

June 2010

## Statutory disciplinary and grievance procedures

As all employers should now be aware the statutory disciplinary and grievance procedures that caused businesses so much expense and concern have been repealed and replaced with a more "relaxed" approach. Our advice is normally to adopt good practice and adhere to the previously imposed statutory procedures. After all, these procedures were put in place by employers, sometimes at considerable costs and adherence to these should mean that those employing them should always avoid any criticism regarding procedural fairness.

As our clients will be aware, the old uplift system was scrapped along with the repeal of the statutory procedures. Broadly speaking, this has been replaced with the provision of an ability to apply an uplift of up to 25% where there has been an absence of proper procedural unfairness.

The Employment Appeal Tribunal ("EAT") has recently handed down its decision in [Lawless v Print Plus](#), which is authority for the proposition that, in choosing the size of the uplift for a failure to follow a proper disciplinary procedure, the relevant factors to be considered by a tribunal include:

- (a) whether the procedures were ignored altogether or applied to some extent
- (b) whether the failure to comply with the procedures was deliberate or inadvertent
- (c) whether there are circumstances which may mitigate the blameworthiness of the failure

The size and resources of the employer are also, in principle, capable of being relevant.

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