

IN THE MATTER OF:-

**BURY METROPOLITAN BOROUGH
COUNCIL**

- and -

(1) MIKE OWEN

(2) MARK CARRILINE

[REDACTED]

INDEPENDENT INVESTIGATION REPORT

I. INTRODUCTION

1. I have been instructed by Gowling WLG (UK) LLP, the solicitors to Bury Metropolitan Borough Council ("the Council"), to carry out an independent investigation into allegations of misconduct affecting the three senior officers named above.
2. I begin with a concise summary of the events from which the allegations arise. In late 2010, when employed in the library service of [REDACTED] Council, Cllr A [REDACTED] was caught accessing material of a sexual nature on a local authority computer. Disciplinary action proceeded and he was dismissed in early 2011 [REDACTED] Cllr B [REDACTED] was a Labour member of Bury Council. In January 2011 they applied to the Council to be assessed as adopters. In May 2012 Cllr A [REDACTED] was also elected as a Labour member of the Council [REDACTED] Cllr D was [REDACTED]

appointed to the Cabinet. In August 2012 they were approved as potential adopters. [REDACTED]
[REDACTED]
[REDACTED]. They did not at any time disclose the fact of CIRA's disciplinary process. On 14 March 2014 [REDACTED]
[REDACTED] An officer [REDACTED] raised a concern about these matters with the police, and [REDACTED] raised the matter on 1 April 2015 with Mike Owen, who had become Bury's Interim Chief Executive on that date, and on 8 April 2015 with Mark Carriline, Bury's Executive Director of Children, Young People and Culture. In between those dates Mr Owen shared the information with the Leader of the Council (who was the leader of the Labour Group) but did not take any other action. Thereafter the Council conducted a safeguarding investigation. This did not comply with the Council's written procedures in some respects and some other criticisms have been made of it. However, it did lead to the police finding CIRA to be in possession of child pornography, for which he was prosecuted and convicted. He left the matrimonial home. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3. In May 2016 there was a change in the Leadership of the Council and [REDACTED] (Labour) was elected. Following a number of reports to him and allegations that the safeguarding obligations had not been dealt with properly, in late 2016 [REDACTED] asked the Council to commission an independent management review of the case by Malcolm Newsam CBE. He provided his report on 11 February 2017 ("the Newsam Report").

[REDACTED]

[REDACTED] Together they should also have assured themselves that the role of Officers and Members were carefully delineated and where the conduct of Members was not in keeping with their positions that this was appropriately addressed by the Leader and the Labour Group.

5. It is therefore necessary to refer to the Newsam Report to identify the precise content of these allegations. I take this list from the "Conclusions" section:

- [REDACTED]
- [REDACTED]
2. Mike Owen failed to inform his Director of Children's Services of the concern on 1 April 2015. Then and in his subsequent engagement in the case he was driven more by political considerations to protect the Labour administration than by his responsibility to safeguard [REDACTED]
 3. Mark Carriline failed to put [REDACTED] at the centre of his investigation, failing properly to inform others about the concerns and pursuing a strategy of circumventing the Council's allegations management processes. He too placed political considerations above safeguarding duties.
 4. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

6. My Terms of Reference require me to:
1. carry out an investigation by interviewing witnesses and reviewing documents;
 2. determine the extent, if any, to which there is evidence to support the allegations; and

3. make recommendations as to any conflicts of evidence and the range of reasonable responses open to the employer.
7. The legal context for this process is the Local Authorities (Standing Orders) (England) Regulations 2001, as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 ("the Regulations").
8. The process is based on the model procedures for disciplinary action or situations in which there is the potential to discipline a local authority's head of paid service or monitoring officer on the grounds of misconduct, produced by the Joint Negotiating Committee for Local Authority Chief Executives (JNCCX). These can be modified to suit the particular circumstances of the case but not so as to depart from the Regulations. They require the involvement of an independent investigator, and give the choice of an inquisitorial process of evidence gathering and hearing submissions, or a formal hearing. The same procedure has been adopted for all three officers notwithstanding their different statutory designations and regulatory rights, so as to "level up" the protections available to them.
9. The inquisitorial process has been used in this case. I have conducted interviews with those witnesses from whom I felt that I needed more information. These were conducted by telephone in the case of [REDACTED] and a second interview with [REDACTED] and otherwise face-to-face. In the case of one witness (Detective Inspector [REDACTED]) information was provided by written questions and answers rather than an oral interview. I invited and received statements and submissions by the three officers. Some other witnesses provided me with statements which I have considered. I have been provided with various documents by the Council, the three officers and other witnesses.

10. I have adopted findings of fact made in the Newsam Report where it appears safe to do so. I have not regarded myself as bound by Mr Newsam's findings in general and have subjected these to further investigation where necessary. Nor have I regarded myself as bound by any inferences drawn in the Newsam Report, and I have considered for myself what inferences it would be fair to draw from the facts and evidence.
11. I have also extended my investigation of the facts into relevant events post-dating those on which the Newsam Report comments because they may shed further light on the earlier events.
12. I make this report to the Council's Human Resources and Appeal Panel which is discharging for the Council the functions of the Investigation and Disciplinary Committee (IDC) envisaged in the JNCCX. It must also be considered by a Panel appointed by the Council pursuant to schedule 3 to the Regulations, whose function is to advise the local authority on these matters. When the local authority decides whether to approve a dismissal in such a case, it must take into account any advice, views or recommendations of the Panel and the conclusions of this investigation.

II. THE THREE OFFICERS

13. Mike Owen's professional background is as an accountant. He has worked for Bury Council since March 1986 with one short break at another local authority, occupying different posts over the years including that of statutory finance officer. On 1 April 2015 he took up the post of Interim Chief Executive, having been Director of Resource and Regulation immediately beforehand. He was appointed as Chief Executive on 1 July 2015 following an external recruitment process.
14. Mark Carriline's career began in 1983 with 4 years as a teacher. He then worked for some years in the education departments of several local authorities, eventually becoming Director of Education and Leisure in Salford before serving as Assistant Chief Executive in Bradford until 2006. He was employed by the Council in January 2007 on an interim basis covering for an Assistant Director who was ill. In December 2007 he was appointed to a permanent post as Assistant Director (Prevention & Partnerships). He became interim Executive Director of Children's Services in January 2011, with the appointment being made permanent in July 2012. When the Council was restructured in April 2014, his role was extended to Executive Director (Children, Young People & Culture).
15. [REDACTED]
16. I am not aware of any relevant prior complaints of a disciplinary or other nature relating to any of the three officers.

