

Meeting of:	Cabinet
Date of Meeting:	Thursday, 05 September 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 11th July, 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 327 of the Council's Constitution.
<p>Executive Summary:</p> <p>To advise Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report of 11th July, 2024.</p> <p>The Council’s Constitution at page 327 (delegated powers) states:</p> <p>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:</p> <p>(a) requires immediate action; and</p> <p>(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.”</p>	

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 11th July, 2024.

(a) Colcot Primary School and Ysgol Gwaun y Nant – Phase One Roof Renewals.

Funding had been identified in the 24/25 Capital Programme for the phase one roof renewal works at both Colcot Primary School and Ysgol Gwaun y Nant.

The use of Emergency Powers was sought given the timescale pressures to complete the work during the summer holidays, and the geographical proximity of those schools, to undertake those works as a single combined project under one building contract to provide economies of scale.

(Scrutiny – Learning and Culture)

(b) Lavernock Cliff Path Grant, St Donats Realignment, Signage and Waymarking Improvements.

The Council had received an award of funding from Natural Resources Wales (NRW) in the sum of £44.3k to fund works for the year 2024-2025. The funding start date was 4th June 2024 and had to be spent by 31st March 2025.

The use of Emergency Powers was sought to fund schemes concerning the Lavernock Cliff Path (Project 2), St Donats Realignment (Project 3) and Signage and Waymarking Improvements (Project 6).

(Scrutiny – Environment and Regeneration)

(c) Barry Wayfinding Scheme Phase 3 – product drawings, manufacture, delivery and installation.

The Barry Wayfinding Scheme was part of the Placemaking work funded through the Welsh Government Transforming Towns, as well as Shared Prosperity Funding matched with Vale of Glamorgan Regeneration Capital funds. Both external grant funds needed to be spent by the end of March 2025. The scheme had already been

included in a previous Cabinet report (October 2021 attached) and a delegated authority was approved for Phase 2 of the scheme.

The use of Emergency Powers was sought as phase 3 of the scheme was £343,086 which was over the £300k threshold for delegated authority.

(Scrutiny – Environment and Regeneration)

(d) School Management of Information System (MIS) Procurement.

Approval was requested for a procurement exercise to be undertaken to tender for a proposed contract for the procurement of a Management of Information System (MIS) for all schools in Vale of Glamorgan.

The use of Emergency Powers was sought due to the tight timescales in relation to this project as the current contract was due to expire in March 2025, with termination notice to be given in November 2024.

(Scrutiny – Learning and Culture)

(e) 2023/24 Capital Slippage Request.

Approval for slippage of unspent capital budgets for 2023/24 into 2024/25 would normally require Cabinet approval as part of the Closure of Accounts report, however in order to progress schemes and to enable the budgets to reflect committed expenditure approval was required as soon as possible.

The use of Emergency Powers was sought to include funding to be carried forward from 2023/24 into the 2024/25 Capital Programme totalling £15.013M.

(Scrutiny – ALL)

(f) Rented Homes (Wales) Act 2016 (Part II (in force 1 December 2023)).

It was necessary to ensure that certain certificates were in place for those Council properties which did not have a current electrical certificate or required a CO detector(s) and/or additional automatic fire detector (AFD).

The use of Emergency Powers was sought to complete outstanding electrical works in a shorter timescale to enable certificates to be issued.

(Scrutiny – Homes and Safe Communities)

(g) Inclusion of Small Strips of Land Within Transfer of Land to Transport for Wales, Barry.

In accordance with Cabinet Minute C862 the Council contracted in the Spring of 2022 to dispose land to Transport for Wales (TfW) The land was transferred to TfW in May 2023.

Lawyers acting for TfW were registering the title of the land at the Land Registry in liaison with the Council's Legal Services section. During that process of registering the

land it was revealed there were several small strips of land that should have been transferred from the Council to TfW.

The use of Emergency Powers was sought for three areas of land to be transferred to TfW (subject to Welsh Government consent if required) and for delegated authority to be given to the Head of Legal and Democratic Services/Operation Manager Legal Services to complete all necessary legal documentation to facilitate the additional transfer of those areas of land to TfW.

(Scrutiny – Environment and Regeneration)

(h) Eich Lle Programme.

As a result of the pandemic and ongoing corporate challenges around budgets, climate change and Project Zero, there were fundamental changes in the way in which the Council's office-based staff were to be accommodated and equipped to work in an agile and collaborative way. The 'Eich Lle' office accommodation project had been developed to consider the optimum proposals for rationalising the Council's offices.

A key strand of the Eich Lle proposals was the consolidation of the C1V operation into the Civic Offices which had now been successfully delivered, alongside moves of teams within the Corporate Resources Directorate.

