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## *Unfair Tipping Practices by Chris Weaver and Orla Bingham, Payne Hicks Beach*

Last summer media reports claimed that some employers, including well-known high street chains, were acting unfairly when dealing with discretionary payments for service. Unfair practices included employers charging an administration fee for handling discretionary payments for service or even keeping these payments from workers in their entirety. In response to these reports the government launched an investigation into unfair tipping practices. It has now published proposals to end unfair practices and increase transparency for workers and consumers. The government is seeking views on its proposals, with consultation due to close next month.

Tipping is common in the hospitality sector, including restaurants, hotels and bars. It is also important for industries such as casinos, taxi hire and hairdressing. Currently employers are subject to a voluntary Code of Practice. Discretionary payments for service can either be: Tips and gratuities: A sum of money given in recognition of an individual service, in addition to what is required from the consumer for the core service provided (e.g. the price of menu items). It should usually be given freely without claim or demand. Service charges: An amount which a business suggests to a consumer on a bill (often as a percentage of the bill amount). The consumer should be free to decide whether to make the payment or not.

The government's investigation suggested that consumers are unaware of the voluntary nature of these payments and feel obliged to pay the amount suggested on their bill. Currently there is no legal requirement for employers to pass on any of the service charge to the workers providing the service. As a result many workers do not benefit from these payments and their presence on bills puts off customers from leaving any other discretionary payment for the service. The government found a broad agreement that intervention is required to improve the treatment and transparency of discretionary payments for service. Consumers and workers expressed a clear preference for all discretionary payments for service to go to the worker directly, or be shared amongst workers without the employer's involvement (a tronc system).

The government's current proposals identify three broad policy objectives: 1. Making it clear to customers that all discretionary payments for service are voluntary. This may require business to make it clear on bills that any additional payment on top of the final price is discretionary or, alternatively, prevent businesses from suggesting any specific amount of discretionary payment for service. Businesses may also be required to provide clear information to indicate the voluntary nature of such payments on menus, websites and signage. 2. Ensuring workers receive a fair share from discretionary payments for service. Proposals include: ? Prohibiting employers from charging an administration fee or any other deductions from discretionary payments for service, except for those required under the tax system. ? Alternatively, limiting the amount of deductions an employer can make from discretionary payments for service by setting a maximum amount. ? Incentivising and increasing the prevalence of well-managed tronc systems. 3. Increasing transparency for consumers and workers. The government believes that the current voluntary Code of Practice fails to ensure a consistent level of transparency and is not widely used or understood. It is therefore proposing to update the Code to require employers to maintain readily available written policies for workers and to give guidance on information to be provided to consumers. It is also considering whether the Code should be placed on a statutory basis, meaning that its status would be raised and an employer's failure to follow the Code could be taken into account in relevant legal proceedings.

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