17. On 16 May 2016 Ofsted published its report on an inspection of Bury's Children's Services. It gave ratings of "Good" in relation to "Children who need help and protection", "adoption performance" and "Leadership, management and governance". The executive summary begins with a finding that *"Children and young people in Bury are effectively supported and safeguarded by good joint working between children's social care services and partner agencies including the police, adult services and healthcare providers."* That is, however, not a verdict on this specific case.

[REDACTED]

[REDACTED]

[REDACTED]

■ [REDACTED]
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**IV. HOW MIKE OWEN DEALT WITH THE INFORMATION
GIVEN TO HIM ON 1 APRIL 2015**

60. On Wednesday 1 April 2015 Mike Owen took up the post of Interim Chief Executive. On that same day at about 1.30 pm he had a telephone conversation with [REDACTED]. It had been a busy morning in particular because there was a meeting of Full Council that evening.
61. [REDACTED] asked Mr Owen whether he knew [REDACTED] and that [REDACTED] told Mr Owen about [REDACTED] disciplinary process in [REDACTED] which had concerned his "*looking at some questionable images*". Mr Owen asked what these were and whether they concerned pornography or involved children or adults. He received what he remembers as a vague answer, mentioning images of pre-teen children and giving an example of a girl in a plaid skirt. [REDACTED] said that [REDACTED] were not sure what the images were but that they had referred the matter to the police. They could not share any of the material with Bury.
62. Mr Owen interpreted this call as simply alerting him to the case rather than requesting or suggesting any specific action.
63. Mr Owen decided to telephone [REDACTED] immediately but found him unavailable and left a message.
64. Mr Owen then spoke to the leader of the Council's ruling Labour Group, [REDACTED], to alert him that there was a problem with his member [REDACTED] which involved the police. He says mobile telephone records show that this occurred at 13.41, i.e. before his later conversation with [REDACTED] (see below).

65. In case the timing is important, I note that [REDACTED] told me that this was a visit to his office, not a telephone call:
... he came into my office and sat down and said ... shut the door , there was a serious problem, and told me ... well, gave me the heads up ...
66. Mr Owen felt that he was providing the information as a normal courtesy and had had other similar conversations with other party leaders when problems with their members cropped up. Mr Owen says that [REDACTED] response was that he did not want to be involved unless and until he was asked to do anything officially, and that the Council should treat the case as it would treat any other case not involving a councillor.
67. [REDACTED] returned Mike Owen's call later on 1 April 2015.
68. According to Mr Owen, [REDACTED] said that he had passed the material viewed by [REDACTED] to the Public Protection Investigation Unit (PPIU), which was the specialist unit dealing with matters of this broad kind, and he said words to the effect of "*I don't want you to do anything with this*". He said that he did not yet know whether any criminality was involved, and "*we don't want Bury to go in and do anything that could alert him to the fact he's under investigation and could damage any evidence*". He said that he had passed the case to a very experienced Detective Inspector with a request for it to be a high priority.
69. Mr Owen told me that he was worried by this instruction not to do anything about what might be a child safeguarding matter. However he was reassured to know that the case was with the PPIU who are experts in this field. From what [REDACTED] said, he believed that there would be progress within a small number of days. Nevertheless, he

did not ask any expert what he should do or consult any written policies or guidance.

70. Mr Owen also told me that child safeguarding was a matter of great personal significance to him because [REDACTED]
[REDACTED]
71. He felt that it would have been gross misconduct to ignore the instructions of a senior police officer. I asked him whether he could nevertheless have confidentially briefed Mark Carriline and he replied: "[REDACTED] particularly said *Children's Services*". I asked him for more detail, and his recollection of [REDACTED] words was: "*I want you to take no action on that and at the moment that includes involving Children's Services.*" Mr Owen thought that this was because at this early stage there was considerable doubt in the minds of the police as to whether any unlawful act had taken place. However he was sure that the words "*Children's Services*" were said by [REDACTED]
72. I interviewed [REDACTED]. Detective Inspector [REDACTED] declined to be interviewed but invited me to send her some written questions, to which I received written answers.
73. At the relevant time [REDACTED] had executive responsibility for all policing in Bury, managing resourcing, finance and performance rather playing an operational role. On 31 March 2015 he received an email from [REDACTED], who was the Local Authority Designated Officer¹ ("LADO") for [REDACTED]. [REDACTED] knew [REDACTED] from a previous post he had held as a Superintendent in [REDACTED]. [REDACTED] suggested to [REDACTED] that although [REDACTED] misuse of the IT system in 2010 had been investigated by police at the time, the

¹ For the role of the LADO see paragraph 153.

outcome whereby the police took no further action had not seemed entirely correct. Now it appeared that [redacted] was trying to adopt [redacted] she thought it necessary to ask the police to consider the matter anew. [redacted] sent [redacted] a bundle of material which included printouts of the pages which [redacted] had viewed on [redacted] system in 2010.

74. It was unusual for a matter of this kind to come to the attention of a Chief Superintendent and it seems that this occurred simply because [redacted] knew [redacted] felt that the case should pass through the usual process of triage by the PPIU.
75. On Thursday 2 April [redacted] allocated the case to DI [redacted] and asked her to assess the information and to expedite the investigation and brief him in a few days. This was because he viewed the case, involving a Bury councillor, as sensitive and relatively likely to attract attention from the press and the public. He explained to me that such matters are not investigated differently from others but more resources may be devoted to them in order to manage demands such as press attention.
76. DI [redacted] has also explained that all PPIU cases are of a sensitive nature, giving rise to a duty to protect the identity of interested parties.
77. [redacted] formed the impression that, back in 2010, although the police had been alerted to [redacted] misusing the IT system to view pornographic material, they had not been shown the material in question and may not have been alerted to the worrying references to children in the search terms. That could help to explain why the case had been classified as a civil matter requiring no further police action.

