

**Reference: LJB Hayes, Work-time technology and unpaid labour in paid care work: A socio-legal analysis of employment contracts and electronic monitoring, in *Law and Time* (eds Beynon-Jones S and Grabham E) Routledge, 2018 *in press*.**

### **Abstract**

How is unpaid labour established in the UK homecare industry? This chapter is focused on homecare workers' internal notations of time and defines zero-hours employment contracts and the electronic monitoring of service provision as technologies of time. It shows how time is materialised through labour. Technologies of time impact on care workers' temporal consciousness by fracturing notations of clock time across four separate dials and economically subordinating caregiving according to nature's time. Hence labour apprehended in nature's time materialises as unpaid work, and labour in clock time materialises as partially paid work. This is a challenging temporal environment for labour law since legal protections frequently accrue by a measure of clock time according to a single dial, which is also presumed to measure paid time.

Employment contracts and systems of electronic monitoring act as technologies of time in the UK homecare industry. They impact on paid care workers' temporal consciousness such that time is 'made' differently through practices of care. The data I explore is drawn from research with homecare workers in England; 30 women who each provided community-based care and support to older and disabled people living at home.<sup>1</sup> Through attention to evidence of workers' internal notations of time, we can observe how time materialises in working life as the disciplinisation of working habits and how both the state and employing organisations have shifted a large proportion of the economic cost of caregiving onto the shoulders of individual care workers. This focus on labour temporalities in homecare also goes some way to explain how the benefits of statutory employment protection are often inaccessible to homecare workers and how it is that much of their labour is unpaid. The analysis in this chapter is grounded in a Husserlian understanding of time since I argue that time materialises through human consciousness and I look for indications of the objective qualities of time in the subjective qualities of lived experience (Michalski and Dodd 2001:115–116).

Since the inception of UK welfare state provision in the late 1940s, social care services have been distinctively constituted. Whereas health services have been made available free at the point of delivery, social care has been subject to means testing and therefore some people are invoiced for part of the costs of their care and other people are not. My point is that social care has never been fully 'socialised' and while the state discharges legal duties to ensure adults in need of care are in receipt of such care, it has historically sought to do so at minimal cost to the public purse. The UK was the first state in Western Europe to develop markets in social care, to privatise public sector provision and to constitute citizens in need of care as 'clients' (Lewis and West 2014). Nevertheless, the private sector homecare industry continues to be overwhelmingly state funded because local authorities contract with private sector organisations for the delivery of services. Following the financial

crisis of 2008, successive governments have imposed sustained and severe public spending cuts and adult social care has been more harshly impacted than any other statutory sphere of local authority activity (ADASS 2016). The labour cost savings achieved by privatisation and outsourcing are no longer sufficient on their own to keep up with the cost pressures imposed by central government austerity policies.<sup>2</sup> Terms and conditions of work in homecare have deteriorated substantially and are classified in research findings as ‘among the worst of any’, ‘illegal’ and ‘shoddy’ (Kingsmill 2014:3; Koehler 2014:5). This is the context in which technologies of time manifest as integral to the working lives of homecare workers.

The term ‘technology’ is typically understood to signify the work of machines and data, however, technologies are more broadly identifiable as the application of techniques to produce a product, structure relationships or organise a material or medium (Drengson 1995:30; Suchman 2003:97–101). Technologies of time are those that create temporal paradigms and materialise time as a technical accomplishment (see Grabham 2016a:7). The materiality of time is mediated by temporal consciousness but it is open to technological adaptation, revision and reinvention. To understand changes in homecare under conditions of marketisation, we need to appreciate how technologies of time transform worker consciousness. Between 2012 and 2014, I undertook ethnographic research with homecare workers employed in a single city in the south of England. All were women who provided hands-on-care to older and disabled people. In keeping with the demographic of the UK homecare workforce outside London, the vast majority were of white British ethnic origin, three were migrants to the UK and two were British born and of dual Pakistani/English heritage (see Hayes 2017:16–20). Of the 30 participants in my research, eight were about to be made redundant from the local authority for which they had worked for many years, 11 were employed by private companies that contracted with the same local authority, a further eight were self-employed with a customer base comprised of the older and disabled people for whom they cared and four were either working for a labour agency or employed in multiple, very part-time, homecare jobs of different types.

Central to the discussion advanced in this chapter is the narrative of a research participant to whom I have given the pseudonym “Debbie”. I draw on Debbie’s account to show how technologies of time in the homecare industry transform the ways in which workers apprehend time and the material impacts of such transformations. Debbie worked for a private sector care company and of the many work experiences she shared with other participants in my study, three are especially salient. First, Debbie’s wages were low and irregular. Indeed, tens of thousands of homecare workers in the UK are paid wages that fall below the legal minimum (HM Revenue and Customs 2013; Hayes 2015; Pyper 2018). Second, in common with the vast majority of homecare workers in the UK (and all those in my study who were working in the private sector) Debbie was employed on a zero-hours contract (Gardiner 2014). Several studies have connected employment insecurity and low wages in homecare with the use of zero-hours employment contracts (see, for example, Rubery et al. 2011; House of Commons Scottish Affairs Committee 2014; Kingsmill 2014; Koehler 2014). This form of contracting is now standard within the industry and its ‘zero hours’ status means that the contract avoids any legal obligation for work to be provided by or performed by employers or employees respectively. The equality between parties that is suggested by a mutual lack of obligation in law belies the profound inequalities of power in

practice where employees need paid work for survival while employers have access on demand to a plentiful supply of labour. Third, and in common with all the workers in my study who were either employed by the local authority or by private sector contractors, Debbie was required to use a telephone-based electronic monitoring system to track her arrival and departure times when she attended each of the clients scheduled on her daily rota. Because Debbie worked for a private sector contractor, the resultant data generated invoices between her employer and the commissioning local authority and it also interacted with her zero-hours contract by demarcating periods of time for which Debbie would receive wages.

