

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 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 1st day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 24 June 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 9 August 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 17 June 2021, requesting erasure of their account and all personal data concerning them, pursuant to Article 17 of the GDPR.
 - b. The Respondent replied to the Data Subject on 19 June 2021, advising them that in order for it to comply with their erasure request, the Data Subject would need to verify their identity by sending a copy of their official identification, such as driving license or a passport, to the Respondent.
 - c. As the Data Subject was not satisfied with the response received from the Respondent, they lodged a complaint with 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 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. Prior to this engagement with the Respondent, the DPC had sought clarity from the Data Subject, via the Recipient SA, regarding the subject matter of the complaint. Following receipt of additional correspondence, the DPC engaged with the Respondent. Further to that engagement, on 30 August 2022, the Respondent requested that the Data Subject verify their identity in accordance with legitimate interests of safeguarding its platform. The Respondent noted that the Data Subject should have been directed to its self-service tool in order to delete their account, but due to an error, the Data Subject was not made aware of this tool. The Respondent further indicated that the Data Subject could use the self-service tool now if they wished, or, alternatively, the Respondent could proceed to delete the Data Subject’s account manually if they were agreeable to this.
8. On 28 September 2022, the DPC wrote to the Data Subject, via the Recipient SA, providing them with this information and requesting that they notify the DPC within a stated timeframe, if they wished to proceed with the Respondent’s suggested amicable resolution proposal.
9. On 22 December 2022, the Data Subject replied to the DPC, via the Recipient SA, advising that they wished for the Respondent to proceed with the deletion of their account and personal data. The Data Subject also wished to be informed once the erasure was complete.
10. The DPC continued to engage with both the Data Subject and the Respondent in order to bring about an amicable resolution to the complaint.
11. Following this further engagement, on 25 April 2023, the Respondent confirmed that the deletion of the Data Subject’s account and all personal data was now completed and provided evidence confirming this deletion. In addition, in the spirit of an amicable resolution, the Respondent also offered the Data Subject a gesture of goodwill.

12. The DPC forwarded the amicable resolution offer to the Recipient SA, for onward transmission to the Data Subject on 2 June 2023. Within this correspondence, the DPC noted that the Data Subject's account and personal data had been deleted by the Respondent. The DPC also requested the Data Subject to notify it, within a stated timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could investigate the matter further. Following this, on 7 June 2023, the Recipient SA confirmed that this letter was issued to the Data Subject.
13. On 22 June 2023, the DPC was informed, via the Recipient SA, that the Data Subject was agreeable to the amicable resolution proposal and that the case can be closed.
14. On 28 September 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.
15. 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

16. 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.
17. 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