

Tips and service charges

1 . What the law says

The Employment (Allocation of Tips) Act 2023 applies to tips, service charges and gratuities that employers have 'control or significant influence' over.

The act is known as the Tipping Act 2023.

By law, employers must:

- pass on these tips to workers without deductions, other than usual tax and National Insurance deductions
- share these tips between workers in a fair and transparent way, following the Code of Practice – [find out about sharing tips fairly](#)
- have a written policy about these tips and keep records of them – [find out about policies and records](#)

The [Code of Practice on fair and transparent distribution of tips on GOV.UK](#) accompanies the law. The Code is the minimum procedure an employer must follow.

The law and Code does not cover people who are [self-employed](#).

What tips and service charges are

A tip or gratuity is payment from a customer as thanks for good service.

Tips can be something other than money. But it must be worth a fixed amount in money. And it must be exchangeable for money, goods or services. For example, vouchers or casino chips.

A service charge is when a company adds an amount to the customer's bill, before they give it to the customer. A service charge can be voluntary or compulsory.

What tips the law applies to

The Tipping Act and Code apply to tips and service charges that employers have 'control and significant influence' over.

This includes:

- tips and services charges that go directly to an employer – for example, a service charge added to a bill
- tips that go to the worker first, but that the employer collects and divides between workers

Cash tips

Some workers receive cash tips. For example, cash a customer leaves on a table, or puts in a tip jar.

If an employer collects cash tips and shares them between workers, the Tipping Act and Code apply.

If workers can keep cash tips and the employer has no control over them, the law and Code do not apply. For example, a restaurant that allows workers to keep cash tips left on tables they serve.

Even if the law and Code do not apply, it's good practice for an employer to:

- explain the process for these tips in any relevant policies
- make sure customers are aware of what happens with these tips

Card tips

Sometimes customers will leave a tip by card. This could be part of the bill, for example, a service charge. Or it might be an optional addition when paying on a card machine.

The Tipping Act and Code apply to credit and debit card payments that go directly to the employer.

If the payment goes indirectly to the employer the Tipping Act and Code would still apply. For example, from the card issuer or a payment scheme.

If the card payment goes directly to the worker, the Tipping Act and Code would not apply.

Digital tips

Sometimes customers use online apps to tip a worker. For example, some food takeaways have apps where customers can tip the delivery driver directly.

If the tip goes directly to the worker, the Tipping Act and Code do not apply.

Gifts

The Tipping Act and Code only covers gifts that can be divided between workers or exchanged for money. It does not cover gifts that cannot be divided between workers or exchanged for money. For example, a bottle of wine.

When tips must be paid

Employers must pay tips to workers no later than the end of the month after the month the tips were received.

For example, a restaurant receives £1,000 from service charges in July. The employer must pay this money to workers before the end of August.

Tronc systems

A 'tronc' is a system used to bring together tips and share them between workers.

A tronc can be:

- separate from the employer
- set up by the employer, but run by a worker

The person who runs a tronc is called a 'troncmaster'. This can be a worker, an accountant, or an independent company.

How the law applies to troncs

Employers using troncs do not directly control tips. However, they must still follow the law.

If the employer is using an independent tronc, they must:

- make sure the system was set up fairly
- follow the [Code of Practice on fair and transparent distribution of tips on GOV.UK](#)

If a tronc is not paying tips correctly

An employer must take steps to resolve problems if they suspect or are told that a tronc is either:

- not [sharing tips out fairly](#)
- making deductions from tips

To try and resolve this, an employer could:

- raise their concerns with the tronc
- change the troncmaster
- end the tronc arrangement

Tips and the minimum wage

Tips are not included in the minimum wage.

Employers cannot use tips to make up workers' pay to the minimum wage.

If an employer is using tips to make up pay to the minimum wage, a worker could either:

- make a claim to an employment tribunal
- complain to HMRC about not being paid minimum wage

[Find out more about if an employer pays less than the minimum wage](#)

If tips are not paid correctly

There are steps a worker can take if their employer or a tronc is not paying tips correctly. For example if they're:

- not paying tips on time
- taking deductions from tips

It's a good idea to raise the problem informally first. A worker can do this by [talking with their employer](#). This can help resolve a problem quickly if there's been a misunderstanding or mistake.