The electronic monitoring of working time in the UK homecare industry has risen rapidly over the past decade and, while not universally implemented, is widespread and typical. Electronic monitoring has increased the capacity for local authorities and care companies to extract unpaid labour from homecare workers by targeting the organisation of their working time (Hayes and Moore 2017). For example, by requiring homecare providers to operate electronic monitoring systems, Hampshire County Council saved in excess of £1million in 2013/2014; Devon County Council and South Gloucestershire similarly reported savings equivalent to 10 per cent of their entire purchasing budgets for adult social care (CM2000 2014). These large cost savings accrue principally because electronic monitoring makes it possible for employers to pay homecare workers for fewer of the hours in which they work and this 'efficiency' is passed on to commissioning local authorities (Moore and Hayes 2017b). Hence, savings to the public purse come out of the purses of homecare workers. Private sector contractors are frequently required to adopt electronic monitoring as a condition of their service delivery contracts and the electronic monitoring of state-funded homecare services is not unique to the UK. For example, in the USA, where state funding is channelled through the Medicaid programme, contractors have tried in vain to injunct states seeking to impose electronic monitoring of visits as a cost reduction measure.<sup>3</sup>

When I spoke with Debbie, she expressed anger at her low pay and at her inability to provide her clients with the quality of care to which she aspired, yet she did not lay blame with her manager or with the care company for which she worked. Rather, Debbie targeted her ire at the zero-hours contract through which she was employed and the impact of electronic monitoring. In this chapter, I seek to understand these two non-human factors as technologies of time in the homecare industry. I follow categorisations of 'clock time', 'nature's time' and 'merchants' time', which were devised by E.P. Thompson in his exemplary scholarship on industrial temporalities (1967). Thompson established that historic shifts in workers' temporal consciousness were key to processes of industrialisation in the eighteenth and nineteenth centuries. The findings of my study suggest that the processes of industrialisation that have engulfed social care work in the twenty-first century rely on a distinctive temporal fluidity.

I show how the contemporary commodification of care relies on zero-hours contracts and systems of electronic monitoring to fragment clock time and to economically subordinate worker's internal notions of caregiving according to nature's time. The result is that labour apprehended in nature's time materialises as unpaid work and labour in clock time materialises as partially paid work. Hence unpaid labour in the UK homecare industry is established by contractual and monitoring technologies that impose merchants' time into the previously uncommodified location of an older or disabled person's home. This also creates a

challenging temporal environment for labour law. Legal protections frequently accrue by a measure of clock time, according to a single dial, which is also presumed to measure paid time. Examples include the UK's statutory minimum wage formula, which calculates minima by the hour; periods of continuous service by which the ability to lay claim to employment rights is qualified (Grabham 2016b); and working-time regulations, which use clock time to limit the duration of a working day and establish the legal relationship between hours worked and paid holiday entitlements. Clocks are the traditional centrepiece of working life and symbolise the social ordering of time external to the home. For many people (and especially for many of those who are hourly paid manual workers), the clock dictates and constrains living standards. Labour law operates on a presumption that clock time disciplines the rhythms of working life, commands its subject to be 'at work' and dictates for how long they must 'stay' there. Technologies of time in homecare transform how time materialises in circumstances where 'home' is a site of paid employment. The resultant impact on care workers' temporal consciousness disrupts labour protections afforded in law and establishes unpaid labour as a material fact of their working lives.

### **Time and paid care work**

There is a tendency for scholarship to assume that the labour of caregiving has a fixed relationship with time. For example, it is argued that productivity gains in paid care work are especially difficult to achieve because the work is labour intensive and technology cannot be applied to the labour tasks of care (Baumol 1993; Himmelweit 2007). Put simply, the urgency of care is understood to be fixed to the 'natural' rhythms of human bodies and a task such as helping a person walk to the toilet cannot happen in a shorter period than can be accommodated by that person's mobility. Indeed, it has been judicially accepted in equal pay law that care workers are unable to control the pace of their work.<sup>4</sup> Consequently, is not necessarily unlawful discrimination if employers deny (female) care workers' access to a productivity bonus scheme that they nevertheless make available to manual workers in roles predominantly undertaken by men that are controlled traditionally by the discipline of clock time.<sup>5</sup>

The non-productive characteristics of paid care work have also been explored as an example of 'cost disease', an economic term that seeks to explain the presence of wage cost pressures in sectors where labour cannot be replaced by technology (Fudge 2014). Accordingly, even in the absence of sectoral productivity gains, 'cost disease' forces employers in social care to raise wages because they must compete for labour with employers in sectors such as retail where wages increase because technology makes labour more productive (Baumol and Bowden 1966). It seems that caring labour is theoretically divorced from established understandings of productivity by a presumed fixity of care to natural paces and rhythms and its concomitant incompatibility with clock time.

