



Department for  
Business & Trade

# Consultation on the Statutory Code of Practice on Fair and Transparent Distribution of Tips

## Government Response

Published 22 April 2024

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## Ministerial Foreword

The government is committed to making the UK the best place in the world to work and to start and grow a business. The UK's flexible labour market is key to economic growth and helping business to thrive. However, labour market flexibility must be balanced with appropriate safeguards for workers.

Having been a small business owner, I know how important it is for employers to treat their staff well. I also know how important it is that good employers are not undercut by unfair practices. That is why I am pleased to present the response to the recent consultation on the draft statutory Code of Practice on Fair and Transparent Distribution of Tips.

Following the publication of the final version of the Code of Practice, and the Employment (Allocation of Tips) Act 2023 coming into force, workers in tipping industries will finally know they are protected from unfair employers pocketing money meant to go to them in recognition of good service. Businesses will be able to use the Code of Practice to aid in the distribution of tips in their workplace.

We are grateful to all those who contributed to the consultation.



**Kevin Hollinrake – Minister for Enterprise, Markets, and Small Business**

## Introduction

The Employment (Allocation of Tips) Act 2023 received Royal Assent on 2 May 2023. Through this legislation, employers will no longer be able to retain tips left by customers for workers in recognition of good service. Employers will be required to pass tips on to workers. Employers of businesses where tips are left more than occasionally will be required to have a tipping policy which they provide to workers, and to have regard to a statutory Code of Practice when distributing tips. Workers will have a new right to request a copy of their tipping record in order to enable them to bring a claim to Employment Tribunal where they believe they are not receiving tips they should be. All of these measures will come into force on 1 October 2024.

We consulted on a draft Statutory Code of Practice on Fair and Transparent Distribution of Tips between 15 December 2023 and 22 February 2024. We received 159 responses, both written and through an online survey, and held 12 meetings with key stakeholders, including representatives of hospitality businesses, independent tronc operators, agencies, and trade unions.

The government is very grateful to all respondents to the consultation for their considered and helpful responses. This document sets out feedback received in the consultation, the government's response, and next steps.

# Responses to consultation questions

## Part 1: About you

### Questions 1-5

These questions told us about what kind of business or workplace respondents were responding on behalf of. These allow us to break down responses to other questions by business type or size.

We received 125 responses to an online survey<sup>1</sup> and 34 responses in writing. We also held a number of meetings with key stakeholders in the industry, both representatives of hospitality businesses, independent tronc operators, agencies, and trade unions.

The most common response to the online survey for the category of respondent was business owner or employer in a tipping industry (38%). This was followed by workers in the tipping industry (27%), consumers (21%), business representation organisations (17%), trade unions or staff representative groups (2%), and 'other' respondents (5%). Respondents were able to choose multiple options.

Of the industries represented, 60% of employer respondents came from hospitality (bars/pubs/restaurants), 26% from hospitality (accommodation), 1% from hair and beauty and 13% from 'other' businesses. Similarly, 64% of worker respondents came from hospitality (bars/pubs/restaurants), 15% from hospitality (accommodation), 5% from gambling, 3% from hair beauty, 3% from taxis and transport, and 10% from 'other' businesses.

The spread of employer respondents across business size was fairly even, with 38% from small or micro businesses (50 or fewer staff), 29% from medium sized businesses (51-249 staff) and 31% from large businesses (250+ staff). Of responses from workers, 26% came from large businesses and nearly half (49%) from small and micro businesses.

### Government response

We were pleased with the number of responses and the engagement throughout the hospitality industry, and the range of size of businesses who responded. We note the greater

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<sup>1</sup> This excludes cases where respondents either opened the online survey and did not respond to any questions, or only responded to the questions in the "About You" section.

engagement from employers and business representatives, and of hospitality businesses in particular.

We note the support of the principle of the legislation from respondents, such as the employer who told us, “we are in favour of the legislation and in particular its intent to ensure all tips go to those people responsible for delivering service to our customers.”

We also note the number of responses from consumers, indicating that while the legislation will not directly affect consumers, the public has interest in tipping practices when they use service industries.

## **Part 2: Distribution of tips**

### **Questions 6-15**

These questions asked about how tips are currently distributed. These allow us to check whether there is significant change from our other data, and helps inform our implementation support for businesses.

The majority of respondents (85%) told us their workplace accepted tips via card as part of the bill payment. A large share of respondents (58%) also told us that their workplace accepted tips as cash on the table or handed to staff. Other response options were less common: accepting cash in a tip jar (26%), by card separately from bill payment (19%), through an app (7%), through casino chips (3%) or ‘other’ (7%). Respondents were able to choose multiple options. Many respondents told us they accepted tips in more than one form.

We asked whether the workplace automatically adds a tip (sometimes referred to as a ‘service charge’) to customers’ bills: around two-thirds (65%) of respondents said yes. A few respondents told us this only happens in certain situations, such as serving a large party in a restaurant.

When asked whether tips in the workplace were pooled before being distributed (also known as a ‘tronc’ system) and whether distribution of tips was controlled by the employer, a worker or group of workers, or by a third party, 45% reported their workplace used an employer-operated tronc, 20% reported a third party-operated tronc was used, 17% reported a worker-operated tronc was used, 4% reported the employer distributed tips without pooling, 3% reported tips went to workers with no pooling or employer influence, and 10% reported another method was used.

When employers were asked how soon a tip is paid to workers after it is left by a customer, 35% said the following month, 30% said the same month or 30-day period, 6% the same

fortnight, 4% the same week, 4% the same day or next day, 7% saying they don't currently pass on tips, and 13% reporting another practice (several being holding back tips to distribute later in the year or to pay for staff parties).

When workers were asked how quickly tips were paid out, 26% said the following month, 17% the same month or 30-day period, 17% the same fortnight, 6% the same week, and 6% the same day or next day. A small share (9%) reported not currently receiving tips, and 20% reported another practice (with some reiterating here that tips were not currently passed on).

We asked whether tips were paid out through payroll or separately, to inform the needs of business in implementing the new legislation. The majority (77%) of businesses pay tips out as part of payroll.

We asked respondents how they tipped as customers. An even number (41% each) reported using cash and card, and 12% reported that they do not usually tip. A further 3% use chips or tokens and 3% use other methods (such as bank transfer). Respondents were able to choose multiple options.

Many customers (66% of respondents) expected tips to be split between staff and 26% of respondents expected it to go to the worker serving them. In addition, 72% of customers reported that they would like to know how tips are distributed.

### **Government response**

Our previous evidence noted the increase in tipping via card, however it is clear that a range of tipping methods continue to be used and that many businesses accept tips via multiple means. We want businesses to be able to accept tips in whatever forms works for them and their staff. This updated information will continue to inform our support to stakeholders.

We have engaged and continue to monitor the use of tipping apps, which have a greater presence than when the legislation was first prepared. We have added a reference in the Code of Practice to clarify that a scenario where a customer tips using an app which pays out to workers directly, and bypasses the employer, is out of scope for the legislation and the Code of Practice, because only employer-controlled or distributed tips are in scope.

A number of correspondents have written to us about the practice of automatically adding tips to bills, which is not uncommon. While the government does not have a view on this business practice, it is clear that these tips must be passed on to workers the same as all other tips. To help clarify, we have added to the Code of Practice to clarify that tips or service charges which are automatically added are in scope of the legislation and the Code of Practice.

It is clear from the data that there are still a range of employer-, worker-, and third party-operated tronc or tip distribution methods. Just under half of respondents told us tips distribution in their workplace was controlled by the employer, supporting the need for the legislation to protect workers from unfair employers and for a Code of Practice to give guidance to employers on distribution of tips. The range of methods of distributing tips supports the need for the legislation to reflect the range of practices common across tipping industries.

The legislation requires employers to pass tips on to workers by the end of the month following the month in which the tip was left. This supports the principle than employers should pass tips on to workers reasonably promptly. Several employers told us that they favoured being able to 'smooth' tips throughout the year, which the legislation will not allow. The practice of smoothing is not supported by the principles that tips should be paid to workers promptly and be in their control; nor the principle that tips are given freely by customers and the amount of tips left cannot be assumed or guaranteed, even in businesses where many customers choose to pay an automatically added service charge.

We are pleased that the majority of employers told us their practices of promptly paying out tips are currently in line with the legislation. We will continue to support stakeholders to ensure their practices are in line with the law through communications through the implementation period.

The responses from customers on how tips are distributed indicate the interest the public has in this legislation and in tipping practices. Many would like to know how tips are distributed, and so the Code of Practice supports businesses making their tipping policy available to customers.

### **Part 3: Allocation of tips**

#### **Questions 16-26**

These questions asked about how tips are currently divided or allocated between staff in the workplace. These questions help to further inform the factors of fair distribution in the draft Code and support implementation with stakeholders supporting with agency workers.

When asked if they had ever sought agreement from or consulted their staff on distribution and allocation of tips, 57% of employers reported that they had done this, 32% reported they had not, and 11% were unsure.

However, 73% of workers reported their workplace had not sought agreement from or consulted staff, only 27% had.



When asked what factors are currently considered when determining allocation of tips, respondents reported a range of factors, with many using more than one factor. The type of or work and seniority or level of responsibility were the most commonly considered factors.

When asked if agency workers, where engaged, are currently treated the same way as directly engaged staff for purposes of allocation of tips, a slight majority (40%) of employers reported that agency workers receive no share or a smaller share of tips. A smaller proportion (17%) of workers reported that agency workers currently receive no share or a smaller share of tips.

### **Government response**

Trade Union representatives and Acas both supported employers consulting or engaging staff on the workplace's tipping policy. Engaging staff in workplace policies can help resolve issues early and avoid the need for mediation or enforcement action. The Code of Practice supports this, and notes the need for employers to continue to engage staff on the workplace's tipping policy, to allow for changes in circumstances and staff turnover.

