


REPORT FOR DECISION

Bury
COUNCIL

Agenda
Item

DECISION OF:	HR & APPEALS PANEL
DATE:	28 February 2017
SUBJECT:	Senior Officers - Disciplinary Investigation
REPORT FROM:	Pat Jones-Greenhalgh, Executive Director for Communities & Wellbeing and Deputy Chief Executive
CONTACT OFFICER:	Pat Jones-Greenhalgh, Executive Director for Communities & Wellbeing and Deputy Chief Executive
STATUS:	NOT FOR PUBLICATION by virtue of Section 100 (A) (4) of the Local Government Act 1972 – information relating to an individual.
SUMMARY:	The Council has received an Independent Report from Malcolm Newsam CBE, relating to the Child Protection functions of the Council, and a serious failure to follow appropriate safeguarding procedures in respect of a specific case. The Independent Report recommended that Mr Owen, Mr Carriline and [REDACTED] should be formally investigated under the Council's disciplinary procedures. The Executive Director for Communities & Wellbeing and Deputy Chief Executive, having consulted the Leader of the Council and the Opposition Group leaders, suspended those three officers under the urgency provisions in the Constitution. This meeting is to review that suspension and to determine whether to proceed with a formal disciplinary investigation in accordance with the recommendation, and associated issues.
OPTIONS & RECOMMENDED OPTION	<ol style="list-style-type: none"> 1. The Panel is requested to consider the evidence as laid out in the summary report which is attached as an appendix 2. The Panel is to note the actions taken under urgency powers 3. The Panel is asked to decide whether the information contained in Mr Newsam's report requires a formal disciplinary investigation in respect of any/all of the officers 4. If the matter is to proceed to investigation the Panel is requested to:

	<ul style="list-style-type: none"> a) Confirm the disciplinary process to be followed in respect of each of the officers; b) Confirm the disciplinary allegations for investigation in relation to each of the officers; c) Delegate to the Deputy Chief Executive the power to appoint an Independent Investigator; d) Delegate to the Deputy Chief Executive the function of appointing at least two Independent Persons from neighbouring authorities to participate in the disciplinary process; e) Authorise the Deputy Chief Executive to meet the costs and expenses for the Independent Investigator; f) Authorise the Deputy Chief Executive to procure and appoint legal advice for the Council in relation to the disciplinary action (and any necessary waivers as to Standing Orders as to Contracts); g) Decide whether to continue the suspension of and/all of the three officers; h) Approve interim acting arrangements for any of the officers suspended, to include making a recommendation to full Council in respect of the Head of Paid Service.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	
Statement by the S151 Officer: Financial Implications and Risk Considerations:	There will be costs associated with the actions recommended in this report, which include full pay for the suspended officers, external investigation fees and the costs associated with obtaining external legal advice. These can be met from within existing budgets and reserves.
Statement by Interim Executive Director of Resources & Regulation (including Health and Safety Implications)	As above.
Equality/Diversity implications:	Any disciplinary proceedings must follow a fair and lawful process mindful of the continuing obligations to the affected officers

	and a fair determination of any allegations through a fair process.
<p>Considered by Monitoring Officer:</p> <p>This section contains privileged and confidential legal advice provided to the Council by Gowling WLG, Solicitors. The Head of Public Sector for that firm will be in attendance at the meeting.</p>	<p>Members have a duty to deal with the matter fairly, as quickly as possible and having regard to the governing law. There are three layers of the law which affect the employment and disciplinary rules for the officers in question.</p> <ul style="list-style-type: none"> • First, there is the general law – the Employment Rights Act 1996 and the ACAS Code of practice; • Second there is some law which is specific to Local Authorities, found principally in the Local Authorities (Standing Orders) (England) Regulations 2001 and 2015. This prescribes who can take action and what specific steps must be undertaken. It is designed to give additional protection to certain statutory officers given their role in advising Members. • Thirdly there are the contractual provisions, collective agreements with trade unions, and the Constitution, policies and procedures of Bury Council. <p>Applying the law to this situation, the legal position is as follows:</p> <p>Mr Owen is the Head of Paid Service and appointed on JNC Terms and Conditions for Chief Executives of Local Authorities in England and Wales – the ("JNCCX") and also has protections under the (Standing Orders) (England) Regulations 2001 and 2015 (the "SO Regs"). There is a model disciplinary procedure incorporated in the JNCCX together with some helpful guidance. It requires the appointment of Independent Persons to review a recommendation to discipline the Head of Paid Service and for a resolution of full Council to take such a decision.</p> 

Mr Carriline is the Executive Director for Children, Young People and Culture, he is appointed on JNCCO conditions and although a statutory chief officer, the SO Regs do not specify the involvement of the Independent Person for disciplinary action.

Taking this into consideration it would be hugely expensive and time consuming for there to be three investigations and three separate procedures. It would also risk the officers being treated unfairly, because one disciplinary committee should hear and determine the respective culpability, if any, for any breaches that appear to have occurred; and weigh and judge mitigating circumstances to reach a decision as to the appropriate disciplinary action, if any. Separating that into three committees would make that extremely difficult. There is also the prospect of witnesses having to give evidence three times, different committees legitimately reaching different views on the same facts and considerable delay and expense.

