

[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@cornac ltd.co.uk

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

If you use the environmental message please use this format:



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.
 Address: Higher Trenant
 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 Richards 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 Richards has no recollection of the incident. Mr Richards 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: Mr Andrew Richards
Address: 8 Roseland Crescent
Town: TREGONY
County: CORNWALL
Post Code: TR2 5SA
Phone Number:
Gender: Male
Age: 52

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

Exhibit C

Paul Hooper
SHEQ Manager

CORMAC Collective
Telephone: 01872 32 4569

phooper@cormacltd.co.uk
Room 126 Higher Trenant Road, Wadebridge PL27 6TW
www.cornwall.gov.uk

 Please consider the environment before printing this email

From: [REDACTED]@hse.gov.uk [mailto:[REDACTED]@hse.gov.uk]
Sent: 05 October 2017 13:06
To: Hooper Paul
Subject: RE: amendments to incident 5CA19A2442

Dear Paul

I have forwarded your amendment request onto the RIDDOR team, they will add an internal note of the information you have provided, you will not receive an official amendment RIDDOR form of these changes the update info is purely kept for HSEs information purposes.

Thank you

Regards

[REDACTED] **Concerns and Advice Team (CAT) | Operational Services Division**
Health and Safety Executive | 2.3 Redgrave Court, Merton Road, Bootle L20 7HS



**Helping
Great Britain
work well**

**Find out more and join the conversation #HelpGBWorkWell.
Follow HSE on Twitter, YouTube, LinkedIn and Pinterest**

Visit our website for comprehensive health and safety information and guidance - www.hse.gov.uk

<http://www.hse.gov.uk/pubns/law.pdf>

HSE is not responsible for and cannot guarantee the accuracy of information on sites that it does not manage and a hyperlink does not mean HSE endorses the linked site.

From: Hooper Paul [mailto:phooper@cormacltd.co.uk]
Sent: 04 October 2017 13:04

To: [REDACTED]
Subject: amendments to incident 5CA19A2442

[REDACTED]
Thank you for your attention earlier when we discussed the possibility of making amendments to the detail of one of our notified incidents.

I advised you that there had been two amendments to the details on the initial report, which had subsequently become apparent during the course of the investigation.

Name of Original Notifier	Paul Hooper
Incident Reference Number	5CA19A2442
Injured Person's name	[REDACTED]
Incident Date	16/12/2016

The amendments are as follows:-

Within the section 'About the kind of incident'---'What Happened'-

Our information noted that '**[REDACTED] passed out and sustained a head injury while within the car park of our operational depot at Grampound Road**'.

There is no evidence that he actually lost consciousness.

Also, our report states that **[REDACTED] was found by 'a work colleague who took him to hospital'**

The work colleague actually called the emergency services and **[REDACTED] was taken to hospital by ambulance.**

As such, please amend the record to read, within the 'What Happened' section;-

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

Could you please confirm that, as per our earlier telephone discussion, we are making these amendments to ensure that our records align accurately with yours?

There has been no change to the Injured Person's condition, or the category of the injury.

Thanks and regards

 Paul Hooper
SHEQ Manager

CORMAC Collective
Telephone: 01872 32 4569

[REDACTED]
phooper@cormacldl.co.uk
Room 126 Higher Trenant Road, Wadebridge PL27 6TW
www.cornwall.gov.uk

 Please consider the environment before printing this email

CORMAC

info@cormacldl.co.uk cormacldl.co.uk

Exhibit D

[REDACTED]

From: [REDACTED]
Sent: 05 October 2017 14:35
To: [REDACTED]
Subject: FW: CONFIDENTIAL: amendments to RIDDOR notification 5CA19A2442 [REDACTED]

FYI. And the file

Sent with Good (www.good.com)

-----Original Message-----

From: Lee Martin
Sent: Thursday, October 05, 2017 02:21 PM GMT Standard Time
To: James Andy; [REDACTED]
Cc: Barnett Tony; [REDACTED]; Zmuda Richard; Hooper Paul
Subject: CONFIDENTIAL: amendments to RIDDOR notification 5CA19A2442 [REDACTED]

[REDACTED] Andy

You will have seen an email yesterday containing a response to an enquiry from Cllr Egerton about submission of a revised RIDDOR report regarding [REDACTED] incident and the fact that checks were made with HSE's Incident Contact Centre.

During the ICC contact an update was given verbally to HSE and we discussed the slight inaccuracies contained within the original submitted report. Some of these have raised questions I believe, albeit that the report was made in good faith based upon information understood at the time and the discrepancies were supporting information rather than direct aspects of what happened to [REDACTED] during the incident.

HSE have updated their RIDDOR record, simply to ensure that their held information aligns with ours. It is an amendment, not a re-submission of the notification and HSE will mark the conversation accordingly. They have sent an acknowledgement of the conversation and you can see the email thread below if you wish.

The 2 aspects altered are:

1. That although it was stated that [REDACTED] 'passed out', we did not subsequently have evidence as such, and..
2. That [REDACTED] was taken to hospital by ambulance rather than being driven.

This note is just to ensure that everyone is in the loop that HSE have updated their central record, in case the amendments come to light and other questions raised, so we can demonstrate when and why the changes were made by HSE.

Thanks

Martin.

From: Hooper Paul
Sent: 05 October 2017 13:22
To: Lee Martin
Subject: FW: amendments to incident 5CA19A2442

For info, see below

Ms C Robinson
Group Managing Director
Corserv Ltd
Higher Tennant
Wadebridge
Cornwall
PL27 6TW

Construction Division
Helena J Tinton
Principal Inspector

2 Rivergate
Temple Quay
Bristol
BS1 6EW

Tel: 020 3028 1800
helena.tinton@hse.gsi.gov.uk

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

Reference: 4622501

Head of Operations
Michael Thomas

Date: 16th April 2020

Dear Ms Robinson

RIDDOR INCIDENT 5CA19A2442

I am writing to you in relation to concerns raised with the Health and Safety Executive (HSE) by Cllr Egerton regarding your investigation and reporting procedures in respect of the above RIDDOR following the injury of Mr [REDACTED] on the 16th December 2016, as referenced in your letter to HSE dated 17th September 2019.