78. Regarding the conversation on 1 April 2015, [REDACTED] recalls that he spoke to Mike Owen but could not remember who called whom. The conversation was very brief, perhaps a minute or two, in which some brief details were exchanged and [REDACTED] "told him to leave it with the police". That advice reflected [REDACTED] view that, at that time, there was nothing anyone else needed to do in relation to a fairly old piece of intelligence which had not yet been assessed. In particular he did not think there was anything Bury's Chief Executive should be doing with the case as at 1 April, and the case would be dealt with by the experts at the PPIU.
79. [REDACTED] emphasized that interaction with a local authority on a matter such as this would normally be a matter for the PPIU, because they are the officers who normally receive reports such as this, and indeed they receive many reports every day. It would be the role of an officer such as DI [REDACTED] to assess risk and refer cases to partners as necessary. In the view of [REDACTED] it would then have been absolutely open to DI [REDACTED] to involve Children's Services or not, as she saw fit.
80. [REDACTED] was clear that he did not say "*Mike, don't do anything*" and he did not ask Mike Owen either to do or to refrain from doing anything specific. He remembers his advice as being "*leave it with us*" or words to that effect. However, when I asked him whether this might have been interpreted as "*please don't do anything*", he said "*I think to most people probably yes*". But [REDACTED] was sure that he did not say, and would never have said, that he did not want Children's Services involved or that Children's Services should not do anything. He viewed Children's Services as part of a partnership with the PPIU, and this was just a short conversation which did not delve into any detailed discussion of what would happen next. He would have regarded it, he told me, as normal for Mr Owen to have simply mentioned the case in passing to Mark Carriline.

81. Resolving the question of what was said is made more difficult by the fact that Mr Owen did not keep a note of what happened (although he does remember scribbling some notes on the back of a council script, which has not survived). With hindsight he accepts that he should have kept a proper note of this important matter.
82. In my view the conversation did contain a request by [REDACTED] to Mike Owen to leave the matter in the hands of the police. This was because it was not yet clear that there was any criminality which would require any further investigation. I conclude that [REDACTED] must have thought that it would be reasonable for any child protection action to await the PPIU making further progress. It is a fair point that the PPIU were experts who would be well aware of multi-agency safeguarding arrangements. Later events would also show that [REDACTED] and DI [REDACTED] wanted any action to be co-ordinated and they expressly asked for a delay in informing [REDACTED] Council about the concerns.
83. However, my view on the balance of probabilities is that [REDACTED] did not expressly say that Children's Services should not be involved. That would have been a strange suggestion to come from a non-operational officer.
84. I therefore feel concern about the reliability of Mr Owen's evidence on this point. If I am right that Children's Services were not mentioned, then he has either mis-remembered or invented a self-serving detail. There are also other points of detail on which I feel similar concern, as I explain below.

85. █████ confirmed that so far as he was aware, there was no change in the police position between 1st and 8th April 2015, when Mark Carriline raised the matter with Mike Owen.
86. Mike Owen recalls calling █████ back on 2 April and her saying that the images had been referred to the police in 2011 who had decided to take no further action.
87. On 2 April, DI █████ asked the GMP Sexual Crime Unit to review the findings of the 2010-11 █████ investigation.
88. Easter then intervened, Good Friday falling on 3 April. The next working day was Tuesday 7 April.
89. On Wednesday 8 April 2015, █████ Council alerted Mark Carriline to the matter. This is discussed in the next section.
90. My overall impression is that the police felt then, and feel today, that they did not handle the case well in 2010-11. I gained this impression in part from █████ insistence on the success of the operation to bring CIRA █████ to justice in 2015 and in part from DI █████ reluctance to speak to me, which appeared to arise from an anticipation of criticism. Also █████ told me that the police have said to her that their reaction to events in 2010-11 would be very different if it happened today. This is supported by an email from DI █████ to the LADO on 28 May 2015, emphasizing the improvement of procedures and systems since 2010. This leads me to the conclusion that the police were initially keen to control the flow of information, which in turn supports Mike Owen's interpretation of having been asked initially to keep the information to himself.

91. Nevertheless, after he received this *"leave it with us"* instruction on 1 April 2015, I think Mr Owen was bound to satisfy himself as to what, if any, action was then required to comply with the Council's safeguarding duties. If he was not familiar with those policies and/or did not consult them, he should have confidentially consulted Mark Carriline (or another person with appropriate safeguarding expertise). If Mr Carriline had taken a different view from the police, no doubt the two agencies could have spoken to each other. I therefore think that failing to tell Mr Carriline was an over-reaction to the police's *"leave it with us"* instruction and was an error of judgment. It was also inconsistent with Mr Owen immediately briefing [REDACTED] (and allowing him to share the information with a regional Party official), to which I return below.
92. That view is bolstered by Mr Carriline's evidence to me. He felt that Mr Owen's omission to mention the case to him was a clear error. He thought it was excusable given that this was Mr Owen's first day as Chief Executive and that he did not have a background in safeguarding, but in my view that does not excuse a failure to seek advice from anyone who was expert in safeguarding. This is also supported by the evidence of [REDACTED] who told me she was *"incredibly shocked"* by the failure to mention the matter to anyone in Children's Services during this period.
93. The effect of this error was to delay the start of the investigation. On the balance of probabilities, I believe that if the information had been shared with Mr Carriline on 1 April 2015, Mr Carriline would have sought to initiate an investigation promptly although this might have necessitated an awkward

discussion with the police. In my view the blame for this delay is shared between Mr Owen and the police.