The use of Emergency Powers was sought and a budget of £125k be allocated in the 2024/5 Capital Programme for this phase of works and moves.

(Scrutiny – Corporate Performance and Resources)

(i) Ysgol Y Deri Expansion Project.

On 2nd November 2020, Cabinet authorised the Director of Learning and Skills to undertake a consultation on the proposal to increase the capacity of Ysgol Y Deri by 150 places to meet future demand for special education.

The development of the school was on hold for a few months due to the Welsh Government's policy on calling in planning applications. The Vale of Glamorgan received a formal letter from Welsh Government on 14th June 2023 stating that the call in had been rejected, therefore, it was acceptable to progress with the development of Ysgol y Deri.

The use of Emergency Powers was sought:-

- to enter into an agreement with Welsh Government for the installation of National Grid power supply.
- for any future lift and shift works required to the National Grid power supply if the location is situated in an area that was to be redeveloped.

(Scrutiny – Learning and Culture)

(j) Additional Learning Needs (ALN) – 2024-25.

The Council had received an award of funding from Welsh Government for £894K.

The aim of the grant was to optimise learning environments for disabled children and young people, and those with additional learning needs, to increase accessibility, promote inclusive practice, support learning and pupil wellbeing.

The funding related to eligible capital expenditure during the period 1st April 2024 to 31st March 2025.

The grant had to be used in the 2024-25 financial year for eligible expenditure and was based on the projects list submitted to Welsh Government and approved by the ALN team.

The use of Emergency Powers was sought to increase the 2024/25 Capital Programme by £894K and include schemes to be funded from Welsh Government Grant.

(Scrutiny – Learning and Culture)

(k) Jenner Park Primary School - Roof Renewal Works.

Funding had been identified in the 2024/25 Capital Programme for roof renewal works at Jenner Park Primary School. The work included the provision of new lightning protection for the building. Following a two-stage tender process and subsequent detailed contract negotiations with the stage one preferred contractor, the 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 Willis Construction Ltd to undertake the work as set out above.

(Scrutiny – Learning and Culture)

(l) Hwb Programme.

Funding allocation for financial year 2024-2025 had been confirmed from Welsh Government for £489k to support the expenditure through the All-Wales EdTech Commercial Service. The grant would be retained by Welsh Government; however, the Council could purchase goods up to that value through the catalogue. The total request for equipment from all schools came to £516k, with £489k to be funded from the grant and £27k would be revenue contribution from school's budget.

The use of Emergency Powers was sought to increase the 2024-25 Capital Programme by £516k to be funded from the £489k allocation from Welsh Government and £27k, revenue contribution from each school's budget.

(Scrutiny – Corporate Performance and Resources)

(m) Direct Food Insecurity Grant and Food Partnership Grant (Tackling Food Insecurity).

The Vale of Glamorgan Council was awarded funding from the Direct Food Support grant 2023/24 totalling £34,171. Confirmation had now been received from Welsh Local Government Association (WLGA) that the funding could be added to the 2024/25 grant award. The 2024/25 allocation was £24,474, therefore the total allocation for the year was £58,645.

The Vale of Glamorgan Council was awarded funding from the Food Partnership grant 2023/24 totalling £3,900. Confirmation had now been received from Welsh Local Government Association (WLGA) that the funding could be added to the 2024/25 grant award. The 2024/25 allocation was £13,043, therefore the total allocation for the year was £16,943.

The use of Emergency Powers was sought to include those grants, funded by the Welsh Local Government Association in the 2024/25 Capital Programme under Tackling Food Insecurity totalling £75,588.

(Scrutiny – Corporate Performance and Resources)

(n) Hybrid Mail and MFD (Printer) Contracts.

The current Hybrid Mail contract commenced on 1st September, 2019 and had a value of £236,983. The current MFD contract commenced on 1st December, 2018 and had a value of £393,235.

The current Hybrid Mail contract was due to expire on 1st September, 2024 and the MFD contract on 1st December, 2024. To enable those contracts to run co-terminously it was recommended that a short-term extension of both contracts to 30th March, 2025 be agreed to ensure no degradation of service.

The use of Emergency Powers was sought:-

1. to award an extension to the Council's existing Hybrid Mail and MFD (Printer) contracts to allow co-terminus end dates for the implementation of new Hybrid Mail and MFD (printer) services.
2. to go out to tender and award a contract for the supply of Hybrid Mail and MFD services, and to give delegated authority to the Director of Corporate Resources in liaison with the Leader to award the contract(s) to the most economically advantageous tenderer.

(Scrutiny – Corporate Performance and Resources)

(o) Flying Start – Skomer Road – New Roof.