In addressing the ongoing concerns raised by Cllr Egerton I carried out a full review of the documentation provided by Cllr Egerton and the documentation provided by Corserv in November 2019. This review has identified that the RIDDOR report submitted by Cormac Solutions Limited, a subsidiary of Corserv Limited, on 27th January 2017 contained a number of errors, some of which are acknowledged in your previous letter, referenced above.

Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)

Under Regulation 4(1) of the above regulations Cormac Solutions Limited have a duty to ensure that an injury suffered by an employee at work is reported to the relevant enforcing authority, HSE, following the correct reporting procedure. In particular Reg 4(1) details those injuries which fall into a category of specified injuries:

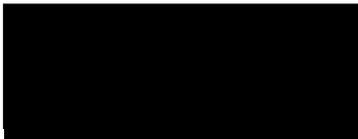
4(1)(a) any bone fracture diagnosed by a registered medical practitioner, other than to a finger, thumb or toe;

It is evident from my review of correspondence and documentation that Cormac Solutions Limited were aware at the time of reporting to HSE that the injury sustained by Mr [REDACTED], fractured skull, was a specified injury but the report did not reflect this recording the injury as an 'over 7 day injury' and only making reference to 'head injury'. Although meeting the requirement to submit a report in my opinion the content of the report constituted a breach of Reg 4(1)(a) of RIDDOR.

I was also concerned to identify that although initial enquiries were made in December 2016 a full investigation of the circumstances surrounding the injury to Mr [REDACTED] was not carried out until several months after the incident following concern raised with Cormac by Cllr Egerton.

Having carried out a full review my investigation concludes that the reporting procedures in place at the time of the incident fell short of what was required resulting in mis-reporting and delays in completing an incident investigation. In light of these failings and in line with HSEs Enforcement Management Model I have given due consideration to enforcement action in the form of an Improvement Notice (IN). However it is evident from discussion and documentation reviewed that there have been significant changes to your health and safety management systems in the intervening years which have improved your incident reporting policy and procedure making the issue of an IN unnecessary and inappropriate. Therefore, no further enforcement action will be taken in relation to this matter at this time.

Yours sincerely



Helena Tinton
HM Principal Inspector of Health and Safety

A CORNWALL
COUNCIL COMPANY

Mr Bob Egerton
Trevillick House
Fore Street
Grampound
Truro
TR2 4RS

My ref: DK/FOIA
Date: 17 June 2020

By email: bobegerton@mac.com

Dear Mr Egerton

Letter providing information as requested

Ref No: FOIA 101004930967

Thank you for your email dated 19 May 2020, in which you requested copies of the correspondence as exchanged between Cormac Solutions Limited ("Cormac") or Corserv Limited ("Corserv") and the Health Safety Executive ("HSE") from 17 September 2019 to 31 December 2019 and correspondence received from the HSE in April 2020; in relation to a health and safety incident which occurred at Cormac's Grampound Road depot on 16 December 2016.

We are responding to your email as a request under the Freedom of Information Act 2000 ("FOIA").

The questions you raised in your email were as follows:

1. Copy of all information, reports, emails, letters that were posted or emailed to the Health and Safety Executive, or handed over in meetings with the HSE, by Cormac and/or Corserv in the period from 17 September 2019 to 31 December 2019 in relation to a health and safety incident that occurred at your Grampound Road depot on 16 December 2016. Including, but not limited to, any changes in health and safety reporting procedures, RIDDOR reporting procedures made as a result of investigating the incident.

Answer:

Please find enclosed copies of the correspondence covering the period from 17 September 2019 to 31 December 2019. Please note personal data included within this correspondence has been redacted in accordance with Section 40 (personal data) of the FOIA.

In the meeting between the Corserv Group HSEQ Director and the HSE on 31 October 2019, the following documentation was provided by Corserv to the HSE:

- i) *A copy of the internal investigation report (relating to the incident);*



A Cornwall Council Company
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



- ii) *copies of the employee's Statement of Fitness for Work (FIT) notes; and*
- iii) *the Company's RIDDOR reporting checklist.*

A copy of the internal investigation report is enclosed with personal data redacted.

Copies of the employee's FIT notes were also provided by Corserv during this meeting. These documents have not been disclosed as they contain special category data relating to health, which constitutes personal data under the General Data Protection Regulation (GDPR). Disclosing such data would breach the principles of fair and lawful processing as set out in the GDPR.

You asked whether any changes in health and safety reporting procedures or RIDDOR reporting procedures have been made as a result of investigating this incident. Corserv and Cormac have strengthened their incident reporting systems; documented through use of the enclosed RIDDOR reporting checklist. This document provides guidance to employees on how to correctly identify and subsequently notify a reportable injury sustained at work. The form includes facility for checks at senior level by the HSEQ team at Corserv.

2. Copy of the letter sent by HSE to Cormac/Corserv in April 2020 advising of the HSE findings and recommendations in relation to the above incident.

Answer:

A copy of the letter from the HSE to Cormac / Corserv dated 16 April 2020 is enclosed. Please note personal data has been redacted in accordance with section 40 of the FOIA.

The information you requested in your email has been addressed as above.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Richard Zmuda, Group Data Protection Officer, Corserv Limited, Higher Trenant, Wadebridge PL27 6TW.

Please remember to quote the reference number above in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



D Kinnair
Assistant Company Secretary

For and on behalf of Corserv Limited

Enc.

