

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 05 July 2021</b>
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Use of the Managing Director's Emergency Powers
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Managing Director since the last report on 12 April, 2021.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Managing Director
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 Managing Director's Delegated Powers set out on page 271 of the Council's Constitution.
<p><b>Executive Summary:</b></p> <p>To advise Cabinet of the exercising of Emergency Powers by the Managing Director since the last report of 12 April, 2021.</p> <p>The Council's Constitution at page 271 (delegated powers) states:</p> <p>"MANAGING DIRECTOR OR, IN HIS ABSENCE, THE NOMINATED DEPUTY</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, 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 Managing Director'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 Managing Director's Emergency Powers since the last report of 12 April, 2021.

(a) Circular Economy Grant Claim.

The Waste Management team of Neighbourhood Services received 3 Welsh Government Circular Economy grants in late 2020 for the funding of 3 projects, and 3 further grants in March 2021.

The use of Emergency Powers was sought to place orders for various equipment and services in relation to Circular Economy projects, grant funded by Welsh Government up until the 31<sup>st</sup> March, 2021.

(Scrutiny – Environment and Regeneration)

(b) Capital Schemes - Amendment to the Capital Programme.

The use of Emergency Powers was sought to amend the Capital Programme for the following:-

- Building Strong Communities Fund - request to increase this scheme in the Capital Programme by £53k (split £26.5k in 2020/21 and £26.5k in 2021/22), to be funded from the Stronger Communities revenue budget.
- Digital Exclusion Fund - request to increase this scheme in the 2020/21 Capital Programme by £4,060 to be funded by a grant from Welsh Government.
- Schemes to be capitalised from revenue – request to add the below schemes totalling £108,752 to the 2020/21 Capital Programme to be funded by a contribution from revenue:-
  - Ysgol Bro Morgannwg ICT software £11,924
  - St Brides Major Primary toilet refurbishment £20,865
  - Kerb and footway resurfacing works, Woodland Road Barry £19,355
  - Ysgol Y Deri internal fob entry doors £14,424

- Garage – Installation of new break tester £12,250
- Gwenfo C/W Primary School new flooring £10,534
- Cosmeston Medieval Village, thatch bakers building £19,400

(Scrutiny – Corporate Performance and Resources / Learning and Culture / Environment and Regeneration)

(c) Additional B&B Temporary Accommodation: 1st April to 30th September 2021.

The Housing Solutions Team has submitted a number of requests for the use of Emergency Powers concerning the B&B/temporary accommodation situation resulting from the ongoing Pandemic.

The use of Emergency Powers was sought to block book hotel/B&B accommodation to enable the Council to provide full statutory duties and direction from the Housing Minister to ensure all those who do not have accommodation are provided with safe and secure temporary housing.

(Scrutiny – Homes and Safe Communities)

(d) Welsh Government Consultation on the Future Funding for Equality & Inclusion Grant Programme.

The Welsh Government's Equality and Inclusion Fund has for some time been at the centre of its work towards a more equal Wales, ensuring level access to services, tackling inequalities and seeking fairer outcomes for citizens.

The use of Emergency Powers was sought in order to respond to the Welsh Government's Equality and Inclusion Fund consultation by the deadline of 16<sup>th</sup> April, 2021.

(Scrutiny – Learning and Culture)

(e) Neighbourhood Services and Transport Capital Grants.

The use of Emergency Powers was sought for the following:-

- Drone Technology Grant - to include a new scheme called 'Drone Technology' with a budget of £33,623 on the 2020/21 Capital Programme to funded by a grant from Welsh Government.
- Transport Grants - that the grant schemes listed below are included in the 2021/22 Capital Programme to be funded by grants from Welsh Government.
  - Road Safety Capital Grant – A grant of £179,002 has been awarded for B4265 East Aberthaw to Gileston (£85,617) and B4265 Fonmon (£93,385).
  - Safe Routes in Communities – A grant of £611,400 has been awarded for Fairfield Primary School Community Street Design Project.
  - Core Active Travel Fund – A grant of £635,000 has been awarded for various active travel schemes.

- St Athan Active Travel Route - A grant of £1,061,600 has been awarded for St Athan Active Travel Route.
- Local Transport Fund - A grant of £369,635 has been awarded for bus stop improvements. The funding can only be claimed when the WelTAG information has been completed.
- Ultra Low Emissions Vehicle Transformation Fund – A grant of £50,000 has been awarded for EV charging for residential properties with no off-street parking. Funding can only be claimed when the WelTAG information has been completed. Funding is conditional on agreement of an approved Project Implementation Plan to be provided by May 31st 2021.

It is requested that the grant schemes listed above are included in the 2021/22 Capital Programme to be funded by grants from Welsh Government.

