

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 24 February 2020</b>
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Use of the Managing Director's Emergency Powers
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Managing Director since the last report on 16 <sup>th</sup> December, 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 271 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 16<sup>th</sup> December, 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 16<sup>th</sup> December 2019.

### **(a) Execute a Warranty Agreement between Centregreat and the Council for Works Associated with the Construction of a Retaining Wall at Camrose Court in Barry.**

The Vale of Glamorgan Council engaged Centregreat Limited to carry out and complete the construction of a retaining wall at Camrose Court.

Emergency Powers were required in order to provide Delegated Authority for the Monitoring Officer/ Head of Legal and Democratic Services to seal the Warranty document on behalf of the Council.

(Scrutiny – Environment and Regeneration)

### **(b) Penarth Older Persons Housing with Care Complex – Integrated Care Fund (ICF) Grant of £120,000**

Penarth Older Persons Housing with Care Complex project proposes the delivery of new homes for older persons and care facilities utilising a vacant c3.6-acre site (in the freehold of the Vale of Glamorgan Council), integrated with a neighbouring existing older person sheltered housing unit owned and operated by Wales and West Housing Association (Oak Court) and adjoining Council owned Dementia Unit (Ty Dewi Sant).

The Vale of Glamorgan Council has recently been offered by the Local Health Board a Welsh Government Integrated Care Fund (ICF) grant of £120,000 to carry out the next stage of feasibility and design for the project. The grant must be spent by the end of March 2020.

Emergency Powers were required in order to enter into an agreement with Wales and West Housing Association to utilise a £120,000 Integrated Care Fund (ICF) grant awarded to the Council by the Local Health Board to commission further feasibility and detailed design for the Penarth Older Persons Housing with Care Complex.

(Scrutiny – Homes and Safe Communities)

**(c) Community Building, Cemetery Road, Barry.**

The Council has been working in partnership with the Barry Town Council to deliver both a park scheme and a community-based building at Cemetery Road in Barry. Both land and building are being passed over to the Town Council for them to manage under a lease agreement following the completion of the construction works for the community building (current programme for completion is February 2020).

**Cemetery Approach Park Scheme**

The costs of the Cemetery Road park scheme were the subject of a Funding Agreement with the Barry Town Council with each party meeting 50% of the costs. A final account was agreed with the park scheme contractor, Ground Control, earlier this year and there was a cost of £6,666.66 relating to additional works. Fifty per cent of these costs have been reclaimed from Barry Town Council but this placed a burden of £3,333 on this year's budget. It was proposed that a sum of £3,333,33 is vired from the Barry Regeneration Partnership Project Fund to meet the gap in expenditure.

**Cemetery Approach Community Building**

The contracted works for the Community Building are under way again (following an arson attack). The Vale of Glamorgan Council has a second Funding Agreement in place with the Barry Town Council to cover the costs of this scheme. The scheme costs are made up of a works contract at a value of £296,485.03 plus consultant fees and officer time at circa £23,500 plus the costs of the services connections at a circa £6,500 (a total of circa £326,485.03). The agreement with Barry Town Council is that they will fund anything above the Vale of Glamorgan's contribution of £193k.

As funding for the construction of a Community Building at Cemetery Road in Barry the Capital Programme had a total allocation of £190k (£3k short of the funding agreement) of which £7k has been spent in 2018/19. The 2019/20 budget is currently £183k funded from the Neighbourhood Services and Transport Reserve and a Section 106 contribution. To increase the contribution (and to enable spending of the agreed £196k against that budget), it was proposed to vire £3k from the Barry Regeneration Partnership Project Fund. It was also proposed to increase the Capital Programme by the current estimate Barry Town Council's contribution of £326,485k less £193k, £133,485.

Emergency Powers were required in order to increase the 2019/20 Capital Programme by £139,818 to be funded £6,333 from Barry Regeneration Partnership Project Fund and £133,485 contribution from Barry Town Council.

(Scrutiny – Environment and Regeneration)

**(d) Hwb Programme.**

Welsh Government have provided a grant to the Local Authority of £2.1M in 2019/2020 as part of a programme to ensure consistency in baseline standards for digital infrastructure (networking and servers) in all maintained schools across the Vale.

