



Department
for Business
Innovation & Skills

THE NATIONAL MINIMUM WAGE

A Code of Best Practice on
Service Charges, Tips,
Gratuities and Cover
Charges

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Introduction

There are some 165,000 businesses in the hospitality, leisure and service sectors where tipping is common. These sectors are an important part of our economy employing some 1.3 million workers. Restaurants, hotels and bars make up the largest proportion of the sector (about 80 per cent), but tipping is also an important feature in industries such as hairdressing, casinos and private car hire.

From 1 October 2009, service charges, tips, gratuities and cover charges can no longer be used to make up national minimum wage pay¹. This means that all eligible workers must receive at least national minimum wage in base pay with any tips they receive being paid on top.

All workers must receive the statutory national minimum wage. Our aim is to empower consumers through clear information on what happens to the service charge, tip or gratuity they leave. The customer should know what is happening with his/her money and be able to make a judgment on its fairness.

Additional voluntary measures are being introduced through this Code of Best Practice to improve the information available to consumers and workers about service charges, tips, gratuities and cover charges. The Code provides businesses with practical guidance on how to operate in a fair and transparent way and should ensure consumers have sufficient information to make an informed choice before they leave a tip or gratuity or pay a service charge.

The Code applies to all tipping sectors including:

- hotels and restaurants
- gambling and betting outlets
- hairdressing and other beauty therapy businesses
- taxi operations

This guidance has been developed by trade unions, business representatives and consumer groups to provide a mechanism by which individual businesses can demonstrate their intention to operate a fair tips policy. It has been endorsed by the following organisations who will promote it to their members:

- Confederation of British Industry
- British Hospitality Association
- GMB
- Trades Union Congress
- Unite the union

This document sets out the four principles of the Code of Best Practice and provides guidance on ways in which businesses can make information available to consumers and workers. Businesses signing up to the code accept the principles in their entirety.

¹ [The National Minimum Wage Regulations 1999 \(Amendment\) Regulations 2009](#), regulation 31 (1) (e)

Code of Best Practice Principles of Transparency

Businesses participating in this Code acknowledge that the following four principles represent best practice in ensuring transparency in relation to service charges, tips, gratuities and cover charges:

- Businesses will clearly display on their premises prior to the point of purchase or choice their policy relating to mandatory and discretionary service charges, tips, gratuities and cover charges, and make this accessible.
- Businesses will have a process in place to deal with requests from customers about how and to whom all service charges, tips, gratuities and cover charges are distributed, and the level and purpose of deductions.
- Businesses should ensure that workers understand and are able to confidently explain the business' policy on service charges, tips, gratuities and cover charges to customers, or know where to direct customers for further information, and without risk of detriment.
- All workers should be fully informed on the distribution and breakdown of service charges, tips, gratuities and cover charges and the level and purpose of any deductions. Businesses should seek to reach agreement with workers on any change of policy.

Guidance on Transparency for Consumers

The Code states that:

- Businesses will clearly display on their premises prior to the point of purchase or choice their policy relating to mandatory and discretionary service charges, tips, gratuities and cover charges, and make this accessible.
- Businesses will have a process in place to deal with requests from customers about how and to whom all service charges, tips, gratuities and cover charges are distributed, and the level and purpose of deductions.

Businesses must apply these principles in line with legal requirements of the Consumer Protection from Unfair Trading Regulations². Information provided about service charges, tips, gratuities and cover charges must not be misleading under the terms of these Regulations. Enforcement of the Regulations is the responsibility of the Office of Fair Trading. All complaints from either consumers or others relating to misinformation can be made to the Consumer Direct Helpline on 08454 040506.

When?

Businesses should ensure that information about service charges, tips, gratuities and cover charges is made available to consumers on the premises and before they make the decision to make any discretionary additional payment.

What?

The information should cover:

- whether a charge is mandatory or discretionary
- whether an amount is deducted by the business to cover costs incurred in handling these charges (deductions could be credit card and banking charges, and/or payroll processing costs)
- whether cash tips and card tips are distributed differently
- how the remainder is shared between the business and the workers

Where?

There are a variety of ways for the business to make the information easily available on the premises to consumers, for example:

² The [Consumer Protection from Unfair Trading Regulations 2008](#) came into force on 26 May 2008. The Regulations introduce a general duty not to trade unfairly and seek to ensure that traders act honestly and fairly towards their customers.

- clear and easily visible written information available on door stickers or wall notices or on menus displayed outside the venue
- on the menu in the case of restaurants
- in the reception area and/or at the gaming table in the case of casinos
- information on the bill presented to the customer
- information made available to customers in the bill folder in leaflet form or on the 'tips' tray

In addition, businesses should ensure that workers can direct consumers to further information, for example a written statement setting out the business' policy on service charges, tips, gratuities and cover charges. Businesses may wish to make further information available through their websites or on promotional material.

Examples of disclosures that businesses may wish to consider using:

Example A:

We are committed to the Code of Best Practice on Service Charges, Tips, Gratuities and Cover Charges.

This restaurant adds a discretionary service charge to customers' bills.