- Highway Refurbishment Grant - the Council has been awarded funding of £755,079 in relation to capital funding for Local Government Public Highways Refurbishment Grant 2021/22. The funding related to the period 1st April 2021 to 31st March 2022.
- Small Scale Work Grant – it is requested to include £237,379.50 grant for the above scheme into the 2021/22 Capital Programme to be funded by a grant from Welsh Government. It is also requested to vire £41,890.50 from the Flood Risk Management budget to the Small Scale Work Grant scheme in the 2021/22 Capital Programme.

(Scrutiny – Environment and Regeneration)

(f) Contract with Suez Recycling and Recovery UK.

The Council has an existing contract with Suez Recycling and Recovery UK for the processing of dry commingled recycling material. This contract was advertised via Sell2Wales during 2019 and awarded on the agreement for a period of one (1) year with the option to extend for up to an additional two (2) one (1) year periods.

Previous Emergency Powers were granted to engage with Suez for the processing of comingled recycling in April 2019 for a period of two years, one plus one.

The use of Emergency Powers was sought to use the last remaining year on the contract with Suez Recycling and Recovery UK or up until the Recycling Blueprint changes are complete (if less than one year).

(Scrutiny – Environment and Regeneration)

(g) Exceed Grant threshold for Major Adaptation Grant.

The Council offer through the Housing Renewal Policy 2014 offers a Major Adaptation Grant to a maximum grant amount of £60,000. Emergency Powers were requested to issue a grant of £69,208.78.

The use of Emergency Powers was sought to exceed grant threshold for Major Adaptation Grant for one individual case.

(Scrutiny – Environment and Regeneration)

(h) Flying Start Capital Grant 2021/22.

The Council was awarded funding of £150k in relation to Flying Start Capital 2021/22. The Funding relates to the period 1 April 2021 to 31 March 2022 and must be claimed in full by 31 March 2022.

The use of Emergency Powers was sought to increase the Capital programme by £150k for three schemes to be funded by a grant from Welsh Government.

(Scrutiny – Healthy Living and Social Care)

(i) Award of Carriageway Resurfacing Work – April to June 2021.

The Council previously tendered and awarded a contract for Carriageway Pavement Renewal in 2017/18 and at its meeting on 3rd April 2017 Cabinet approved the appointment of Tarmac Ltd (minute number C3531) to deliver the Council's highway surfacing program. An Emergency Powers (EP57) submission was subsequently approved on 16th June 2020 for an extension of the contract with Tarmac Ltd for an additional 12-month period to March 2021 with an increase of 2% on rates and prices due difficulties and working constraints caused by the Coronavirus Pandemic making retendering impracticable at that time.

In February 2021, the Council completed a detailed procurement exercise as part of the retendering process for a new Carriageway Pavement Renewal contract and following assessment Tarmac Trading Ltd have proved to be the most economically advantageous tenderer based on a quality price model of 30/70% split. A report has been drafted for consideration at the Council's Cabinet meeting on 7th June 2021 to obtain Cabinet approval for the formal award of this contract, however, the contractor confirmed that it had the necessary resources available to start undertaking essential resurfacing works identified on the Council's highway resurfacing 3 year plan during April 2021 to June 2021.

The use of Emergency Powers was sought to approve the award to Tarmac Trading Ltd. utilising their tendered rates provided for the Carriageway / Pavement Renewal Contract to be considered by Cabinet on 7th June 2021.

(Scrutiny – Environment and Regeneration)

(j) Acceptance of Access Improvement Grant Funding 2021/2022.

The use of Emergency Powers was sought to accept funding offered by the Welsh Government for countryside access improvements through the Access Improvement Grant scheme. It is also requested to include this grant onto the 2021/22 Capital Programme with a budget of £62,098 to be funded by a grant from Welsh Government.

(Scrutiny – Environment and Regeneration)

(k) Acceptance of Local Places for Nature Capital Funding 2021/2022.

The use of Emergency Powers was sought to accept further funding through the Local Nature Partnership Cymru Capital Funding stream, including the allocation of £74,415 for the Nature on your Doorstep activities.

(Scrutiny – Environment and Regeneration)

(l) Appointment of Harbour Master for Barry Old Harbour.

The use of Emergency Powers was sought to allow the Council to progress urgent legal action for the removal of unauthorised vessels moored in Barry Old Harbour.

(Scrutiny – Healthy Living and Social Care)

(m) Dinas Powys Primary School Playground Works

Dinas Powys Primary School have agreed to fund the cost of some playground works to include new flooring and equipment.

The use of Emergency Powers was sought to include a new scheme in the 2021/22 Capital Programme called 'Dinas Powys Primary School Playground Works' with a budget of £15,821 to be funded by a revenue contribution from the school.

(Scrutiny – Learning and Culture)

(n) 21st Century Schools Programme – Programme Contingency.

