

**By e-mail – Sent 23 March 2020**

**FAO Councillor Bob Egerton**

Cornwall Councillor, Probus, Tregony and Grampound Division

Cabinet Member for Culture, Economy and Planning

Trevillick House, Fore Street, Grampound, Truro, TR2 4RS

Dear Councillor Egerton,

Thank you for your e-mail messages of the 3<sup>rd</sup>, 9<sup>th</sup> and 12<sup>th</sup> March 2020 in which you raise concerns over the way in which HSE has dealt with your concerns relating to the reporting and investigation of an accident by Cormac Solutions Ltd to one of their employees Mr [REDACTED].

The accident to Mr [REDACTED] occurred on the 16 December 2016. You raised your original concern with HSE on the 30 September 2019.

I am sorry to hear Mr [REDACTED] suffered such serious injuries and that you are disappointed in the way you feel HSE has dealt with your concern. In particular, you have stated that you feel that HSE has failed to take the matter seriously and have requested that I review the case and the way in which it has been handled within HSE.

Your original concern was investigated by Mrs [REDACTED], HM Principal Inspector of Health and Safety. I am responding as Mrs [REDACTED]'s line manager and the Head of Operations for HSE's regulation of the construction industry in Wales, the South and South West of England.

I am treating your email as a Stage 1 complaint in accordance with our complaint procedure <https://www.hse.gov.uk/contact/complain-about-hse.htm>

I have reviewed your correspondence and the papers associated with this case. I have also spoken to Mrs [REDACTED], considered the actions she took and compared them to our published policies and procedures, specifically:

1. HSE's Enforcement policy statement:  
<http://www.hse.gov.uk/enforce/enforcepolicy.htm>
2. HSE's incident selection criteria  
<http://www.hse.gov.uk/enforce/incidselcrits.pdf>
3. HSE's investigation procedures  
<http://www.hse.gov.uk/foi/internalops/og/ogprocedures/investigation/investigation-procedure.pdf>
4. the Code for Crown Prosecutors  
[https://www.cps.gov.uk/sites/default/files/documents/publications/code\\_2013\\_accessible\\_english.pdf](https://www.cps.gov.uk/sites/default/files/documents/publications/code_2013_accessible_english.pdf).

In making decisions over whether to investigate incidents, HSE's Principal Inspectors are required to follow the incident selection criteria and the investigation procedures. The purpose of these procedures is to ensure we prioritise our limited resources and take a consistent approach to deciding what and how we investigate. The incident selection criteria set out which incidents reported to HSE should be investigated.

The original RIDDOR report form stated that Mr [REDACTED] 'passed out and sustained a head injury' but 'was found conscious' and there 'were no witnesses and Mr [REDACTED] has no recollection of the incident'

In accordance with our procedures, HSE should have requested further information, in this case, to confirm whether the incident selection criteria for investigation had been met. In this instance, the report indicates that Mr [REDACTED] may have lost consciousness in which case enquiries should have been made to establish whether the nature and extent of the injuries could have been confirmed and if enough evidence was available to warrant an investigation by HSE.

I am sorry I am unable to find any documentation recording any initial enquiries of this nature and clearly the decision taken by HSE at that point was not to investigate the matter. I accept that this could have been better. That said, having reviewed the available evidence, it is probable that had HSE carried out further enquiries an early decision to curtail any investigation would have been taken due to the lack of reliable evidence.

You raise the issue that Cormac Solutions Limited failed to inform HSE (in their RIDDOR report received on the 23 January 2017) that Mr [REDACTED] suffered from a fractured skull, despite allegedly knowing this on the 16 January 2017. In terms of HSE's incident selection criteria, this would not have affected our decision to investigate. The matter was reported via RIDDOR, and the key issues here are whether Mr [REDACTED] did in fact suffer from a loss consciousness along with the availability of credible and reliable evidence to support enforcement action or criminal proceedings.

Further correspondence from Cormac Solutions Limited was received by HSE's Concerns and Advice Team (CAT) on the 4 October 2017. They requested an update to the original RIDDOR form so that it was accurate and aligned with Cormac Solutions Limited's internal information and report. The company's request was to include the point that there was no evidence to support the fact Mr [REDACTED] had lost consciousness and that he had been taken to hospital by ambulance and not a colleague. These changes were noted as requested.

On the 17 September 2019, Mrs [REDACTED], HM Principal Inspector of Health and Safety at that time, received a letter from the Group managing Director of Corserv Limited. I understand that this letter was as a direct result of your interventions with the company. Corserv Limited set out the reasons for the oversight in their original RIDDOR report and confirmed that an investigation into the incident had been

conducted but that it had not been possible to ascertain the activity Mr [REDACTED] had been undertaking, whether it was work related or what caused the injuries.

On the 30 September 2019, you raised your original concern with HSE over the way in which Corserv Limited had reported the incident and had carried out their internal investigation. This was investigated by Mrs [REDACTED] HM Principal Inspector of Health and Safety. In conducting her investigation, I note that Mrs [REDACTED] met with you (on the 15 November 2019), corresponded with Corserv Limited and reviewed their internal investigation report. She also met with their Health and Safety Director to gather further information, confirm any lessons learnt and review the improvements they had made to their internal accident reporting and investigation procedures.

Mrs [REDACTED] considered all the information and available evidence in line with HSE's Enforcement Policy Statement, the Enforcement Management Model and the Code for Crown Prosecutors. She concluded that there was insufficient evidence to the criminal standard to support any legal proceedings against Corserv Limited for either the reporting or investigation of the accident to Mr [REDACTED]. She also concluded that there was insufficient evidence for HSE to consider legal proceedings against Corserv Limited for any other breach of health and safety legislation. She informed you of her decision in an e-mail on the 16 December 2019 and further corresponded with you on the 23 December 2019. She also met with you again on the 23 January 2020 to discuss her conclusions.

In reviewing this matter and taking all the above into account, I have formed the view that HSE has taken this matter seriously and has handled your concern appropriately and proportionally, in line with our policies and procedures.

I hope this email properly explains our decision making processes and provides assurance that your concern has been properly investigated. However, if you are not satisfied with my response you can move to stage 2 of our complaints procedure and write to our Chief Executive <http://www.hse.gov.uk/contact/complain-about-hse.htm>.

Your faithfully

[REDACTED]

Head of Operations, Wales, South and South West of England, Construction Division

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