Instead members may consider that the most expedient way forward is to 'level up' the protections afforded to Mr Carriline and [REDACTED] and tailor the JNCCX process to include an investigation for all three officers. The key features of the process are:

- A preliminary review of whether there are circumstances to merit a disciplinary investigation – that is this meeting;
- A decision by members over whether the officers should remain suspended.
- An investigation by an Independent Investigator – there is no absolute requirement for it to be someone recommended by the JNC, the Employers Secretary has provided three names for consideration, alternatively the Council could appoint a barrister or other independent consultant. Given the complexity and high profile nature of this investigation the latter option may be preferred. The investigator should be asked to interview appropriate witnesses and review documents for summary in a

report of his/her findings as to what evidence, if any, there is to support the disciplinary allegations being made by this Panel. That report should be considered by a Disciplinary Committee (in this Council a separate sub- committee of the HR and Appeals Panel).

- The Disciplinary Committee should comprise three or five members on a proportional basis. It must include at least one member of the Cabinet. It will conduct a hearing of any disciplinary case and make recommendations to the full Council in respect of the three officers. The officers will have the right to make representations to that committee and to question any witnesses called (or call witnesses of their own).
- In respect of the [REDACTED] officers with statutory protection, the law requires that any recommendations for disciplinary action must be subject to a review by at least two Independent Persons appointed under the standards regime. They must set out an opinion to the Council which must consider that report alongside any recommendations from the Disciplinary Committee. In circumstances where there is only one Independent Person appointed by an authority, it should appoint a second (or more) Independent Persons from an adjoining authority, and if that is not possible from another authority in England. As Bury has only one Independent Person, David Gremson, Members should make arrangements for at least one other Independent Person to be appointed from a neighbouring borough. Rather than holding a separate hearing for them, members may consider it convenient that the two or more Independent Persons sit alongside the Disciplinary Committee to hear the evidence, but withdraw when they come to consider any outcomes or actions. This allows the Independent Persons to hear the evidence and basis for any recommendations the Disciplinary Committee makes, and can then review those and make their own report to Council, if required.
- The full Council would then hear the recommendations of the Committee and

	<p>receive a report from the Independent Persons. The officers would have a further opportunity to make representations to the meeting before it reached its final conclusion.</p> <ul style="list-style-type: none"> • The Leader of the Council has a statutory right to make representations in relation to any proposal to dismiss a chief officer and that too should be built into the process. • There are statutory and contractual time limits to be observed and officers will ensure that those are met. The meeting of the full Council will act as an appeal function against any findings of the Disciplinary Committee that the Officers disagree with. <p>As set out the objective is to find a fair, efficient and effective process that is lawful. There may well be challenges along the way. It is not unusual for there to be substantial representations about the correct process, and for delays to be encountered where ill health or other issues may arise. Members should not be alarmed if those are encountered, and should delegate to the Executive Director for Communities & Wellbeing and Deputy Chief Executive in consultation with the Chair of this Panel, power to agree any minor changes or to grant extensions of time to enable a fair process to be followed.</p>
Wards Affected:	All
Scrutiny Interest:	

TRACKING/PROCESS

EXECUTIVE DIRECTOR FOR COMMUNITIES & WELLBEING AND DEPUTY CHIEF EXECUTIVE:

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	

Background

1. In 2015, Councillor A was convicted for making indecent images of children. In 2012, he and [REDACTED] Councillor B, who was also a Bury councillor at the time and still is, had been assessed and approved as adopters by Bury Council. [REDACTED]
[REDACTED] It later transpired that the former employer of Councillor A, held information in respect of Councillor A that would have questioned his suitability as an adopter. This led to a multi-agency safeguarding investigation. Following the conviction of Councillor A, allegations have been made that the Council had not acted appropriately in following its procedures during the adopters' assessment and the safeguarding investigation. In response to these concerns, the Deputy Chief Executive commissioned an independent review of the handling of this case in November 2016.
2. On the advice of the LGA, the Council commissioned Malcolm Newsam CBE of Imprana Ltd to undertake this review and he completed his work in February 2017. The review report highlights serious and unexplained breaches of the Council's procedures and has identified sufficient concerns in respect of the conduct of three senior officers, to warrant a further formal disciplinary investigation. The three senior officers concerned are Mr Owen Chief Executive and Head of Paid Service, Mr Carriline Executive Director [REDACTED]
[REDACTED]
3. The final review report is 50 pages long and has 13 recommendations. Given the nature of the review it contains highly sensitive, confidential and personal data in respect of a number of individuals which cannot be disclosed to this panel. Mr Newsam has therefore provided a summary of his report which he has specifically written for this panel. This report is attached as an appendix. This version contains only those recommendations that are relevant to this panel's business. On receipt of the report, and following consultation with the Leader of the Council and the Opposition parties, the Executive Director for Communities & Wellbeing and Deputy Chief Executive suspended all three officers on under the urgency powers. Mr Owen and Mr Carriline were suspended on Thursday, 16 February 2017 [REDACTED]
[REDACTED] was suspended the following Monday, 20 February 2017. Following their suspension, the three officers were also provided with a summary version of the report which contains some additional context and the full set of recommendations.