94. Mike Owen's actions were also inconsistent. When Mark Carriline raised the matter with him on 8 April (see the next section), Mr Owen felt that there was now no obstacle to the Council proceeding with a safeguarding inspection. In interview he recollected that this was because [REDACTED] had contacted him again on or around 8 April and said that the police had uncovered matters of concern, from which he felt that the "leave it with us" instruction was no longer in force. However [REDACTED] did not recall any change in his position at that time and the documents show matters moving on the next day, 9 April, i.e. a day after the conversation with Mr Carriline. This was a further occasion on which I was troubled by apparent inaccuracy in Mr Owen's recollection.
95. I pressed Mike Owen on a second inconsistency in his actions i.e. his contact with [REDACTED]. Having checked his records, he emphasized that the call was made before the conversation with [REDACTED] and therefore before he had been asked to keep the matter to himself.
96. I am concerned about the reliability of this evidence too. I have already referred to the conflict of evidence about whether this was a telephone call or a face-to-face conversation. [REDACTED] also told me that Mr Owen made clear to him that they were not to tell anyone so as not to prejudice the investigation, which leads me to believe that he was spoken to after Mr Owen had spoken to [REDACTED]
97. Mr Owen also said that the call was motivated by the fact that [REDACTED] as Leader was his line manager. I asked Mr Owen whether,

if the case had concerned a Conservative councillor, he would have informed the leader of the Conservative group who would not have had any line manager role, and he felt this was "hard to tell".

98. Mr Owen explained that he trusted [REDACTED] implicitly and felt that he needed his counsel. He referred me to guidance published by the Society of Local Authority Chief Executives (SOLACE) in 2011, commenting on the role of the Chief Executive. In particular:

A special relationship

The role of the Chief Executive and Leader are closely linked but are not wholly discrete – they are overlapping and complementary which brings its own set of tensions. One of the key roles of the Leader and Chief Executive should be to construct trust at a point of tension and potential conflict between the different worlds of political logic and managerial logic. It is important that there is mutual understanding of each others' roles, and this relies on good communications. A Leader must be able to impart to their Chief Executive their understanding of the group and of the wider political context and imperatives without such communications being seen as disloyal. The Chief Executive needs in a similar way, without eroding the loyalty owed to colleague officers, to be able to discuss with a Leader their managerial capacity or incapacity to deliver on a particular agenda. This is not just about interpersonal skills but about mutual grasp of each other's worlds.

A wise Chief Executive commits to their Leader unconditionally, and understands this as including roles of confidant, mentor, partisan, speech writer and PR consultant. When it works, the relationship between Leader and Chief Executive is an exceptional thing.

It is a brave Leader who embarks on their political journey without the services of a Chief Executive or someone clearly tasked with fulfilling the role of the Chief Executive.

99. I understand the point about the need for a mutually supportive relationship. However, although this passage contains the suggestion that a Chief Executive should be a confidant for the Leader, it does not suggest that the Leader should be a confidant for the Chief Executive. And the same guidance also states: "*It is the Chief Executive who ensures that all Council Members are listened to and dealt with impartially*". I therefore do not think that the SOLACE guidance explains or excuses the contact with [REDACTED]. Instead it seems to

me that, over the years, Mr Owen had developed a close working relationship with [REDACTED] and this was at least one factor in his decision to confide inappropriately in [REDACTED] on this occasion.

100. Mr Owen wished for, and obtained, [REDACTED] advice which was to deal with this case as he would deal with any other, with no special treatment for [REDACTED] and Cllr A [REDACTED] as members.
101. I interviewed [REDACTED] who led the Labour Group from May 2009 and was the Leader of the Council from May 2011 until May 2016.
102. [REDACTED] has been a member of the Council for 23 years. He has known Mike Owen throughout that time. He described them as colleagues rather than friends and said that any meetings outside work would occur only at official occasions. However they know each other well, and worked very closely together when [REDACTED] had the cabinet portfolio for finance and Mr Owen was the Council's chief financial officer.
103. [REDACTED] has known [REDACTED] and Cllr A [REDACTED] as party colleagues for around 10 years. He describes them as friends though not close friends, and has dined at their house "*along with lots of other people*".
104. He described how Mike Owen came to see him on or around 1 April 2015, said that there was a serious problem and "*gave me the heads up on ... one of ... the Labour councillors ... being investigated*". Mr Owen told [REDACTED] that [REDACTED] had made it clear that they must not discuss the case with anybody. This conversation may have lasted around 15 minutes.

105. I asked [REDACTED] whether he felt he was being visited as Leader or as leader of the Labour group and he considered these to be one and the same. He confirmed that he told Mr Owen that [REDACTED] must be treated in exactly the same way as anybody else would be. That was notwithstanding his realizing immediately the implications which this case might have for the [REDACTED] family.
106. Meanwhile, despite the requirement not to tell anyone, [REDACTED] confidentially shared the details with a regional Director of the Labour Party (he says that he told Mike Owen he would do this and Mike Owen "*respected this*"). He cannot now remember exactly when this was. There was a conversation about what action the Labour Party would take in the event of [REDACTED] being charged or convicted. This further disclosure underlines the inconsistency of Mr Owen's actions.
107. [REDACTED] also assumed that Mark Carriline would be briefed but cannot remember whether he discussed this with Mike Owen.
108. As the investigation proceeded, [REDACTED] remembers that he was kept in the loop but he did not have any input into any operational decisions. He was not aware of any departures from written procedures. He says that he maintained confidentiality at all times.
109. In my view Mr Owen was guilty of a second serious error of judgment in sharing the information with [REDACTED].
110. It does not seem to me that there was any operational necessity for [REDACTED] to know. The operational consequences would be a matter for Children's Services, not for politicians, and Mike Owen was not under a duty to try to anticipate any political fallout, let alone to try to do anything about it.

111. Meanwhile sharing the information with a person who was (1) a fellow councillor with [REDACTED] and Cllr A, (2) their colleague in the local Labour Party and (3) as it happened, their personal friend (although Mr Owen told me he did not know that at the time), created an obvious and serious risk that Cllr A might be tipped off about the police investigation. For that reason, far from helping the Leader in any way it must have put him personally in a difficult position.
112. As I have said, I believe that the close working relationship was one reason why this happened. In addition, there is some evidence of a more sharply improper motive for these errors of judgment. A note of a meeting on 12 May 2015 records Mr Owen saying that he was "*protecting the reputation of the Labour group*". A further note of a meeting on 6 October 2016 records Mr Owen saying that he was "*doing a favour to the Labour Group*". I return to this subject at paragraph 291 below.

