

██████████, former Cormac employee
Serious health and safety incident

Report presented to informal
Cabinet on 9 March 2020

This report has been compiled by Bob Egerton, Cornwall Councillor for Probus, Tregony and Grampound.

Executive Summary

Mr ██████████ suffered serious injuries on Cormac premises on 16 December 2016. The injuries were a fractured skull, bleeding on the brain, and a seriously fractured shoulder. ██████████ has never returned to work and in April 2018 his employment with Cormac was terminated on the grounds of his being unfit for work. He is now on a pension from the Council/Cormac scheme. He will never work again. He will probably never be able to drive again. His injuries were life changing.

Cormac senior management and its health and safety officers failed to investigate the incident and failed to record it as a health and safety incident. Cormac officers filed with the Health and Safety Executive a deliberately false and misleading RIDDOR report.

When an investigation did take place 8 months later, only after the intervention of the divisional member, no acknowledgement was made of the failure to carry out an investigation at the time of the incident and no action was taken in respect of this failure. A further report was made to the HSE that corrected some aspects of the original RIDDOR report but, again, lied about the nature of the injury.

In a letter to the HSE from Cath Robinson dated 17 September 2019, it was admitted that ██████████ had suffered a fractured skull but once again the letter was misleading in that it suggested that those who filed the original RIDDOR report were not aware of the nature of ██████████'s injury. That was simply not true.

Bob Egerton, the divisional member in whose division ██████████ lives, has tried to persuade Cornwall Council and Corserv to put right the wrongs that they have committed but to no avail. He has met with Kate Kennally, Cath Robinson, Tony Barnett and Ben Pyle at various times.

The Cormac health and safety officer, the Cormac health and safety manager, the Corserv health and safety director, and the Cormac Highways Manager have all been complicit in the failure to take the appropriate action and in the filing of false reports with the HSE. The chief executives of Cornwall Council, Corserv Ltd. and Cormac Solutions Ltd. have all failed to intervene to correct the wrongful actions of its employees. They have also been complicit in a cover-up of the serious failings of the organisation.

The persistent failure of Cornwall Council and Corserv to treat this incident properly has seriously disadvantaged ██████████. A proper and thorough investigation at the time of the incident would have included notifying the police of a possible assault or negligent accident and could have probably identified the cause of the injuries. Because of the failure to investigate at the time and the passage of time, it is now highly unlikely that we will ever be able to identify who else was involved in the incident and who was to blame for the injuries.

It is now requested that Cabinet members instruct the chief executive of Cornwall Council and the chief executive of Corserv Ltd. to apologise unreservedly to ██████████ and to offer to meet to agree suitable compensation.

Recommendations

1. Cabinet requires the chief executive of Cornwall Council and the chief executive of Corserv Ltd., along with the Monitoring Officer, to attend a Cabinet pre brief in order to receive this report.
2. The chief executive is strongly advised to write a formal letter of unconditional apology to Mr ██████████s for the failure of Cornwall Council or Corserv to properly investigate the incident in which he incurred life changing injuries.
3. The chief executive is strongly advised to invite Mr ██████████ to meet Council officers to discuss and agree a suitable compensation package for the loss and injury caused by the failure of Cornwall Council and Corserv to investigate the incident, such failure meaning that the cause of the injuries will probably never be known and thus Mr ██████████ will never have the opportunity to recover damages from any third party.

Note:

Cabinet did not agree to the above recommendations, hence the reason that this report is now being put into the public domain.

██████████ was an employee of Cormac Solutions. He was employed as a r██████████ operating from the Cormac Grampound Road depot. He lives in ██████████. ██████████ has been employed by Cormac and its predecessor bodies (Cornwall Council and Cornwall County Council) for approximately ██████████ years from the age of 16.

The incident

██████████ was working at the Grampound Road depot on his own on the afternoon of Friday 16 December 2016. An unexplained incident took place. At about 2.20 p.m. two other Cormac employees returned to the depot and saw blood on the ground and a pair of gloves and spectacles on the ground. On entering the canteen, they found ██████████ slumped over a desk barely conscious, with a serious head wound (Appendix 1). They called management and 999 for an ambulance. Shortly thereafter, a paramedic attended the scene. The paramedic called for an ambulance that arrived and took ██████████ to Trelisital. At Treliske, ██████████ was found to have a seriously fractured skull and bleeding on the brain. He was kept in hospital for two nights before being discharged.

One of the employees who found ██████████ took photographs of the head injury and of the yard with the blood. He says that he placed cones around the area in the yard where the blood was in case the police wanted to investigate the scene.

██████████ remained off work unable to return because of his head injuries. A few months later, whilst in the garden of his house, he suffered a seizure and collapsed. An ambulance was called and he was taken to Treliske. In the hospital, he complained of pain in his shoulder. Xrays were taken and he was found to have a fractured upper arm and shoulder joint.

According to ██████████, the doctors at Treliske told him the following:

- The head injury was so severe that it was highly unlikely to have been caused just by him falling and banging his head on the ground. The injuries to the rear of his skull were more consistent with having suffered a severe blow to the head with a heavy object.
- The shoulder injury, once discovered, was not a fresh injury that could have been caused by a fall in the garden. There was evidence that the injury was a few months old and that the blood supply to parts of the bones had been restricted and long term damage would have been caused. The breakage of the bones was not consistent with a simple fall. As with the skull, it was more likely that it resulted from a blow from a heavy object. It would appear that the shoulder injury was not picked up by Treliske at the time of the original incident because the medics were concentrating on the damage to ██████████ skull.

Action taken by Cormac

Although ██████████ was found with a severe head injury and there was blood on the ground (Appendix 2) in a different place from where he was found, it seems that the police were not called at the time to investigate whether or not there could have been foul play.

I am told that the two employees who found ██████████ were questioned by the manager who attended the scene at the time of the incident, and "scribbled notes" were taken according to this employee. Neither of these employees were formally interviewed at the time.

██████████, Highways Manager, instructed the workers to clear up the blood.

The RIDDOR report prepared by Cormac's health and safety manager (Appendix 3), submitted to the Health and Safety Executive on 23 January says:

"Mr [REDACTED] passed out and sustained a head injury while within the car park of our operational depot at Grampound Road. There were no witnesses and Mr [REDACTED] has no recollection of the incident. Mr [REDACTED] was found conscious but dazed by a work colleague who took him to hospital. Subsequent examination has revealed a head injury but is it unclear how this was sustained."

What was the severity of the injury? "Injury preventing the injured person from working for more than 7 days."

It should be noted that:

- No evidence was presented to support the statement that Mr [REDACTED] passed out.
- Mr [REDACTED] was taken to hospital by ambulance, not by a colleague.
- "Subsequent examination has revealed a head injury" sounds considerably less serious than a fractured skull.
- "More than 7 days" is correct but hardly telling the whole story. At the time of submitting the report, Mr [REDACTED] was still off work after 5 weeks. Furthermore, a fractured skull is a "reportable injury" meaning that it should have been reported as such.

The offence committed by Cormac

[REDACTED] was taken to hospital by ambulance. The extent of [REDACTED] injury may not have been clear at the time. However:

At 20:07 that evening, [REDACTED] wife, [REDACTED], phoned [REDACTED] and told him that [REDACTED] had a fractured skull and a bleed to the brain.

On the morning of Monday 19 December, [REDACTED] phoned [REDACTED] to tell him that he was home. She also phoned [REDACTED], health and safety representative, to tell him about [REDACTED]'s fractured skull.

On 16 January, [REDACTED] emailed [REDACTED] (Appendix 4) where it was clear that [REDACTED] knew that [REDACTED] had a fractured skull. It also said, "I will fill in the forms for us to review at our meeting next week, prior to submitting them."

On 23 January, 5 weeks after the incident, the RIDDOR report was submitted by Cormac knowing that [REDACTED] had a fractured skull and that a fractured skull is a specified injury (see extract from HSE website attached Appendix 5). But instead of reporting this injury correctly, the report said type of injury was "other known injuries" and part of body affected "head". In addition, Cormac would have known that [REDACTED] was taken to hospital by ambulance, but the report said that he was taken to hospital by a colleague. It is clear that the report deliberately set out to conceal the true extent of [REDACTED]'s injury.

