



# **Making Work Pay**

## **Unite Response to DBT Consultation on Strengthening the Law on Tipping**

### **Introduction**

This response is made by Unite the Union. Unite is the UK's strongest trade union, representing over one million members across all sectors of the economy including manufacturing, financial services, transport, food and agriculture, construction, energy and utilities, information technology, service industries, hospitality, health, local government and the not-for-profit sector. Unite welcomes the opportunity to respond to the DBT consultation on Strengthening the Law on Tipping and the accompanying Statutory Code of Practice.

Unite is the lead union in the hospitality sector where tipping systems form a significant and often essential part of workers' income. We also organise in other sectors where tipping is also commonplace. This submission reflects the views of trade union representatives and workers in tipping industries.

### **Context**

The Employment (Allocation of Tips) Act 2023 which came into force on 1 October 2024 was introduced following extensive campaigning by Unite against tip theft. This Act requires employers to ensure workers receive 100% of tips, with no deductions other than tax. While employers can no longer make deductions for things such as processing fees, they can still control how tips are distributed between workers.

When consumers leave tips, they expect that workers should receive them. How tips are distributed should be decided by workers, not by the employers. Too often tips are used by employers to subsidise workers' wages and to cross-subsidise the wages of management or head office roles. As a result, front line staff miss out.

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

Unite believes that workers should have democratic control on how tips are distributed. This can best be achieved through collective bargaining. Failing this, new rights created by the Employment Rights Act must be applied robustly. Consultation should involve unions wherever possible. This is the only way to achieve a level playing field between employers and workers.

The selection of tronc operators should be decided by workers so they remain independent from the employer. The Code should also advise against the use of third party tronc masters. Any tronc committee must be elected by the workers and given access to training and paid release time to enable them to fulfil their role.

Finally, strong enforcement will be essential, with penalties that effectively deter employers from failing to consult fairly and regularly, including with unions wherever possible.

## **Executive Summary**

Unite welcomes the opportunity to respond to the Department for Business and Trade (DBT) consultation on strengthening the law on tipping.

Labour's Plan to Make Work Pay<sup>1</sup> recognised that *"Frontline workers in pubs, bars, cafes and restaurants are often low paid, and with the cost-of-living crisis worsening by the month, every penny counts."* It then made a commitment that *"Labour will strengthen the law to ensure hospitality workers receive their tips in full and workers decide how tips are allocated."* Unite is disappointed that the Employment Rights Act 2025 does not deliver on this commitment in full, as the Act fails to ensure that workers will *decide* on how tips are allocated. Instead, it creates a right for workers to be consulted.

Nevertheless, Unite looks forward to working closely with the Department on the drafting of the Code to ensure that workers get to decide on tipping policy in their workplace – in line with Labour's commitment in Making Work Pay.

**To that end, it is essential that the Code of Practice:**

- A. Confirms employers must ensure 100% of tips are paid to workers without deductions,** in accordance with the Employment (Allocation of Tips) Act 2023.
- B. Promotes the benefits of tipping**

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<sup>1</sup> <https://labour.org.uk/wp-content/uploads/2024/06/MakeWorkPay.pdf>

- Consumers regularly want to give tips as a sign of appreciation of the quality of service received. Yet in some sectors, such as retail and postal and delivery services, employers often prohibit staff from receiving tips. The Code of Practice should encourage employers to permit tipping and to adopt policies for the fair distribution of tips.

### **C. Promotes collective bargaining**

- Collective bargaining is the most effective means of ensuring that workers have a genuine say over their pay, terms and conditions, including tipping policies.
- The Code should encourage employers to recognise trade unions and to negotiate in good faith over tipping policies and the allocation of tips.