Facts

4. Mr Newsam's review report analyses the Council's approach to the prospective adopters' assessment and the subsequent safeguarding investigation and identifies serious concerns in respect of the conduct of three officers.
5. **Mr Owen** is the Chief Executive. Mr Owen has given an account that he was instructed by the police to not speak to anyone including his Director of Children's Services when he received the information concerning Councillor A. This statement was not corroborated by the police. Mr Owen was provided with significant

information that put the original adoption approval in question [REDACTED]

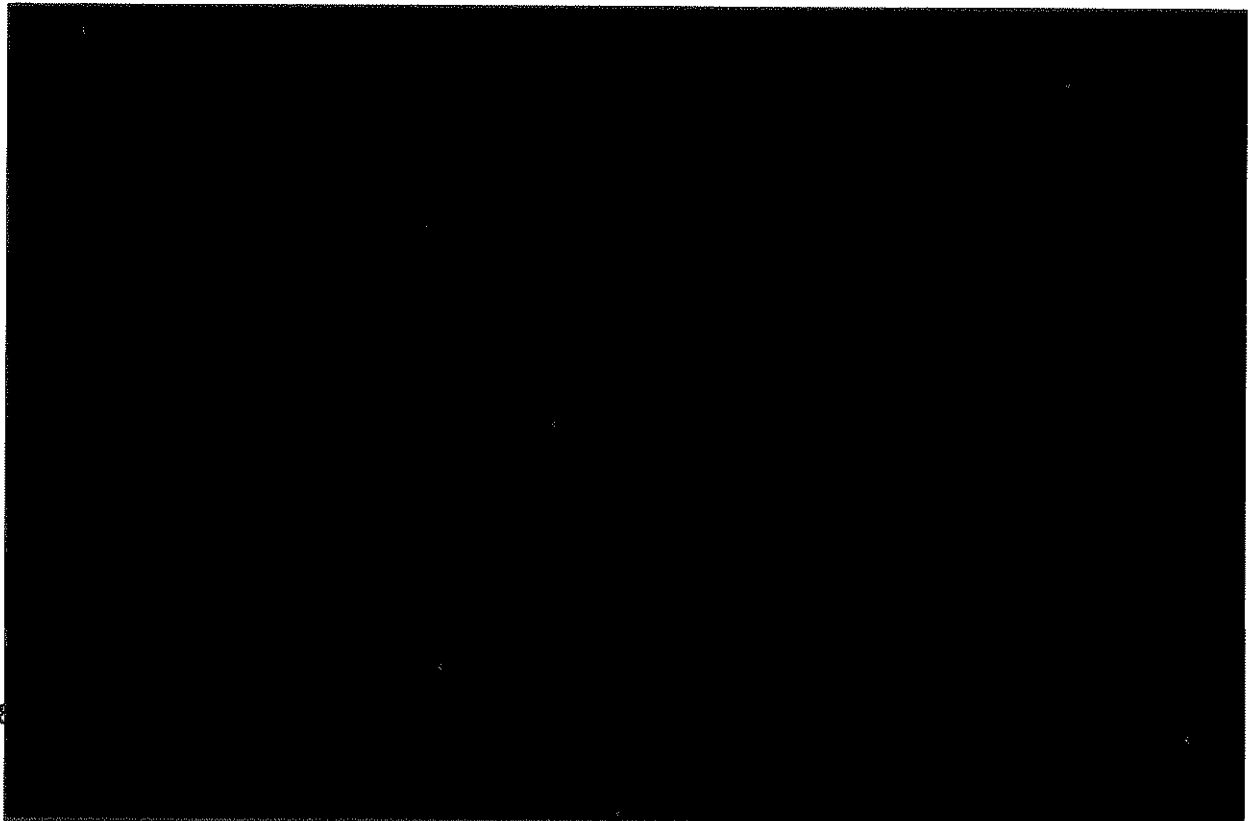
[REDACTED] Mr Owen should have immediately passed on this information to his Executive Director of Children's Services, Mr Carriline, but he did not. He knew the concerns were well known to a number of staff in the Council that had employed Councillor A and it could not be deemed as to be so sensitive as to be withheld from the person with the statutory responsibility for safeguarding children. However, Mr Owen did alert [REDACTED] who was the Leader of Bury Council at that time. During his interview, Mr Owen informed Mr Newsam that he had not given the actual name of the suspect to the former Leader, [REDACTED], but [REDACTED] in his interview with Mr Newsam contradicted that. Informing [REDACTED] of the name of the suspect was clearly inappropriate given the close personal relationship between Councillors A and B (both of whom were members of the Labour Group at Bury Council at the time) and in doing so, he risked [REDACTED] putting any investigation at risk. While accepting Mr Owen was in his first few days of his new role, his actions are unacceptable and thus far, inexplicable. His failure to keep any records of his conversations with Councillor A's former employer, the Police, Mr Carriline or [REDACTED] is also inexplicable given the sensitivity and significance of the information. Mr Newsam also refers to a copy of the notes of a meeting held on 6 October 2016 regarding the commissioning of this review. That meeting was attended by three councillors including the current Leader, [REDACTED]. Mr Owen and Mr Carriline were in attendance. The note was made by one of the councillor's but not the Leader. In that meeting the Chief Executive is recorded as follows: *"Mike Owen said he had been doing 'a favour' to the Labour Group by protecting it and the [REDACTED] from the political impact [of the information coming to light] at the time."* Mr Owen informed Mr Newsam in interview that he could not recall saying this and he had not previously seen the notes of the meeting. Nonetheless, Mr Newsam arrived at the conclusion that the delay in notifying the Executive Director of Children's Services and Mr Owen's subsequent engagement in the case was driven more by political considerations, to protect the Labour administration and these prevailed over his more immediate responsibilities to protect [REDACTED] and to follow the Council's safeguarding process.

6. **Mr Carriline** is the Council's Director of Children's Services. He is charged with the statutory responsibility to lead the Council's children's safeguarding functions. He, above all others in the Council, should have put [REDACTED] at the centre of the investigation. In Mr Newsam's judgement, Mr Carriline's actions fell far short of this. On being notified about the concerns from Councillor A's employer, Mr Carriline informed no-one within his own department. He spoke to Mr Owen but did not record that meeting. He has not explained why he did not notify the senior responsible manager for safeguarding and adoption. When [REDACTED], a middle manager in the Department, referred a police request for information to him, he still took no action. It is clear that [REDACTED] felt constrained from following the usual procedures as her record indicated *"This is sensitive information and will be dealt with at a senior management level. [REDACTED] will arrange a meeting with our LADO and will liaise with the police"*.

