

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 Berliner Beauftragte für Datenschutz und Informationsfreiheit (Berlin DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Airbnb 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 Internal EDPB Document 06/2021 on the practical implementation of amicable settlements (adopted on 18 November 2021)

**RECORD OF AMICABLE RESOLUTION FOR THE
PURPOSE OF INTERNAL EDPB DOCUMENT 06/2021 ON
THE PRACTICAL IMPLEMENTATION OF AMICABLE
SETTLEMENTS, ADOPTED 18 NOVEMBER 2021**

Dated the 6th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 16 February 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Berliner Beauftragte für Datenschutz und Informationsfreiheit (“the **Recipient SA**”) concerning Airbnb 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 11 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent via email on 23 September 2021 to request erasure of their account and all personal data, including financial information which was stored by the Respondent.
 - b. As the Data Subject did not receive any response from the Respondent to their request, the Data Subject contacted the Respondent via email again on 16 February 2022. The Respondent replied on 16 February 2022 advising that the deletion request should be raised through its dedicated privacy portal. The Data Subject was also provided with information on how to deactivate their account, together with a direct link to the relevant page.
 - c. As the Data Subject was not satisfied with the response from the Respondent, they submitted their complaint to the Recipient SA.

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 Internal EDPB Document 06/2021 on the practical implementation of amicable settlements, adopted on 18 November 2021 (“**Document 06/2021**”), 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, due to a temporary technical issue, the Respondent had not received the Data Subject’s email of 23 September 2021. The Respondent also acknowledged that in response to the Data Subject’s erasure request, its agent had incorrectly provided information in relation to account deactivation as opposed to deletion. As part of the amicable resolution process, the Respondent confirmed to the Data Subject that it was proceeding with the deletion of their account.
8. On 31 August 2022, as part of the amicable resolution process, the Respondent confirmed the deletion of the Data Subject’s personal data. On 28 September 2022, the DPC wrote to the Data Subject, via the Recipient SA, seeking their views on the action taken by the Respondent and requesting that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the actions taken by the Respondent, so that the DPC could take further action.
9. On 24 January 2023, the Data Subject responded, via the Recipient SA, and remained unsatisfied. In particular, the Data Subject raised concerns regarding the response to their erasure request that they received from the Respondent and the fact that it took several requests for the erasure to be completed.
10. After further engagement concerning this complaint, on 10 March 2023, the Respondent also made a monetary goodwill gesture to the Data Subject, in the spirit of amicable resolution.
11. Following further engagement between the Data Subject, Respondent and the DPC, the Data Subject confirmed on 4 June 2023 that they had received the monetary goodwill gesture from the Respondent and were agreeable to amicable settlement of their complaint. The

Respondent similarly confirmed completion of the transactional element of the complaint, providing confirmation that payment had occurred on 1 June 2023.

12. On 12 June 2023, 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. On 14 June 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn.
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 06/2021, 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