### **D. Ensures consultation is meaningful, is held with a view to reaching agreement and respects workers' choices**

When applying the new rights in the Employment Rights Act, the Code must make clear that:

- Employers must engage in meaningful negotiations or consultation on policies for the distribution of tips.
- Priority must be given to consultation with recognised trade unions.
- In workplaces without recognition, employers should still be encouraged to consult with workers via trade unions. Unions are independent, experienced in consultation and will ensure that workers' democratic wishes for the allocation of tips are respected.
- Where no unions are present, employers must ensure that independent worker reps are elected to participate in consultations on the allocation of tips.
- Employers must always consult *with a view to reaching agreement*, in line with good industrial relations practice and wherever possible policies on the allocation of tips should be agreed and not imposed.
- The starting point for discussions should be worker-supported proposals presented by unions or elected worker representatives. Employers should be expected to accept and implement these policies. Employers must explain in writing why any changes are necessary.
- Union representatives and elected workplace representatives must be entitled to paid release to prepare for and participate in consultations.
- Direct consultation with the workforce should be avoided wherever possible and should always be a matter of last resort.

- The new consultation rights must be supported by effective and robust remedies which do not rely solely on individual complaints, but which can be enforced by trade unions.

#### **E. Timetable and structure for consultation**

The guidance on consultation in the current Code of Practice is very weak. The consultation framework proposed in the consultation document is wholly unrealistic. The suggestion that consultation processes can be designed, conducted, and analysed within 30 minutes to 1 hour does not reflect the realities of workplace engagement or collective consultation.

We also propose the Code should set out a consultation process which is structured in line with established industrial practice. Please see the response to questions 36-40 below for more detail.

The views of workers should always inform the consultation, and wishes should be reflected in any outcome.

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

#### **F. Increased transparency for workers**

While the 2023 Act emphasizes transparency, in practice workers often lack meaningful access to information. Workers frequently are not informed about the total tips or service charge collected, how funds are distributed across roles or how allocation decisions are made.

- The Code should advise that workers must be provided with full information about the total of tips collected and a detailed breakdown of how tips are distributed.

### **WIDER COMMENTS**

#### **Structure of the consultation document**

Unite is concerned by the way this consultation document has been structured.

The Ministerial Foreword to the consultation states that government's aim is to ensure that tips are "*passed on in full to workers – ensuring money ends up with the workers who have earned it*". Despite policy commitments also focusing explicitly on worker choice, protecting wages, and good workplace practices, the consultation appears to place disproportionate emphasis on consumer views, including multiple questions directed at customers rather than workers and their representatives. It is important that the views of consumers are not weighted over those of workers.

# Responses to Consultation Questions

## Section 1: Distribution of Tips

### Workers

#### Question 10:

**If you are responding as or on behalf of a worker, how do you currently receive tips?  
Please select all that apply.**

The payment of tips will vary from workplace to workplace and can include payment:

- Through payroll
- Separately from pay (for example, cash or separate payment method)
- Through payroll and separate from pay (for example, card tips via payroll but cash tips separately)

#### Questions 11, 12:

**Do you understand when payments are made?**

**Do you understand how your share of tips is calculated?**

- **NO**

Unite regularly engages with our members working in hospitality.

As stated in the introduction, it is common for hospitality workers not to be provided with information about the payment of tips or how their share of tips is calculated.

#### Question 13:

**How confident do you feel asking about how tips are distributed in your workplace?**

- **NOT AT ALL CONFIDENT**

The Employment (Allocation of Tips) Act 2023 was designed to increase transparency. However, in practice workers often lack meaningful access to information. Workers frequently are not informed about:

- the total tips or service charge collected
- how funds are distributed across roles
- how allocation decisions are made.

**Recommendation:** The revised Code should advise that workers must be provided with full information about the total of tips collected and a detailed breakdown of how tips are distributed.

## Consultation on Allocating Tips

### Workers

#### Question 30:

**How satisfied are you with how the allocation and distribution of tips is determined in your workplace?**

- **Very dissatisfied**

Unite is the lead union in the hospitality industry, with thousands of members across the UK.

Many members, especially lower paid workers who work front of house, report they are very dissatisfied with the allocation of tips in their workplace.

When consumers leave tips, they often assume that front of house staff should primarily receive them. Customers recognise that waiters and waitresses are often poorly paid, on the national minimum wage and they leave tips to ensure their incomes are increased and they can afford to live.

