

Meeting of:	Cabinet
Date of Meeting:	Monday, 12 April 2021
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 22 February, 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>Executive Summary:</p> <p>To advise Cabinet of the exercising of Emergency Powers by the Managing Director since the last report of 22 February, 2021.</p> <p>The Council's Constitution at page 271 (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 22 February, 2021.

(a) Road Safety 20mph pilot St Brides Major.

The Council has received an award of Funding in relation to Road Safety Capital grant. The total amount allocated to Road Safety Capital for Financial Year 2020/2021 is £76,473.

The use of Emergency Powers was sought to include this scheme with a budget of £76,473 in the 2020/21 Capital Programme to be funded by a grant from Welsh Government.

(Scrutiny – Environment and Regeneration)

(b) Education Asset Renewal Programme 20/21 - Wick C/W Primary School, Wick
Proposed New Entrance, Security Lobby and Office.

The inclusion of a new entrance, reception, security lobby and office at the above, was included in the 2020/21 Education Capital Asset Renewal Programme and was approved by Cabinet. Project costs had increased by £2885.48 over the original budget of £50,000 originally approved by Cabinet.

The use of Emergency Powers was sought to increase this scheme budget by £2,886 in the 2020/21 Capital Programme, to be funded by a virement of £2,595 from the High Street Primary Capital Resurfacing Asset Renewal Scheme and £291 virement from the St Brides Major Security Fencing Scheme. Both Schemes are complete and under budget.

(Scrutiny – Learning and Culture)

(c) Settlement Agreement in respect of the A4226 Five Mile Lane works contract with Alun Griffiths (Contractors) Ltd.

Delegated authority was sought for the Monitoring Officer/ Head of Legal Services and Operational Manager for Legal Services to sign/seal the Settlement Agreement (“the Agreement”) that has been negotiated between the Council and Alun Griffiths (Contractors) Ltd (“AGC”) in respect of the A4226 Five Mile Lane Road Improvement scheme (“the Scheme”).

The use of Emergency Powers was sought to provide delegated powers to the Monitoring Officer/Head of Legal and Democratic Services to execute the Agreement on behalf of the Council.

(Scrutiny – Environment and Regeneration)

(d) Extension of L.A. Governor Terms of Office.

The use of Emergency Powers was sought to extend the terms of office, of a small number (11), of current LA Governors whose terms of office were due to finish in the spring and summer of 2021.

(Scrutiny – Learning and Culture)

(e) Residential Homes Visitor Pods.

A visitor pod has been installed in each of the Council’s residential homes to help the homes manage visitors during the current pandemic. The total costs of the works which included four pods and intercom systems plus delivery and installation totalled £12,380.

The use of Emergency Powers was sought to increase the 2020/21 Capital Programme by £12,380 to be funded from £10k ICF grant and £2,380 contribution from the Social Services revenue budget.

(Scrutiny – Healthy Living and Social Care)

(f) ICF Capital Grant (Social Services and Housing).

The Council has received an award of funding in relation to the Integrated Care Fund (ICF) Capital Programme 2020/21. The Funding relates to the period 1st April 2020 to 31st March 2021.

The use of Emergency Powers was sought to:-

- Include a new scheme in the 2020/21 Capital Programme called ‘Dementia friendly passenger lifts at Cartref and Southway residential homes’ with a budget of £150,000 to be funded from the ICF grant.
- Include a new scheme in the 2020/21 Capital Programme called ‘Sluice room upgrade’ with a budget of £175,000 to be funded from the ICF grant.

(Scrutiny – Healthy Living and Social Care/Homes and Safe Communities)

(g) Housing IHP/ORP Hybrid Retrofit Project.

The Housing and Building Services Team have submitted an application to Welsh Government via the Optimised Retrofit Programme (IHP/ORP) 2020-21 schemes for Grant funding to invest in creating:

- 57 Hybrid heating and hot water systems which includes installation of an air source heat pump (ASHP) with Intelligent Electronic Systems (IES) to monitor and control energy use;
- 100 properties equipped with monitoring technology to provide energy performance data in relation to each property;
- Develop building passport software in conjunction with Passivsystems Ltd to provide the council with a route map to carbon zero on 100 properties.

The use of Emergency Powers was sought to:-

- directly engage the services and works of Passivsystems Ltd identified above for the project to be delivered.
- include this scheme £830,880.00 into the capital program 2020/21, which will be funded by Welsh Government grant £457,792.77 and virement of £373,087.23. It is therefore requested that a virement from HRA internal works £373,087.23 to this scheme in the capital program 2020/21.

(Scrutiny – Homes and Safe Communities)

(h) Penarth Arts and Crafts Ltd – Penarth Pier Pavilion.

The use of Emergency Powers was sought to give effect to the agreement reached with the Penarth Arts and Crafts Ltd (PACL) Directors and the National Lottery Fund and the National Heritage Fund which require the Council to enter into a Deed of Novation with PACL's Directors and the National Lottery Fund and National Heritage Fund to ensure that the Council continues to operate the Penarth Pavilion Building in line with the aims and objectives outlined and as agreed between the parties to the agreements.