It is clear from stakeholders that a range of factors are used to determine allocation of tips, and that factors continue to vary across different workplaces. It is important that the legislation and Code of Practice do not inadvertently disallow any practices which are considered fair in individual workplaces.

It is clear that current practices vary in terms of including agency workers in allocation of tips. However, in many circumstances, a customer leaving a tip will not know whether the person serving them is directly engaged or engaged through an agency. It is therefore important for employers to consider agency staff in the allocation of tips and in most cases be able to pass tips on to agency workers.

We have made some clarifications to the Code of Practice around agency workers where the 'employer' for a directly engaged worker is the 'hirer' for purposes of an agency worker. Further clarification was given to employers' need to give due consideration to agency workers when determining allocation of tips.

## **Part 4: Transparency**

### **Questions 27-30**

These questions are about tipping policies for the business. These give us data on how many businesses have already implemented this measure and help us support implementation.

Most respondents (77%) reported that they were aware of a tipping policy in their workplace, whilst 23% said that they were not aware of one. When asked if the workplace made the tipping policy available to staff, 61% of respondents said yes, 21% said no, and 18% were not aware of the workplace having a tipping policy. Additionally, when asked if the tipping policy was made available to customers, the majority (59%) reported their workplace did not, but some did, noting in some cases that it was a sentence on a menu with no further detail.

When asked if the workplace currently passes all tips on to staff, 50% reported that it did, while 21% reported that tips were passed on after an administrative charge was taken, and 13% reported tips were passed on after other deductions were made. A further 11% reported no tips were currently passed on, and 5% reported some other arrangement was in place.

### **Government response**

The legislation requires employers in tipping industries to have a tipping policy and to provide it to their staff. It is positive that many businesses already have this in place, and we will work with stakeholders to ensure businesses are prepared for this.

The interest in customers in the tipping policy of a business being published demonstrates the interest the public has in this legislation and tipping policies. The Code of Practice therefore supports businesses making their tipping policy available to customers.

It is encouraging that a number of businesses are already passing tips on to workers in full, in line with the government policy. The evidence continues to support the fact that the majority of businesses want to do the right thing, and it is important that they are not undercut by other employers pocketing tips left for staff. However, some businesses report passing on tips only after taking out an administrative fee or other deduction. This is not allowed under the legislation and the government has always been clear that administrative fees are a cost which must be borne by the business. We will continue to issue clear communications to business stakeholders to ensure they are prepared for the changes from 1 October. Even while criticising one provision of the tipping legislation, in this case the inability to deduct admin fees, respondents have generally backed the overall intent of the Act and Code: "We commend the government's initiative to curb unscrupulous practices surrounding the handling of service charges and tips collected from guests, and we fully support the principles behind this legislation."

## **Part 5: Implementation**

### **Questions 31-34**

These questions are about how the changes in the legislation will be implemented in respondents' workplaces. These give us information about how businesses are preparing for the new rules to come into force and help inform the support we continue to give to businesses.

When asked which part of the Employment (Allocation of Tips) Act 2023 would take the most time to implement, responses were relatively evenly split, with 42% answering 'measures on distribution (how and when tips are collected and passed to workers)', 49% answering 'measures on allocation (how tips are divided between workers)', 53% answering 'measures on transparency or record keeping', 18% reporting they were not sure and 5% giving another answer. Respondents were able to choose multiple options.

When asked how they will ensure their workers are aware of the new policy, employers reported preparing to distribute their new tipping policy, holding staff meetings and trainings, and communications from their external troncsmaster.

When asked if they would feel comfortable asking about how tips are distributed in their place of work, workers' responses were mixed, with many reporting they had previously tried to engage with management on tipping procedures in the workplace and not been successful.

When asked what they would like to see further guidance on, some had questions about 'smoothing' of tips across the year, deduction of administrative fees from tips, and on tax and NI arrangements.

### **Government response**

It is positive to hear that businesses are proactive about preparing tipping policies where they do not already exist and sharing these with workers. However, the response from workers on their confidence levels in engaging their employer on tipping practices is discouraging. We will continue to support stakeholders in how they can engage in productive dialogue in the workplace.

The legislation does not allow for administrative or similar fees to be deducted from tips before they are passed on to workers. Additionally, 'smoothing' of tips or retaining them for periods of time is not allowed under the legislation. Tips must be passed on to workers in full and promptly, accounting for existing tax and social security arrangements.

The Code of Practice has been updated to reiterate that the legislation and the Code do not make any changes to existing tax and social security rules. We will continue to work with

HMRC and stakeholders to ensure communications is clear about the existing arrangements for tax and National Insurance.

We will continue to consider further guidance to assist businesses to implement the new rules.

## **Consultation meetings**

In meetings, stakeholders were overall supportive of the draft Code and indicated it would be a useful tool to support businesses to distribute tips fairly and for workers to understand their new rights, and that the new legislation will be a positive change for service industries.

Discussions covered strengthening of language in certain parts of the Code to give clarity and support the objectives of the legislation; how frequently a business could update their tipping policy; how businesses should keep tipping records; and current business practices to allocate tips including how agency workers are included. Conversations with Trade Unions covered how the Code would support democratic processes where workplaces have tronc systems run by workers., and consultation of staff was also discussed with business representatives.

Many discussions focused on not just the Code but the wider measures of the primary legislation to implement and how Government can support businesses and workers to understand these. Stakeholders representing both businesses and workers were keen that any issues which arise could be resolved without the need to go to employment tribunal.

### **Government response**

It is positive to hear stakeholder's support of the objectives of the policy, and that the content of the draft Code is useful. The feedback given in meetings contributed to updates to the Code, including about consideration of agency workers, and about early resolution of issues in the workplace. The conversations will also continue to inform the support Government provides to businesses to implement the new measures.

## Next Steps

A final version of the Code of Practice will be published on 22 April 2024, reflecting the views given in the consultation responses and in meetings during the consultation period. This Code of Practice will be subject to Parliamentary approval.

Commencement regulations will follow to bring the final version of the Code of Practice and the remaining measures in the Employment (Allocation of Tips) Act 2023 into force on 1 October 2024.

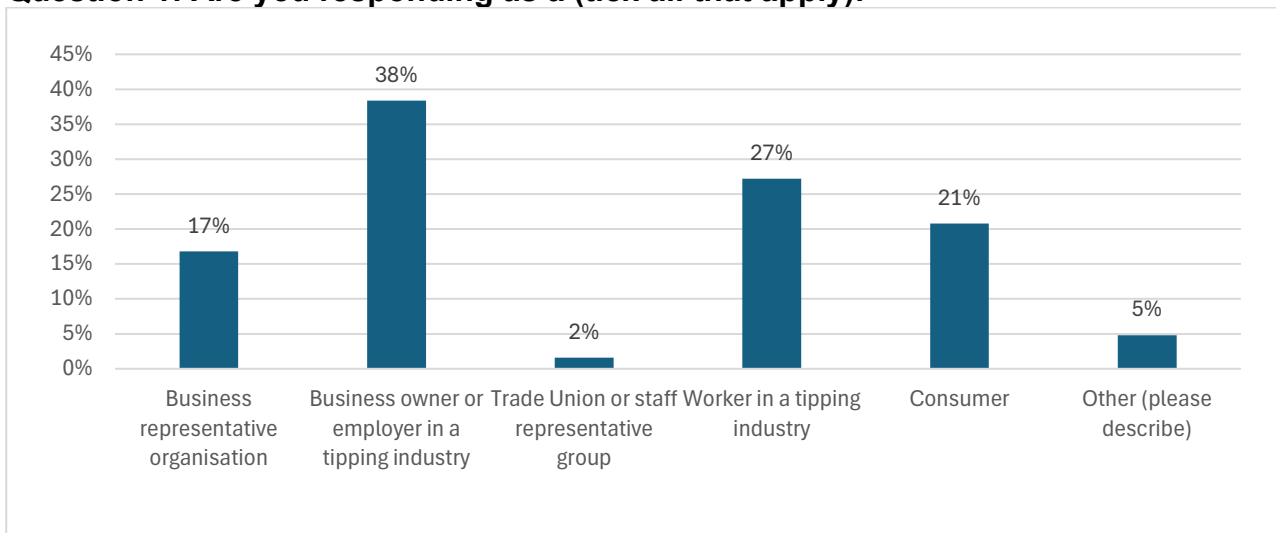
We will continue to work closely with other Government Departments and stakeholders in tipping industries to help businesses prepare for implementation and support workers to be informed about their new rights.

We will also continue to work with other Government Departments and stakeholders to prepare non-statutory guidance and communications to support businesses to implement the new rules.

