

Briefing Note:

The Potential Reclassification of ASHE 6115

Dr Victoria Wass and Richard Cropper, 25th September 2009

We have been made aware of the potential reclassification of Standard Occupational Classification (SOC) unit group 6115, which is used in the Annual Survey of Hours and Earnings (ASHE). This Briefing Note considers some of the issues and implications surrounding such a reclassification.

It has become commonplace for periodical payments for future care and case management to be linked to ASHE 6115.

ASHE 6115 is defined in the following terms by the ONS in the Standard Occupational Classification 2000:

6115 CARE ASSISTANTS AND HOME CARERS

Care assistants and home carers attend to the personal needs and comforts of the elderly and infirm, either within residential establishments or at home.

TYPICAL ENTRY ROUTES AND ASSOCIATED QUALIFICATIONS

There are no formal academic entry requirements. Entrants must typically be 18 years old and have experience of working in a care environment. Both off- and on-the-job training is available. BTEC/SQA awards and NVQs/SVQs covering various aspects of care are available.

TASKS

- *assists residents to dress, undress, wash and bathe;*
- *serves meals to residents at table or in bed;*
- *accompanies infirm residents on outings and assists with recreational activities;*
- *undertakes light cleaning and domestic duties as required.*

RELATED JOB TITLES

- *Care assistant*
- *Home care assistant*
- *Night care assistant*
- *Residential social worker*

We were aware from the outset that the occupational classifications within ASHE are considered for their ongoing suitability every ten years and that this process would lead to the reclassification of certain occupation groups.

Evidence was heard on the issue in the *Thompstone* cases and the Court of Appeal stated the following:

The composition of ASHE 6115 is not set in stone; indeed, the range of workers contained within any disaggregated cohort is reviewed on, in principle, a ten-yearly basis; the next reclassification is expected in 2010. The defendants argued that the workers employed by the claimants might, for instance, fall out of ASHE 6115 altogether, thus rendering the court's order expressed in terms of ASHE 6115 unworkable.

*The judges below, having heard evidence, acknowledged that change of that radical nature was a possibility, but thought it unlikely. Moreover, the claimants' experts in *Thompstone* proposed a means of meeting the difficulty, should it arise, by repositioning the uplifted weighted rate extracted from the last version of ASHE 6115 at the appropriate percentile of the new category: see *Thompstone* at paragraph 133. HH Judge Bullimore, having heard the same evidence and arguments, endorsed the approach of Dr Wass at paragraph 189 of his judgment in *Corbett*. The appellants made no attempt to gainsay that answer. This matter should not have been further pursued in this court.*

The model Schedule to the Order deals with reclassification and the potential that the composition of ASHE 6115 would change and that claimants' carers might fall outside of ASHE 6115. Consequently, any proposals to reclassify ASHE 6115 in this way would not require the Schedule to the Order to be redrafted.

It is important to note that such reclassification is not necessarily a bad thing. It could improve the accuracy of the match between the defined occupational group and the type of carers typically employed by claimants.

Any reclassification would be implemented in ASHE in the first release of 2012 which is when the reclassification calculations required under the terms of the Schedule to the Order would be undertaken.

It was the original intention of ONS to divide 6115, the occupational group for carers, in the 2010 reclassification exercise according to whether or not carers worked in a residential-based or home-based setting. This change would have moved SOC into line with the European system of occupational classification. Clearly, such a move would have improved the accuracy of the match to a claimant's home-based care package.

In December 2008, the ONS indicated that ASHE 6115 would not be reclassified in this way "due to terms used as job titles" and further that 6115 would likely remain largely unchanged. It was proposed to create a new unit group 6116 "care escorts". While this sounds like it might cover those that we might refer to as "buddies", it was in fact intended to cover people in unit group 6213 "travel and tour guides".

The proposed new SOC 2010 unit group 6116 Care escorts, will be mainly populated with job titles from SOC 2000 unit group 6213 Travel and tour guides. We found that 6213 had a large number of records stating: school escort, school bus escort, children's attendant and escort which had tasks which did not really fit in with definition of Travel and tour guides. We therefore have created this new group of Care escorts, that will cater for people who 'escort' children and/or disabled people during travel."

We were informed in July 2009 of a change of plan, largely it seems in response to a proposal put forward by the Sector Skills Council for Care. In this proposal 6116 would draw certain categories of carer, senior carers, from 6115.

Depending on the definitions, this reclassification might lead to a claimant's carers being in two occupational groups, for example 20% in 6116 and 80% in 6115. This was not envisaged at the time that the Schedule to the Order was drafted but can nevertheless be managed within the existing framework. The difficulties that would rise from such a reclassification lie not in the working of the order but in the definitions which distinguish care workers from senior care workers.

Whether or not a claimant needs senior carers, and the proportion of care undertaken by senior carers, is likely to become an area of dispute between the parties. Such disputes would be difficult to resolve in the absence of tight definitions which distinguish 6116 "senior care workers" from 6115 "care workers and home carers".