(Scrutiny – Corporate Performance and Resources)

(i) Appropriation of General Fund land at Gladstone Bridge, Barry (former compound site) to the Housing Revenue Account

The use of Emergency Powers was sought to appropriate the General Fund land at Gladstone Bridge, Barry (former compound site) to the Housing Revenue Account in order to facilitate a proposal to redevelop the vacant site with a new five to six storey affordable older persons residential block of apartments as part of the wider Barry Town Centre Regeneration project.

(Scrutiny – Homes and Safe Communities)

(j) Green Infrastructure Project – Welsh Government Capital and Revenue Grant.

The Vale of Glamorgan Council had been allocated 166,244 (£154,646 Capital and £11,598 Revenue) from Welsh Government to spend on Green Infrastructure Capital and Revenue Projects before 31st march, 2021.

The use of Emergency Powers was sought to accept the total grant of £166,244 and to amend the 2020/21 Capital Programme by £154,646.

(Scrutiny – Environment and Regeneration)

(k) Mental Health Service.

The current Supporting People Contract for the Mental Health Service expires on 31st March 2021. In order to retender the existing contract for the Service, the Supporting People Team undertook a tendering exercise in accordance with EU procurement rules believing there was sufficient authority given by cabinet minutes C441 11th January 2021 to award a new contract.

The use of Emergency Powers was sought to enter into a 5-year contract with Platform for the delivery of the Mental Health support service to vulnerable people with an annual value of £213,623.44 (total value £1,068,117.20 over the 5 year contract period).

(Scrutiny – Homes and Safe Communities)

(l) Private Rented Support Service (PRS).

The current Supporting People Contract for the Service expired on 3rd February 2021. In order to retender the existing PRS contract, the Supporting People Team undertook a tendering exercise in accordance with EU procurement rules believing there was sufficient authority given by Cabinet minutes to C441 11th January 2021 to award a new contract.

The use of Emergency Powers was sought to enter into a 5-year contract with Pobl for the delivery of a Private Rented Sector support service to vulnerable people with an annual value of £113,025 (total value £565,125 over the 5 year contract period).

(Scrutiny – Homes and Safe Communities)

(m) Young People's Service.

The current Supporting People Contract for the Young People's Service expires on 31st March 2021. In order to retender the existing contract for the Young People's Service the Supporting People Team undertook a tendering exercise in accordance with EU procurement rules believing there was sufficient authority given by cabinet minutes to C441 11th January 2021 to award a new contract. The tender went live via Sell2Wales on the 21st of December 2020. The deadline for submission was the 2nd of February 2021 and the Supporting People Commissioning Panel carried out a tender process which was fully completed on the 12th of February.

The use of Emergency Powers was sought to enter into a 5-year contract with Llamau for the delivery of support services to vulnerable young people with an annual value of £281,029.84 (total value £1,405,149.20 over the 5-year contract period).

(Scrutiny – Homes and Safe Communities)

(n) ICF Grant for Ysgol Y Deri and Ysgol Y Deri Temporary Accommodation.

ICF grant of £260K has been awarded for Ty Deri Hwb. There are two schemes on the 2020/21 Capital Programme that are currently funded from internal monies that are now requested to be funded from the ICF grant, these are 'Ysgol Y Deri Pitched Roof Renewal £120k and 'Expansion of Places at Ysgol Y Deri' £120k. This will result in £240k internal monies (capital receipts) being released.

The use of Emergency Powers was sought to:-

- Vire the £9k underspend on the Expansion of Places at Ysgol Y Deri scheme to the Ysgol Y Deri Pitched Roof Renewal scheme in the 2020/21 Capital Programme.
- Change the name of the Ysgol Y Deri Pitched Roof Renewal scheme to 'ICF Grant – Ysgol Y Deri Works' and to increase the budget in the 2020/21 Capital Programme by £20k to be funded from ICF grant.
- Carry forward £59k of the released capital receipts into the 2021/22 Capital Programme and vire to the Education Contingency scheme.

(Scrutiny – Learning and Culture)

(o) Social Services ICF 6-8 Castle Avenue Refurb Project – Waiver of Contract Procedure Rules.

The Adult Services Team has successfully been awarded £263k of ICF grant funding to refurbish 6-8 Castle Avenue into short term supported living accommodation facility, using modern technology to allow clients to identify how modern technology can be introduced into their homes to promote independent living.

The use of Emergency Powers was sought:-

- for a waiver of contract procedure rules under 17.4.2 (d) & (g), to allow the Adult Services team to accept the quotation received from SMK Building and Maintenance Ltd without having to tender to undertake the works identified above within the required deadline for spend.
- to Increase the ICF Transition Smart House scheme by £23k in the 2020/21 Capital Programme to be funded from ICF Grant.

(Scrutiny – Healthy Living and Social Care)

(p) Covid-19 Payments to Foster Carers and Adult Placement Hosts.

The use of Emergency Powers was sought to authorise additional funding for foster carers and adult placement hosts.

(Scrutiny – Healthy Living and Social Care)

(q) ICF Capital Grant.