Mr Carriline informed Mr Newsam that he did not make a conscious decision not to inform the LADO. However, his failure to notify the LADO was, in Mr Newsam's judgement, unacceptable and a deliberate disregard of the Council's procedures for protecting children and managing allegations. There were regular prompts that the LADO needed to be involved, [REDACTED] recorded this on 9 April, it was raised at the first strategy meeting and the LADO actually raised his concerns directly with Mr Carriline, but was ignored. This does appear to be a deliberate strategy and this is further reinforced by Mr Carriline's personal visits to the two schools to inform the head teachers about the serious concerns in respect of Councillor A, a member of their governing body.

It appears that Mr Carriline was clearly circumventing the Council's allegations management procedures and cutting the LADO out of the process. Mr Carriline chose to speak to the two head teachers, but omitted to inform the chairs of the governing bodies which would have been the correct procedure. Mr Carriline's failure to notify the chairs of governors was, in Mr Newsam's view, inexplicable and unacceptable. Mr Newsam concludes that appropriate procedures put in place to handle allegations were sidestepped because of the overwhelming ambition to keep this information under close wraps. It was suggested to him during his review that because of the impending national elections and political considerations, the driving motive was to ensure that the concerns in respect of Councillor A were not known to political opponents.

Given that there was an opposition elected Member on one of the governing bodies, it is difficult not to come to the same conclusion. Mr Newsam concludes that Mr Carriline's actions are an indication that he had placed political considerations above his statutory safeguarding duties and that his behaviours distorted the subsequent handling of this case by his subordinate officers.





Recommendations

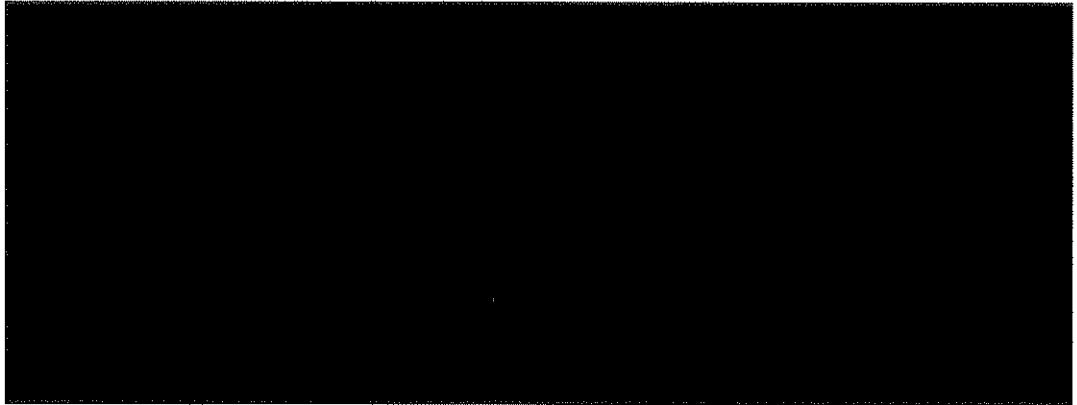
9. The Newsam review has set out serious concerns in respect of the behaviours and actions of senior officers and he has recommended a formal disciplinary investigation. Mr Newsam's review has highlighted serious and unexplained breaches of the Council's procedures. It has been suggested that this might be because of political influence and that the proximity of elections appears to have been a significant element in this. While he is clear that he has been given no overt evidence of this, equally he has not been provided with satisfactory reasons for why procedures to protect children were not adhered to.
10. The officers concerned have all had a summary copy of the Newsam report and been informed of the meeting taking place today. In accordance with the model procedure in the JNCCX, they have all been invited to make oral, and/or written representations to the meeting. Oral representations should be heard for up to 30 minutes. There is no opportunity to pose questions, and after making their statements, the officers should withdraw from the meeting.
11. Members should therefore consider the evidence in Mr Newsam's report, the recommendations he has made and any representations made by the officers concerned in reaching a view as to whether there is sufficient evidence of misconduct that requires a full investigation.
12. Should members be so minded they are invited to consider the following as appropriate allegations to put to the Independent Investigator for enquiry.
13. In relation to the issues identified in the Newsam report

Mr Owen:

- 13.1 The officer failed to properly discharge his statutory and public duties; and
- 13.2 The officer allowed ulterior motives to interfere with the discharge of his public duties; and
- 13.3 The officer failed to maintain a relationship of trust and confidence with the Council; and
- 13.4 The officer is guilty of gross dereliction of duty and gross misconduct.

Mr Carriline

- 13.5 The officer failed to properly discharge his statutory and public duties; and
- 13.6 The officer allowed ulterior motives to interfere with the discharge of his public duties; and
- 13.7 The officer failed to maintain a relationship of trust and confidence with the Council; and
- 13.8 The officer is guilty of gross dereliction of duty and gross misconduct





15. Of course if the Independent Investigation does unearth further evidence, it may be necessary to commence further disciplinary actions, but unless they involve Chief or Deputy Chief Officers those will be dealt with by your officers.

Contact Details:

Pat Jones Greenhalgh

Background papers:


The JNCCX
The JNCCO
The SO Regs
The Bury Council Disciplinary policy and procedures
The Newsam Report
Suspension letters to Mike Owen, Mark Carriline 

APPENDIX

Confidential Report – contains sensitive personal data about individuals and must not be shared or reproduced without the express agreement of the Deputy Chief Executive

An Independent Management Review into Issues relating to a Former Councillor

Summary Version for Statutory Officers Panel

Malcolm Newsam C.B.E.

