

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 22nd day of July 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 20 February 2021, [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 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 on 19 January, 2021 to request erasure of his personal data.
 - b. The Data Subject did not receive any response from the Respondent.

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 referred 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 the Respondent (being, in this case, an individual consumer and a service provider); and
 - b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise his 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 Respondent, 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 the Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that during the week in which the Data Subject sent his erasure request by email to the Respondent a new process to better manage erasure requests was implemented by the Respondent. The Respondent informed the DPC that it was in a transition period during the week the email came in and it appears a response was missed. New personnel were being trained on how to manage these types of requests during this transition period. It stated that it was an oversight, possibly due to the technical transition or human error and it regrets the error. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent agreed to comply with the erasure request; and
 - b. The Respondent sincerely apologised for the error.
8. On 10 January, 2022 the DPC informed the data subject by email of the outcome of its engagement with the Respondent. When doing so, the DPC noted that the actions now taken by the Respondent appeared to adequately deal with the concerns raised in his complaint. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if he was not satisfied with the outcome so that the DPC could consider the matter further.
9. On 11 January, 2022 the Data Subject informed the DPC by email that he agrees with the amicable resolution as his concerns regarding the Respondent are now satisfied and he stated that he withdraws his complaint. The DPC was subsequently informed by the Respondent that the erasure request was completed and that the personal data of the data subject had been erased. 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.

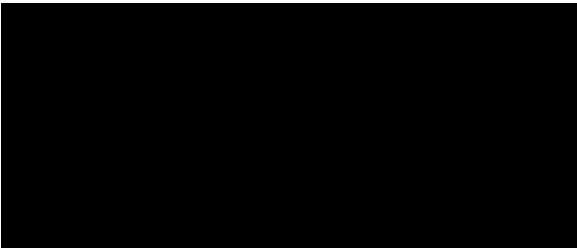
Confirmation of Outcome

10. 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.

11. If dissatisfied with the outcome recorded herein, the parties have the right to an effective remedy by way of an application for judicial review, before 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:



Deputy Commissioner
Data Protection Commission