

Meeting of:	Cabinet
Date of Meeting:	Monday, 11 April 2022
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Use of the Chief Executive's Emergency Powers
Purpose of Report:	To notify Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report on 14th February, 2022.
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Chief Executive
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 Chief Executive's Delegated Powers set out on page 285 of the Council's Constitution.
<p>Executive Summary:</p> <p>To advise Cabinet of the exercising of Emergency Powers by the Chief Executive since the last report of 14th February, 2022.</p> <p>The Council's Constitution at page 285 (delegated powers) states:</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 Chief Executive'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 Chief Executive's Emergency Powers since the last report of 14th February, 2022.

(a) Virement within the Education Capital Programme

Within the Learning and Skills capital programme a number of schemes had slightly overspent and a number of schemes had slightly underspent due to costs being slightly different to first estimations. The total overspend was £6.5k.

The use of Emergency Powers was sought to vire £6.5k from the Education Contingency scheme budget which had an unallocated budget of £302k in the 2021/22 Capital Programme.

(Scrutiny – Learning and Culture)

(b) Western Vale Primaries – Increased Costs

Projects at St. David's CiW Primary School and Llancarfan Primary School had exceeded the split sum apportioned to the projects from the overall contract value for the Western Vale Primaries. Both projects included a contingency amount to address unforeseen costs and potential increase in market values as the project progressed, however, for both projects the additional costs had increased beyond the contingencies within the budget.

To address the additional costs in the school projects, a review of the Vale of Glamorgan's 21st Century Schools Programme was undertaken to determine if other schemes had been delivered within budget. Following the review of the programme, Whitmore High School and Ysgol Bro Morgannwg had been identified as having surplus funding.

The use of Emergency Powers was sought to:-

- (i) Increase the contract value for the Western Vale Primaries to £14, 105,688. The increased contract value would be reflected in the Professional Services Contract and NEC contract sums for St. David's CiW Primary School and Llancarfan Primary School

(ii) Vire £103,827 from Ysgol Bro Morgannwg Project and £166,203 from Whitmore High School Project to meet the additional costs raised under the Western Vale Primaries Projects.

(Scrutiny – Learning and Culture)

(c) Purchase of CCTV Equipment for the upgrade and improvement of the static CCTV system across the Vale of Glamorgan

In 2019/2020 Community Safety carried out a review of the current CCTV provision in the Vale of Glamorgan in line with the requirements placed upon the Council by the CCTV Surveillance Code of Practice. This review concluded that the 78 cameras that were currently installed around the Vale of Glamorgan were no longer fit for purpose given their age and current working order.

The approved budget in the 2021/22 Capital Programme for the upgrade of CCTV was £348k of which there was £345k remaining. There was a requirement for the capital investment to be spent and for the goods to be vested, for contractual reasons, by the 31st March, 2022. Potential external funding could become available for this scheme in 2021/22. If this occurred, it would be requested at a later date and internal monies would then be to be carried forward to next financial year to fund phase 2 of the project.

Given the scale of the project, the funding could not be spent ahead of an agreement of revenue funding from the Police and Crime Commissioner. The Local Authority was under further pressure given that, due to the current challenges in supply and demand, there was an 8-week lead in time for the purchase of CCTV cameras and equipment. Emergency Powers were sought to authorise the release of £310,030.75 for the purchase of cameras and CCTV equipment for the upgrade and improvement of the CCTV system to secure the receipt of the goods by the 31st March, 2022. There was also an £11,150.00 revenue cost that would be funded from Regulatory Reserve.

The use of Emergency Powers was sought to initiate the purchase of cameras and relevant equipment for the upgrade and improvement of the static CCTV camera service across the Vale of Glamorgan.

(Scrutiny – Homes and Safe Communities)

(d) Metro Enhanced Framework (MEF) Scheme

The Council had been awarded a grant of £100k for the Vale of Glamorgan MEF scheme from the Metro Plus Programme 2021/22 through Merthyr Tydfil County Borough Council.

The use of Emergency Powers was sought to include the scheme on the 2021/22 Capital Programme to be funded from the grant detailed above.

(Scrutiny – Environment and Regeneration)

(e) Flying Start - Skomer Road Crèche

The Council had been awarded a variation to the Flying Start Capital Grant 2021/22. The award was for £30k to complete the additional work required at Grasshopper Creche (formally Skomer Road Creche). The additional funding had to be claimed in full by 31 March, 2022. The scheme was currently progressing and anticipated to be complete by the end of March 2022.

