the Head of Finance/Section 151 Officer and the Head of Housing and Building Services.
- d) the Monitoring Officer/Head of Legal and Democratic Services or Operational Manager for Legal Services to prepare, execute and complete all the necessary legal documentation for the land transaction.

(Scrutiny – Environment and Regeneration)

(k) Appointment of Cushman & Wakefield Via Crown Commercial Services Framework.

In June 2023, Emergency Powers (EP) were approved to appoint Cushman and Wakefield to provide essential commercial property real estate services under a framework agreement (Crown Commercial Service), with specific workstreams to be agreed by the Director of Place on a project-by-project basis under an agreed format. The main purpose of their commission was in respect of the Levelling Up Fund (LUF) and associated submissions, however there was still significant work to be undertaken, which the Council required commercial and financial expertise upon.

The use of Emergency Powers was sought so:

- 1) That the Cushman and Wakefield commission be extended, and the budget increased from £100k to up to £150k for 2023/24, allowing for the slippage of any underspend into future financial years, to be funded through the Regeneration Reserve
- 2) That up to £100k be allocated for 2024/25 as a fund for the Directorate of Place to use, to secure any other essential commercial property real estate services required to support projects being delivered by the Directorate (including towards the LUF Round 3 projects, if necessary) to be funded through the Regeneration Reserve.
- 3) That any contractual amendments / extensions to the Cushman and Wakefield commission, are undertaken, if required and/or necessary.

(Scrutiny – Environment and Regeneration)

(I) Capital Funding Grant to Support the Rollout of Universal Primary - Free School Meals – Victoria Primary.

The Council had been awarded an additional grant from Welsh Government through Sustainable Communities for Learning funding in the sum of £975k to deliver new kitchen and dining facilities in Victoria Primary School. Due to site constraints and limited space, a modular option the same as undertaken at Gladstone and Rhws was not feasible so to provide the new facility required the construction of an extension to the existing school building.

The use of Emergency Powers was sought increase the Council's Capital Programme by £975k, to be funded from Welsh Government Grant

(Scrutiny – Learning and Culture)

(m) Brilliant Basics Fund Public Convenience Refurbishments and Litter bins and Recycling Banks for Source Separated Materials.

Brilliant Basics Fund grant award had been awarded to the Vale Council to support the refurbishment of public toilets in 3 coastal locations at Ogmore, Llantwit Major and Southerndown.

The use of Emergency Powers was sought to enable the inclusion of the grant amount that requires spending by year end and increase the 2023/24 and 2024/25 Capital Programme.

The Council were currently transferring to the Welsh Governments Recycling Blueprint which would see all residents separate their recycling. By April 2023, all houses would be transferred to the new collection method. To ensure that the Council achieved the 2024/25 recycling target of 70% additional work to decrease the amount of residual waste and increase the amount of recycling material from the street scene had to be undertaken.

The use of Emergency Powers was sought to enable the raising of the order for the goods prior to year end and include the new scheme in the 2024/25 Capital Programme.

(Scrutiny – Environment and Regeneration)

(n) Dderw Newydd – Workshop Heating and Insulation.

The new school facility of Derw Newydd was constructed on the former Court Road Depot site, where the Vale of Glamorgan Refuse centre was located. Approximately 5 years ago there was the installation of three workshops which were of a decent and proportionate size but were lacking heating and insultation within the building fabric – the workshops were constructed from a steel frame and metal cladding.

The workshops had been fully kitted out and were ready for their intended use but due to the lack of insultation within the buildings, the spaces were too cold to provide any lengthy teaching periods

The use of Emergency Powers was sought to include a new scheme for Dderw Newydd – Workshop Heating and Insulation.

(Scrutiny – Learning and Culture)

(o) Subcontractor Trade Packages at Hayeswood Road, Barry.

In accordance with the use of Emergency Powers authorised on 4th January 2023, Subcontractors had been directly appointed by the Council to complete the construction works under the supervision of Synergy Construction Management Ltd at Hayeswood Road, Barry after the insolvency of the previous main contractor.

In undertaking the works packages, Subcontractor were entitled to claim additional costs that had either been as a result of the Councils' instructions or, in undertaking additional works that were outside the scope of their original works packages.

Regarding the additional works that were outside the scope of their original works packages, a Contract Waiver was also sought in accordance with the Council's Constitution (Contracts Procedure Rules) Section 18.4.2.

The Capital Programme 2023/24 had a budget of £1.185 million remaining within the Hayeswood Road cost centre to absorb those additional costs.

The use of Emergency Powers was sought to increase the trade contract sums to cover the additional costs.

