

178. What caused this error? It has been pointed out that Councillor [REDACTED], who was then the leader of the Conservative group on the Council, was also a governor at [REDACTED] School, and there could have been a political motivation to ensure that Cllr [REDACTED], and thereby the Conservative group, were not informed.
179. This possibility cannot be excluded. However, there is no evidence to support any suggestion of political interference or any party political motive. In my view the fact of an error of judgment, even a surprising error, by itself or in combination with the other matters considered in this report, is not a sufficient basis for drawing an inference that there was any such motive or interference.
180. My opinion on the evidence is that, in the case as a whole, officers at all times regarded the involvement of councillors [REDACTED] as one of the factors making the case particularly sensitive. On some occasions they reacted in an exaggerated way to the need for confidentiality. The decision not to tell the Chairs of Governors was an example of this.
181. Before visiting the [REDACTED] School on 30 April 2015, Mark Carriline emailed [REDACTED] [REDACTED] to tell them how he planned to proceed (including the instruction not to share information with the Chairs).
182. [REDACTED] feels with hindsight that Mark Carriline should have involved the Chairs of Governors, but at the time he felt that this was a decision for the Director and not for him and so did not challenge it. He responded on the same day, saying:

Thank you for the update Mark.

At this time nothing formal has come to me and I have not been invited to any meetings, which concerns me as there is no formal record of what anyone is doing with regards to following Managing Allegations procedures given [REDACTED] is a school governor in Bury. I am aware that the [REDACTED] process is from [REDACTED] and it may be that the [REDACTED] LADO is dealing with that side of things but as it is Bury schools you are seeing the Bury LADO should be involved somewhere, which has not formally happened yet!

If you could keep me in the loop please I would be grateful.

183. At 10.05 on Friday 1 May [REDACTED] sent a chasing email to Mark Carriline with cc to [REDACTED]: *"I'm really sorry Mark, why has no one referred it to me? Why have I not been involved/chairing any meetings?"*
184. At 11.17 Mark Carriline again emailed all of the group, updating them on the school visits but not responding to [REDACTED] message. He told me that he did in fact speak to [REDACTED] who arranged for the formal referral to occur on the next working day.
185. Monday 4 May 2015 was a bank holiday. It was indeed on the next working day, 5 May, that [REDACTED] emailed all of the group, recording that she had met [REDACTED] and made a formal LADO referral that day. She added:
- [REDACTED] fully understands the sensitivity and the need for complete confidentiality and so is likely to wish to speak to people wherever possible rather than communicate by email – I am sure you will provide him optimal co-operation.
186. That email again confirms my impression, referred to above, that there was a disproportionate emphasis on confidentiality in the handling of this case.

187. However, together with the fact that [REDACTED] had been informed informally about the case on 24 April and was copied into Mark Carriline's email of 30 April, it also strengthens my impression that there was no deliberate attempt to keep the LADO out of the picture. Mark Carriline, in not responding personally to [REDACTED] emails of 30 April and 1 May, was neither diligent nor courteous. However I have already recorded [REDACTED] comment that the team will have viewed the LADO side of the case as less urgent than the section 47 investigation [REDACTED] [REDACTED]

188.

[REDACTED]

189.

[REDACTED]

190. Over the next few days [REDACTED] took steps to progress the LADO investigation. By emails on 10 May 2015 he asked Mark Carriline for a note of what exactly had been said to the head teachers and he asked DC [REDACTED] to indicate to what extent they had probed [REDACTED] knowledge of [REDACTED] Cllr A sexual interests at the time of [REDACTED]. Replies were received on 11 May, in particular from DI [REDACTED] saying that they had had no reason to disbelieve [REDACTED] when she said she had no knowledge of the online material accessed by [REDACTED] Cllr A (although

she did know that he had been dismissed). DI [REDACTED] also added that [REDACTED] had been on annual leave "in April when we originally picked up this enquiry" and that the [REDACTED] LADO had said she would brief [REDACTED] after the first strategy meeting.

191. [REDACTED] responded to DI [REDACTED] on 11 May, saying that he had in fact been available for the meetings on 16 and 30 April "but a decision was taken within social care as I understand it not to inform the LADO". However, after lengthy discussion with [REDACTED] about the failure to make a timely referral to him (see also my comments on his interview below), it is clear that he is not pointing at some specific decision. Rather his understanding is that nobody decided to refer the matter to him before the first meeting (as discussed above) and that whoever was responsible forgot to refer the matter to him before the second meeting.

192. Also on 11 May 2015 [REDACTED] had an email exchange with [REDACTED]. He expressed his objection to the police view that it was not in the public interest to pursue [REDACTED] Cllr A [REDACTED] for any fraud in relation to [REDACTED] and said "people have got bogged down in who he and his [REDACTED] are rather than the implications for the [REDACTED]". [REDACTED] replied, disagreeing that they were bogged down and reiterating that [REDACTED] best interest was at the heart of what they were doing. [REDACTED] apologised and agreed that this was indeed the position now.