However in practice, caring labour is traded as a commodity that is compartmentalised into clock time and feminist economists seek to account for its undervaluation on that basis (Nelson 1999; Folbre 2001). Scholars have argued that care can never be fully commodified because its true relational and qualitative value is not captured by the quantitative clock time measurements typical of service delivery contracts. Care cannot be adequately measured on a 'time is money' basis and is rendered subordinate and

undervalued within a capitalist market economy by the patriarchal logic of capitalism (Stone 2005). The commodification of care presumes its masculinisation (Rasmussen 2001, 2004) and compartmentalises caregiving into tradable units of clock time. The relational substance and symbolically feminine qualities of care are erased from economic exchange in order to produce surplus value from labour extracted as unpaid work.

Taking together the productivity focus of equal pay law and cost disease literature to combine it with the critique of commodification advanced by feminist scholars, we can discern that the labour of care has a fixed relationship with the 'natural' timing of human needs. Its incorporation within market schemas of clock time is a reductive and gendered process in which large parts of its value are easily lost. The analysis of time and paid care work that I set out in this chapter is distinctive because I define zero-hours employment contracts and the electronic monitoring of service provision as technologies of time, i.e. as tools applied to the time in which care takes place (rather than to the labour of caregiving).

### **Time as consciousness**

The importance of worker consciousness to the study of industrial temporalities was set out by E.P. Thompson in a ground-breaking sociological text on time and work discipline written in the late 1960s. Thompson adopted a historical materialist approach to show that changes in workers' apprehension of time were key to industrialisation. He elaborated variously on 'nature's time', 'clock time' and 'merchants' time' as temporal schemas that were materially embedded in working practices through changes in workers' consciousness. Different work situations gave rise to different notations of time and there were different ways in which those notations related to 'natural' rhythms. The crowing of the cockerel exemplified his vision of worker consciousness of labour in nature's time; it was seasonal, agrarian and materialised through a work rhythm that attended to tasks as evident necessities. Irregular moments of perception in which labour engaged with and responded to observable needs meant one time moment was unlike the next but each connected fluidly in the passing of time.

The displacement of nature's time by clock time, as a mode of workers' consciousness, was historically necessary for the synchronisation of labour in employment and facilitated the advance of industrialisation. Thompson perceived of clock time as sidereal time moved from the 'heavens into the home' and as communicated in the turning of the hour and minute hands on a clock face, the ringing of church bells and sounding of factory horns (1967:57). Clock time materialised in workers' consciousness as a strong demarcation between time as 'work' (which was harnessed to an employer) and time as 'life' (which was the workers' own). Internal notations of clock time extracted self-discipline from workers according to the objectivity of the dial and set the waged labourer apart from those engaged in unwaged subsistence farming and domestic work. Clock time also materialised in new productivity-orientated incentives, new working habits and new disciplinary regimes.

Thompsons' third schema was that of merchants' time, a consciousness through which time could be redeemed as riches, where it was 'owned' and consequently bought and sold. Merchants' time was a temporality that drew opportunity from nature's time (for example the opportunity of tides and winds) and was orientated towards a capture of 'nicks of time' set to work in order to move the merchant forward apace in an alignment of time with

degrees of 'favourability' (1967:87). Merchants' time could be appropriated and used for accumulation and it was culturally symbolised through textual and pictorial images of time as a currency.

Thompson's account observed industrialisation in the temporalities of masculine, productive, paid labour yet he also included an assessment of care work, the unwaged labour of wives and mothers, as a counterpoint. Care work exemplified a task orientation that was free of the constraints of clock time, it was reminiscent of worker consciousness in pre-industrialised society and 'more humanly comprehensible than timed labour' (1967:61). This was nature's time in the home and women's' apprehension of it gave rise to modes of self-discipline in caregiving which were similar to that of men's unwaged labour in the fields, based on a temporal self-governance that accorded with the perceived needs of animals, plants and human reliance on the wind, rain and the setting of the sun. Thompson argued that task-orientated temporalities pointed to a separation of 'work' from 'life' that was barely evident because 'social intercourse and labour are intermingled' (1967:60). However, the question of task orientation became much more complex when notions of employment were introduced into the mix. When time was located within a relationship of employment, it was prone to be measured as money – the employers' money. Employment marked the shift from task orientation to timed labour and apprehension of clock time marked the shift in consciousness from task to timepiece. Yet the measurement of labour as clock time was, according to Thompson, relationally constituted:

Those who are employed experience a distinction between their employer's time and their 'own' time ... time is not passed but is spent. (1967:78)

This meant that in waged labour, workers exhibited a temporal consciousness of time as a finite resource utilised within the employment relationship. Once spent, the time was gone and could not be replenished until the next shift or working day. The employment relation centred around employee and employer cognizance of a bank of clock time that was cyclically filled and emptied through the interaction of both parties. Thompson argued that in contrast, labour occurring within a care relation was disclosed by the logic of necessity and inevitably disregarded clock time because there was no need of external imposition. The rhythms of women's work in the home were not easily attuned to the measurement of the dial.

In the following section, I turn to my research data to examine how workers' consciousness of time is expressed in the accounts of homecare workers. Therefore, I relate Thompson's temporal modalities to an aspect of the labour market that was non-existent at the time in which he was writing: that of industrialised waged care work. Industrialised care work arises from the commodification of social care. The precarious and gendered forms of waged labour that accompany it are characteristic of advanced capitalist societies that have engaged in a neoliberal restructuring of state welfare provision (Hayes 2017:2–3).

### **Contracts and electronic monitoring as technologies of time**

The ways in which homecare workers discussed their daily routines and the challenges of doing their job well provided evidence of their temporal consciousness. I found that when

they talked about ‘care’, they were often talking about ‘time’. My analysis suggests that the contemporary commodification of care relies on the economic subordination of nature’s time and a re-engineering of clock time. Technologies of time achieve this by cementing workers’ apprehension of labour in nature’s time as a labour of unpaid work in the home and by splitting clock time across a series of divergent and disparate clock dials so that labour in clock time is fractured and materialises as partially paid work.

