

Pat Jones Greenhalgh
Interim Chief Executive

Our Ref LW
Your Ref OSC/LW
Date 12 July 2017
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Legal & Democratic Services
Division
Jayne Hammond LLB (Hons) Solicitor
Assistant Director of Legal &
Democratic Services

TO: All Members of Council

Councillors : P Adams, N Bayley, I Bevan, J Black, S Briggs, R Caserta, R.Cathcart, M C Connolly, T Cummings, M D'Albert, J Daly, E Fitzgerald, I Gartside, J Grimshaw, D Gunther, M Hankey, S Haroon, J Harris, R Hodgkinson, T Holt, K Hussain, M James, D Jones, G Keeley, J Kelly, Kerrison, O Kersh, Leach, J Lewis, J Mallon, A McKay, S Nuttall, E O'Brien, T Pickstone, C Preston, A Quinn, Schofield, R Shori, D Silbiger, Simpson, R Skillen, S Smith, Sarah Southworth, Susan Southworth, T Tariq, J Walker, R Walker, S Walmsley, Whitby, S Wright and Y Wright

Dear Member/Colleague

Council

You are invited to attend an Extraordinary Meeting of the Council which will be held as follows:-

Date:	Thursday, 20 July 2017
Place:	Council Chamber - Town Hall
Time:	7.30 pm
Briefing Facilities:	If Opposition Members and Co-opted Members require briefing on any particular item on the Agenda, the appropriate Director/Senior Officer originating the related report should be contacted.
Notes:	

AGENDA

The Agenda for the meeting is attached.

Reports are enclosed only for those attending the meeting and for those without access to the Council's Intranet or Website.

Electronic service of legal documents accepted only at:
E-mail: legal.services@bury.gov.uk
Fax: 0161 253 5119

Town Hall
Knowsley Street
Bury BL9 0SW
www.bury.gov.uk

The Agenda and Reports are available on the Council's Intranet for Councillors and Officers and also on the Council's Website at www.bury.gov.uk – click on **Agendas, Minutes and Forward Plan**.

Copies of printed reports can also be obtained on request by contacting the Democratic Services Officer named above.

Yours sincerely

Pat Jones Greenhalgh

Interim Chief Executive

AGENDA

1 **DECLARATIONS OF INTEREST**

Members of the Council are requested to declare any interests which they have in any items or issues before the Council for determination.

2 **EXCLUSION OF PRESS AND PUBLIC**

To consider the exclusion of the press and public from the meeting, in accordance with the provisions of Section 100A, Schedule 12A of the Local Government Act 1972.

3 **REPORT OF THE HUMAN RESOURCES AND APPEALS PANEL** (Pages 1 - 138)

A report from the Interim Chief Executive is attached.

4 **NOTICES OF MOTION**

The following Notices of Motion have been received:-

1. The Council has received a report from the Human Resources and Appeals Panel from its meeting on 19th and 20th June 2017 and has noted the outcome of that process including the resignations without notice of the former Chief Executive and Executive Director for Children, Young People and Culture.

The Council further **Notes**: -

- (a) The report prepared by Malcolm Newsam CBE requested by the Leader of the Council, Councillor Rishi Shori into historic children safeguarding at Bury;
- (b) The content of the report dated 1 June 2017 prepared by Charles Bourne QC into disciplinary allegations;
- (c) The ongoing dialogue with the Department of Communities of Local Government, OFSTED and KPMG (the Council's External Auditors) who have raised **no** concerns about the management/leadership of the Council;
- (d) The exceptional work of the Interim Chief Executive and Interim Leadership Team during this difficult period.

The Council **resolves** to:-

- (i) Invite Charles Bourne QC to extend the scope of his independent investigation into the conduct of elected members in relation to the issues highlighted in the *Newsam report* with the scope of the said investigation to be agreed by the Chair of the Council's Standards Committee in consultation with the Leaders of the three

political groups with the investigation to report back to the Standards Committee by no later than 30 October 2017.

- (ii) Implement the outstanding recommendations detailed in the Newsam Report (as set out within the attached action plan) with progress of implementation to be monitored by the Council's Overview & Scrutiny Committee as a standing agenda item until the completion of all actions.
- (iii) To refer the content of the Newsam report to the Chair of the Bury Safeguarding Children's Board for review and recommendations (where required).

In the names of Councillors Shori, Simpson, Briggs, Kelly, O'Brien, Quinn and Tariq

- 2. "The Council has noted with immense concern the contents of the report of Malcolm Newsam CBE, Commissioner for Children's Services at the Department for Education, following his investigation into the actions of both Members and Officers of this Council surrounding safeguarding issues.

This Council instructs the Interim Chief Executive and Monitoring Officer to:

- 1. Authorise the Executive Director of Children, Young People and Culture to implement any outstanding recommendations of Malcolm Newsam CBE in relation to safeguarding and adoption procedures and report back to Full Council in September 2017.
- 2. Invite the Office for Standards in Education, Children's Services and Skills (Ofsted) to review and comment upon the findings of Malcolm Newsam CBE.
- 3. Appoint an independent investigator from outside the Council [whose name shall be agreed by the three Political Group Leaders] who shall consider any breaches by any Member or Officer of this Council of the adopted codes of conduct for both members and officers and any allegations of illegality, maladministration, impropriety, breach of statutory code, Nolan Principles, or any action which has brought this Council and their office into disrepute, and report back to Council within three calendar months the findings of such investigations and any recommendations."

In the names of Councillors I Bevan, J Daly, M Hankey, K Hussain, G Keeley and R Walker

- 3. Council Notes:

- 1 The investigatory process which has been undertaken during 2017

concerning serious events in 2015 which has resulted in the resignation of two senior officers.

2 The professional manner in which officers have stepped-up into acting roles and responsibilities during this period.

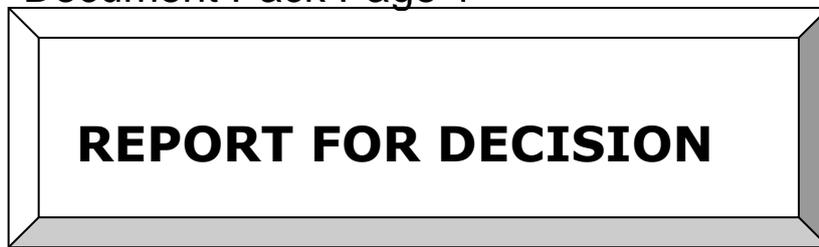
Council Resolves:

1 To undertake an all-Party piece of work, involving officers and with outside support as appropriate, to ensure that we have a culture of working at a senior level in the Authority which reflects the highest standards for public office and public service.

2 To ask the Acting Head of Paid Service to initiate an independent review into elected member involvement in this incident in 2015 and consider whether there were any breaches of the Member Code of Conduct and identify any recommended actions through our Standards procedures.

