

Meeting of:	Cabinet
Date of Meeting:	Thursday, 05 December 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 05th September, 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 5th September, 2024.</p> <p>The Council's Constitution at page 329 (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 5th September, 2024.

(a) Housing Pontalun Close External and Environmental Refurbishment Scheme.

The project at Pontalun Close, was to improve the entrance lobbies for those flats to ensure they provided better access for tenants, leaseholders and their visitors with disabilities, and to improve the security and aesthetics of the flats. During the works there were a number of issues discovered with the mains gas supply feeding the flats, and that additional drainage was required as well as unblocking of existing drainage routes.

The project had therefore exceeded the financial standing order variation limit of £50,000 and authority was sought to vary the contract sum to cover the additional works not foreseen at the start of the project.

The use of Emergency Powers was sought to:-

- Increase the value of the Housing Pontalun Close External and Environmental Refurbishment Scheme contract with SERS Energy Solutions Group Ltd. from £2,102,374.83 to £2,270,630.37.
- To increase the purchase order value for the Housing Pontalun Close External and Environmental Refurbishment Scheme from £2,102,374.83 to £2,270,630.37.
- Vire £402,000.00 from the Energy Efficiency, EWI Line, and £88,000.00 from the HRA individual Schemes, Jenner Road EWI/PAS Budget Line into the HRA Individual Schemes, Pontalun External Porch Scheme (EWI) line to fund the increase in scheme costs.

(Scrutiny – Homes and Safe Communities)

(b) Extension of Interim Management Arrangements for Belle Vue Community Centre, Penarth.

Emergency Powers were sought to negotiate and grant a further Licence to Big Fresh Catering Company to extend the interim management arrangements to enable the Community Centre at Belle Vue in Penarth to continue to operate until 31st March 2025.

The use of Emergency Powers was sought as the Council did not currently have any formal arrangements in place for the long-term management or operation of the Community Centre. Therefore, to ensure that the Community Centre could continue to operate beyond the expiry of the existing Licence and Management Agreement on the 30th August 2024 the entry into a further Licence and Management Agreement for the period 31st August 2024 to 31st March 2025 would:

1. Allow time for the Council to consider the long-term management and operation of the Community centre including but not limited to:

(a) Allowing time for the Friends of Belle Vue to submit a Stage 2 CAT application and for the Council to consider such an application; and/or

(b) Allow Big Fresh to consider whether it wished to submit a Business Case for the long-term operation of the community centre and for the Council to consider any such Business Case.

(Scrutiny – Healthy Living and Social Care)

(c) Business Service Centre 2 - to be known moving forward as Engine Room Transformation Project.

The Regeneration Team manage a suite of Business Units on behalf of the Council in several different buildings. The BSC2 (recently renamed Engine Room) which was one of those buildings, was only currently partly let due to the building not being fit for purpose. The building was outdated and needed a refresh, as well as adequate toilets and communal space being provided to the upstairs of the building. The carpark and exterior communal space also now required an uplift as it was a public and tenant car park. The project would seek to address that issue and allow the building to be fully let and generate an income for the Council.

The use of Emergency Powers was sought to formally request an increase in value to the Business Service Centre 2 scheme due to cost increases and also rename the scheme Engine Room Transformation Project on the 2024/25 Capital Programme.

(Scrutiny – Environment and Regeneration)

(d) St Richard Gwyn High School Redevelopment Tender Appointment and Approval to Proceed with Professional Services Contract.

The tender for St Richard Gwyn High School had been issued through the SEWSCAP Framework. The framework was currently being updated and would transfer from 3 to 4 shortly. Contracts and tenders under the SEWSCAP Framework 3 needed to be

concluded by the end of the September 2024, including the issuing of the tender letters for successful/ unsuccessful bidders.

The use of Emergency Powers was sought to:

- a. Acceptance of a competitive tender for the construction of St Richard Gwyn RC High School and appointment of successful contractor.
- b. Allow the Council to enter into a Professional Services Contract only with the successful contractor.

(Scrutiny – Learning and Culture)

(e) Cowbridge Town Hall Toilets.

There were urgent essential repairs required to the public convenience roof at the Town Hall car park in Cowbridge and a budget of £20,000 which was required to complete the repairs, with a contribution of £7,288.99, from the Council's insurers.

