

Will the Government Change Laws On Tipping

In the know

Harrods on-site restaurants are the latest employers to receive criticism for their management of tips practices. The Government has a slow burning mandate on encouraging fair tipping, but will the latest press focus give them renewed vigour to make changes? Here, we take a look at the current situation.

Tips not passed to employees

Waiting staff at Harrods restaurants have threatened to go on strike in response to their employer's failure to pass on to them all tips left by customers. It is reported that the restaurants keep up to 75%.

Michel Roux Junior has recently received similar criticism for failing to pass on service charges to staff at his London restaurant, La Gavroche.

Even when tips are passed to employees, it is common for employers to deduct an administration fee so that employees do not pick up the entire tip. It is not unlawful for employers to retain tips, however, the Government has proposed making some changes.

Government consultation

There is already a voluntary code of practice on managing tips in the hospitality sector which is supported by the British Hospitality Association.

In summer 2015, the shadow Business Secretary of the time, Chuka Umunna, launched a Call for Evidence on employers' tipping practices. Views and real-life experiences were sought from interested parties on what was called "the abuse of tipping". Evidence was received from the betting, gambling, hairdressing and taxi industries. Following the Call for Evidence, a public consultation was issued which suggested, among other things, limiting the practice of additional charges on staff related to

sales levels; and making the voluntary code of practice a statutory obligation. The Government has not since given any clear proposals on how it intends to make the tipping process fairer.

Croner Tips

- Set out in the contract of employment how you manage tips. There is no legal obligation to pass tips to the employees that have earned them, whether individually or as a team, but however you manage them, make employees aware.
- Bear in mind that potential changes to the law or a strengthening of the voluntary code of practice may require you to re-think your tips practices.
- When you pass tips to employees, this must be on top of National Minimum Wage (NMW), or National Living Wage (NLW). No tips can be used to make up NMW or NLW pay.
- If tips are passed on to employees and you wish to deduct an administration fee, you must get consent from the employee. Refer clearly to the deduction in the employment contract.
- Remember all tips are taxable.

Please contact the Business Support Helpline for advice on your specific situation before acting on the information in this article.