The use of Emergency Powers was sought to increase the scheme budget by £30k in the 2021/22 Capital Programme.

(Scrutiny – Healthy Living and Social Care)

(f) Block booking of rooms in local hotels

The requirement for block booking of rooms in local hotels continued to ensure that no one was left without anywhere to stay during the Covid pandemic. Welsh Government had recently confirmed the extension of financial support to fund this provision through to September 2022. However, they had requested that Local Authorities confirm these arrangements with hotels now so that funding could be committed from the current financial year's budget (21/22). That meant bookings needed to be placed and paid prior to 31 March, 2022.

The use of Emergency Powers was sought to block book rooms from 1 April, 2022.

(Scrutiny – Homes and Safe Communities)

(g) Neighbourhood Services Highway Improvements

The Council had been awarded additional general capital grant in 2021/22 of £2,702,921. The funding was un-hypothecated to give authorities the maximum flexibility however the letter did state that one area that local authorities had specifically highlighted as an area of pressure was the maintenance of the existing highways network.

The use of Emergency Powers was sought to increase the Neighbourhood Services Highway Improvements scheme budget by £500k in the 2021/22 Capital Programme to be funded from additional general capital funding.

The remainder of the additional general capital funding would be allocated as part of the Final Capital Proposals report which was going to Cabinet on the 28th February, 2022.

(Scrutiny – Environment and Regeneration)

(h) ULEV – Council Vehicle Grant Award

The Council was purchasing 12 Hyundai Kona electric vehicles which were anticipated to be delivered before 31st March, 2022. The Council had been awarded a grant of £159,382 which was the price difference between an electric and diesel vehicle. The total cost of the vehicles was £334,465.

The use of Emergency Powers was sought to increase the 2021/22 Capital Programme by £334,465 to be funded £159,382 grant from Energy Services Wales, through Welsh Government, and £175,083 from the Carbon Vehicles Reserve.

(Scrutiny – Environment and Regeneration)

(i) Rhws Primary School Outdoor Classroom Facility

The Council had been given WLGA Education grant from Welsh Government to support all schools and settings to put in place mitigating measures for ensuring their school environments were as COVID-19-safe as possible. Rhws Primary School had £16.5k approved in the Capital Programme for two outdoor classroom facilities which were funded from the WLGA Education grant. The total cost of the scheme was £22,205.

The use of Emergency Powers was sought to increase the 2021/22 Capital Programme by £5,705 to be funded from the WLGA Education grant.

(Scrutiny – Learning and Culture)

(j) Penllyn Estates Waste Transfer Station

Permission was sought to retrospectively correct a previous emergency power from November 2020. A previous request was made to increase the annual contract spend by £6,000 up to £102,240 for the hire of the interim Waste Transfer Station located at Penllyn Estate LLP, but the figure of £102,410 was incorrectly calculated as it should have also included the additional £12,000 per year operating costs, to facilitate the Barry roll out.

The use of Emergency Powers was sought to retrospectively increase the annual contract spend for 2021/22 by £12,000 up to the current total premise costs of £120,240 for the hire of the Waste Transfer Station located at Penllyn Estates, Cowbridge as well as some staffing and machinery costs.

(Scrutiny – Environment and Regeneration)

(k) Colcot Primary School

Colcot Primary School were carrying out works to improve the school grounds, the estimated cost of the works was £11,500. The works included extending the hard surface area to extend the playground facility for older children and to put up a fence on a low wall to make the play area safer for children and more accessible for them. The works were anticipated to be complete by the end of March.

The use of Emergency Powers was sought to include the new scheme in the 2021/22 Capital Programme with a budget of £11,500, to be funded by a revenue contribution from the school.

(Scrutiny – Learning and Culture)

(l) Proposed Disposal of Barry Railway Depot and Nearby Railway Land to Transport for Wales

A report was submitted to the Cabinet meeting of 28th February, 2022 which sought the necessary authorities to facilitate the disposal of the freehold interest of the land identified in the report to Transport for Wales (TfW). The land transaction had to be facilitated prior to the end of March 2022 to meet a Welsh Government funding deadline. Considering the tight time constraint, the report was submitted, and Cabinet approval sought for the use of the Urgent Decision Procedure under Section 14.14 of the Constitution .

The use of Emergency Powers was sought for the urgency decision procedure under Section 14.14 of the Council's Constitution to be utilised in order for the resolutions of Cabinet of 28th February 2022 to be progressed having regard to the tight time constraints associated with the Welsh Government funding for the project (Minute no C862 refers).

