

**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

Andrew Richards, 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 Andrew Richards 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 Andrew Richards that they are not going to pursue the case. However, as part of the initial claim process, documents have been obtained by Andrew Richards, 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

Trevillick House, Fore Street, Grampound, Truro TR2 4RS • Tel: 01726 884451 • Mobile: 07785 748844
www.bobegerton.info • Email: bobegerton@mac.com

Please note that the opinions expressed in this letter are those of Bob Egerton personally and do not necessarily represent those of Cornwall Council

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 Andrew's 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 Andrew's injuries were clear, it is possible that the cause of the accident could have been determined and that Andrew could have received appropriate compensation for those life-changing injuries. I, therefore, expect Cormac to issue an unreserved apology to Andrew Richards 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

CONFIDENTIAL: Andrew Richards, Cormac employee

Briefing note given to Kate Kennally and to Tony Barnett in meetings with them on 16 August 2017

Andrew's details

Andrew Richards is an employee of Cormac Solutions. He has been employed as a road safety inspector operating from the Cormac Grampound Road depot. Andrew's home address is 8 Roseland Crescent, Tregony, Truro TR2 5SA. Andrew has been employed by Cormac and its predecessor bodies (Cornwall Council and Cornwall County Council) for approximately 37 years from the age of 16.

The incident

Andrew 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 2.30 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 Andrew slumped over a desk barely conscious, with a serious head wound. 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 Andrew to Treliske hospital. At Treliske, Andrew was found to have a seriously fractured skull. He was kept in hospital for two nights before being discharged.

One of the employees who found Andrew 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.

Andrew 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 Andrew, 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 Andrew's skull.

Current situation

As of 15 August 2017, Andrew is still off work and is not fit to return to work. In my layman's opinion, he does not look as though he will be able to return to work in the foreseeable future, if at all.

Action taken by Cormac

Although Andrew was found with a severe head injury and there was blood on the ground 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 Andrew 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 subsequently as part of any investigation by Cormac.

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

"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 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 is presented to support the statement that Mr Richards passed out.*
- *Mr Richards 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 factually correct but hardly telling the whole story. At the time of submitting the report, Mr Richards was still off work after 5 weeks.*

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 Andrew 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 Andrew 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 Andrew 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 Andrew to contact the police. He did this and, on 11 August, two police constables attended Andrew'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.

Andrew has asked his union to act on his behalf in a potential claim against Cormac for its failure in its duty of care towards him and I understand that solicitors have been appointed to represent him.

I consider that Cormac has been seriously negligent in its failure to investigate properly the circumstances of the incident and Andrew has my full support in his claim against the company.

Bob Egerton

15 August 2017

Subsequent to meetings with Kate and Tony:

31 August 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 Tim Michell (union rep), new investigation headed by Paul Hooper head of H&S for Cormac, Andy James been to see Andrew, 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 Andrew (whilst I was in Spain on holiday), Tim has told him that Andy James 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 Richards 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 Richard's 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 Richard's 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 Mr Richard's 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 Mr Richard's through this very difficult time.

Many thanks & best wishes

Tony"

Note: Tony Barnett said that Andrew'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". Andrew had a fractured skull, meaning that it was a specified injury.

UPDATE MARCH 2018

I have continued to visit Andrew since receiving the above from Tony Barnett.

Andrew has instructed, through his union, solicitors to act on his behalf.

In January 2018, Andrew was served with formal notice by Cormac that his employment would be terminated on the grounds of him not being able to perform his duties and his employment will terminate in mid April.

In February, Andrew was advised by Cornwall Council that the question of his pension, and at what level, is being considered.

6 May I visited Andrew. He told me that he officially finished on 19 April, was given some holiday pay, plus certificate for long service, plus vouchers for £100 for use in a limited range of shops. Included John Lewis, House of Fraser, Mothercare, Miss Selfridge. B&Q was on the list but, when he went to B&Q, they said that they did not accept those vouchers. Looked like something that somebody else had been given and never been able to spend it so gave it to Andrew.

