

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 14 February 2022</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 6th December, 2021.
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 285 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 6th December, 2021.</p> <p>In line with para 2.6.2 (c) of the Council's Constitution all references to 'Managing Director' have been amended to 'Chief Executive' as at 25th January, 2022 to give effect to the Council decision on 24th January, 2022. This change will be reported for information to Council on 7th March, 2022.</p> <p>The Council's Constitution at page 285 (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, 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 6th December, 2021.

### **(a) Neighbourhood Services Highway Improvements**

At Cabinet on the 7th June 2021 the three contracts below were awarded for the period until the 31st March 2023:-

- Highway Resurfacing repairs be awarded to Tarmac Trading LTD.
- Highway Surface Dressing be awarded to RMS LTD.
- Highway Micro Asphalt treatment be awarded to Alun Griffiths LTD.

The report detailed that the estimated annual cost of works for 2021/22 associated with the Carriageway Resurfacing contract works was £850k; Surface Dressing contract works was £195k and Micro Asphalt contract works was £190k.

The Highways Resurfacing budget had overspent this financial year by £340k due to emerging resurfacing requirements.

The use of Emergency Powers was sought to increase the 2021/22 Capital Programme by £340k to be funded by a revenue contribution from the Policy budget. There was the possibility that there may be an additional resurfacing grant in year; were additional funding identified from the grant or other sources then this would be utilised in the first instance.

(Scrutiny – Environment and Regeneration)

### **(b) Cogan Primary Replacement Shelters and Viking Boat**

Cogan Primary are replacing two outdoor shelters and a role play Viking boat at the cost of £13,138. The spend is classed as capital expenditure and therefore requires approval on the Capital Programme.

The use of Emergency Powers was sought to include the new scheme with a budget of £13,138 in the 2021/22 Capital Programme to be funded by a revenue contribution from the school.

(Scrutiny – Learning and Culture)

(c) Flying Start Grant

The Council had received an additional £12k of grant funding from Welsh Government relating to Flying Start Capital 2021/22. The funding was for the Skomer Road Flying Start Extension scheme due to additional costs which had arisen due to the current economic climate.

The use of Emergency Powers was sought to increase this scheme budget by £12k in the 2021/22 Capital Programme to be funded by a grant from Welsh Government.

(Scrutiny – Healthy Living and Social Care)

(d) All Saints Church in Wales Primary School Fence

As a result of a recent incident, All Saints CIW primary school required a new fence to secure the area to one side of the playground which adjoined open land accessible to the community.

For the scheme to progress as soon as possible the use of Emergency Powers was sought to include a new scheme in the 2021/22 Capital Programme with a budget of £18,880, to be funded (85%) £16,048 grant from the Diocese and (15%) £2,832 virement from the All Schools Security scheme budget.

(Scrutiny – Healthy Living and Social Care)

(e) Disposal of Council Land to Cardiff & Vale College (CAVC) for Two Campus Developments next to Cardiff Airport and within the Innovation Quarter (Barry Waterfront)

In accordance with Cabinet Minute C621 authority was granted to dispose of two Council owned sites at Cardiff Airport Business Park and the Innovation Quarter at Barry Waterfront to Cardiff and Vale College (CAVC) by way of long leases (with a term of 999 years). The purpose of the pair of linked land disposals is to enable the college to facilitate delivery of two new state of the art multi-million pound educational campuses.

The disposal of the two sites to CAVC was being facilitated pursuant to the principles and best practices of the Welsh Government's Estate Coordination and Land Transfer Protocol. Both sites had been the subject of a land valuation by consultant land valuers (JLL).

The use of Emergency Powers was sought:-

- (i) to dispose of an additional strip of land (a Buffer Zone of up to approximately 2.5 acres) to CAVC alongside the campus site proposed next to the Airport; and
- (ii) for the Assignment or Underletting of part of the leases for the two Campus Sites, to Utility Providers, when required, to enable the construction of key services infrastructure for the delivery of both Campuses.

(Scrutiny – Environment and Regeneration)

(f) Dinas Powys Flood Resilience Project

The Council had been awarded a capital grant from Welsh Government of £140,500 in relation to the Dinas Powys Property Flood Resilience project. The funding related to the period to the period 16/11/2021 to 16/03/2022.

The purpose of the funding was to enable the Council to undertake a Business Justification Case to consider a Property Flood Resilience project for up to 244 properties within the village of Dinas Powys.

The use of Emergency Powers was sought to include a new scheme in the 2021/22 Capital Programme with a budget of £140,500 to be funded by a grant from Welsh Government.

