

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Monday, 25 October 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 13th September, 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 285 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 13th September, 2021.</p> <p>The Council's Constitution at page 285 (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 13th September, 2021.

(a) Neighbourhood Services Buildings for Compliance Issues and Community Centres

There was a budget of £64,669 for this scheme on the 2021/22 Capital Programme. There were two elements of work that needed to be carried out that are below £10k capital threshold and therefore considered revenue spend. The schemes were outlined below:

- Penarth Lower Community Centre (replacement flooring) £4k
- Castleland Community Centre (roof repair and associated repair works) £6k

It was requested to reduce the capital budget in the 2021/22 Capital Programme by £10k and those schemes reclassified as revenue.

	<b>Budget</b>	<b>Other Contributions</b>	<b>Total</b>
Millwood Bowling Club Fence	10,000	2,000	12,000
St Athan Community Centre Heating	17,250	0	17,250
Buttrills Community Centre Roof works	13,500	15,300	28,800
Barry Island Community Centre Roof	23,919	6,000	29,919
<b>Total</b>	<b>64,669</b>	<b>23,300</b>	<b>87,969</b>

The remaining budget would be £54,669 to complete the capital schemes below:-

The use of Emergency Powers was sought to increase this scheme budget by £33,300 to be funded from a £10,000 virement from the All Services Asset Renewal budget, £2,000 contribution from Millwood Bowling Club, £15,300 contribution from Buttrills Community Centre, and a £6,000 contribution from Barry Island Community Centre.

(Scrutiny – Healthy Living and Social Care)

(b) Target Hardening Grant

The Council had received an award of funding of £21,450 in relation to Target Hardening. The Funding related to the period 1 April 2021 to 31 March 2022 .

The Purpose of the Funding was to purchase target hardening equipment that will enable individuals to remain safely in their own homes following the identification that they are at risk of their perpetrator attempting to access their property. Target hardening was offered in order to give victims of domestic abuse the option to remain in their own home by enhancing the security of their properties through the fitting of locks, bolts, door chains and mirrors, mail safe letter boxes, fire safety equipment, personal and property alarms, security lighting, CCTV equipment and monitored Alarm System.

The use of Emergency Powers was sought to include this scheme with a budget of £21,450 in the 2021/22 Capital Programme to be funded by a capital grant from Welsh Government.

(Scrutiny – Homes and Safe Communities)

(c) Barry Leisure Centre Outdoor Fitness Space

The Council had been working with Barry Leisure Centre to explore an opportunity to develop a scheme to create an outdoor fitness space utilising an existing paved area in the grounds of the leisure centre (where the water shoot was). The total project cost was £73.8k, to be funded £41.9k s106 monies (from community facilities pot, pursuant to the development and S106 agreement associated with the development at Land off Subway Road, Barry), £28.9k from the Sports Wales Grant (already built into the 2021/22 Capital Programme) and £3k Sports Wales Grant that was originally allocated for revenue but had now been reclassified as capital.

The use of Emergency Powers was sought to increase the Sports Wales grant scheme budget in the 2021/22 Capital Programme by £44.9k to be funded £41.9 from s106 monies and £3k from the Sports Wales Grant.

(Scrutiny – Healthy Living and Social Care)

(d) Llanmaes Flood Management

The Vale of Glamorgan Council had received a grant variation in relation to the Llanmaes Flood Alleviation Scheme Design and Development Stage. The total revised approved expenditure was £568,016 split 85% (£482,813.60) Welsh Government grant and 15% (£85,202.40) internal match funding. The funding timeline had also been increased and must be spent by 31st December 2021.

The use of Emergency Powers was sought to increase this scheme budget in the 2021/22 Capital Programme by £95,664 to be funded from Welsh Government grant. If approved the 2021/22 budget would be £161,664.