30 May I spoke to Andrew on the phone. He has been told that he is likely to get a tier 1 pension payable from 20 April 2018. However, the financial amount has not been advised to him, neither does he know when he will receive the first payment.

Andrew Richards, injury, the offence committed by Cormac Ltd.

Andrew Richards was found at the Grampound Road depot on 16 December 2016 with a serious head injury. He was taken to hospital by ambulance. The extent of Andrew's injury may not have been clear at the time. However:

At 20:07 that evening, Andrew's wife, Sue, phoned Andy James and told him that Andrew had a fractured skull and a bleed to the brain.

On the morning of Monday 19 December, Sue phoned Andy James to tell him that he was home. She also phoned John Capp, health and safety representative, to tell him about Andrew's fractured skull.

On 16 January, Rupert Spencer emailed Laura Lilley (see copy of email) where it was clear that Rupert knew that Andrew 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 Andrew had a fractured skull and that a fractured skull is a specified injury (see extract from HSE website attached). 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 Andrew 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 Andrew's injury.

I met Tony Barnett on 16 August 2017 and asked him to investigate the whole incident and specifically the incorrect RIDDOR report. Cormac did contact the HSE and made an amendment to the report – see copies of emails attached. Again, Cormac deliberately and knowingly failed to reveal that the injury was a fractured skull, i.e. a specified injury, and repeated the phrase of "head injury."

Rather than admit the previous wrongdoing and put it right, Cormac continued to conceal information.

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.

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*

APP 14

Lilley Laura

From: Spencer Rupert
Sent: 16 January 2017 16:10
To: Lilley Laura
Subject: Conversation notes A.P. Richards

Follow Up Flag: Follow up
Flag Status: Flagged

Laura,

As discussed earlier are the notes from the conversation with Andrew.

Andrew 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 his 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.

Andrew 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 Andrew the most anguish at present and is what he is finding most unsettling, the not knowing.

Andrew 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,

Rupert.

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

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

If you use the environmental message please use this format:



HSE 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 Trenant
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.
Grampond Road Depot
Address: Grampond 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?
Grampond 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 Grampond 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

Owen Gayle

From: Owen Gayle
Sent: 05 October 2017 14:35
To: Lilley Laura
Subject: FW: CONFIDENTIAL: amendments to RIDDOR notification 5CA19A2442 (Mr A Richards)

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; Owen Gayle
Cc: Barnett Tony; Hannah Clare; Zmuda Richard; Hooper Paul
Subject: CONFIDENTIAL: amendments to RIDDOR notification 5CA19A2442 (Mr A Richards)

Gayle / 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 Andrew Richards 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 Andrew 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 Andrew 'passed out', we did not subsequently have evidence as such, and..
2. That Andrew 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

Paul Hooper
SHEQ Manager

CORMAC Collective

Telephone: 01872 32 4569

Mob 07968892723

Fax: 01208 77046

phooper@cormacitdl.co.uk

Room 126 Higher Trenant Road, Wadebridge PL27 6TW

www.cornwall.gov.uk

Please consider the environment before printing this email

From: Kane.Turton@hse.gov.uk [mailto:Kane.Turton@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

Kane Turton | 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@cormacitdl.co.uk]

Sent: 04 October 2017 13:04

To: Kane Turton
Subject: amendments to incident 5CA19A2442

Mr Turton

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	Andrew Richards
Incident Date	16/12/2016

The amendments are as follows;-

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

Our information noted that '**Mr Richards 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 Mr Richards was found by '**a work colleague who took him to hospital**'

The work colleague actually called the emergency services and Mr Richards was taken to hospital by ambulance.

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

Mr Richards 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 called for an ambulance which took Mr Richards 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

Mob 07968892723
Fax: 01208 77046

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

 Please consider the environment before printing this email

CORMAC

info@cormacltd.co.uk cormacltd.co.uk