

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 20 February 2025</b>
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 December, 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 329 of the Council's Constitution.
<p><b>Executive Summary:</b></p> <p>To advise Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report of 5th December, 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 December, 2024.

(a) Transforming Town Grant & Additional Barry Wayfinding Funding.

The Council had received an award of funding from Welsh Government in the sum of £309k to fund works in relation to the Transforming Towns Placemaking Grant Programme. The grant had to be spent by 31st March, 2025.

The table below provided a breakdown of these Placemaking Grants under Transforming Towns:

Scheme		£'000
Barry Wayfinding	Capital	163
Holton Road	Capital	146
Total		309

The Barry Wayfinding scheme was already on the Capital Programme with a budget of £136k, funded from UK Government Shared Prosperity Fund. Further funding required adding to the 2024/25 Capital Programme from Section 106 money for £9k, £7k from the UK Government Shared Prosperity Fund and £28k from Regeneration Revenue budget. Following approval of the Emergency Powers and the addition of the Transforming Towns grant, the total budget on the 2024/25 Capital Programme for Barry Wayfinding was £343k

The use of Emergency Powers was sought to add the Welsh Government Transforming Towns grant scheme budgets for Holton Road and Barry Wayfinding schemes totalling £309k and to also include further funding for the Barry Wayfinding Scheme in the 2024/25 Capital Programme.

(Scrutiny – Environment and Regeneration)

(b) Oracle Fusion External Support and Accounts Receivable Implementation.

Fusion Practices were appointed as the Council's support for Oracle Fusion in January 2024 and were asked to prepare an initial scoping document regarding an Accounts Receivable Implementation early in the 2024/25 financial year. Emergency Powers were requested to correct the original underlying procurement which was recorded on the basis of GCloud rather than direct award and request approval to subsequently sign off the Statement of Works for the Accounts Receivable Implementation on the basis of a further direct award.

The use of Emergency Powers was sought to correct approvals in respect of the procurement of External Support for Oracle Fusion and additional resources in respect of the Accounts Receivable Implementation.

(Scrutiny – Corporate Performance and Resources)

(c) Vale Community Centre Decarbonisation.

The Council had been awarded a grant from Welsh Government for funding under the Asset Collaboration Programme in the sum of £125k. The funding related to capital expenditure during the period 14th October to 31st March 2025 and had to be claimed in full by 31st March 2025.

The use of Emergency Powers was sought to include a new scheme for decarbonisation of four Community Centres in the Vale to be funded by grant from the Welsh Government Asset Collaboration Programme Wales Phase 3 funding. Anticipated works included replacing existing lighting with LEDs (internal and external where possible), provision of PV solar panels (potentially with battery, subject to structure and feasibility).

(Scrutiny – Environment and Regeneration)

(d) Include two new schemes at the Alps Offices in the 2024/25 Capital Programme.

The use of Emergency Powers was sought to include two new schemes in the 2024/25 Capital Programme to be funded from the Corporate Landlord reserve to address health and safety concerns:-

- Alps Offices Emergency lighting partial renewal with a budget of £17k
- Alps Site wide External lighting partial renewal with a budget of £25k

(Scrutiny – Corporate Performance and Resources)

(e) Works to bring Council homes to a standard to be relet to single homeless people currently accommodated in a local hotel.

It was proposed to award the works to Synergy Construction Management, who were set up to oversee the construction of new Council homes when a previous contractor went into administration. Synergy were currently building several of the Council's new housing developments.

The use of Emergency Powers was sought to directly award repair work, and therefore waive the Council's Contracts Procedure Rules, so properties could be let before the end of March 2025.

(Scrutiny – Homes and Safe Communities)

(f) Alternative accommodation to the current Hen Goleg Adult Services facility.

It was the Council's intention to purchase the following buildings to provide alternative accommodation to the current Hen Goleg Adult Services facility as well as providing office accommodation to decant other social services teams from other Council buildings (required as part of Eich Lle project proposals).

Emergency Powers were exercised to make an imminent offer to acquire the buildings listed below, which was a departure from the normal process set out in the Council's Acquisition Protocol which required Cabinet approval.

- Upper Retail Level (ex- Filco), Thompson Street, Barry CF63 4LG
- Lower Retail Level, Thompson Street, Barry, CF63 4LG
- Food Outlet, Thompson Street, Barry, CF63 4LG

The use of Emergency Powers was sought to make an imminent offer on buildings to replace the Hen Goleg facility, in departure from the normal process set out in the Acquisition Protocol, to eliminate the risk of potentially losing those buildings to another buyer.

(Scrutiny – Healthy Living and Social Care)

(g) Ysgol Y Deri – Barry Campus (Old St Baruc) Boiler Replacement.

The use of Emergency Powers was sought to request to include a new scheme for boiler replacement at Ysgol Y Deri with a budget of £103k on the 2024/25 Capital Programme, to be funded from the Education Asset contingency budget. The school were currently using temporary heating since the boiler had completely failed. To also request approval to waive procurement rules considering the emergency works.

(Scrutiny – Learning and Culture)

(h) Access Improvement Grant and Cwm Mawr Bridge Replacement.

