Paper to lie before both Houses of Parliament until approved by a resolution of each House.



Draft Revised Code of Practice on Fair and Transparent Distribution of Tips

November 2026

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Department for Business, Innovation, Science and Trade

Draft Revised Code of Practice on Fair and Transparent Distribution of Tips

Presented to Parliament pursuant to section 27Q of the Employment Rights Act 1996.

November 2026

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This Code of Practice is issued under the power given to the Secretary of State for Business, Innovation, Science and Trade by section 27P(1) and (2) of the Employment Rights Act 1996, as inserted by Section 9 of the Employment (Allocation of Tips) Act 2023.

The Code of Practice on Fair and Transparent Distribution of Tips originally came into effect on Tuesday 01 October 2024, along with specified provisions of the Employment (Allocation of Tips) Act 2023.

Following amendments made by the Employment Rights Act 2025, and taking account of feedback by stakeholders, this Code of Practice has been revised.

[This revised version is expected to come into effect in January 2027, subject to parliamentary approval.]

The Secretary of State for Business, Innovation, Science and Trade is issuing this revised Code of Practice to promote fairness and transparency in the distribution of tips, gratuities and service charges that fall in scope of the Employment Rights Act 1996.

Foreword

Employers must have regard to the Code of Practice when designing and implementing their tipping policies and practices.

It is recommended that all parties attempt to resolve issues between themselves in the first instance.

Acas can offer support on mediation; seeking mediation will not prevent a worker from submitting a claim to an employment tribunal (ET) if they feel their employer has not acted fairly or transparently.

Where relevant, employment tribunal judges have a duty to take this Code of Practice into account when determining disputes relating to tipping practices. However, failure to observe the Code of Practice does not in itself amount to proof that an employer has been acting unfairly.

Further non-statutory guidance, which accompanies this Code of Practice and helps employers and workers to interpret the legislation, is available via Gov.UK.

[The Commencement Regulations to be made under sections 27Q and 236 of the Employment Rights Act 1996 in order to bring this revised Code of Practice into effect are expected to apply: (1) those provisions of the revised Code which relate to consultation on and review of the employer's written tipping policy from the date at which the employer commences that consultation or review under section 27I Employment Rights Act 1996, as amended by section 14 Employment Rights Act 2025; and (2) the revised Code as a whole from the date at which the employer adopts its first written policy, adopts a revised written policy or, following review under section 27I, decides to maintain its existing written policy. Where the revised Code does not apply, the existing Code of Practice which came into effect on 1 October 2024 will continue to apply during the relevant interim period.]

Introduction and Purpose

1. The law provides for the Secretary of State to issue a statutory Code of Practice to promote fairness and transparency in relation to the distribution of qualifying tips, gratuities and service charges. This is referred to throughout this document as “the Code” or “this Code”.

2. The legislative provisions relating to the allocation and distribution of tips, gratuities and service charges are contained in the Employment Rights Act 1996 (referred to as “the 1996 Act” in the rest of this document).

3. All of the requirements in this Code refer to tips, gratuities and service charges (including those applied automatically by a business and those added discretionarily by a customer), *however described*. Employers should not seek to avoid the requirements of the law by describing tips, gratuities or service charges using a different label. Whether a payment falls within the scope of legislation will depend on its substance rather than the terminology used. It should be noted that this does not prevent employers from continuing to apply legitimate charges which serve a genuine purpose other than rewarding workers for the service provided. Where a charge is introduced or increased and service charge is removed or reduced, so that the total amount ordinarily payable by customers is materially unchanged, the new or increased charge is likely to be a service charge in substance and to fall within these requirements, however it is described.

4. For brevity, “tips, gratuities and service charges” are referred to simply as “tips” throughout the remainder of this document.