85% of the grant allocation is available to purchase any items required to bring all schools up to the baseline Education Digital Standards – as long as they appear on the catalogue. This amounts to a procurement budget of £1,785,000.

Based on the costs of the items on the catalogue, the budget required to improve all schools in the Vale to at least the minimum standards is £1,985,000 which is £200,000 over budget.

Emergency Powers were required in order to maximise the available funding from the grant, and to remove the postcode lottery of digital standards in schools, with a preferred option of £200,000 from the Local Authority being identified to maximise the available funding and to ensure all schools benefit from the programme.

The funding would be met from underspends within the policy budget during 2019/20.

This spend be added to the Capital Programme for 2019/20.

The remaining 15% (£316,919) of the grant has been awarded to the Council to ensure school ICT networks are adequate and performant to maximise the opportunities digital can offer to teaching and learning, alongside underpinning the delivery of the new curriculum in Wales. It was requested to increase the 2019/20 capital programme by £316,919.

(Scrutiny – Corporate Performance and Resources)

#### **(e) Urgent Highway Resurfacing at Port Road West from Cwm Ciddy to Dragons Tail Roundabout**

The recent wet weather has caused a number of defects to appear on this section of road and in turn, the Council has received a high number of calls regarding these defects and this section of the road has been deemed as requiring urgent attention before the next financial year.

Emergency Powers were required to include a new scheme within the 2019/20 capital programme to be funded by:-

- £43k added to the Capital Programme from the Committed Capital Schemes reserve.
- A virement of £70k from the Asset Renewal Highway Structures budget.
- A virement of £87k from the Visible Highway Improvement budget.

(Scrutiny – Environment and Regeneration)

#### **(f) Completion of Fire Stopping, Civic Offices**

An independent survey of the fire stopping to the Civic Offices identified a number of additional areas within Civic Offices that required fire stopping (which were outside the original scope of the Space Project Works). The standard for fire stopping has increased significantly since the original works contract was entered into with fire stopping now needing to be installed and certified by an approved installer. Contractually, there was an agreement to install fire stopping as part of the Space Project. However, the original

installation standard of these works differs from what is now required and as mentioned additional fire stopping works have been identified outside the scope of the Space Project. The Health & Safety team had confirmed that the sealing of the missing fire stopping should be considered as a high priority and all identified works should be completed at the earliest opportunity.

After negotiations with the contractor it was agreed that this could be resolved if they obtained a quote to install certified fire stopping for all identified areas, by an approved installer and deducted the anticipated cost for their own operatives to install the fire stopping for their contractually committed elements, as originally intended.

Emergency Powers were required in order to increase the existing Civic Offices Fire Stopping Scheme budget to enable the completion of Fire Stopping works at Civic Offices by an additional sum of £90,000 (£15,000 into the 2019/2020 and £75,000 into the 2020/2021 capital programme).

(Scrutiny – Corporate Performance and Resources)

#### **(g) Acceptance of Addendum to the Local Nature Partnership Cymru Grant.**

An additional allocation of £1.758m of capital funding has been made to the Local Nature Partnership (LNP) Cymru project by Welsh Ministers for the period 1 April 2020 to 31 March 2021. This comprises:

- £1.142m allocated by formula to each LNP to deliver 'Environmental Growth on your Doorstep' ;
- £0.16m allocated by formula to each Local Authority for greening their estate.

The allocation to Vale of Glamorgan for 1 April 2020 to 31 March 2021 is:

£43,853 for Environmental Growth on your Doorstep.

£27,171 for Greening the Council Estate

Emergency Powers were required in order to accept the addendum to the Local Nature Partnership grant.

£43,843.00 for Environmental Growth on your Doorstep (capital)

£27,171.00 for Greening the Council Estate (capital)

(Scrutiny – Environment and Regeneration)

#### **(h) Welsh Government Digital 2030 funding for IT hardware and software**

Welsh Government awarded the Vale of Glamorgan funding in relation to the Post 16 Digital 2030 Capital Funding round, to the amount of £28,795, relating to the purchase of upgraded computer equipment.

Emergency Powers were required in order to increase the 2019/20 Capital Programme by £28,795 to be funded by the grant from Welsh Government.

(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 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.