In the names of Councillors D'Albert, Pickstone and S Wright

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DECISION OF:	Council
DATE:	20 July 2017
SUBJECT:	Senior Officer Disciplinary Issues
REPORT FROM:	Human Resources & Appeals Panel
CONTACT OFFICER:	Pat Jones-Greenhalgh, Interim Chief Executive
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	The Council will confirm that this paper is within the public domain
SUMMARY:	This report summarises the work of the Human Resources and Appeals Panel's meeting on the 28 February 2017 and the 19 and 20 June 2017. It sets out the background information upon which the meetings took place and advises Council of the procedures followed. Following the resignation of two senior officers, the report is for information and to note.
OPTIONS & RECOMMENDED OPTION	Members are asked to note the report.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	<p>Financial implications of this matter are outlined at Section 2.0 of the report.</p> <p>Costs which are an additional budgetary pressure for the Council (to date) are as follows;</p> <ul style="list-style-type: none"> Acting up arrangements (incl employer oncosts) £56,524

	<ul style="list-style-type: none"> Investigation Costs £183,636 <p>These costs will be funded from earmarked reserves – total £240,160.</p>
Health and Safety Implications	Members of staff were offered appropriate support throughout the process
Statement by Executive Director of Resources	Legal / HR advice has been sought at every stage of this process and is set out in the reports. An external legal advisor will be in attendance at the meeting of the Council
Equality/Diversity implications:	No
Considered by Monitoring Officer:	The process followed was in accordance with the relevant legislative and contractual requirements, both in terms of the process and consequential actions. Independent legal advice was provided at appropriate stages throughout. Members must be aware that further legal action could still be forthcoming and any debate and subsequent decision(s) must take this into account, in order to ensure neither the Council nor any other person is prejudiced.
Wards Affected:	All
Scrutiny Interest:	Overview & Scrutiny

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Cabinet Member/Chair	Ward Members	Partners
Scrutiny Committee	Cabinet/Committee	Council	
		20.7.17	

1.0 BACKGROUND

- 1.1 On the 28 February 2017 the Human Resources and Appeals Panel ("the Panel") met to consider the Report received from Malcolm Newsam CBE into the conduct of an historic children safeguarding investigation. Mr Newsam found that the Council's procedures were robust, but that there had been serious failings to follow the procedures in a timely and effective manner and he made recommendations for a disciplinary investigation into the three senior officers. On 28 February 2017 the Panel confirmed the suspension of three senior officers pending a formal disciplinary investigation in accordance with those recommendations. It resolved to appoint an external independent investigator to undertake that task. Following a procurement exercise, on 10 March 2017 the Council appointed Charles Bourne QC, a barrister and Deputy High Court Judge, specialising in local government and employment law, to undertake that investigation. His terms of reference are set out in the attached reports.
- 1.2 Mr Bourne's report, running to one hundred pages, was received by the Council on 1 June 2017 and the Panel met on the 19 and 20 June 2017 to consider its contents. In addition to three members of the Council (Councillor Jackie Harris (Chair), Councillor Tony Cummings and Councillor Andrea Simpson), the Panel included three independent persons appointed in accordance with the provisions of the Local Authority's (Standing Orders) Regulations 2015. As Mr David Gremson, the Independent Person appointed by this Council had declined to act, the independent persons were appointed from neighbouring authorities. Immediately prior to the first day of the meeting, the Chief Executive of the Council, Mike Owen tendered his resignation with immediate effect.
- 1.3 The Panel heard detailed evidence from Mr Bourne, Mr Newsam, Councillor Shori and the officers and their representatives.
- 1.4 The resignation meant that the Panel was not able to consider the disciplinary allegations made against Mr Owen though the Panel did take into account the evidence of his conduct contained in the Newsam and Bourne reports.
- 1.5 In relation to one senior officer, the Panel concluded that it could resolve the disciplinary allegations within its own terms of reference. As the disciplinary allegations relating to that officer were resolved by the Panel under its delegated powers, there should be no further discussion or debate relating to them. That Officer continues to enjoy the trust and confidence of the Council. As a decision under delegated powers it is not open for the Council to review.
- 1.6 In relation to the Executive Director for Children, Young People and Culture, Mark Carriline, the Panel concluded that the allegations against Mr Carriline were made out on the evidence and that the finding should be one of serious misconduct. Having regard to the evidence of the Leader of the Council and of the nature of the failings identified, the Panel concluded that the Council could no longer have trust and confidence in Mr Carriline's ability to perform the functions of his office and accordingly that he should be dismissed. The Panel made recommendations to this effect.
- 1.7 Following confirmation of that decision in writing to Mr Carriline, he tendered his resignation with immediate effect. This means that as Mr Carriline is no longer

an employee of the Council, it is no longer necessary for Council to consider the recommendations from the Panel.

- 1.8 However, the findings of the Newsam Report and the Bourne Report highlight a serious failure by these two former officers to follow the Council's established procedures. Having carefully considered the evidence the Panel concluded that Mr Owen and to a lesser extent, Mr Carriline, had been influenced in their actions by ulterior motives. Mr Owen demonstrated a misguided desire to 'help' the former Leader which manifested itself by inappropriate briefings, a desire to control the proper flow of information and a failure to adhere to the Council's policies and procedures. The Panel concluded that this was a misguided attempt to protect the former administration and its leader from public scrutiny in the run up to the 2015 elections. In relation to Mr Carriline, the Panel found that he was overly compliant to the wishes of the former Chief Executive and became inadvertently tainted by Mr Owen's ulterior motive, and in doing so Mr Carriline lost sight of his statutory duties.
- 1.9 The Council is invited to note the investigatory process and the outcome of the Newsam and Bourne Reports and the deliberations and outcome of the Panel meetings.

2.0 FINANCIAL IMPLICATIONS

- 2.1 The law requires that suspended officers must be paid their normal salary and benefits during those periods of suspension. The two officers who resigned were entitled to and were paid in accordance with their contracts up to the date of their resignation. These costs (gross pay with employers oncosts) totalled £77,912 in respect of Mr Owen, and £64,094 in respect of Mr Carriline.
- 2.2 Both Mr Owen and Mr Carriline were aged over 55 at the date their employment terminated. In accordance with the Local Government Pension Scheme Rules each was entitled to elect to take the pension which had accrued during their Local Government service. The Local Government Pension Scheme Rules do not require the employer's consent for early payment of their pensions in these circumstances - but importantly, where a pension is taken early without employer consent, the benefits payable are subject to actuarial reduction for early release. This means that the payment of those pensions is at no cost to the Council and reflects only the contributions which have been made during their respective service. The pension benefits are paid by the Greater Manchester Pension Fund and not by Bury Council.
- 2.3 The Council has also retained external legal advice in relation to the governance and procedures from Gowling WLG (UK) LLP.
- 2.4 The costs of the investigations to date amount to £183,636.
- 2.5 Members will appreciate that it was not possible to undertake these investigations from within internal resources and given the seniority of those individuals involved, and the complexity of the law, the investigations costs are justified.

3.0 CONCLUSION

- 3.1 Members are invited to consider the contents of this report and its background papers.

List of Background Papers:

Redacted HR & Appeals Report – 28 February 2017
Redacted Newsam Report
Redacted HR & Appeals Report – 19-21 June 2017
Redacted Bourne Report

Contact Details:

Pat Jones-Greenhalgh, Interim Chief Executive

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REPORT FOR DECISION



Agenda Item	
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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:	<p>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 ██████████ 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.</p>
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:	<p>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.</p>
Statement by Interim Executive Director of Resources & Regulation (including Health and Safety Implications)	<p>As above.</p>
Equality/Diversity implications:	<p>Any disciplinary proceedings must follow a fair and lawful process mindful of the continuing obligations to the affected officers</p>

<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>and a fair determination of any allegations through a fair process.</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> <div style="background-color: black; width: 100%; height: 100px; margin-top: 10px;"></div>
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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

