

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 27 April 2023</b>
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
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 16th March, 2023.
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 317 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 16th March, 2023.</p> <p>The Council’s Constitution at page 318 (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 16th March, 2023.

(a) Knap Skate Park.

The Knap Skate Park was currently on the 2022/23 Capital Programme with a budget of £87k and a budget of £240k in the 2023/24 Capital Programme. A grant of £81k from The National Lottery had been awarded to the Richard Taylor Memorial Fund to contribute towards the skatepark at the Knap in Barry. The Richard Taylor Memorial Fund had confirmed in writing that the money will be made available to the Council to progress the scheme

The use of Emergency Powers was sought to increase the scheme budget by £81k in the 2023/24 Capital Programme to be funded from the grant from the Lottery. This would result in a total scheme budget of £408k split £87k in the 2022/23 Capital Programme and £321k in the 2023/24 Capital Programme.

(Scrutiny – Healthy Living and Social Care)

(b) Ty Dewi Sant Boiler Replacement.

The use of Emergency Powers was sought to increase the budget for Ty Dewi Sant Boiler Replacement by £59k to be funded, £24k from the Ty Dyfan Boiler Replacement scheme, £8k from the IT Developments in Homes scheme, £18k from the Social Services Asset Renewal and £9k from the Corporate Landlord reserve (formerly known as the Council Building reserve).

(Scrutiny – Healthy Living and Social Care)

(c) Llanmaes Flood Management (Design & Development) Scheme.

The Council had been awarded an additional £120k grant funding from Welsh Government for the design and development of the Llanmaes Flood Risk Management Scheme, as part of an approved £142k increase in scheme expenditure.

The funding related to a reappraisal of the scheme benefits after increased construction costs reduced the scheme benefit-cost ratio below one (a pre-requisite for obtaining funding from WG for the construction phase) and enabling works to divert a Dŵr Cymru Welsh Water water main on Sigingstone Lane.

The use of Emergency Powers was sought to increase the 2022/23 Capital Programme budget by £142k to be funded by £120k grant and £22k match. The match funding would need to be vired from the Llanmaes Construction scheme, which was funded from the Neighbourhood Services & Transport reserve in the 2023/24 Capital Programme. It was therefore requested to bring forward and vire £22k to the Llanmaes Flood Management (Design and Development) scheme budget in the 2022/23 Capital programme.

(Scrutiny – Environment and Regeneration)

(d) Transitional Accommodation Capital Programme – Eagleswell School, Llantwit Major.

On the 7 September 2022, the Chief Executive Officer used his Emergency Powers to allow a decision to be made to appoint and enter into contract with the Wates Construction Ltd for the delivery of the above scheme, to ensure that a significant proportion of the project and project spend was delivered by the end of March 2023.

Prior to the use of Emergency Powers, Wates Construction Ltd estimated that the total scheme cost would be in the region of £17 million at that stage but would provide a detailed contract sum analysis should this proposal be approved. The design, survey and due diligence work had now been completed and the final contract sum proposed by Wates Construction Ltd had now increased to £23.7 million.

Welsh Government's Capital Funding approval was received on 12th December 2022, with a funding commitment of up to 50% of the total construction costs.

There was £17 million in the Housing Improvement Program, £5m in 2022/23 and £12 million in 2023/24. Due to the increase in contract cost, it was requested that the 2023/24 capital program be increased by £6.7 million to reflect the revised total budget of £23.7 million. This increase would be funded by 50% Welsh Government grant £3.35 million and the remaining £3.35 million will be reprofiled within the New Builds budget in 2023/24 and would be funded from additional borrowing which was affordable within the Housing Business Plan.

The use of Emergency Powers was sought to accept the increase in construction costs, adjust the Capital Programme in 2022/23, 2023/24 accordingly and enter into contract with Wates Construction Ltd.

(Scrutiny – Homes and Safe Communities)

(e) Seasonal Grass Cutting Services Contract.

As the previous 3 year contract had expired, the Neighbourhood Services team submitted an “invitation to tender” document to undertake seasonal grass cutting of open spaces and verges via Sell2Wales, earlier this year, for a 3 year plus 1 year contract. The value of the contract would be £289k. A figure in excess of the current budget by £61k per annum.

The use of Emergency Powers was sought so that the funding gap of £61k per annum be covered by excess income raised by the Neighbourhood Services and Transport Enforcement team. In 2021/22 the service out turned @ £127k and in 2022/23 a sum of £50k was estimated. This level of income was likely to continue throughout the duration of the grass cutting contract, enabling the ‘gap’ funding to be found each year. Funding from this service was largely generated from Civil Parking Enforcement and though there were controls as to how this funding could be spent, it was able to be used on highway related grass cutting.

(Scrutiny – Environment and Regeneration)

(f) St Athan Primary - Roof Renewal - Phase Two.

There was a rolling plan for the renewal of the entire roof coverings at St Athan primary school over the next few years. The first phase was currently on the 2022-23 Capital Programme with a budget of £370k and approaching the end of site works. There was an opportunity to retain the contractor on site which would allow the next areas of roof renewal which require the most urgent rectification to be undertaken more quickly than previously anticipated. The contractor for the initial phase of work had performed well and had built up a good understanding of the roof and the working arrangements with the school.

