



Department for
Business & Trade

Code of Practice on Fair and Transparent Distribution of Tips

Consultation on the draft statutory Code of Practice supporting
measures in the Employment (Allocation of Tips) Act 2023

Closing date: 22 February 2024

Contents

Foreword	3
Supporting tipping industries	3
Why we are consulting	4
Consultation details	5
How to respond	6
Confidentiality and data protection	6
Quality assurance	6
Consultation questions	7
About you	7
Distribution of tips	9
Allocation of tips	13
Transparency	16
Implementation	18
Legal disclaimer	19
Copyright	19

Foreword

Supporting tipping industries

Like many, I was disappointed to read media stories of restaurant bosses pocketing tips intended for hard-working staff. In order to learn more about the scale of this problem, the government ran a Call for Evidence, and followed this with a consultation on legislative measures to tackle the problem. In the government's response to the consultation, we confirmed three principles for tips: that it should be clear to consumers that they are voluntary, that they should be received by workers, and that it should be clear and transparent to consumers and workers how the payments are treated.

It is clear that many employers do the right thing and pass tips on to their staff in full, but bad behaviour persists in a small number of businesses. This is bad for workers, who have not been protected from having their well-deserved tips pocketed by their employers. This is bad for customers, who want to be assured that when they recognise good service, their tip goes to the intended party. And it is bad for businesses, who should be confident that other businesses do not have an unfair competitive advantage by pocketing tips.

The government supported the passage of a Private Members' Bill which became the Employment (Allocation of Tips) Act 2023 (the Tipping Act) to bring forward measures to ensure tips are distributed fairly and that it is transparent to workers how tips in a workplace are treated. The Act requires that tips be passed on to workers in full, with very limited exceptions; that businesses have a tipping policy and provide this to their workers; that businesses keep records on distribution of tips; and gives workers a new right to request a copy of their tipping record, enabling them to bring a claim to Employment Tribunal in order to enforce their rights.

Today we are publishing a draft statutory Code of Practice, an important step in implementing the measures in the Tipping Act. We want this Code to be useful for workers and employers in tipping industries. Its intention is to provide statutory guidance on how employers can meet the requirements of 'fair and transparent' distribution of tips under the Act. I would welcome employers, workers, representatives, and consumers from all tipping industries to respond to this consultation.

This legislation is part of our wider commitments to protect workers' rights and to ensure the UK is the best place in the world to grow a business.

Kevin Hollinrake

Minister for Enterprise, Markets and Small Business

Why we are consulting

The Employment (Allocation of Tips) Act 2023

The Government is consulting to gather views on the draft statutory Code of Practice on the distribution and allocation of tips (“the Code”), in line with the statutory requirement under section 27P of the Employment Rights Act, as inserted by the Employment (Allocation of Tips) Act 2023 (“the Act”) to publish a draft of the Code, and consider any representations made in response. In accordance with section 27Q of the Employment Rights Act 1996, as inserted by the Act, the government has consulted the Advisory, Conciliation and Arbitration Service (Acas) prior to preparing and publishing the draft Code.

The Code will give employers and workers in hospitality and other tipping sectors more detail on ‘fair and transparent’ allocation of tips. It will include guidance on how tips can be gathered and distributed, factors which should be considered when distributing tips, and details on transparency measures including the requirement to keep a written tipping policy and to maintain accurate tipping records. Once the Code and other measures in the Act are in place, consumers can also have greater confidence when leaving tips to recognise good service.

This Code only provides guidance on fair and transparent allocation and distribution of tips. Its purpose is not to provide guidance on other aspects of the Act, including what workplaces or tips are qualifying under the Act, or on enforcement.

This is an opportunity for all interested parties and groups to review the draft Code and provide their views on it. The consultation will remain open for 10 weeks. We will analyse all submissions, and take the views provided into account before publishing a government response and final version of the Code in spring 2024, ahead of the aim for the Code and full measures of the Act coming into force on 1 July 2024.