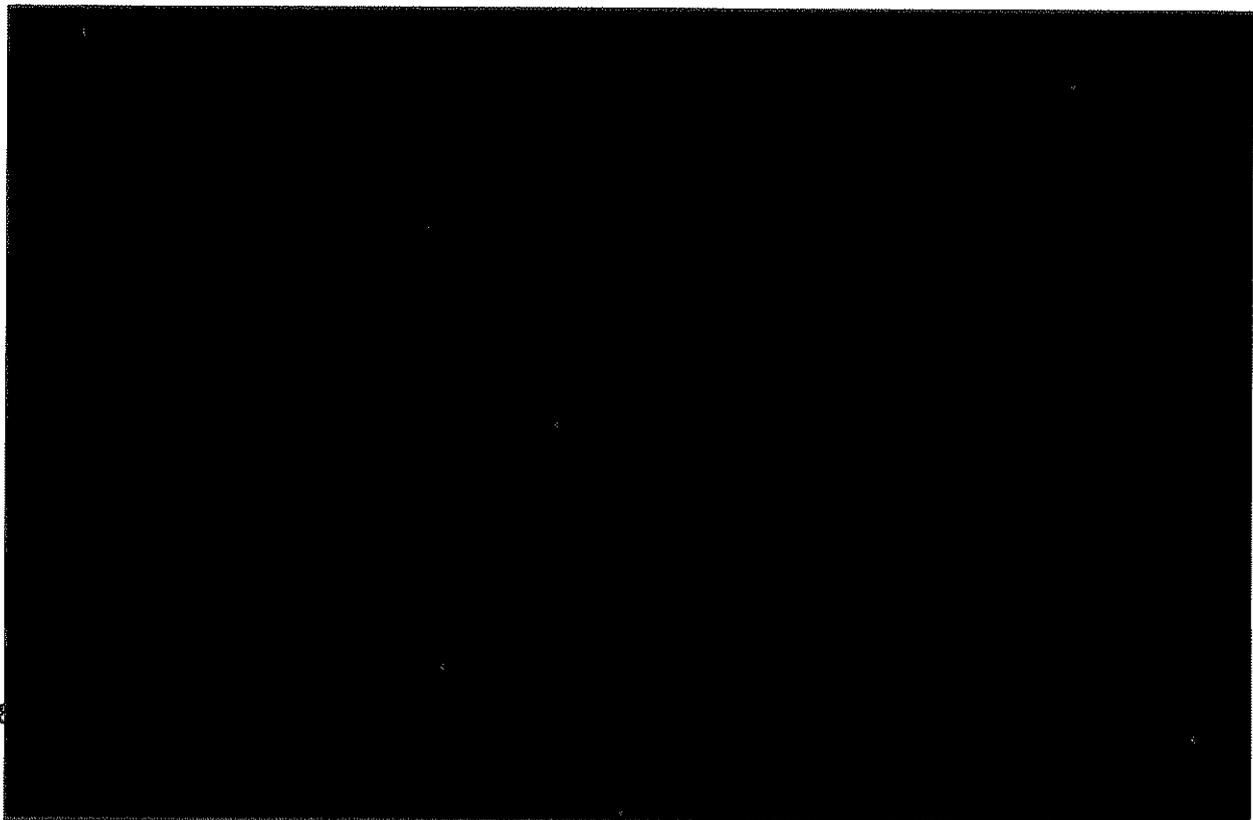
information that put the original adoption approval in question [REDACTED] Mr Owen should have immediately passed on this information to his Executive Director of Children's Services, Mr Carriline, but he did not. He knew the concerns were well known to a number of staff in the Council that had employed 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.

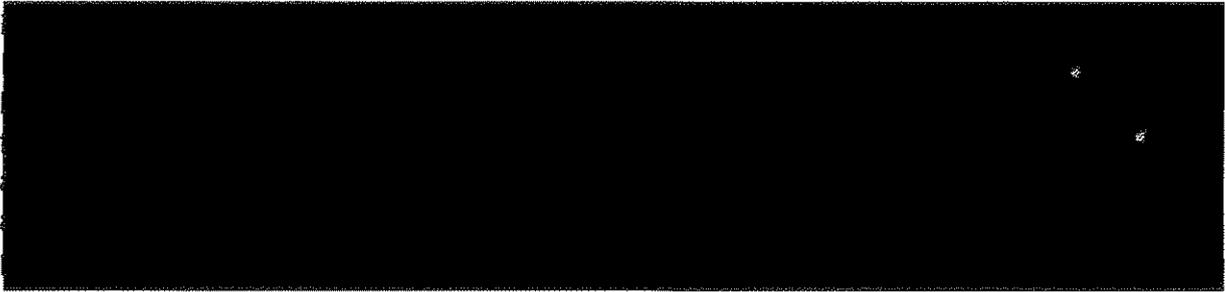
6. Mr Carriline is the Council's Director of Children's Services. He is charged with the statutory responsibility to lead the Council's children's safeguarding functions. He, above all others in the Council, should have put [REDACTED] at the centre of the investigation. In Mr Newsam's judgement, Mr Carriline's 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

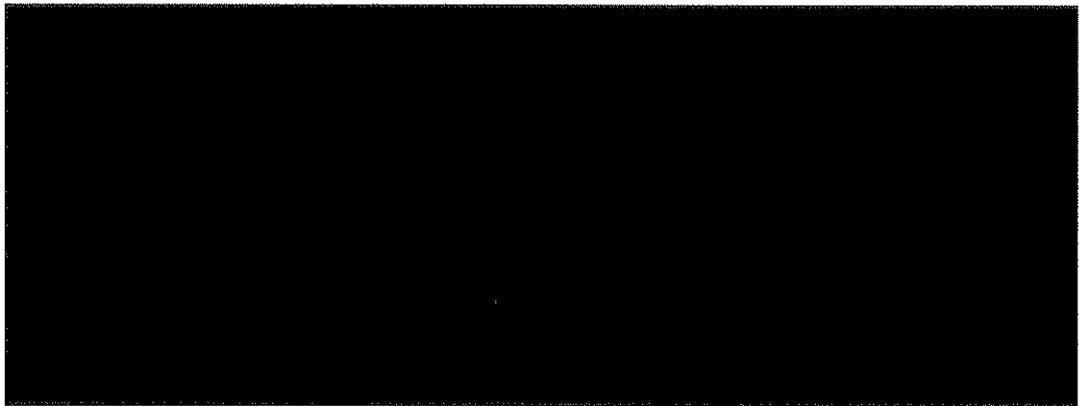
9. The Newsam review has set out serious concerns in respect of the behaviours and actions of senior officers and he has recommended a formal disciplinary investigation. Mr Newsam's review has highlighted serious and unexplained breaches of the Council's procedures. It has been suggested that this might 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

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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

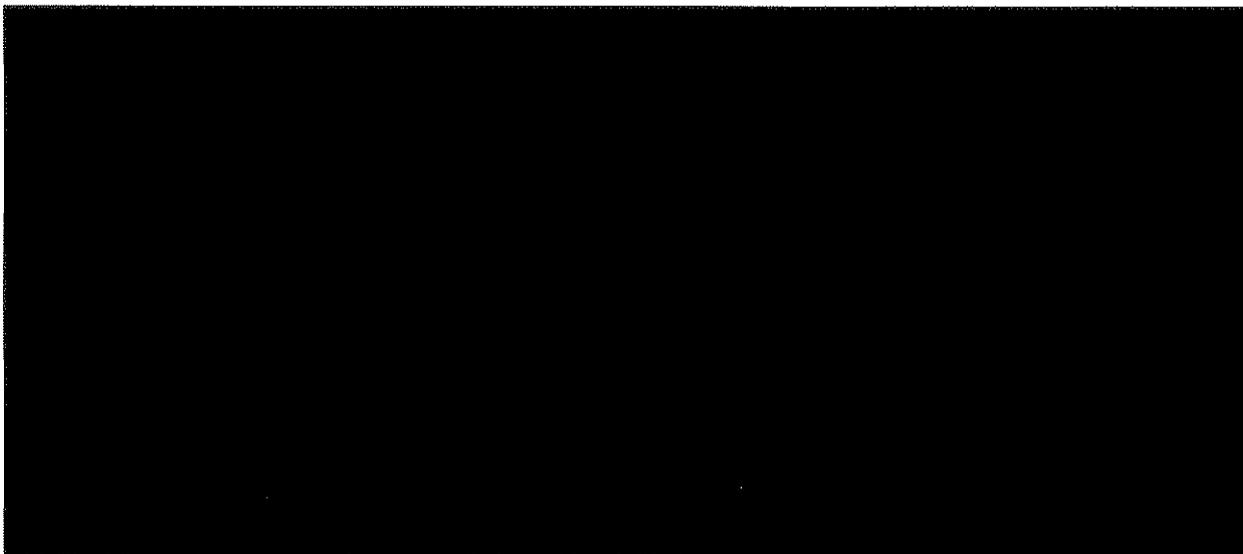
4. My terms of reference also ask me to make any recommendations which can be used by the Council and others to identify any lessons learnt, areas for improvement and make any recommendations that will bring this matter to a satisfactory conclusion.