(Scrutiny – Environment and Regeneration)

(e) Cowbridge Leisure Centre : Re-Roofing

This scheme had commenced however the contractor had reported that the existing rafter sizes were not sufficient in size to accommodate the new higher performance insulation system. This only became apparent once the roof strip back had commenced. The contractor had provided a solution and was requesting a variation to the contract at an additional cost of £14,672. When taking fees into account a total of £17k was required to be added to the budget.

The use of Emergency Powers was sought to vire £17k from the Leisure Centres Works scheme budget (which is currently unallocated) to the Cowbridge Leisure Centre Roofing scheme budget, in the 2021/22 Capital Programme.

(Scrutiny – Healthy Living and Social Care )

(f) Housing Development - Holm View Phase 1, Gibbonsdown, Barry

On the 11TH May 2018, the Head of Finance / s.151 Officer used Delegated Powers in order to enter into a JCT 2011 Edition Design and Build Contract with Pendragon Design and Build Ltd for the sum of £2,266,136.12, in accordance with Cabinet Minute No.C239.

The project had now been successfully completed with the handover of the 11 no. units of general needs and adapted housing being achieved on the 10th May 2021.

However, in delivering the project, costs had increased above the agreed contract sum of £2,266,136.12. This was mainly due to the increased cost of the new incoming service/connection of the Western Power Distribution apparatus, the extension to the adapted bungalow at Plot 8 (initially covered by a provisional sum), the specialist equipment to be fitted in the adapted units (initially covered by a provisional sum) and contract sum uplift.

As the cost variation represented an increase of more than 10% and/or £100,000 of the original contract sum it was requested to increase the contract sum to a projected £2,415,000.00, subject to agreeing the Final Account with Holbrook Homes Ltd.

The use of Emergency Powers was sought to for a virement of an additional £150,000 cost centre 842185 (Acquisitions) to the cost centre 842164 (Holm View Phase 1), to cover the increased contract sum.

(Scrutiny – Homes and Safe Communities)

(g) European Transition Fund 2122: Tackling Food Poverty and Addressing Food Insecurity (Penarth Food Pod).

The Council had received an award of funding of £26,365 in relation to Tackling Food Poverty and Addressing Food Insecurity. The Funding related to the period 1 September 2021 to 31 March 2022.

The Purpose of the Funding was to reduce food poverty and food waste to benefit the tenants and residents of Penarth, in particular the local community who do not have any immediate access to Foodbanks. The aim was to provide a facility that will act as an interest for social welfare with the objective of improving the health of tenants and residents living in the area.

The use of Emergency Powers was sought to include this scheme with a budget of £26,365 in the 2021/22 Capital Programme to be funded by a capital grant from Welsh Government.

(Scrutiny – Homes and Safe Communities)

#### (h) Active Travel Fund

The Council had received a revised award of funding in relation to the Active Travel Fund from the Welsh Government. The award letter brought the total amount allocated to the Council for the Active Travel Fund for Financial Year 2021/2022 to £2,531,600.

A breakdown of the schemes is detailed below:-

Capital:-

- Core Allocation - £635,000 (approved in the 2021/22 Capital Programme)
- St Athan Active Travel Route - £1,061,600 (approved in the 2021/22 Capital Programme)
- Llantwit Major and St Athan Active Travel - £120,000
- Rural Vale Active Travel - £220,000
- Penarth to Cardiff Active Travel enhancements - £200,000
- Improvements and enhancements to existing Active Travel routes in the Vale of Glamorgan – £250,000

Revenue:-

- Publicity and Promotion of Active Travel in the Vale - £45,000

Of the above list £1,696,600 was already approved in the 2021/22 Capital Programme, the remainder are new schemes.

The use of Emergency Powers was sought to include these schemes totalling £790,000 in the 2021/22 Capital Programme to be funded by a grant from Welsh Government.

(Scrutiny – Environment and Regeneration)

#### (i) Childcare Offer Capital Grant

The Council had received Variation to the Childcare Offer Capital Grant Programme. The Council had been awarded an additional sum of £145,000 for the schemes detailed below, which form part of the Covid recovery capital to support early years and childcare provision. The Funding related to the period up to 31 March 2022.