193. On 14 May 2015 [REDACTED] sent [REDACTED] an email with the subject "sensitive issue". She noted that he was planning to speak to the Chairs of Governors because he had identified this as the correct procedure, and asked him first to speak to either Mark Carriline or [REDACTED] to get clearance for this and to understand why this course had not already been followed. [REDACTED] agreed, and later

196. [REDACTED]
[REDACTED]
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197. [REDACTED]
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198. Also on 15 May, [REDACTED] chaired a LADO strategy meeting at which he probed the ways in which the deception had not been uncovered in [REDACTED] and the question of whether it amounted to any criminal offence. I have also seen notes of further LADO strategy meetings dated 16 June, 25 June and 13 July 2015 which evidence [REDACTED] thoroughness and also illustrate the timescale of the LADO investigation process.

199. On 19 May 2015, [REDACTED] received advice from the British Association for Adoption and Fostering to the effect that the [REDACTED] [REDACTED] remained valid and that no crime had been committed in that process. This was shared with [REDACTED] and discussions about the merits of this continued by email for a few days.

200. I interviewed [REDACTED] and found him to be a serious and highly focused professional. He had 30 years' experience as a police officer including 10 years as a detective on a child protection team. He first heard about this case from [REDACTED] the [REDACTED] LADO, about a week after the strategy meeting of 16 April 2015. In his view it was normal for an initial meeting in a section 47 investigation to precede any LADO strategy meeting, and not unknown for the LADO not to be present on that first occasion. It was unusual that, on this occasion, his first official notification was not until 24 April, with no formal referral until 5 May. However, his impression is that there was no sinister reason for this and that the delay was simply human error. He also confirmed that he was not put under pressure by anyone in respect of how he proceeded with the LADO investigation. For example, although [REDACTED] had sent an email stating that he would be likely to wish to speak to people rather than correspond by email, she did not actually give him any such instruction.
201. [REDACTED] also indicated to me that although he disagreed with Mark Carriline's decision not to inform the Chairs of Governors of the schools, he viewed that as "*quite a minor thing*". The priority was to keep [REDACTED] Cllr A away from the schools, and this was done.
202. The Newsam Report also criticises the officers for not ensuring that Ofsted was notified about this case. Mr Newsam gave me some helpful information on the source of the obligation. Leaving on one side the rather convoluted legislative provisions³ and some statutory guidance which does not appear to apply on the facts of this case⁴, reference should be made to the written procedures applicable in Bury (and elsewhere in the North-West). As stated at paragraph 124

³ See the Voluntary Adoption Agencies and the Adoption Agencies (Miscellaneous Amendments) Regulations 2003 (SI 2003/367), reg 19.

⁴ See paragraph 13 of *Working together* (as referred to above at paragraph 146, footnote 2).

above, when a person receives information or suspects that a child has suffered or is suffering harm [REDACTED] they must immediately inform [REDACTED] in this case [REDACTED] – and his or her manager in writing. Prior to the first section 47 strategy meeting, the link worker “should notify the Regulatory Authority [i.e. Ofsted] of the allegation/suspicion and invite them to be represented at the Strategy Meeting.” There is an ongoing requirement to keep the Regulatory Authority informed. The guidance acknowledges that, despite being invited, Ofsted will not necessarily attend meetings (and some officers told me that in practice they have not known Ofsted to participate actively).

203. When interviewed, a number of the officers queried the requirement to notify Ofsted. Whilst [REDACTED] has a recollection of mentioning a need to inform Ofsted to [REDACTED] has expressed the view that there was no duty because this was not a notifiable incident of the kind mentioned in guidance such as *Working together* (e.g a child’s death or serious injury). Before retiring from her employment at Bury she asked [REDACTED] to look this up, and [REDACTED] said that in her opinion it was unclear that this case was notifiable. From [REDACTED] previous experience having responsibility for children’s homes in Lancashire, she regarded Ofsted as being notifiable at a high level – i.e. not in most day-to-day cases. [REDACTED] for his part thought that Ofsted notification was appropriate but only because schools were involved. He was aware that procedures were available to view online but said that he did not routinely check them before taking steps in every case. Meanwhile [REDACTED] told me that this case “wouldn’t really cross my mind as a notifiable incident”. Mark Carriline told me candidly that he was not aware of these requirements of the Adoption Regulations, that it was for knowledge of this kind that he had wanted the Assistant Director

involved and that he was “*entirely surprised*” that his expert officers had failed to identify a notifiable case and notify it.

204. In this case [REDACTED] was not informed of the case until after the first strategy meeting and it does not appear that she or anyone else informed Ofsted at any time.
205. On all of this evidence, it is hard to be sure why Ofsted was not informed. I cannot rule out an improper reason, such as a wish to keep what could be a messy case away from the attentions of Ofsted inspectors. However, I believe the more probable explanation is that officers did not have a good enough awareness of the rules relating to Ofsted’s involvement – particularly [REDACTED] cases – and/or that those procedures in Bury have been honoured more in the breach than in the observance. I have not seen any evidence that the lack of Ofsted notification was the result of any pressure by anyone or any political interference.
206. The history set out in this section sees an accumulation of events for which officers must be criticised. That helps to emphasize the unfortunate consequence of the Council not having outsourced the investigation, which is that each failure or mistake may attract the suspicion of an improper motivation.
207. It is regrettably impossible to rule out such improper motivations. However, in relation to each specific event, there is evidence pointing away from such a conclusion.
208. I do not think it probable that the failure to interview [REDACTED] without an opportunity for [REDACTED] to speak with [REDACTED] was the result of any deference towards [REDACTED] as a

councillor. In my view the investigation of [redacted] Cllr A [redacted] conduct and [redacted] once it was in train, was effective and does not show any indication of any officers improperly according any advantage to [redacted]

[redacted] Cllr A [redacted] Overall, it is right to record that the investigation(s) were effective and were [redacted] although, as I have said, the attention paid to the need for confidentiality was sometimes exaggerated.