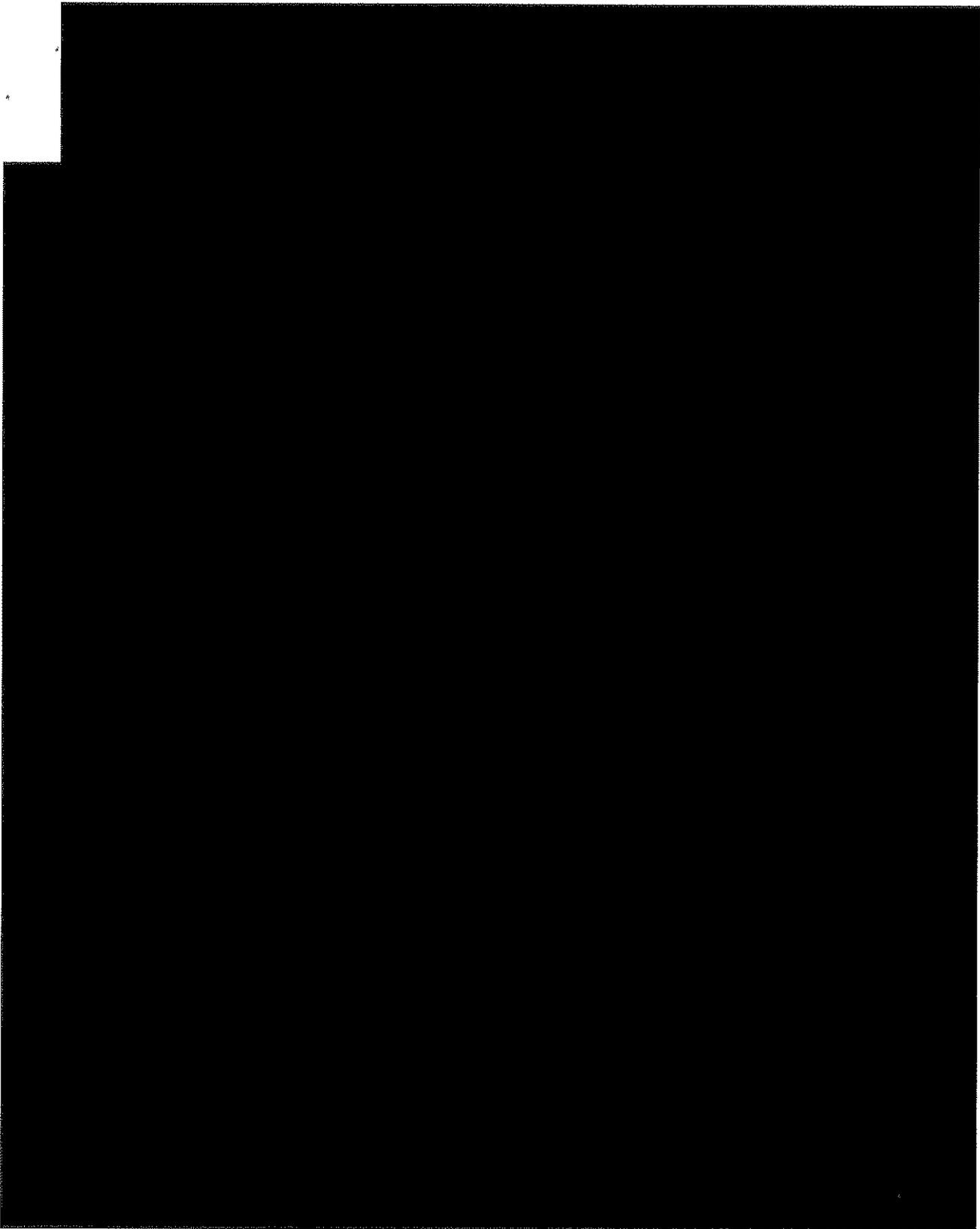
5. I provided a full report to the Deputy Chief Executive in February 2017. This report is an anonymised summary of the complete version. The full report considers the conduct of both officers and Members. This summary version focusses on the conduct of officers and in particular the three officers who are the subject of this panel hearing.

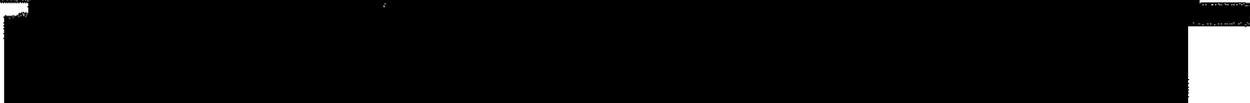
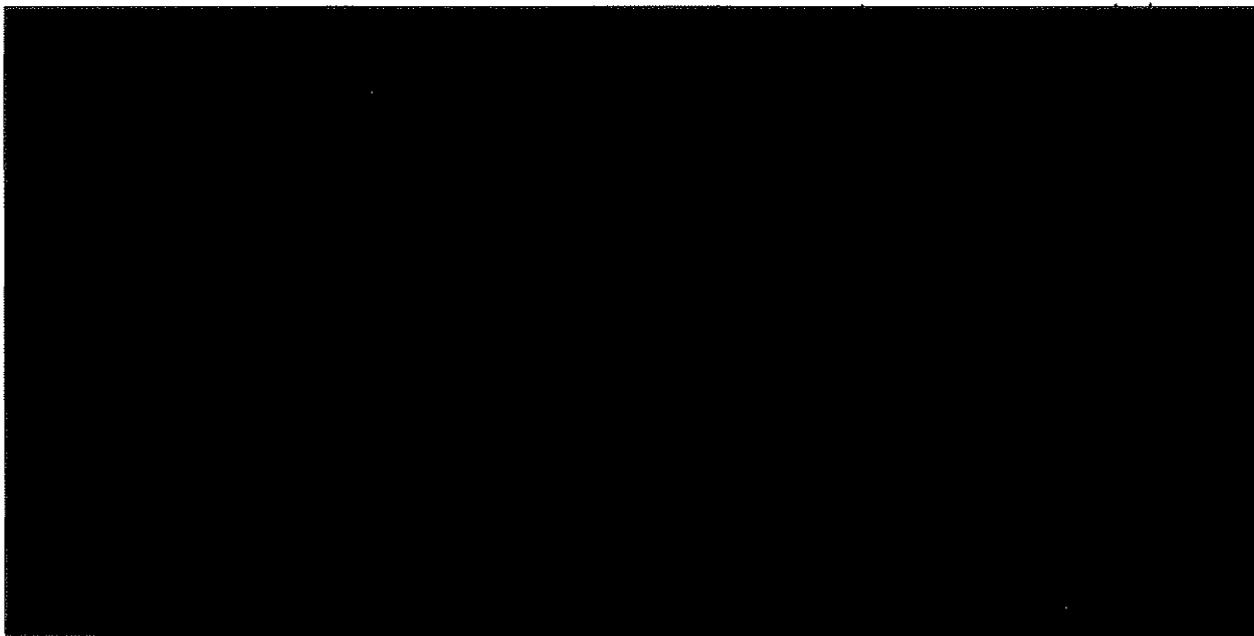
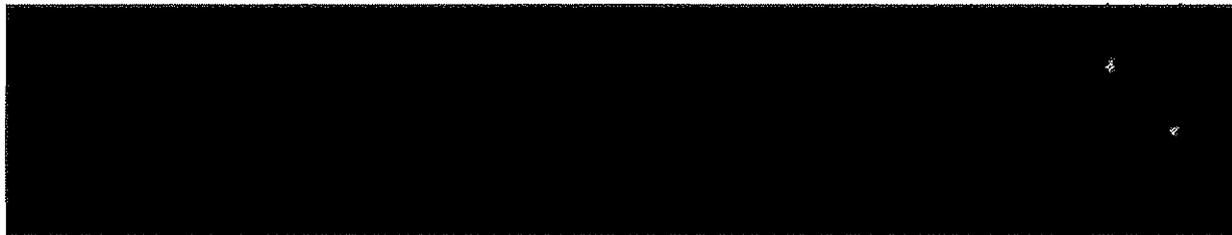
6. My work included interviewing all of the officers and senior managers who were involved in this case. I also interviewed relevant Members, head teachers, school governors and a senior officer of Greater Manchester Police. I had full access and reviewed all files and records in respect of the assessment 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

