

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 MTCH Technology Services 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 18th day of November 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 11 January 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning MTCH Technology Services 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 contacted the Respondent requesting access to their personal data, followed by the subsequent erasure of their personal data. The Data Subject’s requests were made following the suspension of their Hinge account.
 - b. The Data Subject asserted that they did not receive any response 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 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 at the time of receiving the DPC's correspondence, the Data Subject's appeal was in a queue for review by the Respondent's Trust & Safety team. In the circumstances, the Respondent took the following action:
 - a. The Respondent reviewed the Data Subject's appeal of their account suspension and decided to lift same from the Data Subject's account. The Respondent agreed to grant the Data Subject with immediate access to their requested personal data and wrote directly to the Data Subject confirming same; and
 - b. The Respondent provided the Data Subject with the instructions on how they could download and access their requested data.
8. On 6 May 2022, the DPC outlined the Data Subject's complaint to the Respondent. The DPC informed the Respondent that the Data Subject stated that they had appealed their account suspension, but that they did not receive a response from the Respondent. The DPC stated that the Data Subject requested access to all of their personal data, including photos that had been uploaded to their account, followed by the erasure of all of their data. The DPC raised a number of queries with the Respondent in relation to its investigatory steps leading to the Data Subject's account suspension, and the decision-making process, which led to the suspension of their account, including confirmation as to whether or not any appeal mechanism was exercised by the Data Subject.
9. On 20 May 2022, the Respondent responded to the DPC. The Respondent provided the DPC with a response addressing the DPC's queries, which was forwarded to the Data Subject with the Respondent's permission. The Respondent confirmed that the Data Subject's account suspension had been lifted, and that they now had access to their account, and could make use of its self-service tools to download their data and close their account, if they so wished. The Respondent explained to the DPC that its automated tools had flagged the Data Subject's account for review after detecting behaviour that potentially violated its terms and conditions. The Data Subject's account was subsequently reviewed and it was determined that it had appeared to violate its terms and conditions. The Respondent informed the Data Subject of the account suspension on 13 December 2021. The Respondent also confirmed to the DPC

that the Data Subject had appealed its decision, and that the Respondent had been in regular contact with the Data Subject regarding their appeal. The Respondent informed the DPC that, at the time of receiving the DPC's correspondence, the Data Subject's appeal was in a queue for review by its 'Trust & Safety team'.

10. On 8 June 2022, the DPC wrote to the Data Subject, outlining the Respondent's response. When doing so, the DPC noted that the Respondent had now reviewed the Data Subject's appeal and lifted their account suspension. As such, the Data Subject could now use the Respondent's self-service tools to download a copy of their data, and that they could now close their account if they wished. In the circumstances, 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. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to be 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:



Deputy Commissioner

Data Protection Commission