# Annex – Online survey responses

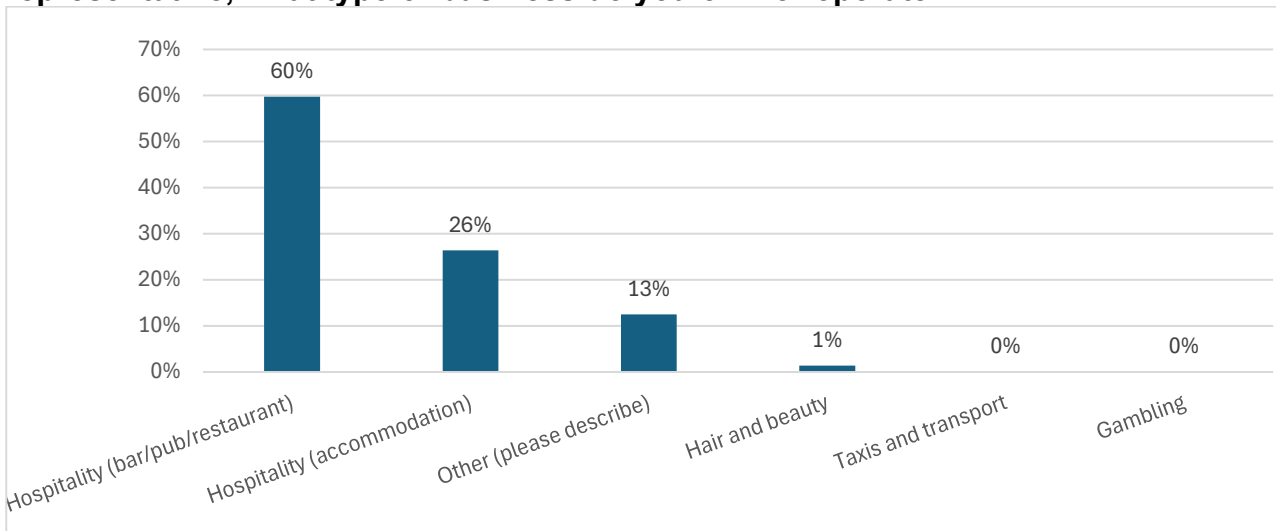
## Section 1: About You

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



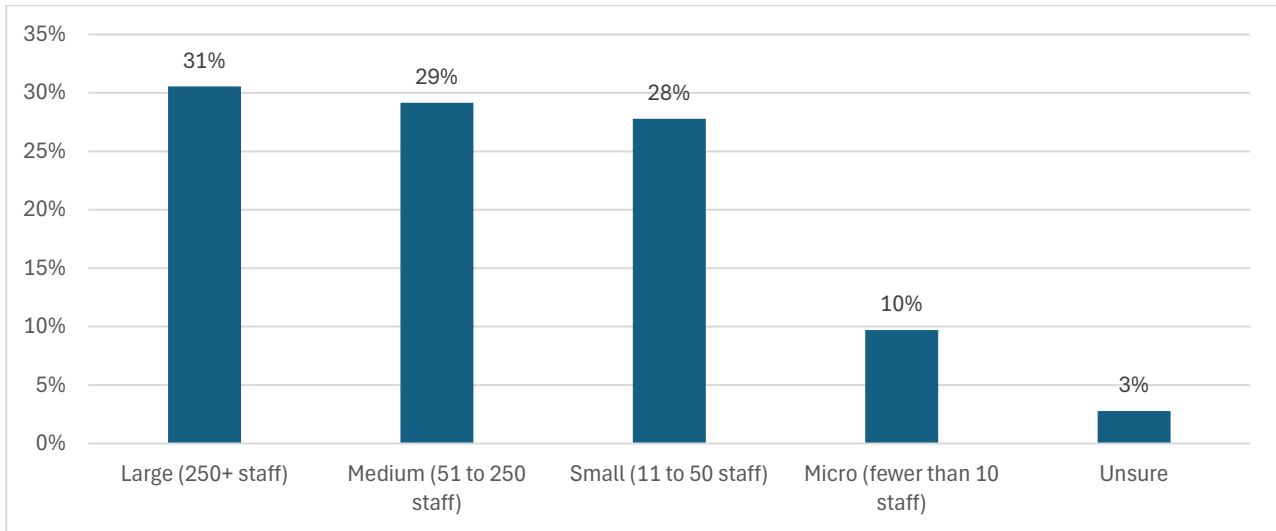
**Note:** 125 respondents

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



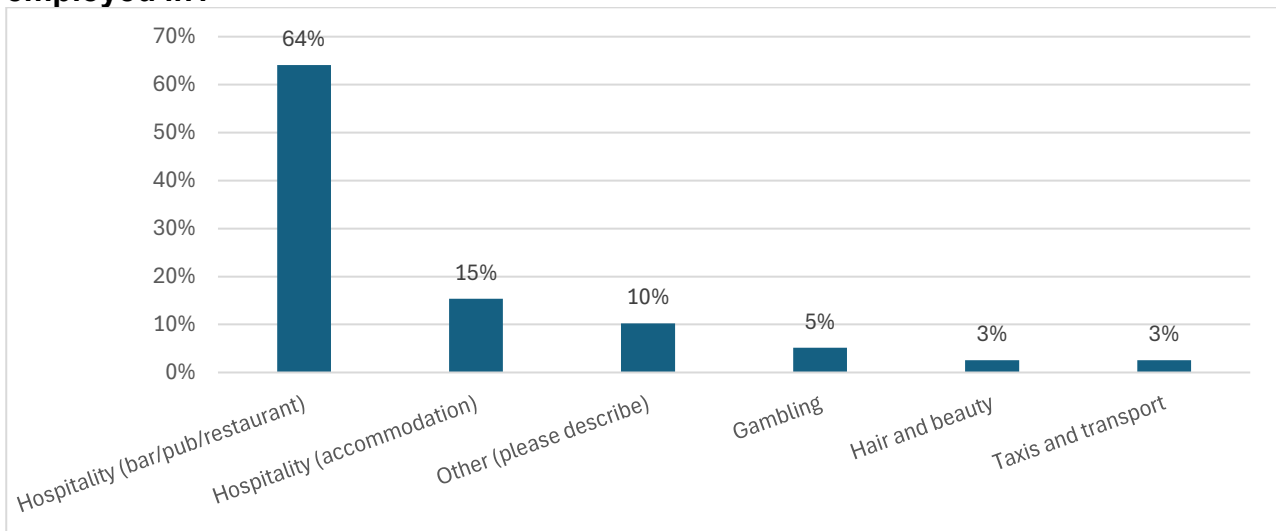
**Note:** 72 respondents

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



**Note:** 72 respondents

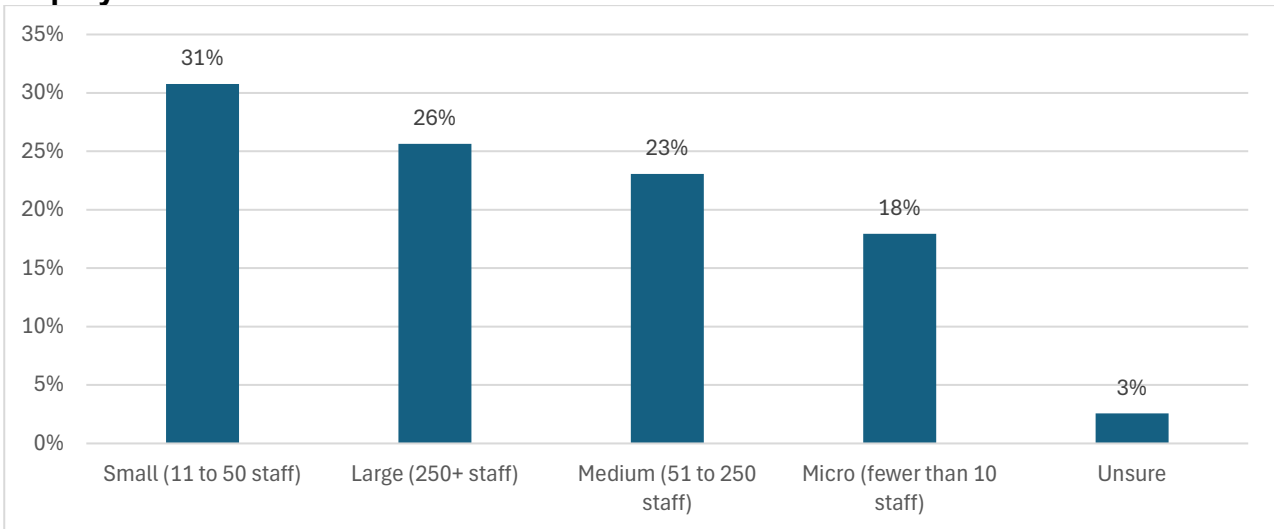
**Question 4: If you are responding as a worker, what type of workplace are you employed in?**



**Note:** 39 respondents



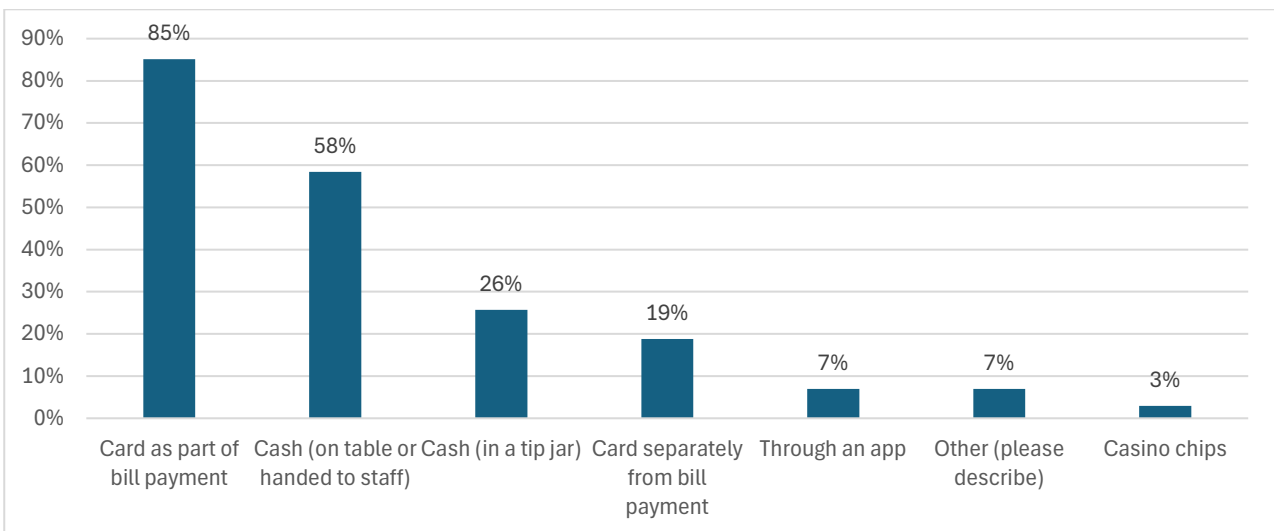
**Question 5: If you are responding as a worker, what size of workplace are you employed in?**