Failure to report 'reportable' accidents is a criminal offence and the responsible person can be sentenced in the Magistrates' Court with a fine up to £20,000, or in the Crown Court with an unlimited fine. Individuals deemed responsible for non-reporting can also face a period of imprisonment for up to two years.

Grampound Road depot

At the time of the incident, the CCTV system at the depot was not operational. It had been switched off several months before as the depot was being run down. At one stage, the whole power supply to the depot had been switched off. At the time of the incident there was power to part of the site, but not to the canteen or office. Any

employee working after dusk there had to use a torch. The floodlights at the site were not operational because of lack of power supply.

My involvement

I knew [REDACTED] as a local resident in my division and had encountered him a couple of times over the past 8 years in relation to work issues (road safety). I would not say that I knew him well. I first learned that [REDACTED] had suffered a workplace injury around April/May 2017 when I rang him about a road safety issue. He then told me that he was off work. I assumed that he was being looked after by Cormac H.R.

In early August, when I discovered that [REDACTED] was still off work, I visited him to ascertain whether Cormac were looking after his interests properly. When he told me what I had happened, I was shocked at what had happened and what appeared to me to be a failure on the part of Cormac to investigate the incident properly.

I advised [REDACTED] to contact the police. He did this and, on 11 August, two police constables attended [REDACTED]'s home and spoke to him. They did not take any formal statement. They advised him that, because of the length of time from the incident until the reporting of it to them, they felt that they would be unable to mount any worthwhile investigation.

On 16 August 2017, I met firstly with Kate Kennally and then with Tony Barnett (at that time chief executive of Cormac) and presented them with a report.

Subsequent to meetings with Kate and Tony:

31 August 2017 saw Tony Barnett in a meeting about CDC. He said that a new report was being prepared on the case. The impression that I got was that I would see a copy of the new report.

3 September Email from [REDACTED] (union rep), new investigation headed by [REDACTED] head of H&S for Cormac, [REDACTED] been to see [REDACTED], apologised and said that Cormac would do everything possible to help him and would cooperate with the union and the solicitors.

12 September Phone call from [REDACTED] (whilst I was in Spain on holiday), [REDACTED] has told him that [REDACTED] says they will not release new safety report to them. Will only be done through solicitors.

On my return from holiday, I chased Tony Barnett.

2 October Email from Tony Barnett:

"Dear Councillor Egerton

Many thanks for your note. As we discussed, I have carried out a second investigation and have shared the content of this with John Betty.

Unfortunately, the report is marked Private and Confidential, and in a legal context is 'owned' by CORMAC Solutions Ltd. At some future date it may become legally privileged as a result of possible litigation and as such cannot be released as requested at this time.

Please rest assured that we have given this matter our fullest attention given how important the issue is, and have informed our Shareholder accordingly. We are offering Mr [REDACTED] everything we have at our disposal to try and assist him during this very difficult period.

I very much look forward to catching up soon.

Best wishes

Tony”

I replied to ask about a resubmission of a RIDDOR report. Tony Barnett then emailed to say:

“We have not submitted any form of revised RIDDOR report (known as an F2508) since the incident. There is no regulatory requirement to do so and there has been no significant change in Mr [REDACTED] condition that I am aware of to prompt a report revision. HSE will accept amended information via a duplicate record but are clear that this should only be submitted in the case of a ‘fatality or specified injuries’. Mr [REDACTED] case does not fall into these categories.

Whilst we have as you know re-investigated the circumstances of the incident, because the original report and re-investigation both failed to determine a specific cause we do not have any pertinent additional information to provide in terms of the original RIDDOR report.

We have also contacted HSE’s Incident Contact Centre (ICC) to discuss the case with them directly. They have confirmed that we are not required to submit a revised RIDDOR report form and that [REDACTED] injury is correctly classified as an ‘over 7-day injury’ rather than a ‘Specified Injury’.

As such, we are confident that we are not in breach of health and safety law or any other regulatory or legal requirement. I am I’m afraid unable to share specific details of any RIDDOR report.

We remain totally committed in supporting [REDACTED] through this very difficult time.

Many thanks & best wishes Tony”

Note: Tony Barnett said that [REDACTED]’s injury was not a specified injury. However, the HSE website’s list of specified injuries includes “a fracture, other than to fingers, thumbs and toes”. [REDACTED] had a fractured skull, meaning that it was a specified injury.

Meetings with Cath Robinson and Ben Pyle

On 31 May 2018, I met with Cath Robinson and told her about my concerns about this case. She said that she had never been told about this case and so my report to her was the first that she knew of it. This is despite the fact that Tony Barnett said that “the shareholder” had been informed. She said that she would look into it and let me know. It was another two months before I had a meeting with the then M.D. of Cormac, Ben Pyle. He expressed great concern about the case. He said that he was surprised that [REDACTED] had not made a claim against Cormac and he suggested to me that, if [REDACTED] did make a claim, Cormac would treat it sympathetically.

Thompsons Solicitors, civil claim

At the time of the incident, [REDACTED] was not a member of the trade union. He had resigned a few years before over some disagreement with them. With assistance from the local union representative, [REDACTED], [REDACTED] was allowed to rejoin the union and the union agreed to ask their solicitors, Thompsons, to pursue a case against Cormac. Thompsons took many months to do anything, they expressed the view that they thought they could not win a case, because they could not prove negligence, but finally submitted a first letter to Cormac threatening a claim in November 2018. As a result of their letters, Cormac did release to the solicitors various papers including a copy of the Cormac incident report of August 2017. However, after several months, Thompsons dropped the case deciding that they had little chance of winning it. They notified [REDACTED] of this in July 2019.

Health and Safety Executive

Having received all the papers from [REDACTED] including the incident report of August 2017, I decided that the next course of action would be to pursue the fact that Cormac lied to the Health and Safety Executive on two occasions about the nature of [REDACTED]'s injuries.

On 4 September 2019, I met with Kate Kennally and Cath Robinson at Wadebridge. I explained that a criminal offence had been committed: that of failing to report a reportable incident under RIDDOR. The original incident was deliberately and knowingly reported in a misleading way to HSE. The potential scene of crime had been cleaned up instead of being preserved. The cover up was repeated in the report to HSE in August 2017 – again, Cormac sought to minimise the injury – it did not tell HSE about the fractured skull. I requested that either Kate or Cath report it to HSE, I did not trust anyone else in Cormac to do it as many people were involved in the cover up. I want to be contacted by HSE. See copy of report that I gave to Kate and Cath (Appendix 6) explicitly asking them to apologise to [REDACTED] for the company's failings and also admitting to the HSE that they had submitted false RIDDOR reports.

On 19 September 2019, I received an email from Cath Robinson, as follows:

"Sorry for the delay in getting back to you, we spent some time clarifying with HSE exactly what was recorded on their databases for Mr [REDACTED] case.

I have attached a letter which I have sent to the HSE which hopefully you will recognise is transparent and offers HSE full access should they want to revisit Mr [REDACTED] case.

Should they not wish to revisit I have agreed with Kate that we will seek an independent health and safety inspector to review the processes and governance in place in Cormac to ensure that they are fit for purpose.

I am happy to discuss this further if you would like and will of course let you know of any response to the Company from the HSE. Elaine Holt the Chair of Cormac has also offered to meet you if you would like as she remembers the incident being reported to the Board at the time and is very knowledgeable around the processes in place in Cormac around health and safety.

Kind regards

Cath"

Copy of the letter sent to HSE at Appendix 7. Note that the letter to HSE suggested that the persons who filed the false RIDDOR report were not sure that [REDACTED] had a fractured skull at the time as the doctor's note to Cormac notifying them of his absence from work only referred to a head injury. This was another lie to the HSE. There is ample evidence in the files to show that Cormac knew from early on that [REDACTED] had a fractured skull.

I wrote to the HSE and advised them that Cormac were lying to them. On 15 November 2019, I met [REDACTED], health and safety inspector of HSE at their offices in Plymouth. When I met her, she had already met [REDACTED], Health and Safety director of Corserv, and it was clear that she was unlikely to prosecute Cormac despite their lying on a RIDDOR report.

I sent Ms [REDACTED] further papers relating to the case and had a further meeting with her on 23 January. The HSE position seemed to be that, even if Cormac had recorded the injury correctly on the RIDDOR report, it was highly unlikely that the HSE would have investigated the incident anyway. Therefore, the fact that they gave incorrect information did not make any difference.