Contents:	Page
• Executive Summary	3
Part1	
• Background	4
• Timeline	7
• Incident Details	8
Part 2	
• Analysis	9
Part 2 may contain confidential information and should not be released to third parties without authorisation from Cormac Managing Director.	
Part 3	
• Causation	11
Part 4	
• Recommendations	
Part 5	
• Appendices	

*Contents page from
incident report
presented to HSE*

Contents:	Page
• Executive Summary	3
Part1	
• Background	4
• Timeline	7
• Incident Details	8
Part 2	
• Analysis	9
Part 2 may contain confidential information and should not be released to third parties without authorisation from Cormac Managing Director.	
Part 3	
• Causation	11
Part 4	
• Appendices	

Exhibit H

From: David Kinnair david.kinnair@corservltd.co.uk
Subject: RE: FOI Case Logged - 101005065769 - Further information request
Date: 13 October 2020 at 11:40
To: Bob Egerton bobegerton@mac.com

DK

Information Classification: CONTROLLED

Dear Mr Egerton

In relation to your email below relating to FOI - 101005065769 , please see answers to the supplementary questions that you asked:

1. The date on which the RIDDOR reporting checklist was first published.

Response: The Corserv RIDDOR checklist was introduced in July 2019, in order to bolster the existing reporting arrangements for health and safety incidents across the Corserv Group of Companies.

- 2) To whom within Cormac/Corserv was the checklist distributed and by what means.

Response: The RIDDOR checklist was issued to the Corserv HSEQ team; being the team responsible for the reporting of health and safety incidents to the Health and Safety Executive.

No other managers within the businesses are permitted to use this form as reporting is centralised through the HSEQ team.

Kind Regards

David

David Kinnair
Assistant Company Secretary
Corserv Limited
Group Company Secretariat Office
David.kinnair@corservltd.co.uk
www.corservltd.co.uk

From: Bob Egerton <bobegerton@mac.com>
Sent: 20 September 2020 16:35
To: David Kinnair <david.kinnair@corservltd.co.uk>
Cc: Lesley Harrold <lesley.harrold@corservltd.co.uk>
Subject: Re: FOI Case Logged - 101005065769 - Further information request

Dear Mr Kinnair

Thank you for the response to my recent FOI request.

As a result of the information provided in your response, I have a further FOI request as follows:

With regard to the new RIDDOR reporting checklist, could you please advise:

- 1) The date on which that checklist was first published.
- 2) To whom within Cormac/Corserv was the checklist distributed and by what means.

Many thanks.

Work related
 If any of the following played a significant role

- The way the work was carried out
- Any machinery, plant, substance or equipment used for work
- The condition of site or premises were the accident happened

Specified Injuries

- 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:
 1. Covers more than 10% of the body
 2. Causes significant damage to the eyes, respiratory system or other vital organs
- Any scalding requiring hospital treatment
- Any loss of consciousness caused by head injury or asphyxia
- Any other injury arising from working in enclosed space which:
 1. Leads to hypothermia or heat-induced illness
 2. Requires resuscitation or admittance to hospital for more than 24 hours

'Over-7-day' Injuries/Incapacitation
 Was the injured party (IP) away from work or unable to perform their normal work duties for more than 7 consecutive days? (Not counting the day of the accident)

Reportable Dangerous Occurrence
 Dangerous occurrences are certain, specified near-miss events. Not all such events require reporting.

There are 27 categories of dangerous occurrences that are relevant to most workplaces, for example:

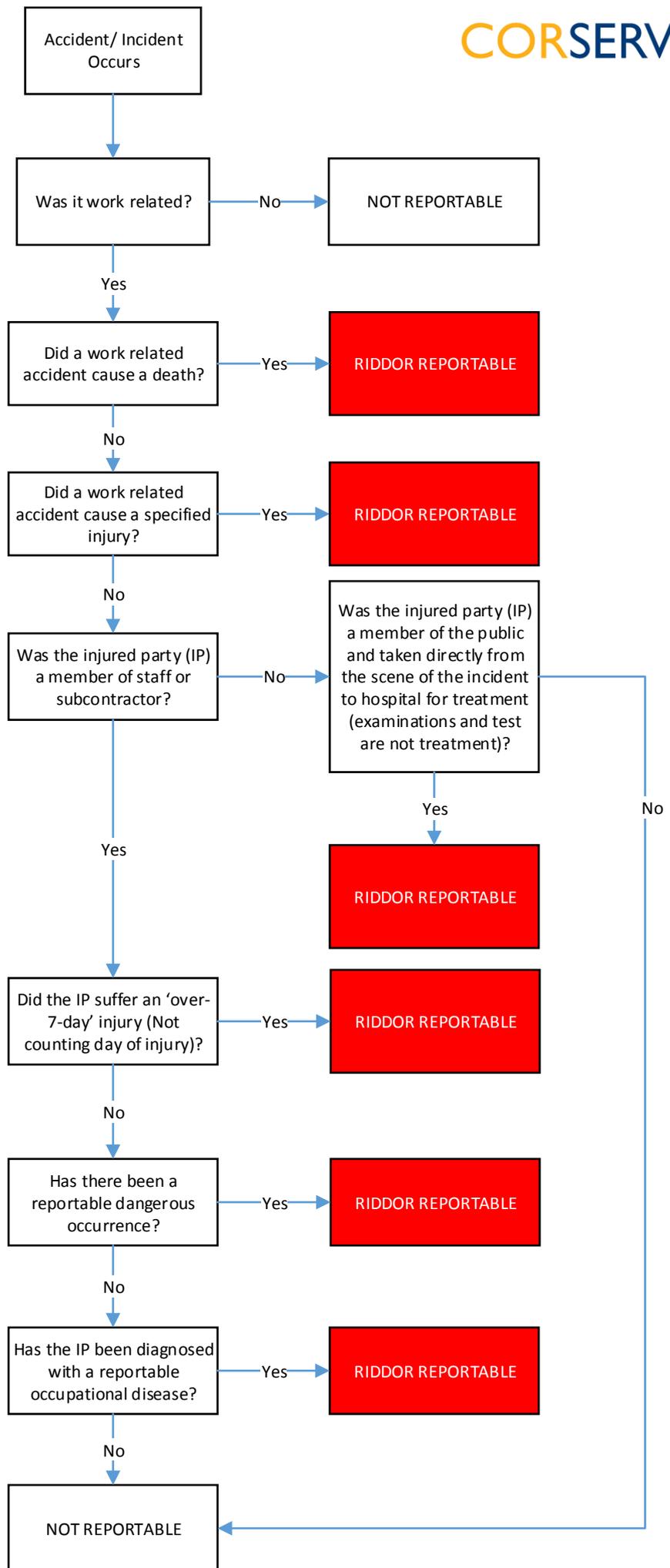
- The collapse, overturning or failure of load-bearing parts of lifts and lifting equipment
- Plant or equipment coming into contact with overhead power lines.
- The accidental release of any substances which could cause injury to any person.