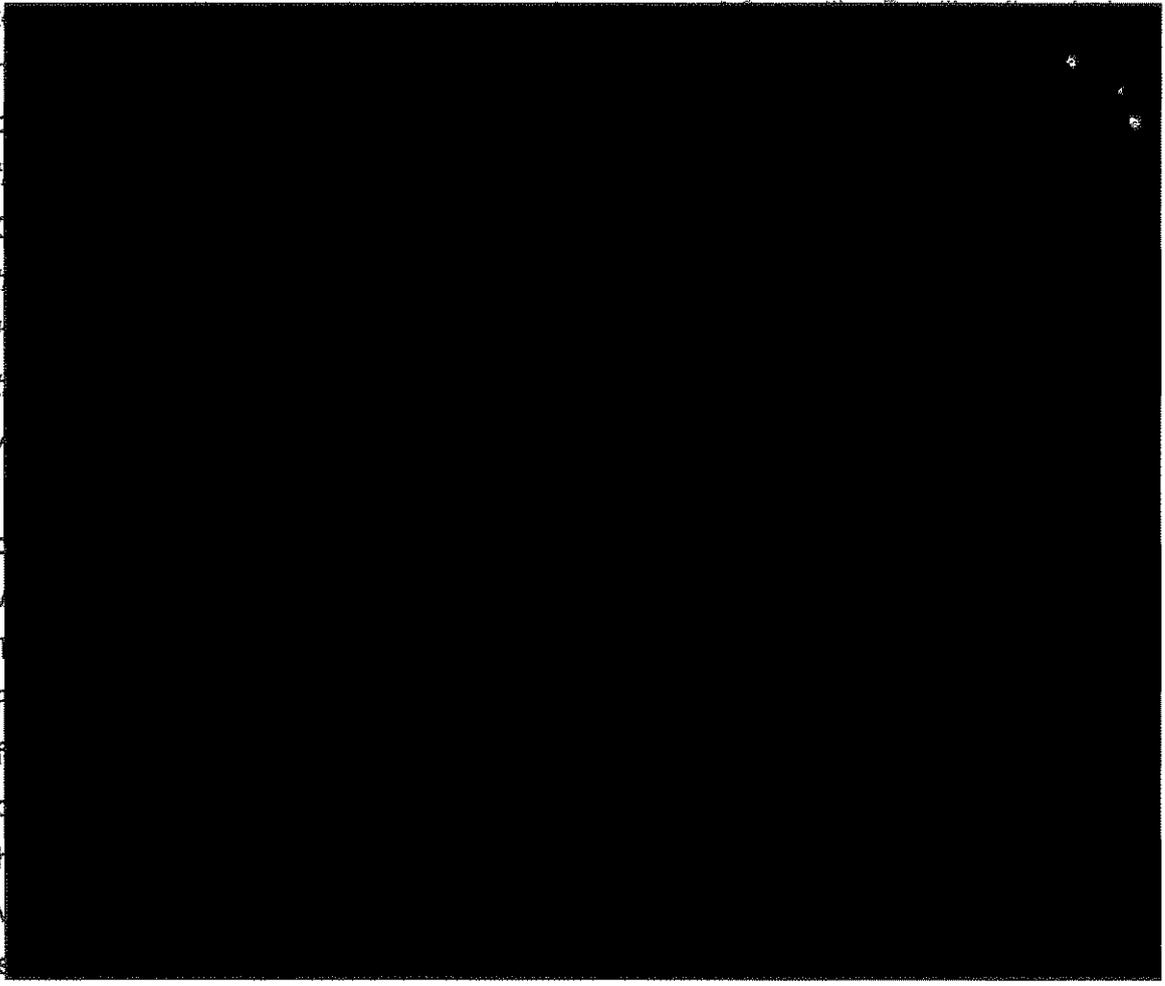
25. The LADO's persistence in challenging his Executive Director for not following the allegations management procedures is to be commended. I am not impressed by Executive Director's failure to give the LADO an answer of any sort and the Assistant Director's email does point more to the continued desire 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]

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

23. [REDACTED]

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• 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.

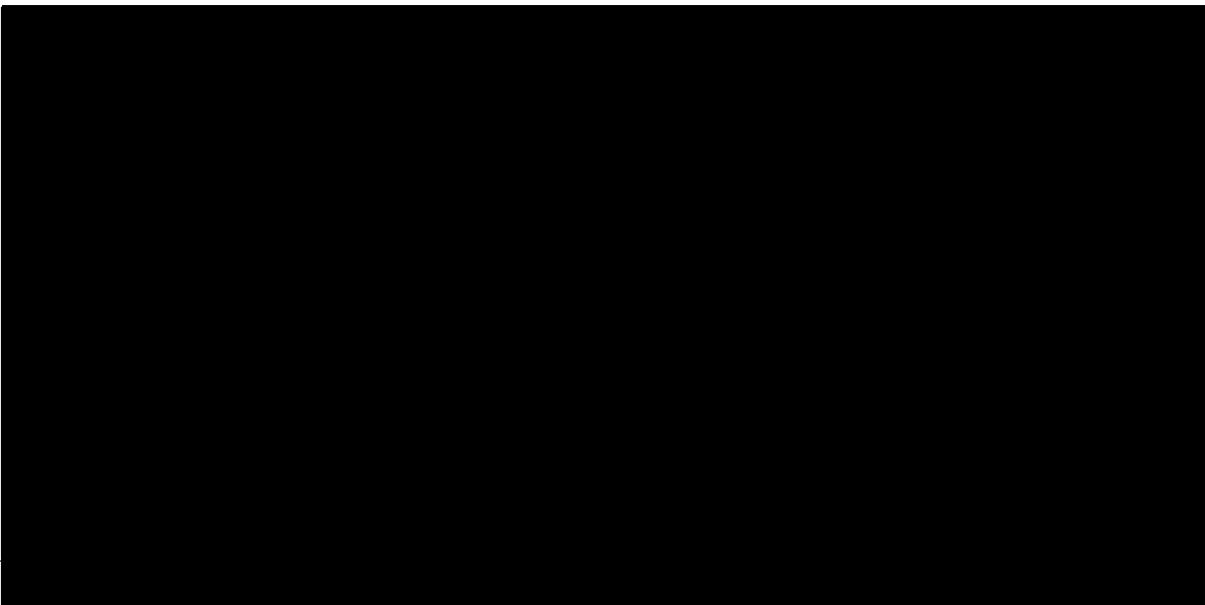
¹ Lord Laming *The Victoria Climbié Inquiry* 2003