Ten per cent of any discretionary service charge or card tip which you choose to pay is retained by the business to cover the charges we incur in processing your payment, card fraud losses and administration costs in distributing sums to staff.

Twenty per cent of the discretionary service charge or card tip is retained by the business [this includes deductions for breakages, till shortages and walk-outs] and 70 per cent is shared between the staff.

All cash tips go to the staff.

The amount available for staff in the restaurant is shared out through a system controlled by a staff representative.

Or

We are committed to the Code of Best Practice on Service Charges, Tips, Gratuities and Cover Charges

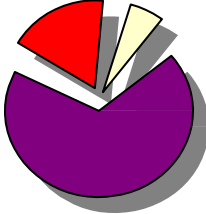
For every £1 received in card tips, the staff keep 70p, 10p covers business costs and administration and 20p goes to the business [this includes deductions for breakages, till shortages and walk-outs]. All cash tips go to the staff.

Or, illustratively

We are committed to the Code of Best Practice on Service Charges, Tips, Gratuities and Cover Charges.

Kept by the business
[this includes deductions for breakages, till shortages and walk-outs]
20%

Retained by the business to cover admin
10%



Kept by the staff
70%

*All cash tips are kept by the staff

Example B:

We are committed to the Code of Best Practice on Service Charges, Tips, Gratuities and Cover Charges.

If you choose to leave a tip through a card, we will retain 10 per cent to cover the charges we incur in processing your payment, card fraud losses and administration costs in distributing sums to staff and business costs [this also includes deductions for breakages, till shortages and walk-outs].

The remaining 90 per cent is allocated to the staff in the business and is shared out through a system controlled by a staff representative.

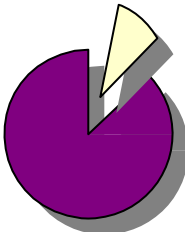
All cash tips go to the staff.

Or

For every £1 received in card tips, 90p is shared amongst the staff and 10p covers administration, processing and business costs [this also includes deductions for breakages, till shortages and walk-outs]. All cash tips go to the staff.

Or, illustratively

Retained by the business to cover admin and business costs [this includes deductions for breakages, walk-outs and till shortages]
10%



Shared by the staff
90%*

* All cash tips go to the staff

Example C:

We do not add a service charge to your bill.

100% of the tips you leave are distributed amongst the staff according to their wishes.

Guidance on Transparency for Workers

The Code states that:

- Businesses should ensure that workers understand and are able to confidently explain the business' policy on service charges, tips, gratuities and cover charges to customers, or know where to direct customers for further information, and without risk of detriment.
- All workers should be fully informed on the distribution and breakdown of service charges, tips, gratuities and cover charges and the level and purpose of any deductions. Business should seek to reach agreement with workers on any change of policy.

Businesses must comply with national minimum wage legislation including the 2009 amendment: this means that regardless of how they are paid no service charges, tips, gratuities or cover charges can be used to make up national minimum wage pay. Businesses must also ensure that they comply with current employment law more generally.

- Complaints from workers relating to their rights as employees can be made to Advisory, Conciliation & Arbitration Service (Acas) Helpline on 0300 123 1100..
- Any complaints about accurate information on a business' policy on service charges, tips, gratuities and cover charges can be made to the Consumer Direct Helpline on 08454 040506.

Businesses that comply with the Code should ensure that their employees understand the policy relating to service charges, tips, gratuities and cover charges. This means that businesses should ensure that all workers:

- understand the process for the distribution of service charges, tips, gratuities and cover charges between the business and the workers, and between the workers themselves (for example, workers should be told if a tronc operates and who the tronc master is)
- are aware of the amount and purpose of any deductions from service charges, tips, gratuities or cover charges, and seek to reach agreement with workers on any policy change
- have access to a written statement setting out the business' policies on service charges, tips, gratuities and cover charges which can be provided to consumers
- are aware of the level of deductions from tips, service charges and gratuities made to cover breakages, till shortages or customer walk-outs

- are aware of the business' grievance procedure

Businesses should give information to workers in the form of a written statement. Where the business employs a cohort of workers where English is not the workers first language the business should consider making information available in other languages.

This statement should include:

- how tips are distributed and, if applicable, if this is done through a tronc
- if cash and card tips are treated differently
- the name of the tronc master if appropriate
- how much might be deducted for administration and what this covers
- any other deductions
- what happens during holidays, sick leave, parental leave and other forms of leave

Where tips are passed to workers without national insurance deductions, workers should be informed that this may have implications for entitlement to certain social security benefits.