Employers should make sure they treat concerns from workers, including agency workers, in the same way they treat concerns raised by their direct staff.

The Tipping Code of Practice says employers should follow the [Acas Code of Practice on disciplinary and grievance procedures](#).

This can be useful if:

- raising it informally does not resolve the problem

- they feel the problem is too serious to deal with informally

A grievance is a formal complaint to an employer.

[Find out about the formal grievance procedure](#)

Making a claim to an employment tribunal

If the problem is still not resolved, they might be able to [make a claim to an employment tribunal](#).

If a tribunal claim is successful, an employer might have to take action for other workers who are affected. The other workers do not need to have made a claim.

Contact the Acas helpline

If you need more advice on tips and service charges, [contact the Acas helpline](#).

2. Sharing tips fairly

By law, employers must share tips, gratuities and service charges between workers in a fair and transparent way. This applies if an employer has 'control or significant influence' over how tips are divided.

The law is the Employment (Allocation of Tips) Act 2023.

The Code of Practice on fair and transparent distribution of tips accompanies the law.

An employer might have their own policy on tips, but the Code is the minimum procedure they must follow. If a case reaches an employment tribunal, the judge will consider whether the employer has followed the Code of Practice.

Being fair

The Code of Practice sets out principles to help employers decide how to divide tips fairly between workers.

For example, it says that:

- fairness does not mean employers must give the same proportion of tips to all workers
- employers should use clear and objective factors when deciding how to share out tips

What's fair will depend on:

- the type of workplace
- the jobs people are doing
- what's agreed with workers and their trade union or representatives, if they have them

Employers should consult with workers and any trade unions when deciding how to share out tips.

[Read the Code of Practice on fair and transparent distribution of tips on GOV.UK](#)

Example – considering factors for fairness

A sit-down pizza restaurant is open for lunch and dinner.

It might use the following factors to share out tips fairly:

- the time of day the tips are paid and how busy service is
- whether a worker serves tables, works in the kitchen or at the bar and how busy each area is
- whether certain workers have more responsibility, for example a head waiter
- whether any individuals or teams perform to a higher standard or get any complaints

Being transparent

Employers must make clear in a written policy how they divide tips fairly. They should also make this clear in employment contracts.

Employers must keep records of tips.

[Find out more about policies and records](#)

Discrimination

Employers must not discriminate in the way they share out tips.

Employers should carefully consider whether factors for sharing out tips would discriminate against anyone.

For example, an employer gives the biggest share of tips to permanent staff members than to their casual hours workers. The majority of their casual hours workers are younger and get a smaller share of tips. In some circumstances, this could be indirect age discrimination.

Employers should discuss how to avoid discrimination when they consult with workers or their representatives on how to share tips fairly.

[Find out more about discrimination at work](#)

Agency workers

Employers should treat agency workers in the same way as other workers.

When an agency worker starts their assignment, the employer or agency should:

- make them aware of the tips policy
- make sure they understand who they can raise concerns with or ask questions about tips

Paying tips to agency workers

Employers can either:

- pay tips directly to the agency worker
- pay tips to the agency first, who passes them onto the agency worker

If the employer pays tips to the agency worker directly, they must pay them at the same time as other workers. This is by the end of the month after the month the tips are received.

If the employer pays tips to the agency first, they must do this at the same time as paying other workers. The agency must pass the tips onto the worker. They must do this no later than the end of the month after the employer passed on the tips.

For example, a music venue has an event in October. The agency workers who worked the event get tips via their agency. The employer pays the tips to the agency in November. The agency must pay the tips to the workers by the end of December.

If tips are not shared out fairly

There are steps a worker can take if their employer or a tronc is not sharing out tips fairly.

It's a good idea to raise the problem informally first. They can do this by [talking with their employer](#). This can help resolve a problem quickly if there's been a misunderstanding or mistake.