5. The 1996 Act was amended by the Employment (Allocation of Tips) Act 2023 (“the Tipping Act”), which was granted Royal Assent on 02 May 2023. The main purpose of the Tipping Act is to ensure the fair and transparent allocation of all tips. The main desired outcome of the Tipping Act is to improve fairness for workers by ensuring that the tips consumers leave in recognition of good service and hard work are distributed to the workers as intended. It aims to increase fairness in

tipping practices and create a level playing field for employers who already allocate all tips to workers, by ensuring that all employers comply with this practice.

6. Further amendments were made to the law through the Employment Rights Act 2025 (“the 2025 Act”), which introduced new requirements for employers to consult with workers at their place of business when developing or reviewing their tipping policy, and to provide greater transparency around that process. The main desired outcome of the 2025 Act is to enhance worker participation in decisions relating to tipping policies, in particular to benefit those workers who have less of a voice in the workplace.

7. The 1996 Act was amended by the Tipping Act and subsequently by the 2025 Act. Following these amendments, employers are now required to:
    a. Pass on all tips and service charges to workers without deductions, except in very limited scenarios, such as deduction of income tax. This Code of Practice does not affect the provisions around tax in relation to tipping. Further information about how this operates can be found via Gov.UK.
    b. Ensure that tips are distributed in a fair and transparent manner when the employer takes control, or exerts significant influence, over their distribution.
    c. Have regard to this Code of Practice on fairness and transparency of tip distribution when they are distributing or influencing the distribution of tips.
    d. Maintain a written policy on how tips are dealt with at their place of business, review that policy at least once every three years, and ensure that policy is made available to all workers to whom it applies.
    e. Consult with workers at the place of business when developing or reviewing the tipping policy. Where recognised trade union representatives or other worker representatives exist, consultation should be carried out through these representatives. Where no such representatives exist, employers should consult workers directly.
    f. Make an anonymised summary of the views expressed during consultation available to all workers at the place of business where the policy applies.
    g. Maintain a record of all qualifying tips paid at, or otherwise attributable to,

their place of business and of the allocation and distribution of those tips between workers, to which workers have the right to request access.

8. The Code does not set out an exhaustive list of factors for employers to consider. Instead, it provides overarching principles on what fairness is for the purposes of the Tipping Act and the 1996 Act, the areas in which employers need to make decisions to comply with their duties, and how they should apply these principles in their specific places of business.

9. Some relevant provisions of the Tipping Act and the 2025 Act (inserted as sections of the 1996 Act) are briefly summarised at the beginning of sections of this Code; where this is the case, these paragraphs are labelled as “Provisions of the Tipping Legislation”, with remaining paragraphs labelled as “Explanation”. This is to distinguish between occasions where text simply re-states the provisions of the law to aid understanding, and occasions where it seeks to facilitate fairness and transparency, as matters for the Code.

10. The remainder of this Code is structured as follows:
    a. Scope: Qualifying Tips and Qualifying Workers
    b. Fairness: Factors to Consider, Review and Consultation, and Methods of Allocation and Distribution (including troncs)
    c. Transparency
    d. Addressing Problems
    e. Glossary of Terms

Scope

Qualifying Tips

Provisions of The Tipping Legislation

11. ***The Tipping Act provides for how employers should deal with qualifying tips, gratuities and service charges and for the Secretary of State to issue a code of practice to promote fair and transparent distribution of these qualifying tips.***

12. ***The Tipping Act defines "qualifying tips, gratuities and service charges" as employer-received tips or as certain worker-received tips. These terms are explained as referring to tips that are themselves either received by the employer, subject to the employer's control or connected to worker-received tips that are subject to employer control.***

Explanation

13. Not all tips are under the scope of the Tipping Act, and therefore subject to the guidance in this Code. The method of payment (e.g. whether it is made by card, in cash or via an alternative method such as an app) does not determine whether a tip is a qualifying tip for the purposes of the legislation and this Code.

14. Broadly speaking, the determining factor in whether a tip is qualifying or not is whether the employer receives (in the case of employer-received tips) or exercises control or significant influence over (in the case of worker-received tips) the distribution of tips. This is most commonly demonstrated when employers first receive the money and then allocate it to workers.

