

## **Corporate Manslaughter – Back With Teeth**

The well-publicised inability of prosecutors to obtain convictions under the existing corporate manslaughter legislation, as evidenced by the recent acquittal of the five rail officials charged following the Hatfield rail disaster, has prompted the Government to reintroduce legislation in this area which will seek to make it easier to hold companies responsible for corporate manslaughter.

Under the present legislation, to obtain a conviction for corporate manslaughter it is necessary to identify a 'controlling mind', who must be a senior person with appropriate responsibility and authority. This is in practice very difficult to do, especially in larger organisations, with the result that the few successful cases brought have mainly involved small businesses.

Under the proposed new legislation, instead of prison sentences for managers found to be guilty, the businesses themselves would face an unlimited fine if their senior managers permitted a 'gross breach of any duty of care' which led to a death.

The new legislation has many hurdles to pass before it becomes law, but it is clear that all businesses that fail in their health and safety obligations are at risk. This is a complex area, as there are many interactions with other areas of law. We can help ensure you control your health and safety liability risk.