

From: s47F
To: Cassie Botha
Cc: s47F
Subject: RE: Update on ABC Review of Buyouts and Band 1 Classifications [ABC-PAL.FID37968] [SEC=OFFICIAL]
Date: Monday, 28 June 2021 10:54:22 AM
Attachments: [image001.png](#)
[image002.jpg](#)
[image003.png](#)
[Letter to FWO 31 May 2021.pdf](#)
[FAQs - Employee Time Recording - March 2021.pdf](#)
Importance: High

OFFICIAL

Good morning Cassie,

I hope this email finds you well. Further to the below and attached, I was looking to schedule a meeting between the FWO, ABC and PwC in early to mid-July.

Based on the latest correspondence, it's understood that PwC were due to finalise s47(1)(b) [REDACTED] by late June. As such, the FWO would welcome the opportunity to clarify and discuss this methodology with the ABC and PwC, as well as the approximate quantum of underpayments to Band 1 and Buyout employees (if/where applicable).

I tried giving you a call earlier to gauge your availability/the ease of locking this in – so if you could give me a call on the below number today, it'd be greatly appreciated.

Kind regards,

s47F [REDACTED]

Enforcement

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From: Cassie Botha <Botha.Cassie@abc.net.au>

Sent: Monday, 31 May 2021 7:15 PM

To: s47F

Cc: s47F Monica Vagg <Vagg.Monica@abc.net.au>; Vanessa MacBean <Macbean.Vanessa@abc.net.au>

Subject: Update on ABC Review of Buyouts and Band 1 Classifications [ABC-PAL.FID37968]

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Dear s47F

Please find our response to the FWO's correspondence of 16 April 2021 **attached**.

I have also **attached** an ABC Frequently Asked Questions document on 'Employee Time Recording' referred to in our letter.

We look forward to speaking further with the FWO in due course.

Kind regards,
Cassie



Cassie Botha
Employment Counsel
People & Culture
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31/05/2021

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Delivered by email

Dear Ms s47F

ABC Review into Buyouts and Band 1 Classifications

Thank you for your letter of 16 April 2021 and for providing us with additional time to respond to the specific questions in the letter.

Update on progress of the Review

The ABC has now completed s47(1)(b) of its review into buyouts and Band 1 classifications (the **Review**). s47(1)(b) is well underway, s47(1)(b)

s47(1)(b) will commence in June and will focus on s47(1)(b)

The ABC has decided to extend the review period up to the pay period ending 20 June 2021 in order to capture any new buyout arrangements commencing after 1 July 2020. For Band 1 employees, all new Band 1 engagements since July 2020 have been reviewed by a member of the ABC's People & Culture team to ensure that the work to be performed is accurately classified at Band 1.

Update on employment records for employees on buyout arrangements

In our letter to you of 23 December 2020, we estimated that approximately half the employees in the Buyout Review were affected by missing or inaccurate time and

attendance records. We have now determined that the correct number of payslips affected by this issue is likely to be much lower. There are several reasons for our revised assessment of this issue:

- Employee leave records, including for long term leave such as long service or parental leave, have now been imported into the model, which has provided an explanation for a portion of what initially appeared to be missing time and attendance data;
- Further investigation of a number of employees' time and attendance records has enabled us to confirm that these are reliable records of the hours of work for employees in some areas of the ABC; and
- Our original estimate included a cohort of employees who we have now determined to be out of scope of the review due to the provisions of the *ABC Enterprise Agreement 2019 – 2022* relating to 'excluded employees' (cl. 21.5).

By the end of June, we expect to have finished our investigation into the remaining payslips affected by missing or inaccurate start and finish times and at this point we will be able to properly consider the most appropriate way to address this issue. The approach taken may vary depending on which groups of employees are affected. We would be pleased to provide you with an update on this work at the end of June including any assumptions we intend to rely on to extrapolate existing payroll data.

Update on alternative or supplementary sources of data identified by the ABC

Since 1 February 2021, all rostered employees currently on buyouts have been required to confirm their actual hours of work, including overtime, on a pay period by pay period basis. The hours have been recorded in the ABC's payroll system (SAP HR) and will, where necessary, be used to test the reliability of historic time and attendance records for employees that fall within the review period. A copy of Frequently Asked Questions (FAQs) in relation to Time Recording that was shared with ABC employees and unions in January 2021 is **attached** for your reference.

Current time and attendance records are forming the basis for discussions with managers and rosterers regarding work practices within the various divisions of the ABC and may assist with determining the likely hours worked during the review period where there are incomplete historic records. Insights gained during these discussions will be shared with the FWO and with employees and unions during the consultation phase of the Review.

We have also explored utilising computer log-in data and building access records to determine hours worked for employees within the review period.

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Our enquiries into building access records have revealed that they may, in some limited cases, be able to assist to confirm employee attendance on site, for instance,

for shifts worked on weekends. However, the duration for which these records are available varies from site to site, up to a maximum of 10 months. We are exploring if there is any building access data available for employees who have incomplete records.