209. As with other failures, it is not possible to rule out some improper reason for delay in involving the LADO. A possible motivation could have been a wish to avoid controversy just before the elections on 7 May 2015. However, I have not seen evidence pointing overtly in that direction, and in my view a detailed examination of all of the evidence makes it improbable. For one thing, as this part of the procedure was well known to everyone and there was an active LADO who was himself awaiting a referral, his involvement was inevitable. Also the requirement to refer was stated in the minutes of the first strategy meeting and so could not be hidden. The LADO was in fact copied into some important emails. His messages asking for a formal referral were met with an unimpressive lack of email response, but they did lead to a referral within one or two working days.
210. In my view the delay in referring the case to the LADO, though not an improper and deliberate strategy, was a significant mistake for which several officers share the blame and for which Mr Carriline as Executive Director takes responsibility.
211. My conclusion regarding Ofsted notification is similar. As I have said, I cannot rule out an ulterior motive. However there is

more evidence indicating that officers did not know and failed to find out about their notification duties in [REDACTED] cases.

212. A further mistake was Mr Carriline's decision not to inform Chairs of Governors. This was one of two occasions (the other being the visit to [REDACTED] on 13 April) when he took personal control of events – at other times he left the investigation process in the hands of [REDACTED] and her team. As I have said above, I consider that this was probably an error of judgment in good faith, caused by the over-emphasis on confidentiality which in turn arose from factors including the involvement of councillors but also the fact that this was [REDACTED]

213. [REDACTED]
[REDACTED]

214. In relation to Mr Carriline, my overall conclusion is essentially the same as that set out at the end of section V above:

- (1) there 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, together with a lack of awareness of proper procedures and a failure to ensure such awareness among operational officers, 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 can 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.

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VIII. FURTHER DEVELOPMENTS IN 2015

236. On 20 June 2015 [redacted] Cllr A [redacted] was charged with offences relating to the indecent images found on the computers and was granted bail by magistrates. Reports about the case appeared in the press on 22 June 2015, giving rise to anxious enquiries from parents of children at [redacted] School.
237. This was the trigger for [redacted] to inform Councillor [redacted], the leader of the Conservative Group, about the matter. Previously the Opposition's only knowledge was as a result of hearing independently about [redacted] Cllr A [redacted] earlier appearance before the magistrates.
238. I asked [redacted] whether he thought that any of Mike Owen's decisions or actions were motivated by his wish to be appointed permanently to the post of Chief Executive. He did not think that this was a credible suggestion, emphasizing the transparent nature of the appointment process and the fact that the appointment panel included members from different parties.
239. The Conservative Group had in fact asked for Mr Owen and Mr Carriline to attend their group meeting on 29 June 2015 but Mr Owen appeared alone and said that he had asked Mr Carriline not to come. He was closely questioned by members including [redacted] [redacted] who has since become leader of the Conservative Group.
240. [redacted] was subsequently aware that the Conservatives had arranged this session with Mr Owen. Mr Owen told him that the meeting was taking place but it was a private meeting and Cllr [redacted] was not given any further briefing about it.

241. On 9 July 2015 the Conservatives sent Mr Owen a letter, setting out concerns about the answers which he had given at the meeting.
242. Mr Owen then consulted both Mark Carriline [REDACTED] and replied with an 8 page undated letter which he described as "*a definitive managerial, legal and operational response sent on behalf of [REDACTED] of us*". Mark Carriline [REDACTED] acknowledge having been shown the letter and although [REDACTED] say that [REDACTED] had little if any input, [REDACTED] share responsibility for its contents. In the letter Mr Owen defended what had been done and expressed offence at having been questioned about the precise details of the original police instructions to him in April 2015.
243. In more detail, points made in the letter included:
- ... the police, Bury Children's Services and representatives from [REDACTED] instigated an immediate strategy meeting and undertook the necessary statutory visits and assessments which remain ongoing. I also worked with colleagues to undertake a wider risk assessment which in turn reflected the bail conditions imposed on Councillor Cllr A
- ... all measures that were the duty of this Council were put in place as appropriate and Statutory and professional guidance (from the Executive Director of Children, Young People and Culture) was fully adhered to. The Local Authority Designated Officer ... [REDACTED] were also both fully involved and there was close liaison with [REDACTED] to ensure the safeguarding of [REDACTED] by [REDACTED]
- ... the Executive Director ... took immediate and appropriate steps to brief the Head teachers about the allegations against [REDACTED] Cllr A on a confidential, need to know basis ... [REDACTED] Cllr A played no role on the governing bodies and did not attend the school for any meetings nor did he have any contact with pupils or anyone at the school.
- ... I am very clear that the Council discharged its duties swiftly and effectively ...
244. [REDACTED] has pointed out that if Malcolm Newsam's review conclusions are correct, this exculpatory letter must have been misleading. In my view there are criticisms which can be made of the letter, but care is needed. For example, I am

confident that back in July 2015, 18 months before the Newsam Report, the three officers did not believe that their actions would be subject to criticisms on the scale of what has now been seen. So although the letter can literally be described as misleading because it failed to anticipate what is now a list of criticisms, that does not mean that it was intended to mislead. However it seems to me that the description of the operation might reasonably be viewed as flattering in relation to the following points:

- (1) The strategy meeting was not *"immediate"*.
- (2) It does not seem that Mr Owen was personally involved in any risk assessment save by being copied into emails.
- (3) Statutory and professional guidance was not *"fully"* adhered to and *"all measures"* were not put in place. Mr Carriline in particular must have known that there had been a delay in involving the LADO, though I question how far he was made aware of other issues such as Ofsted notification and how far he then recognised that actions such as only briefing head teachers were procedurally incorrect.
- (4) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (5) The LADO was *"fully involved"* but only after a delay.
- (6) The briefing of head teachers was not *"immediate"*. I have also found that (by excluding the Chairs) it was not *"appropriate"* though the officers in July 2015 may have taken another view.
- (7) Did the local authority act *"swiftly and effectively"*? The criticisms have been set out above. That said, the investigation was effective and, after a slow start, was

effective within a reasonable timescale. The officers may therefore have been sincere when using that description though it does not tell the whole story.

245. Meanwhile, on 6 July 2015 [REDACTED] saying that while she had been aware that [REDACTED] Cllr A [REDACTED] had been dismissed by [REDACTED] "*clearly I was not aware of the full facts*". On 9 July [REDACTED] responded, saying:

I feel this is an accurate reflection and my professional judgment of the information which was obtained at the time. I understand and accept that the reasons for not sharing information was embarrassment, not having full awareness.

246. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

247. On [REDACTED] July 2015 [REDACTED] Cllr A [REDACTED] pleaded guilty to [REDACTED] offences.

248. On 21 August 2015 at the request of [REDACTED] [REDACTED] provided a character reference for [REDACTED] Cllr A [REDACTED] sentencing hearing. This was in the form of a letter on Council letterhead, signed by [REDACTED] [REDACTED] as Leader of the Council. It said, in particular:

I have known [REDACTED] Cllr A [REDACTED] both as a friend and colleague for over 12 years. In all that time I have known him to be trustworthy, honest and reliable. In giving reference, it is in the full knowledge of the charges he is facing. I was utterly surprised to hear of these charges against him, which I believe to be totally out of character.

249. [REDACTED] told me that he knew some other individuals were providing references. Having thought long and hard (but without consulting officers), he decided to provide one himself out of personal loyalty. He did not condone what [REDACTED] had done but was worried that if he was sent to prison, he would be at risk of suicide. With hindsight he now accepts that it was a wrong decision to give the reference and wrong also to use Council paper. He used the phrase *"trustworthy, honest and reliable"* without fully reflecting on the implications of the dishonesty in the adoption process.

250. [REDACTED]
[REDACTED]
[REDACTED]

251. On [REDACTED] 2015 [REDACTED] CIRA [REDACTED] resigned from the Council. On [REDACTED] September 2015 he was sentenced to a Community Order.

252. Conservative members had some further discussions about the case after the sentencing hearing. [REDACTED] arranged a meeting with [REDACTED] on 14 September where he aired concerns. She suggested he speak to Mark Carriline but warned him against disclosing any information to anyone, and he felt that this sounded like a threat. By email on 24 September [REDACTED] requested a meeting with Mark Carriline, but in a reply dated 25 September Mr Carriline said that he had nothing to add to reassurances previously given by Mike Owen and [REDACTED]. He pointed out that the adoption process was private and could not be discussed with members, and therefore stated that *"I don't see any purpose in having a meeting where I simply take the fifth and refuse to answer any questions"*. [REDACTED] followed up on 30 September with specific questions about when [REDACTED] had told Bury about the issue and when [REDACTED] School was told. On 2 October Mr Carriline

replied that he wasn't in the office but *"from memory it was early April for both"*. On 26 October [REDACTED] pressed for a more precise answer. On 27 October Mr Carriline said that [REDACTED] spoke to him on 8 April and he spoke to the Head at the [REDACTED] School on 1 May, and that he would not respond to any further questions on this issue.

253.

[REDACTED]

254. On 16 September 2015 the Adoption Panel recommended to the Council that [REDACTED] and [REDACTED] Cllr A [REDACTED] be de-registered as adopters. The Council closed its adoption file on 30 September 2015.
255. Ahead of a Full Council meeting on 21 October 2015 the Conservative Group submitted questions about this matter, asking when the Council first knew about the "charges" (which I take to mean concerns) regarding [REDACTED] Cllr A [REDACTED] and whether all safeguarding procedures were followed by the Council when this information was received.

256. [REDACTED] described it being standard practice for him as Leader to meet with the Chief Executive, the Monitoring Officer and others in advance of a meeting of Full Council in order to look through questions which had been framed. I asked him about Mike Owen's discomfort about a note of this meeting having been shared by [REDACTED] but he had no comment. He remembers the decision not to answer questions by Conservative members being based on [REDACTED] advice about the confidentiality of the [REDACTED] case.

257. [REDACTED] describes how he was invited to a meeting on 20 October 2015 with Mike Owen, [REDACTED] and [REDACTED]. He was briefed that the Conservatives had asked questions about the matter and was told that the strategy for the Council meeting was for the Leader to read out a short statement dealing with the questions but not to take any supplementary questions.