The use of Emergency Powers was sought to seek authorisation to vire £13,000 capital funding from the Coastal Infrastructure budget to the Public Convenience capital budget to complete essential repairs to Cowbridge Town Hall toilet roof.

(Scrutiny – Environment and Regeneration)

(f) Renovation Works at 24 Burlington Street, Barry.

The property was an existing Council property which was being leased by Social Services and required upgrading works to ensure it met the required Care Inspectorate for Wales (CIW) standards.

The use of Emergency Powers was sought to request the exemption from contract procedure rules and accept the submitted price to enable the works to be undertaken urgently in respect of renovation works at 24 Burlington Street, Barry.

(Scrutiny – Healthy Living and Social Care)

(g) School Maintenance Capital Grant.

The Council had received a capital grant of £1.073M.

The use of Emergency Powers was sought in order that schemes could start to progress Emergency Powers were requested to allocate the grant against identified schemes within the Education portfolio and increase the 2024/25 Capital Programme.

(Scrutiny – Learning and Culture)

(h) Housing Heating Installations Servicing and Maintenance Framework (2022-25).

The Housing Heating Installations Servicing and Maintenance Framework (2022-25) Contract with an estimated value of £2m was let in April 2022 on a 3year (plus 1year) framework contract with Heatforce (Wales) Ltd.

Heatforce (Wales) Ltd. had approached the Housing Development and Investment Team requesting agreement to an uplift on the Schedule of Rates (SORs) for the framework contract for financial year 2024/25 and if extended 2025/26.

The use of Emergency Powers was sought to:-

- Increase the Housing Heating Installations Servicing and Maintenance Framework (2022-25) Contract SORs with Heatforce (Wales) Ltd. by 15%, using Regulation 72, of PCR 2015 to modify the contract value to £2.5m.
- Increase the HRA Repairs Budget for 2024/25 by a total of £44,000, and 2025/26 by £66,000.

(Scrutiny – Homes and Safe Communities)

(i) School MIS Procurement.

With reference to the emergency powers form approved on the 11th July 2024, and following legal advice, emergency powers were sought to amend the authority to reflect that the authority granted related to all stages / steps required to put in place a new SIMS Contract.

The use of Emergency Powers was sought to cover:

- The estimated value of new contract over its term the value of the contract;
- Selection and appointment of contractor/award of contract by officers following evaluation;
- Entering into all necessary contractual documentation with authority for Legal Services to negotiate, approve, seal and sign all such contractual and associated documentation as is required;

(Scrutiny – Learning and Culture)

(j) Agree Letter of Intent to continue delivery on Ysgol Llyn Derw, as part of the Sustainable Communities for Learning Programme.

Further to the successful bidder, ISG Construction Limited, filing for administration on 25th September, 2024, the Sustainable Communities for Learning team had been liaising with procurement services, legal services and Welsh Government to seek advice on next steps for taking the scheme forward. After discussions with all parties, it was agreed to seek to appoint the second successful bidder to deliver the scheme, as a fair and transparent approach, including procurement services.

The use of Emergency Powers was sought to agree letter of intent for with Morgan Sindall to carry out the works described in the associated Tender Documents:

- Numbered Document 1 – Proposed Schedule of Works totalling 200k.
- Numbered Document 2 – Red Line Boundary Drawing YYDE-HLM-00-00-DR-L-00005 PROPOSED SITE LAYOUT - FACING FORT ROAD

(Scrutiny – Learning and Culture)

(k) Extended Deadline for repayment of Targeted Regeneration Investment Loan, Barry Goods Shed (Part II Matter).

Further to the decision taken by Cabinet following a report to the Cabinet meeting of 7th January 2019 (Cabinet Minute C545(1)) and emergency powers granted during May 2022, the developer submitted a request in early August 2024 for further time to repay the Loan. Welsh Government were consulted and agreed (subject to Ministerial approval) for the repayment of the TRI Loan over an extended timeline.

The use of Emergency Powers was sought to seek authority to extend the deadline for the repayment by the developer of a Targeted Regeneration Investment (TRI) Loan for Barry Goods Shed; also, authority was sought for the Monitoring Officer/Head of Legal and Democratic Services and Operation Manager Legal Services to prepare, execute and complete all legal documentation associated with the matter.

