

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the German Federal Data Protection Authority 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 29th day of July 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the German Federal Data Protection Authority (“the **Recipient SA**”) concerning [REDACTED] (“the **Respondent**”).
2. In circumstances where the Data Protection Commission (“the **DPC**”) was deemed to be the competent authority for the purpose of Article 56(1) GDPR, the Recipient SA transferred the complaint to the DPC on 17 April 2019.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject emailed the Respondent on 8 June 2018 to request access to, and subsequent erasure of, their personal data.
 - b. The Data Subject was dissatisfied with the response received 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 Recipient SA, 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 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/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:

- 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 (via the Recipient SA) and Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that the Data Subject had previously deleted the personal data associated with their account from within the [REDACTED] application, and that the Respondent no longer held personal data in relation to them. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent provided the Data Subject with information on how personal data can be accessed via the [REDACTED] feature within the [REDACTED] application; and
 - b. The Respondent confirmed that the only personal data it holds on the Data Subject was the data related to the current complaint.
8. The DPC outlined the Respondent's proposed course of action to the Data Subject via the Recipient SA. The Data Subject subsequently confirmed to the DPC that they were satisfied that the aspect of their complaint as it relates to their access request was now resolved. However, although the Respondent had explained that the Data Subject's data had been previously deleted from within the [REDACTED] application, the Data Subject had further concerns regarding the erasure of their data as it related to the other [REDACTED] companies, with whom the Respondent may have shared their personal data.
9. Following further engagement with the Respondent and the Data Subject, it was agreed that the DPC would provide the Respondent with the Data Subject's email address to allow them to contact the Data Subject directly in relation to any further concerns. On 26 June 2021, the Respondent confirmed to the DPC and the Data Subject that it had notified the [REDACTED] companies of the Data Subject's erasure request in accordance with Article 19 GDPR. The DPC issued further correspondence to the Recipient SA, for onward transmission to the Data Subject, on 5 August 2021, setting out the information obtained during the complaint handling process. In the circumstances, the DPC asked the Data Subject to notify it, within one month, if they were not satisfied with the outcome of their complaint, so that the DPC could take further action. On 6 October 2021, the DPC received confirmation from the Recipient SA that the Data Subject was satisfied with the outcome of the complaint.

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:



Sandra Skehan
Deputy Commissioner