

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 Urząd Ochrony Danych Osobowych (Poland 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 12 MAY 2022**

Dated the 31st day of March 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On, 28 June 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Urząd Ochrony Danych Osobowych (Poland DPA) (“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 26 January 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 19 May 2021, the Data Subject submitted an access request pursuant to Article 15 GDPR to the Respondent, requesting access to their personal data linked to their Airbnb account. The Data Subject also made a further request to the Respondent for the subsequent deletion of their personal data.
 - b. The Data Subject asserted that the Respondent did not fulfil their requests and did not provide any reason for the delay.

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 May 2022, the DPC outlined the Data Subject’s complaint to the Respondent. The DPC explained the Data Subject had submitted access and erasure requests directly to it on 19 May 2021. However, on 21 May 2021 the Respondent informed the Data Subject of suspicious activity on the account, and explained that if they wished to proceed with their access and erasure requests that they would need to verify their identity as the account holder.
8. The Data Subject subsequently engaged with the Respondent in order to verify their identity, and on 2 June 2021, the Respondent informed the Data Subject that, as an alternative to them providing a copy of their ID to verify their identity as the account holder, they could instead log into their account within the next 3 days. Once logged in, they could contact the Respondent’s customer support in order to progress their request. However, on 5 June 2021, the Data Subject informed the Respondent that they had attempted to log into their account but was unable to contact anyone through the Help Centre.
9. On 6 June 2021, the Respondent informed the Data Subject that it had reviewed their erasure request but was unable to complete it, as it was required to retain the Data Subject’s personal data for legal and public interest reasons. However, the Respondent outlined that the account had been deactivated, and that the Data Subject’s public profile was no longer visible. The Data Subject engaged further with the Respondent, restating their original access and erasure requests and pointing out the requirement that their requests be fulfilled within the stipulated one-month timeframe.
10. On 20 July 2022, the Respondent responded to the DPC. The Respondent informed the DPC that on 17 June 2022 it had provided the Data Subject with their access file again. The Respondent outlined that following a review of the complaint, it discovered that the access file was originally issued to the Data Subject on 5 July 2021 but that, notwithstanding this, it again provided the access file to the Data Subject on 17 June 2022. With respect to the Data Subject’s erasure request, the Respondent reiterated that it was not in a position to delete

their account in instances such as this, due to an incident of property damage and a collection failure of a security deposit, but that it can deactivate accounts instead, rendering them inaccessible on the Respondent's platform.

11. On 12 September 2022, the DPC wrote to the Data Subject outlining the Respondent's response to their complaint. 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 16 February 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.
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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Deputy Commissioner

Data Protection Commission