(Scrutiny – Environment and Regeneration)

(m) Knap Skate Park

The Council had been awarded a grant of £200k from The Sport Council for Wales to contribute towards the construction of a new concrete skatepark at the Knap in Barry. The total cost of the scheme was £330k to be funded £100k contribution from the Council which was already built into the 2022/23 Capital Programme, £200k grant from The Sport Council for Wales and a £30k contribution from the Richard Taylor Memorial Fund.

The use of Emergency Powers was sought to increase the scheme budget by £230k in the 2022/23 Capital Programme to be funded as detailed above.

(Scrutiny – Healthy Living and Social Care)

(n) Rollout of Universal Primary Free School Meals reference

The Council had received an award of funding from Welsh Government for £1,137,937 in relation to the capital funding grant to support the rollout of Universal Primary Free School Meals. The Funding related to capital expenditure on the school meal infrastructure during the period 01 April 2021 to 31 March 2022 and would be paid in full in March 2022.

Due to the late award of the grant the terms and conditions allowed the funding to be used in 2021-22 financial year for locally determined education capital expenditure and the internal funding displaced by the grant will be spent in 2022-23 for investment in accordance with the Purposes of the grant.

The use of Emergency Powers was sought to include the scheme in the 2022/23 Capital Programme with a budget of £1,137,937 to be funded from displaced monies as set out above.

(Scrutiny – Learning and Culture)

(o) Larger Homes Fund 2021/22

The Housing and Building Services Team had recently applied to Welsh Government for the Larger Homes Grant Funding Scheme and had been successful.

The Council had received an award of funding of £190,457.00 in relation to the Larger Homes Fund, which would contribute to the cost of remodelling (including extension), of two properties. The Funding was available during the period, 1st April, 2021 to 31st March, 2022 and would need to be claimed by the 31st March, 2022. Welsh Government had allowed displacement which the Council would utilise against other HRA capital schemes in 2021/22 and this would release internal funding which would be carried forward so that the scheme could be carried out in 2022/23.

The use of Emergency Powers was sought to:-

- Accept the grant funding award from Welsh Government.
- Include the project with a budget of £400k in the 22/23 Capital programme to be funded from internal reserves £190,457 (displaced funding) and £209,543.00 from an internal virement from internal works.
- Agree for an exemption from contracts procedure rules using 17.4.2 (g).
- Delegate authority to the Director of Environment and Housing to accept the most advantageous tender bid and the Head of Legal Services to execute the JCT Intermediate Contract to deliver the project.

(Scrutiny – Homes and Safe Communities)

(p) Jenner Park Pitch

The pitch had to be replaced because it had reached the end of its projected life and could not meet the standards required for the grade of Football played at Jenner Park at certain times. Due to factors outside of the Council's control the timescales for the replacement were very tight as the window available to replace the pitch was very short due to the football season – ideally the pitch needed to be replaced in June/ July 2022 and therefore work on planning this needed to start immediately.

The use of Emergency Powers was sought so that the scheme could commence as soon as possible. It was requested to increase the 2022/23 Capital Programme by £220k, to be funded £50k from the Wellbeing and Leisure Reserve and £170k from the Neighbourhood Services Reserve.

(Scrutiny – Healthy Living and Social Care)

(q) Housing Welsh Housing Quality Standards External Wall Insulation Blocks of Flats Refurbishment Scheme 2021-22

The Housing and Building Services Team was requesting emergency powers to accept the most advantageous tender bid received from Westdale Midlands Ltd. and enter into contract a JCT intermediate 2016 as soon as was possible to avoid further price increases which were forecast from 1st April 2022.

The use of Emergency Powers was sought to:-

- Award the Housing WHQS External Insulation Blocks of Flats Refurbishment Scheme 2021-22 contract to Westdale Midlands Ltd. at a value of £1,284,304.87.
- Delegate authority to the Director of Environment and Housing to accept the most advantageous tender bid and the Head of Legal Services to execute the JCT Intermediate Contract 2016 to deliver the scheme.