The full list of dangerous occurrences can be found in [Schedule 2 of RIDDOR](#)

If you suspect that a reportable dangerous occurrence has occurred, please contact a Health and Safety Manager

Reportable Occupational Disease
 The diagnoses of certain occupational diseases may be reportable where they are likely to have been caused or made worse by their work: These diseases include:

- Carpal tunnel syndrome
- Severe cramp of the hand or forearm
- Occupational dermatitis
- Hand-arm vibration syndrome
- Occupational asthma
- Tendonitis or tenosynovitis of the hand or forearm
- Any occupational cancer
- Any disease attributed to an occupational exposure to a biological agent



Name of injured party:

Status: Employee MOP

Date of incident:

Entropy Ref:

Brief descriptions of injury:

Is the incident Reportable under RIDDOR? Yes No

If yes – what is the reporting category? Specified O7D DO Occ Disease

Incident assessor:

Date:

Checked by:

Date:

If required, Incident reported by:

Date:

RIDDOR reference number:

Attach copy of this assessment form AND RIDDOR incident report to Entropy file

Exhibit I metadata

Document Information

Title:

Author:

Subject:

Keywords:

Created: 18 Sep 2019 at 15:32

Modified: 18 Sep 2019 at 15:32

File Size: 236.534 KB

Page Count: 2

Page Size: 594.8 pts x 841.5 pts

Application: Microsoft® Visio® 2016

Producer: Microsoft® Visio® 2016

Exhibit J

From: David Kinnair david.kinnair@corservltd.co.uk
Subject: RE: FOI Case Logged - 101005065769 - Further information request
Date: 30 October 2020 at 12:45
To: Bob Egerton bobegerton@mac.com

DK

Information Classification: CONTROLLED

Dear Mr Egerton

Thank you for your emails dated 21 October and 27 October 2020; in which you have requested a copy of the Microsoft Visio file in respect of the Corserv Group RIDDOR checklist, copy as previously provided to you in PDF format.

Unfortunately, we are unable to provide a copy of the Microsoft Visio digital file as it was not required after its conversion into the interactive PDF file following its development and was therefore deleted when the PDF version was finalised.

As we continually seek to improve our quality management systems, for which we are audited bi-annually by our external verifiers; BSI, the form was conceived to bolster our existing safety systems and demonstrate continual improvement required by the ISO quality and safety standards.

The document was initially discussed and developed informally by the HSEQ team during late July and August 2019, culminating in the interactive digital form being produced during early September, to a final version as provided to you; dated the 18th September 2019.

We have replied as transparently and fully as possible to a number of emails from yourself in respect of the Andrew Richard's case. However, going forward we are unable to continue to provide information in reply to email correspondence due to the prohibitive costs on our business associated with responding to such email correspondence.

As you are aware we have worked with you in respect of this case over a number of years (since October 2017) and have over time provided you with full documentation in respect of this matter; however, in the interests of the costs on our business we are no longer able to provide you with information as we have already significantly exceeded our costs of compliance.

Yours sincerely

David

David Kinnair
Assistant Company Secretary
Corserv Limited

Corserv Limited
Group Company Secretariat Office
David.kinnair@corservltd.co.uk
www.corservltd.co.uk

From: Bob Egerton <bobegerton@mac.com>
Sent: 27 October 2020 09:00
To: David Kinnair <david.kinnair@corservltd.co.uk>
Subject: Fwd: FOI Case Logged - 101005065769 - Further information request

Dear Mr Kinnair

I have received no response or even an acknowledgement of my email to you of 21 October, see below.

If I do not hear from you by close of business today, I will assume that you have no intention of sending me the Microsoft Visio file, for obvious reasons.

I will act accordingly.

Yours sincerely

Bob Egerton

Bob Egerton, Cornwall Councillor, Probus, Tregony and Grampound Division
Trevillick House, Fore Street, Grampound, Truro TR2 4RS
Tel: 01726 884451 • Mobile: 07785 748844
www.bobegerton.info

Begin forwarded message:

From: Bob Egerton <bobegerton@mac.com>
Subject: Re: FOI Case Logged - 101005065769 - Further information request
Date: 21 October 2020 at 11:18:03 BST
To: David Kinnair <david.kinnair@corservltd.co.uk>

Dear Mr Kinnair

Further to your email of 13 October, the RIDDOR checklist that you sent me was a pdf file created on 18 September 2019.

The document was originally created using Microsoft Visio. Would you please send me a copy of the original Microsoft Visio document so that I can check the date on which that was created?

Many thanks.

Bob Egerton

Bob Egerton, Cornwall Councillor, Probus, Tregony and Grampound Division
Trevillick House, Fore Street, Grampound, Truro TR2 4RS
Tel: 01726 884451 • Mobile: 07785 748844
www.bobegerton.info

Exhibit K

From: German Julian CC julian.german@cornwallcouncillors.org.uk
Subject: Re: Local casework
Date: 9 March 2020 at 15:40
To: Egerton Bob CC bob.egerton@cornwallcouncillors.org.uk
Cc: Sims Charlie Charlie.Sims@cornwall.gov.uk

JG

Dear Bob,

Thank you for your email and letting me know. I have OSC tomorrow so can come out of that, or Wednesday 1-2pm would be good.

I would welcome talking with you so if neither of these work for you, let me know and I will move other commitments.

