

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 23 May 2024</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 11th April, 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 327 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 11th April, 2024.</p> <p>The Council’s Constitution at page 327 (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 11th April, 2024.

(a) Capital Funding grant in relation to Early Years and Childcare Capital Programme 2023/24 & 2024/25 – St Athan & Bumblebee.

The Council had been awarded a grant from Welsh Government for funding in relation to Early Years and Childcare Capital funding in the sum of £450k for St Athan and £350k for Bumblebees Childcare.

The use of Emergency Powers was sought to enable the inclusion of the grant amount that requires spending by yearend and increase the 2023/24 and 2024/25 Capital Programme.

(Scrutiny – Learning and Culture)

(b) Housing Airey Properties Refurbishment Scheme.

The Airey Properties refurbishment scheme was originally identified to include three properties in Castle Green During the completion of the works emergency powers were granted to include an additional property to the project, which increased the overall contract value for the scheme.

Due to a number of unforeseen works and extensions of time requiring variations to complete the desired refurbishment of the four properties, the final cost of the works had exceeded the value of the contract by over £50k.

The use of Emergency Powers was sought to:

- Increase the value of the contract with K & C Pearce Ltd. from £1,083,030.28 to £1,180,472.77.
- Vire £97,442.49 underspend from the capital budget Energy Efficiency line to HRA Externals, Aireys line to fund the increase in costs.
- Increase the current purchase order number from £958,075.40 to £1,036,596.65.

(Scrutiny – Homes and Safe Communities)

(c) School Transport Services – September 2024.

In 2019 the Council created a Dynamic Purchasing System (DPS) in order to tender and award contracts for all school transport services. The existing contracts were set to expire in July 2024 and the Council were able, by mutual agreement, to extend annually for up to an additional five years.

To inform the Council's decision information had been collected from all current operators who undertook school services and the question posed on the price they would be willing to accept to continue the service from September 2024.

The use of Emergency Powers was sought to progress the uplift of daily prices for a number of school transport services and extend existing contracts for an additional year from September 2024. As the combined value of these contracts was above £6m emergency powers were required.

(Scrutiny – Environment and Regeneration)

(d) Capitalise Spend on School Codes.

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

- Gladstone Primary School - Since the work undertaken on the Free School Meal grant to improve their dining hall, the school had purchased furniture and the total project cost was £17,746.95.
- Pendoylan Primary School – Pendoylan Primary School had undertaken roof repairs to their nursery at a total cost of £19,913.42.
- Rhws Primary School – Since the work undertaken on the Free School Meal grant to improve their dining hall, the school had purchased furniture and the total project cost was £11,032.
- Rhws Primary School – following building works at the school, replacement flooring was installed through the “New build”. Carpet flooring in the classrooms and vinyl flooring through the communal corridors in the sum of £16,513.98.
- Ysgol Y Deri – A CCTV system had been purchased and installed at the school in the sum of £12,265.50.
- St Brides – The school had undertaken works to replace the cladding on the exterior of the building for the sum of £10,102.78
- Ysgol Sant Baruc – Following the building of the new school, furniture and equipment was purchased totalling £10,546.12
- Cowbridge Comprehensive – 5 schemes have been undertaken at the school as indicated in the table below.

<b>Scheme</b>	<b>Total Project Cost</b>
Integrated Fencing	£14,322
Installation of Videowall System	£15,379
Multi Use Games Area	£388,297.70
Glass Walls in Library	£25,930
<b>Total</b>	<b>£443,929</b>

- Pencoedtre High School – 3 schemes have been undertaken at the school as indicate in the table below:

<b>Scheme</b>	<b>Total Project Cost</b>
Pencoedtre High School Refurb Field	£12,817.74
Pencoedtre High School Electric Works	£10,799.08
Pencoedtre High School – School Gym refurb	£31,049
<b>Total</b>	<b>£54,665.82</b>

The use of Emergency Powers was sought to add the below schemes totalling £596,715.57 to the 2023/24 Capital Programme.

(Scrutiny – Learning and Culture)

(e) Operating Without Registration Placement – Child C.

Child C had been in residential care since August 2021. Their current provider had given notice and despite rigorous searches, it had not been possible to identify an alternative placement.

The use of Emergency Powers was sought to rent accommodation on a weekly basis and put in place a support team to look after Child who would be supported by staff from Esteem.

