TUC
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Make Work Pay: Strengthening the law on tipping

Response to Department for Business and Trade consultation

About Us

The Trades Union Congress (TUC) is the voice of Britain at work. We represent more than 5.3 million working people in 47 unions across the economy. We campaign for more and better jobs and a better working life for everyone, and we support trade unions to grow and thrive.

Summary

The TUC welcomes this opportunity to respond to the Department for Business and Trade's consultation on strengthening the law on tipping. We have long argued for action to end the abuse of tips by employers.

Tips are intended for workers and should be under their democratic control. However, when employers influence how tips are distributed, those funds are often used to cross-subsidise the wages of management or back-of-house staff. As a result, lower-paid frontline staff retain less of the tips they collect. Employers, meanwhile, can hold down the base pay of higher-paid staff while driving them to take a disproportionate share of tips collected by front-of-house workers.

Worker control of tips remains the best way to guard against employer-influenced policies that discriminate against frontline hospitality workers, who tend to be low-paid, young, women and migrant workers.[1]

While the measures under consultation are welcome, the TUC continues to call for further primary legislation to ensure full worker control of tips. The current measures rely on employer-led consultation rather than democratic control. To be effective, the new framework must be robust and underpinned by union involvement to level the playing field and ensure workers can participate meaningfully without being disadvantaged by power imbalances. Adequate time must be given to run robust consultations. Workers will also need full transparency about tips in their workplace so they can determine whether the system of allocation is fair and reasonable in practice. Workers should be directly involved in selection of tronc operators so that the process is democratic and remains independent from employer interests. Finally, strong enforcement will be essential, with penalties that effectively deter employers from failing to consult and regularly, including with unions wherever possible.

Developments in the law on tipping

The Employment (Allocation of Tips) Act 2023 came into force on October 1st 2024. This required hospitality employers to pay workers 100 per cent of tips. This has been welcome and follows extensive union campaigning on the issue of tip theft.

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[1] Unite (Jan 2026) Press Release https://www.unitetheunion.org/news-events/news/2026/january/unite-labour-climbdown-on-fair-tips-will-hurt-hospitality-workers

Although employers need to pass on all tips to workers, they have been able to exert influence over the distribution of tips between workers. We welcomed the commitment in the Plan to Make Work Pay[2] that the law would be strengthened so that "workers decide how tips are allocated." Unfortunately, we believe new measures put forward in the Employment Rights Act fall short of this commitment. While they provide workers with new rights to be consulted on the allocation of tips, they do not give workers full decision making power over how tips are allocated.

New measures do require employers to consult with workers or their recognised unions before determining a tips policy. They also require that consultations take place at least every three years and that employers publish written summaries of the consultation and the tips policy. The approach to consultation will need to be robust enough to ensure workers are able to negotiate a settlement in good faith which reflects their democratic will.

The TUC view remains that workers' control of tips would be the best way to guard against employer policies that discriminate against frontline hospitality workers who tend to be low-paid, young, women and migrant workers.[3]

Workers should be directly involved in setting the workplace tipping policy and choosing any tronc operator. This is needed to prevent undue influence from employers or managers who are responsible for other decisions around remuneration.

In practice many employers have been allocating tips away from frontline workers and disproportionately towards staff in management, head office or senior roles. For example, the Gaucho chain of restaurants has put in place a tips distribution policy which leaves some waiters and bar staff with just 17% of the service charge[4].

We are disappointed that the legislation currently being consulted on does not guarantee worker control or the selection of worker-preferred allocation models, even where a clear majority of staff support them. This leaves significant decision making in the hands of the employer. Full control of tips would mean that workers make democratic decisions about the tipping policy. This could be through an independent recognised trade union, or where this was not possible a system of elected representatives. The statutory code of practice should set out some of the benefits for workers of consulting through independent unions.

The government should commit now to introduce legislation so that workers decide how their tips are allocated in line with the commitment in the Plan to Make Work Pay.

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[2] Labour Party (2024) Plan to Make Work Pay

[3] Unite (Jan 2026) Press Release https://www.unitetheunion.org/news-events/news/2026/january/unite-labour-climbdown-on-fair-tips-will-hurt-hospitality-workers

[4] The Guardian (Oct 2025) Gaucho chain to slash waiters' share of service charge and boost head office pay https://www.theguardian.com/business/2025/oct/17/gaucho-restaurant-chain-to-slash-share-of-service-charge-for-waiting-staff

Consultation with workers

The proposed measures place the emphasis on employee consultation rather than democratic control of tips. For the incoming measures to work fairly, they will need to be particularly strong and clearly defined in the code of practice. Hospitality workers are often subject to precarious contracts and are at heightened risk of detriment if their hours or shifts can easily be changed by management.

The TUC welcomes the legislative change which requires that recognised trade unions are consulted. Union involvement needs to be at the heart of the process so that workers are properly represented. This is vital to level the playing field and to ensure that workers can engage in the process confidently, without being put at a disadvantage by the power imbalance between themselves and their employers. Without strong safeguards there is a significant risk that consultation will be superficial and that the process will not be democratic.

To ensure consultation is placed on a fair footing the code of practice should require employers to negotiate with unions where they are present. It is, therefore, welcome that the new measures set out a duty to consult with recognised unions. The government should also require employers to consult with unions when they gain sufficient membership at a workplace but are not yet recognised. Such a density threshold could be set at the same level as the threshold for applying for statutory recognition. This is currently 10 per cent but the government has committed in future to reducing it. (The TUC view is that it should be set at 2 per cent). The threshold for consulting on tips policies should be set at the same level so that this process is adjacent to the recognition process.