(Scrutiny – Environment and Regeneration)

(l) Post Construction Services Agreement re Ysgol Llyn Derw.

ISG Construction were successfully appointed to deliver Ysgol Llyn Derw (formally known as Ysgol Y Deri Expansion), which started on site in April 2024 and was progressing well, with steel frames erected on site, until it was announced that ISG Construction filed administration on 25th September 2024.

The Sustainable Communities for Learning team had since been liaising with procurement services, legal services and Welsh Government to seek advice on next steps for taking the scheme forward.

After discussions with all parties, it was agreed to appoint the second successful bidder to deliver the scheme, deemed as a fair and transparent approach, including procurement services.

The use of Emergency Powers was sought to

- Seek approval to enter into a PCSA contract with Morgan Sindall to carry out the following works -
 - Proposed Schedule of Works totalling 200k.
 - Form of agreement – NEC4 Professional Service Contract
 - Programme Schedule
- The following matters remained to be agreed:
 - Agreement of Main Contract Sum and Contract.

(Scrutiny – Learning and Culture)

(m) Urgent replacement of platform passenger lift at Longmeadow Court Sheltered Housing Unit, Cowbridge.

The platform passenger lift at Longmeadow Court SHU, Cowbridge, had broken down on many occasions during the last few months, with residents at times being trapped for some time before being able to leave the lift safely. Whilst out of action it had been causing day-to-day issues for those residents with mobility issues who lived on the first floor of the sheltered Unit.

The use of Emergency Powers was sought to by-pass normal procurement procedure rules to direct award a ST&Cs contract with Cardiff Lift Company to undertake an urgent platform passenger lift replacement at Longmeadow Court Sheltered Housing Unit (SHU), Cowbridge.

(Scrutiny – Homes and Safe Communities)

(n) Waive CPR for Barry Dock Office Flexible Space Project.

As part of the Barry Mole, Marina and Docks Office project, it was proposed to convert the Dock Office in Barry to flexible office space, managed by a specialist operator.

To achieve this, the Council had appointed Cushman & Wakefield, who were experts in the field, to go to market and find a suitable operator. Cushman & Wakefield had recommended a process that would be the most effective at identifying an operator for the Dock Office.

The use of Emergency Powers was sought to request a departure from the standard tendering process outlined in the Constitution as part of the selection process for finding a suitable operator to run the Flexible Office Space proposed for the Dock Office, Barry as recommended by Cushman & Wakefield, who had been appointed by the Council to run the process as experts in the field.

(Scrutiny – Environment and Regeneration)

(o) Cowbridge Leisure Centre Flooring.

The Council had been awarded a grant from Sports Wales for funding in relation to replacement flooring for Cowbridge Leisure Centre main hall. Work was required to start quickly as there were concerns about the integrity of the current floor. Failure of the existing floor could lead to claims for loss of income from our Leisure Centre management contractor.

The use of Emergency Powers was sought to request the inclusion of a new scheme for flooring in the main hall at Cowbridge Leisure Centre. The total scheme cost £70k and would be funded by £50k grant from Sports Wales and £20k match funding from Section 106 money.

(Scrutiny – Healthy Living and Social Care)

(p) Winter Service – Proposed Change to Strategic Salting Route No.3 & Towable Bunce Route.

The Winter Service was a statutory function provided by the Council, the scheduled salting routes of the highway network ensured the safe movement of traffic on pre-defined routes and kept delays and accidents caused by adverse weather conditions to a minimum.

Strategic Route No.3 currently included the concrete viaduct and bridge over the River Ely at Leckwith, however, there was a reduced weight limit on the bridge of 7.5 ton, with special dispensation for public & emergency vehicles up to 11 ton. The Council's salting vehicle had a gross weight of 26 ton and therefore was ineligible to travel over that section of the route.

The use of Emergency Powers was sought to revise Strategic Route No.3 and to undertake the salting treatment of the viaduct and bridge with the towable bunce, combined with the 4x4 towing vehicle, given that this arrangement would be within compliance of the bridge weight restriction.

(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.