**V. HOW MARK CARRILINE DEALT WITH INFORMATION
GIVEN TO HIM: THE TIMING OF THE SAFEGUARDING
INVESTIGATION**

113. After alerting Mike Owen on 1 April 2015, [REDACTED] Council's [REDACTED] [REDACTED] continued to look into the matter. Having ascertained that the serving Bury councillor was the same [REDACTED] [REDACTED] whom [REDACTED] had dismissed in 2011, she decided to ask her Director of Safeguarding, [REDACTED] to make formal contact with Bury Council to ensure a proper flow of information.
114. On Wednesday 8 April 2015, [REDACTED] duly telephoned the Council. She had hoped to speak to [REDACTED] her counterpart at Bury, but she was away on annual leave. [REDACTED] decided to speak to somebody more senior, and therefore left a message for Mark Carriline, who returned her call at about lunchtime that day.
115. [REDACTED] had seen [REDACTED]'s HR file including printouts of images viewed by [REDACTED] [REDACTED] in particular of "little girls in uniform" such as schoolgirls and Brownies. She set out her concerns in a conversation which she remembers lasting around 15 minutes. Mr Carriline said he would go and discuss the matter with his Chief Executive.
116. [REDACTED] also remembers taking a call from [REDACTED] Bury's [REDACTED] Safeguarding, on or around the next day. They spoke about what needed to be done, such as getting [REDACTED]'s LADO involved in an investigation. [REDACTED] regarded the matter as pressing because of the upcoming Court hearing on 7 May 2015.
117. I asked [REDACTED] how she would have proceeded if she had been in charge. [REDACTED]

[REDACTED]
[REDACTED] However, she was kept informed of what happened and it seems that progress was sufficient to reassure her despite the lack of any immediate action of that kind.

118. I also asked whether, if [REDACTED] were in Bury's shoes, they might have asked another authority to investigate. [REDACTED] instinct was that in such a case, rather than handing the entire investigation over to another authority, it might have been wise to bring in one or more independent social workers to work alongside the Council.
119. Mark Carriline told me that on 8 April 2015 [REDACTED] [REDACTED] Safeguarding, was on leave. Had she been present he would have spoken to her immediately to begin a safeguarding investigation under section 47 of the Children Act 1989. As she was absent, he went instead to Mike Owen's office to speak with him immediately.
120. In this conversation Mr Carriline discovered that Mr Owen had already known about this matter for a week. Mr Owen said that [REDACTED] [REDACTED] had told him not to share the information with anyone, including Children's Services. Mr Carriline responded that the Council needed to undertake a section 47 investigation which he would initiate.
121. Mr Carriline then gave thought to how the investigation should proceed. He emphasizes the complexity of the case. It involved [REDACTED]
[REDACTED]
[REDACTED] who had reported the concern, in addition to Bury. [REDACTED]
[REDACTED]

- [REDACTED]
122. Mr Carriline decided that the investigation should be directly managed by [REDACTED], whose professional experience was in safeguarding. Because she was on leave, this would mean a delay of two working days before the investigation could start. Mr Carriline told me that he would not have countenanced a longer delay than this but he felt that this was reasonable in view of the need to have the right person in charge.
123. This was perhaps the first in a sequence of decisions or actions which were explained by the "sensitivity" of the case. It seems that the fact [REDACTED] councillors being involved was an important component of that sensitivity. I do not think that any officer decided to accord "special treatment" to [REDACTED] out of deference to their position as councillors. On the contrary, the officers I interviewed were critical of their behaviour and insistent that they did not deserve any advantageous treatment. However, it is reasonably clear that because of the perception of sensitivity, the fact of councillors' involvement did influence the course of events. It is that anxiety about this sensitive case which, for example, made Mr Carriline feel that he must appoint a specific trusted individual to lead the investigation, thereby causing him to attach what was probably insufficient weight to the delay which this would cause (in addition to the delay which had already occurred).
124. Mr Newsam has referred to the Council's written procedures, which reflect national requirements, for safeguarding referrals. These set a deadline of one working day for a referral to be "written up" and for a decision on how to respond to it. Mr Newsam has also referred to the Council's further written procedures for managing allegations within

Any person suspecting or receiving information that a child is suffering harm in must immediately inform the child's social worker and inform the and his or her manager in writing, and within 24 hours must inform the LADO and the Designated Senior Manager. None of these were complied with.

125. Mark Carriline did not make any formal record of the referral or inform any manager in Children's Services about it on 8 April. This in itself was a failure of safeguarding procedures.
126. A number of significant events occurred on 9 April 2015.
127. First, the Sexual Crime Unit advised DI that C1r A had accessed adult material though not illegal material but that his search terms relating to children were of concern. As she explained, this prompted the need for a multi-agency strategy discussion.
128. Then DI telephoned Bury Council to find out whether C1r A and C1r B were adopting and, if so, to provide details. responded by email that day, stating that C1r A and C1r B were approved adopters. She had not previously been aware of them. DI had first approached a social worker in the Council's safeguarding team who at that time was working for two days per week as team manager in the MASH. The MASH is a multi-agency safeguarding hub which is based at the police station and consists of around 40 police officers, social workers and other professionals who receive initial referrals and enquiries at a rate of around 50 each day. could not access adoption records because these are not accessible to all officers in Children's Services but are restricted to those with a need to know.

129. Meanwhile Mike Owen had a further conversation with [REDACTED] and told him that [REDACTED] Adoption Services were involved in the case and, according to [REDACTED] Mr Owen asked him whether he should be doing anything about that.

130. [REDACTED] discussed the case further with DI [REDACTED]. He remembers their discussing the fact that it would not be possible, on the basis of the material held by the police, to obtain a search warrant in order to follow up the concern about [REDACTED] s apparent sexual interest in children. [REDACTED] then emailed DI [REDACTED] and asked for there to be a clear plan in place before anyone spoke to [REDACTED] Social Services.

131. After her conversation with DI [REDACTED] made a note on the computer record, stating:

Detailed Notes	Information has come to the notice of the Police regarding [REDACTED] They have made contact enquiring as to whether [REDACTED]
Analysis of information	This is sensitive information and will be dealt with at a Senior Management level
Action	[REDACTED] will arrange a meeting with our LADO and will liaise with the Police.