Employers should make sure they treat concerns from workers, including agency workers, in the same way they treat concerns raised by their direct staff.

The Tipping Code of Practice says employers should follow the [Acas Code of Practice on disciplinary and grievance procedures](#).

This can be useful if:

- raising it informally does not resolve the problem
- they feel the problem is too serious to deal with informally

A grievance is a formal complaint to an employer.

[Find out about the formal grievance procedure](#)

Making a claim to an employment tribunal

If the problem is still not resolved, they might be able to [make a claim to an employment tribunal](#).

If a tribunal claim is successful, an employer might have to take action for other workers who are affected. The other workers do not need to have made a claim.

3. Policies and records

By law, employers must have a written policy and keep records if:

- tips are paid in their organisation more than 'occasionally or exceptionally'
- they have 'control or significant influence' over tips

The law is the Employment (Allocation of Tips) Act 2023. It is known as the Tipping Act 2023.

The [Code of Practice on fair and transparent distribution of tips on GOV.UK](#) accompanies the law. The Code is the minimum procedure an employer must follow.

The Tipping Act and Code do not apply to employers who only receive tips on rare occasions. For example, a shop that gets tips a few times a year. It's still a good idea to have a policy and keep records. This can help make the process clear if workers do get tips.

What the policy must include

A policy on tips must set out:

- whether the employer requires or encourages customers to pay tips or service charges

- how the employer makes sure they deal with and share out tips fairly

The employer must make the policy available to all workers, including agency workers.

For example, the employer could:

- include the policy in workers' contracts or written statements of employment particulars
- make a physical or electronic copy of the policy available in a shared worker area – for example, an intranet or training handbook

Creating or changing a policy

Employers should review existing policies and contracts to make sure they follow the Tipping Act and Code.

An employer might need to create or change a policy. If they do, they should:

- consult with workers or their representatives
- give proper notice of any changes

If there's a collective agreement with a trade union, employers might be legally required to carry out collective consultation.

After an employer has created or updated a policy, they should regularly review it.

Changing employment contracts

When an employer creates or changes a policy, they might be changing employment contracts.

If they're changing contracts, an employer should get agreement from workers or their representatives. This involves discussing all available options and listening to suggestions.

An employer must also follow a fair procedure to change contracts.

[Find out more about changing an employment contract](#)

Keeping records

Employers must keep records of tips for 3 years from when the tips were paid.

For all tips, the employer must record:

- the amount of money received
- the amount they paid to the worker
- the amount they arranged for a troncmaster to allocate

A troncmaster is someone an employer uses to share out tips. It could be a worker, an accountant or an independent company.

Requesting to see records

Workers can ask to see records of tips once every 3 months.

In each request, workers can ask to see records for either:

- one month

- 2 or more consecutive months

For example, a worker can ask for records for March, April and May in one request. They cannot ask for records for March, May and September in one request, because the months are not consecutive.

Workers can ask to see records going back up to 3 years. But they can only see records for the time they've worked for the employer.

When a worker makes a request, the employer must give them the records within 4 weeks.

If an employer does not have a policy or records

It's a good idea for a worker to raise any issues about policies or records informally first. They can do this by [talking to their employer](#). This can help resolve a problem quickly if there's been a misunderstanding or mistake.

Employers should make sure they treat concerns from workers, including agency workers, in the same way they treat concerns raised by their own staff.

The Tipping Code of Practice says employers should follow the [Acas Code of Practice on disciplinary and grievance procedures](#).

This can be useful if:

- raising it informally does not resolve the problem
- they feel the problem is too serious to deal with informally

A grievance is a formal complaint to an employer.

[Find out about the formal grievance procedure](#)

Making a claim to an employment tribunal

Workers and agency workers can make a claim to an employment tribunal if their employer has:

- failed to create a written policy on tips or make it available
- failed to keep records on tips or make them available

A worker has 3 months minus 1 day to make a claim. This runs from the date their employer failed to provide a policy or records.

If a claim is successful, an employer could have to pay the worker up to £5,000.

Find out more about:

- [making a claim to an employment tribunal](#)
- [employment tribunal time limits](#)