

**In the matter of the General Data Protection Regulation**

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning [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 29<sup>th</sup> day of July 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 25 October 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 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:
  - The Data Subject raised concerns with the DPC in relation to an erasure request made to the Respondent under Article 17 of GDPR. The complainant stated that a third party was using his image as their profile picture on the [REDACTED] platform. The complainant stated that he did not own the concerned account, and had not given permission for his image to be used in this way. The complainant requested that this image be removed from the [REDACTED] platform.
  - The Data Subject made his erasure request on 22 October 2020 and the Respondent replied on 24 October 2020 to state that, based on the information supplied, none of the grounds for erasure apply in this instance. The Data Subject replied to the Respondent on 25 October 2020 re-iterating his request for erasure to which he received no response. On the same day, the Data subject lodged a complaint with 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 complainant, 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:
  - The relationship between the Data Subject and Respondent (being, in this case, an individual service user and a service provider); and

- The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise his/her 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:
- 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
  - 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. In correspondence with the DPC the Respondent agreed to take the following action:
- The Respondent agreed to remove the Data Subject’s image from the [REDACTED] profile which was not owned by the Data Subject.
8. On 5 August 2021, the Respondent confirmed that a specialist team had reviewed the image. Following this review the reported image, which was the subject of the complaint, had been deleted by the Respondent.
9. On 21 October 2021, the DPC corresponded with the Data Subject noting that their complaint related to the removal of a photograph of the complainant’s image, from the [REDACTED] platform. In that correspondence the DPC advised the complainant that the relevant image had been deleted. That correspondence noted that deletion of the image appeared to facilitate the resolution of the Data Subject’s complaint about [REDACTED].
10. The complainant was invited to provide any outstanding concerns which they may have within one month of the date of the letter, so that additional action could be taken if required. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. 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.

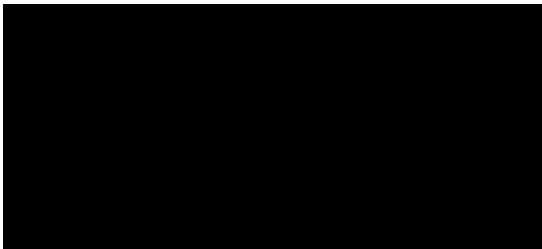
**Confirmation of Outcome**

12. For the purpose of Document 06/2021, the DPC confirms that:

- The complaint, in its entirety, has been amicably resolved between the parties concerned;
- The agreed resolution is such that the object of the complaint no longer exists; and
- 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.

13. 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