

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 Bayerisches Landesamt für
Datenschutzaufsicht (Bavaria DPA) 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 27th day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 26 August 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with Bayerisches Landesamt für Datenschutzaufsicht (Bavaria DPA) (“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 5 October 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 22 June 2022, the Data Subject informed the Respondent that a fake profile linked to their name had been set up without their knowledge. The Data Subject requested information on who had created the fake profile and from where the Respondent had obtained the profile data. In addition, the Data Subject requested that the profile be deleted once they had received the requested information.
 - b. The Respondent informed the Data Subject that following a review of its system, it could confirm that no profile was registered to the Data Subject’s email address and that the Respondent had automatically created the page utilising company-related data available on the Internet. The Respondent stated that it had deactivated the account and it was no longer visible.
 - c. However, the Data Subject was not satisfied with the Respondent’s response and 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 21 February 2023, the DPC formally wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In response to the DPC’s investigation, the Respondent acknowledged that certain personal information belonging to the Data Subject was contained in the now-deactivated page and apologised for failing to communicate this initially. The Respondent further explained that, save for those personal data identified, the page in question did not relate to the Data Subject or contain any of their personal data. Rather, it was generated solely from publicly-available information. The Respondent explained that the relevant data pertained to and identified the company or business and was not used or intended to identify individuals. The Respondent provided a detailed explanation of the purposes of, and its legitimate interest in, processing company data from third-party sources to generate such pages for companies (including the factors considered in order to balance its legitimate interest with the rights and freedoms of data subjects).
9. Although the Respondent had explained that it did not process any of the Data Subject’s personal data save for the items identified, it had nonetheless deactivated the relevant page. The Respondent also disclosed, in response to a specific query raised by the Data Subject during the course of complaint handling by the DPC, the specific data vendor from whom it had obtained the Data Subject’s personal data. In addition and with the agreement of the Data Subject, the Respondent reached out to the Data Subject directly in order to reach an amicable resolution to the complaint and to offer an apology for the inconvenience caused.

10. In light of the explanations provided by the Respondent as set out above, its confirmation that the page in question had been deactivated, and the fact that it had since reached out to the Data Subject directly in order to resolve their complaint and offer an apology, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. On 15 November 2023, the DPC wrote to the Data Subject (via the Recipient SA) outlining the Respondent's response to its investigation. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. On 16 November 2023, the Data Subject confirmed (via the Recipient SA) that the matter was now resolved, and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 22 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