**Note:** 39 respondents

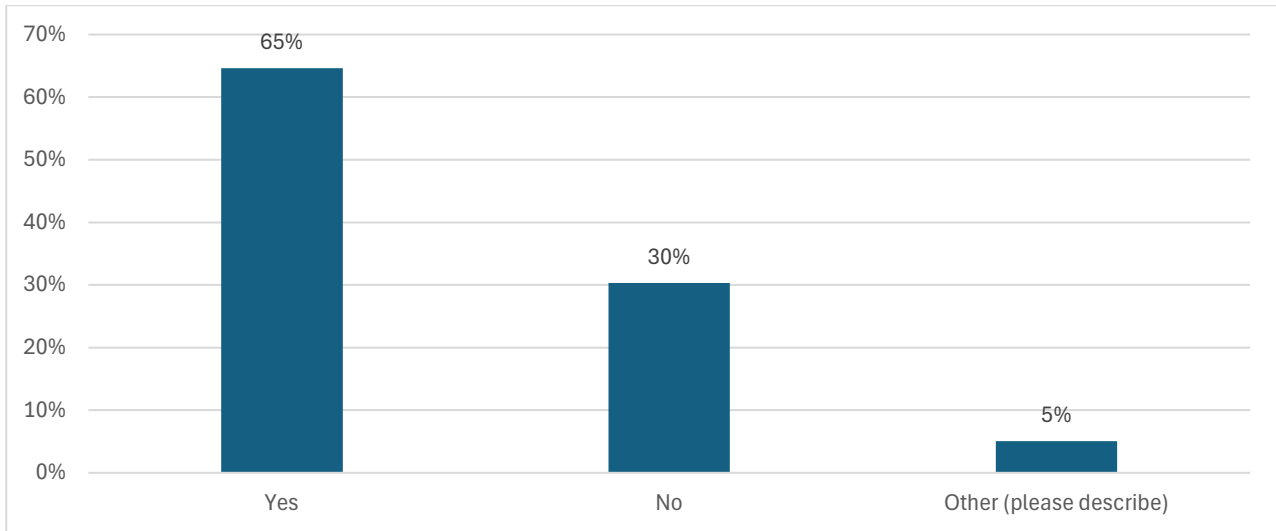
**Section 2: Distribution of tips**

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



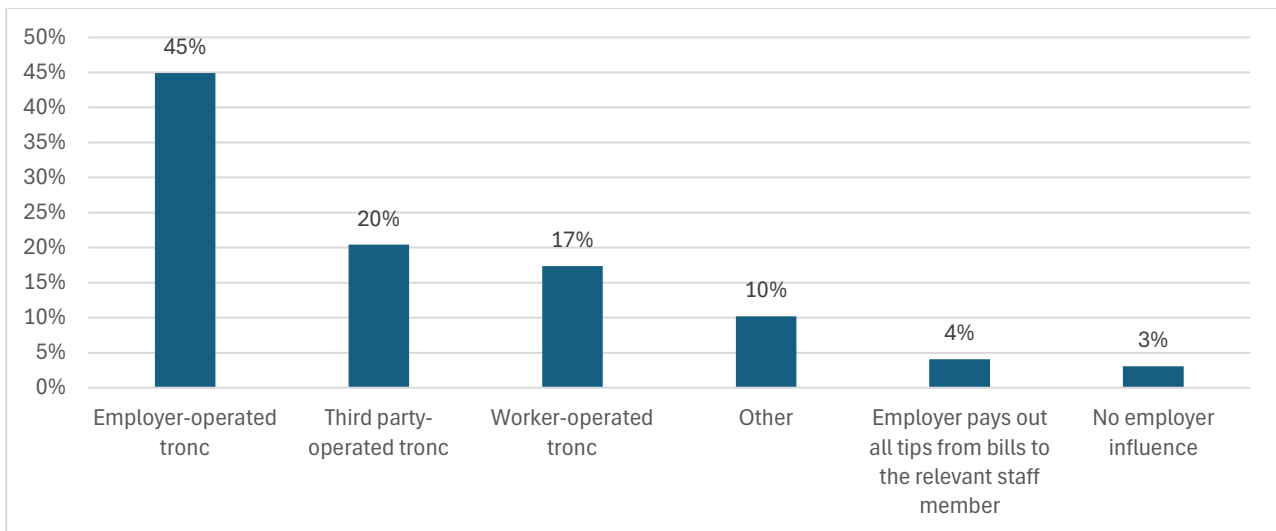
**Note:** 101 respondents

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



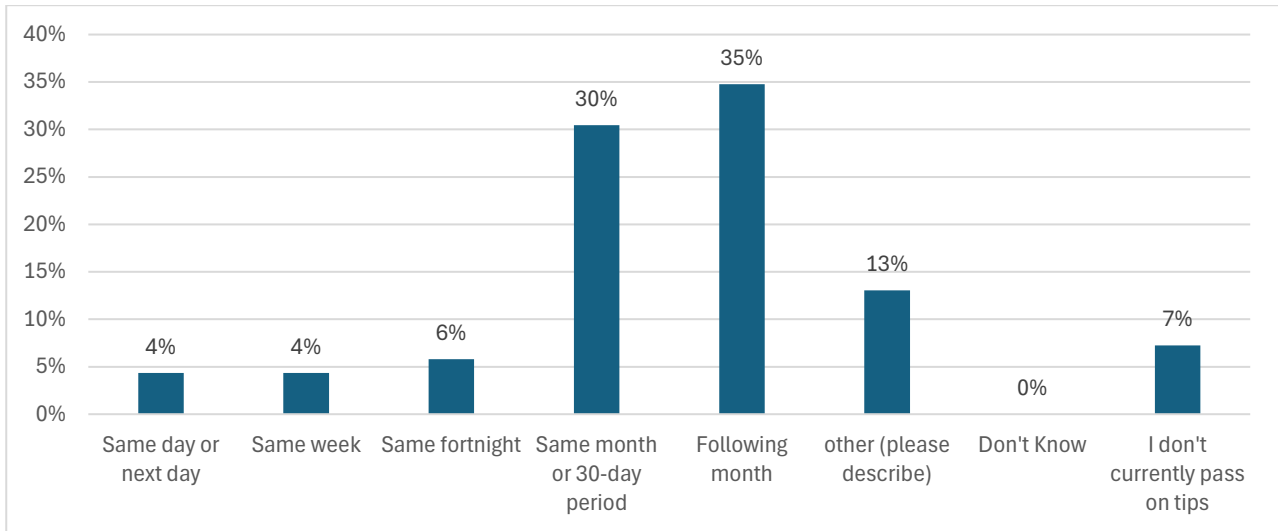
**Note:** 99 respondents

**Question 8: How do you/does your workplace currently distribute tips?**



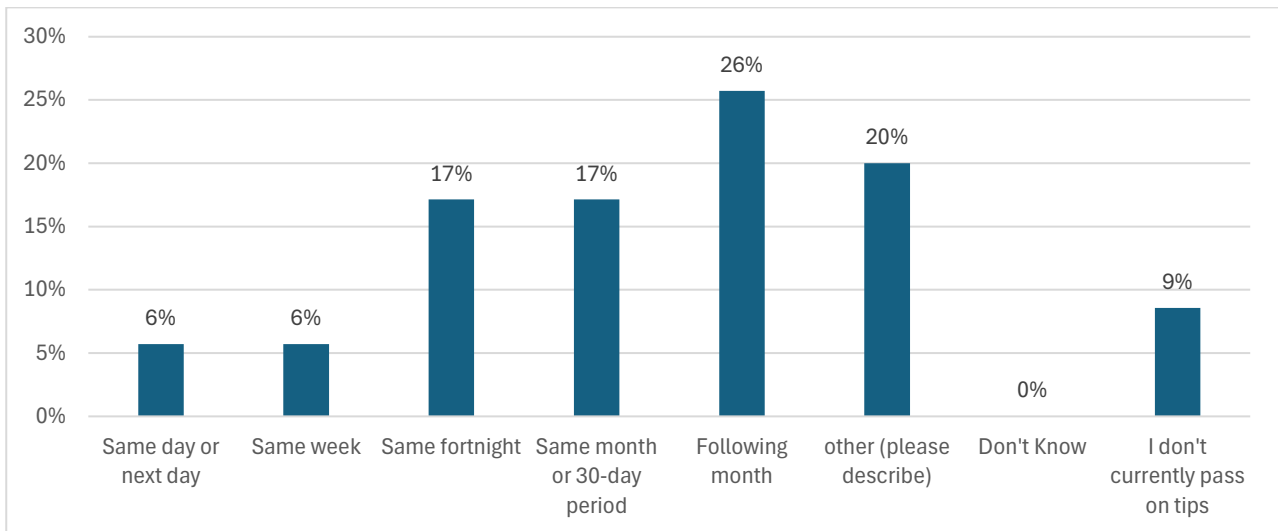
**Note:** 98 respondents

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



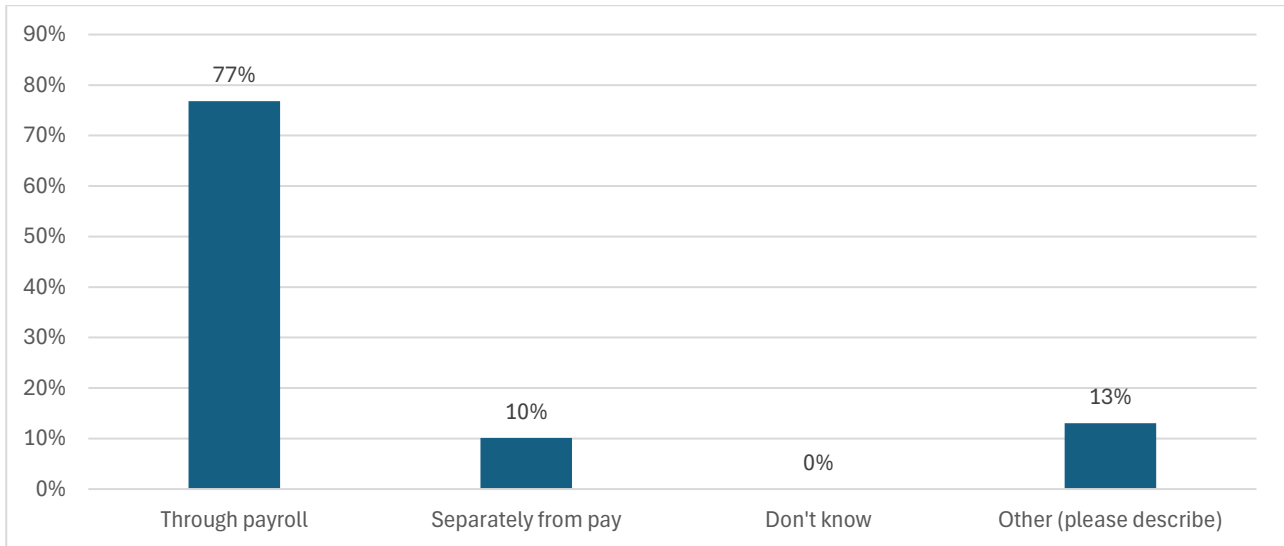
**Note:** 69 respondents

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



