

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 Finland Office of the Data Protection Ombudsman pursuant to Article 77 of the General Data Protection Regulation, concerning LinkedIn 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 ON 12 MAY 2022)**

Dated the 20th day of February 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 31 August 2021, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with Finland Office of the Data Protection Ombudsman (“the **Recipient SA**”) concerning LinkedIn 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 6 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. Following the restriction of their account with the Respondent, for infringing its terms of service, the Data Subject requested the erasure of their account from the Respondent, on 9 August 2021. The Data Subject further contacted the Respondent on 12 August 2021 to request a copy of the personal data that the Respondent held in relation to them, and the subsequent erasure of their account with the Respondent.
 - b. With regard to the access request of the Data Subject, the Respondent fulfilled this request on 27 August 2021 and this aspect of the matter was resolved to the satisfaction of the Data Subject.
 - c. However, with regard to the request of the Data Subject for the erasure of their personal data, the Respondent informed them that they may only regain access to their account, and delete their data, if they gave their consent to abide by the Respondent’s terms of service and community guidelines. The Respondent initially informed the Data Subject in this regard on 23 August 2021, and subsequently confirmed on 24 August 2021 that it would not proceed with the erasure of their personal data.
 - d. The Data Subject did not wish to provide this consent and was thus unable to obtain the erasure of their personal data from the Respondent. As the Data Subject was dissatisfied with the response of the Respondent concerning their erasure request, they raised a concern with the Recipient SA and confirmed that their desired resolution to the matter was the erasure of 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 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 and Respondent in relation to the subject matter of the complaint. Further to that engagement, the Respondent agreed to take the following action:
 - The Respondent confirmed that the restriction on the account of the Data Subject had been lifted. By lifting the restriction, the Data Subject was in a position to access their account to schedule its erasure.
8. On 29 July 2022, the Respondent confirmed to the DPC that it had directly contacted the Data Subject to inform them in this regard and advised them that they could proceed with the erasure of their data.
9. Upon receipt of this information, the DPC wrote to the Data Subject, via the Recipient SA, on 22 August 2022, requesting confirmation that the actions taken by the Respondent were sufficient to amicably resolve their complaint. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the outcome,

so that the DPC could take further action. The Recipient SA confirmed to the DPC that it issued this correspondence to the Data Subject on 23 August 2022.

10. On 24 November 2022, the Recipient SA confirmed to the DPC that while it had not received any communication from the Data Subject in response to the DPC's letter, they previously received communication from the Data Subject on 15 August 2022, who had informed the Recipient SA that they had successfully closed their account with the Respondent. The Recipient SA advised the DPC, that in its view the complaint could be closed.
11. On 29 November 2022, 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.
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 06/2022, 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.
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:



Deputy Commissioner
Data Protection Commission