Independent Consultant

11 February 2017

Disclaimer

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Introduction

1. In 2015, Councillor A, a former Bury councillor, was sentenced for making indecent images of children. In 2012, he and [REDACTED] Councillor B, who was also a Bury councillor at the time, had been assessed and approved as adopters by Bury Council. [REDACTED]
[REDACTED] It later transpired that another Council and the former employer of Councillor A, held information in respect of Councillor A that would have questioned his suitability as an adopter. This had not been disclosed by either Councillor A or Councillor B during the adopters' assessment but was made known to Bury Council in 2015. Councillor A has since resigned from the Council but [REDACTED] remains a serving councillor.
2. The Council commissioned me to undertake a review into these circumstances on 15 November 2016. I have worked as a Director of Children's Services in several authorities and have extensive experience of providing diagnostics, interventions and improvement support to a range of councils across the country. In October 2014, the Secretary of State for Education appointed me as the Commissioner for Children's Social Care in Rotherham and in February 2015, the Secretary of State for Communities and Local Government confirmed me as one of a team of five Commissioners with executive powers over the Council. In September 2016, I was appointed by the Secretary of State for Education as the Commissioner for Children's Services in Sandwell Council. In the 2017 New Year Honours I was awarded a C.B.E for services to children's social care
3. I have been asked within my terms of reference *to consider whether the Council in exercising its statutory and non- statutory powers took appropriate and adequate steps to safeguard children in line with the Council's policies and procedures.* The review has two distinct elements
 - The process for the assessment of Councillor A as a potential foster carer or adopter
 - Action that followed the notification to the Council by Greater Manchester Police of the investigation/arrest of Councillor A and safeguarding practice from notification to conviction

4. My terms of reference also ask me to make any recommendations which can be used by the Council and others to identify any lessons learnt, areas for improvement and make any recommendations that will bring this matter to a satisfactory conclusion.
5. I provided a full report to the Deputy Chief Executive in February 2017. This report is an anonymised summary of the complete version. The full report considers the conduct of both officers and Members. This summary version focusses on the conduct of officers and in particular the three officers who are the subject of this panel hearing.
6. My work included interviewing all of the officers and senior managers who were involved in this case. I also interviewed relevant Members, head teachers, school governors and a senior officer of Greater Manchester Police. I had full access and reviewed all files and records in respect of the assessment of Councillor A and B as prospective adopters and the files in respect of the safeguarding investigation [REDACTED]
[REDACTED]
8. Given the scope of this review, I have not interviewed officers from the two other Councils or reviewed documents held by those councils [REDACTED]
[REDACTED]
9. I have also endeavoured to interview a representative of the Opposition without success.



The Section 47 Investigation

10. The second element of this review covers the action that followed the notification to the Council by Greater Manchester Police of the investigation/arrest of Councillor A and safeguarding practice from notification to conviction. My investigation has identified a number of fundamental breaches of the Council's procedures.
11. The information concerning the circumstances surrounding Councillor A's dismissal was first relayed by a senior officer of his former employer on April 1 2015 to the Chief Executive in Bury Council. The Chief Executive took no action to notify other officers in the Council who were charged with safeguarding children. However, he did inform the Leader. The Chief Executive informed me he did not give the name of the councillor to the Leader but the Leader in interview told me he was given the name of the councillor. The referral was not appropriately dealt with in line with the Council's own procedures. Irrespective of the level of criminality, there were indications that Councillor A had been approved as an adopter having concealed information during his assessment from the Council's officers. This presented a potential risk for any child placed with him. For this reason, the senior officer should

have immediately referred the matter to an appropriate officer in children's social care who could have considered the information. [REDACTED]

12. On Wednesday April 8, the Executive Director for Children's Services also received similar information about Councillor A's dismissal from Councillor A's former employer. He spoke on that day to the Chief Executive who had taken the original call to clarify what he had been told. There are no notes of that meeting. They both informed me that they agreed that at this meeting they would commence a safeguarding investigation. However, the Council's children's services procedures for managing a safeguarding investigation were not adhered to as no further action was taken.
11. On Thursday 9 April, an officer in Greater Manchester Police contacted a middle manager in children's services to make "delicate enquiries" in respect of Councillor A. This manager contacted the Executive Director. The middle manager subsequently made a note on the computer record: *Information has come to the notice of the Police regarding Councillor A. They have made contact enquiring as to whether [REDACTED] This is sensitive information and will be dealt with at a senior management level. [Name] will arrange a meeting with our LADO and will liaise with the police.* No further action was taken on Thursday or Friday of that week. No referral was recorded, no other manager in children's services was notified of the concerns and no decision was taken to commence an assessment in contravention of the Council's procedures and national statutory guidance. [REDACTED] attempt was made to notify the authority [REDACTED] The Council also has additional and supplementary procedures for managing allegations [REDACTED] which were also not followed.
12. No formal action to initiate a safeguarding investigation was taken until Monday 13 April, when the Assistant Director returned from annual leave.
13. In summary, there was a significant delay from the first report of concerns on 1 April and the formal recording of this as a referral on 13 April even taking into account the Easter Bank Holiday. I have questioned this delay with all of the key participants I have interviewed. It has been put to me reasonably by both Police and Council staff that ultimately the pace of the investigation was dictated by the time it would take for Greater Manchester Police to review the evidence and in fact that part of the

investigation was concluded in a speedy fashion. However, it is noticeable to me that there was reluctance to deal with this case in a way the Council would require any other safeguarding referral to be dealt with of this nature. The Chief Executive did not alert the Executive Director, The Executive Director did not alert any of his senior staff and until the Assistant Director returned from leave there was no formal recording made anywhere other than the "delicate enquiry" recorded by a middle manager. This has been variously explained to me to be due to the "sensitivity" of the case and the need for "confidentiality" given the high profile position of the [REDACTED] local councillors. [REDACTED]

[REDACTED] I am sympathetic to these views but this did not warrant the lack of adherence to appropriate safeguarding processes. The concern could have been logged in a confidential manner and the record restricted to those professionals who needed to know.