This approach would help minimise the risk that employers exert undue influence over workplace democracy by conducting consultation through their own structures that bypass independent trade unions. Where a union is present an employer should not be able to sidestep the union by consulting directly or individually with employees, as this puts workers in a vulnerable negotiating position.

Where there is no union, employers should consult with elected representatives that act independently of the employer or by consulting with all workers. In large employers with multiple sites, elected committees and representatives may need to represent workers in the consultation process.

Any such election of representatives must comply with certain requirements set out in the code of practice. The employer should allow a fair election to be held. The length of time for votes will depend on certain factors, including the numbers involved and where employees are based. At least a week and possibly longer is likely to be required. The code of practice should make clear that those who stand for or vote in the election and those elected as representatives should be protected against detrimental treatment. They must not be disadvantaged because they stood for or voted in the election or were elected as representatives. Representatives should be provided with facilities to allow them to fulfil their role. This might include a room to meet with other

representatives and employees, and access to contact details and communications systems if this is necessary to communicate effectively with other employees.

Finally, it is important that all tipping policies are consulted on. In some workplaces employers have implemented policies that say that staff cannot accept tips. This must be subject to consultation with workers as it affects how they approach tips which customers wish to give them.

Consultation timeframes

The consultation framework suggested is unrealistic and does not reflect the realities of workplace engagement or collective consultation. It will not be possible to design, conduct and analyse a meaningful consultation within 30 minutes to 1 hour.

We support a minimum structured consultation process aligned with established collective practices:

- Stage 1: Initial meeting to propose policy/system
- Stage 2: Minimum two-week consultation period with workers and union membership
- Stage 3: Substantive consultation meeting of several hours aimed at resolving issues
- Stage 4: Follow-up meeting where necessary

Anything less risks reducing consultation to a procedural or tick-box exercise, rather than a genuine attempt to reach fair outcomes.

Transparency

While the legislation emphasises transparency, in practice workers often lack meaningful access to information. The TUC believes that there should be as much transparency around the collection and distribution of tips as possible. This is necessary so that workers can check that they are being treated in line with the tips policy. Workers should also be able to use the information to determine whether the system of allocation is fair and reasonable in practice.

Workers frequently cannot see total tips or service charge collected, how funds are distributed across roles, or how allocation decisions are made. Workers report payments with no breakdown, no access to full distribution data, and limited ability to challenge unfair systems.

We support the following transparency standards:

- full disclosure of total tips collected
- clear, accessible breakdowns of distribution
- worker access to auditable records

Selection of tronc operators

Another area where employers may exert undue influence is through tronc operators. Where employers determine the tronc operator there is a significant risk that tronc arrangements are nominally independent but are designed in the interest of the employer. Workers should be directly involved in selection of tronc operators so that the process is democratic and remains independent from employer interests. If workers are directly involved in the selection of tronc operators, then more tronc operators that operate in the interests of workers will emerge.

Enforcement

Enforcement will be needed to ensure that employers are complying with the new requirements to run regular consultations in good faith on tipping policies. Otherwise, there will be a risk that employers put policies in place without running sufficient consultations or that employers fail to re-run consultations in line with the requirements set out in legislation. We are supportive of compensation awards for failure to consult. These should be set at a level that creates a strong deterrence to non-compliance. The cost of non-compliance should also be raised by treating failure to consult with a qualifying union as a procedural breach. As the Fair Work Agency develops, its remit should be expanded to cover new tipping laws and it must be allocated the necessary resources to run investigations into tipping policies and be able to sanction employers that are failing to run fair consultation in good faith.

Conclusion

While it is welcome that employers will need to consult with recognised unions or workers when determining their tips policies, the legislation falls short of guaranteeing worker control over tips. The TUC view is that workers should decide how their tips are allocated. We believe the government should commit now to introducing new primary legislation to ensure worker control over tips.

With the current legislation, an approach based on consultation will need to be especially robust to minimise undue employer influence over tips that are intended for workers. There should be strong requirements set out in the code of practice to negotiate with unions where they are present and to consult fairly if they are not. Adequate time must be given for consultation to take place properly. Workers will also need full transparency about tips in their workplace so they can determine whether the system of allocation is fair and reasonable in practice. Enforcement should be robust and penalties at employment tribunals should be strong enough to deter employers from running superficial consultations or ignoring their responsibilities altogether. Failure to consult with unions should also lead to penalties enforceable by the Fair Work Agency as unions provide the best framework for workers to engage in negotiations on an equal footing with their employer.

Recommendations

- The government should commit now to introduce further primary legislation so that workers decide how their tips are allocated in line with the commitment in the Plan to Make Work Pay.
- The code of practice on tipping should require employers to negotiate in good faith with unions wherever they are present. This should include recognised unions and those meeting a density threshold aligned with the statutory recognition process.
- The code of practice should require employers to allow fair and independent elections of worker representatives. There should be protection from detriment and access to adequate time and necessary resources and facilities.
- All tip policies must be subject to consultation, including in workplaces where employers have implemented policies that say that staff cannot accept tips.
- The government should establish a realistic, structured consultation timeframe including an initial meeting, a minimum two-week consultation period, substantive consultation meeting and follow-up meetings if needed.
- The government should strengthen transparency obligations. There should be full disclosure of total tips collected, distribution breakdowns and auditable records so workers can assess fairness.
- Workers should be directly involved in the selection of tronc operators through a democratic process.
- The government should introduce strong deterrent penalties for failing to consult, including procedural breach penalties at employment tribunals for bypassing unions.
- The Fair Work Agency should investigate tipping policies and be resourced to act against non-compliant employers.