Funding for schemes included as part of the 21st Century Schools Programme is based on Welsh Government's size and cost standard. This allocates a maximum internal area for different sized school buildings based on the proposed capacity.

The use of Emergency Powers was sought to vire £300k from the Whitmore High School scheme and £800k from the Pencoedtre High School scheme as set out below in the 2021/22 Capital Programme: -

- Band B Primary Provision in the Western Vale (Llancarfan Primary School) £80k
- Band B St David's CIW Primary School £75k.
- Band B Ysgol Gymraeg Bro Morgannwg £45k
- Band B Contingency £900K

In order to ensure the contingency can be allocated in a timely manner, it is requested that delegated authority is given to the Director of Learning and Skills, in consultation with the Head of Finance/Section 151 Officer, to approve additions, deletions and transfers to and from the 'Band B Contingency' pot.

(Scrutiny – Learning and Culture)

(o) Ty Dewi Sant – Office Refurbishment.

A refurbishment is required at Ty Dewi Sant to convert the smoker's room to a hairdresser's room and an office refurbishment. The works are anticipated to cost £20K. The existing hairdressing facility is too small and not suited for people living with dementia. We aim to relocate this facility to a larger room (previous smoking room) and create a space which is dementia friendly.

The use of Emergency Powers was sought to vire £20K of this budget to a new scheme called 'Ty Dewi Sant - Hairdressing room and Office Refurbishment' in the 2021/22 Capital Programme.

(Scrutiny – Healthy Living and Social Care)

(p) 2020/21 Capital Slippage Request

The use of Emergency Powers was sought to approve slippage of unspent capital budgets for 2020/21 into 2021/22 which 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 is required as soon as possible. It is requested that emergency powers are also used to include funding to be carried forward from 2020/21 into the 2021/22 Capital Programme.

(Scrutiny – all Scrutiny Committees)

(q) Hwb Programme

The Council has been awarded £711,701 Hwb Ed Tech capital funding from Welsh Government for 2021/22.

The use of Emergency Powers was sought to increase the 2021/22 Capital Programme by £1,015k to be funded £712k grant from Welsh Government, £100k revenue contribution from schools and £153k contribution from the Policy revenue budget and a virement of £50k from the ICT allocation scheme on the 2021/22 Capital Programme.

(Scrutiny – Corporate Performance and Resources)

(r) Submission of Community Renewal Fund Bid to UK Government.

The use of Emergency Powers was sought to act as the Lead Authority for the Vale of Glamorgan on behalf of the UK Government to select and submit bids to the UK Government totalling £1,041,599.46 for consideration. The short bidding timeframe available prevented the submission from being able to go through the normal Cabinet processes.

(Scrutiny – Environment and Regeneration)

(s) Acceptance of Coastal Access Grant Funding 2021/2022.

The use of Emergency Powers was sought to accept funding offered by Natural Resources Wales for the Coastal Access Improvement Grant. An offer of £111,863 (one hundred and eleven thousand, eight hundred and sixty-three pounds) has been constituting £104,863 for maintenance & improvement of the Wales Coast Path (75% of total cost) and a further £7000 for path realignment (100% of costs).

(Scrutiny – Environment and Regeneration)

(t) Proposed Policy and Fees for Placing Items on Highway (tables and chairs, outside trading space, advertising boards, skips, scaffolding).

It has become apparent that the wording of the resolutions (1) and (2) in respect to Cabinet Minute C571 do not constitute the Executive's formal agreement of the Policies in question, due to the use of the words 'in principle'.

The use of Emergency Powers was sought to formally agree the 'Policy and Fees for Placing Items on Highway (tables and chairs, outside trading space, advertising boards, skips, scaffolding)', prior to the date of their planned introduction of 1st July 2021. This use of the emergency powers will of course be reported to Cabinet at the earliest opportunity.

(Scrutiny – Environment and Regeneration)

(u) Ysgol Y Deri Toilet Refurbishment .

Ysgol Y Deri School have agreed to fund the cost of refurbishing the pupil and staff toilets in the annexe building. The total cost of the works is anticipated to be £36k. Emergency powers is requested so that this scheme can be committed as soon as possible to be able to carry out the works whilst the existing contractor is still on site with the re-roofing project, which will enable best value for money to be achieved. The school funded works will be added as a variation to the existing re-roofing contract to utilise where appropriate previously competitively tendered rates, and to ensure continuity of site management.

The use of Emergency Powers was sought to increase the Ysgol Y Deri Works scheme budget by £36k in the 2021/22 Capital Programme to be funded by a revenue contribution from the school.

(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 Managing Director'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. Resources and Legal Considerations**

### **Financial**

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

### **Employment**

- 4.2 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)**

- 4.3 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

## **5. Background Papers**

Relevant Emergency Powers proformas.