

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 Agencia Española de Protección de Datos pursuant to Article 77 of the General Data Protection Regulation, concerning Google Ireland 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 11th day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Agencia Española de Protección de Datos (“the **Recipient SA**”) concerning Google Ireland Limited (“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 31 March 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject sought to regain access to their account following a password change they had made. However, they no longer had access to the device on which 2-factor authentication had been configured, and so were unable to regain access using the tools made available by the Respondent.
 - b. The Data Subject then submitted an access request in order to regain access to their account. The Respondent provided a link that the Data Subject stated did not work. The Data Subject then requested a new link but stated that they did not receive a response. Accordingly, the Data Subject submitted a 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 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. On 17 July 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the issues raised.
8. In its response, the Respondent explained that the email address which the Data Subject contacted to request a new link was unmonitored and that the Data Subject had been notified of this at the time. The Respondent also explained (and provided evidence to demonstrate) that it had previously corresponded with the Data Subject via other communication channels in order to assist them in regaining access to their account, but that the Data Subject had not responded to the instructions the Respondent had provided at each of those channels.
9. In order to resolve the complaint, the Respondent agreed to reach out to the Data Subject directly and provide a new link through which they could engage with the Respondent’s Account Recovery team and take the necessary steps required in order to regain access to their account.
10. In light of the explanations provided by the Respondent in response to the DPC’s investigation, and the fact that the Respondent had now reached out to the Data Subject directly in order to facilitate them in regaining access to their account in the manner outlined above, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. As such, on 21 September 2023, the DPC wrote to the Data Subject (via the Recipient SA) seeking confirmation as to whether they had successfully regained access to their account as outlined by the Respondent. On 16 October 2023, the Recipient SA informed the DPC that it had received a communication from the Data Subject whereby they “*confirm[ed] the amicable settlement of the file*”. Accordingly, the complaint has been deemed to have been amicably resolved.
11. On 6 November 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.

12. 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

13. 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.

14. 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