(Scrutiny – Healthy Living and Social Care)

(f) Cost of Processing Kerbside Collected Comingled Recycling Material.

The Council had appointed Suez to process and treat its comingled recycling material for a short-term contract until source separated collections were fully rolled out across the Vale. Since the phase 3 rollout of source separated recycling in Penarth and the surrounding areas, there had been a significant decrease in the amount of comingled material collected and more than initially anticipated. Due to the decrease, there was now a logistical impact which was affecting the haulage weights that were collected by Suez.

The use of Emergency Powers was sought to increase the cost of processing kerbside collected comingled recycling material with Suez Recycling and Recovery UK (Suez) from £100 per tonne to £120, as a consequence of introducing phase 3 of Recycling and Waste service changes.

(Scrutiny – Environment and Regeneration)

(g) Transport Grants.

A total of £3,707,854 had been granted in respect of Transport Grants, and those grants were identified below:

Active Travel - The Council had been awarded £2,102,335 grant from Welsh Government in relation to the Active Travel Fund 2023/24. The Funding related to the period 1st April 2024 to 31st March 2025.

Road Safety Capital - The Council had been awarded £477,033 grant from Welsh Government in relation to the Road Safety Capital grant to support schemes and projects that contributed to the Welsh Government objective to reduce casualties on Welsh Roads.

Safer Routes in Communities - The Council had been awarded £624,868 grant from Welsh Government in relation to the Safe Routes in Communities grant 2024/25. The Funding related to the period 1st April 2024 to 31st March 2025.

20mph Grant - The Council had been awarded £503,618 grant from Welsh Government in relation to the 20mph Capital grant 2024/25. The Funding related to the period 1st April 2024 to 31st March 2025.

The use of Emergency Powers was sought to enable the grants to be added to the 2024/25 Capital Programme and to allow works to commence. Works were unable to begin until the schemes were added and if that was delayed would impact the delivery of the grant in the grant timeframes.

(Scrutiny – Environment and Regeneration)

(h) RNLI Beach Lifeguarding Contribution.

The RNLI had provided beach lifeguarding services to the Authority since 2012. However, the RNLI had advised, that they were also subject to significant cost pressures and were seeking to gradually increase the Council's contribution by 2028. The RNLI understood that there were financial pressures imposed on Local Authorities and were therefore willing to maintain subsidies but were seeking a modest 1-2% plus

RPI percentage increase for calendar years up to 2028 to ensure the agreement remained sustainable.

The use of Emergency Powers was sought to increase the Council's contribution to beach lifeguarding, a service provided directly by the RNLI at four Vale beaches annually, during the bathing water season.

(Scrutiny – Environment and Regeneration)

(i) Sale of Surplus Highway Land at Heol y Pentir Rhoose.

An Emergency Powers application was sought and approved in November 2023 for the following land transactions in Rhoose associated with the provision of an active travel route and a social housing development:

- a. the purchase of highway land at Havant Close, Rhoose for £1.00, from Wales and West Housing Association (WWHA).
- b. the sale of surplus highway land at Heol y Pentir, Rhoose, for £21,500, to Wales and West Housing Association (WWHA).

Whilst the transaction from W&WHA was completed due to its urgency, W&WHA did not immediately pursue the acquisition of the Heol y Pentir site as they felt that the valuation for the disposal of land to enable the onward delivery of much needed social housing should be taken account of and felt that the same consideration should be given in tandem with the valuation of land transferred from them as part of the Active Travel Route.

The land was in the freehold ownership of the Highways department of the Council within Neighbourhood Services and Transport. The small piece of land had been deemed surplus to highway requirements.

The use of Emergency Powers was sought to progress the urgent land sale of the surplus land at Heol y Pentir, Rhoose at less than best consideration to facilitate the development of 17 social housing properties for allocation via Homes 4 U.

(Scrutiny – Environment and Regeneration)

(j) Additional Spend against NST Maintenance of Traffic Signals.

The Council originally awarded a contract to Centregreat Ltd on 1st December, 2022 following a competitive tendering process for the Maintenance of Traffic Signals and Pedestrian Crossings, Vehicle Activated Signs and Associated equipment and covered the 2023/24 period. Expenditure had exceeded the contract award in 2023/24 and whilst the works had still been incurred by Centregreat due to the important strategic importance of the assets to the overall highways network, payments had been held pending the approval of the increased expenditure against the contract.