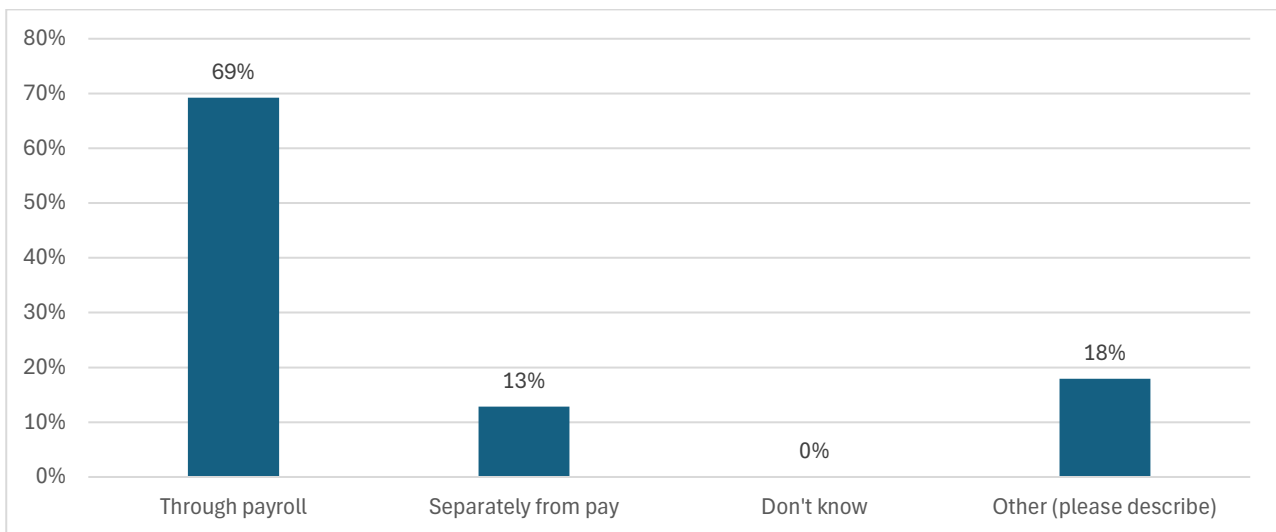
**Note:** 35 respondents

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



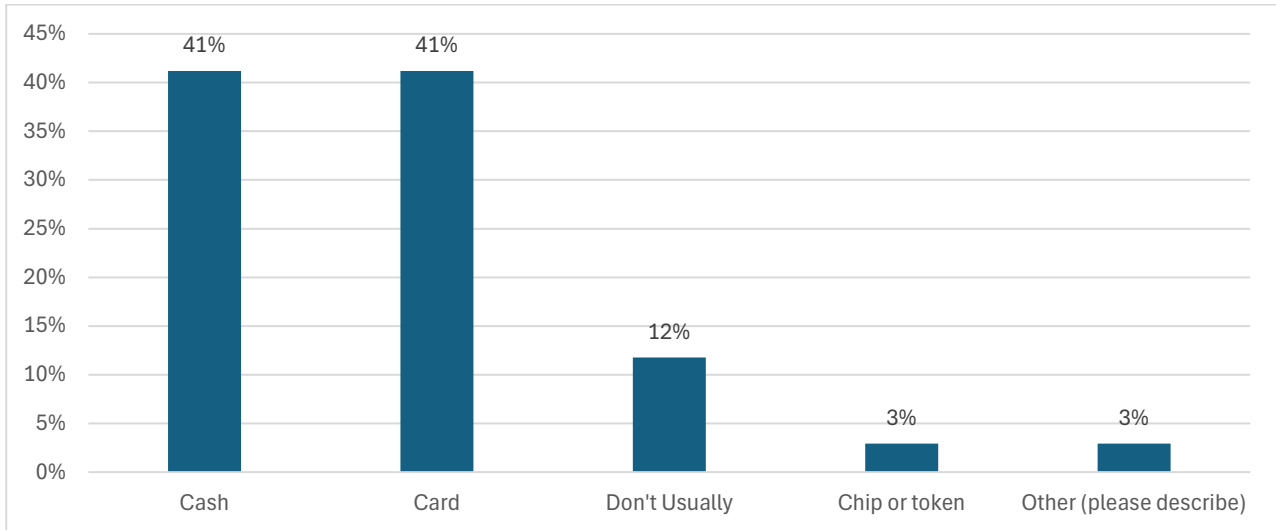
**Note:** 69 respondents

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



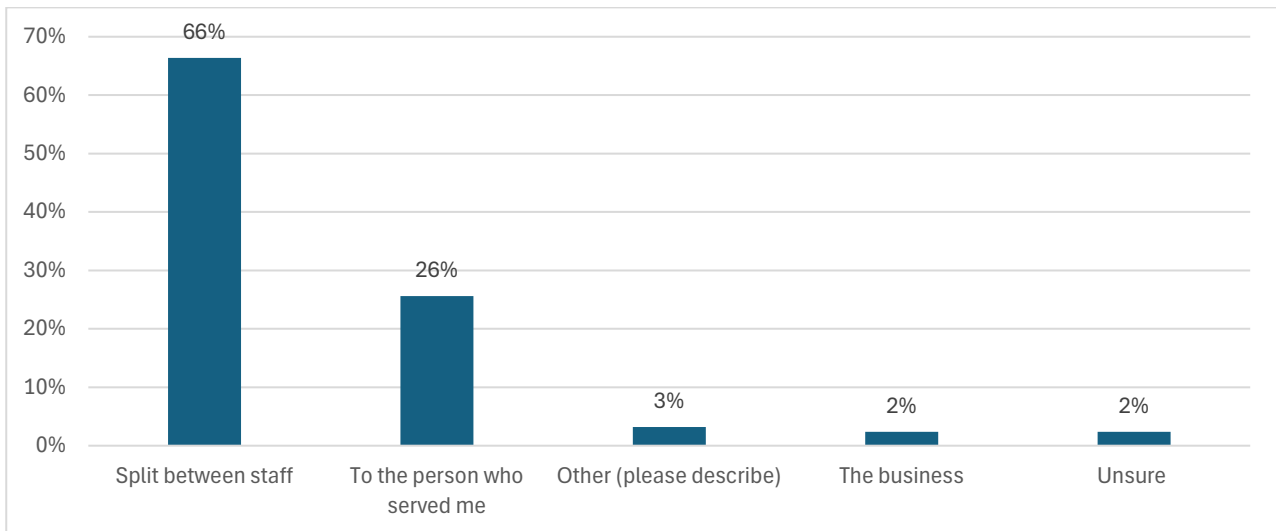
**Note:** 39 respondents

**Question 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.)**



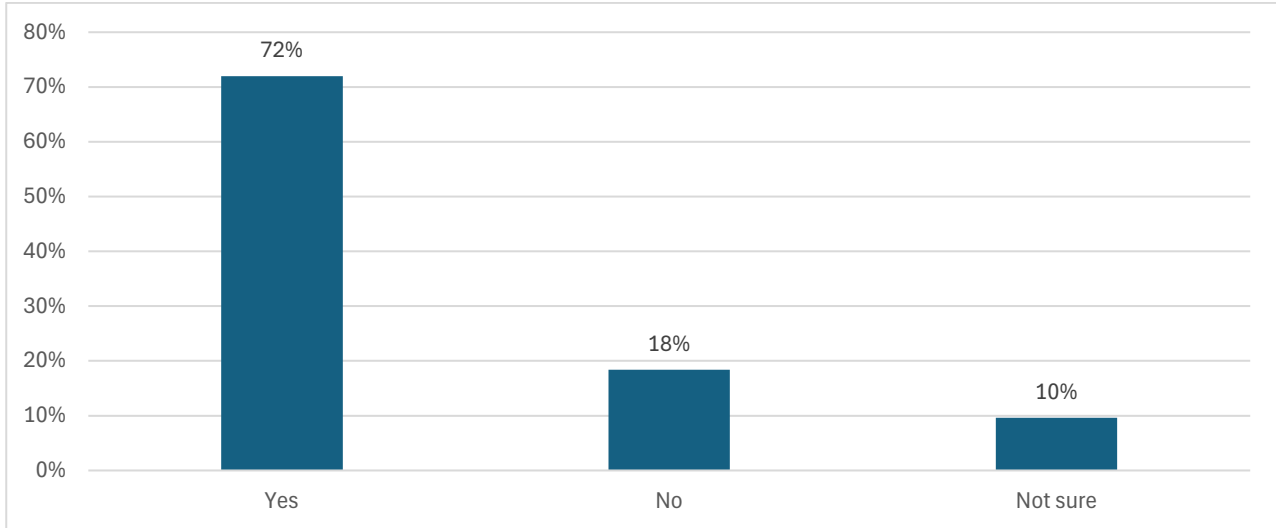
**Note:** 125 respondents

**Question 14: If you leave a tip, who do you expect it to go to?**



**Note:** 125 respondents

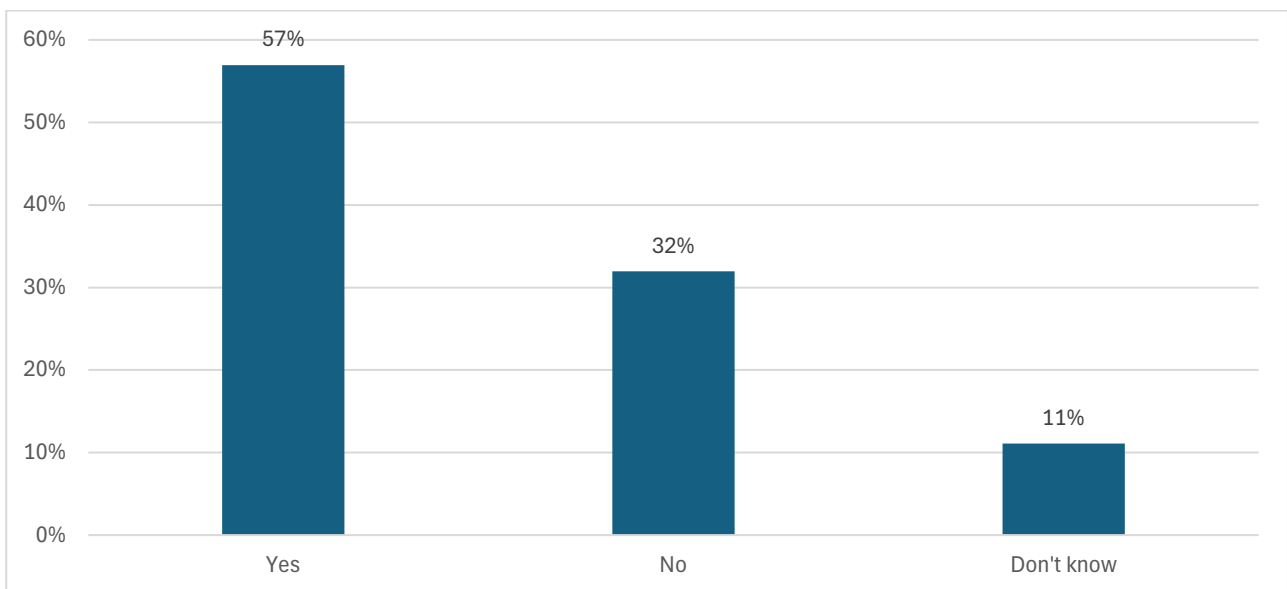
**Question 15: If you are a customer, would you like to know how tips are distributed?**