Too often tips are used by employers to subsidise workers' wages and to comply with national minimum wage obligations. Some employers also use tips to cross-subsidise the wages of management or head office roles. As a result, front line staff miss out. For example, workers employed by the Gaucho chain of restaurants report the company has put in place a tips distribution policy where 75–85% of tips are allocated to back-of-house, management, and head office roles. This leaves some waiters and bar staff with just 17% of the service charge<sup>2</sup>.

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<sup>2</sup> 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>

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

Unite believes that workers should have democratic control on how tips are distributed. This can best be achieved through collective bargaining. Failing this, new rights created by the Employment Rights Act must be applied robustly. Consultation should involve a union wherever they are present in the workplace. This is the only way to achieve a level playing field between employers and workers.

### **Questions 31, 32 and 34:**

**Has your employer ever consulted with you or sought your agreement on their policy for allocating and distributing tips?**

**What steps has your employer taken to consult or seek agreement with staff?**

- **NO**

From Unite's extensive experience in the hospitality industry, workers are rarely consulted meaningfully on the allocation or distribution of tips. Any consultation that does take place tends to amount to a "tick box" exercise, with workers having no real control or influence on how tips are distributed.

The main exception is where workers organise collectively and unions run campaigns and organise in workplaces to influence tipping policies.

For example, Pizza Express initially designed and imposed via an external provider allocated tips. The scheme lacked any meaningful worker control.

Following an extensive national Unite campaign, workers secured:

- a democratically elected tronc committee
- a revised 70:30 split of card tips between front- and back-of-house staff
- a guarantee that 100% of tips will be passed to staff, with the company covering the costs of card fees.

This demonstrates how fairer outcomes are achieved through collective organisation and union representation. Basic consultation alone will often not be sufficient to deliver genuine and fair changes to tipping policy.

### **Question 33:**

**What factors do you think should be considered in your workplace when determining the allocation and distribution of tips? Please select all that apply.**

Unite strongly believes that how tips are allocated and distributed should be decided democratically by the workers affected. There needs to be a significant shift away from employer influenced tronc systems to those controlled by the workforce.

**Question 35:**

**Are there any issues with your employer's existing tipping policy? Please select all relevant issues.**

- **Tips are not shared with workers and retained by employer**
- **Tips are unfairly allocated across staff**
- **Tips can lead to workplace disputes**
- **Employer does not have a written tipping policy**

Unite hospitality members report that all of the above apply in workplaces across the sector.

Too often tips are used by employers to subsidise workers' wages and to comply with national minimum wage obligations. Some employers also to cross-subsidise the wages of management or head office roles. As a result, front line staff miss out. For example, workers employed by the Gaucho chain of restaurants report the company has put in place a tips distribution policy where **75–85% of tips** are allocated to back-of-house, management, and head office roles. This leaves some waiters and bar staff with just 17% of the service charge<sup>3</sup>.

Lack of transparency and the unfair distribution of tips can lead to tensions in the workplace. It can also contribute to high staff turnover and low staff retention.

Unite is also concerned that the consultation and existing Code of Practice place a heavy reliance on tronc systems as a mechanism for fair distribution.

However, our members confirm that:

- Many tronc systems are not genuinely independent

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<sup>3</sup> 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>

- Third-party operators are often engaged and paid by employers
- It is therefore unsurprising that the allocation models applied usually reflect employer priorities rather than worker interests.

See above case studies from Gaucho and Pizza Express.

A growing feature of the sector is the use of third-party *tronc* operators. Companies such as WMT *Troncmaster*, led by Peter Davies, a former HMRC inspector, design and administer tipping systems across large parts of the industry. *Troncmaster* reportedly advises and provides services to over 1000 of the UK's leading hospitality businesses.

The deployment of third party *tronc* operators reflects a broader trend towards the professionalisation of tipping system design. Admittedly, these operators apply detailed knowledge of regulation and tax rules and create systems that comply formally with the law.

However, the systems are designed to apply allocation models which are aligned with employer priorities, rather than those of workers.

This means that gaps in the legislation can be actively exploited. While the systems appear compliant with the law the systems undermine fairness for workers.