15. If a worker receives and keeps a cash tip, with no employer control or involvement, the tip is out of scope for the legislation and this Code. However, an employer is likely to have exercised control or significant influence over cash tips if they tell staff how to distribute cash tips or if they collect cash tips and distribute them at the end of a shift or as part of the regular payroll.

16. In many instances, an employer is likely to receive and subsequently distribute a tip paid by card or via an alternative electronic method, for example through a mobile app or scanning a QR code; this makes it an employer-received tip, which the employer is responsible for distributing fairly. However, cash equivalent digital tipping, whereby a customer uses a mobile app or similar method to directly tip members of staff, bypassing the employer altogether, can be regarded as worker-received tipping, which is out of scope for the requirements on employers.

17. Non-monetary tips can also be qualifying tips if they are received or controlled or significantly influenced by the employer. A qualifying non-monetary tip could include a voucher, stamp, token, or similar item that has a fixed value which can be expressed in monetary terms or exchanged for money, goods or services. An example of a non-monetary tip could be a worker in a casino receiving a casino chip (which has a fixed value that can be exchanged) in place of a monetary tip paid by cash or card.

Qualifying Workers

Provisions of The Tipping Legislation

18. The law mandates that all workers are entitled to benefit from fair and transparent distribution of their qualifying tips. Employers must ensure that the total amount of qualifying tips paid at a place of business is allocated fairly between workers at that place of business and they should have regard to this Code when determining that (section 27D of the 1996 Act).

The Tipping Act explicitly clarifies that this applies to eligible agency workers (section 27H of the 1996 Act).

Explanation

19. The law on tipping applies to all workers. It does not apply to self-employed people.

20. Employers should apply the principles of fairness, set out in paragraphs 26-33 of

this Code, to the allocation and distribution of tips between workers. This includes when there is any mixture of permanent staff, temporary staff, directly recruited staff, agency workers, workers on zero-hours contracts or arrangements and part-time staff in the same place of business.

21. Employers can promote fairness by ensuring that all individuals working at the place of business (whether employed or engaged by them directly or hired through an agency) are aware of and have clear access to all workplace policies that affect them.

22. Employers must maintain a written tipping policy, and make it available to all staff, unless they receive tips only occasionally and exceptionally. For example, a clothing shop which only receives tips a handful of times a year would not be required to have a written tipping policy, though it would still need to follow the requirement of passing on all tips to the workers who have earned them.

23. In the case of agency workers, any references to “employer” refer to the hirer for this engagement i.e. the place of business where they are working, even where their contract of employment is with an employment agency or an umbrella company. After the hirer has made the payment of tips to an employment agency, the agency is responsible for passing this on to agency workers, without unauthorised deductions.

Fairness

Provisions of The Tipping Legislation

24. ***Under the Tipping Act, an employer must ensure that the total amount of the qualifying tips, gratuities and service charges paid at, or otherwise attributable to, a place of business of the employer is allocated fairly between workers...at that place of business (section 27D of the 1996 Act).***

25. This part of the Code sets out the key principles of fairness for the purposes of the law and the Code, and suggests how employers might wish to apply these to different aspects of developing and implementing a policy on how tips are treated. It will be for each particular employer to determine which specific principles best apply to their business. In the event of unresolved disputes, it is ultimately for employment tribunals to decide whether the employer has acted in compliance with the law.

Factors to Consider

26. Allocating and distributing tips fairly does not necessarily require employers to allocate the same proportion of tips to all workers. There may be legitimate reasons why employers choose to allocate different workers different proportions of tips. However, employers should ensure they give due consideration to all of the workers directly involved in providing service to customers at the place of business, including agency workers.

27. Determining those workers who should be included in the distribution of tips should be based on those involved in directly providing service at the place of business when and where tips are left or to which the tips are attributable. Regardless of a specific job title, this means workers who, as part of their job, personally interact with customers or physically and personally prepare, handle, serve or otherwise provide the food, drink, hospitality or experience that the customer directly

consumes or receives at or attributable to that place of business.