14. Although no one interviewed referred to this – there is at this stage of the criminal investigation a clear need to ensure that evidence can be safely secured. The Police would, quite understandably, be concerned, if colleagues or friends of Councillor A were aware of the investigation. If anyone were to alert Councillor A this would provide an opportunity for him to dispose of or destroy any incriminating evidence. In this respect the behaviours of the key players are inconsistent. Clearly, until the evidence has been secured by the Police this information should not have been shared with any Member but the Leader informed me he had been told the name of Councillor A. I have no reason to doubt the integrity of the Leader but as a friend of Councillor A and Councillor B this was putting him in a difficult position. Yet people who really needed to know because of the safeguarding concerns were not informed. These were the senior managers in children's services, the adoption worker and the LADO. It is also noticeable that officers only became aware when they were informed by staff outside the organisation and not by those within the organisation who were already aware. It is a concerning pattern that the Executive Director only knew because Councillor A's former employer had told him. The middle manager only knew because the Police had spoken to her and the Assistant Director only learned because the former employer rang a second time. It is difficult to not conclude that the delays in following statutory safeguarding procedures and the failure to quickly brief the responsible staff demonstrates that senior officers in the Council had lost sight of their first priority [REDACTED]

15. I am therefore left with the view that this reflected a sense of concern and deference for the two individuals that would not be shown to other individuals investigated for matters of this nature. This was reinforced by my interview with one of the managers undertaking the investigation when she explained that the investigation needed more planning as these were elected Members and the supervisor *had to brief the Executive Director*.
16. I am also perplexed why the Executive Director left it from 8 April 2015 to 13 April 2015 to inform [REDACTED] of the concerns in respect of Councillor A. [REDACTED] and would understandably expect to be informed immediately of any concerns. I have also been concerned that the Executive Director did not use this as an opportunity to negotiate [REDACTED] undertaking the Section 47 investigation.
17. As I have indicated, the Council has clear procedures for managing allegations in [REDACTED] and this includes immediately informing the LADO, [REDACTED]
18. The subsequent investigation fell far short of this:
- [REDACTED] was not informed until after the first strategy meeting.
 - Prior to the strategy meeting [REDACTED] should also have notified Ofsted as the regulatory authority of the allegation/suspicion and invite them to be represented at the strategy meeting. Furthermore there is a requirement for Ofsted to be kept informed throughout the investigation until its conclusion. None of this was done.
 - The investigation should have not been undertaken by Bury employees given that the [REDACTED] were Bury Councillors. There was a clear conflict of interest and the decision to do it in-house put the investigating officers in a very difficult position. As a result, the investigation failed to adequately explore Councillor B's understanding of Councillor A's dismissal and offending behaviour and her collusion in the deceit during the adopters' assessment.
 - The LADO was not informed until 5th May 2015 some three weeks after the original referral was received. He was still not informed even following Councillor A's arrest, the discovery by the Police of child pornography on his computer equipment and him being subject to bail conditions with the requirement to have no unsupervised contact with any child under 18 years and

not conducting any paid /unpaid work that would bring you into contact with any child under 18 years.

19. There are clear indications that the Executive Director was instrumental in all of this:

20. On 30 April and 1 May, the Executive Director personally visited the schools where Councillor A was a governor. In both instances he spoke to the head teachers but not the Chair of the Governing Body and circumvented the Council's LADO procedures. The Executive Director should have ensured the LADO was informed and put in place a complete strategy to manage the allegation.

21. On 1 May the Executive Director sent an email to the Assistant Executive Director, the LADO and the Manager responsible for the investigation with a copy to the Monitoring Officer. *"I have now visited both of the schools and spoken to the Heads concerned. They fully appreciate the gravity of the situation and the need to keep things confidential (including from their Chairs of Governors) In terms of the [REDACTED] School he is a poor attender in any event. I have asked them to contact me if he turns up at school, which they have agreed to do.*

22. The manager responsible for the investigation replied on the same day. *" It may be worth noting with the heads if he does try and make any contact with the schools then he will be breaching his bail conditions and therefore this info will need to be passed to the police."* The Executive Director responded immediately. *"Yes I made that clear to them and asked them to tell me. I suspect that if he just went to an evening adult only governors meeting that would not breach the conditions but I have asked them to let me know anyway"*

23. I find this a wholly inadequate response. The Executive Director should have ensured the LADO was informed and put in place a complete strategy to manage the allegation. This should have included informing the Chairs of Governors and suspending Councillor A's position as a governor. It has been put to me that this would have been complex to achieve but I do not accept this. Councillor A was nominated by the Local Authority and his bail conditions were specifically drafted to ensure he could not function as a school governor. I am left with the conclusion that appropriate procedures put in place to handle allegations were sidestepped because of the overwhelming ambition to keep this information under close wraps. It has been put to me that given the impending elections that the driving motive was to ensure that the concerns in respect of Councillor A were not known to political opponents. Given that there was an opposition elected Member on the governing body it is difficult not to come to the same conclusion.

