

Meeting of:	Cabinet
Date of Meeting:	Thursday, 30 November 2023
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 21st September, 2023.
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 319 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 21st September, 2023.</p> <p>The Council’s Constitution at page 319 (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(s), 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 21st September, 2023.

(a) Aruba Edge Switch Refresh.

Approval was requested for a procurement exercise to be undertaken to tender a works contract for the purchase of hardware required for a corporate Aruba Edge Switch refresh. A further competition would be undertaken on the Sell2Wales portal, using CCS Framework RM6116 Lot 2a.

The scheme budget in the 2023/24 Capital Programme was currently £350k and a further £350k was profiled in the 2024/25 Capital Programme, giving a total budget of £700k over the two year programme.

The use of Emergency Powers was sought to delegate authority to the Director of Corporate Resources / Operational Manager (ICT) to accept the preferred tender, approve the letting of the works contract(s) associated with the scheme, following the completion of the tender process and award the letting of the works contract to the preferred contractor.

(Scrutiny – Corporate Performance and Resources)

(b) Additional Learning Needs (ALN) - 2023/24.

The Council had received an award of funding from Welsh Government for £911K.

The aim of the grant was to optimise learning environments for disabled children and young people, and those with additional learning needs, to increase accessibility, promote inclusive practice, support learning and pupil wellbeing.

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by £911K, to be funded from Welsh Government Grant.

(Scrutiny – Learning and Culture)

(c) Restore the Thaw Landscape.

The Council had received an award of funding for a three-year programme of work, from 2023/24 to 2025/26 from The National Lottery Heritage Fund to improve biodiversity along the River Thaw, its tributaries, and surrounding landscapes. The project would cultivate new habitats for local wildlife, as well as help landowners and the community to do more to support the natural habitats.

The use of Emergency Powers was sought to increase the Capital Programme as follows, to be funded by grant of £569,377 and match funding of £93,000:

	Grant	Match	Total
Year	£		
2023/24	119,000	31,000	150,000
2024/25	181,377	31,000	212,377
2025/26	269,000	31,000	300,000
Total	569,377	93,000	662,377

(Scrutiny – Environment and Regeneration)

(d) Increases to the Band B Strategic Outline Programme Envelope.

On 7th September 2023, Cabinet approved the revised programme envelope to include the increases for Ysgol Sant Baruc (£339,481), Ysgol y Deri (£984,633) and the inclusion of Ysgol Iolo Morganwg (£14,523,000) into the Band B programme due to approval on the WM grant and to allow the Council to deliver the project earlier (attached for reference).

The SOP increase of £15,847,114 to the programme envelope was approved to include as part of Vale of Glamorgan's Band B Capital Programme. This increased the total envelope to £227,218,411.

The Council was due to submit the revised SOP to Welsh Government at the end of September, following Cabinet approval on 7th September 2023. The cost and project managers of AECOM had since reviewed the project costs for delivering the Ysgol Iolo Morganwg scheme and had seen increases of £3,531,000, taking the total project value to deliver the scheme to £18,054,000.

In order to deliver the scheme, approval was requested to set up a new contract with AECOM to deliver Ysgol Iolo Morganwg under Band B programme.

The use of Emergency Powers was sought:-

- To request an increase to the Band B Strategic Outline Programme (SOP) envelope by a further £3,531,000 to deliver the Ysgol Iolo Morganwg scheme.
- So that a new contract be set up with AECOM and the decision to proceed with PSC be approved, in order to start delivering Ysgol Iolo Morganwg under Band B programme.

(Scrutiny – Learning and Culture)

(e) Housing 7 St Pauls Avenue Refurbishment Scheme.

The Housing and Building Services Team had an ongoing refurbishment scheme with ARC Contracting Ltd to refurbish 7 St Pauls Avenue, Barry, CF62 8HT into a children's home for Social Services.

Due to unforeseen and essential additional works during the delivery of the project, the value of the works contract was due to exceed 10% or £50k of the original contract value of £293,885.00 to the new total of £335,082.63. The additional costs would be funded by Social Services who had confirmed they had the funds to cover the additional cost and the additional £25,182.20 for Housing would be funded by HRA capital budget Internal Works line. This was due to the main variations being for internal works.

The use of Emergency Powers was sought to:-

- Approve increasing the 2023/24 capital programme budget by £41,197.63, which would be funded by a virement of £25,182.20 from the Internals line and the remaining £16,015.43 from a Social Services revenue contribution.
- Delegate Authority to increase the contract to allow payment of the additional £41,197.63.
- Delegate Authority for the Head of Legal Services to amend the JCT Intermediate contract 2016 with ARC Contracting Ltd by increasing the value of the 7 St Pauls Avenue refurbishment contract from £293,885.00 to £335,082.63.

(Scrutiny – Homes and Safe Communities)

(f) Service Level Agreement (SLA) between the Vale of Glamorgan Council and the County Council of the City and County of Cardiff.