28. Employers should use a clear and objective set of factors to determine the allocation and distribution of tips. The choice of factors should be fair and reasonable given the circumstances and the nature of the individual business.

29. Employers should exercise caution when considering arrangements under which a fixed, minimum or guaranteed monetary sum of tips is allocated to a named individual or category of worker in advance of distribution. Differences between allocations for different roles should arise from objective factors and the amount of tips received, rather than a pre-determined commitment to a fixed sum. Such schemes may be deemed unfair as they risk unfairly increasing the variability of tips for those workers who do not benefit from fixed or guaranteed monetary amounts.

30. Listed below are some of the factors which may be considered by employers, though this list is illustrative rather than exhaustive:
    a. Type of role/work e.g. distribution between front of house and backroom workers, where this affects the extent to which the worker is involved in providing the service at the relevant place of business (as referred to in paragraph 27 above)
    b. Basic pay
    c. Hours worked during period when tips are received
    d. Individual and/or team performance, provided that performance is assessed by reference to criteria which are objective and applied consistently across all relevant workers
    e. Seniority/level of responsibility
    f. Length of time served with the employer
    g. Customer intention

31. When considering whether a method of allocation is fair, the operation of the

scheme as a whole must be considered. This includes recognising that payments under the scheme represent a share of the qualifying tips available for distribution and are not additional discretionary payments by the employer.

32. Every allocation of a larger share of tips to one worker or group of workers results in a corresponding reduction in the share of tips available to all other participants in the scheme. Where it is considered fair for a worker or group of workers to receive a higher share, it must also be considered why it is fair that the other participants in the scheme receive a lesser share as a result. Isolated considerations about particular workers or roles, whether they appear favourable or unfavourable, should not in themselves be treated as determinative of fairness. Where a complaint concerns the share allocated to an individual worker, fairness should be assessed by reference to the operation of the scheme as a whole, and not only by reference to the amount received by, or any reduction in the amount received by, the worker bringing the complaint. Other workers at the place of business whose shares are affected will not ordinarily be parties to the complaint, but their position should also be considered.

33. Employers must avoid any form of unlawful discrimination when selecting and applying the factors for allocating and distributing tips. Employers must take extra care to avoid indirect discrimination, which may be unintentional, which may be a risk when fewer tips are allocated to a group of workers which includes a disproportionate number of workers with a particular protected characteristic. Further detail, including some worked examples, can be found in the accompanying non-statutory guidance to this Code.

Review and Consultation

34. An employer's written tipping policy must be reviewed at least every three years. The following requirements apply during the initial development of the written policy and during every subsequent review. Employers must consult with workers at the place of business, ideally achieving broad agreement in the workplace that the system of allocation and distribution of tips is fair, reasonable and clear.

35. Where an employer recognises a trade union, consultation should take place with representatives of the recognised trade union(s). These trade union representatives should be given sufficient information and an appropriate amount of time to engage with the workers in the relevant bargaining unit and ensure that their views are taken into consideration in the consultation. In some cases, consultation on a written tipping policy may take place within wider collective bargaining arrangements, whereby representatives of recognised trade unions engage in negotiations over pay terms and related matters. It may be practical and beneficial to use this as part of a process of consultation on a written tipping policy, but employers should also consider additional engagement with non-represented groups.

36. The level of trade union representation varies across sectors and individual businesses. Where trade unions are recognised in respect of only part of the workforce being consulted, or different groups of workers are covered by different forms of representation, but not all relevant workers are represented, employers should permit and allow for the election of workplace representatives, where such representatives are not already in place. These workplace representatives should be given sufficient information and an appropriate amount of time to engage with all workers they represent and ensure that their views are taken into consideration in the consultation. Where workers do not wish to elect workplace representatives, or it is not feasible to facilitate the election of workplace representatives, employers may consult directly with the workers affected by the tipping policy.

