

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Authority of Bavaria for the Private Sector Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning LinkedIn 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 12 MAY 2022**

Dated the 23RD day of October 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 6 February 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Authority of Bavaria for the Private Sector (“the **Recipient SA**”) concerning LinkedIn 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 4 August 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject’s account was restricted for an apparent infringement of the Respondent’s terms of service. In order to regain access to their account and have the restriction lifted, the Data Subject was asked to provide documentation to verify their identity.
 - b. The Data Subject was not satisfied with being asked to verify their identity and subsequently submitted an access request pursuant to Article 15 GDPR. The Data Subject sought access to their data, as well as information as to why their account had been restricted and whether this had been the result of automated decision-making.
 - c. Although the Respondent clarified that no automated processing was involved in its decision, the Data Subject was again requested to provide documentation to verify their identity before it could respond to the remainder of the access request. The Respondent stated that it had reasonable doubts about the Data Subject’s identity due to “*suspicious activity*” on their account and purported to rely on Article 12(6) GDPR.
 - d. The Data Subject remained dissatisfied with the Respondent’s position and, accordingly, 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 and Respondent in relation to the subject matter of the complaint. On 5 December 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In response, the Respondent explained that the Data Subject's account was flagged due to risk signs for fake account creation and a restriction was placed on the account to prevent any further activity until it could be confirmed as legitimate. The Respondent further explained how the risk factors identified led to a demonstrable doubt as to the identity of the account owner and, therefore, the data subject was asked to provide identification in order to verify themselves and regain access to the account.
9. The Respondent further explained that the Data Subject did not provide the required documentation at the time of the access request and so, in light of the risk factors identified as referred to above, the Respondent continued to hold reasonable doubts concerning the Data Subject's identity pursuant to Article 12(6) GDPR and declined to act on the access request. However, the Respondent explained that, subsequent to the making of their complaint, the Data Subject had since provided the required identification documents and, accordingly the restriction had now been lifted and the Data Subject once again had full access to their account and to their personal data.

10. On 26 January 2023 and in light of the foregoing, the DPC wrote to the Data Subject (via the Recipient SA) informing them of the response provided by the Respondent and noting the Respondent's confirmation that the Data Subject had since regained full access to their account. The DPC requested further confirmation from the Data Subject, within a specified timeframe, that they had successfully regained access to their account and could access their personal data as advised by the Respondent. The DPC advised that in the absence of a response it would presume that the Data Subject no longer wished to pursue their complaint and that the DPC would conclude its file on the matter. On 6 March 2023, the Recipient SA confirmed that no response was received from the Data Subject within the specified timeframe. However, in circumstances where the Respondent had already confirmed that the Data Subject had regained full access to their account, the DPC considered it reasonable to presume that the Data Subject's failure to respond indicated that they were satisfied with the outcome of their complaint and that, on that basis, the DPC could consider the matter amicably resolved.
11. On 4 September 2023, the DPC wrote again to the Recipient SA explaining that, in light of the explanations provided by the Respondent and its confirmation that the Data Subject had successfully regained access to their account, the DPC now proposed to conclude the complaint by way of amicable resolution. Nonetheless, the DPC invited the Recipient SA to share a copy of its letter with the Data Subject if it so wished and to provide the DPC, within a further specified timeframe, with any objections the Data Subject may have to the amicable resolution of their complaint. No response was received to this letter and, accordingly, the DPC has now deemed the complaint to have been amicably resolved.
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:

A handwritten signature in black ink that reads "Tony Delaney". The signature is written in a cursive style with a large initial 'T' and 'D'.

Deputy Commissioner

Data Protection Commission