Following the resignation of Cardiff Council's Director of Governance and Legal Services, whose role included responsibility for the statutory Monitoring Officer duties pursuant to Section 5 of the Local Government and Housing Act 1989, Cardiff Council were desirous to designate an interim Monitoring Officer to discharge the Monitoring Officer statutory role on behalf of Cardiff Council, for up to six months pending a new appointment to the role of Director of Governance and Legal Services and the new appointee taking up their post.

The use of Emergency Powers was sought to allow the Monitoring Officer / Head of Legal and Democratic Services for the Vale of Glamorgan Council to assist Cardiff Council, subject to the Terms and Conditions as set out in the related Service Level Agreement, noting that as per the SLA the Vale Council Monitoring Officer costs would be recovered from Cardiff Council.

(Scrutiny – Corporate Performance and Resources)

(g) LTF 2023-24 Metro Plus Infrastructure Programme – Barons Court.

The Council had been awarded grant funding of £50k in relation to the Barons Court Scheme. Following email confirmation from the Strategic Infrastructure Programme

Manager dated 25th September 2023, the allocation had been granted from the Regional Programme.

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by £50k to be funded from the LTF 2023-24 Metro Bus Infrastructure Programme.

(Scrutiny – Environment and Regeneration)

(h) Severn Avenue External and Environmental Refurbishment Scheme.

The Housing and Building Services Team has an ongoing refurbishment scheme with ASW Property Services Ltd to externally refurbish five blocks of flats at Severn Avenue and remodel the communal garden area.

When the scheme was originally designed the team were unaware of a Photovoltaic (PV) Energy system (with Battery backup) that could separate the energy to individual properties found in blocks of flats. More recently the team had become aware of a sole supplier (Solshare) of a system that can deliver such a system.

The use of Emergency Powers was sought to:-

- Agree for an exemption from contracts procedure rules using 17.4.2 (a & c) to engage Channel Electrical Systems to be sub-contracted to ASW Property Services Ltd to install the Solshare PV system with battery backup at Severn Avenue.
- Approval to via the additional £234,743.85 from the energy efficiency line into the Individual Scheme, Severn Avenue line.
- Delegate Authority for the Head of Legal Services to amend the JCT Intermediate contract 2016 with ASW Property Services Ltd by increasing the value of the Severn Avenue Refurbishment Scheme contract, from £1,027,124.00 to £1,261,867.85.

(Scrutiny – Homes and Safe Communities)

(i) St Brides CiW Primary (Community Focused Schools Grant Scheme).

There was currently a budget of £500k for St Brides CiW Primary under the Community Focused School Grant for 2023-24.

A project had been tendered to address all the works associated with the works and a contractor identified. As the works were expected to total £600k, the school had confirmed that they had sufficient reserves to contribute £100k towards the extension of the school hall.

The use of Emergency Powers was sought to increase the 2023-24 Capital Programme by £100k to be funded from a contribution from the school's revenue budget.

(Scrutiny – Learning and Culture)

(j) Assets Collaboration Programme Wales Phase 2 (ACPW3).

The Council had received an award of funding from Welsh Government of up to £250k to carry out decarbonisation works to Community Centres. The Funding related to the period 1st April, 2023 to 31st March, 2024. and had be claimed in full by 31st March, 2024.

The use of Emergency Powers was sought to increase the 2023/24 Capital Programme by £250k to be funded by a grant from Welsh Government so that the project could be carried out as soon as possible and to ensure the funding was spent within the required timeframe.

(Scrutiny – Healthy Living and Social Care)

(k) St Brides Major Primary School – Hall Extension.

Funding was allocated via the Community Focused Schools Capital Grant for the extension of the hall at St Brides Major Primary School. The conditions of the grant required the funding to be spent by the end of March 2024. Following a two-stage tender process, extensive work had taken place with the contractor to be appointed to agree a scheme which could be delivered within available resources.

The use of Emergency Powers was sought in accordance with the requirements of Contracts Procurement Rule 18.15.2 (c)(iii), it is recommended to appoint Willis Construction to undertake the work, with the cost of works being £520,774.35 from the approved budget for the project of £600,000.

(Scrutiny – Learning and Culture)

(l) Holton Primary School Capital Projects.

There was £375k approved in the 2023/24 Capital Programme for roof renewal and associated works in the Junior block at Holton Road Primary School. The scheme had been tendered and the costs had come in over budget, a total budget of £407k was required. The additional costs were because of the increased costs of specialist roofing works that were generally being seen in the market, plus the need for additional areas of leadwork renewal. The Victorian Schools general maintenance scheme had not yet been fully committed within the 2023/24 Capital Programme.

The use of Emergency Powers was sought to vire £32k from the Victorian Schools general maintenance scheme to the Holton Primary Roof Renewal and Associated Works scheme in the 2023/24 Capital Programme so that the scheme could proceed as soon as possible in order to ensure that the building was fully watertight at the earliest opportunity.

(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. Climate Change and Nature Implications

- 4.1** There are no direct climate and nature implications associated with the report.

5. Resources and Legal Considerations

Financial

- 5.1** The procedure requires that these be taken into account by the Committee / Departments originating the requests for the use of Emergency Powers.

Employment

- 5.2** 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)

- 5.3** 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.

6. Background Papers

Relevant Emergency Powers proformas.