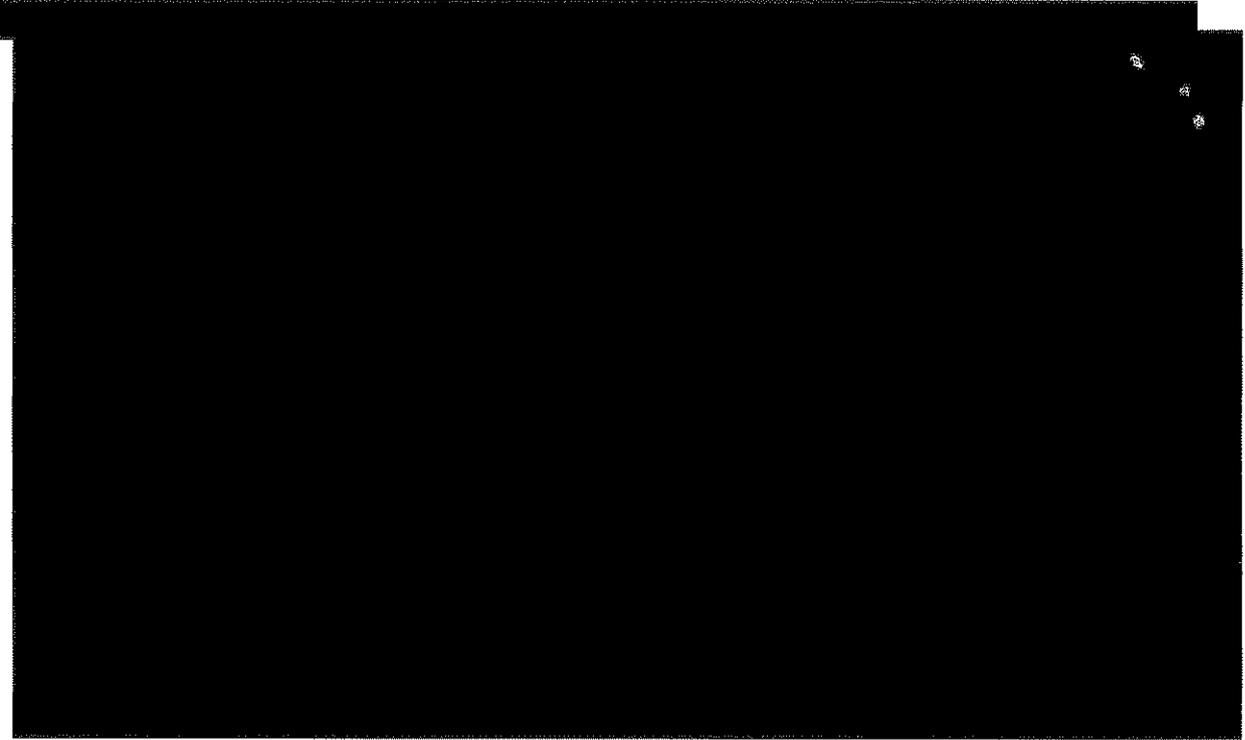
² Ofsted Inspection of services for children in need of help and protection, children looked after and care leavers May 2016

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.

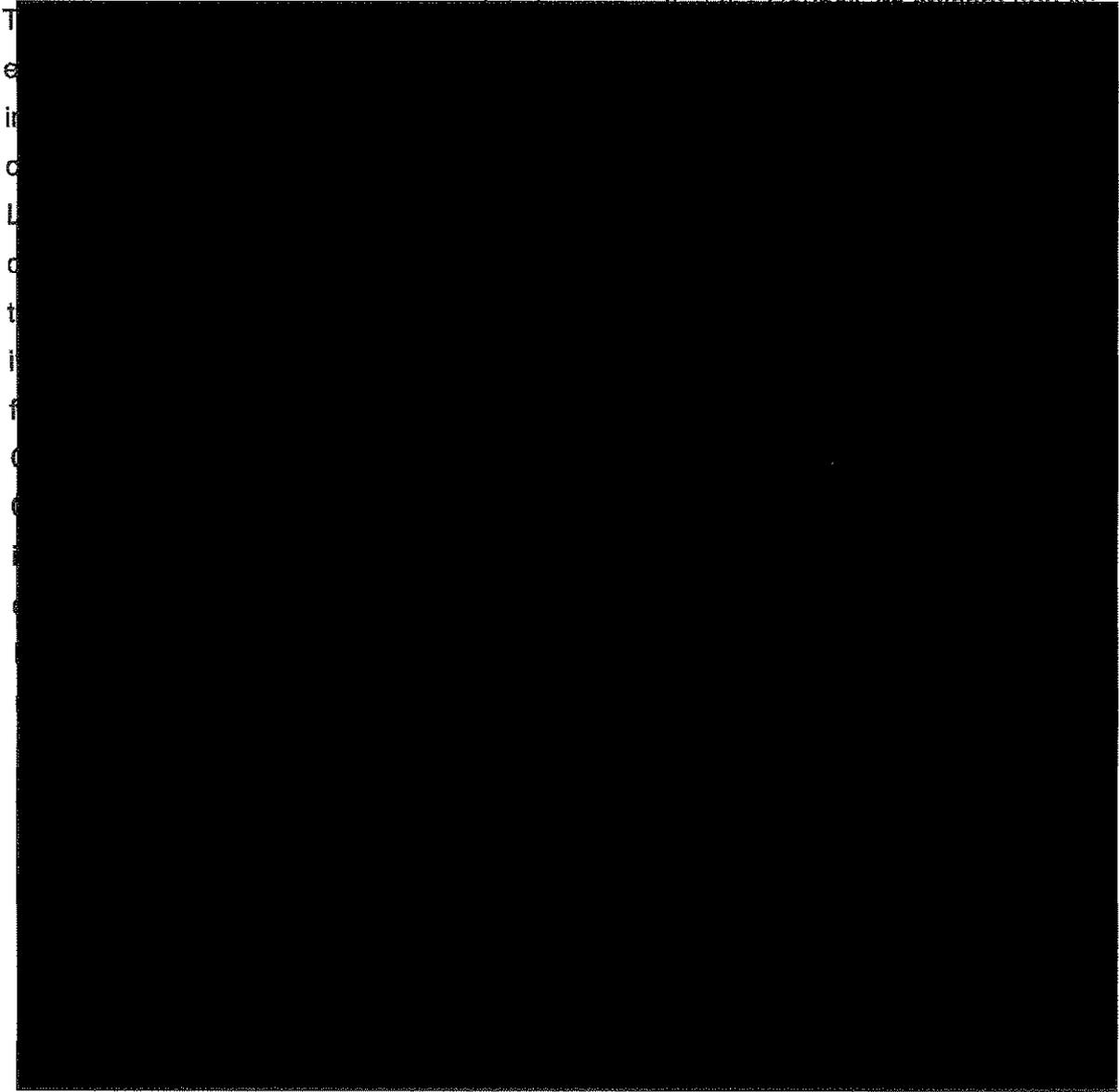
30. The Executive Director is the Council's statutory Director of Children's Services. He is charged with the responsibility to lead the Council's statutory children's safeguarding functions. He, above all others in the Council, should have put [REDACTED] at the centre of this investigation. I have found 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.





32. The Council, its officers and its



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

IN THE MATTER OF:-

**BURY METROPOLITAN BOROUGH
COUNCIL**

- and -

- (1) MIKE OWEN
(2) MARK CARRILINE**

[REDACTED]

INDEPENDENT INVESTIGATION REPORT

I. INTRODUCTION

1. I have been instructed by Gowling WLG (UK) LLP, the solicitors to Bury Metropolitan Borough Council ("the Council"), to carry out an independent investigation into allegations of misconduct affecting the three senior officers named above.

2. I begin with a concise summary of the events from which the allegations arise. In late 2010, when employed in the library service of [REDACTED] Council, Cllr A [REDACTED] was caught accessing material of a sexual nature on a local authority computer. Disciplinary action proceeded and he was dismissed in early 2011 [REDACTED] Cllr B [REDACTED] was a Labour member of Bury Council. In January 2011 they applied to the Council to be assessed as adopters. In May 2012 Cllr A [REDACTED] was also elected as a Labour member of the Council [REDACTED] Cllr B was [REDACTED]

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

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

[REDACTED]

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

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

[REDACTED]

[REDACTED]

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

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

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

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

II. THE THREE OFFICERS

13. Mike Owen's professional background is as an accountant. He has worked for Bury Council since March 1986 with one short break at another local authority, occupying different posts over the years including that of statutory finance officer. On 1 April 2015 he took up the post of Interim Chief Executive, having been Director of Resource and Regulation immediately beforehand. He was appointed as Chief Executive on 1 July 2015 following an external recruitment process.