(Scrutiny – Environment and Regeneration)

(g) Booster Bus Location Licence – Town Hall Car Park, Cowbridge

The Head of Operations Testing and Mass Immunisation for Cardiff & Vale UHB had contacted officers with a request to site a “Booster Bus” on one of the Council’s sites in Cowbridge in order to respond to the need to provide Booster vaccinations at pace to our Western Vale Community. The Health Board were commissioning a “Well Booster Bus” (see photo below) in order to deliver this service.

The use of Emergency Powers was sought to authorise urgent formal negotiations to be concluded with the UHB to allow Terms and Conditions to be agreed with them to park the Wells Booster Bus at the Town Hall Car Park in Cowbridge, and for a licence agreement to be entered into for the same (exact boundary to be agreed following a site meeting and assessment by officers and UHB partners).

(Scrutiny – Healthy Living and Social Care)

(h) Execution of a Deed of Dedication for the National Lottery Funding of Belle Vue Pavilion

The Council had been awarded £462,515 National Lottery Funding for Belle Vue Pavilion – Community Hub over 1 year. In order to secure the funding the Council was required to enter into a Deed of Dedication relating to the land on which the Pavilion is to be constructed.

The use of Emergency Powers was sought for the Head of Legal and Democratic Services and/or Operational Manager for Legal Services to execute the necessary documentation required to secure the National Lottery Funding for Belle Vue Pavilion.

(Scrutiny – Corporate Performance and Resources)

(i) Community Renewal Fund - Barry Bands Together

The Council had been awarded an £11k capital grant for Barry Bands Together - Community Regeneration through Musical Partnership. This would be paid out as a grant to Cardiff County and the Vale of Glamorgan Music Service, to refurbish the Vale of Glamorgan brass band premises as the music hub for the community.

The use of Emergency Powers was sought to include this new scheme into the 2021/22 Capital Programme to be funded by a grant from the UK Government.

(Scrutiny – Environment and Regeneration)

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

Due to an underspend in the Welsh Government Local Nature Partnership grant allocation, organisations were asked to submit proposals for further capital purchases / projects.

After consultation with officers in relation to the biodiversity projects undertaken annually, it was decided that the purchase of a remote controlled mower would be beneficial, as it would enable steep sided banks normally inaccessible to be maintained and managed for the benefit of biodiversity improvement.

The use of Emergency Powers was sought to increase the scheme budget by £45k in the 2021/22 Capital Programme which will be funded by a grant from Welsh Government.

(Scrutiny – Environment and Regeneration)

(k) HMLR National Land Registry Digitisation Project

The use of Emergency Powers was sought to accept a quotation received from DEF Software Ltd to undertake the following work in relation to the HMLR National Land Registry Digitisation Project:

- to remove approx. 70,000 duplicates from the LLC register. This is no fault of the Council as it was how the historical data was recorded in previous systems.
- to link approx. 60,000 polygons to planning charges offsetting the cost of creating polygons for planning charges either manually, via the migration helper or extracting your GIS layers and linking manually during Migration Delivery.

(Scrutiny – Corporate Performance & Resources)

(l) Ysgol Gymraeg Dewi Sant Outdoor Structures

Two new outdoor structures were being implemented at Ysgol Gymraeg Dewi Sant. The school was keen to enhance provision for outdoor learning and extended play, providing opportunities for pupils to learn and explore in their outdoor spaces. Having both structures implemented on the school site would greatly increase the school's provision for outdoor education, the structures would enhance the outdoor spaces available to the school, provide a rich and nurturing environment, help promote

creativity and be the school's first steps in their longer term plan to develop a garden and forest school area.

The use of Emergency Powers was sought so that the scheme could commence as soon as possible. It was requested to increase the All Wales Play Opportunities Grant 2021/22 scheme budget by £11k in the 2021/22 Capital Programme.

(Scrutiny – Learning and Culture)

#### (m) Penarth Marina Land Slip Works

There was currently an approved budget in the Capital Programme of £15k for phase 1 of the works which covered the boatyard section. In order to complete phase 1 a further £32,415 was required for the car parks works. The quote included replacement of 250m of fencing including new posts, removal of all materials from the ditch and repairs to the existing rock netting including taking down and replacing the close boarded fencing to the Dock car park.

The use of Emergency Powers was sought to increase the Penarth Marina Land Slip Works budget by £32,415 in the 2021/22 Capital Programme which was to be funded by a contribution from the Policy revenue budget.

(Scrutiny – Corporate Performance and Resources)

#### (n) Schools Capital Expenditure

Ysgol Sant Curig were installing an outdoor all weather football pitch in the school grounds. The total cost of the works was £23,532, it was anticipated the works would be carried out in February half term.

The use of Emergency Powers was sought to include the scheme on the 2021/22 Capital Programme to be funded by a revenue contribution from the school.

One of the large water heaters at Ysgol Bro Morgannwg was found to be leaking and needed replacing. The total cost of the works was £10,314.

The use of Emergency Powers was sought to include the scheme on 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 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. 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.