Best wishes, Julian

From: Egerton Bob CC <bob.egerton@cornwallcouncillors.org.uk>
Sent: 09 March 2020 14:26:12
To: German Julian CC <julian.german@cornwallcouncillors.org.uk>
Cc: Sims Charlie <Charlie.Sims@cornwall.gov.uk>
Subject: Local casework

Dear Julian

Please note that I will be out of the office for the next few days as I need to attend to an urgent piece of local casework.

Would you please let me know within the next couple of days what action you are taking in respect of the issue that we discussed this morning.

Charlie: would you please send my apologies for the small number of meetings that I have scheduled for the rest of this week.

Many thanks.

Bob

Bob Egerton, Cornwall Councillor Probus, Tregony and Grampound
Cabinet member for Culture, Economy and Planning
Mobile: 07785 748844
Tel: 01872 322571

Exhibit L

From: julian german <juliangerman@hotmail.co.uk>
Subject: Re: Cormac incident
Date: 29 March 2020 at 19:53
To: Bob Egerton <bobegerton@mac.com>

JG

Hi Bob, yes, will do.

Best wishes, Julian

From: Bob Egerton <bobegerton@mac.com>
Sent: 28 March 2020 17:00
To: julian german <juliangerman@hotmail.co.uk>
Subject: Cormac incident

Hi Julian

I should be grateful if you could find out from Kate within the next two weeks if she intends to do anything about Andrew Richards.

Many thanks.

Bob

Exhibit M

Dear Cabinet colleagues

At Cabinet pre-brief on 9 March, I presented you with a report on Andrew Richards, ex Cormac employee. I provided evidence about what had happened to Andrew in an incident at work in December 2016, and what actions, or lack of actions, Cormac had taken in respect of the incident. The conclusion that I drew from the evidence was that Cormac lied about the incident, and when confronted by me about their failures, they continued to lie and to try to cover it up. I alleged that the chief executives of Corserv and Cornwall Council were complicit in the cover-ups. I asked you to take action and to instruct the chief executive to apologise to Andrew and to offer a reasonable sum in compensation to atone for the failings of the organisation. I did not ask you to sack the chief executive, although I felt that it was a very serious mistake that she had made. I did not feel that I had to prove my case beyond all reasonable doubt; she was not being prosecuted for a criminal offence. I asked you to consider that, on the balance of probabilities, my interpretation of events was sufficiently robust that you would support the action that I had asked for.

At the meeting, you did not support my position but I was advised that the Leader would consider what steps should be taken. I understand that Julian has had conversations with the chief executive and that she is still maintaining that there is no case to answer.

It is now nearly 6 weeks since I presented you with the report. I think that it is not unreasonable that you should now make a decision on this matter. You need to decide if you are sufficiently persuaded that the chief executive has been negligent in her dealings with this matter and that she should do what I requested, i.e. issue an apology and offer of compensation. That would then be the end of the matter. If you are not sufficiently persuaded of the case that I have made, then I must conclude that you do not have confidence in my judgment as a Cabinet colleague and I will be obliged to resign from the Cabinet. There is no way that I could countenance continuing to sit in Cabinet meetings with the chief executive present where she would know that you have not supported one of your colleagues on this matter.

I would ask, therefore, that you reach a decision at Cabinet pre brief on Monday. I will not be attending that meeting or the subsequent IPHB. Please let me know by close of play on Monday what you have decided.

Best wishes
Bob Egerton

Exhibit N


From: Julian German CC
Sent: 20 April 2020 12:44
To: Adam Paynter CC; Andrew Mitchell CC; Edwina Hannaford CC; Geoff Brown CC; Mike Eathorne-Gibbons CC; Rob Nolan CC; Rob Rotchell CC; Sally Hawken CC
Subject: Bob

Hi, to let you know that I have updated Bob with where I am in relation to his issue and Bob will be joining us for prebrief and IPHB.

Best wishes, Julian

Exhibit O

From: julian german juliangerman@hotmail.co.uk

Subject: Bob's resignation

Date: 27 April 2020 at 15:03

To: CAROLYN RULE Carolynrule@aol.com, andrewmitchell.stives@googlemail.com, andrew.wallis@cornwallcouncillors.org.uk, armand.toms@googlemail.com, bertbiscoe@btinternet.com, bobegerton@mac.com, davidsaunby@talktalk.net, dahdigger-goods@yahoo.co.uk, fredgreenslade@btinternet.com, george.trubody@btinternet.com, gcoad@btinternet.com, ianthomas@thomas-isl.com, jim@bmcassociates.co.uk, john@djpollard.co.uk, john.thomas@cornwallcouncillors.org.uk, johnchillbrook@gmail.com, julianrand@yahoo.co.uk, loicjrlich@gmail.com, mark.kaczmarek@cornwallcouncillors.org.uk, mary.may@cornwallcouncillors.org.uk, michael.callan@cornwallcouncillors.org.uk, eg@donningtongroup.co.uk, mr.mhthomas@gmail.com, neil@neilburden.com, whitey43@talktalk.net, paul.wills46@sky.com, roberthendry885@btinternet.com, robinmoor3053@aol.com, sallyhawken@hotmail.co.uk, seheyward@yahoo.com, sandraheyward152@gmail.com, timdwelly@gmail.com

JG

Dear Colleagues,

There are various emails flying around in relation to Bob's resignation. I would like to reassure you that I have investigated this matter fully and have found that Bob's accusations do not stand up.

Of course, Bob and I do not agree on this.

However, if you read all the papers that Bob has made public you will also see that Union solicitors did not pursue a case and that the Health and Safety Executive took no action following their investigation. I took Bob's accusations very seriously but found them to be unsubstantiated.

There was an accident at work and I have every sympathy with the individual, but an accident does not mean that there has been negligence. I hope the fact that I have investigated this matter fully provides you with reassurance on this.

In Bob's email to all Councillors, he said that the Chief Executive refused to do anything about it. This is not the case. Each time Bob has met with the Chief Executive on this matter action has followed. Obviously Bob is not happy with the outcome but this does not mean that his concerns have not been fully investigated, they have.