Homecare work, as accounted for through a temporal consciousness of ‘nature’s time’, pays primary attention to tasks associated with getting a person ‘ready’ for the day ahead, even if that person is bed bound. An erudite example of this was offered to me by a homecare worker who participated in my research, she worked for a private sector contractor and responded thus when I asked her to describe her daily work routine:

Getting people up; showering or personal care; incontinence care; emptying leg bags; getting them clean; putting on fresh clothes if they want it; breakfast, cup of tea; medication ... One lady I go to is in a wheelchair, diabetic, she can’t walk. Every manoeuvre she needs, you’ve got to do it for her. You get her up in the morning; it’s all ceiling hoists; all sling work. Hoist her to her chair; wheel her to the bathroom, which again is a hoist job to get her on the toilet. Then she will want her breakfast sat on the toilet. She can’t hold things very well enough in her hands, so cups of tea you’ve got to feed her fingers through the handle. She wants her medication sat on the toilet, and that’ll be her tablets and her insulin, I inject her. And then it’s hoist into the shower. Get her dressed in the bathroom and then put her back in the wheelchair and put her splints on her hands to keep her hands straight. (Homecare worker, Esther)

Here, the task orientation that Thompson associated with the unwaged care work of wives and mothers is evident in paid industrialised care work. The homecare worker, Esther, describes her labour as unfolding in tandem with the needs of her clients, at the client’s pace. She is conscious of her labour materialising in nature’s time. If we were to measure this work according to clock time it would expand or contract on a day-by-day basis according to her variable interactions with her client and the fluctuating needs that accompany human bodies and desires. However, Esther worked within an employment relationship and she was paid her wages on a clock time basis fixed by her employment contract. The care that Esther provided was transacted in the care market on a nominal and fixed measure of clock time according to the service-delivery contract between her employer and the commissioning local authority. While Esther was conscious of labouring in nature’s time, she was employed in clock time.

A lack of fit between the nature’s time temporality of care work and the clock time temporality of employment has real world impacts on homecare workers within a system of marketised care. Combined with legal permissions set out in the NHS and Community Care Act 1990, the expression of care work in clock time was a historic development that

facilitated the privatisation of public sector care services and the development of a homecare industry trading in care as a commodity. In Thompsons' account, the industrialisation of labour was accompanied by a shift in workers' consciousness from a dominant temporality of nature's time to that of clock time. In my study however, the accounts of care workers suggest that the rise of industrialised care (a process in which they were deeply immersed) has not erased 'nature's time' from their temporal consciousness or eclipsed it with internal notations of clock time. Homecare workers appear to continue to apprehend their working time in a modality of nature's time even though the industry in which they work operates on a clock time basis.

Set out below, Debbie's story is indicative of the extent to which homecare workers apprehend clock time as an intrusion on their work with clients. Her account illustrates that nature's time and clock time are simultaneously present as temporal modalities in the consciousness of homecare workers. Debbie was in her early 40s, of white British ethnic origin, she was living in rented accommodation and had worked in the homecare industry for about eight years. Two of Debbie's three children were old enough to have finished school but her youngest was just two years old. Employed on a zero-hours contract, Debbie was caught between her employers' refusal to provide her with either regular hours or a secure volume of work and the impossibility of finding reliable and affordable childcare which could be accessed on an ad-hoc basis. Hence Debbie was struggling to cope and I when I asked if she considered herself to be 'poor' she replied, 'I am poverty, me'. I was struck by the fact that Debbie spoke as though her financial impoverishment defined her personhood. Debbie assigned a significant proportion of her woes to her zero-hours contract and her employers' introduction of electronic monitoring. These technologies controlled a considerable proportion of her life and had substantially reduced her wages. Debbie's account alerted me to the many ways that homecare workers seemed to engage in a dialogue with time as they attempted to translate one modality into another and tried to accommodate the inconsistencies.

In Debbie's view, the most credible and accurate measure of the quantity of the time she was 'at work' was the duration of her wearing of company uniform. Throughout the entire period of her 11 or 12 hour 'shifts' Debbie wore a green tabard. It served as a signal to her two year old son that someone else would be looking after him and Debbie told me that when he saw her in uniform he started to cry. Consequently, Debbie never returned home during periods of a working day when there was no paid work for her because: 'I upset my little son, so it's better to stay away. I don't even see him in a morning when I go to work because he is still in bed, so to come home, it just upsets him.' Debbie's internal notation of what we might call a 'uniform-wearing clock' measured her temporal separation from her own family. This was a measure that served to demarcate her personal from her working life and thus suggests a true fit with the consciousness of clock time described in Thompson's schema where clock time separated working time from workers' apprehension of life time. However, Debbie understood that the zero-hours nature of her employment relationship meant she had 'signed a contract but it isn't guaranteed to get work'. Debbie was therefore aware that a day's work could never be assured by her contract, but her experience of the contract in practice gave rise to a very different kind of uncertainty: even when time accrued

on the ‘uniform-wearing clock’ she never knew in advance the proportion of her time which would actually be recognised as ‘work’ for the purposes of pay:

I am out on a Sunday for 11 hours, I only get paid for about seven, so four hours of my time it’s just travelling and sat around waiting.

