

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 21 September 2023</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 20th July, 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 319 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 20th July, 2023.</p> <p>The Council's Constitution at page 319 (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 20th July, 2023.

(a) Brilliant Basics Fund 2023 & Wales Coast Path 2023/24 – St Donats Realignment.

The Council had received an award of funding from National Resource Wales (NRW) in the sum of £18K to fund the following works for the year 2023-2024. The funding start date was 15th June, 2023 and had to be spent by 31st March, 2024. The funding awarded covered 100% of the total project costs.

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by the grant funding for £18K.

(Scrutiny – Environment and Regeneration)

(b) Empty Homes Grant.

The Council had received an allocation of funding from Welsh Government which would be administered through Rhondda Cynnon Taf County Borough Council in the sum of £846k.

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by £845k to be funded from the Welsh Government grant.

(Scrutiny – Home and Safe Communities)

(c) Pencoedtre High School – Contract Increases.

The project was part of the transformation of English and Welsh Medium Secondary Education in Barry (Pencoedtre High School, Whitmore High School and Bro Morgannwg). The total cost of the scheme was £33.889m, £23.645m contribution from Welsh Government (65%) and £10.244m of Council funding (35%).

In June 2023, the Council received an updated cost profile report for the project from the contractor which included additional works totalling £101,393.73. Estyn also raised concerns over the school security, which were addressed by the

Sustainable Communities for Learning Team. The Council had chosen to appoint contractors to install a 120m fencing surrounding the school site at a cost of £120,000.

With the project completed, the project retention would soon need to be released for the work completed by the contractor. The sum of £66,416.59 would also need to be released.

The contract value had increased; however, the project was still well within the capital budget proposed of £33,889,000. The additional costs would be absorbed by savings identified within the scheme and by the contingency.

The use of Emergency Powers was sought to increase the contract value for Pencoedtre High school from £31,205,118.19 to £31,492,928.51.

(Scrutiny – Learning and Culture)

#### (d) Barry Waterfront – Increase Contract Value.

During 2022/23 the Ysgol Sant Baruc (Waterfront) scheme had spent over the anticipated profile in year. The only source of funding available to pull forward was Welsh Government grant, however as this was not possible during the closing period it was proposed that the 2023/24 grant allocation for the scheme be reduced by £1.7m and increased on Ysgol Y Deri by £1.445 and St Nicholas by £255k. That released internal reserves in 2023/24 on YYD and St Nicholas which had been brought forward to fund Ysgol Sant Baruc in 2022/23.

The use of Emergency Powers was sought to:-

- a) increase the contract value to pay the Consortium to £4,909,735.65.
- b) increase the total scheme budget to £9,523,213.15.

(Scrutiny – Learning and Culture)

#### (e) Ysgol y Deri Expansion Project.

On 2nd November, 2020, Cabinet authorised the Director of Learning and Skills to undertake a consultation on the proposal to increase the capacity of Ysgol Y Deri by 150 places to meet future demand for special education.

On 14th June, 2023 all planning conditions, which included the pre-commencement conditions, were formally issued. Works on site would commence within the time period of 31st July, 2023 and 15th September, 2023 and were estimated at £150,000.00.

A Cabinet report was being drafted to move this project to stage 2 of delivery, confirming the full costs of project.

The use of Emergency Powers was sought to allow works up to the value of £150,000.00 to commence on site prior to the authorisation of the required Cabinet report, which was to be submitted for inclusion within the committee meeting being held on 7th September, 2023.

(Scrutiny – Learning and Culture)

(f) Community Focused Grant 2023/24 & 2024/25.

The Council had received an award of funding from Welsh Government for £2.016M. The aim of the grant was to build on the 2022-23 capital allocation in support of Community Focused Schools. It would specifically focus on strategic infrastructure investment across Wales that promoted the effective use of our education and community assets for learners and the local community alike.