I had already submitted a FOI request on the HSE to obtain copies of all their papers on the case and I received those on 17 February. They are minimal: no formal report on the case was written, there appeared to be no sign-off of the decision not to take any action. I will be making a formal complaint to Ms [REDACTED] line manager on her failure to take action. I do not expect it to achieve anything.

Reporting back to me as divisional member

Despite the number of meetings that I have had with Kate Kennally, Cath Robinson, Tony Barnett, Ben Pyle, I have received barely any feedback from any of them on this case. None of them ever followed up my meetings with them to explain why they felt that Cormac's actions, or inactions, were justified.

The incident report that was compiled in August 2017 was never released to me. I only received it via [REDACTED] because of the solicitor's demands for papers from Cormac. Kate has never said why she thinks it is OK for the case to be closed. Cath promised in her email to me in September that there would be an independent review of health and safety in Cormac, but she has never followed up on that nor provided me with a copy of that supposed review. Cath wrote to Julian and Kate on 5 February, but not to me, saying inter alia, "Just to reassure you the Boards within the Group take their health and safety duties very seriously and receive reports on incidents and data trends each month. We have the BSI annually inspect us on process and culture and hold us to account for agreed action plans. We have also had another independent review completed on Cormac which did not indicate any significant issues although in any organisation there are always ways we can improve." She did not, as far as I can see, provide Julian or Kate with a copy of that review.

From the documents that I received from the HSE as a result of my FOI request, I found an email from Redacted [REDACTED] of Corserv to HSE dated 25 November (Appendix 8):

"Further to our meeting a couple of weeks ago, I wondered if there was an update you can provide on consideration of our internal investigation file of any indication of whether HSE might make its own enquiries around the incident or require additional information from our side?"

As you are aware from the letter sent to HSE by Redacted [Cath Robinson], our Group Managing Director we have had concerns raised by Cllr Bob Edgerton [sic] who has been supporting the IP [injured person] in this case and **we are keen to re-engage with him** [my emphasis] once any response from HSE has been made.

Please feel free to contact me for any further information and I look forward to speaking with you in due course.

With best regards

Redacted [REDACTED]"

On 20 December, the HSE responded to [REDACTED]:

"I have now concluded my enquiries and do not propose to take any further action at this time in relation to the specific concerns raised by Mr Egerton.

If you would like to discuss this matter please give me a ring on the number below.

Best regards

Redacted [REDACTED]"

[REDACTED]'s expressed keenness to re-engage with me has not materialised.

[REDACTED]'s job before joining Corserv was as a health and safety inspector with HSE working in the same offices as Ms [REDACTED].

Theories as to how ██████ suffered the injuries

The relevant witnesses to the incident are:

██████, Cormac road worker. He was given a lift by ██████ from ██████ Grampound Road to his home at St Erme at around 12.15 pm. ██████ had a half-day holiday that afternoon. That was the last that ██████ saw of ██████ before the incident. ██████ gave a statement to ██████ on 20 December 2016.

██████ and ██████ found ██████ in the portacabin at 2.20 p.m. with a head wound and barely conscious. They gave oral statements to ██████, Highways Manager, on the day of the incident. ██████ took some notes: we do not have copies of the notebook but there is typed up statement from ██████ recalling the statements. Messrs ██████ and ██████ also gave written statements to ██████, Cormac health and safety manager on 18 August 2017.

██████, partner of a Cormac employee, lives in Grampound Road. She was driving past the Cormac depot on the day of the incident. She had been home for lunch from her work in Grampound ██████. She is very confident about the time (1.55 p.m.) that she passed the depot because it was her regular lunchtime, she knew ██████ and she saw him sweeping up the yard. She heard about ██████'s injury a few days later from her partner and was able immediately to recall seeing ██████ and the time of seeing him. She did not give a statement at the time, but when contacted by ██████ in August 2017, gave him a statement over the phone (Appendix 9).

██████, who delivered a skip to the yard on the day in question. ██████ was not interviewed on the day of the incident but was interviewed in August 2017 and gave a statement. The statement is remarkable for the degree of detail that ██████ recalled including the time of the delivery, the state of ██████ ██████ and other facts (Appendix 10).

The incident report that was compiled in August 2017 put forward potential causes of the injuries as follows:

Due to the lack of evidence, witness accounts, and Mr ██████' continued memory loss the report is inconclusive, however there are a number of possibilities which may be considered;

- *Mr ██████ may have suffered a bleed on his brain while working within the yard. This may have caused him to fall and strike his head, and fracture his skull.*
- *He may have fallen while he was working, striking his head as he fell, and sustaining the fracture which then led to the bleed on the brain. This fall may have been as the result of a slip or trip at ground level, or potentially a fall from height if he had climbed on to either the skip or the wall next to it.*
- *The head injury may have been sustained by the lid of the skip blowing shut on him while he was loading material into it, or potentially dropping on to his head as he attempted to open it in order to load material.*
- *The head injury may have been as a result of him being struck by an object either wielded or thrown by a third party.*

On the admission of the author of the report, they could not determine the cause of the injury. No further attempt was made to investigate any of these potential causes in more detail. Nor, it appears, were any general lessons learned from this incident. For example, if the health and safety manager seriously thought that the injury might have been caused by the lid of the skip dropping on his head, one would have expected a further investigation to take place into the safety of these skips and either Cormac would have stopped using these skips, or at least a specific warning issued to

all employees who might have any dealings with these skips advising them how to avoid injury.

The one explanation that was not put forward as a potential explanation was that the skip lorry, whilst manoeuvring in the yard, hit [REDACTED]. A key piece of evidence as to whether or not the skip lorry might have been responsible is the time at which the skip was delivered. [REDACTED] had just won the contract for supplying skips to Cormac. On the morning of 16 December, the previous skip company had removed its skip and then in the early afternoon, [REDACTED] delivered their empty skip to Grampound Road. We have a reliable witness, [REDACTED], who testified that [REDACTED] was working in the yard at 1.55 p.m. Therefore, if the skip was delivered before 1.55 p.m., the skip lorry could not have been responsible for the injury. However, if the skip was delivered after 1.55 p.m., it would have been in the yard in the short time window between 1.55 p.m. and 2.20 p.m. when the injury occurred. [REDACTED] [REDACTED]'s signature is on the delivery note showing that he signed for the skip but the delivery note itself does not specify a time of delivery. However, attached to a copy of the delivery note is a sticker put on there by [REDACTED] specifying the time of 1.30 p.m.

The only evidence of the skip being delivered at 1.30 p.m. is in the statement by [REDACTED] 8 months later. With a detailed recall of the incident, Mr [REDACTED] says that he delivered the skip at 1.30 p.m. but he does not refer to a tachograph reading or any other log sheet or timesheet that would enable him to be so certain about the time. He also recalls that [REDACTED] was looking unwell and groggy. He also says that it was muddy around the skip and that the lid of the skip is inherently dangerous.

The statement was taken by [REDACTED], health and safety officer for Cormac. [REDACTED] p was previously a well-known and well-respected detective sergeant with Devon and Cornwall Police. Having spoken with a former colleague of [REDACTED] in the police, I was told that, if the police took a statement like this from a witness, they would seek corroborating evidence for the alleged facts put forward by the witness. They would not accept a simple assertion that a witness was at a certain place at a certain time without back-up evidence or the police would at least refer to the lack of back-up evidence.

However, in this case, the statement from [REDACTED] is accepted unquestioningly by Cormac as being a true record of events. Very conveniently, acceptance of the time of delivery of the skip at 1.30 p.m. completely exonerates the skip driver as being involved in the accident. Cormac seem to be very keen to emphasise this such as [REDACTED] putting the sticker on the copy of the delivery note as though this constituted evidence. (Appendix 11)

In the incident report, the time of delivery of the skip at 1.30 p.m. was put forward as an established fact. In the summary of the statement by [REDACTED], the report says, "she was driving past the yard and observed Mr [REDACTED] shovelling material from the yard floor into one of the bays near the skip and portacabin." (Appendix 12) But she did not say that. In her statement, she actually said, "he appeared to be shovelling material from the floor into one of the bays near the portacabin." She said nothing about a skip. I have spoken to [REDACTED] and she confirms that she did not say "near the skip". She cannot recall whether or not there was a skip there – she was just driving past. What she saw neither confirms nor denies that the skip was there at 1.55 p.m. However, the incident report puts forward her statement supposedly as corroborating evidence that the skip was there at that time.