Here, Debbie divides her notion of working time between the attention of three clocks: a ‘paid-time clock’, a ‘travelling-time clock’ and a ‘waiting-time clock’. She is conscious that each carries distinct social and economic meaning. For example, from the short quote above we can ascertain that Debbie diminishes the value of the working time measured on the ‘travelling-time clock’ by her preface ‘just’ and she submissively refers to working time measured on the ‘waiting-time clock’ as if it manifested in her adopting a sedentary posture, even though she remained on duty and was bridging variations and interruptions in her work programme. It was evident that Debbie measured her working day, one in which her contract was engaged, by reference to a series of dials. If, as per Thompson, worker consciousness of clock time manifests in a shift in apprehension from task to time-piece, the technology of the zero-hours contract appears to modify worker consciousness such that segments of working life are apportioned to a ‘paid-time clock’, a ‘travelling-time clock’ or a ‘waiting-time clock’. Accordingly, clock time is temporally fractured. The time that Debbie consciously assigns to either the ‘travelling-time’ or ‘waiting-time’ clock is unpaid and direct links between clock time and understandings of ‘work’ for the purposes of pay are broken.

However, disciplines of clock time undoubtedly materialised in Debbie’s work habits. She pointed to the absurdities that arose from the imposition of clock time into a caregiving relationship that otherwise depended on the meeting of observable, and fluctuating needs. Debbie pejoratively described one of her clients as a ‘nit-picker’ and claimed, ‘if any carer was to leave a couple of minutes early he would report you to management. He will argue about it: ‘I paid for 45 minutes, I want 45 minutes!’ In this vignette, we learn of her client using clock time as a literal measurement of care with which Debbie’s behaviour is controlled and her attention commanded. It seemed absurd to Debbie because other visits in her day would take longer than anticipated and a lack of flexibility was detrimental to the quality of care she was able to provide. The instincts of homecare workers’ that arose from their labour in nature’s time were subordinated to the discipline of clock time represented as a measure of clients’ money. Although labour was disclosed in caring relationships by the logic of necessity, Debbie could not disregard the rhythms of clock time, which defined her employment relationship and rendered her accountable to the clock-based discipline of management.

Yet the ability of clients’ to impose temporal control over homecare workers was limited by the extent to which clock time served employers’ interests. A hierarchy of clock time over nature’s time was evident in situations where Debbie recognised that her employment relationship ‘forced’ her to remain with clients for far longer than she was welcome. If workers’ consciousness of nature’s time extracted self-discipline according to client needs, a simultaneous consciousness of clock time diminished personal autonomy to the self-discipline of abiding by working habits which could become emotionally uncomfortable and counterintuitive to a credible relation of care:

We have clients where you go in and once you do your job they don't want you in their house anymore, but I have to stay.

Occasionally, Debbie would find that she was not needed at a client's home because a family member had visited, the client was engrossed in watching TV or they had chosen to refuse the bath that Debbie was scheduled to provide. This collision of clock time and nature's time led to considerable friction between Debbie and her manager, as well as with her clients. If a client had asked her to leave after 10 minutes, Debbie's employer would insist: 'We are supposed to be there for half an hour!' Debbie's recount of the collective noun 'we' reflected her consciousness of clock time as the temporality that bound her within the employment relationship and disciplined her to literally sit out her stay in a corner of the client's home. This time spent waiting, however, was not assigned to Debbie's internal notations of a 'waiting-time clock' but rather to the 'paid-time clock'. The example illustrated that Debbie's psychological compartmentalisation of time did not intuitively correspond with her physical behaviour. She would abide by her manager's instructions throughout the period she measured on her 'uniform-wearing clock' and hence some forms of waiting materialised as work on the 'paid-time clock' while other forms clocked up as unpaid labour. To understand how this happened requires an appreciation of electronic monitoring as a technology that imposed merchants' time into Debbie's working life as a spatial temporality; by which I mean a temporality that is sensitive to place and materialises by location.

Under conditions of electronic monitoring, homecare workers interact with software that tracks their location and arrival/departure times through data entered into clients' landline telephones or a GPS-enabled mobile. Workers dial their own unique identification number at the beginning and end of each visit to a client and this connects into the electronic monitoring providers' call processing centre, logs the time of their calls, location and calculates their correspondence with the worker's pre-programmed roster of visits. Electronic monitoring made measurements that prevented Debbie's labour from equating with clock time and failed to recognise the labour in which she engaged in nature's time. Viewed as a temporal technology, electronic monitoring was overriding clock time and imposing behavioural discipline through worker apprehension of merchants' time in the home. Debbie explained:

When you go in, each visit we get a time limit to go in. To get our pay, if we are on a half hour visit we've got to stay in there a minimum of 23 minutes. If we go in for a 45-minute visit we've got to stay a minimum of 38 minutes and for an hour we have to stay a minimum of 53 minutes.

Failing to meet these time targets would mean Debbie was penalised by being paid for less time than she had worked in a client's home. For example, if she had to sign out of a 15-minute visit after 10 minutes she would receive pay for only five minutes of her time and if a planned visit of 30 minutes lasted for 22 minutes Debbie would receive just 15 minutes' worth of pay. Electronic monitoring introduced opportunities to shave labour cost-savings from the incompatibility of nature's time and clock time that are reminiscent of the 'nicks of

time' that Thompson identified in his concept of merchants' time. Debbie's employer and the commissioning local authority could make financial gains by speculatively framing the temporal space and geographic place in which Debbie's labour was captured as a vehicle for enterprise.