The funding related to eligible capital expenditure during the period 1st April, 2023 to 31st March, 2025. The grant allocation table below confirmed the individual schemes:

Scheme	2023-2024	2024-2025	Total
	£'000	£'000	£'000
Jenner Park Primary	25	0	25
Colcot Primary	0	230	230
Holton Road	136	0	136
Gladstone Primary	35	0	35
Romilly Primary	250	0	250
Ysgol Y Ddraig	110	0	110
Pencoedtre High		400	400
Derw Newydd	0	200	200
Pendoylan CiW Primary	95	0	95
St Andrews CiW Primary	35	0	35
St Brides Major CiW Primary	500	0	500
<b>TOTAL</b>	<b>1186</b>	<b>830</b>	<b>2016</b>

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by £1.186M and the 2024/25 Capital Programme by £830K to be funded from Welsh Government Grant.

(Scrutiny – Learning and Culture)

(g) Western Gateway Regeneration Project.

The Western Gateway Regeneration Project (formerly called the Barry Town Centre Gateway Regeneration Project) originally aimed to facilitate the redevelopment of the Gladstone Road Bridge Compound Site (Phase 1) and Broad St Clinic Site (Phase 2). The project was originally approved at a Cabinet meeting during June 2021 (Cabinet Minute C584 refers).

At its meeting of 1st August, 2023, the Barry Regeneration Project Board considered the project, and it was agreed by the Board for Emergency Powers to be sought to:

- a) widen the scope of the project to include Phase 3.

- b) reflect that since reporting to Cabinet in June 2021 that there had been changes to the portfolio title of the Cabinet Member and the job titles of two of the senior managers referred to in the said Cabinet Minutes.

In addition, at the request of the Operational Manager Accountancy, it was confirmed the Officer Project Team would be committed to pursuing opportunities for additional funding as part of the project (e.g., Regional Integration Fund through the Regional Partnership Board, Active Travel funds etc.).

The use of Emergency Powers was sought as there was insufficient time to report to Cabinet because items a) and b) needed to be approved prior to the submission in early August of a Transforming Towns Grant application (to raise funding towards the total cost of the Gateway project). The grant application needed to be submitted in early August in order to keep to the Programme for project delivery, factoring in that the TT grant scheme ends on 31st March, 2025.

In order to meet project delivery timelines, it was also requested that Delegated Authority be granted to the Director of Place, the Head of Housing and Building Services, the Head of Finance and Deputy Leader and Cabinet Member for Sustainable Places to amend the Capital Programme to reflect the profile and include additional grant funding for the schemes.

(Scrutiny – Environment and Regeneration)

(h) Homeless Leasing Scheme.

The existing homeless leasing scheme had been operated by Cartrefi Hafod on behalf of the Council for a number of years and provided temporary accommodation which was used for homeless households.

Cartrefi Hafod had given notice to the Council they wished to bring the leasing scheme to an end, which put 24 tenants at risk of homelessness. Originally the scheme was scheduled to end in December 2023, however due to operational reasons, Cartrefi Hafod needed to bring forward the closure of the scheme and intended to issue notices to existing occupants which would leave them without accommodation in August 2023. There was therefore a need to make an urgent decision in order to secure the properties and prevent the current tenants being made homeless.

The use of Emergency Powers was sought in order:-

- To establish a Homeless Leasing scheme within the Housing Solutions team.
- That responsibility for monitoring the development and implementation of the Homeless Leasing scheme be referred to the Housing and Safe Communities Scrutiny Committee.
- That the Head of Finance be authorised to negotiate a standard lease arrangement with property owners for the Council to manage and maintain the existing homes used for homeless leasing.
- That the Head of Legal and Democratic Services be authorised to sign the lease agreements.

(Scrutiny – Homes and Safe Communities)

(i) Belle Vue Community Centre, Penarth.

The use of Emergency Powers was sought to agree interim management arrangements as follows to enable the New Community Centre at Belle Vue in Penarth to open as soon as possible:-