My conclusion is that a possible explanation of the injuries was that, after the skip had been dropped in position and [REDACTED] signed for it, the skip driver reversed carelessly and hit [REDACTED] fracturing his skull and shoulder in the process (injuries that would be entirely consistent with being hit by a lorry). The driver may or may not have realised that he had hit [REDACTED] but, in either case, drove off.

Eight months later, the skip driver was asked to make a statement about the incident. One would have expected the reaction to have been, "You must be joking, I deliver half a dozen skips every day across Cornwall, how do you expect me to remember one delivery 8 months ago." Instead, [REDACTED] provides a detailed recall of what happened, at what time and his interaction with [REDACTED], a man that he [REDACTED] never met before and never met since.

One has to ask whether, maybe, [REDACTED] did recall every detail of that incident because he knew that he had hit [REDACTED] on that day and had tried to cover it up; or, alternatively, his statement was made as a result of coaching by [REDACTED] whose motive was to make sure that the skip lorry was not to blame for the accident.

Conclusion

There is ample evidence that:

- Cormac failed to investigate the incident properly at the time.
- Cormac lied to the HSE about the injury.
- The so-called incident report compiled in August 2017 was put together by the very people who had failed to investigate properly at the time of the incident and was designed to cover up their failings.
- The statement by the skip driver is deeply suspicious.
- All of the health and safety personnel within Corserv – local officer ([REDACTED]), health and safety manager of Cormac ([REDACTED]), health and safety director of Corserv ([REDACTED]) – and the Highways Manager ([REDACTED]) conspired in the cover up.
- The chief executive of Corserv (Cath Robinson) has been extremely negligent in failing to bring to task the employees involved in the cover up and has, herself, been willing to participate in the misleading of the HSE.
- The chief executive of Cornwall Council has been negligent by seemingly keeping herself at arms length from the failings within the Cornwall Council wholly owned company.
- The failure of Cormac to investigate the incident properly has resulted in [REDACTED] being denied justice for the life changing injury that happened.

Addendum

Since this report was prepared, a further letter has been received from the HSE in response to my complaint to them about the inadequate explanation of their reasons for not prosecuting Cormac.

Copy of that letter is at appendix 13.

Appendix 1





Appendix 2

Does not show well in black and white, colour version available if required.



Health and Safety Executive: RIDDOR Report

Report Number: 5CA19A2442 Date Submitted: 23/01/2017 Current Authority: Wales and South West - 01
Bristol

About you and your organisation:

Name: [REDACTED]
 Job Title: Health and Safety Manager
 Phone Number: [REDACTED]
 Organisation: CORMAC Solutions Ltd.
 Higher Tenant
 Address:
 Town: WADEBRIDGE
 County: CORNWALL
 Post Code: PL27 6TW
 Fax Number:
 E-Mail: [REDACTED]@cormactd.co.uk
 Did the incident happen at the above address? no
 Which authority is responsible for monitoring H & S
 where the incident happened? HSE

About where the incident happened:

Where did incident happen: The incident happened elsewhere in my organisation
 Organisation: CORMAC Solutions Ltd.
 Address: Grampound Road Depot
 Grampound Road
 Town: TRURO
 County: CORNWALL
 Post Code: TR2 4TB
 Details of where (address unknown):

About the incident

Incident date: 16/12/2016 Incident time: 14:30
 Which LA did incident occur in?
 Country: England Geographic Area: Cornwall Local Authority: Cornwall
 In which department or where on premises did incident happen?
 Grampound Road Depot

What type of work was being carried out?

Main Industry: Construction (including development of real estate)
 Main Activity: Specialised activities
 Sub Activity: Other

About the kind of accident

Kind of accident that described incident: Another kind of accident
 How high was fall? 0 metres
 Work process involved: Other process not listed above
 Main factor involved: Other cause not listed above
 Describe what happened:

Mr [REDACTED] passed out and sustained a head injury while within the car park of our operational depot at Grampound Road. There were no witnesses and Mr [REDACTED] has no recollection of the incident. Mr [REDACTED] was found conscious but dazed by a work colleague who took him to hospital. Subsequent examination has revealed a head injury but it is unclear how this was sustained.

About the injured person

Name: .



Address:



Town:

County:

CORNWALL

Post Code:

TR2 [redacted]

Phone Number:

Gender:

Male

Age:



Injured person's employment status

What was the person's occupation or job title?

Highways Safety Inspector

What was the person's work status?

The injured person was one of my employees

Details if on training scheme / employed by someone else

About the injured person's injuries

Injured person's injuries:

Other known injuries

Part of body affected:

Head

What was the severity of the injury?

Injury preventing the injured person from working for more than 7 days

[REDACTED]

From: [REDACTED]
Sent: 16 January 2017 16:10
To: [REDACTED]
Subject: Conversation notes [REDACTED]

Follow Up Flag: Follow up
Flag Status: Flagged

[REDACTED]

As discussed earlier are the notes from the conversation with [REDACTED].

[REDACTED] rang and informed me of his current condition, he has suffered a bleed on the brain and a fractured skull. He has regained most of his balance, although still experiences some vertigo when looking up and down. He no longer gets the really bad head aches and is much better in himself, although he is still suffering from memory loss. He remembers before the incident, although he has almost no recollection of the last month or so.

He informed me that the doctors have told him they think by the shape of the injury on his head it was caused by the hitting his head on the skip, although they are not sure whether the bleed on the brain caused him to fall and sustain the injury, or whether a fall caused him to sustain the injury and the bleed was a result of that injury.

[REDACTED] is awaiting an appointment with a neurologist who will hopefully be able to provide him with some more information, however at this time the cause of the incident is not known. This unknown factor is causing [REDACTED] the most anguish at present and is what he is finding most unsettling, the not knowing.

[REDACTED] is a very conscientious member of staff and is already making noises about returning as soon as he can, for which we have to be prepared for a phased return, light duties, duties that may not include lone working or driving (decisions on which to be made by senior management). There are still a lot of unknowns, so as you have advised it is a good idea to fill in an extension of sick pay and an application to have returned the loss of his first 3 days pay due to sickness, and also a referral to Occupational Health so we are prepared for his return, in whatever capacity, when the appropriate time comes.

I will fill in the forms for us to review at our meeting next week, prior to submitting them.

With thanks,

[REDACTED]

Assistant Highways & Environment Manager (West)
Highways and Environment
TEL. 0300 1234 222
handew@cornacltd.co.uk

Room 106, Western Group Centre, Radnor Road, Scorrier, Redruth, TR16 5EH

If you use the environmental message please use this format:

RIDDOR - Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013

Extract from HSE website:

Types of reportable injury

The death of any person

All deaths to workers and non-workers, with the exception of suicides, must be reported if they arise from a work-related accident, including an act of physical violence to a worker.

Specified injuries to workers

The list of 'specified injuries' in RIDDOR 2013 replaces the previous list of 'major injuries' in RIDDOR 1995. Specified injuries are (regulation 4):

- *fractures, other than to fingers, thumbs and toes*
- *amputations*
- *any injury likely to lead to permanent loss of sight or reduction in sight*
- *any crush injury to the head or torso causing damage to the brain or internal organs*
- *serious burns (including scalding) which:*
 - *covers more than 10% of the body*
 - *causes significant damage to the eyes, respiratory system or other vital organs*
- *any scalping requiring hospital treatment*
- *any loss of consciousness caused by head injury or asphyxia*
- *any other injury arising from working in an enclosed space which:*
 - *leads to hypothermia or heat-induced illness*
 - *requires resuscitation or admittance to hospital for more than 24 hours*

**Bob Egerton, Cornwall Councillor
Probus, Tregony and Grampound Division**



Kate Kennally, chief executive, Cornwall Council
and
Cath Robinson, chief executive, Corserv Ltd.

30 August 2019

CONFIDENTIAL

Dear Kate and Cath

[REDACTED], former Cormac employee

The purpose of this letter is to provide you with the background information before our meeting next week and to ask that Cornwall Council/Corserv take action in respect of the accident that [REDACTED] had whilst employed by Cormac.