Consultation details

Issued: 15 December 2023

Respond by: 22 February 2024

Enquiries to: nationalminimumwage@businessandtrade.gov.uk

Consultation reference: Consultation on draft statutory Code of Practice on Fair and Transparent Distribution of Tips

Audiences:

Micro businesses, SMEs, and large businesses in tipping industries, trade bodies, trade unions, legal representatives, employment lawyers, payroll and accountancy professionals, troncmasters, individual workers, customers, general public.

Territorial extent:

Employment law is reserved for England, Wales and Scotland. It is a devolved matter in Northern Ireland.

How to respond

Respond online at: https://ditresearch.eu.qualtrics.com/jfe/form/SV_5tIYpU3v2aFEBIa

or

Email to: nationalminimumwage@businessandtrade.gov.uk

This consultation is available at: <https://www.gov.uk/government/consultations/distributing-tips-fairly-draft-statutory-code-of-practice>

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable data protection laws.

We will summarise all responses and publish this summary on [GOV.UK](https://www.gov.uk). The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the Government's [consultation principles](#).

Consultation questions

About you

The following questions are about what kind of business or workplace you are responding on behalf of.

1. Are you responding as a (tick all that apply):

Business representative organisation

Business owner or employer in a tipping industry

Trade Union or staff representative group

Worker in a tipping industry

Consumer

Other (please describe)

2. If you are responding as an employer, business owner, or business representative, what type of business do you own or operate?

Hospitality (bar/pub/restaurant)

Hospitality (accommodation)

Hair & beauty

Taxis & transport

Gambling

Other (please describe)

3. If you are responding as an employer, business owner, or business representative, approximately, what is the size of your business?

Micro (fewer than 10 staff)

Small (11 to 50 staff)

Medium (51 to 250 staff)

Large (250+ staff)

Unsure

4. If you are responding as a worker, what type of workplace are you employed in?

Hospitality (bar/pub/restaurant)

Hospitality (accommodation)

Hair & beauty

Taxis & transport

Gambling

Other (please describe)

5. If you are responding as a worker, what size of workplace are you employed in?

Micro (fewer than 10 staff)

Small (11 to 50 staff)

Medium (51 to 250 staff)

Large (250+ staff)

Unsure

Distribution of tips

The following questions are about how tips in your workplace are distributed.

6. How do you/does your workplace currently accept tips from customers? Tick all that apply

Card as part of bill payment

Card separately from bill payment

Through an app

Cash (in a tip jar)

Cash (on table or handed to staff)

Casino chips

Don't know

Other (please describe)

7. Does your workplace automatically add a tip to a customer's bill (this may be listed as a 'service charge')?

Yes

No

Don't know

Other (please describe)

8. How do you/does your workplace currently distribute tips?

No employer influence

Employer pays out all tips from bills to the relevant staff member; and tips are not pooled

Worker-operated tronc (tips are pooled, and distributed by a member of staff)

Employer-operated tronc (tips are pooled, and distributed by employer, owner, or boss)

Third party-operated tronc (tips are pooled, and distributed by separate pay or accounting firm)

Don't know

Other (please describe)

9. Employers: How quickly after a tip is left do you currently pay it to your workers?

Same day or next day

Same week

Same fortnight

Same month or 30-day period

Following month

Other (please describe)

Don't know

I don't currently pass on tips

10. Worker: How quickly after a tip is left do you currently have it passed on to you?

Same day or next day

Same week

Same fortnight

Same month or 30-day period

Following month

Other (please describe)

Don't know

I don't currently receive tips

11. If you are responding as or on behalf of an employer, do you pay tips out through payroll or separately from pay?

Through payroll

Separately from pay

Don't know

Other (please describe)

12. If you are responding as or on behalf of a worker, do you currently receive tips through your pay or separately from pay?

Through payroll

Separately from pay

Don't know

Other (please describe)

13. If you are a customer, how do you usually tip? Tick all that apply. (Note that if you are responding as or on behalf of an employer or worker in tipping industries, you can also answer these questions if you are a customer.)