1. Authority for the Director of Environment and Housing, in consultation with the Cabinet Member for Leisure Sport and Well-Being, the Leader and the Chief Executive:
  - a. To negotiate the terms of a licence with the Big Fresh Catering Company to operate a café and kiosk and room 3 within the Centre, initially for a period of up to 12 months. Such terms to include:
    - i. Formal reviews of all terms of the licence at months three, six, nine and twelve, with the potential for parties to exit the licence arrangement at any of these formal review points.
    - ii. A rent-free period of initially one quarter £9,500 (with the potential to extend for up to a further quarter at an additional £9,500) to be granted to Big Fresh during the establishment of the venue.
    - iii. A fee being paid to the Council of £9,500 per quarter (which is equivalent to 16% of Big Fresh's turnover for the catering operations and room hire revenue from the Centre) subject to points i and ii above.
  - b. To negotiate a Management Agreement with Big Fresh Catering company for rooms 1 and 2 within the centre terminable on 14 days notice to:
    - i. Enable Big Fresh to administer the Centre hiring arrangements within the Centre using its point-of-sale system and to retain all income.
    - ii. For BFCC to liaise with officers from Neighbourhood Services and Transport who are responsible for the operation of bookings for rooms 1 and 2.
    - iii. Agree daily facilities arrangements, whereby the cleaning of the licenced area (commercial kitchen, kiosk and room 3), is the responsibility of Big Fresh, whilst the cleaning of all other areas of the Centre is the responsibility of Neighbourhood Services and Transport.
2. That officers from Neighbourhood Services and Transport be responsible for setting the Centre hire fees and arranging bookings in consultation with a representative from FOBV, Big Fresh and the Bowling Club, until such time a committee can be formally established.
3. That the Director of Environment and Housing in consultation with the Cabinet Member for Leisure Sport and Well-Being, the Leader and the Chief Executive be delegated authority to agree the details of the Committee Constitution and to then set up the Committee.
4. That a licence to operate rooms 1 and 2 and ancillary space be granted to the Committee (when formally established), with the details of this to be delegated to

the Director of Environment and Housing in consultation with the Cabinet Member for Leisure Sport and Well-Being on the basis that:

- a. all hire fees are managed by and paid to Big Fresh.
  - b. all the operating costs of the centre are paid by the Vale of Glamorgan Council with a contribution from the Big Fresh fee.
  - c. All income and expenditure details are shared with the Committee when established so that the successful, sustainable operation of the Centre can be best achieved.
  - d. The Council will make financial contributions back to the Management Committee, as appropriate, to assist them with community events and any ancillary Centre costs, should the income the Council receives exceed its expenditure and cover all asset renewal costs. This would be up to a maximum of £1k per annum and be met from Environment & Housing budgets.
5. Delegated authority for the Director of Environment and Housing to instruct the Head of Legal and Democratic Services/Operational Manager for Legal Services to draft and complete all necessary legal documentation required in relation to the above.
6. That a sum of up to £19k be ringfenced in the Council's reserves in the first year to help support the operating costs of the Centre. This would be met equally from Environment & Housing and Corporate reserves.

(Scrutiny – Healthy Living and Social Care)

(j) Storage and Backup System Renewal.

**Storage:** All of the Council's data resides on on-premise hardware infrastructure which was managed by the Council's ICT team. Some of the hardware elements had become end of life and needed to be replaced and the total available storage needs expanded as the current environment was essentially all used up due to the volume of data the Council has amassed and processes on a daily basis.

**Backups:** The Council backs up its data on a daily (and other schedules) to safeguard it in the event of hardware failures, cyber attacks, etc., and the Council was required to store and back up data in line with a number of data retention criteria. The backups had started to fail because there was not enough storage capacity.

**Hardware Refresh Programme:** The drafting of a 10 year hardware refresh programme was nearing completion. This would allow end of life hardware replacements to be planned in the future in terms of procurement and implementation but would also allow for the funding to be in place when required.

In the short term, the additional storage required will cost £130,917.

The use of Emergency Powers was sought to:-

- i. Increase the 2023/24 Capital Programme by £130,917 to be funded from the allocation from the Digital Reshaping reserve.

ii. For delegated authority to be approved for the Head of Legal Services to sign a contract with the Council's preferred supplier.

(Scrutiny – Corporate Performance and Resources)

(k) Oracle Fusion.

The use of emergency powers was sought to provide a further update following 'Go Live' and implementation of Oracle Fusion.

The use of Emergency Powers was sought to:-

- (1) Update Cabinet on the outcome of the commercial negotiations with Mastek, following 'go-live' in April 2023, and to enter into a Settlement Agreement with Mastek to bring this dispute to a conclusion thereby safeguarding the Council's position and managing the financial and reputational risk to it.
- (2) Provide appropriate authority for the settlement payment to be made.
- (3) Update Cabinet on the outcome, following 'go-live' in April 2023, on conclusion of the commercial negotiations and settlement achieved and to report on a review of lessons learnt to take forward to future digital projects.

