

THE VALE OF GLAMORGAN COUNCIL

REQUEST FOR THE USE OF EMERGENCY POWERS – CORONAVIRUS PANDEMIC

SUBJECT: Procurement Arrangements During the Pandemic

1. **Originating / Department / Service** –

Finance – Managing Director and Resources

2. **Reason for Seeking Emergency Powers** –

The Council has in place contract procedure rules which outline the process and timelines to be adhered to when securing goods and services for the Authority. These are in line with good practice and comply with UK Procurement Law.

COVID-19 is serious and its consequences pose a risk to life and it is already clear that in these exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. In response the Cabinet office has issued updated procurement guidance (Cabinet Office Procurement Policy Note- Responding to COVID-19 Information Note PPN 01/20 March 2020. Regulation 32(2)(c) of the Public Contract Regulations (PCRs) is designed to deal with this sort of situation).

Regulation 32(2) sets out the following:

The negotiated procedure without prior publication may be used for public works contracts, public supply contracts and public service contracts in any of the following cases: ...

(c) insofar as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the contracting authority, the time limits for the open or restricted procedures or competitive procedures with negotiation cannot be complied with.
... the circumstances invoked to justify extreme urgency must not in any event be attributable to the contracting authority.

Therefore, in responding to COVID-19, contracting authorities may enter into contracts without competing or advertising the requirement so long as they are able to demonstrate the following tests have all been met:

1) There are genuine reasons for extreme urgency, e.g.: *you need to respond to the COVID-19 consequences immediately because of public health risks, loss of existing provision at short notice, etc; you are reacting to a current situation that is a genuine emergency - not planning for one.*

2) The events that have led to the need for extreme urgency were unforeseeable, e.g. *the COVID-19 situation is so novel that the consequences are not something you should have predicted.*

3) It is impossible to comply with the usual timescales in the PCRs, e.g.: there is no time to run an accelerated procurement under the open or restricted procedures or competitive procedures with negotiation; there is no time to place a call off contract under an existing commercial agreement such as a framework or dynamic purchasing system. e.g. *Immediate need and Increased use of PPE to cover shortfall. Shortage of supplies in market place and high levels of competition for supply.*

4) The situation is not attributable to the contracting authority, e.g.: *you have not done anything to cause or contribute to the need for extreme urgency.*

It is proposed that this new guidance is adopted with immediate effect and that delegated authority is granted to the Managing Director in consultation with the Leader and the Head of Finance to agree individual arrangements under this guidance

3. Policy Framework and Budget –

PLEASE INDICATE as appropriate that the matter that you are seeking the use of Emergency Powers for is a Cabinet or Council function.

Cabinet

Council

4. Relevant Scrutiny Committee –

Corporate Performance and Resources

IMPORTANT

The following sections **must** be completed **prior** to the request being submitted to the Democratic and Scrutiny Services Section for processing.

I confirm (delete as appropriate)

~~(a) That there are no financial implications and the relevant Cabinet Member, Leader and / or the Deputy Leader has been consulted and is in agreement with the use of Emergency Powers; or~~

(b) That, in view of the financial commitments, the Head of Financial Services, the appropriate Chief Officer, the relevant Cabinet Member, Leader and / or Deputy Leader have been consulted and are in agreement with the use of the Emergency Powers and that

~~(c) For matters relating to the Planning Committee the Chairman of the Planning Committee has also been consulted and is in agreement with the use of Emergency Powers;~~

~~(d) For matters relating to the Licensing Committee the Chairman of the Licensing Committee has also been consulted and is in agreement with the use of Emergency Powers.~~

(e) For matters relating to the Welsh Church Act Estate Committee the Chairman of the Welsh Church Act Estate Committee has also been consulted and is in agreement with the use of Emergency Powers.

(f) For matters relating to policy the relevant Scrutiny Committee Chairman has been consulted and is in agreement with the use of Emergency Powers.

Signed: Carys Lord **Date:** 17/04/20
(Instructing Chief Officer)

Please print name: Carys Lord

I hereby approve under my Emergency Powers the attached recommendation(s) on behalf of the Cabinet / Cŵnneil (please delete as appropriate).

Signed: Rob Thomas..... **Date:** .4/5/20.....
Managing Director

NB Should the relevant portfolio Cabinet Member be unable to be consulted only the Leader and / or Deputy Leader be consulted in their absence.

N.B. Cabinet: 23rd March, 2020 Minute No. 295