Similarly, if Debbie stayed in a home past the time limit measured by the electronic monitoring system (which, in some instances, meant staying for too long and in other instances meant exceeding the point in clock time when she was supposed to leave regardless of the visit duration) she would not be paid for her additional labour. Rather, her employer instructed her to 'catch up on the next visit' or asserted that 'staying longer is your personal choice and it's not our business if you want to hang around chatting.' The labour of care in nature's time is discursively constructed here as being without value because the task of maintaining social intercourse is set up to equate with 'non-work' that lies outside of the employment relation. Nevertheless, the prospect of Debbie being able to 'catch up' on her schedule was frequently impossible because the care needs of her next client did not diminish. Meanwhile, if visits were completed more quickly than scheduled, longer term consequences could ensue. Merchants' time was in evidence when Debbie identified that reducing her attention to the needs of her client could be seized as opportunities for organisational gain:

When I'm rushing to try and fit everyone in, if I left a person 10 minutes early, they [management] will say oh great! Then the next day they change the rota to put me down to leave earlier. So all of us carers know they're pinching minutes from people all the time.

Debbie's encounters with the electronic monitoring system reveal the impact of temporo-spatial collisions between notions of 'home' (as a place of care) and those of 'enterprise' (as a place of industry). Such collisions are integral to the contemporary organisation of the UK homecare industry<sup>6</sup> and exacerbate the discordance between a temporality of caring relations and a temporality of employment relations, which was discussed earlier in this chapter. Awareness of social care as a public service (albeit privatised in its delivery) should not diminish our awareness of care as a commercial industry valued at over £5 billion per annum (Francis 2013:7; Holmes, 2015:10). By considering Debbie's experience of electronic monitoring we can observe how merchants' time is set into the homes where she worked. Merchants' time is notated as a currency and the opportunism of merchants' time is not coterminous with clock time because exchanges at some points in clock time are more profitable than at others.

Electronic monitoring encouraged homecare workers to perceive of their work as a labour of clock time rather than as a labour of care since it communicated that clients were to receive limited parcels of time in place of the meeting of their care needs. However, electronic monitoring did not record data about homecare workers' visits according to a true measure of clock time; this was a technology with the capacity to generate time and to eradicate it. When talking about the electronic monitoring system, Debbie was quite clear: 'The system is awful ... the money and the time you have to put in.' She indicated that clock time was the input she gave to her employer but she regarded as 'awful' the way in which she

was required to deploy, divide and ration her input. It was especially evident that Debbie's temporal consciousness of merchants' time meant that in practice she responded to client's needs outside of the electronic monitoring system:

We need to watch our clocks when we go in there [a client's home] but I don't always, it depends what you get ... if someone has fallen then you don't really want to be looking at your clock, you forget to clock in. If I go in and someone needs my help then my first main priority is to that person, not ringing in.

This hierarchy revealed how temporal inconsistencies were negotiated. The clock time it took to do the job well and to respond to eventualities could not be measured in merchants' time, instead it was apprehended in a modality of nature's time and homecare workers were conscious that nature's time materialised as unpaid labour. As Debbie explained:

I don't agree with the time limits we get ... you haven't got enough time. You are being rushed all the time. If you go over it causes trouble. I'm the kind of carer, the old fashioned carer, where I think, tough, if I go over I go over. I'm not rushing them. Some of them can barely walk and then you're being told, if you go over the time we will lose the contract with the council, which I think is diabolical. All they want from us carers is to sit down and have a chat. You're not allowed to do that. It is terrible.

Debbie assigns the notion of 'time limits' to the electronic monitoring of her working time. Clocking in and out using the telephone technology is a manifestation of merchants' time in the domestic location of a client's home. Her experience of being rushed is evidence of the temporo-spatial collision of 'home' and 'enterprise'. As a consequence, homecare workers are highly attuned to the risk of 'trouble' from either and both unsatisfied clients and disgruntled managers. When Debbie described herself as 'old fashioned' she was seeking to justify her desire to refuse to pass the consequences of temporal collision onto her clients. She invoked notions of a pre-technological era in which it was apparently possible to defeat the disciplinisation of clock time with an appeal to the higher moral value of nature's time. Her complaint that she did not have 'time to chat' revealed her consciousness of care as a labour in nature's time, where life and labour are intermingled. In asserting that she would not rush her clients, Debbie was indicating her preparedness to resist internalising the panic she experienced when she herself was feeling rushed by the temporal pressures induced by technologies of time. Engaging in unpaid labour was how workers' consciousness of care in a modality of nature's time materialised.

### **Concluding discussion**

Debbie's account sheds light on how homecare workers' apprehend and internally notate caregiving as time. It appears that electronic monitoring and zero-hours contracts are doing something to the nature of time itself within caregiving relationships. In an era of unprecedented reductions in public spending it would seem essential to the viability of the

homecare industry that homecare workers exhibit a dual-consciousness of labour in the nature's time of caring relationships and the clock time of employment. I have illustrated how clock time is re-engineered to produce partially paid labour and how nature's time materialises as unpaid work. Clock time and nature's time are temporalities that are simultaneously evident in marketised homecare work and represent the ever present spectre of unpaid work within the spatial location of 'home'.

Zero-hours contracts enable employers to contract for the services of individual workers without providing any commitment whatsoever about the volume of clock time that will be measured as paid work. Such contractual arrangements are also 'law light', by which I mean that they are depleted of the benefits of many statutory rights because the contract is not fully recognised in UK law as being a contract of employment. As scholarship examining the impact of zero-hours arrangements in the homecare sector has noted, workers bear the risk of a loss of work or pay when a client is admitted to hospital or a care home and employers can insist on irregular working hours, resulting in episodic and unpredictable working time (Rubery et al. 2015). However, in this chapter, I have focused on the contract as a technology of time and have considered what the zero-hours contract is doing to transform time or to alter how time is materialised through labour.