Annex A: Further Information

Enquires or complaints:

Acas Helpline 0300 123 1100

[Acas - Home](#)

Citizens Advice Consumer Helpline 08454 04 05 06

[Trading standards](#)

Relevant advisory web links:

[Citizen's Advice](#)

[GOV.UK](#)

[The Office of Fair Trading](#)

Relevant tipping sector web links:

[British Hospitality Association](#)

[National Hairdressers' Federation](#)

[Casino Operators' Association](#)

[National Casino Industry Forum](#)

Relevant workers web links

[Unite the Union](#)

[GMB](#)

[TUC](#)

References

HMRC guidance: Tips, Gratuities, Service Charges and Troncs

www.hmrc.gov.uk/helpsheets/e24.pdf

Consumer Protection from Unfair Trading Regulations 2008

www.opsi.gov.uk/si/si2008/pdf/uksi_20081277_en.pdf

The National Minimum Wage Regulations 1999 (Amendment) Regulations 2009

www.opsi.gov.uk/si/si2009/uksi_20091902_en_1

[National Insurance guidance](#)

[National minimum wage rates](#)

[HMRC Employer further guide to PAYE and NIC](#)

[Income Tax \(Employment\) Regulations 1993](#)

Annex B: Model Statement for Workers

We make a discretionary service charge of [xx] % to customer bills for service. Customers are free to amend or remove the service charge when their bills are settled.

Service charges together with any non-cash tips or gratuities added by customers are distributed to workers through a tronc. The business will retain [xx] % [*this covers overheads / administration of the tronc / card handling charges*].

[Name] is the tronc master responsible for the administration of the collection and distribution of service charges, tips, and gratuities paid through the tronc.

By using this system, service charges and any other pooled tips and gratuities, are able to be distributed to you without any value added tax (VAT) having first to be deducted. Payments are then made to you with any income tax due having been deducted – but without any national insurance contributions (NICs) having to be deducted.

You pay NICs to build up your entitlement to certain social security benefits, including the state pension. The type and level of NICs you pay depends on how much you earn and whether you are employed or self-employed. You stop paying NICs in the year you reach state pension age. You should be aware that if you do not make minimum payments for NICs this may impact upon your entitlement to these benefits. You can find out more about [National Insurance](#) on the GOV.UK website.

If you receive cash directly from customers or cash tips have been left on the table these belong to you and it is up to you to decided with other members of staff if you retain or pool them. Cash tips are counted as earnings for income tax purposes and it is **your responsibility** to make proper disclosure to HM Revenue & Customs (HMRC) in respect of these earnings.

During periods of leave (including annual leave, sick and all other forms of paid leave) you will be paid your basic wage.

[For businesses with a tronc: The tronc master will inform you about the arrangements for the distribution of service charges, tips and gratuities during periods of leave.]

[For businesses without a tronc: The arrangements for the distribution of service charges, tips and gratuities during periods of leave are (business to insert).]

Our basic pay rates will always be at least the national minimum wage level. The current national minimum wage rates can be found by visiting www.gov.uk

Annex C: Definitions

Consumers are often confused by the distinction between service charges, tips, gratuities and cover charges. The Code uses the following definitions:

Service Charge

An amount added to the customer's bill before it is presented to the customer. A service charge is almost always based on a percentage of the bill. If it is 'discretionary' or 'suggested' the customer is totally free to make payment or not.

Tips and Gratuities

Tips and gratuities are voluntary payments given by the customer, over and above the amount of the bill (and any service charge) and being of the nature of a personal reward from the customer to the worker. Usually, tips are monies left in cash, whereas gratuities (or card tips) are payments made electronically through a card terminal.

Cover Charge

A fixed charge per customer which is usually mandatory. Mandatory charges must be stated on tariffs or, in the case of restaurants, menus.

Tronc

A tronc is an arrangement for the pooling and distribution of service charges, tips and gratuities to workers. Troncs are commonly used in the hotel and catering industry and are increasingly used in the casino sector. A tronc has a special status for the purpose of HM Revenue & Customs (HMRC) regulations relating to income tax and National Insurance (NI).

For a tronc to comply with HMRC regulations, it is an essential requirement that workers decide who participates in the tronc and how distributions are made, *not* the employer.

Regulations allow for payments made to employees which come from discretionary service charges and or tips, to be left out of earnings when calculating NI. If an organised arrangement exists for a person to act entirely independently of the employer to decide:

- which employees will get a share of discretionary service charges, tips and/or gratuities, and
- how much those employees should get

then there will be no NI liability.

Formal guidance on NI and PAYE income tax is set out in HMRC guide E24.

Tronc master

The person who distributes monies from the tronc is known as the tronc master and is normally a worker or committee representative. The tronc master is responsible for operating PAYE (income tax) on payments distributed through the tronc.

HM Revenue & Customs E24 Guide

The HMRC E24 is a guide to income tax, National Insurance, national minimum wage and VAT and how they apply to service charges, tips, gratuities and tronc.

www.hmrc.gov.uk/helpsheets/e24.pdf

Annex D: List of Stakeholders

The following businesses and organisations were consulted in developing the principles of this Code:

All Bar One
BDO Stoy Hayward
British Association of Hospitality Accountants
British Hospitality Association
Business in Sports and Leisure
Birmingham Chambers of Commerce
British Chambers of Commerce
Carluccio's plc
CBI
Consumer Focus
Federation of Licensed Victuallers Association
FSB
Fourth Hospitality
GMB
Metropolitan Restaurants
National Hairdressers' Federation
OFT
Paramount Restaurants
Ransome's Dock
TUC
Unite the union

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