

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

DPC Complaint Reference: [REDACTED]

IMI Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the French 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 29<sup>th</sup> day of July 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 16 November 2018, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the French 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 12 April 2019.

## The Complaint

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 13 October 2018 stating that the Respondent did not fully comply with the access request that they had made following the deletion of their account by the Respondent.
  - 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 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’s [REDACTED] account was still active. However, it was not linked to an email address or phone number. In the circumstances, the Respondent agreed to take the following action:
  - a. Once the Data Subject had provided a valid email address that could be associated with their [REDACTED] account, the Respondent would facilitate access to the Data Subject’s account.
8. The DPC subsequently outlined the Respondent’s proposed course of action to the Data Subject via the Recipient SA. On 10 February 2021, the Data Subject provided the DPC with a valid email address via the Recipient SA that could be linked to their [REDACTED] account. The DPC subsequently contacted the Respondent on 22 February 2021, providing it with this email address. However, the Respondent informed the DPC that the email address it received was previously associated with another [REDACTED] account, and as such was not suitable. The Respondent stated that it was crucial that the Data Subject follow the process explained by its specialist team to associate a new email address with their account. After that, the Respondent stated the Data Subject would regain access to his/her account and would be able to download their data and delete the account if they so wished.
9. On 30 April 2021, the Respondent informed the DPC that it had contacted the Data Subject directly, and that the Data Subject had now regained access to their account, including the information held within the account. The Respondent advised the DPC that the Data Subject could now access their personal data using the available self-service tools. The DPC issued further correspondence to the Recipient SA, for onward transmission to the Data Subject, on 7 July 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. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed 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:



**Sandra Skehan**  
**Deputy Commissioner**