(Scrutiny – Homes and Safe Communities)

(p) Barry Western Gateway Project.

In accordance with Cabinet Minute C584, the aim of the Western Gateway project was for the Council to deliver in collaboration with Cardiff & Vale University Health Board and Welsh Government, the master planned redevelopment of several key development sites at the western end of Barry Town Centre (namely the Gladstone Rd Bridge Compound Site and Broad St Clinic Site) with a mix of new affordable homes (some older persons), new health use accommodation for the Broad St Clinic and the enhancement of the public realm at the Gladstone Road Roundabout junction.

The circa £22m project was proposed to be funded by a mix of Welsh Government Transforming Towns grant aid, Social Housing Grant and Housing Revenue Capital funding.

Subject to the availability of funding, statutory consents and community consultation, the aim was to implement the project in three phases, with the design of project being initiated from the end of 2023/24 and it being further designed and constructed over 4 to 5 years through to 2029/30.

The use of Emergency Powers was sought to add the general fund element of the scheme into the Capital Programme before the end of the financial year. The total general fund element was currently £1.688M. The HRA budget element of the scheme was already included within the Housing Improvement Five Year Capital Programme.

(Scrutiny – Environment and Regeneration)

(q) Wales Coastal Monitoring Centre – Authority to enter into a Collaborative Agreement.

The Vale of Glamorgan Council was part of a consortium, comprised of the Vale of Glamorgan Council, Gwynedd Council, Conwy County Borough Council and the WLGA, coordinating delivery of the Wales Coastal Monitoring Centre. The Vale hosts the WCMC, acting as employer and grant funding recipient. Approval to establish the WCMC on this basis was obtained from Cabinet on 30th July 2018 (Minute C388).

The WCMC had been successfully operating since 2018 but a need to formalise arrangements had been identified, in part to resolve issues around the funding and procurement of surveys undertaken by consortium members other than the Vale as funding recipient. It was a principal objective of the WCMC to increase skills and expertise within the public centre but the direct award of an increasing value of survey work to the Gwynedd and Conwy Councils had now become unacceptable in the absence of a formal agreement.

The use of Emergency Powers was sought:

So that the Monitoring Officer/Head of Legal and Democratic Services, in consultation with the Head of Neighbourhood Services and Transport and the Cabinet Member for Neighbourhood and Building Services, be authorised to negotiate and complete the collaborative agreement relating to the ongoing delivery of the Wales Coastal Monitoring Centre.

(Scrutiny – Environment and Regeneration)

(r) Unregistered Placement of Child F.

Child F had been in foster care since February 2023. Unfortunately, due to personal circumstances, the foster carers were unable to care for Child F temporarily and alternative placements were not available. Child F would be supported by staff from Touchstone. Full consideration had been given to the risks of taking the approach, Child F's parents had been informed, and the decision was considered proportionate under the circumstances.

The use of Emergency Powers was sought so that Child F temporarily supported by Touchstone.

(Scrutiny – Healthy Living and Social Care)

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 The use of the Chief Executive's Emergency Powers is required on occasions when the urgency means that there is no time for the issue to be considered by the relevant Committee.
- 3.2 The purpose of presenting the report for information is to ensure that all Emergency Powers that have been approved are notified to Cabinet and / or Council as appropriate.

- 3.3 The Well-being of Future Generations (Wales) Act sets out effective transparency as a key part of improving the delivery of public bodies.
- 3.4 The Act requires public bodies to communicate and explain the processes of selecting its well-being objectives and why these objectives have been chosen, how decisions are taken in line with these objectives and what difference these objectives have made.
- 3.5 The importance of presenting the report to Cabinet is to ensure that transparency has taken place and to inform the Cabinet of the Emergency Powers that have been undertaken for the relevant reasons contained within the reports.

4. Climate Change and Nature Implications

4.1 There are no direct climate and nature implications associated with the report.

5. Resources and Legal Considerations

Financial

The procedure requires that these be taken into account by the Committee / Departments originating the requests for the use of Emergency Powers.

Employment

The procedure requires that these be taken into account by the Committee / Departments originating the requests for the use of Emergency Powers.

Legal (Including Equalities)

- **5.3** The Council's Constitution states:
 - 1. Power to act, after consulting the appropriate Cabinet Member and, in the case only of matters involving the Council in financial commitments, the Leader, Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:
 - (a) Requires immediate action; and
 - (b) Does not justify holding a special meeting of the body which would ordinarily consider the matter or is of such urgency or emergency as not to allow time for such a meeting; use of such delegated powers to be subsequently reported back to the Cabinet or Council as appropriate.

6. Background Papers

Relevant Emergency Powers proformas.