



# TUPE and Equal Pay

*Sodexo Ltd v Guttridge*

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## TUPE and Equal Pay

- Unison has substantial membership among private sector employers doing contracted out work
- Job range includes cleaning, catering, hospital porters, refuse and street lighting and call centres



## TUPE and Equal Pay

Guttridge principle 1:

Equal Pay claims against transferor which exist at point of transfer do transfer to transferee employer

But claims must be brought within relevant time limit following transfer



## TUPE and Equal Pay

### Guttridge principle 2:

Although a comparator in the same employment (ie the transferor) is required to establish the right to equal pay, it is not required to maintain it once there is a crystallised right.



## TUPE and Equal Pay

### Policy Issue 1

### Risk of claims being lost on time points

- Claimant's lack of knowledge
- Lack of "just and equitable" extension
- Unions publicising position



## TUPE and Equal Pay

### Policy Issue 2

### Comparators for transferred employees

- Can use same comparator in transferor's employment for "personal liability" claim against transferee so long as have crystallised right to equal pay
- Certainty for claimants post-transfer



## TUPE and Equal Pay

### Policy Issue 3

#### Pressure for employers to get houses in order?

- Transferors and transferees will need to consider when making their procurement arrangements
- Transferees will wish to avoid uncertainty
- May lead transferors to deal more pro-actively with equal pay issues prior to transfer