The use of Emergency Powers was sought to approve an increase in contract award to £107,000 for 2023/24 for the Maintenance of Traffic Signals and Pedestrian Crossings, Vehicle Activated Signs and Associated equipment Contract with Centregreat Ltd for 2023/24 to ensure continuity of service and for these vital maintenance works. The

budgetary position would be mitigated by reimbursement from insurance where possible.

(Scrutiny – Environment and Regeneration)

(k) Cadoxton Primary School Drainage & Community Focused School Grant - St Brides Major Lobby Refurbishment.

Cadoxton Primary School Drainage

Drainage works were required at Cadoxton Primary School in the main kitchen. Works would be undertaken to transport existing equipment from the area within the kitchen to another to ensure that the equipment was not damaged while the work was undertaken.

The use of Emergency Powers was sought to include the scheme in the 2024/25 Capital Programme for the urgent works.

Community Focused School Grant - St Brides Major Lobby Refurbishment

The scheme was currently on the 2023/24 Capital Programme with a budget of £600k. The scheme was funded £500k from the grant under Community Focused Schools and £100k contribution from the school. The school had requested further works be undertaken in relation to the construction of a new entrance lobby as part of the contract works currently on site. A further contribution would be provided by the school for £60k to cover the cost of the new lobby and associated professional fees.

The use of Emergency Powers was sought to increase the contract value with Willis Construction from £520,774.00 to £572,581.26. This was requested under Contract Procedure Rule paragraph 17.4.2 (d) with an organisation already engaged by the Council for a similar and related procurement and where there was significant benefit to extending the contract to cover the additional requirement, without exposing the Council to unacceptable risk provided always that there was no breach of any legal requirements including EU treaty principles and Public Contracts Regulations from time to time in force.

(Scrutiny – Learning and Culture)

(l) Longmeadow Court Sheltered Housing Scheme External Refurbishment Project 2022-23.

The Longmeadow Court Sheltered Housing Scheme External Refurbishment Project 2022-23 was awarded with a contract value of £868,107.18 to be delivered by SMK Building & Maintenance Ltd and included replacement roof, fascia's, rainwater goods, external wall insulation, new windows and external doors, along with a new entrance and pathway.

Due to a number of unforeseen works and extensions of time requiring variations to complete the desired refurbishment project, the final cost of the works has exceeded the value of the contract by over £102,672.97.

The use of Emergency Powers was sought to:

- Increase the value of the contract with SMK Building & Maintenance Ltd. from £868,107.18 to £970,780.15.
- Vire £102,672.97 from the capital budget 2024/25 Energy Efficiency line to HRA Individual Schemes, Longmeadow line to fund the increase in costs.
- Increase the current purchase order number from £868,107.18 to £970,780.15.

(Scrutiny – Homes and Safe Communities)

(m) Capitalise Spend on Revenue Codes for Place & Resources.

The following schemes had been coded to revenue however as they were over £10k and capital works/equipment they needed to be added to the capital programme. It was requested to add the schemes below to the 2023/24 Capital Programme to be funded from revenue budgets.

Place

- Cosmeston works – A concrete path had been replaced at the Country Park in the sum of £11,274.08.

Resources

- Alps – Replacement of Dust Extraction system - The joinery shop in the Alps depot had a dust extraction system required under health and safety legislation. The old system was failing and beyond economical repair, and a replacement system was fitted totalling £22,453.47

The use of Emergency Powers was sought to include the schemes below totalling £33,727.55 in the 2023/24 Capital Programme.

(Scrutiny – Corporate Performance and Resources)

(n) Coastal Access Improvements (CAIP) - Wales Coast Path Grant.

The Council had received an award of funding from Natural Resources Wales (NRW) in the sum of £22.5K to fund works for the year 2024-2025. The funding must be spent by 31st March, 2025.

The grant funding awarded covered 75% of the total project costs of £30K and the Council would contribute 25% of the costs of £7.5k, through staff time

The use of Emergency Powers was sought to increase the 2024/25 Capital Programme by the grant funding for £30K to be funded £22.5K from Natural Resource Wales grant and £7.5K from the Countryside revenue budget.

(Scrutiny – Environment and Regeneration)



### **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.