The Council has received an award of funding in relation to the Integrated Care Fund (ICF) Capital Programme 2020/21. The Funding relates to the period 1st April 2020 to 31st March 2021.

The use of Emergency Powers was sought to:-

- Include a new scheme on the 2020/21 Capital Programme called 'Children's Safe Accommodation scheme' with a budget of £236k. to be funded from ICF Grant.
- Carry forward the £300k internal monies into the 2021/22 Capital Programme and vire to the Penarth Older Persons Village scheme.

(Scrutiny – Healthy Living and Social Care / Homes and Safe Communities)

(r) Childcare Offer Capital Grant.

The Council has received a variation letter in relation to the Childcare Offer Capital Grant awarding the Council an additional £150k grant towards the Welsh Medium Ysgol Dewi Sant scheme. The Council submitted an application for this additional funding to support decarbonisation measures and to offset increased costs as a result of COVID-19.

The use of Emergency Powers was sought to increase the Childcare Offer Capital grant - Welsh Medium scheme in the 2021/22 Capital Programme by £150k to be funded by a grant from Welsh Government.

(Scrutiny – Learning and Culture)

(s) Kick Start Gateway Provider.

Seeking formal approval to enter into contracts (with Department for Work and Pensions DWP and local employers) for the delivery of the Kick start Programme. This is an additional request to the Emergency Powers approved by Cabinet in December 2020 in relation to the Internal Kickstart contract.

The use of Emergency Powers was sought to accept and return the Grant Offer letter to DWP. Senior Officers are content to accept and enter into an agreement.

(Scrutiny – Corporate Performance and Resources / Learning and Culture)

(t) Business Rates – Retail Hospitality & Leisure Rates Relief Scheme.

The Non Domestic annual bills were scheduled to be issued on the 12th March 2021. However, Welsh Government requested that annual bills be delayed until such time that the Retail Hospitality & Leisure Rates Relief Scheme had been introduced in order that the relief could be shown on the annual demands.

The use of Emergency Powers was sought as annual demands have already been delayed and it is important that the relief is applied as soon as possible in order that these can be issued prior to the 31st March 2021.

(Scrutiny – Corporate Performance and Resources)

(u) Schools Maintenance Capital Grant

The Council has received an award of funding of £2.258m in relation to the Capital Funding Grant towards Schools Maintenance Budgets. The Funding relates to capital maintenance works undertaken during the period 01 April 2020 to 31 March 2021 and will be paid to the Council in full in March 2021. The terms and conditions allow that the funding will be used in 2020-21 financial year for locally determined capital expenditure and the funding displaced by this grant will be spent in 2021-22 for investment in the improvement of schools in accordance with the grant terms and conditions. The £2.258m will be put into a specific reserve at the end of the financial year and will fund the Schools maintenance schemes in 2021/22 capital programme.

The use of Emergency Powers was sought to increase the 2021/22 Capital Programme by £2.258m as set out in the attached to be funded from Welsh Government grant, and to also approve the switching of schemes within the Education Programme.

(Scrutiny – Learning and Culture)

(v) Orders for various equipment and services in relation to Circular Economy projects

The Waste Management team of Neighbourhood Services received 3 Welsh Government Circular Economy grants late 2020 for the funding of 3 projects:

- £250,000 to bring flats and apartments onto the new source separated recycling collection service. The funding relates to the period 1st October 2020 to the 31st March 2021.
- £358,194 to construct a reuse shop proposed to be located next to the Household Waste Recycling Centre at Atlantic Trading Estate, Barry. The funding relates to the period 1st October 2020 to the 31st March 2021.
- £500,000 for new sorting equipment and a baler to prepare recycling for resale and reuse. The funding relates to the period 1st October 2020 to the 31st March 2021.

Additionally, 3 other grants have been awarded this month (March 2021). These are:

- £177,547 as a contribution to the remaining recycling changes. The Funding relates to the period 12th February 2021 to the 31st March 2021.
- £679,410 in relation to the construction of the Resource Recovery Facility at Atlantic Trading Estate in Barry. The Funding relates to the period 1st March 2021 to the 31st March 2021.
- £130,418 additional revenue funding for activities relating to a Circular Economy.

The use of Emergency Powers was sought to commit grant funding to each respective project/service as intended and appoint the appropriate, successful supplier which has been selected through Sell to Wales or inhouse in accordance with the Councils procurement guidance

(Scrutiny – Environment and Regeneration)

(w) Welsh Government, Repayable Funding Award Letter (Town Centre Loans, Local Authority Fund).

The use of Emergency Powers was sought:-

1. To accept the funding award and to certify a claim for payment in line with the Welsh Government deadline; and,
2. To negotiate and agree terms (through applicable delegated powers) with the owner for the Council to purchase the freehold interest in the Post Office Site, Holton Road, Barry.

(Scrutiny – Environment and Regeneration)

(x) Appropriation of General Fund land to the rear of Holm View Leisure Centre to the Housing Revenue Account.

The use of Emergency Powers was sought to appropriate the General fund land to the rear of Holm View Leisure Centre to the Housing Revenue Account in order to facilitate the Holm View phase 2 development (34 units) during this financial year.

(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 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.