As you may remember, I met with Kate on 16 August 2017 and with Tony Barnett, then chief executive of Cormac, on the same day; I met with Cath on 31 May 2018 when Cath said that this was the first that she knew about this. I enclose a copy of the briefing note provided to you at the time.

Cath referred me to Ben Pyle, whom I met on 3 July 2018. He, like both of you, was shocked and concerned at the information that I gave him. Unfortunately, of course, for different reasons neither Tony Barnett nor Ben Pyle are with us to be able to answer for their actions or lack of them.

It seemed in 2018 that the union's solicitors were going to pursue a claim against Cormac. For reasons that I will not speculate on, the solicitors recently advised [REDACTED] that they are not going to pursue the case. However, as part of the initial claim process, documents have been obtained by [REDACTED], previously refused to him, and he has passed them on to me.

I now have the evidence that shows without a shadow of doubt that Cormac committed a criminal offence in submitting, knowingly and deliberately, a false RIDDOR report to the Health and Safety Executive. Furthermore, when I raised the issue with Cormac (Tony Barnett), Cormac contacted the HSE and, again, knowingly and deliberately withheld information that should have been provided in the RIDDOR report. It is clear that the so-called investigation commissioned by Tony Barnett in August 2017 was a cover-up of the original failure to investigate the incident properly. Several employees of Cormac were complicit in this cover-up.

I attach a note showing the evidence for my allegation.

I ask that Kate, as chief executive of Cornwall Council, or Cath, as chief executive of Corserv Ltd., takes personal responsibility for notifying the HSE that Cormac committed the offence of failing to submit an accurate RIDDOR report and that you ask the HSE to a) take the appropriate action against Cormac for that failure, and b) appoint an independent health and safety expert from outside of Cornwall to conduct a thorough investigation of the failings of the organisation, such investigation to be

paid for by Cormac. I ask also that you advise the HSE that I am an interested party in this matter and that they should ask me to provide evidence to them.

Because of the failings of Cormac to carry out a timely and thorough investigation of the incident, it is likely that we will never be sure how [REDACTED] injuries were sustained. If the incident had been investigated promptly and thoroughly at the time, including calling the police at the time of the incident, or, at the very least on the next working day when the extent of [REDACTED] injuries were clear, it is possible that the cause of the accident could have been determined and that [REDACTED] could have received appropriate compensation for those life-changing injuries. I, therefore, expect Cormac to issue an unreserved apology to [REDACTED] for its failings and to offer a sum of compensation comparable to what could have been reasonably achieved through a claim in court.

I look forward to meeting you on 4 September at Wadebridge.

Yours sincerely

Bob Egerton

A CORNWALL
COUNCIL COMPANY

Mrs Helena Allum
H.M. Principal Inspector of Health & Safety
1st Floor Cobourg House
32 Mayflower Street
Plymouth
Devon
PL1 1QX

Your ref: Incident 5CA19A2442
My ref: CR/ct
Date: 17th September 2019

Dear Mrs Allum

Incident 5CA19A2442

I am writing to you to highlight information that I have become aware of in relation to an incident which occurred on 16th December 2016, involving an employee of Cormac Solutions Ltd (Cormac); [REDACTED]. The incident was reported to HSE by Cormac on the 23rd January 2017, with a RIDDOR notification reference of 5CA19A2442.

I have been contacted by Cllr Bob Egerton who is supporting Mr [REDACTED] following the incident. He has expressed concerns regarding specific elements of the information submitted as part of our RIDDOR notification to HSE as the enforcing authority and specifically the category of injury severity.

As you are aware from previous investigation enquiries with the Corserv Group of Companies, health and safety is of paramount importance across the businesses and we approach any contact with the enforcing authorities in an open and transparent manner. In keeping with that approach, it is important to us that the information held by HSE is accurate.

Following the incident an internal investigation was launched to establish what had occurred, with part of the enquiries attempting to establish whether the incident was work related, as initial details did not immediately suggest this. As the ongoing investigation continued to be unable to clarify this point the decision was taken to notify the regulator as a precaution.

The Cormac Company notified you of the incident on 23 January regarding the incident and at that time reported that it was a head injury with the severity of the injury being "injury preventing the injured person from working for more than 7 days". This was consistent with the GP Statement of Fitness for Work which was received by the Company. All of the GP's fitness to work statements for the whole period of his absence from work until he retired due to ill health referred to a head injury and did not reference a fractured skull.



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Registered in England No. **09598549**
Registered Office
Corserv Head Office, Higher Trenant
Road, Wadebridge, Cornwall, PL27 6TW

Higher Trenant, Wadebridge,
Cornwall PL27 6TW
Tel: 01872 323 313 cormacltd.co.uk



The employee M [REDACTED] self-reported to his line manager that he had suffered a bleed on the brain and a fractured skull on the 16 January 2017. He advised that the Doctors were unsure whether the bleed on the brain caused him to fall or vice versa.

[REDACTED] has been supported through Cormac's occupational health support services throughout the period since his injury, including appointments with qualified clinicians. Confidential correspondence from the clinicians to our Human Resources team discussing Mr [REDACTED] case indicated on 9th February 2017 that "he suffered a major head injury and it is not clear what the aetiology of this was. However, he suffered a fractured skull with bruising on his brain and also a subarachnoid bleed."

This report provided more specific information than Mr [REDACTED] supplied 'fitness to work' certificates, which repeatedly detailed only a 'Head Injury'.

The indication of the fracture should also have triggered a specified injury category to be assigned to the incident notification report; however the confidential nature of the medical correspondence hampered this. We have made changes to our internal systems to ensure relevant diagnosis information relating to incidents is passed from the HR function to our health and safety support team, who notify incidents to the enforcing authorities.

Mr [REDACTED] still has no recall as to the events of the incident and suffers from episodes of memory loss which have left him unable to return to work. Ultimately he was offered early retirement on medical grounds and has been fully supported through this process.

Despite a thorough investigation it has not been possible to ascertain the activity that Mr [REDACTED] was undertaking at the time of the incident, whether this was work related, or what caused his injuries. Should the information regarding the mis-reporting of the RIDDOR notification injury severity category change HSE's view on their own investigation of the incident, we will share our investigation report with you and fully cooperate with any enquiry.

Yours sincerely

Cath Robinson
Group Managing Director
Corserv Ltd
Tel: 01872 324449
Email: cath.robinson@corservltd.co.uk

**Private and confidential**

Cllr B Egerton
Trevillick House
Fore Street
Grampound
Truro
TR2 4RS

Date 13 February 2020

Our Ref 202002031
Your ref

Mrs Sarah Rankin-Jones

Gweithredol Iechyd a Diogelwch
Adeiladau'r Llywodraeth
Ty Glas
Llanisien
Caerdydd
CF14 5SH

Ffon: 02030 282320
Ffacs: 02920 263120
Formsadmin.cardiff@hse.gov.uk

<http://www.hse.gov.uk/>

Mrs Sarah Rankin-Jones

Health & Safety Executive,
Government Buildings
Ty Glas,
Llanishen
Cardiff
CF14 5SH

Tel: 02030 282320
Fax: 02920 263120
Formsadmin.cardiff@hse.gov.uk

<http://www.hse.gov.uk/>

Dear Councillor Egerton

Freedom of Information request no: 202002031

Thank you for your request for information regarding the accident to Mr [REDACTED] of Cormac Solutions Limited.

I can confirm that the Health and Safety Executive holds the following information:

1. **Case 4622501 printout – Partial disclosure - released in part, subject to Section 40 of the Act**
2. **Letter from HSE to Corserv dated 28 October 2019 re: Request for Corserv report – Partial disclosure - released in part, subject to Section 40 of the Act**
3. **Email between HSE and Corserv dated 1 November to 20 December 2019 re: Update on internal HSE investigation into concern – Partial disclosure, released in part, subject to Section 40 of the Act**

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Documents 1-3 are being released in part, subject to section 40 of the Freedom of Information Act, as they contain some personal information of third parties, therefore have been redacted. Section 40 is an absolute exemption and not subject to the public interest test.

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srarkin

Cases Report

Date: 04/02/2020
Version 2.0.0

Report Parameters:

Case ID = "4622501"

Include Related Cases = "N"

Include Investigation Tracking = "N"

Master Case 4622501

Company ID 4331324

Site ID 4450830

Date Created 06/11/2019

Category Complaints

Type Construction

Detail N/A

Problem Summary Cormac Solutions Ltd - Concern -Highways Depot Grampond -non INV of acc -

Problem Description See attached.