37. Employers may engage in consultation through a variety of methods, including meetings with representatives, group discussions and the use of surveys as part of gaining worker feedback. Consultation should be proportionate to the size, complexity and nature of the business. Employers should provide workers with enough information to understand any proposed allocation model and the issues on which views are sought. Consultation should seek views across the relevant groups of workers and should not rely solely on the views of the largest group, or of those who are most vocal or most likely to participate.

38. A simple majority vote should not be treated as the default or preferred mechanism for consultation. It may not produce a fair outcome, particularly where it would unfairly weight distribution towards the largest group of workers or exclude other categories of workers. Consultation should also take reasonable steps to obtain and consider the views of minority groups, and of workers who may be less likely to participate confidently or directly in the process, including where barriers to participation may arise by reason of language, cultural background, disability, literacy, confidence, or the nature of their role.

39. Regardless of the specific methods employed, and whether it is conducted with trade union representatives, other workplace representatives or directly with the workers affected, consultation should be genuine, considered and conducted in good faith, with sufficient time allowed for those participating, rather than a paper exercise. Consulting properly can ensure any concerns and issues are understood by employers and minimise the risk of discrimination or unfair distribution.

40. Employers should keep a reasonable written record of the consultation, including the process, the views expressed within it and the outcomes. A summary of this must be made available, in anonymised form, to all workers at the place of business.

41. Given that every allocation of a larger share of tips to one worker or group of workers results in a corresponding reduction in the share of tips available to all other participants in the scheme, it is to be expected that workers will hold differing and sometimes irreconcilable views, and that consensus will not always be achievable. The presence of disagreement does not in itself indicate that a policy or practice is unfair, and employers are not required to follow every suggestion made by workers, as long as they can demonstrate they have taken account of the different views expressed in consultation and followed the requirements of fairness and transparency.

42. More broadly, an employer’s approach to allocating tips should be considered by the employer on a regular basis in line with staff turnover and any wider changes to the organisation. There is a risk that a previously lawful and fair method of tip allocation becomes unlawful and discriminatory if certain groups of workers become split on the

basis of a protected characteristic. Employers should actively consider this risk, and ensure it is avoided.

43. Employers may vary greatly in their business practices. If a particular method of distributing tips is considered fair by the workers affected by it, that may help a tribunal to conclude it to be considered fair and reasonable, provided it does not involve direct or indirect discrimination. Staff support and agreement with a method of distribution needs to be genuine and not coerced by managers or employers.

Methods of Allocation and Distribution (including troncs)

44. There are various reasonable methods by which tips can be allocated by an employer.

45. An employer may receive the tips directly and then pay workers their share of the tips as part of the next payroll cycle or via a separate method.

46. ***An employer may also choose to allocate and distribute tips fairly and transparently by using a tronc (section 27F of the 1996 Act).*** Various tronc arrangements are permitted. An employer may directly appoint a member of staff to be responsible for allocating and distributing tips, and that member of staff can act as an independent tronc operator. An independent tronc operator may also be an external payroll or accountancy firm, or alternatively a member of staff elected or agreed upon by the workers.

47. Where a tronc is in place, the employer remains responsible for consulting with workers and should provide the summary of views expressed during the consultation to the tronc operator, without directing the outcome. Where a tronc operator is independent, the tronc operator should then be responsible for determining the detailed distribution policy from the tronc, or any change to it, and for recording the reasons for that determination by reference both to the consultation and to the requirements of the legislation and this Code. An employer acting in this way should not be regarded as having influenced the allocation of tips

or undermined the independence of the tronc operator; the employer will be treated as acting fairly in the allocation of tips, provided that the overall tronc arrangements are fair.

48. However, care is needed to maintain independence of the tronc. The appointment of an external or third party tronc operator does not, of itself, guarantee independence; an individual or organisation is unlikely to be regarded as operating independently of the employer where they are subject to the employer's direction on allocation decisions, or where the employer is able to determine the outcome of those decisions.