(Scrutiny – Corporate Performance and Resources)

(l) Summer Holiday Free Schools Meals Support.

Holiday payments for learners eligible for a free school meal was introduced by Welsh Government in response to the COVID pandemic as a time limited support to help families. Welsh Government was able to support several temporary continuations of the scheme but confirmed in March 2023 that the most recent extension of the scheme would only be up to the end of the May half term.

It was appreciated that the provision offered to those eligible throughout holiday periods had proven popular and understood that not extending the offer further was disappointing. It was also recognised that economic challenges continued to place those families under pressure and whilst it was not financially viable to fully replicate the £3.90 per day Welsh Government scheme, £220,800 had been identified from the corporate Cost of Living Reserve to make a one off £50 payment per child this summer.

The use of Emergency Powers was sought to make a one off payment of £50 per child to families in receipt of free school meals towards food costs during the 2023 school summer holidays.

(Scrutiny – Corporate Performance and Resources)

(m) Ysgol y Deri Expansion Project.

Emergency Powers dated 27th July, 2023 requested approval to allow works up to the value of £150,000.00 to commence on site. Due to the tight timescales of project delivery and having already experienced a number of delays out of the Council's



control, approval was sought to provide assurance to proceed and mitigate any further delays.

The use of Emergency Powers was sought to:-

- 1) Accept the stage two tender from ISG contractors and the final project cost.
- 2) Amend the Capital Programme budget and profiles for the Band B Ysgol Y Deri scheme.

(Scrutiny – Learning and Culture)

(n) Increase Capital Budget for the Eastern Shelter Refurbishment Scheme.

As part of the concrete repair works to the Eastern Shelter at Barry Island, further detailed survey works showed that the concrete to various parts of the shelter structure were found to be in a worse condition than originally anticipated on commencement of the project. All the necessary works were successfully completed by CRL Ltd. on 1st August, 2023 and the final measured value of the work was £566,916.80.

The use of Emergency Powers was sought to increase the value of the contract and Order issued to CRL Ltd order by £124,251.87 to the final contract sum of £566,916.80 in order to make the final certified contract payment to the contract within the required 28-day period for payment.

(Scrutiny – Environment and Regeneration)

(o) Authority regarding the Placement of Child C.

The use of Emergency Powers was sought to ensure that the placement of a child was given proper consideration and sign off. The child's current placement had given notice and accommodation had therefore been arranged with support workers and a visiting foster carer, which was considered to be a reasonable approach and proportionate under the circumstances.

(Scrutiny – Healthy Living and Social Care)

(p) Vale Telecare – Chiptech International Limited.

There was a need to procure a supplier for digital telecare base units and peripherals for citizen's houses.

The use of Emergency Powers was sought to:-

- To approve £900k contract with Chiptech International Limited through Northern Housing Consortium Framework to enable continued replacement of obsolete technology.
- Note the direct award through Consortium Procurement (Northern Housing Consortium) under Contracts Procedure Rule 17.4.2 (e) for proprietary supplies.

- To approve the contract for a 3-year term with the option of a one year extension.

(Scrutiny – Healthy Living and Social Care)

(q) Housing Airey Properties Refurbishment Scheme.

The Housing and Building Services Team had an ongoing refurbishment scheme with K&C Pearce Ltd to refurbish the Aireys (Non-Trad) properties located at 1,2 and 5 Castle Green.

The team had also identified no. 4 Castle Green as requiring refurbishment. The refurbishment on the property was in the main similar to the works being completed by K&C Pearce Ltd on properties 1,2 and 5, apart from the walls not being knocked down and rebuilt with a traditional brick cavity but over-boarded and external wall insulation installed.

The use of Emergency Powers was sought to:-

- Agree an exemption from contracts procedure rules using 17.4.2 (d & f).
- Delegate Authority to the Head of Legal Services to amend the JCT Intermediate contract 2016 with K&C Pearce Ltd by increasing the value of the Aireys refurbishment contract to £1,083,030.28 (to include the refurbishment of no 4. Castle Green).

(Scrutiny – Homes and Safe Communities)

### **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.