Concern received in relation to an accident that occurred in December 2016 at the Highways depot in Grampond. IP working alone alleged to have passed out and suffered fracture to skull. The incident is alleged to have not been fully investigated by Cormac.

Master Case Detail

Master Case Notes

Note Summary

Concern letter and enclosures

Note Details

Date Note Added

06/11/2019 12:27:06 PM

Attachments

- HV_U_20191001_2332_001.pdf
- Civil_claim_correspondence.pdf
- RIDDOR_changes_emails.pdf
- Thompsons_file_part_1_copy.pdf
- request_refused.pdf

Note Summary

Concern Investigation

Note Details

Date Note Added

15/11/2019 12:32:50 PM

Attachments

28/10/19 Email to [REDACTED] requesting investigation report.

31/10/19 Meeting in Plymouth HSE office with [REDACTED] Cormac H&S Director, to gather documentation regarding the incident in Dec 2016. Also explored and gathered documentation regarding Cormac Solutions Ltd Riddor reporting and incident investigation procedures.

15/11/19 Meeting with notifier, Councillor Bob Egerton, to gather further documentation. Discussed vires of HSE and explained Incident Selection Criteria. Explained not appropriate for us to investigate the incident in 2016 and the focus of our investigation was to establish the policy and procedures for reporting and investigating workplace incidents. Further documentation to be provided to HSE by Councillor Egerton via email (received after meeting)

16/12/19 Following review of documentation provided by both notifier and company NFA. Letter sent to notifier, see attached. Email sent to Cormac confirming no further action at this time.

20/12/19 Email received from Cllr Egerton requesting confirmation that we are not going to prosecute Cormac for not completing RIDDOR correctly.

23/12/19 Email response to Cllr Egerton confirming that our action in line with EPS.
23/12/19 Email received from Cllr Egerton requesting detail of action taken by HSE against Cormac.
30/12/19 FOI request received.

Note Summary

Incident Report

Note Details

Attached : Incident report prepared by CORMAC dated 25/08/17
Papers from Mr Egerton
Letter from Mr Egerton to HSE Plymouth office

Note Summary

Case Reopened

Note Details

Cormac_concern_response_Nov_19_-_letterhead.doc

- x Email to [REDACTED] 28_Oct_19.htm
- Email_chain_Cllr_Egerton_pre_meeting_Nov_19.txt
- Email_from_Cllr_Egerton_15_Nov_19.txt
- Email_from_Cllr_Egerton_-_20_Dec_19.txt
- Email_from_Cllr_Egerton_-_23_Dec_19.txt
- Closure_email_to_Cormac_Dec_19.txt

Date Note Added

02/01/2020 02:12:36 PM

Attachments

- Incident_Report_prepared_by_CORMAC_dated_25_08_17.pdf
- Papers_from_Mr_Egerton.pdf
- Letter_to_HSE_17_09_19.pdf

Date Note Added

30/01/2020 02:57:54 PM

Attachments

Case reopened to record ongoing emails and meeting with Cllr Egerton.
23/01/2020 Meeting with Cllr Egerton at HSE Office Plymouth following his ongoing complaint against Cormac. Cllr Egerton remains unhappy that we are not taking any prosecution action against Cormac for alleged lying on their RIDDOR report and also for insufficient investigation and alleged cover up by Cormac into the circumstances of the incident involving [REDACTED]. See attached emails. Cllr Egerton asserts that he will continue investigating.

From: [redacted]
Sent: 20 December 2019 12:08
To: [redacted]
Subject: RE: CONFIDENTIAL: Incident 5CA19A2442

Importance: High

[redacted]
I have now concluded my enquiries and do not propose to take any further action at this time in relation to the specific concerns raised by Mr Egerton.
If you would like to discuss this matter please give me a ring on the number below.

Best Regards

[redacted]
[redacted]
HM Principal Inspector of Health and Safety
Construction Division
Health and Safety Executive
2, Rivergate
Bristol
BS1 6EW
Tel [redacted] mob [redacted]

From: [redacted] [mailto:[redacted]@corservltd.co.uk]
Sent: 25 November 2019 18:02
To: [redacted]
Subject: FW: CONFIDENTIAL: Incident 5CA19A2442

Information Classification: CONFIDENTIAL

Dear [redacted]

Further to our meeting a couple of weeks ago, I wondered if there was update you can provide on consideration of our internal investigation file or any indication of whether HSE might make its own enquiries around the incident or require additional information from our side?

As you are aware from the letter sent to HSE by [redacted] our Group Managing Director we have had concerns raised by Cllr Bob Edgerton who has been supporting the IP in this case and we are keen to re-engage with him once any response from HSE has been made.

Please feel free to contact me for any further information and I look forward to speaking with you in due course.
With best regards

[redacted]
[redacted] | Group HSEQ Director
Corserv Limited
[redacted]@corservltd.co.uk | Tel: [redacted] | Mob: [redacted]
www.corservltd.co.uk
Rml27 Higher Trenant, Higher Trenant Road, Wadebridge, PL27 6TW

From: [redacted]
Sent: 01 November 2019 09:32
To: [redacted]@hse.gov.uk
Cc: [redacted] (Corserv); [redacted]; [redacted]
Subject: CONFIDENTIAL: Incident 5CA19A2442

Information Classification: CONFIDENTIAL

Dear [redacted]

Thank you for the opportunity yesterday to discuss the above notified incident with you and leave a copy of our internal investigation file, which I hope will provide the information you need to enable a reply to Cllr Edgerton.

I've realised that I forgot not leave you a business card yesterday with my full contact details so this note is to supply these, which appear below.

For now we will await further contact from you pending your consideration of the internal Corserv investigation. As I stated to you, if the Executive wish to carry out their own enquiry we will fully cooperate with that and if you require any additional information around the incident or clarification of any of the investigation files contents please get in touch and I will attend to that.

Thank you and best regards

[redacted]
[redacted] | Group HSEQ Director
Corserv Limited

[redacted]

██████████@corservltd.co.uk | Tel: ██████████ | Mob: ██████████
www.corservltd.co.uk
Rml27 Higher Trenant, Higher Trenant Road, Wadebridge, PL27 6TW

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From: [REDACTED]
Sent: 28 October 2019 08:29
To: [REDACTED]@corservltd.co.uk
Subject: Incident 5CA19A2442

Importance: High

Dear [REDACTED]

Further to your letter to [REDACTED] Principal Inspector, dated 17th September 2019, I have recently taken over as Principal Inspector for the South West.

I note from your letter that Corserv have carried out their own internal investigation into the incident on 16th December 2016, to assist our enquiries into this matter please forward a copy of this report to me by return of email.

Best Regards

[REDACTED]
HM Principal Inspector of Health and Safety
Construction Division
Health and Safety Executive
2, Rivergate
Bristol
BS1.6EW
Tel [REDACTED] mob [REDACTED]

Legal and management

SF-GA-20

Statement of witness



Name of witness	[REDACTED]		
Address	Enter Witness Address.		
Company	Non-employee	Occupation	n/a

Statement	Page	1	of	1
-----------	------	---	----	---

NOTE, THIS IS NOT A SIGNED STATEMENT BY MRS [REDACTED] BUT NOTES TAKEN WITH HER CONSENT DURING A TELEPHONE CONVERSATION WITH HER ON TUESDAY 22ND AUGUST 2017.

During a telephone conversation with Mrs [REDACTED] she freely volunteered the following information:-

Mrs [REDACTED] lives in the village of Grampound Road, and regularly drives past the depot. Her partner, [REDACTED] works for CORMAC Solutions Ltd, and [REDACTED] is familiar with the depot and also knows [REDACTED]

Friday December 16th 2016 was the last day of her daughter's school term before the Christmas break, and she was due to be arriving home at 1.30pm. Mrs [REDACTED] went home during her lunch break to see her daughter, and she recalls the date and time clearly. Her lunch hour is from 1.00pm to 2.00pm.

She estimates that she was driving past the Grampound Road depot at approximately 1.55pm on her way back to work and, out of habit, she looked in the depot gates as she drove past.

She noticed someone, whom she recognised and described as [REDACTED] at work in the yard. She says he was on the left hand side of the yard as viewed from the entrance gates, and he appeared to be shovelling material from the floor into one of the bays near the portacabin.