49. If an employer does choose to appoint an independent tronc operator, the overall instructions or framework the employer sets for its operation must be in line with principles of fairness. If they do so, and they have a reasonable belief that the tronc is operating independently and fairly, the employer will be regarded as having followed this Code.

50. If an employer later becomes aware of an independent tronc operator acting in an unfair or improper manner, they are obliged to act to address this in order to maintain a fair allocation of tips; this could involve instructing the tronc operator to change its operation, or replacing the tronc operator with an alternative operator, or terminating the tronc arrangement altogether. If the employer fails to act to address such a situation, they can be regarded as having failed to follow this Code, and can face enforcement action i.e. being brought to an employment tribunal by a worker or workers if the arrangements made by the employer for allocation through a tronc are no longer fair (see section 27F of the 1996 Act).

Provisions of The Tipping Legislation

51. On handling tips, the Tipping Act states that ***employers must ensure that all tips are distributed to staff, at the latest, by the end of the month following the month in which the tips are paid by customers (section 27G).*** For example, if a customer leaves a tip on 23 June, it must be distributed by 31 July at the latest.

Transparency

52. The section above sets out the requirements for employers to review their tipping policies and to consult with their workers when doing so. This section deals with the content which should be in these written policies, and the requirements to keep appropriate tipping records.

Provisions of The Tipping Legislation

53. ***The Tipping Act (section 27I of the 1996 Act) sets out that the employer is required to have a written tipping policy when qualifying tips are paid at or are otherwise attributable to a place of business on more than an occasional and exceptional basis.***

Explanation

54. An employer cannot be said to have met its obligation to handle tips fairly and transparently if individual workers are not aware of their entitlements in line with the tipping policy. This ensures workers can effectively challenge either the employer's tipping policy itself or its implementation, if they consider it to be unfair. Further information can be found in the section below about addressing outstanding issues.

55. The written policy should include how tips are accepted, how tips are allocated and distributed, what steps the employer takes to ensure tips are handled fairly and transparently, in accordance with the 1996 Act, and what steps the employer takes to consult with workers, in accordance with that Act, as amended by the 2025 Act.

56. Employers are free to decide how to disseminate the written policy to their staff. They can choose to provide it in either electronic form or as a physical written document. If employers want to provide the policy electronically, they may email it directly to staff, upload it to a relevant staff portal or provide it to all workers in another suitable manner.

57. All staff should have the same access to the written policy. The policy should be

written in plain language, and employers must provide an accessible format for any worker with a disability, on request.

58. Where agency workers are engaged, employers can provide those workers with a copy of the tipping policy themselves (electronically, or as a physical copy at the start of their engagement) or have the agency share the policy with the worker on their behalf.

59. If employers wish to provide physical copies of the policy, they may do this through a company induction when a worker joins. If they choose to do this, they should make sure that agency workers are not disadvantaged (and so left unaware of the policy) if they are not included in such scheduled meetings when brought in at short notice. Equally, if the employer chooses to display the tipping policy in a break room, they should make sure the agency worker is aware that it is available in the break room and able to have the same access to the break room as directly employed staff.

60. Employers are encouraged to share their written tipping policy with customers, or to display it publicly, as this can enhance confidence and transparency, but this is not a requirement under the tipping legislation.

Provisions of The Tipping Legislation

61. ***The Tipping Act (section 27J of the 1996 Act) sets out that employers are required to keep records relating to tips, where qualifying tips are paid at, or otherwise attributable to, the place of business on more than an occasional or exceptional basis. The Act also sets out the right for workers to request to view these records.***

Explanation

62. The legislative requirements for employers for clear record keeping – and

associated rights for workers – are necessary to support fairness and transparency.

63. A tipping record must include detail of all qualifying tips received by the employer at the place of business, and the amount allocated to each worker. This record must be maintained for a period of three years beginning with the date on which the tip was paid.

