You may or may not have heard about the new ‘Tipping law’ that is expected to come into force in July 2024. The Employment (Allocation of Tips) Act will create a legal obligation on employers to allocate all tips, gratuities and service charges to workers and ensure that the distribution is done fairly.

Alongside this the government has published a [draft code of practice](https://www.gov.uk/government/consultations/distributing-tips-fairly-draft-statutory-code-of-practice/draft-code-of-practice-on-fair-and-transparent-distribution-of-tips-html-version) on fair and transparent distribution of tips. A consultation on the draft code is currently underway and it is also expected that there will be further non-statutory guidance to help employers navigate the new law.

It's important to note that the new law relates only to ‘Employer-received tips’ which are tips paid by the customer to the business and allocated by the employer e.g. a customer pays a tip by card, which then goes into the employer’s bank account before being distributed amongst staff. This differs from ‘Employee-received tips’ e.g. where a customer tips an employee in cash and the employee is then entitled to keep that tip. Employee received tips are not covered by the new law.

**What does this change mean?**

Employers will now have to change the way they manage and allocate tips (including service charge payments) once this law comes into play.

The draft code of practice (which could be subject to change) sets out what this looks like:

* 100% of tips and service charges must be distributed to workers.
* Payments of tips and service charges must be made by the end of the following month that they are received by the customer.
* Tips and service charge payments must be paid to workers at the venue in which they were paid.
* Agency workers are eligible for tips
* The distribution of tips and service charge payments must be fair
* If tips are received on more than an occasional and exceptional basis at a place of business, the employer will need a tipping policy and will need to keep tipping records, which workers can request sight of.

**What is fair?**

Employers must ensure that customer tips that are left for workers in recognition of their service are going to workers as intended. It’s worth noting that distributing tips fairly doesn’t always mean they have to be divided up equally. Where employers decide to allocate tips in different proportions, the Code says it’s important to use a clear and objective set of factors. These factors could be:

* Basic pay;
* Individual and/ or team performance;
* Level of responsibility
* Length of time served with the employer; and
* Customer intention.

It’s important to be careful if you are going to pay your staff different proportions of tips to avoid any unintentional discrimination.

**How can you allocate tips?**

Employers may receive tips directly and pay their staff as part of the next payroll, or they may decide to use a tronc system (making sure to follow the draft Code of Practice).

**Transparency in the workplace**

One of the major changes is how much of a responsibility employers will have to be transparent when it comes to tips. The Code of Practice says that employers will be required to:

* **Have a written policy in place for how tips are dealt with at their place of work**
* **Consult with workers to seek a broad agreement that the allocation of tips is fair, reasonable and clear**
* **Keep a record of tips received and distributed to each employee for three years from the date of the tip**

An employee has the right to make a written request (limited to one request per worker in one three-month period) to view the tipping record for a period dating back three years. As an employer you must provide:

1. The employee’s tipping record;
2. The total amount of tips received (as a business)
3. The amount of tips paid to that employee