132. [REDACTED] also immediately contacted Mark Carriline. He explained that he already knew about the matter and was going to brief [REDACTED] the following Monday. I believe that the fact of councillors being involved was one (though not the only) reason why the case was dealt with at a senior management level. That helps to demonstrate why it would have been better for Bury not to have been involved in the case at all.

133. [REDACTED] the adoption social worker, noticed [REDACTED] update on the system and asked about it. She was later asked by [REDACTED] not to discuss it with anyone. Both [REDACTED]

██████████ assured me that there was nothing unusual about this, emphasizing the confidentiality of and limited access to adoption records as mentioned above. Similarly ██████████ told me that adoption cases are always confidential and there is always an assumption of a need for an extra layer of confidentiality if any individual from the Council is personally involved in a case.

134. On 10 April 2015 DI ██████████ emailed ██████████, saying:

I have spoken with chief spt ██████████ and due to the sensitivity of this enquiry could you please hang fire on informing ██████████ until we have decided a strategy. Since we have no criminal offences per se, and the intelligence relates to a 2010 matter there appears to be no imminent need to disclose. Can you please afford me the time to discuss with the chief spt on Monday and I will then link in with you thereafter.

135. On the same day ██████████ emailed DI ██████████ saying that she had spoken to Mark Carriline and that she felt ██████████ needed to be informed. She emphasizes that at this point the police had not actually referred the case to the Council.

136. Mr Carriline had in fact decided to pay a personal visit to ██████████ ██████████ to inform them of the situation on Monday 13 April 2015. He remembers leaving Bury by 10.30 for an appointment at 12.00.

137. I asked CS ██████████ what was the precise concern about informing ██████████. He referred to the risk that ██████████ might be tipped off and might frustrate the investigation by destroying evidence or that he might harm himself. However he was not troubled when, on Tuesday 14 April, he found that Mark Carriline had visited ██████████ to share the information the previous day. He did nonetheless find it surprising that the Director thought it necessary to visit in person when the information could have been passed on simply by a telephone call from a more junior officer. Mr Carriline told me that he went in person because he was visiting ██████████ for other reasons

anyway, he knew [REDACTED] Director personally and the referral might pose a threat [REDACTED] and therefore the visit was particularly important. Whilst I do not think that the fact of a personal visit changed the course of events in any way, it may be another piece of evidence of the handling of the case being affected by anxiety about its "sensitivity".

138. Before leaving for [REDACTED] Mark Carriline briefed [REDACTED] who had returned to work that morning, and she set about organising the investigation. [REDACTED] herself is unsure whether it was on that Monday, her first day back at work, that she received the referral. However, I conclude that it was, because the section 47 investigation file notes record the referral as having been on that date. [REDACTED] [REDACTED] thought that the discussion at the time may have been evidenced by an electronic diary but that this would have been automatically deleted after a year.

139. [REDACTED] told me that she was not unduly concerned by the delay in starting the investigation. She appears to have taken at face value the assertion that Mike Owen had been told by the police not to do anything back on 1 April. To me she emphasized [REDACTED]

[REDACTED] [REDACTED] Dir A [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

140. [REDACTED] also felt that the way in which the case came to the Council's attention was itself a significant reason for the way in which it was then handled. The police should have made a referral to the Council via the MASH. Such a referral would have triggered various

formal processes but that did not happen. Instead, notification came from officers at [REDACTED] Council to Mike Owen and Mark Carriline, which was not the correct route. She rectified this upon her return to work. At a pre-arranged time on 13 April, DI [REDACTED] sent a formal referral to the MASH to be picked up by [REDACTED] picked two managers whom she trusted to make a good job of the investigation: [REDACTED] a team manager, and [REDACTED] an assistant team manager.

141. I also asked [REDACTED] about whether it would have been better to ask another local authority to carry out the investigation at that stage? She said that if she had her time again, this was what she would do, but that this was very much a judgment of hindsight. Back on 13 April 2015 she did not anticipate the way in which the case would develop. Moreover, the choice of alternative authority would have been difficult in view of serious problems being experienced in Children's Services at councils such as [REDACTED] at that time. She also emphasized that other issues in the case seemed more prominent at the time, [REDACTED] [REDACTED] [REDACTED]

142. Within a day or two [REDACTED] remembers meeting Mike Owen and Mark Carriline to discuss the case. This is another example of the senior management involvement which was an atypical part of the handling of the case, explained by [REDACTED] by citing the same reasons given by Mr Carriline for viewing the case as complex (see above). Again, it is unimpressive that no written note survives. She spoke to them about the need to keep [REDACTED] at the centre of the process and the potential difficulty of investigating without [REDACTED] She anticipated that the process might cause some upset in political circles and explained,

for example, that *"the case would go to the LADO and the LADO would have to ask very difficult questions"*.

143. On 13 April 2015 DI [REDACTED] was informed that the Council were arranging a strategy meeting and [REDACTED]. As far as she was concerned, Children's Services were leading on that matter.
144. I have considered the extent to which these events support the allegations against Mr Carriline.
145. He made a judgment that the start of the investigation could be delayed by 2 working days until 13 April to await [REDACTED] return. At that time he knew that there had already been a delay of a week, which should have been an important factor leaning against any further delay. In my view, it would be excessive to characterise his judgment as indefensible. There was a basis for accepting a limited further delay (it now being too late to eliminate the first week's delay) in order to have the services of the officer he most trusted. However, a better decision would have been to have an investigation start immediately, and if possible to have it done by another local authority (especially in view of [REDACTED] unavailability on 8 April).
146. Mr Carriline also failed to comply with the applicable safeguarding requirements: see the Newsam Report paragraphs 28-30. Whilst he knew that such requirements existed, he did not appear to know or make any attempt to find out their detailed contents.
147. I have not been told of any good excuse for not complying with the procedural requirements. Lack of awareness of the

requirements (and not checking them) is obviously discreditable for the Director of Children's Services. It seems to me that lack of awareness here was combined with the overall anxiety about how to deal with the case. As I have said, a part of that anxiety was the fact that councillors were involved (although I do not believe that political bias was involved), and this influenced the poor judgment to await [REDACTED] return instead of acting immediately.