The current Code does not address this dynamic. It assumes removing direct employer control is sufficient. However, in practice, control is exercised through system design and workers remain excluded from decision-making, even though they are impacted by the system decisions.

Unite proposes that:

- The Code should encourage the use of worker-designed systems, which are developed with advice from experts to ensure compliance with tax and other legal obligations.
- It should be mandatory to hold worker elections for *tronc* masters.
- In all circumstances, there must be evidence that the *tronc* master is genuinely independent from employers.
- Where the employer proposes to use an externally designed allocation system, union or worker representatives must be consulted first and must have the opportunity to scrutinise the system.
- The Code must emphasise that employers must not use tips to subsidise labour costs, be that national minimum wage obligations or the use of tips to subsidise managerial, backroom or HQ roles.

## Questions 36 to 40:

**What specific steps would you like to see your employer take when consulting with workers about the allocation of tips?**

**How would you like to be consulted about the allocation of tips?**

**How long do you expect it will take trade union representatives, worker representatives and/or workers to respond to a consultation exercise?**

**The Employment Rights Act requires that when an employer carries out consultation on their tipping policy, this should take place, where possible, with trade union representatives or other worker representatives. If you are responding as a trade union representative or other worker representative, how long do you expect it will take you to engage with other workers ahead of representing them in consultation with your employer?**

**If you are responding as a trade union representative or other worker representative, please describe in as much detail as possible how you intend to engage with other workers ahead of representing them in consultation with your employer.**

Labour's Plan to Make Work Pay<sup>4</sup> made the commitment that "*Labour will strengthen the law to ensure hospitality workers receive their tips in full and workers decide how tips are allocated.*"

Unite agrees that the views of workers should always inform the consultation, and workers' wishes should be reflected in any outcome. Anything less risks reducing consultation to a procedural or tick-box exercise, rather than a genuine attempt to reach fair outcomes.

Unite is therefore disappointed that the Employment Rights Act 2025 does not deliver on this commitment in full. It is essential that the new statutory Code ensures that workers get to decide on tipping policy in their workplace, in line with Labour's commitment in Making Work Pay.

To that end, it is essential that the Code of Practice:

### **Promotes collective bargaining**

- Collective bargaining is the most effective means of ensuring that workers have a genuine say over their pay, terms and conditions, including tipping policies.

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<sup>4</sup> <https://labour.org.uk/wp-content/uploads/2024/06/MakeWorkPay.pdf>

- The Code should encourage employers to recognise trade unions and to negotiate in good faith over tipping policies and the allocation of tips.

**Ensures consultation is meaningful, is held with a view to reaching agreement and respects workers' choices:**

The Code must make clear that:

- Employers must engage in meaningful negotiations or consultation on policies for the distribution of tips.
- Priority must be given to consultation with recognised trade unions.
- In workplaces without recognition, employers should still be encouraged to consult with workers via trade unions. Unions are independent, experienced in consultation and will ensure that workers' democratic wishes for the allocation of tips are respected.
- Where no unions are present, employers must ensure that independent worker reps are elected to participate in consultations on the allocation of tips. The Code should make clear that worker reps will only be independent if they are elected by workers and are not appointed, chosen or funded by the employer.
- Employers must always consult *with a view to reaching agreement*, in line with good industrial relations practice and wherever possible policies on the allocation of tips should be agreed and not imposed.
- Union representatives and elected workplace representatives must be entitled to paid release to prepare for and participate in consultations. This must include the time needed to consult with workers. Unite believes that union reps should be provided with at least 20% release time as a minimum.
- Direct consultation with the workforce should be avoided wherever possible and should always be a matter of last resort. The Code should make clear that employers must not seek to bypass consultation with unions through direct consultation. Direct consultation disempowers workers and allows employers to decide on the tipping policy. This is not consistent with the Make Work Pay commitments.
- The new consultation rights must be supported by effective and robust remedies which do not rely solely on individual complaints but which can be enforced by trade unions.

**G. Timetable and structure for consultation**

The guidance on consultation in the current Code of Practice is very weak. The consultation framework proposed in the consultation document is wholly unrealistic.

