

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission 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 12th day of September 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 5 May 2021, [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:
 - a. Following prior correspondence in relation to their [REDACTED] account, the Data Subject made an access request directly to the Respondent on 8 June 2021.
 - 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 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 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 and Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that the Data Subject was experiencing difficulties in following the instructions provided by the Respondent regarding how they could regain access to their account and their personal data. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent agreed to have its specialist team contact the Data Subject directly, to assist them in regaining access to their account;
 - b. The Respondent agreed to write to the Data Subject responding to their access request.
8. On 12 November 2021, the Respondent confirmed to the DPC that it had successfully verified the Data Subject's identity, and had provided them with a set of single-use two-factor authentication codes. The Respondent asserted that the Data Subject would be able to use these codes to regain access to their [REDACTED] account. Furthermore, they would then be able to use the Respondent's self-serve tools to download a copy of their personal data, or to delete their account, if they wished to do so. The Respondent noted that they had received correspondence from the Data Subject noting that they were experiencing technical issues when attempting to use the authentication codes provided, and that the Respondent's specialist team was currently working with the Data Subject to resolve the issue.
9. On 24 November 2021, the Data Subject provided the DPC with a copy of correspondence it had sent to the Respondent, confirming their successful account log in. On 26 November 2021, the DPC wrote to the Data Subject noting that, now that the Data Subject had regained access to their [REDACTED] account and was now able to access their personal data, 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 one month, if he/she was not satisfied with the outcome, so that the DPC could take further action. On 28 November 2021, the Data Subject reverted to the DPC with general comments regarding the Respondent's processes. On 10 December 2021, the DPC wrote to the Data Subject again, reiterating that it appeared that the subject matter of their individual complaint now appeared to be resolved. The DPC asked the Data Subject to outline any specific concerns that remain outstanding with respect to their individual complaint within two weeks. 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, is deemed to have been withdrawn by the Data Subject.

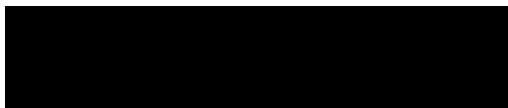
Confirmation of Outcome

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