148. I therefore think that:

- (1) these were failures properly to discharge statutory and public duties;
- (2) the failures were not influenced by ulterior motives (in the sense of bias or dishonesty), but the fact of councillors being involved was a factor in poor decision-making;
- (3) this raises questions of capability to perform the role of Director which in turn places a question over the continued existence of trust and confidence; and
- (4) these failures may also be characterised as misconduct. On my view of the facts "gross dereliction of duty" and "gross misconduct" would be harsh: perhaps at the harshest end of the range of possible reasonable responses.

VI. THE PROGRESS OF THE INVESTIGATION AND THE INVOLVEMENT OF THE LADO

149. A multi-agency strategy meeting took place on 16 April 2015 at Bury Police Station, chaired by [REDACTED]. It was also attended by [REDACTED]. Other attenders included police officers, a social worker and the Head of Service from [REDACTED] and the [REDACTED] LADO, [REDACTED].
150. The record of the meeting states:
- This is a highly confidential case given that both Cllr A [REDACTED] and [REDACTED] are current Elected Members for Bury, coupled with being a Governor [REDACTED] in the Bury area.
- Every effort will be made to prevent leakage of this information and [REDACTED] will brief Mark Carriline, Director of Children's Services on the outcome of this meeting.
- Discussion was had between all professionals and questions were raised as to how best proceed given that the initial information was five years ago.
- This record confirms my view of the fact that the involvement of councillors was openly seen as making the case particularly confidential. There followed a list of issues to be considered, which it seems to me focus appropriately on the needs of [REDACTED].
151. The record also identifies actions to be taken. The Council were to refer the case to the Bury LADO by 20 April and police and the Council were to conduct a joint visit to the home on 21 April 2015.
152. One of the main failures criticised in the Newsam Report is a failure to make that referral to the LADO at the appropriate time.
153. The LADO's role, as explained to me, is to investigate situations where there may have been abuse by a professional, such as a teacher

or other person in a position of trust with children². In this case the LADO role was engaged because [Cllr A] was a school governor. A LADO investigation is distinct from a safeguarding investigation under section 47 of the Children Act 1989 and from any police investigation into an alleged crime.

154. So far as I can ascertain, it should have fallen to [redacted] to make the referral by 20 April 2015. [redacted] does not remember what if any discussion took place about this after the meeting on 16 April. [redacted] observes that in the minds of the team, the LADO referral would have had lower priority than the section 47 investigation. [redacted]
155. I interviewed [redacted] who remembers DI [redacted] first raising the case with him. It was immediately identified as a sensitive case because of the possible media interest in [Cllr A] as a councillor, though this would not affect its handling in any particular way. It seems that this must have been on Friday 10 April, because Mr [redacted] worked in the MASH on Mondays and Fridays. He followed advice from his line manager, [redacted] and opened a record on the system on Monday 13 April 2015. The case was assessed as amber on a scale of red (a small number of the most urgent cases e.g. with immediate danger of injury), amber (perhaps a third of cases) and green (the remainder and the least urgent), because more information was needed in order to establish what if any risk [Cllr A] [redacted] convened the strategy meeting

² Section 10 of the Children Act 2004 requires local authorities to promote co-operation with their partner agencies to improve the wellbeing of children in their area and section 11 requires them to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children. Both sections require local authorities to have regard to statutory guidance. Such guidance is found in *Working together to safeguard children* (2015) of which paragraph 5 of chapter 2 states: "Local authorities should, in addition, have designated a particular officer, or team of officers (either as part of multiagency arrangements or otherwise), to be involved in the management and oversight of allegations against people that work with children."

for 16 April, and he has confirmed to me that this is a typical timescale.

156. Looking at the record of the strategy meeting, [REDACTED] accepts that something went wrong because the LADO action was not followed up, and that it would have been better if the meeting notes had specifically identified an individual to take this action.
157. I also asked [REDACTED] about these matters. His recollections were not very clear. He thought that although [REDACTED] would have been in his management line, he was not [REDACTED] immediate line manager. He too remembers the case appearing sensitive because it involved councillors, giving rise to a need to restrict access to information only to those employees with a need to know, but he does not remember any discussion of whether to outsource the investigation. Reviewing his notes, it appeared to [REDACTED] that, on 17 April 2015, he had added the action point about informing the LADO by 20 April to the draft minutes of the initial strategy meeting.
158. The views of officers about the sensitivity of the case were and are consistent. [REDACTED] was adamant that the caution in the inquiry was driven not by any deference to [REDACTED] or [REDACTED] but by anxiety about inadvertently [REDACTED]. She remembers that she and her colleagues were motivated by the need to act in [REDACTED] best interests and also that they had little or no help or support from [REDACTED] whose attitude appeared to be blasé.
159. [REDACTED] also showed me an email dated 24 April 2015 from [REDACTED] to colleagues, recording that the LADO had been informed of the case. This would have been by telephone and, in [REDACTED] view, would typically be followed by the LADO asking for a paper

referral. [REDACTED] does not believe that there was any reluctance to involve the LADO in the case. He described [REDACTED] as "more hands-on than some" but did not think this affected events in any way. Nor does he believe that Mark Carriline had any influence on this particular chain of events. Like other witnesses, he felt that the case was dealt with in a particular way because it concerned councillors, necessitating precautions to protect confidentiality, just as would be the case if [REDACTED] were Council employees.

160. [REDACTED] also confirmed to me that, from the start, there was a focus on confidentiality arising from the fact that councillors were involved. In particular she felt that this created a risk of disclosure of [REDACTED]. However, she was not aware of any reason for delaying the LADO's involvement and felt that this was simply an oversight. She confirmed that at the time, the focus was on the planned visit to the [REDACTED] household.

161. That visit, by [REDACTED], took place on the morning of 21 April 2015. They met Cllr A [REDACTED] at the family home. [REDACTED] was at work [REDACTED] Cllr A [REDACTED] was co-operative. He agreed that the police could take computers away and examine them, and [REDACTED] to be spoken to. [REDACTED] explained that they would also need to see Cllr B [REDACTED], and that he should make arrangements for her to return from work so they could see her that afternoon.