The use of Emergency Powers was sought to include a new scheme within the Capital Programme of £90k, split £5k in 2022-23 and £85k in 2023-24. The £5k in 2022/23 would be funded from a virement from the Education Asset Renewal contingency budget.

(Scrutiny – Learning and Culture)

(g) Community Grants 2022/23 to 2024/25.

YMCA

The Council charged £3,200 per annum ground rent for the Barry YMCA site. In the context of the significance of the premises within the community those costs were historically met by a grant award from the Corporate Grants budget which was held in Policy. As the current award ceased in 2021/22 it was proposed that emergency powers were used to offset the charges in 2022/23 and the arrangement be extended to 2023/24 and 2024/25 to bring it in line with other Corporate grants. Funding for the award was held in the Policy budget and could therefore be met from existing resources.

Citizens Advice Bureau (CAB)

At Cabinet on 14 March, 2022 it was resolved;

That a grant be awarded to Cardiff and Vale Citizens Advice Bureau (CAB) of £187,335 in 2022/23, £157,335 in 2023/24 and £157,335 in 2024/25.

The additional allocation of £30k in 2022/23 was funded from the Cost of Living Reserve (formerly Welfare Reform Reserve), the £157,335 base allocation was funding from the Corporate Grants budget which was held in Policy. In the context of the ongoing Cost of Living crisis it was proposed that the additional allocation of £30k be allocated again in 2023/24 and the additional funding be advanced from the Cost of Living Reserve. Following the allocation of the additional commitment against the reserve the uncommitted balance of the reserve was projected to be £489k at 31st March, 2025. It was currently proposed that the CAB funding returns to the allocation of £157,335 in 2024/25 which was funded from the Policy budget.

The use of Emergency Powers was sought to approve the allocation of additional grant funding to the Barry YMCA in 2022/23 and 2023/24 to meet the costs of the ground rent charged by the Council and to allocate an additional £30k funding to the Citizens Advice Bureau in 2023/24 to reflect the ongoing cost of living crisis to be funded from the Cost of Living Reserve.

(Scrutiny – Corporate Performance and Resources)

(h) Market Forces Drivers.

LGV Drivers had already been in receipt of the Market Forces rate from May 2022 until May 2023. The report was to request a further extension to March 2024 and proposed that all Recycling, Waste, Cleansing and Highway drivers on winter maintenance would continue to be paid a temporary market supplement equivalent to grade 6 on spinal point 19 for a period of 10-months from the 1 June, 2023 to 31 March, 2024 whilst there continued to be a skills shortage. Increasing rates in the lower end of the grade would not be enough to retain staff or attract new drivers, due to the rates offered within the private sector.

The use of Emergency Powers was sought to seek authority to continue to extend the LGV market forces driving rate for Recycling, Waste, Cleansing and Highway drivers (winter maintenance) for a period between 1 June, 2023 and 31 March, 2024 (43 weeks), to help continuity of service which was affected by the national skills shortage and the general availability of professional drivers.

(Scrutiny – Environment and Regeneration)

(i) Welsh Coastal Monitoring Centre 2021-26 – Authority to award works in advance of Welsh Government offer of 2023/24 grant funding.

The use of Emergency Powers was sought to award £47,350 of survey work prior to formal confirmation of the Welsh Government 2023/24 grant funding offer. The order would be split across two existing revenues budgets, Sea Defence and Land Drainage as an interim arrangement until formal funding confirmation was received

from Welsh Government. Should the grant funding not be confirmed on 25th April, 2023, any surveys not yet undertaken would be cancelled with minimal abortive costs anticipated due to the nature of the works.

(Scrutiny – Environment and Regeneration)

(j) Capitalise Spend on School Codes.

The following schemes had been coded to revenue but were over £10k and were capital works/equipment and therefore needed to be added to the capital programme.

The schemes below would be funded from the school revenue budget:

- St Brides Primary School had undertaken refurbishment of the Headmaster's office, small office, unisex toilets and works in relation to the adjoining hall at a total cost of £79,561.
- Jenner Park Primary School completed a renovation of an old garage structure at the school at a cost of £54,031 which had been made structurally sound and redecorated with improved fire safety provision. The aim was for the space to be used for a community accessible "pay as you feel" shop which would support families in this time of difficulty.
- Cadoxton Primary School undertook works to improve their dining hall and purchase furniture and equipment and the total project cost was £60,243.
- Barry Island Primary School installed a new play area in the sum of £38,194.
- Llansannor Primary School undertook work for wooden outside structures for play which totalled £44,378.
- Ysgol Bro Morgannwg – two schemes had been undertaken at the school. The first in relation to a new alarm system totalling £16,103.00. The second in relation to restoration work to windows and doors in the sum of £12,082.
- Y Bont Faen – emergency repairs to the ceiling were required at a total cost of £14,525.

The schemes below would be funded from a central Education budget:

- St Nicholas C/W Primary School – work was required at the school to repair the roof which totalled £17,316.
- St Helens new boiler – A new boiler was required at the school as a cost of £10,326.

The following scheme would be funded from the Culture reserve:

- Cowbridge Library had refurbished the toilets at a total cost of £10,505.

The use of Emergency Powers was sought to add the relevant schemes totalling £357,264 to the 2022/23 Capital Programme.

(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.