I hope this helps with you understanding of the matter.

Best wishes, Julian



Reference Number: (e.g. FOI-101005001388)

Response provided under: Freedom of Information Act 2000

Request and Response:

Please provide a copy of the investigation that the Leader of Cornwall Council carried out in respect of the Cormac health and safety incident at Grampound Road depot on 16 December 2016.

For background information:

On 27 April 2020, the Leader emailed all members of the independent group of councillors in respect of the Cormac health and safety incident:

"Dear Colleagues,

There are various emails flying around in relation to Bob's resignation. I would like to reassure you that I have investigated this matter fully and have found that Bob's accusations do not stand up.

Of course, Bob and I do not agree on this.

However, if you read all the papers that Bob has made public you will also see that Union solicitors did not pursue a case and that the Health and Safety Executive took no action following their investigation. I took Bob's accusations very seriously but found them to be unsubstantiated.

There was an accident at work and I have every sympathy with the individual, but an accident does not mean that there has been negligence. I hope the fact that I have investigated this matter fully provides you with reassurance on this.

In Bob's email to all Councillors, he said that the Chief Executive refused to do anything about it. This is not the case. Each time Bob has met with the Chief Executive on this matter action has followed. Obviously Bob is not happy with the outcome but this does not mean that his concerns have not been fully investigated, they have.

I hope this helps with you understanding of the matter.

Best wishes, Julian"

At today's Full Council meeting, I asked the Leader to send to all members a report on his investigation. He refused to release that report on the grounds that the information was "confidential".

I request that you release the information that I requested (i.e. a copy of the investigation carried out by the Leader into the Cormac health and safety incident) under the criteria set by the Freedom of Information Act. This



means that you will need to test whether or not any of the information within that investigation is exempt from disclosure.

The Council has decided after reviewing this request that the information within the scope of the request should be withheld from disclosure to you pursuant to the provisions of Sections s40(2) (Personal Information) and s41 (Information Provided in Confidence) with this supported by the exemption found at s38 (Health and Safety) of the Freedom of Information Act (“the Act”).

The Leaders findings were in line with those of the employer and he was satisfied with the actions and learning undertaken however, it is considered that documentation relating to this matter is exempt and as both s40(2) and s41 are absolute exemptions no public interest test will be carried out.

Information provided by: Assurance Services

Date of response: 21 July 2020



Mr B Egerton

By Email

bobegerton@mac.com

Your ref:

My ref: FOI-101005001388

Date: 18th August 2020

Dear Mr Egerton

Your request for an Internal Review under the Freedom of Information Act 2000

Thank you for your email dated in which you asked the Council to review the response provided to you in relation to your FOI request for a copy of the Leader's investigation into the Cormac incident and I am sorry to hear that you were unhappy with the response.

My understanding is that you do not believe that the information should have been withheld and would like the exemptions used to be reconsidered.

How I reached my view

In reviewing the case, the information that I have considered includes the following:

- Your original request
- The original response
- Any exemptions or exceptions applied
- The Public Interest Test and decision (where applicable)
- Procedures used in your original response
- Previous Decision Notices issued by the Information Commissioner's Office

My final view

After reviewing the case as an independent reviewer, my conclusion is that there is not a copy of an investigation report held. Whilst there are reports pertaining to the incident, the Leader did not produce a further report. He assessed the information within the existing reports and had meetings and conversations to question them. He then assimilated all of this information and came to a conclusion about the accusations that were made.



I can confirm that as part of the Leader's investigations, that correspondence is held in connection with the Leader liaising with other parties in relation the matter, but this is not a report on the outcome. Where any correspondence may be deemed as being within scope of the request, I am of the view that the documentation should continue to be withheld under sections 40(2), 41 and 38. The rationale and reasons for this are as follows:

Section 40(2) – Personal Information

The correspondence relates to an incident involving an individual and also relating to other third-party individuals. Therefore, the Council would not look to release this personal information under data protection provisions and we are therefore withholding this information under Section 40 (2) (Personal Information) of the Act, as release could potentially identify individuals, third parties or personal information relating to these individuals. As it involves an accident, it can be assumed that there would be sensitive personal data of which GDPR classifies health as included within this definition. We must also consider that release of the information under FOI is release to the world at large and therefore the expectation is that with information of this nature it would not be fair, lawful or appropriate to release. We note your comments on the individual in question giving their consent. However, this does not cover disclosure to the world at large, it was not supplied by the individual themselves and even where someone consents to release there are factors that must be considered, including the inappropriate release under FOI into the wider public domain. As highlighted, there is also information relating to other third parties.

Section 40 (2) applies where disclosure of third-party personal information would breach any of the Data Protection Act 2018 principles. The Council has a legal requirement under the Data Protection Act 2018 ("DPA") to process personal data fairly and lawfully. The Council considers that releasing third party personal information would be unfair and as such a disclosure that would breach principle one of the DPA.

This is an absolute exemption and therefore no public interest test is required. However, we have considered whether release would involve processing personal data lawfully, fairly and in a transparent manner and is set out as follows:

The information is fundamentally concerning an incident relating to an individual, who is therefore an integral part of the original investigation and the subsequent investigation by the Leader. We acknowledge that you have sent a copy of letter to the Council and Cormac from the individual involved.



However, this was not received from the individual directly and this has now been requested directly from the requestor by Cormac, the separate entity, to whom the information fundamentally relates to. To fully apply under data protection and GDPR provisions, an individual must give their consent freely to the specific disclosure, with the understanding that their personal data will be disclosed to a requestor and therefore potentially to the world at large. As this cannot be confirmed at this time and we still cannot be aware of whether the requestor has given consent freely as defined under GDPR provisions, the condition does not apply. Notwithstanding this, we are of the view that even if the individual consents to release, given the nature of the information being requested, that it is not appropriate to release information into the wider public domain under FOI provisions.

Going on to consider legitimate interests in releasing any personal information, we have considered the purpose, necessity and balancing test.