The Council had received an award of funding from the Welsh Government's Access Improvement grant stream to fund improvement works to the Public Rights of Way Network.

The use of Emergency Powers was sought to:-

- include additional funding for the Access Improvement Grant in the sum of £15k, to be funded by Welsh Government in the 2024/25 Capital Programme.

- include a new scheme for Cwm Mawr Bridge Replacement in the sum of £6k, to be funded from a grant from National Resource Wales in the 2024/25 Capital Programme.

(Scrutiny – Environment and Regeneration)

(i) Bumblebees Early Years & Childcare Unit.

The use of Emergency Powers was sought to request the appointment of contractor for the scheme for Bumblebees Early Years and Childcare unit. Following a tender process undertaken via the Welsh Procurement Alliance modular building framework, the tender received was over the Council's £300k procurement threshold. It was therefore requested that the tender was accepted with the requirements of Contract Procurement Rule 18.15.2 (c)(iii). The scheme was funded by Welsh Government Grant.

(Scrutiny – Learning and Culture)

(j) Enabling works on Ysgol Llyn Derw, as part of the Sustainable Communities for Learning Programme.

The Council had received an enabling works proposal which totalled £1,235,612.16 from Morgan Sindall. The proposal included 20 weeks of works which would begin to overlap with the main works once agreed in February

The use of Emergency Powers was sought to agree a contract for Morgan Sindall to progress with the enabling works at Ysgol Llyn Derw at cost of £1,235,612.16.

(Scrutiny – Learning and Culture)

(k) Proposed Flexible Office Space at the Dock Office, Barry.

As part of the procurement exercise to find a suitable operator for the Barry Dock Office, Emergency Powers were requested to re-run the recent tender exercise for a further four-week period as the Council were now able to share additional information that was not available during the previous tender process which included the recent condition survey, plus the extent of works the Council would be carrying out to the building to meet Category A specification.

The use of Emergency Powers was sought to re-run the tender to the same format as conducted previously but with additional information on the Sell-to-Wales portal, organised by the Council's consultants Cushman & Wakefield.

(Scrutiny – Environment and Regeneration)

(l) Barry Leisure Centre & Contact One Vale Building - Roof Repairs.

Urgent repairs to both roofs were required to prevent business interruption of the leisure centre and limit any damage internally. Conducting works to both areas at the same time with one contractor meant best value could be obtained by utilising access

scaffolding together with perimeter edge protection and minimising disruption to the Leisure Centre operation.

The use of Emergency Powers was sought to include a new scheme in the 2024/25 Capital Programme with a budget of £15k for urgent repairs to the flat roofs of Barry Leisure Centre and Contact One Vale building to be funded by a contribution to capital from revenue budgets.

(Scrutiny – Environment and Regeneration)

(m) Community Focused Schools.

Following the approval of a variation request to Welsh Government in respect of the schemes under the Community Focused Schools It was requested to amend the 2024/25 and 2025/26 Capital Programme in line with the approved variation from Welsh Government.

The use of Emergency Powers was sought:-

Under the 2024/25 Capital Programme to

- Remove two scheme budgets for Pencoedtre and St Andrews, totalling £402k.
- Vire those budgets to two new schemes for community-based works at Colcot Primary with a budget of £120k and further works at Romilly Sports Barn with a budget of £282k.
- Vire £43k from the Victorian Schools General Maintenance budget to the new scheme at Romilly Sports Barn to provide a new budget of £325k.
- Approve the use of contract procedure waiver paragraph 18.4.2 (g) due to time limited grant conditions.
- To appoint the contractor for the Romilly Primary project.

It was requested under the 2025/26 Capital Programme to

- Increase the scheme budget for Derw Newydd by £85k to be funded from ring fenced funds within the School Investment Strategy reserve.

(Scrutiny – Learning and Culture)

(n) Utilities Purchasing 2026/27 Onwards on Laser Framework.

The use of Emergency Powers was sought to give notice by mid-February 2025 of the intention to change energy framework providers in April 2026. This followed a comprehensive review conducted by Welsh Government Commercial Procurement Utilities (CPU) and a working group of Local Authorities in Wales, of current energy providers.

(Scrutiny – Corporate Performance and Resources)

(o) St Cyres Comprehensive School – Extension.

St Cyres Comprehensive scheme was on the 2024/25 Capital Programme with an allocated budget under the Additional Learning Needs grant for £632k. Following a negotiated tender process undertaken via the SEWSCAP4 framework, the total cost of the scheme with fees and sundry costs would be £1.052m. Elected Members had approved £420k of the contribution to fund the proposed works which would provide an additional classroom and other new related facilities. As the scheme would not be completed by the end of the financial year, it was requested to increase the Capital Programme by £420k and reprofile the scheme. Welsh Government had agreed that the grant could be displaced against other qualifying capital schemes in 2024/25 and internal funds carried forward to fund the remainder of the scheme in 2025/26.

The use of Emergency Powers was sought to increase the 2024/25 Capital Programme to include S106 moneys of £420k for the St Cyres Comprehensive School – Extension and re-profile the scheme and accept the tender for the appointed contractor of works.

(Scrutiny – Learning and Culture)

### **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.