

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 25 November 2019, [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. The Data Subject emailed the Respondent on 24 October 2019, submitting an access request for a copy of their personal data. In particular, the Data Subject requested information on the sources of personal data the Respondent holds regarding them, along with the purposes for which the Respondent holds such data. The Data Subject also sought information on any recipients of their personal data, to whom the Respondent may have disclosed it.
 - b. The Respondent subsequently informed the Data Subject that it was unable to locate any personal data relating to them, other than in connection with this request. However, the Data Subject was not satisfied 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 Respondent was unable to locate any personal data relating to the Data Subject using the information provided by the Data Subject. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent requested an alternative email address or phone number from the Data Subject, which they could then use to conduct another search.
8. On 27 April 2020, the DPC contacted the Respondent regarding the Data Subject's complaint. On 12 May 2020, the Respondent responded to the DPC, stating that it was unable to locate any personal data related to the Data Subject, other than in connection to their access request.
9. On 19 June 2020, the DPC wrote to the Data Subject outlining the information provided by the Respondent, and requesting that they provide an alternative email address or phone number, so that the Respondent could conduct another search for any personal data relating to them. On 22 June 2020, the Data Subject provided the DPC with an alternative email address, which was subsequently forwarded to the Respondent. On 28 October 2020, the Respondent informed the DPC that it could not find a [REDACTED] account associated with the alternative email address provided.
10. Following further engagement with the Data Subject, the DPC requested that the Respondent conduct another search using a variation of the spelling of the Data Subject's alternative email address. On 22 July 2021, the Respondent stated that it was still unable to locate any personal data relating to the Data Subject using this email address, aside from the processing of it required to investigate the Data Subject's complaint. On 8 September 2021, the DPC wrote to the Data Subject outlining the information provided by the Respondent. The DPC asked the

Data Subject to notify it, within two months, if he/she was not satisfied with the outcome, 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.

11. 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

12. 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.
13. 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