

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning [REDACTED]  
[REDACTED]

Record of Amicable Resolution of the complaint and its consequent withdrawal pursuant to Section 109(3) of the Data Protection Act, 2018

Further to the requirements of Internal EDPB Document 06/2021 on the practical implementation of amicable settlements (adopted on 18 November 2021)

**RECORD OF AMICABLE RESOLUTION FOR THE  
PURPOSE OF INTERNAL EDPB DOCUMENT 06/2021 ON  
THE PRACTICAL IMPLEMENTATION OF AMICABLE  
SETTLEMENTS, ADOPTED 18 NOVEMBER 2021**

Dated the 16<sup>th</sup> day of September 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 3 May 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning [REDACTED] (“the **Respondent**”).
2. The DPC, as the supervisory authority of the ‘main establishment’ (as defined in Article 4(16) GDPR) of the Respondent, was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject emailed the Respondent requesting the erasure of her personal data on the basis that those personal data were posted to the Respondent’s [REDACTED] platform by a third party without the Data Subject’s consent.
  - b. The Respondent reviewed the request and determined that Article 17(1) GDPR did not apply. Accordingly, the Respondent refused to comply with the Data Subject’s request. As the Data Subject was not satisfied with the response received from the Respondent regarding the concerns raised, the Data Subject made a complaint to the DPC.

## **Action taken by the DPC**

4. The DPC, pursuant to Section 109(4) of the Data Protection Act, 2018 (“the **2018 Act**”), is required, as a preliminary matter, to assess the likelihood of the parties to the complaint reaching, within a reasonable time, an amicable resolution of the subject-matter of the complaint. Where the DPC considers that there is a reasonable likelihood of such an amicable resolution being concluded between the parties, it is empowered, by Section 109(2) of the 2018 Act, to take such steps as it considers appropriate to arrange or facilitate such an amicable resolution.
5. Following a preliminary examination of the material provided to it by the Data Subject, the DPC considered that there was a reasonable likelihood of the parties concerned reaching, within a reasonable time, an amicable resolution of the subject matter of the complaint. The DPC’s experience is that complaints of this nature are particularly suitable for amicable resolution in circumstances where there is an obvious solution to the dispute, if the respondent is willing to engage in the process. In this regard, the DPC had regard to:
  - a. The relationship between the Data Subject and Respondent (being, in this case, an individual service user and a service provider); and
  - b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise their data subject rights).

6. While not relevant to the assessment that the DPC is required to carry out pursuant to Section 109(4) of the 2018 Act, the DPC also had regard to Internal EDPB Document 06/2021 on the practical implementation of amicable settlements, adopted on 18 November 2021 (“**Document 06/2021**”), and considered that:
  - a. the possible conclusion of the complaint by way of amicable resolution would not hamper the ability of the supervisory authorities to maintain the high level of protection that the GDPR seeks to create; and that
  - b. such a conclusion, in this case, would likely carry advantages for the Data Subject, whose rights under the GDPR would be vindicated swiftly, as well as for the controller, who would be provided the opportunity to bring its behaviour into compliance with the GDPR.

### **Amicable Resolution**

7. The DPC engaged with both the Data Subject and Respondent in relation to the subject matter of the complaint. During the course of the engagement, the Data Subject reported additional items of personal data, which she also sought the erasure of. These items consisted of posts and photos shared to the ██████████ platform by the third party. During the complaint handling process, the Respondent reviewed the information provided and removed certain content which it determined were in violation of ██████████’s terms and policies. While other content was deemed not to be in violation of said terms and policies, it was deemed to be in violation of the Respondent’s Community Guidelines and it was then also removed.
8. On 10 March 2022, the DPC wrote to the Data Subject noting that all of the specific content referred to in the Data Subject’s initial complaint had been removed.
9. On the same date, the Data Subject replied to indicate her acceptance of the actions taken by the Respondent and as such, the DPC considered the matter to have been amicably resolved.
10. In circumstances where the subject matter of the complaint has been amicably resolved, in full, the complaint, by virtue of Section 109(3) of the 2018 Act, is deemed to have been withdrawn by the Data Subject.

### **Confirmation of Outcome**

11. For the purpose of Document 06/2021, the DPC confirms that:
  - a. The complaint, in its entirety, has been amicably resolved between the parties concerned;
  - b. The agreed resolution is such that the object of the complaint no longer exists; and

- c. Having consulted with the supervisory authorities concerned on the information set out above, as required by Document 06/2021 the DPC has now closed off its file in this matter.

12. If dissatisfied with the outcome recorded herein, the parties have the right to an effective remedy by way of an application for judicial review, by the Irish High Court, of the process applied by the DPC in the context of the within complaint.

Signed for and on behalf of the DPC:



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Deputy Commissioner  
Data Protection Commission.