**Note:** 125 respondents

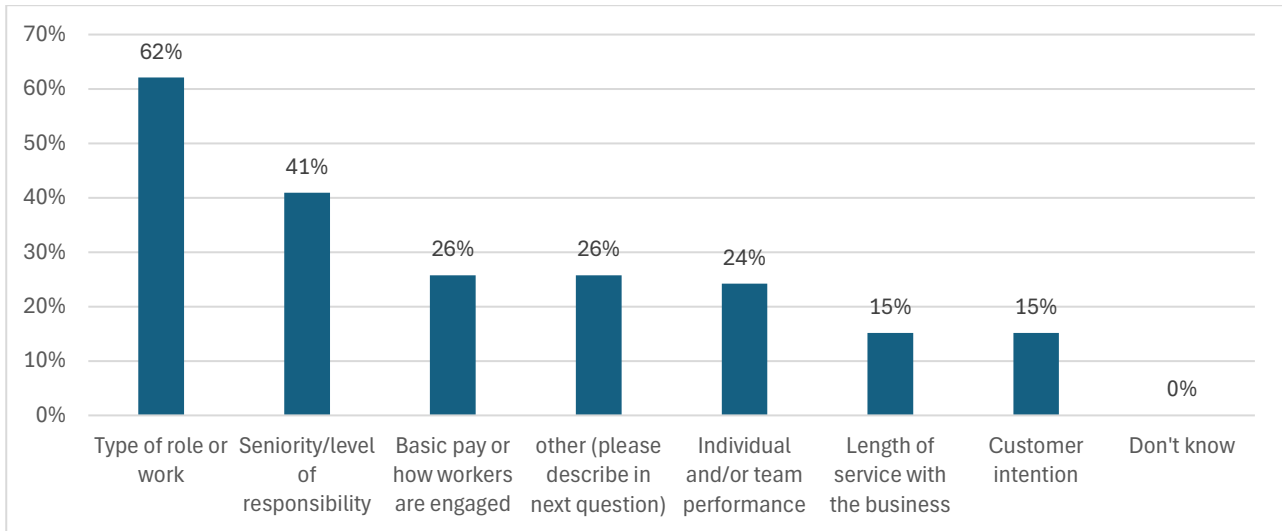
**Section 3: Allocation of Tips**

**Question 16: Employers: Have you ever sought agreement from or consulted your staff on how tips will be divided up?**



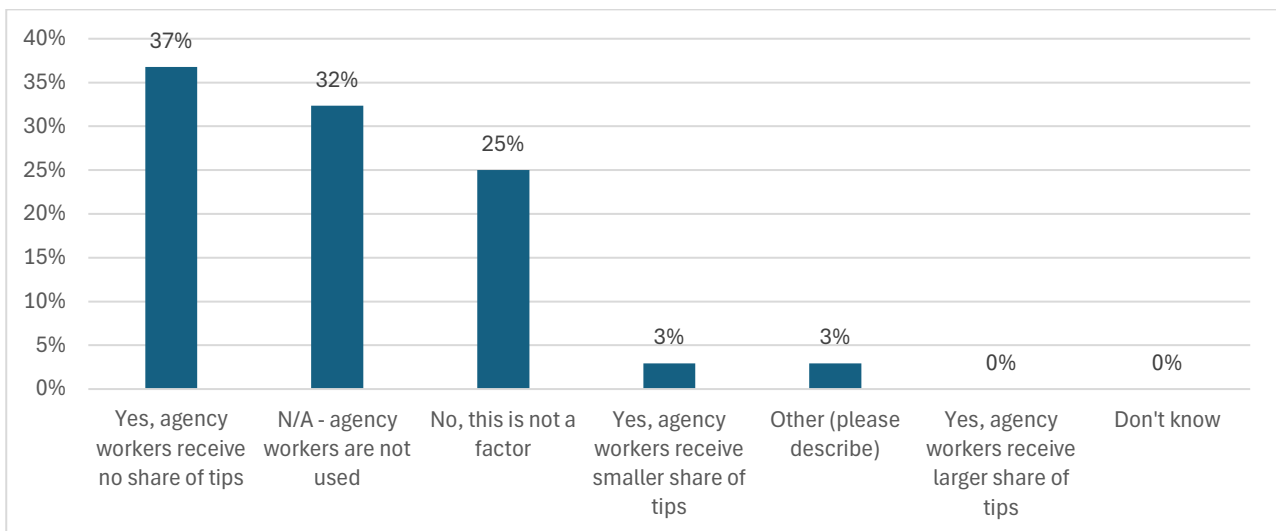
**Note:** 72 respondents

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



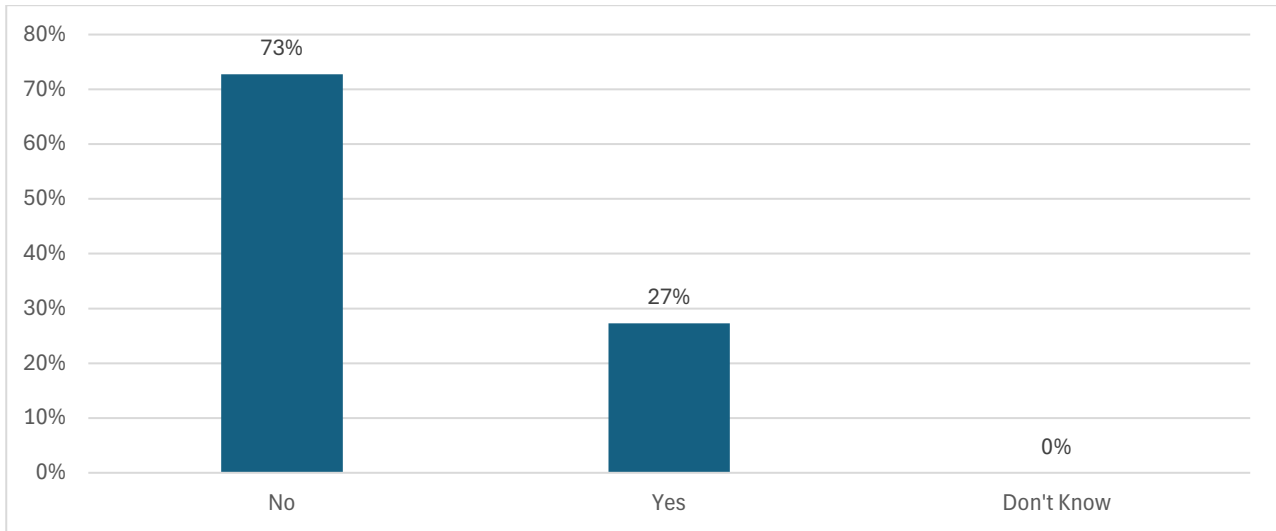
Note: 66 respondents

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



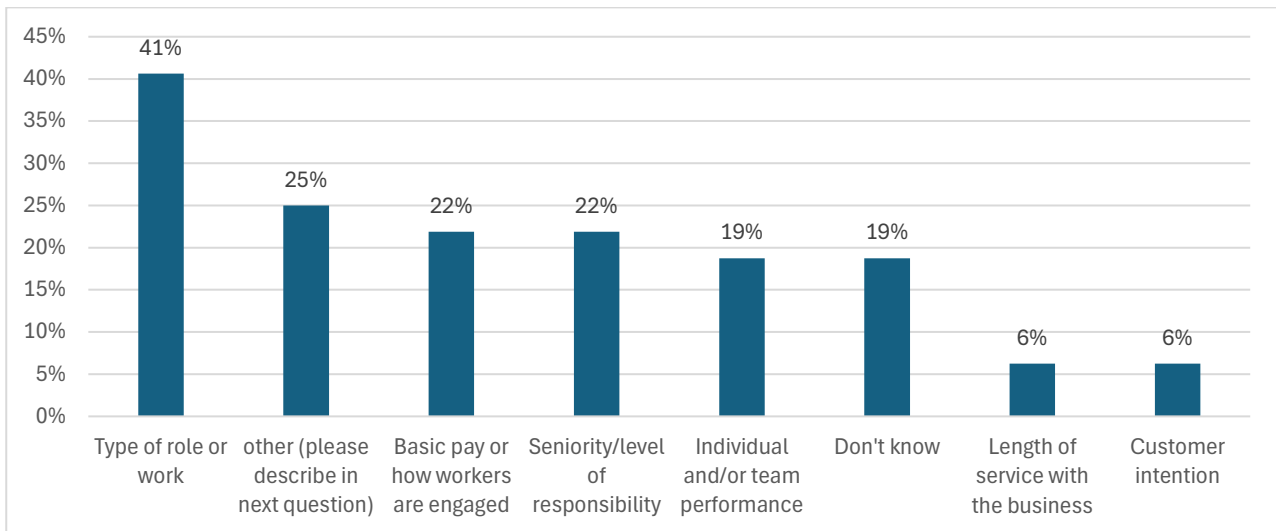
Note: 68 respondents

