

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 16 December 2019</b>
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	<b>Use of the Managing Director's Emergency Powers</b>
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Managing Director since the last report on 9 <sup>th</sup> September, 2019
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:	All actions fall within Paragraph 1 of the Managing Director's Delegated Powers set out on page 270 of the Council's Constitution
<p>Executive Summary:</p> <p>To advise Cabinet of the exercising of Emergency Powers by the Managing Director since the last report of 9<sup>th</sup> September, 2019.</p> <p>The Council's Constitution at page 270 (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 9<sup>th</sup> September 2019.

### **(a) Penarth Heights S106 – Option 1 Re-alignment of Roundabout Junction at Windsor Road and Plassey Street, Penarth**

Emergency Powers were requested to award the contract for the Option 1 Penarth Heights Section 106 Scheme at a value of £565,128.50 on the grounds of best value to the Council and to enable the contract to be awarded and works to commence on or shortly after 7<sup>th</sup> October, 2019 to enable the spend of the Penarth Heights Section 106 monies by February 2020.

(Scrutiny – Environment and Regeneration)

### **(b) Travel Loan**

The maximum value for the Annual Travel Pass within Cardiff's Travel Plan was currently £1,000. However, over the past three years the average annual pass had exceeded the maximum amount to £1,128.95. Emergency Powers were required to allow the value to be increased to £1,128.95. The issue would be addressed formally when the travel plan is updated and a recommendation to Cabinet will be to increase this value.

(Scrutiny – Homes and Safe Communities)

### **(c) Social Services Residential Home Refurbishments**

Cabinet agreed funding for residential home refurbishments within the 2019/20 Social Services Asset Renewal Programme. A tendering process had been completed, however submitted tenders had been significantly higher than originally estimated due to additional and specialist elements of works required. In order to meet the funding requirements of the ICF grant the works had to start on site early December 2019. The use of Emergency Powers was requested to increase the budget for the Ty Dewi Sant ICF Scheme through the virement of £42,309 from the Asset Renewal, Residential Home

Refurbishment budget to ICF Schemes, Ty Dewi Sant and increase the budget to £276,000.

Emergency Powers were required in order to meet the funding requirements of the ICF grant where works had to start on site in early December 2019 and it had not been possible to present to the Cabinet meeting of the 18<sup>th</sup> November. Due to the urgent requirement to increase the 2019/20 budgets to allow the works to commence, the use of Emergency Powers was requested to increase the budget for the ICF Scheme, Ty Dewi Sant, through the virement above.

It was requested that any available ICF underspend across the region could be used to fund this overspend.

(Scrutiny – Healthy Living and Social Care)

#### **(d) WLGA Food Poverty Grant**

The WLGA had secured grant funding from Welsh Government to support food poverty work across Wales as part of work to support the UK's exit from the European Union and associated concerns relating to food insecurity. Each Local Authority had been given an allocation of revenue and capital funding for the current financial year, with all to be claimed in full by the end of May 2020. For the Vale of Glamorgan Council this was:

- Revenue: £15,819
- Capital: £24,057

Emergency Powers were requested to enable this funding to be available for use prior to January 2020. Work is underway to develop an approach to the disbursement of the funding in line with the grant conditions.

(Scrutiny – Corporate Performance & Resources)

#### **(e) Housing Leaseholder External Works Scheme**

Following Cabinet approval on 21<sup>st</sup> October, 2019 (Minute No. C131) to proceed into contract for the sum of £1,453,789.70 with TCMS Holdings Ltd. to deliver the above scheme, an error had been identified within the tender bid analysis report.

Emergency Powers were required to accept the corrected tender bid sum of £1,559,580.45 and execute the JCT Intermediate Contract 2016 in order to succeed in spending as much of the Housing Revenue Account Capital Budget to commence the scheme as soon as possible.

(Scrutiny – Homes and Safe Communities)

#### **(f) Acceptance of Grant – Local Nature Partnerships Cymru**

To accept grant funding from Local Nature Partnerships Cymru – Enabling Natural Resources & Wellbeing (100% revenue) in the amount of £83,651.96.

(Scrutiny – Environment and Regeneration)

### **(g) Interim Waste Transfer Station Located at Cowbridge Compost**

Further spend had been required to complete the existing barn at Cowbridge Compost to enable it to function as an operational, interim Waste Transfer Station.

In the previous Cabinet report outlining the proposed service changes it did not identify in enough detail the works required at Cowbridge Compost. Therefore the request for the initial use of Emergency Powers was an estimate.

Approval was sought to increase spend from £125,000 to the budgeted £170,000 (funded from the Welsh Government capital grant of £6.3m) to allow for any additional costs associated with ensuring the site to be fully compliant with Natural Resources Wales Guidelines and environmental permit.

(Scrutiny – Environment & Regeneration)

## **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.