

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 ON 12 MAY 2022)**

Dated the 7th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 22 July 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the 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) of the GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent and requested the erasure of their personal data on the Microsoft careers portal.
 - b. On 3 May 2022, the Respondent replied to the Data Subject providing information as to how the Data Subject could delete the data via the self-delete function on their account.
 - c. The Data Subject replied to the Respondent advising that as they did not have access to the account, they were unable to use the self-service tool. No further action was taken by the Respondent.
 - d. As the Respondent did not comply with the erasure request, the Data Subject lodged a complaint with the DPC.

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, a job applicant and a prospective employer); and

- b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise their right of erasure).
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. Upon initial receipt of the complaint, the DPC sought further necessary information from the Data Subject. The Data Subject provided the DPC with this requested information on 24 October 2022. The DPC engaged with both the Data Subject and Respondent in relation to the subject matter of the complaint. Further to that engagement, on 4 January 2023 the Respondent advised that agents in the Respondent’s customer service team did not handle the Data Subject’s erasure request appropriately. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent agreed to progress the Data Subject’s request for erasure of personal data; and
 - b. To correspond with the Data Subject in relation to progressing the erasure request; and
 - c. To put in place measures to ensure that the mishandling of a request of this nature did not happen in the future.
8. The Respondent advised the DPC on 19 January 2023 that the relevant deletion process had been completed on 30 December 2022. The Respondent also advised the DPC that it had contacted the Data Subject directly, on 30 December 2022, informing them that the deletion of the relevant data had been completed. The Respondent provided the DPC with a copy of its correspondence to the Data Subject advising of the erasure of the personal data.
9. On 6 March 2023, the DPC’s letter outlining the action taken by the Respondent was issued to the Data Subject as part of the amicable resolution process. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could take

further action. The DPC did not receive any further communication from the Data Subject objecting to the amicable resolution of their complaint; 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 Act, is deemed to have been withdrawn by the Data Subject.

Confirmation of Outcome

11. 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.

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:



Deputy Commissioner
Data Protection Commission