

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 the Spanish Data Protection Authority pursuant to Article 77 of the General Data Protection Regulation, concerning Twitter International Company

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 4 September 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Spanish Data Protection Authority (“the **Recipient SA**”) concerning Twitter International Company (“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 12 February 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject submitted an access request pursuant to Article 15 GDPR to the Respondent on 1 March 2019 requesting access to their personal data.
 - b. The Data Subject stated that they did not receive a response to their access request 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 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. Further to that engagement, it was established that the Data Subject could use the Respondent's self-service tools to download a copy of their personal data. Furthermore, the Respondent explained that the channel used by the Data Subject to submit their access request was not the Respondent's dedicated channel for submitting access requests, which is why their request had not been actioned. In the circumstances, the Respondent took the following action:
 - a. The Respondent wrote directly to the Data Subject, providing them with information on how they could use the Respondent's self-service tools to download a copy of their personal data.
8. On 7 July 2020, the DPC outlined the Data Subject's complaint to the Respondent. On 24 July 2020, the Respondent responded to the DPC, explaining that it had previously provided the Data Subject with information regarding how they could use its self-service tools to download a copy of their personal data. The Respondent clarified that following a review of the case it appeared that the channel used by the Data Subject to submit their access request was not the Respondent's dedicated channel for submitting access requests, which is why their request had not been actioned.
9. The DPC engaged with the Data Subject via the Recipient SA, with the Recipient SA highlighting its view that although the channel used by the Data Subject to submit their access request was not the correct channel, the Respondent should still have actioned their request. The DPC subsequently engaged further with the Data Subject, in order to establish a preferred secure e-mail address which could be provided to the Respondent to communicate with the Data Subject directly.
10. On 20 October 2021, the DPC wrote to the Respondent again, providing the Data Subject's preferred e-mail address, and requesting that the Respondent contact the Data Subject directly in relation to their access request. On 1 November 2021, the Respondent wrote to the DPC, stating that it had contacted the Data Subject directly, providing them with instructions on how they could access their data. Additionally, the Respondent provided the Data Subject with information on how to submit an access request using its self-service tool.

11. On 3 December 2021, the DPC wrote to the Data Subject, outlining the information provided by the Respondent. 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 have been amicably resolved.
12. On 30 September 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.
13. 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

14. 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.
15. 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