(Scrutiny – Homes and Safe Communities)

(r) Welsh Government, Award of Repayable Funding for Transforming Towns Loans

The use of Emergency Powers was sought:-

1. To obtain authority to accept the funding award of up to £300,000 and to certify a claim for payment in line with the Welsh Government deadline.
2. To obtain authority for the Head of Regeneration and Planning (in consultation with the Deputy Leader and Cabinet Member for Education and Regeneration and the Interim Head of Finance/Section 151 Officer), to approve the use of the loan fund to support town centre regeneration in Cowbridge.
3. To obtain authority for the Monitoring Officer / Head of Legal & Democratic Services to prepare, complete and execute the required legal documentation to enable loans to be provided to third parties for repayment within an agreed timeframe.

(Scrutiny – Environment and Regeneration)

(s) Big Bocs Bwyd Project

The Council had received a variation to the award letter dated 9 December 2021 in relation to 25 additional Big Bocs Bwyd (BBB) projects. It was agreed that Welsh Government would allocate an additional £250k to the BBB project managed by the Council. Further to the success of the scheme at Oakfield Primary, the school was leading on the project, the grant would buy containers for schools in the valleys to distribute food for deprived families.

The use of Emergency Powers was sought to increase the scheme budget in the 2021/22 Capital Programme by £250k to be funded by a grant from Welsh Government.

(Scrutiny – Learning and Culture)

(t) ULEV (Ultra-Low Emission Vehicles) Funding

The Council had been awarded £300k in 2021/22 from WLGA in relation to the installation of the electric vehicle charging infrastructure.

Within the driver “Prosperity For All: A Low Carbon Wales” Welsh Government had set ambitious targets for decarbonisation of the public sector fleet. To achieve the “net-zero” target by 2030 all Council vehicles would need be zero-emission and would require the charging infrastructure to support this.

The use of Emergency Powers was sought so that the funding could be committed as soon as possible before the end of the financial year. It was requested to increase the 2022/23 Capital Programme by £288,600 to be funded by a grant from WLGA.

(Scrutiny – Corporate Performance and Resources)

(u) Upgrade of CCTV System

Funding in the sum of £212,717 from the Welsh Government's, Transforming Towns programme of investment 2021/22 had become available for the CCTV Upgrade within Town Centres.

The use of Emergency Powers was sought to carry forward £212,717 into the 2022/23 Capital Programme to implement Phase 2 of the scheme. Emergency Powers were being used as the BT contract needed to be entered into to ensure that the best possible price could be fixed at current rates and any delay could have resulted in an increase in costs quoted.

(Scrutiny – Homes and Safe Communities)

(v) Belle Vue Pavilion

The Belle Vue Pavilion scheme tenders had been returned and were approximately £403k over budget. The Council had been negotiating with the contractor in an attempt to value engineer the building to reduce the project costs as much as possible which had resulted in an £80k reduction.

With £80k of contractor savings, and £200k of additional S106 funding that had been identified, it was proposed that the fit out of the commercial kitchen be omitted. That brought a further £24k of saving. That left a shortfall of circa £99k to fund before being able to enter into contract. £36k of the £99k would be to fund PV panels.

The use of Emergency Powers was sought to increase the 2022/23 Capital Programme by £299k, to be funded £200k s106 monies (received from Penarth Heights and Land to the rear of Stanwell Road), £36k contribution from the Carbon Reduction Commitment Legacy revenue budget and £63k contribution from the Policy revenue budget.

(Scrutiny – Corporate Performance and Resources)

(w) Childcare Offer Capital Grant

The Council had received a variation to an award of funding in relation to the Childcare Offer Capital Grant. The award was for an additional £10k which formed part of the Covid recovery capital to support early years and childcare provision. The funding related to the period up to the 31st March, 2021.

The use of Emergency Powers was sought to increase the Childcare Offer Capital grant - Covid Small Grant Scheme by £10k in the 2021/22 Capital Programme, to be funded from a grant from Welsh Government.

(Scrutiny – Learning and Culture)

(x) Digital Upgrade of the Council Chamber equipment

Approval was sought to accept a quotation from Civico Ltd for the supply and installation of additional equipment to enable digital improvements to be made to the Council Chamber in order to meet the requirements of the Local Government and Elections (Wales) Act 2021.

The use of Emergency Powers was sought to increase the capital programme by £58k to be funded from the Democratic and Freedom of Information Reserve.

(Scrutiny – Corporate Performance and Resources)

(y) Ysgol Sant Curig Outdoor Play Equipment

Ysgol Sant Curig had purchased outdoor play equipment which was capital expenditure.

The use of Emergency Powers was sought to increase the 2021/22 capital programme by £29,563 to be funded by a contribution from the school's revenue budget.

(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 Chief Executive'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.