The Council had received an award of funding from Welsh Government under the Early Years and Childcare Capital funding in the sum of £175k to fund a new roof at the Skomer Road building. The funding had to be spent by 31st March 2025.

The use of Emergency Powers was sought to include the Childcare and Early Years Capital Programme and increase the Council's 2024/25 Capital Programme by £175k to be funded from Welsh Government Grant.

(Scrutiny – Healthy Living and Social Care)

(p) Housing Upgrade to Internal Communal Areas (Lot1) – Request to Increase The Contract Value.

The Housing Upgrade to Internal Communal Areas (Lot1) scheme was identified to include the refurbishment of 79 communal areas including, removal of asbestos containing materials e.g. textured coated ceilings, replacement electrical installations, replastering and painting of ceilings and walls, new non-slip flooring, replacement low energy lighting with motion sensors, replacement balustrades, fire resistant notice boards, new door entry system with handsets, improved ventilation and new fire signage.

The contingency and provisional sums for the project had been exceeded due to a large number of unforeseen and additional works requiring variations to complete the scheme satisfactorily.

The use of Emergency Powers was sought to:

- Increase the value of the Housing Upgrade to Internal Communal Areas (Lot1) scheme contract with ASW Ltd. from £1,695,527.89 to £1,849,576.16.
- Vire £154,048.27 from the capital budget Common Parts, External Communal Refurbishment Line to HRA Common Parts, Communal Areas Internal line to fund the increase in costs.
- Increase the current purchase order number to £1,849,576.16.

(Scrutiny – Homes and Safe Communities)

(q) 1-23 Awbery House Internal and External Refurbishment Project.

The Housing and Building Services Team requested the use of Emergency Powers to accept the most advantageous tender bid received from Quicksons (South & West) Ltd. and to enter into a JCT Intermediate Contract as soon as possible to ensure and further price increases were not incurred due to the turbulent market.

The use of Emergency Powers was sought to:

- Award the 1-23 Awbery House Internal and External Refurbishment Project contract to Quicksons (South & West) Ltd.
- Delegate authority to the Director of Environment and Housing to accept the most advantageous tender bid and the Head of Legal Services to execute the JCT Intermediate Contract 2016 to deliver the project.

(Scrutiny – Homes and Safe Communities)

(r) Pupil Engagement Contract and Budget Authorisation.

The Pupil Engagement team requested to direct award and broker Smooth Starts Plus for the academic year 24/25 with an additional clause of a plus 1, plus 1 in the contract which was in line with the waiver of contracts Procedure Rule. This was based on plans to future proof provisions for learners with complex needs where the previous three years data had shown increase in need and trends had indicated that as a growing area of concern with limited specialist providers to call upon.

The use of Emergency Powers was sought to direct award and broker Smooth Starts Plus for the academic year 24/25.

(Scrutiny – Learning and Culture)

(s) St Nicholas Church in Wales School – Capital Programme Virement.

The Band B Pencoedtre High School Scheme was complete and had £343k left in the budget. It was requested to vire 167k from the Band B Pencoedtre Scheme to the Band B St Nicholas Scheme in the 2024/25 Capital Programme to accommodate the overspend.

The use of Emergency Powers was sought to vire £167k from the Band B Pencoedtre scheme to the Band B St Nicholas scheme to accommodate the overspend.

(Scrutiny – Learning and Culture)

(t) Lavernock Point Gun In-Placement, Porthkerry Country Park Road and Cosmeston Lakes Country Park – Boardwalk.

The essential works to Countryside Service locations were:

- Replacement and repairs to the security guards at Laverock Point Gun in-placement. This would deter anti-social behaviour and help protect the interior of those CADW listed structures.
- To carry out essential road improvement works at Porthkerry Country Park. Many areas had deteriorated and were in need of urgent repair to prevent damage to users' vehicles.
- To remove and dispose of the existing rotten wooden boardwalk at Cosmeston Lakes Country Park and install new recycled products.

The use of Emergency Powers was sought to increase the 2024/25 Capital programme to reflect identified works to the value of £97k. The schemes would be funded from the Place reserve.

(Scrutiny – Environment and Regeneration)

(u) The Woodland Investment Grant – Porthkerry Country Park.

The Council had received an award of funding from The National Lottery Heritage Fund in Partnership with Welsh Government in the sum of £249k to fund works to the

woodlands at Porthkerry Country Park. The funding start date was 9th July 2024 and had to be spent by 26th June 2026. The grant was 100% funded and no match funding was required.

The use of Emergency Powers was sought to increase the 2024/25 and the 2025/26 Capital Programme as indicated in the table below, to be funded by Welsh Government grant:

	Budget
2024/25	64,000
2025/26	140,000
Total	204,000

(Scrutiny – Environment and Regeneration)

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

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

Employment

- 5.2** 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.