258. I have seen a draft statement sent by email on 19 October 2015 from Mark Carriline to Mike Owen, [REDACTED]. At that time the draft read:

The opposition have put forward a number of questions seeking reassurances about the safeguarding processes which were undertaken as part of the case. They have already received these assurances from the Chief Executive, Assistant Director for Legal Services and the Executive Director of Children, Young People and Culture, however let me re-iterate them.

We first became aware of the issues in early April following a referral from another Authority. Once we were aware Children's Services immediately initiated a Child Protection Investigation, jointly with the police. As part of this process a number of safeguarding arrangements were put in place. It was this process which led to Mr [REDACTED] being arrested, charged and subsequently convicted. The process was handled as swiftly as it could be and with great care and integrity by the social workers concerned, who I commend for their work in difficult circumstances.

In summary a thorough and timely investigation was undertaken, jointly with GMP, leading to a conviction. At all stages safeguarding concerns were absolutely central in our work.

Like the letter discussed at paragraphs 242-244 above, this draft does not deal with the delay at the start of the process.

259. [REDACTED] then described [REDACTED] leaving the room and Mike Owen then going through the timescale of his initial receipt of information from [REDACTED] and from the police. Cllr [REDACTED] asked Mr Owen how the Conservatives would have known anything about the connection with [REDACTED] and Mr Owen thought a leak might have come from either Children's Services (where some people were "annoyed" that they had not been told about the matter on 1 April) or possibly the Adoption Panel.
260. Later on 20 October 2015 [REDACTED] emailed a summary of the discussion to Mr Owen, [REDACTED] with cc to [REDACTED]. Mr Owen responded that he should have been asked before details of a "strictly confidential" briefing went outside the meeting to [REDACTED]. [REDACTED] in reply expressed surprise that [REDACTED] had not already been briefed about the facts by Mark Carriline. I share [REDACTED] surprise in view of [REDACTED] Cabinet responsibility for Children's Services.
261. It transpired that at the Full Council meeting the Conservatives' questions were ruled out of order on the grounds of data protection and Conservative members walked out of the meeting in protest. [REDACTED] suggested to me that because of the unexpected walkout, the proposed statement was not read out when otherwise it would have been. Mike Owen confirmed to me that this was the case.

262. Meanwhile the Full Council meeting gave rise to further discussion between [REDACTED]. They wondered whether officers might have been trying to restrict any wider knowledge of the delay between 1 April and 8 April 2015, a theory that could have been supported by the fact that [REDACTED] chronology began on 8 April, not 1 April. [REDACTED] also felt concern about the delay in informing the [REDACTED] schools and the fact that Governors were not told.
263. [REDACTED] emailed the police on 22 October 2015 to ask about the sequence of events ([REDACTED] would later respond on 2 November). He then contacted [REDACTED] the then chair of the Local Safeguarding Board, saying that he would like to have a discussion in confidence. However [REDACTED] informed Mike Owen of this. Mike Owen told me that [REDACTED] remarked that she had never previously been contacted by a member without going through officers. Mr Owen telephoned [REDACTED] to ask why he had contacted [REDACTED]. [REDACTED] showed me a handwritten note of that conversation, dated 30 October 2015 but with a question mark against the date. I note that it records annoyance on Mr Owen's part and also includes the phrase "*sensitive to Labour Party*".
264. At the same time [REDACTED] also telephoned [REDACTED] to ask why [REDACTED] was being contacted, which indicates that Mr Owen told [REDACTED] about the contact.
265. [REDACTED] vaguely remembers this and feels that he was not concerned about anything in particular but as Leader just wanted to be kept in the loop. He told me that he had however become concerned by a sense that [REDACTED] was having meetings with [REDACTED] without involving him, and this led to a meeting on 2 November 2015 between him, Mr Owen, [REDACTED] Mr Carriline

and [REDACTED]. He saw the purpose of the meeting as *"just to make sure people were reassured"* and indeed he found the meeting reassuring. Mark Carriline, principally, and Mr Owen as well, took everyone through the timeline of what the Council had done in order to show that there was no cause for concern.

266. This meeting was also preceded by an email from [REDACTED] to [REDACTED] and Mark Carriline. She corrected a couple of errors in her earlier chronology. In respect of the timescales of the safeguarding investigation, she expressed the view that these were *"consistent with expectations given the nature of the case and the number of agencies involved"*.
267. Following this meeting [REDACTED] felt they had no option other than to trust the information provided, and no evidence of any serious breach of process or procedure.
268. In the meantime, some other inquiries were also being made. [REDACTED] told me about a meeting between Conservative members and [REDACTED] and [REDACTED] on 17 November 2015 in which the police expressed the view that safeguarding matters had been dealt with appropriately. That made [REDACTED] wonder whether there was a sufficiently objective relationship between senior police officers and senior officers at the Council. However, matters went no further at that time.
269. The subsequent criticisms of the Council's actions make it clear that the picture presented by the officers between June and November 2015 was over-optimistic in some respects. There is also repeated evidence of continuing anxiety to keep the case confidential and, therefore, of discomfort in the face of continued questioning. I return to this in the next section. In

the light of that evidence it is impossible to rule out an intention to mislead, and in particular I think it is fair to criticise a lack of openness about the delay at the start of the case.

270. However, as I have already said, I also think it is fair to conclude that at the time Mr Owen probably believed that by not speaking to Children's Services for the first week after 1 April he was complying with a request from the police and Mr Carriline probably believed that he had initiated a reasonably timely investigation in the circumstances which had confronted him, and that the investigation had been effective. My overall view was that whilst Mr Owen and Mr Carriline did not candidly offer up every detail on which they could have been criticised, they did not believe that they were hiding any major insufficiency in the investigation process.