In the absence of a legally meaningful temporal commitment, zero-hours contracts are activated when the employer periodically makes working time available that the worker accepts. Contra Thompson (1967), the homecare workers in my study who were party to zero-hours contracts did not comprehend working time as a resource measured by the cyclical depletion and replenishment of clock time. They were unable to rely on the temporal security of known start and end points within which working time was contained. There was no singular or predictable end time that separated working time from 'life' and there was no pre-existing bank of time that was available to be spent through the employment relationship. Rather, the temporal consciousness of homecare workers was of working time measured in a modality of fractured clock time in which 'what comes next' was unknown. Thompson's observations of clock time suggested a measurement of labour that was relationally constituted. What was hidden from view in his account was the contractual nature of this temporal relationship and the role of the employment contract as a technology of time.

Evidence of the contract as a technology of time was also apparent in the treatment of workers' time when engaged in travelling between clients. The job of homecare requires labour to be mobile within local communities so that service provision can move from one home to another to deliver a bespoke programme of individual care. It is not possible to have homecare work without worker movement yet the technology of zero-hours contracting has reconfigured understandings of movement into a consciousness of time measured by a dial that is not that of the 'paid-work clock'. As the care worker performs her duties the 'paid-work clock' is ticking. When the visit is complete her productive capacity for a repeat performance travels between one home and another. This is 'travelling time', a measurement of the temporal space that opens between one place and another. Across the homecare industry, most travelling time is unpaid and research suggests that homecare workers forfeit an average of 19 per cent of their wages due to time measured on the 'travelling-time clock' (UKHCA 2014). The undervaluing of commodified, caring labour is in part made possible by the capacity of zero-hours contracting to fracture clock time into paid and unpaid forms.

By drawing attention to paid care workers' inward notation of time, my observations suggest strong links between the specific temporal disciplinisation of work-time technology and the precarity that defines their labour. Thompson's account of clock time implied the synchronised regularity of a singular clock face. I have argued that, in the context of industrialised waged care work, the technology of zero-hours contracts locates clock time variously across four distinct dials: a uniform-wearing clock, a paid-time clock, a travelling-time clock and a waiting-time clock. The purpose is to re-engineer clock time as a temporality that is only partly paid. This observation fractures the singularised account of clock time offered by Thompson. Furthermore, the technology of electronic monitoring represents merchants' time in the consciousness of homecare workers and affirms that labour apprehended in nature's time is a measure of unwaged labour that resides within a caring relationship but is unrecognised within a relation of employment. As Thompson suggests, merchants' time draws opportunity from nature's time and in homecare work does so by aligning commodified care with times of favourability. The labour of care in merchants' time is a labour that is unencumbered of the risks associated with interacting with aging and ailing human bodies. It draws opportunity from nature's time by capturing care needs as moments of potential enterprise. To do so, the social and economic cost of responding to observable needs in nature's time, needs that are uncertain, unprofitable, unpredictable and unprofitable, is placed on the shoulders of individual homecare workers who apprehend labour in nature's time as unpaid work.

Thompson's attention to the shifting construction of time in the consciousness of working people is highly pertinent to my analysis of the accounts of homecare workers. His scholarship emphasised that the understandings of paid work around which our contemporary societies are organised grew from a social capacity for time to materialise from the consciousness of working people and to be captured for economic gain. Through industrial temporalities work is concretised as paid labour and my findings illustrate that care workers within the homecare industry have indeed been transformed into time workers. I have shown how time is materialised through caring labour and how technologies of time impact on care workers' temporal consciousness. Clock time is fractured across four separate dials and materialises as partially paid work. Caregiving as a labour in nature's time is economically subordinated and materialises as unpaid work. As technologies of time, zero-hours employment contracts and the electronic monitoring of service provision produce a temporal environment in which the legal entitlements of homecare workers are opaque and minimum labour standards are frequently overlooked.

By considering that homecare workers are labouring simultaneously in different modalities of time we can more richly understand the time work of care workers as a labour of time translation and negotiation. Clock time has been widely accepted as a hegemonic regulator of labour markets and a lynchpin around which entitlements and claims in employment law are organised. The labour of caregiving is considered by many as work that can never be fully commodified. My discussion of the multidimensional nature of time as manifest in homeworkers' temporal consciousness reveals how time, rather than care, is transformed under conditions of marketisation.