**Question 21: Workers: Has your employer ever sought agreement from or consulted staff on how tips will be divided up?**



Note: 33 respondents

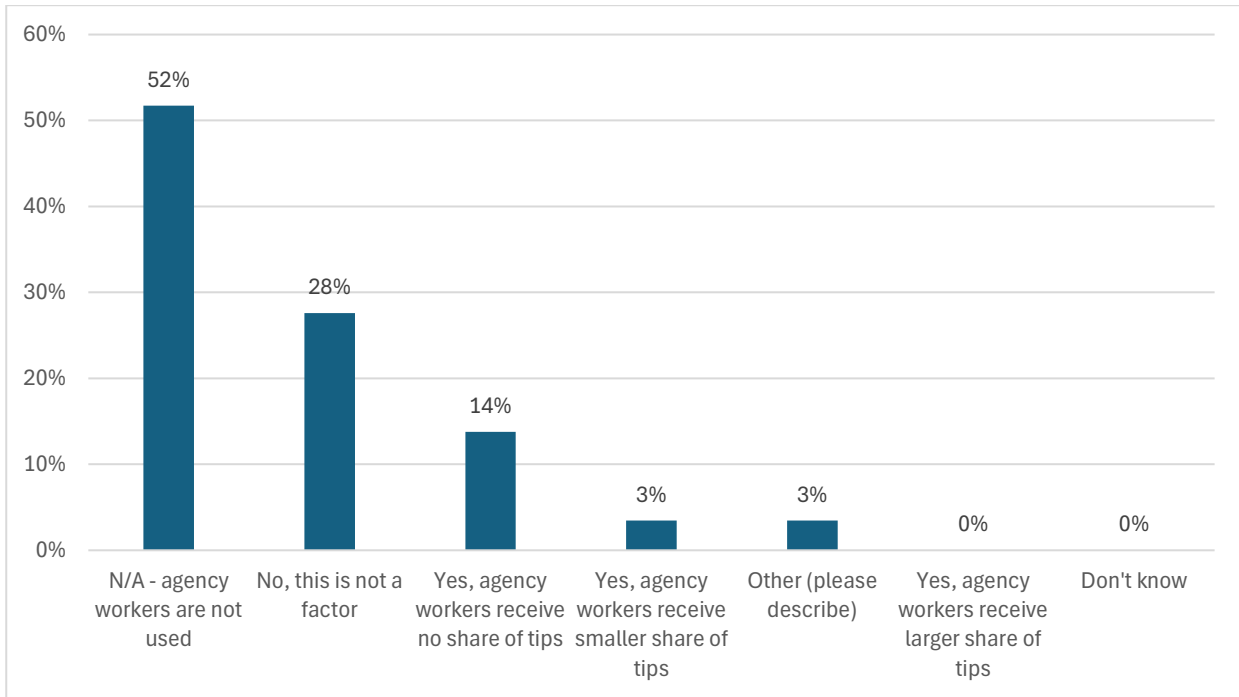
**Question 23: Workers: What factors are considered in your workplace when determining allocation of tips? Please tick all that apply.**



Note: 32 respondents



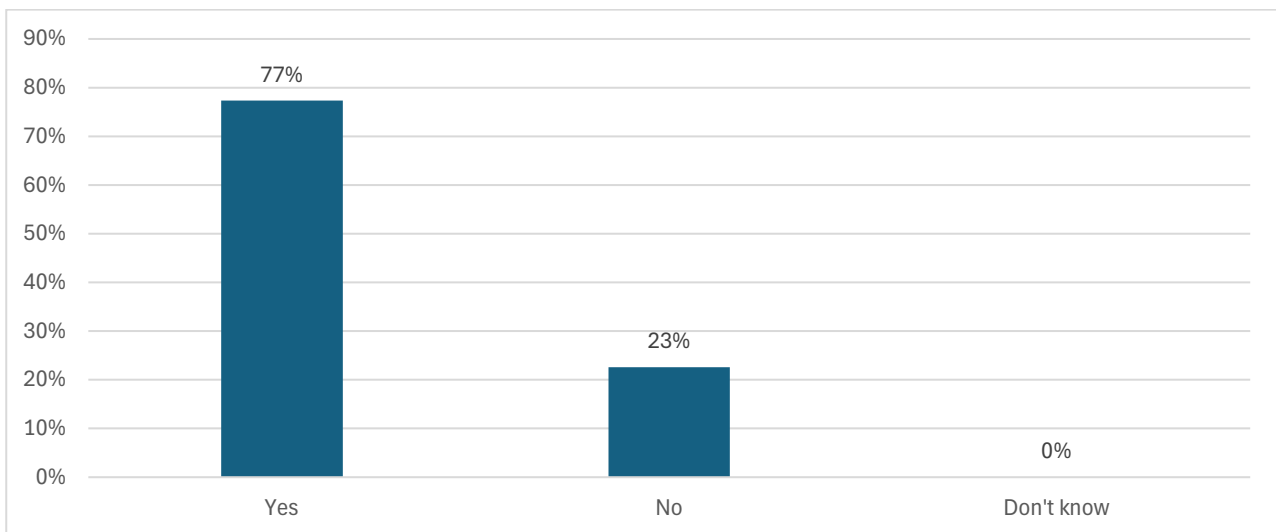
**Question 26: Workers: If agency workers are used in your workplace as well as directly employed staff, do you divide tips differently between the two groups?**