24. On receipt of the email from the Executive Director, the LADO responded.

Thank you for the update. 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

The Executive Director did not reply so on 1 May the LADO sent a further email:

I am really sorry [Executive Director], why has no-one referred it to me? Why have I not been involved/ chairing meetings?

The Executive Director also did not respond to this email. On 5th May the Assistant Director met the LADO and formally referred the matter to him as the Bury LADO. She confirmed this in an email but added:

[The LADO] 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

25. The LADO's persistence in challenging his Executive Director for not following the allegations management procedures is to be commended. I am not impressed by Executive Director's failure to give the LADO an answer of any sort and the Assistant Director's email does point more to the continued desire to focus on "sensitivity" and protecting the identity of the councillors than to managing the potential risks to [REDACTED] and others in the community.

26. The Assistant Director informed the LADO that the delay in informing him about the allegations was that because of the sensitivity they needed to establish that there was some substance to it. I do not accept this argument. The information relating to Councillor A's dismissal were sufficient to present concerns about his contact with children and his criminal activity had become apparent on the 22 April 2015. There was a clear and pressing need to inform the LADO but this was not done. A middle manager told me that she kept reminding people that the LADO needed to be informed but she saw a reluctance from her superiors to do so. She was not clear where this reluctance emanated from but she did recall that the Assistant Director raised this with the Executive Director and there was a push back on it.

19. On the 7th of May there was a General and Local Election.

[REDACTED]

21.1

22. [REDACTED] July 2015 Councillor A pleaded guilty to 16 offences.

23.

Summary

24. In reviewing this case, I am reminded of Lord Laming's wise admonition "*I am convinced that the answer lies in doing relatively straightforward things well*"¹ Bury Council provides good services to vulnerable children and families. In February 2016 Ofsted judged the child protection service, adoption service and leadership of Bury children's services to be good². This puts the Council in the top quartile of local authorities. I am not surprised by this. The quality of staff and managers I have interviewed has been impressive. The casework conducted on this particular file was in the most part conscientious and there is evidence of good working across agencies and with other local authorities. Nonetheless, on many occasions throughout the journey of this case senior managers deviated from their ordinary and well-crafted procedures and ended up failing to do the most straight forward things well.
25. As can be seen, none of what was required demanded exceptional skill or foresight and nothing I have said is with the benefit of hindsight. It just required the organisation to do the relatively straightforward things well. It has not been easy for me to penetrate the reason for these failures. It has been clear to me that the individuals I interviewed were bound by a loyalty to their organisation and to their senior officers and Members and I suspect this sometimes led them to be less frank than they might have otherwise been. This meant that my interviewees could give me no satisfactory reason why procedures were not followed, why the LADO was not immediately notified, why Head teachers were quietly spoken to rather than their Chairs of Governors formally notified and why the appropriate rigour was not taken in assessing Councillor B's complicity.
26. This leaves me to conclude that the management of this case was constrained either by direct political influence or the mistaken belief by senior officers that they needed to be seen to be doing their best to protect members of the Labour group from any political embarrassment at a sensitive time. The delays in informing the LADO, Adoption Service and Chairs of Governors alongside the decision not to ask another authority to undertake the section 47 investigation clearly point to a primary focus on the need to keep the investigation known only to a few at the expense of following due process. [REDACTED] which should have been paramount were relegated in the process.

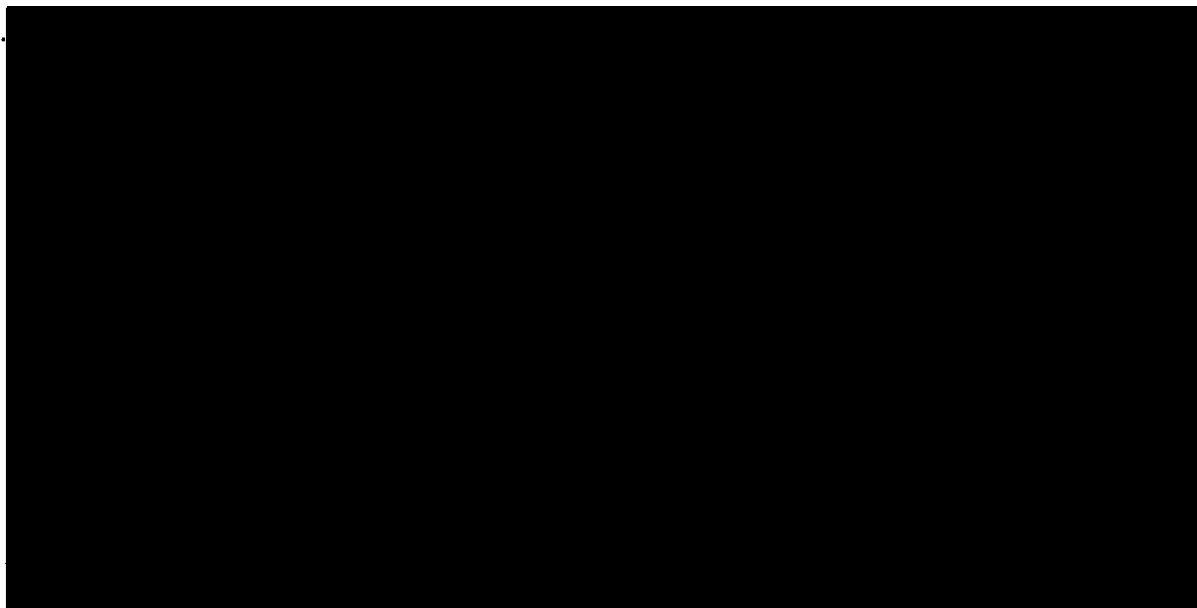
¹ Lord Laming *The Victoria Climbié Inquiry* 2003