271. I also think it fair to note that there is no convincing evidence of any party political bias affecting the way in which the officers responded to these enquiries, and indeed enquiries were coming from both political sides.

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287. Meanwhile, on 21 August 2016 a member of UKIP in Bury, [REDACTED], emailed [REDACTED] complaining that [REDACTED] C16r A had been accepted as an adopter despite a lack of checks into his background. Back in December 2015 he had tried to ask a public question about this at Full Council but had been prevented on the grounds of data protection.
288. [REDACTED] was copied into the email and found it worrying. He made inquiries of the LADO, [REDACTED], who by telephone on 25 August 2016 agreed to meet him. However Mark Carriline then came to [REDACTED] office and asked why he wanted to see [REDACTED]. Mr Carriline then outlined to [REDACTED] the criticisms that had been made of the adoption process. In answer to a question from [REDACTED] Mr Carriline confirmed that there had not been a formal audit of the file in order to learn from mistakes. He said that the adoption policy had now been changed so that in future an application from the Council's own members would not be entertained.
289. However, as Malcolm Newsam would later find, the written procedures had not yet been changed. [REDACTED] told me that she finally took the necessary steps to update the system early in 2017, and she took responsibility for the failure to do it earlier. She could not now recall when the change was agreed but remembers that it had been agreed by the time she spoke to Malcolm Newsam. She told me that, since the [REDACTED] C16r A case, the Council would not have entertained another application from any councillor.

290. After that conversation [REDACTED], together with [REDACTED] [REDACTED] (Cabinet Member for Children's Services), decided that an independent review was needed. It then took some weeks to take advice and put this in motion.
291. The decision to commission a review was announced by [REDACTED] [REDACTED] on 6 October 2016 at a meeting with Mike Owen, Mark Carriline, [REDACTED] and [REDACTED]. At this meeting, according to Councillor [REDACTED], Mr Owen was "*defensive and agitated*", questioning the need for a review and he went on to say that he had been "*doing a favour to the Labour Group*" by protecting it and the former Leader from the political impact at the time. He warned of political impact which would arise from the review, though of course that should not have been his concern as Chief Executive. He then asked if [REDACTED] wished to review the information which was being withheld from the Conservatives under FOIA. [REDACTED] felt that this was inappropriate because this was for the Council's lawyers to decide.
292. I have seen a contemporaneous note of the meeting by [REDACTED] [REDACTED] whom I have also interviewed. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. He first heard about this case when briefed by officers on 22 June 2015. A note of that briefing records that it was not clear what [REDACTED] had known about [REDACTED] *Clr A* dismissal and there was a query over her honesty in the adoption process.
293. [REDACTED] reports that the meeting of 6 October 2016 was initially abrasive and that Mr Owen's attitude was defensive and not

very professional. His note of the passage referred to by [REDACTED]

[REDACTED] reads:

It was at this point that MO said he had been “doing a favour to the Labour Group” by protecting it and the ex-leader, [REDACTED] from the political impact at the time.

294. [REDACTED] confirmed that the words in quotation marks were intended as a verbatim quotation. His impression was not that that phrase evidenced any political interference although it could have been a reference to the elections that would be taking place in May 2015, but more that Mr Owen wished to discourage the idea of commissioning an external review. However, after [REDACTED] said that any impact would simply have to be faced up to, Mr Owen seemed more open to the review and engaged more closely with the discussion. [REDACTED] also remembers Mark Carriline taking a largely passive role in the meeting.
295. Mike Owen says that this *“was an extremely difficult meeting in which it would have been possible to cut the atmosphere with a knife and I found it very distressing”*. He agrees that he was not in a good state at the meeting and, shortly after it, he sought help from HR [REDACTED] [REDACTED]. The meeting was not formally minuted and he was not given any opportunity to check the notes at the time. Whether or not the Labour Group was mentioned, he is sure that he did not mention doing a favour for [REDACTED] (and Mark Carriline also does not remember any comment about any favours to the Labour Group). As in the case of the 12 May 2015 meeting, Mr Owen emphasized that he has no political bias in favour of the Labour Party.
296. The Newsam Report was delivered on 11 February 2017. It recommended more formal investigation of the three officers in

respect of the conclusions which are summarised in Section I above and which I repeat here for convenience:

1. [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]

297. I have had the opportunity of investigating the history in more detail and have sought in particular to understand the continued reluctance of Mr Owen and Mr Carriline to answer questions about the case.

298. As I have said, I am not convinced that they actively sought to conceal specific operational errors of judgment about the timing of the investigations, the briefing of the schools or the involvement of the LADO or Ofsted. Indeed, Mr Owen's references to helping the Labour Group would not seem to fit with such a motive because those operational details would not directly concern the Labour Group.