Purpose – the Council does not consider that it is appropriate to release the information to the world at large given the nature of the issue. The incident relates to a separate public body for which we hold information imparted in confidence and for which has been fully investigated by that body – Cormac. Additionally, it relates to personal information relating to an individual which is no appropriate to release into the wider public domain.

Necessity – as highlighted, the issue that the request relates to is that belonging to a separate public body. Releasing information would serve no additional purpose to a detailed investigation that Cormac have already undertaken and the investigation by the Leader was to provide some additional assurance to Members that the investigation was conducted appropriately. There has been no evidence of wrongdoing, the Health & Safety Executive have decided to take no further action and other avenues to obtain information are open which would not involve the inappropriate disclosure of information into the public domain.

Balancing Test – As the Council does not believe that there is a purpose or necessity to release the information, there is no need to consider a balancing test. However, for the purposes of what we could consider, the following would apply. We cannot foresee what harm or distress may result in release of the information into the wider public domain. This does not mean that there may be reasonable expectation of the individual to obtain further information in relation to the issue. However, there are other means of access to this information which would not result in wider release to the public and as highlighted, the investigation is fundamentally relating to an issue concerning a separate public body and which has been investigated fully.



We acknowledge the fact that a copy of an authorisation letter has been received, but as highlighted this does not automatically mean that the information should be released under FOI provisions.

As also highlighted, there is also personal data relating to other third parties which would not be appropriate to release.

Section 41 – information Provided in Confidence

The exemption has been applied where the information has been obtained from Cormac, for whom the details of the incident relates to. For the exemption to apply, it needs to be shown that the Council must have obtained the information from another person, disclosure must constitute a breach of confidence, a legal person or entity must be able to bring an action for the breach of confidence to court, and that court action must be likely to succeed. Information provided by Cormac to the Leader as part of the investigation would have been on the expectation that this would remain confidential and not be released.

The investigation involves an incident and subsequent follow up to this which was not related to the Council, but a separate organisation. The issue was investigated by the Leader so that he could be satisfied with the situation and actions subsequent to the incident occurring in order to be able to assure Members and anyone else interested that this was all appropriate. The Leader has communicated that he is satisfied with the situation. Any release of information would impart information that does not relate to an issue within the Council's remit and the Council cannot risk releasing information which could ultimately involve action being taken by either Corserv/Cormac or indeed other individuals including the staff member involved, if information relating to this case is released. The test for this exemption is that there is a potential for legal action to be taken, not that it will be taken.

As this is an absolute exemption no public interest test is required. However, we need to carry out a test to determine the likelihood of a public interest defence for the breach of confidence. The starting point for this test under FOI is that the duty of confidence is maintained, unless public interest arguments override this.



Factors in favour of release

The Council aims to be as open and transparent as possible at all times. Therefore, release of the information would be in line with this aim and provide the wider public with information relating to the incident, follow up investigation by Cormac and subsequent investigation by the Leader.

In addition to this, release would help the wider public to understand whether all actions taken correctly and appropriately and provide assurance that a similar incident would not occur where lessons could be learned, if any and applicable.

The incident has been covered in the local media and therefore has been a story of interest to the public.

Factors for maintaining the exemption

There has been no suggestion of any wrongdoing in Cormac's internal investigation, the Health and Safety Executive decided to take no further action and the Leader's follow up was to provide further reassurance both to himself and Members.

Disclosure of information provided by Cormac (a wholly owned company of the Council, but a data controller and public body in its own right) to the Council with an expectation of confidence would undermine the relationship between the 2 entities and could jeopardise or prejudice any future working on such similar matters or otherwise, reducing trust and discouraging, reducing or even preventing partnership working on matters where flow of information is required and advantageous between the 2 organisations.

Releasing information that could potentially identify an individual or individuals on a particularly sensitive matter to the wider world would not be appropriate. Other than media attention and FOI requests from a sole requestor, there has not been a demand from the wider public or otherwise on wishing to identify further information in relation to the case in hand. It would not be appropriate for the Council to place info into the public domain in relation to this incident, both from the confidentiality perspective of information relating to a separate body to which the incident is related to and also the individual involved and any distress this could cause by the information being made available to the wider public and inevitably appearing in the local media.



If this information was requested as part of any separate legal action by any of the individuals involved or any other third party, then there would be appropriate routes for this and confidentiality maintained as part of the legal process.

In conclusion, based on the factors highlighted above we are of the opinion that the public interest defence is applicable.

Section 38 – Health & Safety

As highlighted in the original response, it is considered that Section 38 – Health and Safety also applies to this scenario given that release of information could place information relating to an incident and conversely details relating to the individual concerned into the public domain. We do not believe that this is appropriate due to the nature of the incident and the potential distress this could potentially cause to individuals concerned by releasing details into the public domain and the wider public and media interest this would cause, on a matter that has been fully investigated previously by the body (Cormac) that the incident relates to.

As Section 38 is a qualified exemption, a public interest test has been applied.

Factors in favour of release

The Council aims to be as open and transparent as possible at all times and wherever possible. Therefore, release of the information would be in line with this aim and provide the wider public with information relating to the incident, follow up investigation by Cormac and subsequent investigation by the Leader. In addition to this, release would help the wider public to understand whether all actions taken correctly and appropriately and provide assurance that a similar incident would not occur where lessons could be learned, if any and applicable.

The incident has been covered in the local media and therefore has been a story of interest to the public.

Factors for maintaining the exemption

The Council does not believe it is fair or right to place information into the wider public domain of which the circumstances relate to an individual and the incident they were involved with. We would not wish to cause any distress to the individual involved by placing information into the public domain, particularly given that it is information relating to another body's issue.



