

A RECIPE FOR COOKIES COMPLIANCE Merton Chamber of Commerce Factsheet, June 2012

Organisations must obtain the consent of users before using cookies on their websites. This legal requirement came into force last year and is being enforced by the regulator as from May 2012.

1. What is a cookie?

A cookie is a small text file stored by a web browser and containing information about a user's visit to a website. Cookies are frequently used to help with website navigation, analyse site usage, provide specific features and/or remember a user's details when they re-visit a website.

2. What are the legal requirements relating to a cookie?

Website users must:

- (a) be provided with clear and comprehensive information about the purposes of the cookie; and
- (b) have given their consent to the use of the cookie. To constitute an effective consent, a user must fully understand that they are giving consent and to what they are giving consent.

3. What steps should organisations be taking?

- **Identify what cookies are used or are intended to be used.** It is important to look not just at the fact of there being a cookie (or similar technology), but *why* it is there, *what* it does and *how* the resulting information is used.
- **Consider the impact of each cookie on the relevant users.** The more intrusive the cookie is on user privacy, the more obvious and clear the website may need to be in providing information and seeking consent.
- **Address information and consent requirements.** The *method* of providing notifications and obtaining consent, the *content* of the notifications and the *scope* of the consents should all be considered. Options may include a specific pop-up on cookies, or, if a cookie is being created as part of a new website feature, combining cookie consent with the notification/acceptance of the feature. Consent could be obtained as part of acceptance of other terms and conditions relating to the website, as long as the information provided is sufficiently obvious and clear.
- **Adopt a plan for ongoing management.** Records of information provided and consents obtained should be retained. Users must also be provided with a clear way to withdraw consent in future (for example by updating user profile options).
- **Address other data protection and privacy implications.** Storage and use of data obtained as a result of cookies may require additional data protection and privacy controls. For example, these may need to address direct marketing restrictions, security requirements and conditions for "fair and lawful" processing of personal data.

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This factsheet provides general guidance on the cookies requirements and should not be relied upon as legal advice.