

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with Berliner Beauftragte für
Datenschutz und Informationsfreiheit pursuant to Article 77 of the General Data Protection
Regulation, concerning Airbnb Ireland UC

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 EDPB Guidelines 06/2022 on the practical implementation of
amicable settlements Version 2.0 (adopted on 12 May 2022)

**RECORD OF AMICABLE RESOLUTION FOR THE
PURPOSE OF EDPB GUIDELINES 06/2022 ON THE
PRACTICAL IMPLEMENTATION OF AMICABLE
SETTLEMENTS VERSION 2.0, ADOPTED 12 MAY 2022**

Dated the 22nd day of May 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 29 March 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Berliner Beauftragte für Datenschutz und Informationsfreiheit (“the **Recipient SA**”) concerning Airbnb Ireland UC (“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 29 April 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 6 November 2020, the Data Subject made an access request pursuant to Article 15 GDPR, and also requested the erasure of their data. The request was made from the Data Subject’s business email account. The Respondent requested the Data Subject submit their request using the email address associated with their Airbnb account. The Data Subject declined to provide this and the Respondent ultimately did not comply with their request.
 - b. The Data Subject then submitted another access and erasure request on 16 February 2022. On 2 March 2022, the Respondent requested further information in order to identify the Data Subject’s account and, once received, provided the Data Subject with a link through which they could access their data via a two-factor authentication process.
 - c. However, the Data Subject asserted that the link was not working and nor did they wish to agree to Airbnb’s Terms and Conditions in order to access their data. The Respondent raised these issues with the Respondent but remained dissatisfied with the response.

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 their 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 EDPB Guidelines 06/2022 on the practical implementation of amicable settlements Version 2.0, adopted on 12 May 2022 (“**Document 06/2022**”), 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. The DPC initially contacted the Respondent on 11 August 2022, requesting that it address the concerns raised by the Data Subject.
8. On 5 September and again on 27 September 2022, the Respondent engaged with the DPC, outlining that it had provided the Data Subject with an access packet containing their personal data. The Respondent acknowledged that errors were made which contributed to its failure to provide the Data Subject with their personal data in a timely fashion. The Respondent outlined that, in response to the request of 6 November 2020, its agent should have explained that its requirement that an access request be sent from the email address associated with their Airbnb account was a necessary step to verify the Data Subject as the account holder.
9. In response to the Data Subject’s assertion that the link to the Privacy Portal provided to them was not working, the Respondent noted that its agent had subsequently redirected the Data Subject to its Privacy Portal feature and provided the link a second time. The Respondent explained that as it did not receive a response from the Data Subject, the ticket was closed after a number of days.
10. The Respondent noted that the Data Subject was also culpable of failing to engage with it in a meaningful manner at times. However, the Respondent accepted responsibility for the errors that had occurred on the part of its agents and acknowledged that its agents’ communication

could have been clearer. The Respondent emphasised that its agents *“regularly receive updated training and education on their role and duties”* and that it was *“satisfied that there are processes in place which should prevent such an issue arising again.”*

11. On 7 December 2022, the DPC provided the Respondent’s explanations to the Data Subject. The DPC also noted that their access request had since been actioned in full, and that the Respondent would complete the Data Subject’s erasure request once they had confirmed they were satisfied that the access request had now been fulfilled. The DPC asked the Data Subject to notify it, within two months, if they were not satisfied with the outcome, so that the DPC could take further action.
12. On 16 January 2023, the Data Subject confirmed to the Berlin SA that they accepted that the action taken by the Respondent has resolved this complaint. On 25 January 2023, the Berlin SA informed the DPC of same and, accordingly, the complaint has been deemed to have been amicably resolved.
13. On 19 April 2023, and in light of the foregoing, the DPC wrote to the Recipient SA noting that the DPC considered the complaint to have been amicably resolved and withdrawn in accordance with section 109(3) of the Act and that it would conclude the case and inform the Respondent.
14. 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

15. For the purpose of Document 06/2022, 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 06/2022 the DPC has now closed off its file in this matter.
16. 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:

Tom Delaney

Deputy Commissioner

Data Protection Commission