² Ofsted Inspection of services for children in need of help and protection, children looked after and care leavers May 2016

27. The absence of contemporaneous recording of sensitive decision making and the reliance on unrecorded telephone calls and face to face briefings has ensured that there is only a limited audit trail to understand the motivation for many of the inexplicable decisions I have highlighted. This reflects at best a profound lack of professionalism and at worst a deliberate attempt to mask responsibility for these clear breaches of safeguarding procedures.
28. I will now summarise each individual person's responsibilities for these failures.
29. The Chief Executive. The Chief Executive's account that he was instructed to not speak to anyone including his Director of Children's Services is not corroborated by the police. He received significant information about the adoption assessment and that had a clear and obvious implication [REDACTED] He informed me that he had not given the name of the suspect to the former Leader, but the former Leader in his interview with me contradicted that. The Chief Executive should have informed his Executive Director of Children's Services. He knew the concerns were well known to a number of staff in the Council that had employed Councillor A and it could not be deemed as to be so sensitive as to be withheld from the person with the statutory responsibility for safeguarding children. Informing the former Leader was clearly wrong given the close personal relationship between Councillors A and B and the former Leader and could have put at risk the investigation. While accepting the Chief Executive was in his first few days of his new role, his actions are unacceptable and inexplicable. His failure to keep any records of his conversations with the other council, the Police, the Executive Director or the former Leader is also inexplicable given the sensitivity and significance of the information. I have also been shown a copy of the notes of a meeting held on 6 October 2016 regarding the commissioning of this review. This meeting was attended by three councillors including the current Leader. The Chief Executive and Executive Director were in attendance. The note was made by one of the councillor's but not the Leader. In this meeting the Chief Executive is recorded as follows: *[The Chief Executive] said he had been doing a favour to the Labour Group by protecting it and the ex-Leader [Name], from the political impact at the time.* The Chief Executive has told me that he cannot recall saying this and has not previously seen the notes of the meeting. Nonetheless, I conclude that the delay in notifying the Executive Director of Children's Services and his subsequent engagement in the case was driven more by political considerations to protect the Labour administration and these prevailed over his more immediate responsibilities to protect [REDACTED] and follow the Council's safeguarding process.

30. The Executive Director is the Council's statutory Director of Children's Services. He is charged with the responsibility to lead the Council's statutory children's safeguarding functions. He, above all others in the Council, should have put [REDACTED] at the centre of this investigation. I have found his actions fell far short of this. On being notified about the concerns from the other council, the Executive Director informed no-one within his own department. He spoke to the Chief Executive but did not record that meeting. It is inexplicable why he would not have notified the senior responsible manager for safeguarding and adoption. When a middle manager referred the police request for information to him he still took no action. It is clear that the middle manager felt constrained from following the usual procedures as her record indicates-*This is sensitive information and will be dealt with at a senior management level. [Name] will arrange a meeting with our LADO and will liaise with the police.* The Executive Director informed me he did not make a conscious decision to not inform the LADO. However, I believe his failure to notify the LADO was unacceptable and a deliberate disregard of the Council's procedures for protecting children and managing allegations. There were regular prompts that the LADO needed to be involved, The middle manager recorded this on 9 April, it was raised at the first strategy meeting and the LADO actually raised his concerns directly with the Executive Director but was ignored. This does appear to me to be a deliberate strategy and my view is further reinforced by the Executive Director's personal visits to the two schools to inform the head teachers. He was clearly circumventing the Council's allegations management and cutting the LADO out of the process. His failure to notify the chairs of governors was also inexplicable and unacceptable. I am left to conclude that his actions are also an indication that he had placed political considerations above his statutory safeguarding duties and that his behaviours distorted the subsequent handling of this case by his subordinate officers.

31.



[REDACTED]

32. The Council, its officers and its

[REDACTED]

33.

[REDACTED]

[REDACTED] The Manager who undertook the investigation and the middle manager showed great professionalism and integrity in the manner in which they conducted the safeguarding investigation but I am still left with a view that they were constrained by how far they could cross examine what Councillor B actually knew about Councillor A's behaviours and too easily accepted [REDACTED] explanation. I have also been impressed by the LADO's determination to put the case into due process and the rigour in which he conducted the LADO strategy meetings.

Recommendation Relevant to Statutory Officers Panel

34. This report has shone a critical light onto the political and officer governance of Bury.

There is now an opportunity to reset the leadership and culture of the organisation if the mistakes identified in this review are embraced and tackled. I do not believe this review has revealed anything fundamentally wrong with the quality of professional practice in Bury but how officers respond to the interests of their political leaders requires significant attention. My full report contains some key recommendations to address this. Most of these will be responded to elsewhere but the recommendation relevant to this panel is as follows:

35. This review has identified sufficient concerns in respect of the behaviours and actions of senior officers to warrant further more formal investigation. I have highlighted serious and unexplained breaches of the Council's procedures. It has been suggested to me that this might be because of political influence and that the proximity of the Bury local elections was also a key determinant in this. No-one has given me evidence of this but equally I have not been given satisfactory reasons for why procedures to protect children were not adhered to. I do think it would be helpful to clear these matters up through a more formal investigation using the Council's disciplinary procedures. The officers whose accounts require more formal investigation are:

- Chief Executive
- Executive Director

[REDACTED]

[REDACTED]

END