64. A worker has the right to make a written request – limited to one request per worker in a three month period – to view the tipping record of their employer for a period dating back up to three years, provided they worked for the employer for the full duration of the requested period. An employer must provide their tipping record, including the total amount of qualifying tips received by the employer during the relevant period at the relevant place of business, and the amount allocated to the worker making the request. This must be carried out within a response period of four weeks from the date that the request is received by the employer.

65. Employers also need to consider how to ensure transparency (and by extension fairness) when there are updates to the tipping policy. The same principles and practical considerations as set out above apply. Consulting staff on updates to the policy, as required under the law, is one way to ensure staff consider it fair and ensure transparency. All staff, however they are recruited and engaged, should be equally aware of any changes to the policy from the day they take effect.

66. Tipping records must be stored, processed and disposed of in line with data protection legislation, as defined in the Data Protection Act 2018. The information provided to a worker upon their request must include the total amount of qualifying tips received by the employer at (or attributable to) the relevant place of business, and the amount paid to that worker, but not the specific amounts paid to other workers.

67. A fair tipping policy should be clearly explainable without disclosing personal data. Data protection considerations should not be unduly relied upon as a reason for withholding information; disclosure of relevant information can be made without

revealing personal data or breaching data protection legislation. Indeed, a claim by an employer or tronc operator that a tipping policy cannot be shared may itself indicate that the policy is not sufficiently objective, role-based or transparent to be considered fair; employers and tronc operators are encouraged to design policies which do not give rise to this difficulty.

Addressing Problems

68. An employer should ensure they have fair processes in place for resolving issues and responding to queries from workers who have not received the share of tips they expected to. For the purposes of fairness and consultation, employers should ensure they give weight to queries from agency workers as well as their own, directly employed, staff. The Acas Code of Practice on disciplinary and grievance procedures should be followed by employers and workers.

69. Acas is an independent statutory body which offers impartial advice to employers, employees and their representatives on employment rights and obligations. It has expertise in helping parties to maintain good employment relations and resolving disputes where they arise. Acas may be contacted for advice by any party at any time.

70. If internal processes do not successfully resolve the issues raised by workers, there are options for recourse.

71. If the issues remain unresolved, under the law a worker can enforce their rights through the employment tribunal system. This includes agency workers. The complaint may be based on a failure to comply with the requirements surrounding fair allocation and distribution, or the requirements surrounding the written tipping policy, consultation and tipping records, or both.

72. If an employment tribunal finds a complaint about fairness or transparency in tipping is well founded, it can make a public declaration to that effect. It will also be empowered to order the employer to revise a previous allocation of tips, make a non-binding recommendation on a previous allocation of tips, or order the employer to pay a worker or workers compensation. This can include other workers at the relevant place of business who have not made a complaint to the tribunal.

73. Further information about the employment tribunal process is included in the accompanying non-statutory guidance.

Glossary of Terms

The definitions below are intended to aid readers' understanding of the Code of Practice, but they do not constitute the precise legal definitions. Readers should refer to the underlying legislation (where applicable) for the precise legal definition.

Agency Worker – an individual who is supplied to work temporarily for and under the control of a hirer (referred to in the Tipping Act as a principal) and has a contract with the agency that supplied them, not the hirer who they are providing their services to. For the precise definition for the purposes of the Tipping Act, see section 27H(1) of the 1996 Act.

Basic Pay – the basic amount of money *guaranteed* to workers for working the set number of hours in their contract (if employed directly) or for working the duration of an assignment (if they are an agency worker). Tips are not considered to form part of the basic pay even if there is a contractual right to receive them, as this is not a guaranteed amount. Indeed, since 2009, it has been illegal for tips to be used to count towards minimum wage pay in the UK.

Control – references to control in the Code relate to whether or not an employer influences the allocation or distribution of a tip. The question of control is relevant to whether a tip is a qualifying tip for the purposes of the Tipping Act, in that the Act – and by extension this Code – broadly deals with employer-controlled tips. For the precise legal definition for the purposes of the Tipping Act, see section 27C(5) of the 1996 Act.