ABC's methodology for calculating employee entitlements

This is not yet available as PwC is still in the process of finalising the coding of the model. We anticipate that we will be able to provide you with a further update on this request, including the proposed approach to set-off by the end of June. At this stage, representatives from PwC will be available to meet with the ABC and the FWO to provide further clarity on these matters.

By end June we also expect to be able to advise the FWO whether any employees in the Band 1 or Buyout cohort have been underpaid and, if applicable, to advise the approximate quantum of underpayments. If back payments are necessary, we expect that processing of payments would commence no earlier than August 2021. Prior to processing any payments, the ABC will engage in a period of consultation with affected employees and unions.

I trust that the information in this letter provides the FWO with sufficient clarity on the progress that has been made in the Review. If you have any questions about the Review, please do not hesitate to contact Vanessa MacBean, Head of Employee Relations on 0408 253 570 or macbean.vanessa@abc.net.au.

Finally, I confirm that the ABC is fully committed to a swift and thorough resolution of the Review and will continue to work with the FWO to ensure this is achieved.

Yours sincerely,



Monica Vagg
a/Chief People Officer
Australian Broadcasting Corporation

EMPLOYEE TIME RECORDING – FREQUENTLY ASKED QUESTIONS

Last Updated:	March 2021
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GENERAL

1. Which employees need to have start and finish times recorded?

From the pay cycle commencing on 1 February 2021, managers are required to ensure that accurate start and finish times, as well as meal and crib breaks, are recorded in SAP HR for all rostered employees. This includes employees who are on an annual buyout, a buyout for short term distant assignments and special events or a salary package (Buyout Arrangements).

2. Who is a rostered employee?

Rostered employees are employees who are classified under the ABC Enterprise Agreement as either Schedule A Rostered or Schedule B Rostered and all casual employees. If managers are unsure which of their employees are rostered employees, they should contact the [People & Culture Helpdesk](#) for assistance.

3. What is the effective date of this change?

Managers must start recording accurate and actual hours worked for rostered employees who are on a Buyout Arrangement on an ongoing basis from the pay cycle beginning 1 February 2021.

The pay processing cut off point is every second Monday at 11.30am.

For the pay cycle beginning 1 February 2021, managers must ensure the hours worked are entered and authorised by Monday 15 February 2021 at 11.30am.

4. How should the ABC keep records of start and finish times and meal and crib breaks for rostered employees?

When the new rostering system, People Hub Workforce, is implemented later this year new, ABC wide processes for time recording will be implemented utilising the new system. Until then, you should follow the same processes to collect and record start and finish times as are in place for other employees in your area.

To enable times to be recorded, rostered employees, including employees on a Buyout Arrangement, need to be allocated to a roster group in SAP HR. Managers must ensure that actual hours worked and meal and crib breaks are accurately entered into SAP HR by the designated team member in their area, and approved by pay deadlines for each pay cycle.

To allocate employees to roster groups in SAP HR, managers should email [Payroll Services](#) with the employee ID, employee name and the roster group the employee should be allocated to. If managers are unsure which of their employees are already in a roster group, they should contact the [People & Culture Helpdesk](#) for assistance.

SAP HR is accessed through [myWorkspace](#) and user guidance can be found on [the intranet](#).

If managers currently record hours worked by employees in a different system or local arrangement, they can continue to do so however this must be in addition to recording the hours in SAP HR.

5. Do managers need to enter start and finish times for non-rostered employees who are on a buyout?

Typically full-time Schedule A non-rostered employees will work consistent and routine hours with their ordinary hours starting and finishing between 8am and 6pm on Monday to Friday and should generally not be on a Buyout Arrangement.

If a non-rostered employee is on a Buyout Arrangement this should be reviewed to confirm they have been correctly classified. Please contact the [People & Culture Helpdesk](#) for assistance.

6. Why do I need to keep accurate records of start and finish times for employees on a Buyout Arrangement?

Employees must be 'better off overall' on a Buyout Arrangement than they would otherwise be under the terms and conditions of the *ABC Enterprise Agreement 2019-2022* ("the EA"). To confirm whether employees are better off on their Buyout Arrangement than if they were paid the applicable penalties, overtime and allowances under the EA, it is necessary that information about actual hours worked by these employees is recorded to ensure that this 'better off overall' requirement has been met. Information on the actual hours the employee works over the period of the Buyout Arrangement is used to perform the 'better off overall' calculation.

Further information on Buyout Arrangements is available in the [Buyouts Fact Sheet](#).

7. Will recording start and finish times for employees on a Buyout Arrangement impact how much the employee will be paid?

If start and finish times show that a Buyout Arrangement has been wrongly calculated leading to a potential underpayment for an employee, the ABC may need to take immediate steps to rectify this by reviewing the Buyout Arrangement and in some cases terminating it. This will be discussed with the individual concerned prior to taking any steps.

