

**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 Belgian Data Protection Authority 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 2<sup>nd</sup> day of September 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 24 July 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Belgian 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 21 October 2019.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on a number of occasions to request, pursuant to Article 17 GDPR, the deletion of his [REDACTED] account held with the Respondent.
  - b. The Respondent failed to delete the account in accordance with the Data Subject’s request.

## **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 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 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, on 30 June 2020, the Respondent wrote to the DPC to confirm that it had now deleted the Data Subject’s account and stated that it would contact the Data Subject to confirm the deletion and to apologise for any inconvenience caused. The Respondent also informed the DPC that the Data Subject had a second account and that it would contact the Data Subject to ask whether he wishes for this second account to be deleted too.
8. On 2 October 2020, the Data Subject requested that his second account be deleted too, and noted that confirmation of the deletion of his first account had not been provided to him by the Respondent.
9. On 4 March 2021, the Respondent confirmed to the DPC that the Data Subject’s first account had been deleted and that the second account had been queued for deletion and was expected to be deleted within the coming days.
10. On 19 April 2021, the DPC sent a letter to the Recipient SA for onward transmission to the Data Subject. The letter requested that the Data Subject confirm if he had received confirmation from the Respondent as to the erasure of his personal data and also whether the actions taken by the Respondent to delete the Data Subject’s two accounts was sufficient to resolve the issues raised in his complaint. The letter also stated that if the Data Subject had any outstanding concerns in respect of the issues raised in his complaint to set those out in order to assist the DPC in progressing the matter further on his behalf. 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 take further action.
11. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.

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.

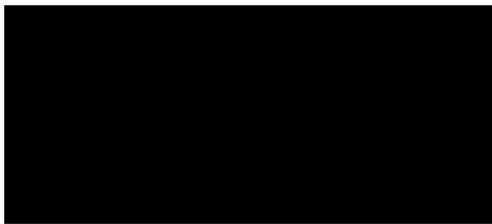
**Confirmation of Outcome**

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, 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