

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Danish Data Protection Authority, the Datatilsynet, 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 2nd day of September 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 Datatilsynet (“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 5 July 2019.

The Complaint

3. The details of the complaint to the Recipient SA were as follows:
 - a. The Data Subject alleged that the Respondent failed to comply with his request made pursuant to Art. 17 GDPR to erase personal data in the form of a [REDACTED] account which was created by the Data Subject a number of years previously but to which he has since lost access.
 - b. The Respondent replied to the request seeking official documentation for the purposes of verifying the Data Subject’s identity. Although the Data Subject provided the requested documentation, the Respondent failed to act on the request and delete the account in question.

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 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 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

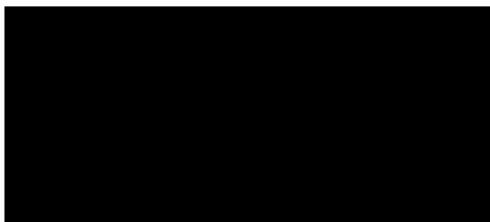
7. The DPC engaged with both the Data Subject and the Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that, for security reasons, it is not possible for the Respondent to delete accounts directly and that this had to be done by the account owners themselves. The Respondent offered to assist the Data Subject in regaining access to his account by requesting that the Data Subject provide it with a secure email address not previously associated with the account.
8. The Data Subject provided such an email address and, on 1 March 2021, the Respondent communicated with the Data Subject through the new email address provided. As part of this engagement, the Respondent requested that the Data Subject provide a copy of official documentation to enable it to verify the Data Subject’s ownership of the account in question. The Data Subject supplied the requested documentation and his identification was verified by the Respondent on 8 March 2021. The Respondent then provided the Data Subject with a link through which he could reset his password and obtain access to his account. The Respondent further provided the Data Subject with a link to a [REDACTED] ‘Help Centre’ article explaining how he could then delete his account once access had been obtained.
9. Following this engagement, on 1 June 2021, the DPC forwarded correspondence from the Respondent to the Recipient SA, for onward transmission to the Data Subject. When doing so, the DPC noted that the Data Subject could now initiate the requested erasure themselves, and that the dispute between the Data Subject and Respondent appeared to have been resolved. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if they were not satisfied with the information provided, so that the DPC could consider the matter further. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint was deemed to have been amicably resolved.
10. Accordingly, the DPC informed the Recipient SA, in correspondence it issued on 13 December 2021, that it considered the complaint to have been amicably resolved and withdrawn in accordance with section 109(3) of the Act, and that it intended to conclude the matter.

11. By letter dated 18 March 2022, the Recipient SA informed the DPC that it considered the matter closed.
12. 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

13. 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.
14. 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