14. Mark Carriline's career began in 1983 with 4 years as a teacher. He then worked for some years in the education departments of several local authorities, eventually becoming Director of Education and Leisure in Salford before serving as Assistant Chief Executive in Bradford until 2006. He was employed by the Council in January 2007 on an interim basis covering for an Assistant Director who was ill. In December 2007 he was appointed to a permanent post as Assistant Director (Prevention & Partnerships). He became interim Executive Director of Children's Services in January 2011, with the appointment being made permanent in July 2012. When the Council was restructured in April 2014, his role was extended to Executive Director (Children, Young People & Culture).

15.

[REDACTED]

16. I am not aware of any relevant prior complaints of a disciplinary or other nature relating to any of the three officers.

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

■ [Redacted text block]

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24. [Redacted text block]

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11/11/11

25.

[REDACTED]

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[REDACTED]

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[REDACTED]

28.

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

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35. [REDACTED]
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[Redacted text block]

- [Redacted list item]

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[Redacted]

- [Redacted]

- [Redacted]

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

60. On Wednesday 1 April 2015 Mike Owen took up the post of Interim Chief Executive. On that same day at about 1.30 pm he had a telephone conversation with [REDACTED]. It had been a busy morning in particular because there was a meeting of Full Council that evening.
61. [REDACTED] asked Mr Owen whether he knew [C1/A] and that [C1/A] told Mr Owen about [C1/A] disciplinary process in [REDACTED] which had concerned his "looking at some questionable images". Mr Owen asked what these were and whether they concerned pornography or involved children or adults. He received what he remembers as a vague answer, mentioning images of pre-teen children and giving an example of a girl in a plaid skirt. [REDACTED] said that [REDACTED] were not sure what the images were but that they had referred the matter to the police. They could not share any of the material with Bury.
62. Mr Owen interpreted this call as simply alerting him to the case rather than requesting or suggesting any specific action.
63. Mr Owen decided to telephone [REDACTED] immediately but found him unavailable and left a message.
64. Mr Owen then spoke to the leader of the Council's ruling Labour Group, [REDACTED], to alert him that there was a problem with his member [C1/A] which involved the police. He says mobile telephone records show that this occurred at 13.41, i.e. before his later conversation with [REDACTED] (see below).

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

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

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

¹ For the role of the LADO see paragraph 153.

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

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

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

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

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

91. **Nevertheless, after he received this “leave it with us” instruction on 1 April 2015, I think Mr Owen was bound to satisfy himself as to what, if any, action was then required to comply with the Council’s safeguarding duties. If he was not familiar with those policies and/or did not consult them, he should have confidentially consulted Mark Carriline (or another person with appropriate safeguarding expertise). If Mr Carriline had taken a different view from the police, no doubt the two agencies could have spoken to each other. I therefore think that failing to tell Mr Carriline was an over-reaction to the police’s “leave it with us” instruction and was an error of judgment. It was also inconsistent with Mr Owen immediately briefing [REDACTED] (and allowing him to share the information with a regional Party official), to which I return below.**

92. **That view is bolstered by Mr Carriline’s evidence to me. He felt that Mr Owen’s omission to mention the case to him was a clear error. He thought it was excusable given that this was Mr Owen’s first day as Chief Executive and that he did not have a background in safeguarding, but in my view that does not excuse a failure to seek advice from anyone who was expert in safeguarding. This is also supported by the evidence of [REDACTED] [REDACTED] who told me she was “incredibly shocked” by the failure to mention the matter to anyone in Children’s Services during this period.**

93. **The effect of this error was to delay the start of the investigation. On the balance of probabilities, I believe that if the information had been shared with Mr Carriline on 1 April 2015, Mr Carriline would have sought to initiate an investigation promptly although this might have necessitated an awkward**

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

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

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

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

A special relationship

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

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

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

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

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

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

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

111. **Meanwhile sharing the information with a person who was (1) a fellow councillor with [REDACTED] and Cllr A, (2) their colleague in the local Labour Party and (3) as it happened, their personal friend (although Mr Owen told me he did not know that at the time), created an obvious and serious risk that Cllr A might be tipped off about the police investigation. For that reason, far from helping the Leader in any way it must have put him personally in a difficult position.**

112. **As I have said, I believe that the close working relationship was one reason why this happened. In addition, there is some evidence of a more sharply improper motive for these errors of judgment. A note of a meeting on 12 May 2015 records Mr Owen saying that he was "*protecting the reputation of the Labour group*". A further note of a meeting on 6 October 2016 records Mr Owen saying that he was "*doing a favour to the Labour Group*". I return to this subject at paragraph 291 below.**

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

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

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

118. I also asked whether, if [REDACTED] were in Bury's shoes, they might have asked another authority to investigate. [REDACTED] instinct was that in such a case, rather than handing the entire investigation over to another authority, it might have been wise to bring in one or more independent social workers to work alongside the Council.

119. Mark Carriline told me that on 8 April 2015 [REDACTED] [REDACTED] Safeguarding, was on leave. Had she been present he would have spoken to her immediately to begin a safeguarding investigation under section 47 of the Children Act 1989. As she was absent, he went instead to Mike Owen's office to speak with him immediately.

120. In this conversation Mr Carriline discovered that Mr Owen had already known about this matter for a week. Mr Owen said that [REDACTED] [REDACTED] had told him not to share the information with anyone, including Children's Services. Mr Carriline responded that the Council needed to undertake a section 47 investigation which he would initiate.

121. Mr Carriline then gave thought to how the investigation should proceed. He emphasizes the complexity of the case. It involved [REDACTED]

[REDACTED]
[REDACTED] who had reported the concern, in addition to Bury. [REDACTED]
[REDACTED]



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[redacted] Dir A [redacted]
[redacted]
[redacted]
[redacted]
[redacted]

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

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

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

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

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

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

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

148. I therefore think that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

166. [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

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

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

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

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

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

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

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

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] [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] ^{Clr 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

197. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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 ██████████ 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 ██████████ the ██████████ 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 ██████████ 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. ██████████ 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 ██████████ CIRA ██████████ 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] [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] [REDACTED] without an opportunity for [REDACTED] to speak with [REDACTED] [REDACTED] was the result of any deference towards [REDACTED] as a

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

[redacted] [redacted] Overall, it is right to record that the investigation(s) were effective and were [redacted] [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]

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.**

[Redacted text block]

222.

