

Meeting of:	<b>Council</b>
Date of Meeting:	<b>Monday, 04 December 2023</b>
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
Report Title:	Use of Chief Executive's Emergency Powers
Purpose of Report:	To notify Council of the exercising of Emergency Powers by the Chief Executive since the last report on 24 <sup>th</sup> April, 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 any Emergency Powers that are approved to be reported to Council for information
Policy Framework:	All actions fall within Paragraph 1 of the Chief Executive's Delegated Powers as set out in the Council's Constitution
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>• To advise Council of the exercising of Emergency Powers by the Chief Executive since the last report on 25<sup>th</sup> September, 2023.</li> <li>• The Council's Constitution at page 319 (delegated powers) states:  "Chief Executive or, in his absence, the nominated deputy <ol style="list-style-type: none"> <li>1. Power to act, after consulting the appropriate Cabinet Member and, in the case only of matters involving Council in financial commitments, the Leader(s), Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion: <ol style="list-style-type: none"> <li>(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."</li> </ol> </li> </ol> </li> </ul>	

## **Recommendation**

1. THAT the use of the Chief Executive's Emergency Powers be noted.

## **Reason for Recommendation**

1. To inform Council.

## **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:

### **(a) Barry Docks Transport Interchange – Financial Overspend in Construction**

Due to delays in the Contractor being able to take temporary ownership of the site, the construction works over-ran the original planned completion date. There were additional costs associated with this which the Contractor, under the terms of the Contract, was entitled to claim together with additional essential works which were outside of the Scope of the Contract. The original tendered sum of £1,450,847.69 had been exceeded, therefore Emergency Powers were sought for the additional spend required in the sum of £231,376.51, which was over the 10% threshold at 16%, with the total construction costs being £1,682,224.20. The increased costs were funded through Cardiff Capital Region grant and S106 monies.

(Scrutiny – Environment and Regeneration)

### **(b) Changes to Cabinet Portfolio Holder and Membership on Environment and Regeneration Scrutiny Committee**

The Leader of the Labour Group, Councillor Lis Burnett, has requested the following changes be made with immediate effect –

- Councillor Sandra Perkes to hold the position of Cabinet Member portfolio holder for Public Housing and Tenant Engagement.
- That in light of Councillor Sandra Perkes being appointed as a Cabinet Member, the Labour Group's allocation of Chair of the Environment and Regeneration Scrutiny Committee is to be filled by Councillor Susan Lloyd-Selby. That it be noted that Councillor Lloyd-Selby will also, as a result of the position of Chair of the Scrutiny Committee, be the Council's representative on the Cardiff Capital Region (CCR) and Joint Overview and Scrutiny Committee (JOSC) for the South East Wales Corporate Joint Committee (CJC).
- That Councillor Joanna Protheroe be appointed to fill the seat vacated by Councillor Perkes (the vacant Labour Group position) on the Environment and Regeneration Scrutiny Committee.

(Scrutiny – Homes and Safe Communities and Environment and Regeneration)

**(c) Change of Membership on Homes and Safe Communities Scrutiny Committee**

The Leader of the Labour Group, Councillor Lis Burnett, requested the following change be made with immediate effect – Councillor Helen Payne to replace Councillor Sandra Perkes on Homes and Safe Communities Scrutiny Committee.

(Scrutiny – Homes and Safe Communities)

**(d) Eglwys Brewis Road – Active Travel Improvements – Authorisation for Welsh Government Funding Spend**

The Council obtained funding from Welsh Government for a segregated footway / cycleway route along the southern side of Eglwys Brewis Road in St. Athan. Due to trees identified for habitats for bats and birds which would be affected by the proposals, an inclusion of sections of composite boardwalk were agreed. The Welsh Government Active Travel funding needs to be fully committed and spent by 31<sup>st</sup> March, 2024. Emergency powers were sought for the approval to spend the Welsh Government funding. The overall value of the scheme in the sum of £1,888,377.49 includes the sum of £440,412.00 for the supply and installation of the proposed boardwalk.

(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 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 Council is to ensure that transparency has taken place and to inform the Council 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 change and nature related implications associated with this report. The Corporate Plan and Annual Delivery Plan incorporate our key commitments which aim to have a positive impact on climate change and

nature overall. The climate change and nature implications related to the Council's activities are outlined in Project Zero (the Council's Climate Change / carbon reduction programme) and identifies the mitigating actions we intend to take to minimise the adverse consequences of our activities.

## **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(s), Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:  
  
(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 Cabinet or Council as appropriate.

## **6. Background Papers**

Relevant Emergency Powers proformas.