

# Appendix 32D

ISLE OF ANGLESEY COUNTY COUNCIL	
COMMITTEE	EXECUTIVE
DATE	10 <sup>TH</sup> SEPTEMBER 2007
TITLE OF REPORT	PROPERTY ACQUISITION AT AUCTION ON THE 19 <sup>TH</sup> OF JULY 2007
PURPOSE OF REPORT	TO RATIFY A DECISION OF THE 16 <sup>TH</sup> JULY 2007
REPORT BY	THE MONITORING OFFICER

### 1. BACKGROUND

- A meeting of the Executive took place on the 16<sup>th</sup> of July, 2007 in connection with the Council's proposed acquisition of a property at auction, to take place on the 19<sup>th</sup> of July 2007.
- The Executive unanimously supported the recommendation of Officers as set out in the Report of the Corporate Director (Environment and Technical Services).
- I was not present at the meeting but later discovered that the Leader, having declared an interest in the item, relinquished the Chair while the item was under consideration. In his absence the Executive ought to have been chaired by the Deputy Leader.
- However, that procedure was not followed and the item was dealt with while the Executive was chaired by the Chairperson of the Council; albeit that the Deputy Leader was present.

### 2. ADVICE

- The procedure which was followed not only failed to satisfy the requirements of the Council's Constitution but was also contrary to statute (Section 11(7) of the Local Government Act 2000). The decision arising from this unlawful procedure may therefore be challenged.

The defective procedure could not have been remedied by another meeting of the Executive as such a meeting would, by then, have fallen foul of the Access to Information Regulations; of itself raising the prospect of challenge.

Accordingly, I met with the Managing Director and the Corporate Director (Environment and Technical Services) to express my concerns. I advised that the safest course of action would be not to participate in the auction. However, given that the Executive was unanimous, the substantive decision was defensible, with a significant potential benefit to the Council and the public, it was agreed by the three Officers present that the course of action authorised by the Executive would continue despite the falling in the process and the potential for challenge.

- The auction went ahead on the 19<sup>th</sup> of July 2007 and the Council acquired the property. Regardless of any shortcomings in the way in which the Executive processed its decision, the Council became contractually obliged to the vendor

and, at this point, I would advise that a properly constituted Executive ratify its earlier decision of the 16th of July 2007. For the avoidance of doubt, this will not remedy the flawed decision but is the best that can be done in the circumstances to mitigate that decision and to reflect the fact that the decision was rational, based on compelling reasoned arguments, and had the support of all the Executive Members present.

• However, I remain concerned about the following factors:

- that Section 11(7) of the Local Government Act 2000 was breached when this provision was specifically highlighted at the Annual Meeting of the Council on the 2<sup>nd</sup> of May 2007, in connection with the appointment of the Vice Chairperson of the Council;
- that Officers were put in the position of either having to prejudice the interests of the Council, and the public, or else to implement a decision they knew to be procedurally flawed. This is a particular concern given that no explanation has been forthcoming as to the reasons why these circumstances arose.
- the Executive may have to explain its position in the event that this decision is challenged.

### 3. RECOMMENDATION

- That a properly constituted Executive ratify its decision of the 16<sup>th</sup> July 2007.

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