We need to consider the physical or mental health of anyone connected to the incident and other members of the public or persons connected to the accident need to be considered when disclosure to 'the world at large' is being made under FOIA

Releasing information that could potentially identify an individual or individuals on a particularly sensitive matter to the wider world would not be appropriate. Other than media attention and FOI requests from a sole requestor, there has not been a demand from the wider public or otherwise on wishing to identify further information in relation to the case in hand. It would not be appropriate for the Council to place info into the public domain in relation to this incident, both from the confidentiality perspective of information relating to a separate body to which the incident is related to and also the individual involved and any distress this could cause by the information being made available to the wider public and inevitably appearing in the local media.

The investigation involves an incident and subsequent follow up to this which was not related to the Council, but a separate organisation, Cormac and an employee of that entity. The issue was investigated by the Leader so that he could be satisfied with the situation and actions subsequent to the incident occurring in order to be able to assure Members and anyone else interested that this was all appropriate. The Leader has communicated that he is satisfied with the situation. Any release of information would impart information that does not relate to an issue within the Council's remit, involved information imparted in confidence and potentially divulges information relating to an individual and state of health, as well as other third parties.

In conclusion, based on the factors highlighted above we are of the opinion that the balance of public interest favours non-disclosure of this information at this time.

If this does not resolve the matter to your satisfaction, you have the right to ask the Information Commissioner's Office (ICO) to review the case, the contact details of whom are:



FOI/EIR Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
Email: casework@ico.org.uk

Yours sincerely

David Foy
Deputy Information Governance Manager
Assurance Service

Cornwall Council ("the Council") will use reasonable endeavours to ensure that the information provided in response to your request is complete, subject to any information that may be withheld in accordance with the Act. However, the Council accepts no responsibility for any loss or damage incurred as a result of you acting on or refraining to act on information or other material disclosed to you in accordance with your request.

Cornwall Council, County Hall
Truro, TR1 3AY
Tel: 0300 1234 100 www.cornwall.gov.uk



Reference Number: FOI-101005065759

Response provided under: Freedom of Information Act 2000

Request and Response:

1. Could you please provide me with a list of the “actions” taken by Cormac/Corserv as a result of the incident and the “learning” from the incident. I cannot see how actions or learning in respect of a health and safety incident could be anything to do with personal information or be confidential.

The list of actions and learning are within Corserv/Cormac’s remit and as such, available from them under section 21 of the FOI Act (reasonably accessible by other means) and they will be responding separately as requested. Although the Council holds some information, this has been supplied in confidence by Corserv/Cormac and therefore exempt under section 41 of the FOI Act (information provided in confidence).

2. Could you please provide me with copies (redacted if necessary) of any other reports pertaining to the incident produced either prior to the summer 2017 report or after it, prepared either by Cormac/Corserv or by Cornwall Council. If you are not prepared to release the additional reports, please at least provide me with dates of when the reports were prepared, who prepared them, who received copies of them.

No other reports were produced by the Council. Cormac/Corserv will respond separately as you have requested, with information on whether they produced any further reports on the matter, other than the summer 2017 report.

3. He [the Leader] assessed the information within the existing reports and had meetings and conversations to question them.” Could you please provide me with a list of meetings and conversations that the Leader had: dates and whom he met or had conversations with?



Meetings and conversations took place regarding the matter, but where these took place as part of other matters, conversations or catch up meetings, these are not recorded and therefore details not held. However, it can be confirmed that calls took place on the matter with Mel O’Sullivan, Monitoring Officer on the following dates: 29 April, 5 May, 19 May, 29 May 2020.

Information provided by: Assurance Service

Date of response: 17 September 2020

A CORNWALL
COUNCIL COMPANY

Mr Bob Egerton
Trevillick House
Fore Street
Grampound
Truro
TR2 4RS

Your ref:

My ref:

Date: 17 September 2020

By email: bobegerton@mac.com

17 September 2020

Dear Mr Egerton

Letter providing information as requested

Ref No: FOIA / 101005065769

We write in response to your email to David Foy (Deputy Information Governance Officer – Cornwall Council) of 19 August 2020 (sent at 14:40 hours) where, further to the internal review of our letter of 17 June 2020, you requested further information relating to the health and safety incident which occurred at Cormac Solution Limited's ("Cormac") Grampound Road depot on 16 December 2016.

We are responding to your email as a request under the Freedom of Information Act 2000 ("FOIA"). This letter responds to questions 1 and 2 of your email.

The questions you raised in your email were as follows:

1. Could you please provide me with a list of the "actions" taken by Cormac/Corserv as a result of the incident and the "learning" from the incident.

In our letter of 17 June 2020, we confirmed that the RIDDOR reporting checklist was an 'action' that was implemented as a result of Cormac's investigation of this incident. This document provides guidance to employees on how to correctly identify and subsequently notify a reportable injury sustained at work and forms an integral part of Corserv and Cormac's health and safety reporting procedures. The form includes facility for checks at senior level by the HSEQ team at Corserv. A further copy of this document is enclosed with this letter.

Cormac provided a copy of the RIDDOR document to the Health and Safety Executive to inform their investigation.



A Cornwall Council Company

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 Health and Safety Executive confirmed to Corserv, by letter dated 16 April 2020 (a redacted version of which was disclosed to you in our letter of 17 June 2020) that it was satisfied with the significant changes Cormac has made to its health and safety management systems, (following the incident), which had improved its incident reporting policy and procedure.

The 'learnings' from the investigation were that Cormac could not identify a clear link to the incident being work related, or with any particular identifiable cause.

In addition, one of the learnings was to create better links to improve reporting, from HR, who receive copies of Occupational Health and medical appointments and the Health and Safety team who only had sight of GP certificates; which provide a classification of illness.

2. Could you please provide me with copies (redacted if necessary) of any other reports pertaining to the incident produced either prior to the summer 2017 report or after it, prepared either by Cormac/Corserv or by Cornwall Council. If you are not prepared to release the additional reports, please at least provide me with dates of when the reports were prepared, who prepared them, who received copies of them.

We confirm that no alternate versions of the report were prepared by Cormac or Corserv, other than minor administrative changes including formatting and section renumbering.

The information you requested in your email has been addressed as above.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



David Kinnair
Assistant Company Secretary
For and on behalf of Corserv Limited

Enc.