299. Instead it seems to me that references to helping the Labour Group would fit more logically with the overall practice of keeping the entire case as confidential as possible, simply because the Labour Group could be affected by scandal about the activities of [redacted] Cllr A [redacted].
300. Nevertheless, that would not answer the question of why Mr Owen would wish to help the Labour Group. Taking at face value his disavowal of Labour bias, the case could instead be explained by the closeness of his personal professional bond with [redacted], the former Leader.
301. However, there are two important caveats. First, whilst Mr Carriline at all times treated the case as highly confidential, took the unusual steps of personal intervention (by visiting [redacted] and the schools) and co-operated with Mr Owen's stance towards inquiries, there is no explicit evidence that he had a similar professional relationship with the former Leader (let alone any political bias). Second, if a wish to help the former Leader was a factor in Mr Owen's approach to confidentiality, I do not believe it was the only factor – in view of the unanimity among officers that the case was highly sensitive for the legitimate reasons discussed earlier in this report.

X. CONCLUSIONS

Mike Owen

302. The central charge against Mr Owen is that he:

... 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]

303. See, in particular, section IV above.

304. As I have said, the evidence leads to the conclusion that Mr Owen made serious errors of judgment on 1 April 2015 by (1) not satisfying himself, from colleagues or published policy, of what if any action was required, (2) in particular not briefing Mark Carriline and (3) briefing [REDACTED]⁶.

305. Mitigating circumstances are the fact that this difficult case arose on Mr Owen's first day in his new role and the fact that the police had told him to "leave it with us".

306. I have also criticised Mr Owen's evidence to me in that he said, but I was not satisfied, that (1) [REDACTED] had told him not to mention the case to Children's Services⁷, (2) the briefing to [REDACTED] took place by telephone before any conversation with [REDACTED]⁸ and (3) the police rescinded the "leave it with us" instruction on 8 April 2015⁹.

307. Mr Owen also failed to keep written records of the important meetings to which reference has been made above. I have also

⁶ See paragraphs 91-94 and 109-112 above.

⁷ See paragraph 84 above.

⁸ See paragraph 96 above.

⁹ See paragraph 94 above.

criticised him for giving over-reassuring responses to continued questions about the case and in particular for a lack of candour about the delay at the start of the case¹⁰.

308. A local authority could reasonably regard errors of judgment as amounting to gross misconduct (or as a failure to maintain a relationship of trust and confidence) if they are sufficiently serious and sufficiently unexcused. In my view both of the errors on 1 April 2015 were serious and the real question is about any excuse for them.
309. In my view the role of the police could make a conclusion of inexcusability unacceptably harsh in the case of the first error of judgment if considered by itself. Faced with a police request to do one thing and a professional duty to do another, choosing the wrong option could be excused. However, even this does not excuse Mr Owen's failure properly to ascertain what his duties were.
310. The second error, briefing the Leader, is harder to excuse. I recommend that the Council should consider whether it is satisfied that there was a motive of bias or whether this was just a moment when, under stress, the close relationship between a Chief Executive and a Leader who had worked together for years (perhaps combined with a culture of close co-operation¹¹) was taken to excess. The former would obviously be more serious than the latter. The latter might not necessarily justify the conclusion that Mr Owen failed to discharge his statutory and public duties to safeguard [REDACTED] although it must be borne in mind that it led to a further disclosure to a Labour Party

¹⁰ See paragraphs 269-271 and 297-301 above.

¹¹ An LGA peer review report in 2013 (when the Chief Executive was [REDACTED]) stated that "the council benefits from strong and effective leadership from a chief executive and leader who work together well as a partnership ...".

official and it could have had more serious consequences for [REDACTED] if [REDACTED] had been tipped off.

311. A finding of bias could be supported by the passage quoted in [REDACTED] [REDACTED] note of the meeting of 6 October 2016, which chimes with the note of the meeting of 12 May 2015. One rational conclusion would be that, in complying with the police's request to leave the case with them on 1 April 2015 whilst also giving a "heads up" to [REDACTED] [REDACTED], Mr Owen was motivated by a wish to help the Leader or the Labour Group rather than by his child protection duties.
312. The Council must weigh that evidence against Mr Owen's evidence of (1) the personal importance to him of child protection and (2) a lack of any Labour political bias. It is possible that the words spoken at the two meetings were no more than loose language, misguidedly intended on 12 May 2015 to sweeten the pill of suggesting that [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
313. However, my view on balance is that the close working relationship with the former Leader, rather than any party political bias, explains Mr Owen's briefing [REDACTED] at the start, and also was a reason, though not the only reason, for his anxious attitude to confidentiality throughout the case including his giving over-reassuring answers to questions about the case¹² and his discomfort in the face of continued questioning.
314. If the Council decides that Mr Owen was trying to help the ruling group (for reasons of either party political bias or personal loyalty), in

¹² See paragraph 244 above.

my view its conclusion will be one of gross misconduct or dereliction of duty.

315. But if the words recorded in the two notes (assuming they are accurate) were just a clumsy way of saying "*I was trying to be helpful*", then although the range of reasonable responses could extend in one direction to a conclusion of gross misconduct, it could also extend to a more moderate conclusion in the other.
316. On any view, these are serious criticisms which identify failures by Mr Owen properly to discharge his statutory and public law duties. The Council may also find ulterior motive proved. Although I do not think that the sequence of events following the Council's investigations amounted to a cover-up (because officials believed that they had conducted an effective investigation), any lack of candour must affect the relationship of trust and confidence. And this is a case of multiple errors by Mr Owen: failing to brief Mark Carriline or establish where his duties lay, briefing [REDACTED], failing to keep adequate notes and lack of candour in answering questions. As I have said, gross dereliction of duty and gross misconduct are a possible conclusion, albeit not the only possible conclusion.