ARRANGEMENT OF HOURS

8. What is considered work and should be recorded?

Managers should record any time that an employee has been directed to work, including but not limited to:

- Attendance for rostered shifts (start and finish times as well as meal and crib breaks);
- Attendance at work meetings outside of rostered hours, for example a morning editorial meeting;
- Working additional hours (outside of the roster as directed) when the employee does not take time off in lieu (TOIL);
- Occasions where the employee may work late one night but start later the following day, include details of the actual times worked i.e. later finish and later start the following day. If agreed to, TOIL extra hours are recorded as time in lieu accrued (TILA), and when used TOIL hours should be recorded as time in lieu taken (TILT) and used be used within four weeks); and
- Approved overtime. Employees are not required to work overtime without prior approval by their supervisor or manager.

If managers have a particular scenario or situation that they are unsure about and would like advice about how to record the hours correctly, they should contact the [People & Culture Helpdesk](#).

Employees should contact their supervisor or manager if they want to check what hours have been recorded for them.

9. What does not need to be recorded?

Managers do not need to record time that an employee has not been directed to work, including but not limited to:

- Checking emails outside of rostered hours when this is not an expectation of the employee's role;
- Professional development and maintaining expertise. For example, reading articles, watching the news, keeping abreast of current affairs etc, when these are activities the employee has chosen to undertake to maintain currency in their role. This is not the same as learning and development activities that the employee does as part of their role or research required for a particular story or investigation which forms part of their role and should be recorded as time worked; and
- When an employee completes work across the spread of a 24-hour period to suit their personal circumstances. For example, the employee has taken a few hours off during the day to go to a personal appointment but makes up the time later in the day. In this situation the ABC has not directed the employee to perform the work this way, but it has allowed the employee to work flexibly. It is important from a work health and safety perspective to know when the employee was working and when they were attending to their personal matters and they should let their manager know, but for the purposes of recording hours, the roster does not need to be amended and recorded differently.

If managers have a particular scenario or situation that they are unsure about and would like advice, please contact the [People & Culture Helpdesk](#).

10. What record keeping is required if an employee chooses to work different hours to the roster or to standard working schedules set out in the EA?

The EA provides for flexible working hours by agreement with a group of employees or an individual employee.

However, it is important that any such arrangements are made in accordance with the EA and with advice from People & Culture to confirm the arrangement is compliant with the EA. This generally will include a requirement to confirm the arrangement in writing.

If you have a specific circumstance about which you would like advice, please contact the [People & Culture Helpdesk](#).

11. What record keeping is required if an employee chooses to work through their meal break?

The EA requires employees to take a meal or crib break every five to six hours. Employees should also be encouraged to take their breaks from a work health and safety perspective.

Meal breaks are unpaid periods of between 30-60 minutes during which an employee is not expected to perform any work. Crib breaks are shorter periods of time (less than 30 minutes but not less than 15 minutes) during which employees generally remain in their work area in case they are called back to duty. These periods are treated as time worked and are paid.

There may be times when an employee is not able to take their meal break due to an operational requirement but this must be approved by their manager. In some cases, a crib break may be appropriate where an employee is unable to take a meal break.

It is important where managers approve that employees take a crib break instead of a meal break, or approve an employee not taking a meal or crib break, that this is recorded accurately in SAP HR to ensure the employee's entitlements are correctly calculated.

For the most part these situations should be rare with teams able to organise their workflows to allow for appropriate breaks to be taken.

If you need further advice, please contact the [People & Culture Helpdesk](#).

12. What time recording is required if an employee on a Buyout Arrangement is regularly working more overtime or penalty shifts than was originally anticipated when setting the arrangement?

If the employee's pattern of work changes, the loading is found to be wrongly calculated or extraordinary events have intervened, the level of loading may be reviewed, and the rate changed by agreement to reflect the new circumstances.

Alternatively, the arrangement may be terminated by either party with 2 weeks' notice prior to the commencement of the next roster cycle.

13. What time recording is required if employees attend meetings or take calls outside of their rostered hours?

If employees are directed to attend meetings or perform work related tasks, then this should be reflected in the roster and recorded as time worked.

If you have a specific circumstance that you are unsure about, contact the [People & Culture Helpdesk](#) for further advice.

BUYOUT REVIEW

14. Do managers need to input start and finish times retrospectively for the period covered by the review into buyouts?

No, managers do not need to do this. People & Culture will advise if additional information is required regarding current and former employees on a Buyout Arrangement during the review period (from 1 July 2014 until the review is completed).

15. Will the ABC remove buyouts from any employees as part of the review?

The purpose of the ABC in reviewing all Buyout Arrangements since 1 July 2014 is to ensure that the employees on Buyout Arrangements during this period were 'better off overall' than if they were paid penalties, overtime, allowances, etc under the ABC Enterprise Agreement.

If start and finish times show that a Buyout Arrangement has been wrongly calculated leading to a potential underpayment for an employee, the ABC may need to take immediate steps to rectify this by reviewing and in some cases terminating the Buyout Arrangement. This will be discussed with the individual concerned prior to taking any steps.

FURTHER INFORMATION

If you have any other questions, please email the People & Culture Helpdesk (peopleandculture@abc.net.au).