

RISKY BUSINESS

PART 4: "They're on Salary. We Don't Track Their Hours"

The everyday people practices that seem harmless... until they aren't.

"They're on salary. We don't track their hours."

They're not paid by the hour. They're a manager. A professional. A senior employee.

They're paid to get the job done. So why would we need a timesheet?

Because salary tells you how someone is paid. It doesn't necessarily tell you what they're entitled to. And if you don't know how many hours someone is actually working, there's a fairly obvious problem: How do you know their salary is enough?

The 38-hour myth

A contract might say: *38 hours per week, plus reasonable additional hours.*

That phrase appears in employment contracts everywhere. But it doesn't mean: 38 hours + whatever the job takes.

Under the National Employment Standards, an employer must not request or require a full-time employee to work more than 38 hours a week unless the additional hours are reasonable. Whether additional hours are reasonable depends on a range of factors, including health and safety risks, personal circumstances, workplace needs, notice, the employee's role and level of responsibility, and whether they receive compensation for the additional hours.

So "reasonable additional hours" isn't an unlimited-hours clause. And putting those words in a contract doesn't make every additional hour reasonable.

"But they're well paid."

Maybe they are. But this is where Part 4 meets Part 2 of Risky Business.

If an employee is covered by a Modern Award and their salary is intended to compensate them for entitlements such as overtime, penalty rates, allowances or annual leave loading, the business needs to understand whether the arrangement actually does that.

Depending on the arrangement and applicable Award, there may be specific annualised wage requirements. A contractual salary may operate differently again. Either way, there is one piece of information that becomes rather important: How many hours did they actually work?

Fair Work's current guidance specifically recommends employers use timesheets to record employees' hours because this can assist with reviewing the actual hours worked. Employers paying annualised wages or salaries also remain subject to record-keeping obligations.

Here's where businesses can get caught

Imagine an employee is contracted for 38 hours a week. Their salary was set when they joined the business. At the time, it comfortably compensated them for their Award entitlements.

But the business grows. The employee starts earlier. They finish later. Lunch becomes something eaten at the desk while answering emails. They take calls after hours. They log back in at night. Friday occasionally becomes Saturday morning.

Nobody thinks much of it. After all: *"They're salaried."* Now fast-forward two years.

The question isn't what salary appears in their contract.

The question is: *What would they have been entitled to receive for the hours they actually worked?*

If you haven't recorded those hours, answering that question becomes considerably harder.

The invisible overtime problem

This is one of the risks with salaried work. Hourly employees tend to have a clear start and finish. Salaried employees can be different. An extra 20 minutes here. An email at 7.30 pm there. A meeting that runs late. Logging in on Sunday because Monday is going to be busy. Arriving early because *"that's just what the team does."*

Individually, none of it looks particularly significant. But let's use a simple example.

An employee regularly works an additional five hours per week. Across 48 working weeks, that's: 240 additional hours a year. That's more than six additional 38-hour working weeks.

Suddenly, *"they occasionally stay back"* looks quite different. And if the employee is Award-covered, those hours may also interact with overtime, penalty rates or other Award provisions.

"Our salaried employees don't fill in timesheets."

That may be your current practice. But don't confuse *"we don't record it"* with *"it doesn't matter."*

The Fair Work record-keeping rules require employers to keep time and wages records for seven years. The precise hours-of-work records required depend on the employee and arrangement; for example, records of overtime hours are required where a penalty rate or loading must be paid for those overtime hours. Fair Work also identifies recording hours for all employees as best practice. And some Award annualised wage provisions go considerably further.

Depending on the Award, an employer may need to record start times, finish times and unpaid breaks, have those records acknowledged by the employee, and conduct a reconciliation against what the employee would otherwise have received under the Award.

So, the right question isn't: *"Do salaried employees legally have to complete a timesheet?"*

That's too simplistic. The better question is: *"What records are we required to keep for this employee and this pay arrangement, and what records do we need to demonstrate they're being paid correctly?"*

The annualised wage trap

Some Modern Awards allow annualised wage arrangements. These can be useful. But they can also come with very specific requirements. Depending on the applicable Award, that can include documenting:

- the annualised wage;
- which Award entitlements it satisfies;
- how it was calculated;
- maximum or "outer limit" overtime and penalty hours;
- actual start and finish times;
- unpaid breaks; and
- an annual reconciliation.

If the employee works beyond specified outer limits, additional payment may also become due. So, if your payroll process is simply: $\text{Salary} \div 26 = \text{fortnightly pay}$ and nobody is looking at what hours are actually being worked, you may be missing the very information needed to check the arrangement.

But timesheets aren't just about compliance.

There's another reason I think businesses should understand the hours their salaried employees are working. Workload.

Suppose your Operations Manager is contracted for 38 hours but consistently needs 50 to do the job.

That might tell you something. Maybe the role is under-resourced. Maybe responsibilities have grown. Maybe processes are inefficient. Maybe the employee isn't delegating. Maybe expectations are unrealistic. Maybe there's a capability issue. Or maybe you've simply built a 50-hour job into a 38-hour position. Without the data, you don't know.

Tracking hours isn't necessarily about watching whether someone arrived at 8:03 instead of 8:00. It can be about understanding whether the way you've designed the work is actually sustainable.

Put your salaried workforce through the Risky Business test

Pick one salaried employee. Preferably someone who regularly says: "I'm flat out." Now ask:

- What hours are they contracted to work?
- What hours are they actually working?
- Are they covered by a Modern Award or enterprise agreement?
- If so, what is their correct classification?
- Does overtime apply?
- Do penalty rates, allowances or other entitlements apply?
- What exactly is their salary intended to compensate them for?
- What does their contract say?
- Are we relying on an Award annualised wage provision or a contractual offsetting arrangement?
- What records does that arrangement require?
- When was the salary last tested against the employee's actual working pattern?

And here's the big one: If the employee challenged their pay tomorrow, could we reconstruct their actual hours and demonstrate they had received everything they were entitled to?

If the answer is: "We don't know. We don't track their hours." You may have found your next HR blind spot.

Salary isn't a substitute for visibility

There is nothing wrong with paying employees a salary. And this isn't an argument that every salaried employee needs to clock in and out like they're punching a timecard in 1985.

It's about knowing what sits underneath the number. Because you can't properly test whether a salary compensates an employee for the work they're actually performing if you have no meaningful picture of the hours, they're actually working.

Salary doesn't make hours disappear. It just makes them easier to stop noticing.

And in Risky Business, the things nobody is noticing are usually the things worth looking at.

RISKY BUSINESS by HR Navigator

The everyday people practices that seem harmless...until they aren't.

At HR Navigator, we help small and medium businesses look beneath their salaries, contracts and working arrangements to identify employment risks before they become expensive problems.

No generic HR. No HR jargon. Just practical advice and clear direction.

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