Childcare Offer Capital Project	Current Grant Awarded	Additional Covid Recovery Grant (for 2021-22 only)	Total (as varied)
Hazelhurst Day Nursery	£0.00	£30,000	<b>£30,000</b>
Llanfair Primary School	£450,000	£15,000	<b>£465,000</b>
Covid Small Grant 2021-22	£0.00	£100,000	<b>£100,000</b>
<b>Totals</b>	<b>£0.00</b>	<b>£145,000</b>	<b>£595,000</b>

The use of Emergency Powers was sought to:-

- Include a new scheme in the 2021/22 Capital Programme called 'Hazelhurst Day Nursery' with a budget of £30k to be funded by a grant from Welsh Government.
- Increase the 'Childcare Offer Capital grant - Llanfair Primary' scheme budget by £15k in the 2021/22 Capital Programme, to be funded by a grant from Welsh Government.
- Include a new scheme in the 2021/22 Capital Programme called 'Covid Small Grant 2021-22' with a budget of £100k to be funded by a grant from Welsh Government.

(Scrutiny – Learning and Culture)

(j) Procurement of a Hybrid Meeting Solution

The use of Emergency Powers was sought to authorise the Head of Legal and Democratic Services or in her absence the Operational Manger (Legal Services) to execute the contract for the provision of the Council's Hybrid Meeting Solution (production and broadcasting) for Council meetings for a 3year period (with an option to extend for a further year). Contract awarded to Civico Limited in the amount of £111,360.

(Scrutiny – Corporate Performance and Resources)

(k) Carers Champion

The use of Emergency Powers was sought to replace Councillor Lis Burnett with Councillor Gwyn John as Carers Champion with immediate effect.

(Scrutiny – Corporate Performance and Resources)

#### (l) Flying Start Grant

The Council had received an additional £60k of grant funding relating to Flying Start Capital 2021/22 for the projects set out below:-

- Skomer Road Flying Start – Creche – Redevelop outdoor area, surfacing, shelter, equipment, fencing and emergency door and lighting £45k.
- Pili Pala FS – new entrance and one way drop off and pick up , replace fencing, create a new gate/entry and exit point plus a new pathway £15k

The Creche scheme was anticipated to cost £85k. There was already a scheme built into the Capital Programme that was funded internally for security shutters at Skomer Road, however the scheme cost less than expected and was funded through revenue. The budget for this scheme was £40k.

The use of Emergency Powers was sought to include these new schemes on the 2021/22 Capital Programme to be funded by a grant from Welsh Government and vire the security shutters budget to the Skomer Road Crèche scheme to enable this scheme to progress with a total budget of £85k.

(Scrutiny – Healthy Living and Social Care)

#### (m) Cadoxton Sports Hall Relighting

The scheme is to replace urgently required lighting in the Sports Centre Hall.

The use of Emergency Powers was sought to include this new scheme into the 2021/22 Capital Programme with a budget of £11.5k to be funded by a contribution from the CRC Legacy fund revenue budget.

(Scrutiny – Learning and Culture)

#### (n) 21st Century Schools Programme – Cost Update

The construction market was currently uncertain and costs were increasing at a faster rate than previously predicted. This was primarily due to the impact of COVID-19 and Brexit. This had had a significant impact on the costs to deliver the next tranche of schemes and the Council was unable to meet those costs without additional funding from Welsh Government. More information is outlined below on an individual project basis.

Cowbridge Primary Provision:

It was recommended that the Council allocated an additional £280k in the 2022/23 capital programme, which represented 35% of the additional cost. An application would then be submitted to Welsh Government for 65% of the additional cost, based on the project intervention rate. The Council's contribution would be funded from S106 contributions which were previously allocated to the scheme prior to Welsh Government part-funding the scheme.