## Bibliography

- Association of Directors of Adult Social Services (2016), *ADASS Budget Survey 2016 Report*. London: ADASS.
- Baumol, W. (1993), Health care, education and the cost disease: A looming crisis for public choice. *Public Choice* 77: 17–28.
- Baumol, W. and Bowen, W. (1966), *Performing Arts, The Economic Dilemma: a study of problems common to theater, opera, music, and dance*, Michigan, USA: MIT Press.
- CM2000 (2014) Customer Case Studies, <http://www.cm2000.co.uk/Success-Stories> accessed 31st May 2018.
- Drengson, A. (1995), *The Practice of Technology: Exploring technology, ecophilosophy and spiritual disciplines for vital links*. New York: SUNY Press.
- Folbre, N. (2001), *The Invisible Heart: Economics and Family Values*, United States of America: New Press.
- Francis, J. (2013), *An Overview of the UK domiciliary care sector*. UK Homecare Association, Version 33, Wallington, Surrey: UKHCA.
- Fudge, J. (2014), Feminist reflections on the scope of labour law: Domestic work, social reproduction, and jurisdiction. *Feminist Legal Studies* 22 (1): 1–23.
- Gardiner, L. (2014), *Zero-Hours Contracts: The latest figures and analysis*. London: Resolution Foundation.
- Grabham, E. (2016a), *Brewing Legal Times: Things, form and the enactment of law*. Toronto: University of Toronto Press.
- Grabham, E. (2016b), Time and Technique: The legal lives of the 26 week qualifying period, *Economy and Society*, 45(3-4).
- HM Revenue and Customs. (2013), *National Minimum Wage Compliance in the Social Care Sector*, Evaluation Report November, UK Government, HMRC.
- Hayes, L.J.B. (2015), Are the minimum wage rights of homecare workers at risk under the Care Act 2014? *Industrial Law Journal* 44 (4): 492–521.
- Hayes, L.J.B. and Moore, S. (2017), Care in a time of austerity: The electronic monitoring of working time in homecare'. *Gender, Work & Organization* 24 (4), 329.
- Hayes, L.J.B. (2017), *Stories of Care: A Labour of Law. Gender and Class at Work*. Basingstoke: Palgrave Macmillan.
- Himmelweit, S. (2007), The prospects for caring: Economic theory and policy analysis. *Cambridge Journal of Economics* 31 (4), 581.
- Holmes, J. (2015), An overview of the UK domiciliary care sector. UK Home Care Association, Wallington, Surrey: UKHCA.
- House of Commons Scottish Affairs Committee. (2014), *Zero hours contracts in Scotland: An Interim Report (Tenth Report of Session 2013–2014)* UK: House of Commons
- Jacobs, A. and Padavic, I. (2015), Hours, scheduling and flexibility for women in the US low-wage labour force. *22 Gender Work and Organisation*: 67.
- Kingsmill, D. (2014), *The Kingsmill Review: Taking Care (an independent report into working conditions in the care sector)*, Labour Party, London.
- Koehler, I. (2014), *Key to Care (Report of the Burstow Commission on the future of the home care workforce)*, Local Government Information Unit (LGIU), London.

- Lewis, J. and West, A. (2014), Re-shaping social care services for older people in England: Policy development and the problem of achieving 'good care'. 43 *Journal of Social Policy*: 1.
- Michalski, K. and Dodd J. (2001), *Logic and Time*. Boston Studies in the Philosophy and History of Science, Kluwer Academic. Dordrecht Netherlands.
- Moore, S. and Hayes, L.J.B. (2017a), Taking worker productivity to a new level: Electronic monitoring in homecare: the (re)production of unpaid labour. *New Technology Work and Employment*, 32(2) 101.)
- Moore, S. and Hayes, L.J.B. (2017b), The electronic monitoring of care work. The redefinition of paid work, in Moore, P., Upchurch, M. and Whittaker, X. (Eds.) *Humans and Machines at Work: Monitoring, Surveillance and Automation in Contemporary Capitalism*. Basingstoke: Palgrave.
- Nelson, J. (1999), Of markets and martyrs: Is it okay to pay well for care? *Feminist Economics* 5 (3): 43.
- Pyper, D. (2018), *National Minimum Wage: Sleep-in Care*. House of Commons Library Briefing Paper, 8243, 8 May.
- Rasmussen, B. (2000), Home-based care as a greedy organisation. Power and responsibility in decentralised organisations. 41 *Tidsskrift For Samfunnsforskning*: 38.
- Rasmussen, B. (2004), Between endless needs and limited resources: The gendered construction of a greedy organization. 11 *Gender, Work & Organization*: 506.
- Rubery, J. and others. (2011), *The recruitment and retention of a care workforce for older people*. European Work and Employment Research Centre, Manchester: University of Manchester.
- Rubery, J., Grimshaw, D., Hebson, G. and Ugarte, S. (2015), 'It's all about time': Time as a contested terrain in the management and experience of domiciliary care work in England. *Human Resource Management*, 55 (5), 753.
- Stone, D. (2005), For love nor money. The commodification of care, in Ertman, M. and Williams, J. (Eds.) *Rethinking Commodification: Cases and Readings in Law and Culture*. New York: New York University Press.
- Suchman, M. (2003), The contract as social artefact. *Law & Society Review* 37: 1.
- Thompson, E.P. (1967), Time, work-discipline and industrial capitalism. *Past & Present* 38: 56–97.
- UKHCA. (2014), *A Minimum Price for Homecare. Version 2.1*. Wallington, Surrey: United Kingdom Homecare Association.

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<sup>1</sup> The research is the basis of a monograph, *Stories of Care: A Labour of Law. Gender and class at work* Palgrave Macmillan (2017).

<sup>2</sup> Remuneration in the private sector is about half the value of that in the public sector (taking into account hourly wages, pension costs, sick pay and other benefits; see Hayes 2017:58, 98).

<sup>3</sup> See, for example *Companions and Homemakers v State of Connecticut Dept of Social Services*, Superior Court, District of Hartford, 23 January 2017.

<sup>4</sup> Justice Elias in *Cumbria County Council v Dow (No.1)* [2008] IRLR 91 (EAT): 'A care worker who works properly is subject to the demands and requirements of the patient and cannot sensibly dictate the speed of working.' [145].

<sup>5</sup> See also *Gibson v Sheffield City Council* [2010] EWCA Civ 63; [2010] IRLR 311.

<sup>6</sup> For a detailed discussion, see Hayes 2017:189–193.