

**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  
**Microsoft Ireland Operations Limited**

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 15th day of December 2022



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. On 6 August 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning Microsoft Ireland Operations Limited (“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 submitted an access request to the Respondent following the suspension of their account for alleged violations of the Respondent’s Service Agreement.
  - b. Due to these severe violations, the Respondent did not provide the Data Subject with their personal data.

## 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 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 and Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that the Respondent could not provide the Data Subject with all of their personal data pursuant to Article 15 GDPR, due to a severe violation of its Service Agreement. In the circumstances, the Respondent took the following actions:
  - a. The Respondent outlined to the DPC the reasons for the account suspension on the condition of confidentiality; and
  - b. The Respondent agreed to provide the Data Subject with their non-sensitive data through their email address.
8. On 7 December 2020, the DPC originally outlined the Data Subject's complaint to the Respondent. The DPC noted that the Data Subject had made an access request following the suspension of their account. The DPC engaged in multiple rounds of correspondence, with both the Respondent and the Data Subject, between December 2020 and July 2022.
9. The Respondent stated that the Data Subject's account was suspended due to a severe violation of its Service Agreement. The Respondent shared with the DPC the reasons for the Data Subject's account suspension on the condition of confidentiality. The DPC subsequently wrote to the Data Subject, noting that, based on the information provided by the Respondent, the DPC was of the opinion that it was entitled to rely on Article 15(4) GDPR to refuse providing them with some of their requested data, on the basis that doing so would adversely impact the rights and freedoms of others.
10. Furthermore, on 6 July 2022, the DPC outlined to the Data Subject that the Respondent had confirmed to the DPC that it had provided them with their non-sensitive data through their email address. In the circumstances, the DPC asked the Data Subject to notify it, within 2 months, if they were 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 06/2022, 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.

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:



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Deputy Commissioner

Data Protection Commission