Centre for Learning and Wellbeing:

It was recommended that the Council allocated an additional £313k, which represented 25% of the additional cost. An application would then be submitted to Welsh Government for 75% of the additional cost, based on the project intervention rate. The Council's contribution would be funded from the 'Band B Contingency'. It was requested to carry forward £313k of the Band B contingency budget and allocate to the Centre for Learning and Wellbeing scheme in the 2022/23 capital programme.

Ysgol Y Deri Expansion:

It was recommended that the Council allocated an additional £300k, which represented 25% of the increased cost. An application would then be submitted to Welsh Government for 75% of the additional cost, based on the project intervention rate. The Council's contribution would be funded from the 'Band B Contingency'. It was requested to carry forward £300k of the Band B contingency budget and allocate to the Ysgol Y Deri Expansion scheme in the 2022/23 capital programme.

Barry Waterfront:

It was recommended that the Council advised the consortium that they would need to fund 50% (£280k) of the additional costs and the remaining 50% (£280k) was requested from Welsh Government. This would result in no additional direct cost to the Council.

The use of Emergency Powers was sought to address financial implications associated with the delivery of the Council's 21st Century Schools Programme (as detailed in the Officer's recommendations relating to each individual project) in order to ensure the programme can progress and succeed.

(Scrutiny – Learning and Culture)

(o) 21st Century Schools Programme – Delivery Resource

The Council's 21st Century Schools Team was established In September 2018 to manage and oversee all aspects of the delivery of the Council's ambitious Band B 21st Century Schools Programme.

It was recommended that the structure be changed to increase resilience to ensure the successful delivery of the programme.

The use of Emergency Powers was sought to ensure new posts could be advertised as soon as possible to ensure the ongoing delivery of the programme.

(Scrutiny – Learning and Culture)

(p) 21st Century Schools Programme – St Nicholas Update

On 18 February 2019, Cabinet considered a report on the proposal to increase the number of primary school places at St Nicholas CIW Primary School from 126 places to 210 places, as well as establishing 48 part time nursery places. Cabinet agreed at the meeting to undertake a consultation exercise on the proposal in partnership with the governing body of St Nicholas CIW Primary School.



In order to accommodate the proposed capacity, St Nicholas CIW Primary school was included as part of the Council's 21st Century Schools programme to construct a new school building on the existing site. On 23 September 2019, the Vale of Glamorgan Council's Cabinet determined to approve the proposal.

The main change since the previous proposal was developed was the Council's decision to remove feeder schools from the secondary oversubscription criteria.

The Council also reviewed population projections for the St Nicholas CIW Primary School catchment area. The number of primary aged pupils resident within the catchment area was not projected to exceed 100 pupils over the next 15 years. On average, 16% of pupils attend Welsh medium education, resulting in potential catchment demand for St Nicholas CIW Primary School unlikely to exceed 84 places. This means that the existing capacity would be sufficient to meet long term demand.

Therefore, the Council's preferred option is to amend the scheme to construct a new building on the existing site to accommodate 126 primary places and 24 part-time nursery places.

The use of Emergency Powers was sought to ensure the Council could instruct ISG Construction to commence the redesign work and the relevant information could be issued to Welsh Government for consideration in line with the below recommendations:

- That the preferred option outlined above be progressed, which would result in a new build school being constructed on the existing school site which would accommodate 126 primary places and 24 part time nursery places.
- That a compensation event was issued as part of the existing professional services contract with ISG Construction for the Western Vale Primaries project totalling £368,083 to cover additional preliminary costs and a redesign of the scheme.
- That a report be presented to Cabinet following the relevant feedback from Welsh Government and a final cost to deliver the scheme can be agreed.

(Scrutiny – Learning and Culture)

(q) Appointments to Outside Bodies - Representation on CSC Foundry Limited

The use of Emergency Powers was sought to replace the Council's current representative on the above body, the Chairman of the Planning Committee, with the Cabinet Member for Education and Regeneration with immediate effect.

(Scrutiny – Corporate Performance and Resources)

### **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.