Mark Carriline

317. As Director of Children's Services ("DCS") Mr Carriline was subject to binding statutory responsibilities. In general terms:

The DCS is responsible for securing the provision of services which address the needs of all children and young people, including the most disadvantaged and vulnerable, and their families and carers. ... The DCS is responsible for the performance of local authority functions relating to the education and social care of children and young people.

(DfE statutory guidance issued under section 18(7),
Children Act 2004, emphasis in the original)

318. The criticisms I make in this report (sections V, VI, VIII and IX) are:

- (1) Mr Carriline judged that the start of the investigation could be delayed by 2 working days, on top of the 7 days' delay which had already occurred¹³.
- (2) He also did not instead seek to involve another local authority, a step which would have prevented the ensuing chain of events involving the Council¹⁴.
- (3) He failed to familiarise himself with or to comply with the procedural requirements which applied immediately on discovery of the concerns¹⁵.
- (4) He has responsibility for the failure of officers to make a timely referral to the LADO (and did not respond to emails on the subject although he did eventually instruct [REDACTED] to make the referral)¹⁶.
- (5) He also has responsibility for the failure of officers to understand and comply with duties to notify Ofsted¹⁷.
- (6) He made a poor judgment, albeit in good faith, not to inform the Chairs of Governors of the schools¹⁸.
- (7) In general he was party to an over-emphasis on confidentiality in the investigation which in turn arose from factors including the involvement of councillors though also from the fact that this [REDACTED]
[REDACTED]
- (8) He approved Mr Owen's letter of July 2015 which was described as a "*definitive managerial, legal and operational response*" and failed to ensure that it was accurate in all respects, and shared

¹³ See paragraphs 144-145 above.

¹⁴ See paragraph 145 above.

¹⁵ See paragraphs 146-147 above.

¹⁶ See paragraphs 209-210 above.

¹⁷ See paragraph 211 above.

¹⁸ See paragraphs 177-180 above.

¹⁹ See paragraph 212 above.

Mr Owen's continued reluctance to answer questions about the case²⁰.

(9) Written records were not kept of important discussions.

319. A very important issue is the motivation for these failures.
320. There is no convincing evidence of any party political bias and I do not believe it would be fair to infer such bias.
321. However, I have already concluded that Mr Owen's close working relationship with the former Leader, rather than any party political bias, explains Mr Owen's briefing [REDACTED] at the start, and also was one of the reasons for his anxious attitude to confidentiality throughout the case and for giving over-reassuring answers to questions about the case and discomfort in the face of continued questioning. Was Mr Carriline also influenced by this factor?
322. I have not uncovered evidence of a particularly close working relationship between Mr Carriline and the former Leader. In my view, if Mr Carriline was influenced by any working relationship, it would have been his working relationship with Mr Owen. He and Mr Owen undoubtedly worked closely together, as one would expect of the Chief Executive and the Executive Director, but that by itself does not mean that this interfered with Mr Carriline's judgment. The evidence of the closeness of this relationship is not all one way. On the one hand I note that when Mr Carriline was initially told about the case, his first action was to speak to Mr Owen. On the other I note that when Mr Owen was first told about the case, his major omission was to speak to Mr Carriline.

²⁰ See paragraphs 244, 269-271 and 298-301 above.

323. On balance I consider that there is insufficient evidence to conclude that Mr Carriline shared any intention of Mr Owen to try to shield the ruling group or the former Leader from embarrassment. I therefore do not think it would be fair to conclude that any such motivation lay behind operational failures like delay in investigating, delay in involving the LADO and the omission to notify Ofsted.
324. However, I do think that Mr Carriline probably allowed himself to be led by Mr Owen in the over-anxious attitude to confidentiality throughout. In my view this influenced the poor decision not to inform the Chairs of Governors. Also, when it came to responding to inquiries from politicians during the next months, it seems to me that Mr Owen and Mr Carriline worked as a team and must share responsibility for some lack of candour, in particular about the initial delays. However, as I have said, I also consider that at all material times Mr Carriline believed that there had been an effective investigation and therefore that members could properly be reassured of that.
325. The central charges are that Mark Carriline failed to put [REDACTED] at the centre of his investigation, failed properly to inform others about the concerns and pursued a strategy of circumventing the Council's allegations management processes, and that he too placed political considerations above safeguarding duties.
326. Some of these charges are not made out. In my view [REDACTED] was put at the centre of the investigation. Although I cannot rule out there having been an improper "strategy" to circumvent processes, on balance I think that would not be a fair conclusion and instead, the over-emphasis on confidentiality was well intentioned by Mr Carriline and his officers. Most importantly I think it improbable that political considerations were placed above safeguarding duties,

though too much weight was attached to the risks of publicity arising from the position of [redacted] and Cllr B [redacted] as councillors.

327. Nevertheless, as I have said:

- (1) There 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 factors in poor decision-making included (a) the fact of councillors being involved and (b) the influence of Mr Owen.
- (3) There was also some lack of candour in responding to questions.
- (4) The failures raise questions of capability to perform the role of Executive Director.
- (5) Such failures, and any lack of candour, raise questions about the possibility of maintaining trust and confidence.
- (6) These matters can also be characterised as misconduct, although "gross dereliction of duty" and "gross misconduct" would be at the harshest end of the range of possible reasonable responses.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

329. [REDACTED]
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CHARLES BOURNE QC

11KBW Chambers

1 June 2017