**Note:** 29 respondents

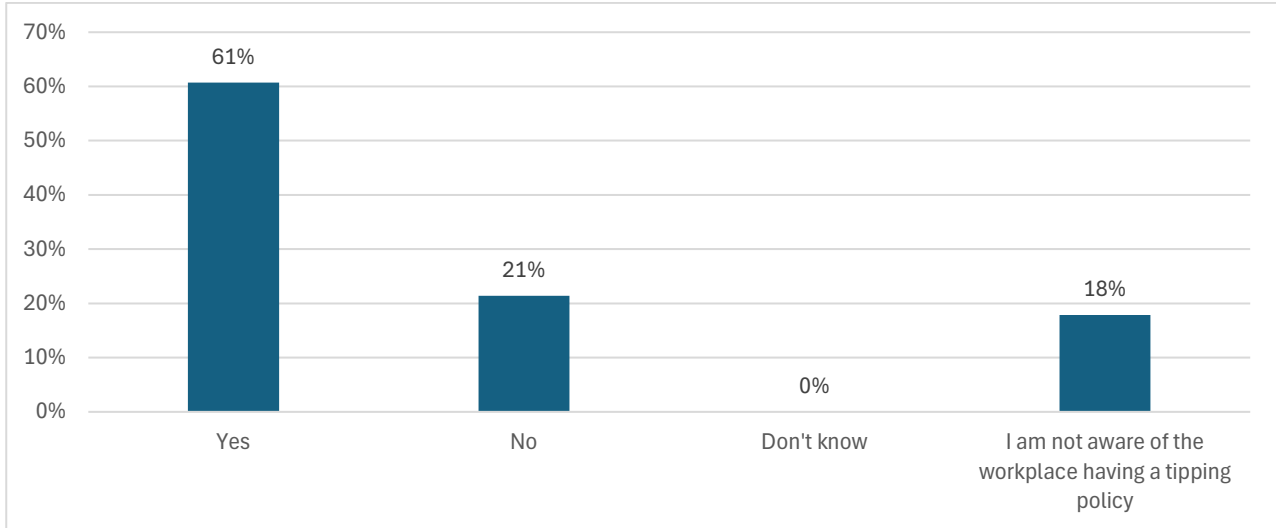
**Section 4: Transparency**

**Question 27: Are you aware of there being a tipping policy in your workplace?**



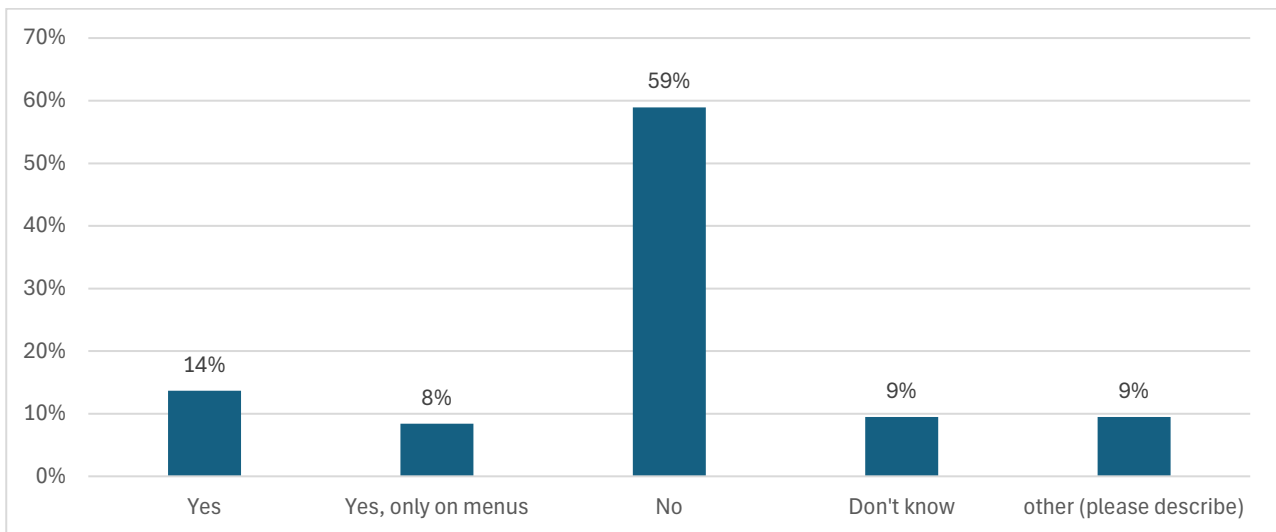
**Note:** 84 respondents

**Question 28: Does your workplace make the tipping policy available to staff?**



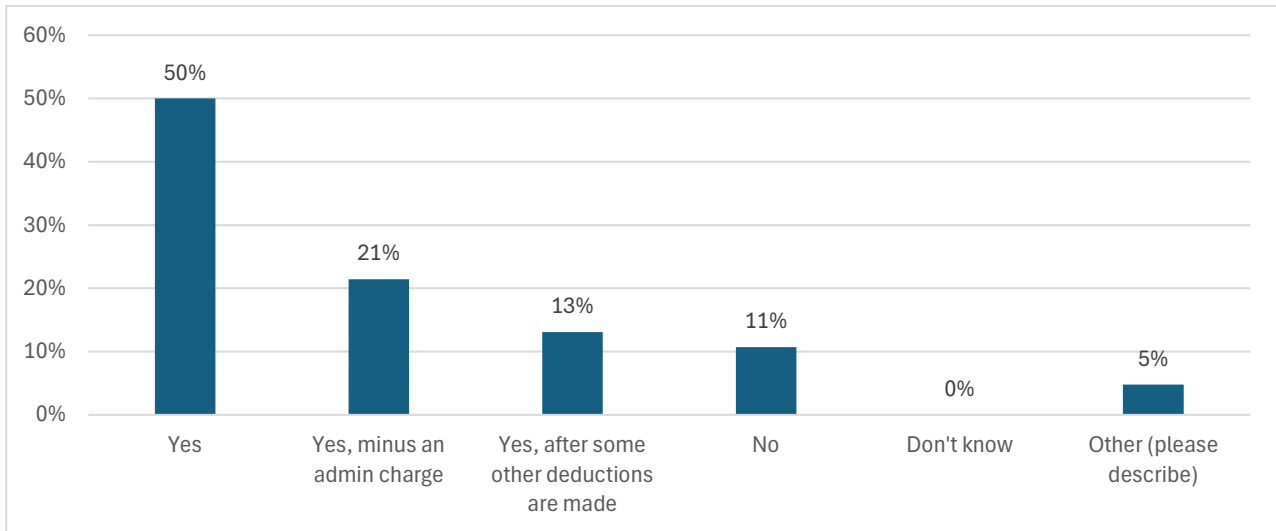
**Note:** 84 respondents

**Question 29: Does your workplace make the tipping policy available to customers?**



**Note:** 95 respondents

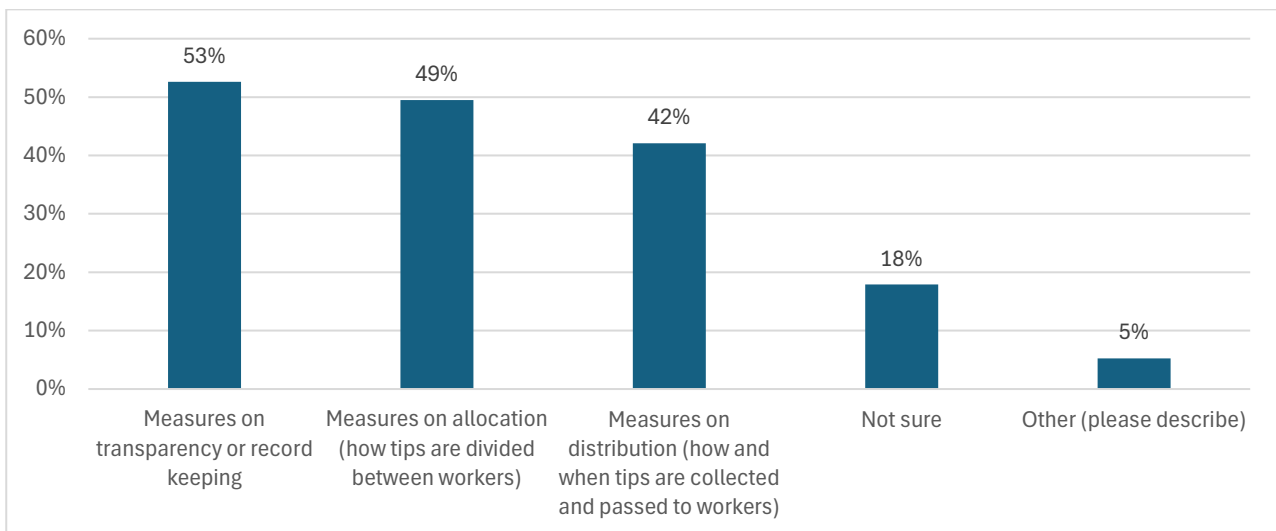
**Question 30. Does your workplace currently pass on all tips to staff?**



**Note:** 84 respondents

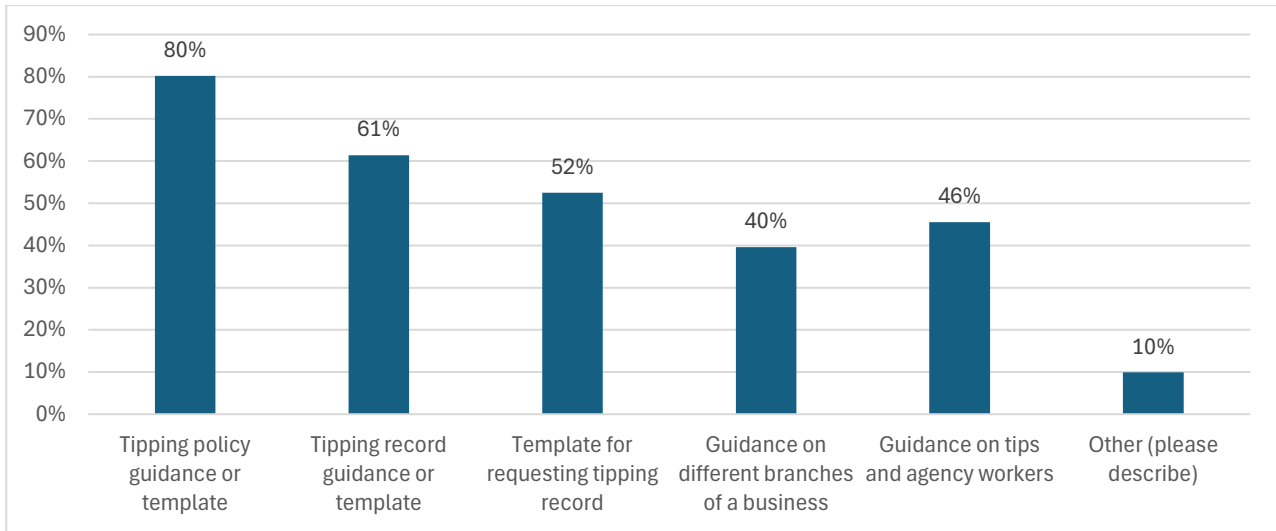
**Section 5: Implementation**

**Question 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.**



**Note:** 95 respondents

**Question 36: Would you like to see further guidance provided on any of the below. Please tick all that apply.**



**Note:** 101 respondents



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