Mrs [REDACTED] saw no-one else in the yard as she drove by.

Notes taken by [REDACTED] 22/08/2017

This statement (consisting of 1 pages, each signed by me) is true to the best of my knowledge and belief.

Signed	Signature.	Date	22/08/2017
Signature witnessed by	Signature.	Signed	

Legal and management

SF-GA-20

Statement of witness



Name of witness	Enter Name of Witness. [REDACTED]		
Address	Enter Witness Address [REDACTED]		
Company	Enter Company Slips	Occupation	Enter Occupation Downer

Statement	Page	1	of	4
<p>Enter Details.</p> <p>I am the above named person and I am employed as a skip delivery driver for [REDACTED] skips based at [REDACTED].</p> <p>On Friday 16th December 2016 at about 13.30hrs I arrived at the CORMAC depot situated at Grampound Road.</p> <p>It was a wet miserable day and I recall it had been raining as I was soaked.</p> <p>I drove in the yard saw that the skips go on the left so pulled in ready to unload.</p> <p>I got out and went over to the Portercabin where I saw a guy in charge.</p> <p>I opened the door as he was just walking out.</p> <p>He said "that was lucky or that would have been embarrassing" as another skip firm had just left and we had taken on the contract.</p>				
This statement (consisting of NO. pages; each signed by me) is true to the best of my knowledge and belief.				
Signed	Sig [REDACTED]	Date	15/8/17	
Signature witnessed by	Sig [REDACTED]	Signed	[REDACTED]	

Legal and management

SF-GA-20

Statement of witness



Name of witness	Enter Name of Witness, [REDACTED]		
Address	Enter Witness Address.		
Company	Enter Company,	Occupation	Enter Occupation.

Statement	Page	2	of	4
-----------	------	---	----	---

Enter Details.

The man I spoke to was wearing a Coemac hi viz waistcoat and I would say he was in his fifties. of large build. He was about 5'8 tall. He looked as though he had just woken up, he was really pale in his complexion and looked "rough as rats" I said "are you feeling alright mate?" he just said "yeah". He pointed and said "can you stick it in the gap over here". He signed the ticket and went back in. The ticket was signed [REDACTED]. I would say he looked really ill, which is why I asked if he was okay. I didn't see any injuries on him and he wasn't holding any part of his body. I recall he looked really ill. He signed the ticket, I placed the slip and left.

This statement (consisting of No. pages, each signed by me) is true to the best of my knowledge and belief.

Signed	Signature [REDACTED]	Date	15/8/17
Signature witnessed by	Signature [REDACTED]	Signed	[REDACTED]

Legal and management

SF-GA-20

Statement of witness



Name of witness	Enter Name of Witness. [REDACTED]		
Address	Enter Witness Address.		
Company	Enter Company.	Occupation	Enter Occupation.

Statement	Page	3	of	4
-----------	------	---	----	---

Enter Details: the yard.
 I didn't see anyone else in the yard or I would have remembered an area such a small yard.

The skip I delivered was one of the older ones with very heavy doors which fold up and over (metal doors) This is usually a two man job to open due to the weight. To be honest they are a fair weight door and take some pushing to open, this is done from the side.

The area around the skip was muddy and wet and full of leaf debris.

The skip would have been delivered with the doors closed as this is normal practice.

I recall the office being very dark with no lights switched on.

I stayed on site for about 10 minutes.

This statement (consisting of NO. pages, each signed by me) is true to the best of my knowledge and belief.

Signed	[REDACTED]	Date	15/8/17
Signature witnessed by	[REDACTED]	Signed	[REDACTED]

Legal and management

SF-GA-20

Statement of witness



4

Name of witness	Enter Name of Witness. [REDACTED]		
Address	Enter Witness Address.		
Company	Enter Company.	Occupation	Enter Occupation.

Statement	Page	4	of	4
------------------	------	---	----	---

Enter Details. delivered the skip and went. He went back into the Porta cabin when I left and shut the door. If you were to open the skip wrong it would be perfectly feasible to catch your head. There is a V shape latch in the middle of the door to lock them. They are very heavy doors and difficult to open.

I mentioned all of this previously when contacted however it is very difficult to pin me down due to the mobile nature of my job.

If you didn't know you had to open these skips from the side it is perfectly feasible to catch your head due to the weights involved.

This statement (consisting of NO. pages, each signed by me) is true to the best of my knowledge and belief.

Signed	S [REDACTED]	Date	15/8/17
Signature witnessed by	S [REDACTED]	Signed	[REDACTED]

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**CONTROLLED WASTE
TRANSFER NOTE
DELIVERY/COLLECTION TICKET
CUSTOMER COPY**

01209 860325

Customer O/N 2111128	Date 16/12/2018	Ticket No 43007	Container 993	Transaction Type 1	Account 30000
Site Address: GORDON DRIVE Greenwood Road Brampton Road TRURO TR2 4TB	Invoice Address: GORDON DRIVE Greenwood Road Brampton Road TRURO TR2 4TB		Office Contact No: 01872 800		
Site Contact No:	Comments/Directions: EN		Additional Items:		
Driver/Vehicle: [REDACTED]	Driver/Vehicle: WV18 TSU	Payment Received:	Customer Sign: [REDACTED]	Customer Print: [REDACTED]	
Pricing: Skip Price Permit Extras VAT Total	Waste Code/Description: 17 01 11 Controlled Waste		Disposal Site: [REDACTED]		

Herriss Farm Waste Transfer Station, Herriss Farm, Longdowns, Pen

(Photos)

16th
12/16

1330

App 5.

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**CONTROLLED WASTE
TRANSFER NOTE
DELIVERY/COLLECTION TICKET
CUSTOMER COPY**

01209 860025



Customer O/N 5111763	Date 15/12/2015	Ticket No 43507	Container 5Y1 ENCL	Transaction Type Deliver	Account 07001
Site Address: COITMAC DEPOT Grampound Road Grampound Road TR25 9TB	Invoice Address: Esbarco COITMAC DEPOT Grampound Road Grampound Road TR25 9TB	Office Contact No: 01872 823513 / 3265761	Additional Items:	Customer Sign: [Redacted]	Disposal Site: [Redacted]
Comments/Directions: EN	Driver/Vehicle: WX15 TSD	Customer Print: [Redacted]	Disposal Ticket No:	Waiting Time On Site: Coordinate the collection day to avoid the waste transfer station being closed for the weekend (England and Wales) regulations 2011	
Driver/Vehicle: [Redacted]	Payment Received:	Disposal Site:	Pricing: Skip Price Permit Extras VAT Total		
Waste Code/Description: 17 08 04 Commercial Waste		Herriss Farm Waste Transfer Station, Herriss Farm, Longdowns, Penryn, Cornwall TR10 9DU			

See bottom line re skip

██████████ collected ██████████ at 11.55am from a flooded area just outside Grampound Road and took him to his home at St Erme.

██████████ describes ██████████ as "his normal calming self", ██████████ states he was annoyed and was telling ██████████ that the drain had blocked again despite previous remedial works. ██████████ calmed him down saying "never mind you are on holiday now, chill out"

██████████ stated he has known ██████████ for 30yrs and has never known him to be any different. He stated ██████████ appeared normal and didn't mention being under the weather or feeling ill. ██████████ estimates the time of the journey as approximately 20 minutes, and thinks that he was dropped at his home at approximately 12.15pm. **(these details taken from ██████████ statement App3)**

At approximately 1.30pm ██████████ attended Grampound Yard to exchange a contracted skip from ██████████ skips.

Mr ██████████ stated that it was a wet and miserable day as he drove into the yard. He could see where the skip needed to go, and so he pulled into the left hand side of the yard ready to offload the skip. ██████████ came out of his office. ██████████ states ██████████ looked really rough and very pale. Mr ██████████ was concerned about Mr ██████████ appearance and asked him if he was alright, to which Mr ██████████ just replied 'yeah'.

Mr ██████████ pointed to where he wanted the skip placed, signed the delivery ticket and returned to his office.

The skip was unloaded and delivered to the empty second bay. ██████████ states the heavy metal shutter lid was definitely down as this was their policy on delivering skips. He mentions that the skip lids are heavy and difficult to lift alone, and that the area around the skips was wet and muddy and that there was leaf debris there.

