

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 22 February 2021</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 25 January, 2021.
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:	This is a matter for Executive decision by Cabinet. All actions fall within Paragraph 1 of the Managing Director's Delegated Powers set out on page 271 of the Council's Constitution.
<p><b>Executive Summary:</b></p> <p>To advise Cabinet of the exercising of Emergency Powers by the Managing Director since the last report of 25 January, 2021.</p> <p>The Council's Constitution at page 271 (delegated powers) states:</p> <p><b>"MANAGING DIRECTOR OR, IN HIS ABSENCE, THE NOMINATED DEPUTY</b></p> <p><b>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:</b></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 25 January, 2021.

(a) Finalisation of Air Quality Management Revocation Order (Vale of Glamorgan Council Windsor Road, Cogan, Penarth Air Quality Management Area Order 13)

The use of Emergency Powers was sought to provide a signature of authorisation which would enable the completion of the official revocation order for the Vale of Glamorgan Council Windsor Road, Cogan, Penarth Air Quality Management Area Order 13. The revocation order is scheduled to come into force on 1st January 2021.

(Scrutiny – Environment and Regeneration)

(b) School Home Learning Laptops

The use of Emergency Powers was sought to provide devices to schools quickly and aid home learning by including a new scheme on to the 2020/21 Capital Programme with a budget of £50,051 to be funded from the school rationalisation reserve.

(Scrutiny – Learning and Culture)

(c) Penarth Older Persons Housing with Care Complex

In order to respond to this growing demand, Housing Services in partnership with colleagues in Social Services, Health and a Registered Social Landlord is exploring the feasibility of developing a creatively designed older persons residential development concept called Penarth Older Persons Housing with Care Complex on 3.6 acres of housing owned land off Myrtle Close in Penarth.

The use of Emergency Powers was sought to approve the virement of £573,000 from the HRA acquisition budget and to approve its inclusion in the Council's capital programme to enable feasibility work to continue and incur costs for the Penarth Housing with Care Complex, pending receipt of the ICF grant award letter.

(Scrutiny – Homes and Safe Communities)

(d) Corporate Regulation of Investigatory Powers Act (RIPA) Policy

The RIPA Policy needed to be updated to reflect the change in titles of the authorising officers and the change of name of Corporate Management Team to Senior Leadership Team. The legislation had changed in that the Council could only use RIPA for the prevention or detection of crime and no longer disorder unless it related to certain criminal offences as set in the Policy.

The use of Emergency Powers was sought to make the amendments to the Corporate RIPA Policy.

(Scrutiny – Corporate Performance and Resources)

(e) Penarth Library LED Lighting

Penarth Library requires new lighting to improve its energy performance, reduce lighting costs and improve its user experience.

The use of Emergency Powers was sought to include this new scheme on to the 2020/21 Capital Programme with a budget of £16,035.85 to be funded £13,500 from a Salix SEELS loan and £2,535.85 from the Energy Management Fund.

(Scrutiny – Learning and Culture)

(f) Additional Digital Exclusion Fund

The Council has been awarded additional funding of £6,650 in relation to the Digital Exclusion Fund grant. Capital funding has been earmarked to help local authorities delivering adult learning in the community provision to support their learners to engage with digital and distance learning and address some of the common barriers to engagement with learning for learners who are digitally-excluded and/or have additional accessibility requirements.

The use of Emergency Powers was sought to increase this scheme by £6,650 in the 2020/21 Capital Programme, to be funded by a Welsh Government grant.

(Scrutiny – Learning and Culture)

(g) Penarth Older Persons Housing with Care Complex

The Council is in the process of securing additional Integrated Care Fund monies of £573,000 (2020/21) to assist with ongoing feasibility work and other costs associated with the delivery of Penarth Older Persons Housing with Care Complex.

The use of Emergency Powers was sought to (a) enable the Head of Legal and Regulatory Services to execute and complete a legal agreement (MOU) with Wales & West Housing Association (WWHA), which consolidates the previous and the new Integrated Care Fund monies outlined above; and (b) authorises the expenditure by WWHA of the new £573,000 ICF funding outlined above.

(Scrutiny – Homes and Safe Communities)

(h) Penarth Leisure Centre High Level Glazing Panels

A capital bid was submitted for Penarth Leisure Centre High Level Glazing Panels. Isolated emergency repairs have previously been carried out, but further remedial works to all the remaining glazing at this level is urgently required.

The use of Emergency Powers was sought to include this new scheme on to the Capital Programme with a budget of £60k, to be profiled £15k in 2020/21 and £45k in 2021/22. The £15k will be funded by a revenue contribution from the Leisure Centre Maintenance budget and the £45k will be funded from the Miscellaneous Building Fund reserve.

(Scrutiny – Healthy Living and Social Care )

(i) Vehicle Replacement Programme

The use of Emergency Powers was sought to increase the Vehicle Replacement Programme scheme budget in the 2020/21 Capital Programme by £15k to be funded from the vehicle fund reserve.

(Scrutiny – Environment and Regeneration)

(j) Penarth Esplanade Highway Infrastructure Improvements

A capital bid of £400k has been submitted as part of the 2021/22 budget setting process in relation to Penarth Esplanade Highway Infrastructure Improvements.

The use of Emergency Powers was sought to include this new scheme with a budget of £150k into the 2020/21 Capital Programme to be funded from capital receipts. The remaining £250k has been included as a proposal for 2021/22 in the Final Capital Proposals report 2021/22 to 2025/26 that is being taken to Cabinet on the 22nd February and is subject to approval of the five year Capital Programme.

(Scrutiny – Environment and Regeneration)

(k) Ogmore by Sea Car Park Refurbishment

The cost of this scheme has increased by £9k as additional costs relating to the ANPR system integration and compatibility with the IPS pay and display machines was not accounted for in the original quotation.

The use of Emergency Powers was sought to increase this scheme budget by £9k in the 2020/21 Capital Programme to be funded from the Neighbourhood Services and Transport reserve.

(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 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.