The suggestion that consultation processes can be designed, conducted and analysed within 30 minutes to 1 hour does not reflect the realities of workplace engagement or collective consultation.

We also propose the Code should set out a consultation process which is structured in line with established industrial practice.

The starting point for discussions should be worker-supported proposals presented by unions or elected worker representatives. Generally, employers should be expected to accept and implement these policies. Employers must explain in writing why any changes are necessary.

The following stages should be followed:

**Preparation:** The union and worker representatives should have access to expert advice on tax and other obligations

- **Stage 1:** Initial meeting at which trade unions or elected worker representatives to set out proposals for a tips policy
- **Stage 2:** Where the employer sets out alternative proposals, there must be a minimum two-week consultation period for unions or elected workplace reps to consult workers
- **Stage 3:** Substantive consultation meeting (2–6 hours) aimed at resolving issues
- **Stage 4:** Subsequent consultation with workers on final proposals
- **Stage 5:** Follow-up meeting where necessary to reach or confirm agreement.

Throughout the consultation process:

- Union reps must be allowed to organise meetings with all workers to discuss the tip policy. Meetings should take place during working hours or immediately at the end of shifts. The reps and workers attending the meeting must be paid as if they were normally at work.
- Unions should also be permitted to use the staff bulletin and workplace email system to communicate with workers and seek their views. Unions must be free to decide what and how to communicate with workers, free from employer interference.

## **Government Guidance**

### **Question 41:**

**To date, have you been aware of the statutory Code of Practice on fair and transparent distribution of tips, published by the Department for Business and Trade?**

- **Yes – Unite has a good understanding of the Code of Practice**

### **Question 42:**

**The government will be making some changes to the Code of Practice. Are there any areas of the existing Code of Practice which could be improved to be more helpful or clear?**

Throughout this response, we have highlighted those areas of the Code of Practice which need to be updated and strengthened. All the points raised should be included in the revised Code.

In particular, the Code needs to include clear and effective guidance on new employers' duties to consult.

The responses to questions 36-40 above explain how new duties on employers to consult should work in practice. The elements set out in this response, should be incorporated in full into the Code. This includes the requirement for employers to engage in meaningful consultation with a view to reaching an agreement and the proposed stages for consultation.

The Code should also encourage employers to agree worker-led tronc systems and should advise against the use of external third party schemes which will inevitably favour the employers' interests.

### **Question 43:**

**To date, have you been aware of the non-statutory guidance on distributing tips fairly, published by the Department for Business and Trade?**

- **Yes – we have good understanding of the non-statutory guidance**

### **Question 44:**

**Are there any areas of the non-statutory guidance which could be improved to be more helpful or clear?**

It is helpful that the non-statutory guidance includes practical case studies of how the tipping policies should work in practice. The Government should look to update and expand these examples, following detailed consultation with trade unions.

**Question 45:**

**Would you like to see further guidance provided on any of the below? Please select all that apply.**

- Tipping record guidance or template and Template for requesting tipping record
- Guidance on different branches of a business
- Guidance on tips and agency workers

The above forms of guidance and templates would be helpful.

- Tipping policy guidance or template

It is important for the guidance to make clear that a tipping policy can only be finalised following detailed consultation with trade unions or worker representatives.

- Guidance on consulting with trade union representatives or other worker representatives

The guidance on consulting with trade union representatives should mirror the responses to questions 36-40 above. The guidance must make clear that employers are required to prioritise consultation with recognised trade unions and that they are encouraged to consult trade unions where there is no formal recognition agreement in place.

Where there is no union present in the workplace, employers must facilitate the election of independent worker representatives.

**Enforcement**

**Question 46:**

**If you are a worker or worker representative, how confident do you feel about pursuing further action, such as through Acas or the employment tribunal system, to ensure the requirements on tipping are effectively and fairly applied?**

- **Not confident, unless a trade union member.**

**Question 47:**

**Is there anything that could be improved in the process for pursuing further action, such as through Acas or the employment tribunal system, to ensure the requirements on tipping are effectively and fairly applied?**

The new consultation rights must be supported by effective and robust remedies which do not rely solely on individual complaints, but which can be enforced by trade unions.