[REDACTED]

[REDACTED]

[REDACTED]

225.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

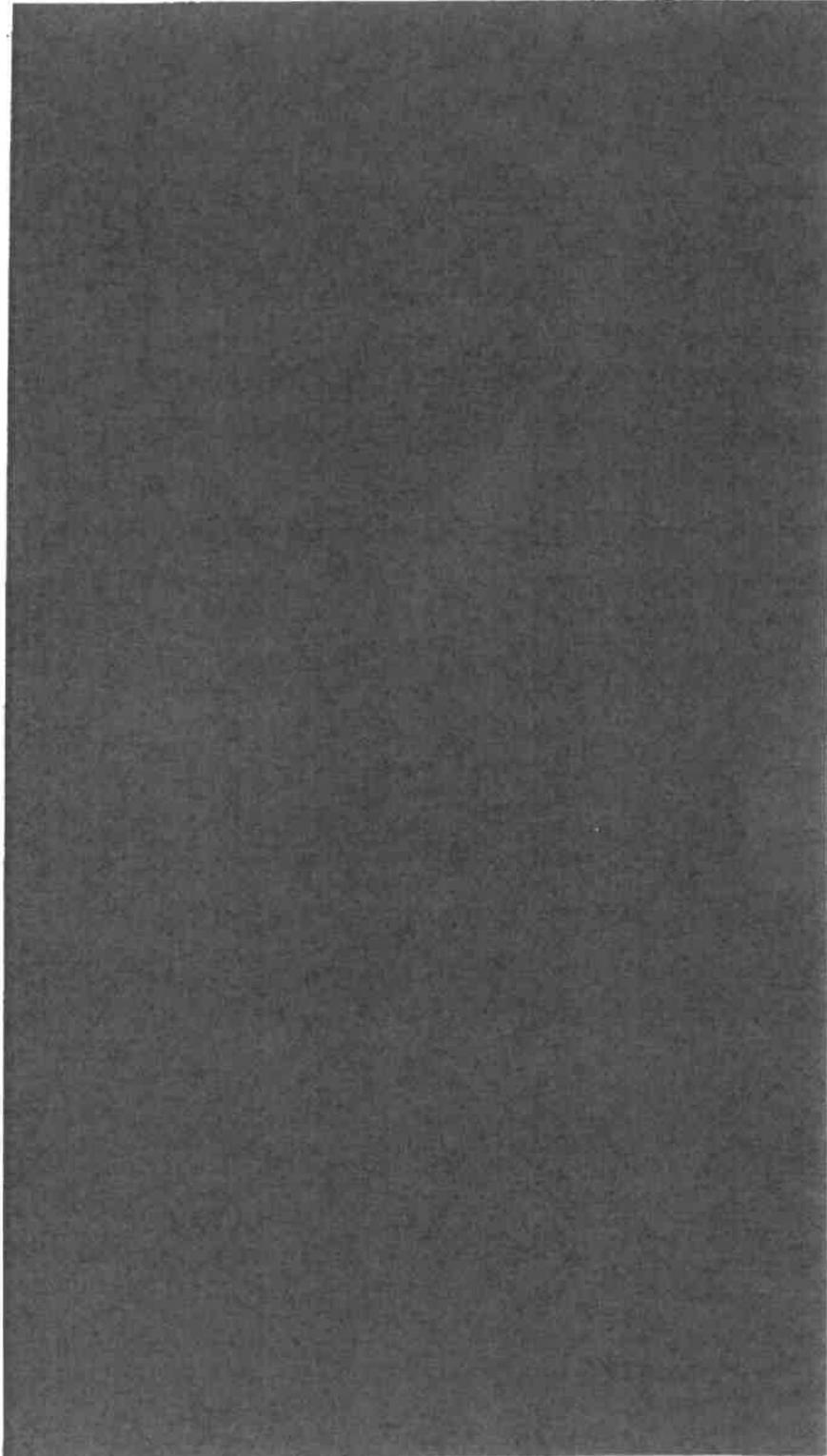
229.

230.

231.

232.

233.



234.

[REDACTED]

[REDACTED]

VIII. FURTHER DEVELOPMENTS IN 2015

236. On 20 June 2015 [redacted] Cllr A 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 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 [REDACTED] 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]**
- (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] [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]
[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

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] [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], [REDACTED] and [REDACTED] [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] [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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

278.

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

287. Meanwhile, on 21 August 2016 a member of UKIP in Bury, [REDACTED], emailed [REDACTED] complaining that [REDACTED] Cllr 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] Cllr A case, the Council would not have entertained another application from any councillor.

[REDACTED]

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]. 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] [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)

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 ██████████ 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 ██████████ 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 Cllr A] and [redacted Cllr B] 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.

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329. [REDACTED]
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CHARLES BOURNE QC

11KBW Chambers

1 June 2017

REPORT FOR DECISION



DECISION OF:	Human Resources and Appeal Panel
DATE:	19 to 21 June 2017
SUBJECT:	Senior Officer Disciplinary Issues
REPORT FROM:	Interim Chief Executive
CONTACT OFFICER:	Pat Jones-Greehalgh
TYPE OF DECISION:	COUNCIL - NON KEY DECISION
FREEDOM OF INFORMATION/STATUS:	It is recommended that this item of business is considered in confidential session under paragraphs 1, 2 and 10 of Schedule 12A to Section 100A of the Local Government Act 1972, as it contains information relating to individuals, is likely to reveal the identity of individuals and the public interest in maintaining the exemption outweighs the public interest in disclosure.
SUMMARY:	<p>On 28 February 2017 a differently constituted panel resolved to commence a formal disciplinary investigation into matters relating to the conduct of three senior officers of the Council. The Council appointed Charles Bourne QC to undertake an Independent Investigation.</p> <p>The Committee will receive that report, consider the original external review from Mr Malcolm Newsam CBE and hear representations from the three officers concerned.</p> <p>It is a matter for the members of the Committee to determine the response to the report and what, if any disciplinary action should be taken.</p>
OPTIONS & RECOMMENDED OPTION	Members must determine any disputed facts on the balance of probabilities and decide within the range of reasonable responses, whether any disciplinary action is required, taking account of any mitigating circumstances.

1.0 BACKGROUND

- 1.1 The Human Resources and Appeal Panel (HRA Panel) is a committee of the Council established under Part 3 of the Constitution. Part 3, Paragraph 3.2(E) paragraph 13, of the Constitution, delegates to the HRA Panel the power to determine disciplinary issues relating to Chief and Deputy Chief Officers and in appropriate cases, the power to recommend dismissal of the Head of Paid Service [REDACTED]
- 1.2 Regulation 6 of The Local Authorities (England) (Standing Orders) Regulations 2015 require a Local Authority proposing disciplinary against its Head of Paid Service [REDACTED] must comply with the provisions of Schedule 3 of the Regulations. These require that where a Local Authority is proposing to dismiss its Head of Paid Service or Monitoring Officer it must include, at least two, Independent Person to be included in the Panel considering the case. The Independent Persons are persons appointed to Standards Committee of Local Authorities under the Localism Act 2011.
- 1.3 The HRA Panel, at its meeting on 28 February 2017, received a review into an historic child safeguarding case, that had been compiled by Malcolm Newsam CBE. A copy of the Newsam Review is to be found at Appendix 1. The Review recommended disciplinary investigation in relation to three senior officers. A HRA Panel decided to authorise an Independent Investigation into disciplinary allegations against The Chief Executive, Mike Owen; [REDACTED] and The Executive Director of Children, Young People and Culture, Mark Carriline.
- 1.4 The Chief Executive is employed under Terms and Conditions agreed by the JNC for Chief Executives of Local Authorities in England and Wales 2016. [REDACTED] Executive Director for Children, Young People and Culture are employed under the JNC for Chief Officers of Local Authorities. Both JNC documents contain different model disciplinary provisions.
- 1.5 In authorising the Independent Investigation the HRA Panel also agreed to adapt the model disciplinary procedures so as to adopt a single procedure for all three officers, a single report and single hearing, so as to ensure fairness between the protections afforded to the officers and the ability to review the conduct as a whole.
- 1.6 The Terms of Reference and allegations authorised for Investigation were dated 14 March 2017 and appear at Appendix 2.
- 1.7 The Independent Investigator appointed by the Council is Charles Bourne QC. Mr Bourne specialises in Local Government Employment Law and sits as a Deputy High Court Judge. He undertook an extensive and thorough investigation which involved face to face interviews and access to papers. His report is set out at Appendix 3.
- 1.8 Members will also hear directly from Mr Newsam as the children's safeguarding expert who initially made the recommendation for disciplinary action, and from Councillor Shori, the Leader of the Council. Councillor Shori may wish to address the HRA Panel on the extent to which he retains confidence in each of the officers. Members should take note of the views of Councillor Shori, but it will be for members to decide the extent to which any comments made by Councillor Shori are reasonable in all the circumstances. Members must not give undue weight to any one factor, and must exercise their own judgement.

Contact Details:

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