Employee – typically someone who works under a contract of employment, which sets out their employment conditions, rights and responsibilities. For the precise legal definition, see section 230(1) and (2) of the 1996 Act.

Employer-Received Tip – an amount paid by a customer of an employer by way of a tip, gratuity or service charge which is received upon its payment or subsequently by the employer, an associated person, or by a person under a payment arrangement made between the employer and that person. An example of an employer received tip, is if a customer paid a tip by card which went into the employer's bank account before being distributed to workers. For the precise legal definition, see section 27C(3) of the 1996 Act.

Independent Tronc – a pooling system operated by a person or organisation independent of the employer. This could be an accountancy or payroll business which runs the distribution of tips, or a member of staff appointed by the employer or elected or agreed upon by their fellow workers. Where a member of staff is appointed, particular care is needed; independence is unlikely to be established where the employer gives direction with regard to the allocation of tips from the tronc, as opposed to setting an overall framework for the purposes of fairness. There are detailed requirements to meet the test of independence. For the precise definition, see section 27F(6) of the 1996 Act.

Payment Arrangement – an arrangement between an employer and another person under which payments made by customers of the employer are to be received by the other person instead of the employer. For the precise legal definition, see section 27C(9) of the 1996 Act.

Place of Business – a location where the function of the employer's business is carried out. These can be public or non-public, and permanent or temporary premises. For the precise definition, see section 27X(1) of the 1996 Act and section 27E in relation to public and non-public places of business.

Principal – a business for whom an agency has found a temporary agency worker. They may also be referred to as a hirer or end-client. For the precise definition for the purposes of the Tipping Act, see section 27H(1) of the 1996 Act.

Service Charge – an amount added to the customer's bill before it is presented to the customer. If it is made clear to the customer that the charge is a purely discretionary amount and there is no obligation to pay, the payment is a voluntary service charge.

Tip or Gratuity – a spontaneous payment offered by a customer. This can be in cash, as part of a cheque payment, as a specific gratuity on a credit or debit card payment or paid using a digital payment service or application.

Tipping Policy – a set of written guidelines, which must be produced by an employer and shared with workers, and which sets out the factors considered by that employer to determine the allocation and distribution of tips.

Tipping Record – a document which breaks down the total amount of tips received by an employer at the relevant place of business and the amount passed on to an individual worker. Every worker in the business must, on request, receive the record for their own employment or engagement.

Tronc – a common term for an arrangement used to distribute tips, gratuities and service charges. Many different specific arrangements exist, but in simple terms it refers to a common fund where tips left by customers are pooled before being distributed between workers by a tronc operator.

Tronc Operator or Troncmaster – the person, other than the employer, who is responsible for the arrangements for sharing tips between workers. Where an independent tronc is in place, the tronc operator determines the allocation of tips. However, the employer remains responsible for ensuring that the arrangements it has made for allocation through the tronc are fair, and for the obligations which fall on the employer under the legislation, including the written policy, record keeping and consultation requirements.

Wages – the overall amount of money payable to a worker by the employer in connection with their employment or engagement. This includes basic pay and any amount of qualifying tips allocated to them. Workers have similar rights to tips as they have over other amounts of pay, but these rights only apply to those amounts allocated to them and not to any other amount of tips. Tips are paid by customers, are not a guaranteed amount, do not form part of a worker's basic pay and may not be counted towards National Minimum Wage pay; the correct amount of tips allocated to a worker in a particular period may be zero if, for example, the worker did not work in a role attracting tips in the period

or if customers did not tip in the period.

Worker – typically an employee or other person who has a contract to do work or provide services personally for a reward (monetary or a benefit in kind). For the precise legal definition, see section 230(3) of the 1996 Act.

Worker-Received Tip – an amount paid by a customer by way of a tip, gratuity or service charge which is received upon its payment by a worker of the employer and is not subsequently received by the employer or an associated person. For the precise legal definition, see section 27C(4) of the 1996 Act.