In proposing this change of occupational classification, the Sector Skills Council for Care wished to identify the more highly skilled and experienced carers working primarily in institutional care settings whose job includes a substantial supervisory role. The new group was not intended to include the type of carers normally employed in a claimant's home-based care package.

However, for the same reasons that precluded the residential/home split in the original proposal, it has proved impossible to isolate those senior carers working in residential care settings.

The latest proposal distinguishes ASHE 6116 from ASHE 6115 on the basis of additional qualifications (normally to NVQ-3) and the following additional tasks:

- *supervises and monitors Care Workers and Assistants;*
- *takes responsibility for the shift and for the service while on duty; and*
- *responds to emergencies and provides guidance and support to Care Workers.*

This definition could include some of the carers employed by claimants. One can envisage that, if the above definitions were implemented, carers such as ‘team leaders’ may be more appropriately classified in ASHE 6116 than 6115, whilst the other carers would remain in ASHE 6115.

Our concern with regard to the present proposal is that the definition of 6116 could lead to ‘experienced’ carers being classified as a “senior care worker”, rather than only those with a supervisory role. Carers who are relatively highly experienced and skilled, and who work in the more challenging care cases, might think of themselves and, even call themselves, senior care workers. Since the allocation of individual employees to a particular occupational group is determined primarily through job title and not job tasks, such carers in a claimant’s care package might also reasonably be placed in 6116.

The difficulty will lie in identifying the senior care workers in any recommended care package. This would be a matter for care experts working with the definitions provided by ONS.

Having established the proportion of the care provided by a ‘senior carer’, this proportion would be linked to ASHE 6116 with the remaining element of the care linked to ASHE 6115. No further evidence as to the statistics or the working of the order would be required from either a labour economist or a financial advisor.

If ASHE 6116 could be defined as “residential senior care worker”, then the reclassification would pose no problem for litigants and would indeed lead to increased accuracy in 6115. It appears that it cannot be so defined. At present the distinction between an institution-based and home-based setting does not even figure in the job description or the job tasks. As such, the new definition of senior carer will likely include some of those carers working in claimants’ home-based care packages and litigants will need a tight definition of the distinction in order to allocate claimants’ carers to the appropriate occupational group.

There is a further potential difficulty in relation to the use of ASHE 6116. The category of carers in ASHE 6116 is likely to be small and, depending on the spread of earnings, the statistics across the distribution may be statistically unreliable. This potential unreliability would not become apparent until the statistics are published in 2012. If we did want to use ASHE 6116 and it was not statistically reliable over all of the percentiles of the earnings distribution, we may be forced to use a measure of the centre of the distribution, either the mean or the median.

If this proposal was to be implemented and it did create a problem for litigants either in terms of the allocation of carers to the appropriate occupational group or in the reliability of the statistics in ASHE 6116, we suggest two alternative approaches.

It is important to note the contents of the model Schedule to the Order in respect of reclassification, which states:

... for a new SOC (for which the “revised” wage rate is defined as ‘AR’ in paragraph 7.1.4 below) that includes those currently defined as “home carers” in ASHE SOC 6115.

1. The SOC has a hierarchical structure so that the four digit unit groups listed below all belong to the same three digit classification 611, Healthcare and Related Personal Services

6111	Nursing auxiliaries and assistants
6112	Ambulance staff (excluding paramedics)
6113	Dental nurses
6114	Houseparents and residential wardens
6115	Care assistants and home carers

Obviously, 6116 would be added to this list.

This would seem to us to be a retrograde step, as there would be a loss of precision in using 611. The pattern of earnings growth differs between each of these groups. However, in ASHE 2008, 6115 makes up 2/3 of 611, with nursing auxiliaries and assistants making up a further 1/4. Ambulance staff, dental nurses and houseparents and residential wardens collectively make up less than 1/10 of 611.

The application of ASHE 611 is unlikely to lead to any dispute that would mean that existing cases would have to go back to Court.

2. A more attractive option in our view would be that the ONS make a special release of a statistical series which combines 6115 and 6116 for use in personal injury litigation. This seems to us to be an effective and simple solution.

In conclusion, reclassification has the capacity to be problematic, but it may also result in positive change. The potential for difficulty with the latest proposal in relation to the reclassification of 6115 lies not with the workings of the order but (i) in the definitions of 6115 and 6116, (ii) in establishing the relative proportion of employees in each group in each care package and (iii) in the statistical reliability of the estimates for 6116.

We will continue to work with the ONS and any other interested parties to ensure that if ASHE 6115 is reclassified, the implications are understood and a solution found to any problems which may arise. It is our opinion that bodies such as APIL and AvMA should register an interest in this issue with the ONS, in order that such voices can be heard when this proposal is being considered.

It is clearly not in anyone's interest to devalue the quality or statistical reliability of ASHE 6115. Therefore, we consider that all parties are working in the same direction.



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