

## **Equal Pay Act at 40: Over the hill or finally picking up speed?**

Amanda Brown, Assistant Secretary,  
National Union of Teachers

# Pike v Somerset County Council

- Part of long-running 'Preston' litigation – part timers excluded from occupational pension schemes
- Teacher retired and returned to part time teaching in 1994. Excluded from scheme until 2000.
- 'Test case' for 74 claims

# Access to Teachers' Pension Scheme

- Pre 1997: FT returners accrue service but lose pension payments, PT returners keep payments but not able to accrue
- 1997 – 2000: All returners excluded UNLESS already in the Scheme
- 2000 : all returners could join Scheme

# Claimant's case

- Mrs Pike – excluded from the Scheme between 1994 – 2000
- Indirect discrimination in pension access as a part time worker

# The PCP

- NUT: “One must be in full-time employment in order for the employment to be pensionable”
- Secretary of State: “In order to be in pensionable employment one must not be a part time teacher in receipt of a teacher’s pension”

# The pool

- NUT: All TPS returners  
FT returners (pre 1997): advantaged group  
PT returners: disadvantaged group
- SoS: All members of TPS  
Teachers who have not retired: advantaged group  
FT returners : advantaged group  
PT returners: disadvantaged group

# What's wrong with SoS approach?

- Pool includes people who haven't yet retired
- Who are neither advantaged or disadvantaged
- So the pool does not test the particular discrimination complained of.

# The statistics

Over a 13 year period:

- 15% more women than men in non pensionable returner employment
- 38% more advantaged men than advantaged women



# Conclusion

- EAT and CA agreed with NUT
- Decisions based on House of Lords  
Rutherford v Secretary of State for Trade and Industry (No 2) [2006] – see Baroness Hale’s speech
- “We should not be bringing into the comparison people who have no interest in the advantage in question” .