Cash

Card

Chip or token

Other (please describe)

Don't usually tip

14. If you leave a tip, who do you expect it to go to?

To the person who served me

Split between staff

The business

Unsure

Other (Please describe)

15. If you are a customer, would you like to know how tips are distributed?

Yes

No

Not sure

Allocation of tips

The following questions are about how tips are divided or allocated between staff in your workplace.

Employers

16. Have you ever sought agreement from or consulted your staff on how tips will be divided up?

Yes

No

Don't know

17. If yes, how have you sought agreement or consulted with staff?

[Free text]

18. What factors do you consider when determining the allocation of tips in your business? Please tick all that apply.

Type of role or work

Basic pay or how workers are engaged

Individual and/or team performance

Seniority/level of responsibility

Length of service with the business

Customer intention

Don't know

Other (please describe in question 19)

19. Please describe how you determine allocation of tips further.

[Free text]

20. If you use agency workers as well as directly employed staff, do you divide tips differently between the two groups?

No, this is not a factor

Yes, agency workers receive no share of tips

Yes, agency workers receive smaller share of tips

Yes, agency workers receive larger share of tips

Don't know

Other (please describe)

Workers

21. Has your employer ever sought agreement from or consulted staff on how tips will be divided up?

Yes

No

Don't know

22. If yes, how have you sought agreement or consulted with staff?

[Free text]

23. What factors are considered in your workplace when determining the allocation of tips? Please tick all that apply

Type of role or work

Basic pay or how workers are engaged

Individual and/or team performance

Seniority/level of responsibility

Length of service with the business

Customer intention

Don't know

Other (please describe in question 24)

24. Please describe further how allocation of tips is determined in your workplace.

[Free text]

26. If agency workers are used in your workplace as well as directly employed staff, are tips divided up differently between the two groups?

No, this is not a factor

Yes, agency workers receive no share of tips

Yes, agency workers receive smaller share of tips

Yes, agency workers receive larger share of tips

Don't know

Other (please describe)

Transparency

The following questions are about transparency of tipping practices and policies in your workplace.

27. Are you aware of there being a tipping policy in your workplace?

Yes

No

Don't know

28. Does your workplace make the tipping policy available to staff?

Yes

No

Don't know

I am not aware of the workplace having a tipping policy

29. Does your workplace make the tipping policy available to customers?

Yes

Yes, only on menus

No

Don't know

Other (please describe)

30. Does your workplace currently pass on all tips to staff?

Yes

Yes, minus an admin charge

Yes, after some other deductions are made

No

Don't know

Other (please describe)

Implementation

The following questions are about how changes following the Tipping Act will be made in your workplace.

31. Which part of the Employment (Allocation of Tips) Act 2023 do you think will take the most time to implement in your workplace? Please tick all that apply.

Measures on distribution (how and when tips are collected and passed to workers)

Measures on allocation (how tips are divided between workers)

Measures on transparency or record keeping

Not sure

Other (please describe)

32. If you are an employer, how will ensure that your workers are aware of this new policy on tipping?

[Free text]

33. If you are a worker, please describe if you feel confident asking about how tips are distributed in your place of employment.

[Free text]

34. Would you like to see further guidance provided on any of the below. Please tick all that apply.

Tipping policy guidance or template

Tipping record guidance or template

Template for requesting tipping record

Guidance on different branches of a business

Guidance on tips and agency workers

Other (Please describe)

<p>Legal disclaimer</p> <p>Whereas every effort has been made to ensure that the information in this document is accurate the Department for Business and Trade does not accept liability for any errors, omissions or misleading statements, and no warranty is given or responsibility accepted as to the standing of any individual, firm, company or other organisation mentioned.</p>	<p>Copyright</p> <p>© Crown Copyright 2023</p> <p>You may re-use this publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.</p> <p>To view this licence visit: www.nationalarchives.gov.uk/doc/open-government-licence or email: psi@nationalarchives.gov.uk.</p> <p>Where we have identified any third party copyright information in the material that you wish to use, you will need to obtain permission from the copyright holder(s) concerned.</p> <p>This document is also available on our website at gov.uk/dit</p> <p>Any enquiries regarding this publication should be sent to us at enquiries@trade.gov.uk.</p>
---	---