██████████ stated he remembered ██████████ saying it was "all go" as a Viridor skip had just been delivered. Enquiries revealed it was in fact SITA who removed an old skip and ██████████ were replacing that skip due to a change in contract.

Mr ██████████ estimates that he was on site for approximately 10 minutes. He recalls that he saw no-one else in the yard during his time there that day. **██████████ statement App4)**

██████████ Skip Delivery note dated 16/12/2016 **(App5)**

At approximately 1.55pm Mr ██████████ was observed by a passing motorist working in the yard. The motorist was Mrs ██████████. She lives in the village of Grampound Road and is familiar with the depot, as her partner is a CORMAC employee and he worked at the depot for some time. Mrs ██████████ also knows Mr ██████████. She reports that on the day of the incident at approximately 1.55pm she was driving past the yard and observed Mr ██████████ shovelling material from the yard floor into one of the bays near the skip and portacabin. She did not stop. She confirms that she saw no-

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

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<http://www.hse.gov.uk/>

Reference

Acting Director
Sarah Jardine

Date 17 April 2020

Dear Councillor Egerton,

Thank you for your 24 and 26 March 2020 e-mail messages to [REDACTED], Head of Operations Wales, South and South West of England, Construction Division, in which you respectively explain your intention to proceed to stage 2 of HSE's complaints procedure¹ and your reasons for doing so. I am the independent person in HSE appointed to oversee your stage 2 complaint. Please accept my apologies for the delay in providing this response.

Your complaint covers the following points:

- Cormac Solutions Limited ["Cormac"] deliberately lied to HSE on three occasions concerning the nature of the injury to Mr [REDACTED] and that the HSE position seems to be that because it would not have taken action even if it had been told the truth, it does not matter that Cormac lied to them.
- the investigation of your concern by [REDACTED], HM Principal Inspector of Health and Safety, was superficial.
- Mrs [REDACTED] either did not produce a written justification regarding her decision to take no action against Cormac, or if she did, HSE failed to provide it when you submitted a FOI request
- HSE did not provide you with any written record of the further information, lessons learnt, or improvements made by Cormac in respect of their internal accident reporting and investigation procedures, following Mrs [REDACTED] meeting with the company

You seek an explanation of why HSE is not prosecuting Cormac, in line with your interpretation of paragraph 16.1 of our Enforcement Policy Statement² ["EPS"].

¹ HSE's complaints handling procedure is available at:
<https://www.hse.gov.uk/foi/internalops/og/ogprocedures/complaints/>

² HSE's Enforcement Policy Statement and Enforcement Management Model are available at:
<https://www.hse.gov.uk/enforce/enforcepolicy.htm>

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

The Cormac Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013³ [RIDDOR] report

When Cormac submitted the RIDDOR report concerning Mr [REDACTED] on 23 January 2017, it had enough information to have properly determined that Mr [REDACTED] had suffered a specified injury, specifically an injury described in Regulation 4(1)(a) of RIDDOR, namely *“any bone fracture diagnosed by a registered medical practitioner, other than to a finger, thumb or toe.”* Instead the company reported the incident as on over 7-day injury. This constitutes a breach of Regulation 4(1)(a) of RIDDOR.

You assert that this and the other examples set out in your 26 March 2020 email are demonstrative of Cormac having deliberately lied to HSE. On the other hand, Cath Robinson, Group Managing Director, Corserv, in her 17 September 2019 letter to HSE, provided an account of why the incident had in error been reported as on over 7-day injury, as well as the steps that had subsequently been taken to in future ensure correct reporting.

There is insufficient corroborative evidence to prove beyond reasonable doubt that Cormac deliberately lied in the RIDDOR report. Even if HSE obtained additional evidence to prove your assertion, application of our Enforcement Management Model⁴ [EMM] rarely supports enforcement in respect of a breach of RIDDOR beyond the service of an Improvement Notice [IN]. In this case, it does not support enforcement action beyond sending Cormac a letter (see below).

EMM, EPS and why HSE is not prosecuting Cormac

The EMM is a framework that helps inspectors make decisions in line with HSE's EPS. In summary, the EMM gives inspectors guidance to help them decide: if they should take enforcement action; and what sort of enforcement action to take.

The legal duties in RIDDOR do not directly result in the control of risk but still demand compliance by the dutyholder. They are referred to in the EMM as 'compliance and administrative arrangements' and are considered separately from risk-based issues. The EMM uses three different descriptors to describe deviations from full compliance with a compliance and administrative arrangement, namely Absent, Inadequate and Minor (Table 4). Cormac's misreported RIDDOR corresponds to the Inadequate descriptor, that is: *“Only rudimentary observance with standards or inadequate compliance, where such failures are of substantial or material nature ...”* Paragraph 74 of the EMM explains that it is not usually appropriate to prosecute in relation to compliance and administrative arrangements that do not in themselves give rise to risks, unless there are relevant dutyholder and/or strategic factors or matters specified in the EPS.

Consideration of the dutyholder factors and strategic factors set out in the EMM (Tables 6 and 7 respectively), lead to the conclusion that prosecution in this case was not appropriate.

You highlighted a circumstance set out in the EPS that you consider indicates HSE should prosecute Cormac, specifically: *“false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk”*. However, the misreported RIDDOR is not a matter which gives rise to any risk. Consequently, the misreported RIDDOR does not meet the criteria set out in the EPS.

³ The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 is available at: http://www.legislation.gov.uk/ukxi/2013/1471/pdfs/ukxi_20131471_en.pdf

⁴ The HSE's Enforcement Management Model is available at: <https://www.hse.gov.uk/enforce/emm.pdf>

None of the potential reasons for prosecuting a compliance and administrative arrangement issue are made out. The EMM (Table 5.2) indicates an initial enforcement expectation of an IN for an inadequate compliance and administrative arrangement against a defined legal standard. However, Corserv provided HSE with evidence of the improvements it had made to its arrangements for submitting RIDDOR reports, thereby pre-empting the need for HSE to serve an IN in relation to this issue. Under these circumstances the service of a Notice was not necessary, justified or appropriate. In this case, proper application of the dutyholder factors required HSE to reduce the initial enforcement expectation set out in Table 5.2 from an IN to a letter.

Other issues

Having looked at the investigation papers I am satisfied that conduct of the investigation was appropriate and all information was considered in line with HSE's EPS, EMM and the Code for Crown Prosecutors⁵. I did not find evidence that Mrs ██████ investigation of your concern was superficial. I agree with Mrs ██████ conclusion that there was insufficient evidence to the criminal standard to support any legal proceedings against Cormac or Corserv Limited for either the reporting or investigation of the incident involving Mr ██████.

Mrs ██████ met with you on 15 November to fully understand your concerns. She informed you of her decision in an e-mail on 16 December 2019 and further corresponded with you on 23 December 2019. She also met with you again on 23 January 2020 to discuss her conclusions.

I accept that we did not sufficiently document the rationale for the approach we have taken. I have corrected this omission by setting out the rationale for our decision making in this letter. I also consider that, in line with my explanation of the application of the EMM in this matter, we should have formally written to Corserv to explain what Cormac did wrong; why it was wrong; and what we expected the company to do about it. Specifically, the misreporting of the injuries to Mr ██████ as on over 7-day injury rather than as a specified injury; an explanation of the legal requirements they had breached under RIDDOR; and finally, an explanation of the corrective action required. In respect of the latter point, this would have effectively acknowledged that Corserv had already taken the necessary corrective action. Mrs ██████ has now written to Corserv along these lines.

Mrs ██████ did not provide you with written records of the further information, lessons learnt, or improvements made by Cormac in respect of their internal accident reporting and investigation procedures. This is in line with HSE's policies and procedures on information sharing.

In closing, I would like to thank you for raising these issues with HSE. I hope my reply gives you reassurance that your complaint was correctly escalated, and the points raised were properly investigated. If you wish to take this matter further, you can ask the Parliamentary and Health Service Ombudsman⁶ to review your complaint via your Member of Parliament.

Yours sincerely,



Paul Hems
Acting Head of Operations, Construction Division, London, South East and East Anglia

⁵ The Code for Crown Prosecutors, available at:

https://www.cps.gov.uk/sites/default/files/documents/publications/code_2013_accessible_english.pdf

⁶ The Parliamentary and Health Service Ombudsman, available at: <https://www.ombudsman.org.uk/>