162. Later on 21 April 2015, [REDACTED] and [REDACTED] interviewed [REDACTED]. This process was subject to a weakness in that Cllr A [REDACTED] was able to speak privately Cllr B [REDACTED] before that interview and this may have enabled her to prepare her story. As the Newsam Report points out, she has never been closely questioned about her knowledge of Cllr A [REDACTED]'s disciplinary investigation and has faced

only limited challenge about the untrue answers which she gave in the adoption assessment process.

163. Nevertheless, [REDACTED] told me that she found [REDACTED] convincing. She appeared very shocked when told about the child-related websites which [REDACTED] had viewed at [REDACTED]. She disclosed relevant personal information about her relationship with

[REDACTED]
[REDACTED] was satisfied that [REDACTED] had not known the full details of why [REDACTED] was dismissed.

164. [REDACTED] also confirmed to me that she and [REDACTED] were not subject to any pressure from anyone else in relation to the way in which they conducted their visit. During the investigation she was asked for regular updates by [REDACTED] and [REDACTED] but did not have much direct interaction with Mark Carriline. [REDACTED] also felt that [REDACTED] was effectively safeguarded. Like other witnesses, she emphasized that this was [REDACTED] who was being closely monitored and was giving no cause for concern.

165. From [REDACTED] note of the discussion with [REDACTED] and [REDACTED] [REDACTED] on 21 April 2015 I give two relevant extracts:
- LADO ... would be notified and this would run alongside the investigation, discussed this was required due to their role as councillors and school governors ...
- Discussed with [REDACTED] the need to manage information given they were public figures and we were investigating sensitively – [REDACTED] stated she appreciated this.

166. [REDACTED]
[REDACTED]

- [REDACTED]
- [REDACTED]
167. On Wednesday 22 April 2015 the police found images of child pornography on [REDACTED] CIRA [REDACTED]'s computer equipment. He was arrested on 23 April and a search warrant was executed. He was interviewed at Bury Police Station and entered no comment when questioned. When asked if he had touched [REDACTED] he stated categorically no. He was bailed until 27 May 2015. His bail conditions included living at an address in Manchester, having no unsupervised contact with any child under 18 years and not conducting any paid or unpaid work that would bring him into contact with any child under the age of 18.
168. A follow-up strategy meeting took place on 30 April 2015, chaired by [REDACTED] and also attended by [REDACTED]. Unfortunately the failure to make the referral to the LADO was not picked up. Asked why, [REDACTED] thought that probably everyone believed that someone else was dealing with it. He could not recall anyone being in any way resistant to making the referral.
169. [REDACTED] also attended the meeting on 30 April. Although the Adoption Agency had not been represented at the first strategy meeting, she does not regard this as untoward.
170. [REDACTED] told me that she remembers saying to [REDACTED] several times that it was necessary to inform the LADO. She cannot remember what was said but she has retained an impression that [REDACTED] was reluctant to do this. [REDACTED] does not know any reason for this but she speculated that it might have been because of a perception in some quarters that the LADO, [REDACTED], was over-zealous or pernickety.

171. I invited [REDACTED] to comment on the timescales in which the safeguarding investigation was launched and the way in which [REDACTED] [REDACTED] and [REDACTED] were interviewed on 21 April 2015. His view from a police perspective was that in the circumstances the timescale was swift and efficient and, given that no criminal offence was then under investigation and nobody had been cautioned, the interviewing achieved a good result. He added that the timescale in which the indecent images were found, within a day of the seizure of [REDACTED]'s computers, was exceptionally fast.

172. On 30 April 2015 Mark Carriline visited [REDACTED] School where [REDACTED] [REDACTED] was a governor. On 1 May 2015 he visited [REDACTED] School, where [REDACTED] was also a governor. At each school he spoke to the head teacher about the case. His purpose was to ensure that if [REDACTED] breached his bail conditions by trying to enter either school, he would be refused entry. On 30 April he emailed the other officers involved (including the LADO), stating:

Just to let you know that I shall be visiting the two schools with which [REDACTED] is involved this afternoon [REDACTED] and first thing tomorrow [REDACTED] to brief the Heads confidentially. I will ask them not to discuss any further (including with their Chair of Governors) and only intend to tell them each enough to understand the specific issues they need to manage [REDACTED] I know there is another strategy meeting today – please can the headlines be circulated as soon as.

173. Mark Carriline decided not to inform the Chairs of Governors because it is the heads who are on site and have day-to-day safeguarding responsibility. Mr Carriline viewed the risk of a visit from [REDACTED] [REDACTED] as remote, given that he had now moved out of Bury and appeared to be complying with his bail conditions. As a school governor he had only ever been a very occasional attender who had

not visited either school within the last year or two. At the time in question, no governors' meetings were imminent.

174. I spoke to both head teachers and both Chairs of Governors. All four had only a very hazy recollection of these matters. Both head teachers now thought that they had in fact told their Chairs at the time, and both Chairs initially told me that they had first learned of the matter from the head teachers. When I reminded both Chairs that they had told Malcolm Newsam that they first learned of the case from reading press reports, this jogged their memory.
175. What is perhaps more important is that both head teachers told me that they would not have been comfortable with a request not to tell the Chair, and both Chairs told me that they would have expected their head teachers to tell them.
176. I have heard other opinions on this question, e.g. from [REDACTED] who agrees with Mark Carriline that it was the head teacher that needed to know. [REDACTED] disagrees. So does Malcolm Newsam. So does [REDACTED] who, at the LADO strategy meeting on 15 May 2015, explained that in his view it would be normal in this situation for the Chair to be told and for the Chair to seek to persuade the governor to stay away from the school without further formalities.
177. In my view, it was an error of judgment on the part of Mark Carriline to keep the information from the Chairs of Governors. The Governors are responsible for the running of the school and they effectively manage the head teacher. Therefore it seems to me that trying to exclude the Chairs could have put the head teachers in a difficult position. I think it would have been reasonable to inform the Chairs of Governors on a confidential basis.