

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 Berlin Commissioner for Data Protection and Freedom of Information pursuant to Article 77 of the General Data Protection Regulation, concerning [REDACTED]

REVISED 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 Internal EDPB Document 06/2021 on the practical implementation of amicable settlements (adopted on 18 November 2021)

REVISED RECORD OF AMICABLE RESOLUTION FOR THE PURPOSE OF INTERNAL EDPB DOCUMENT 06/2021 ON THE PRACTICAL IMPLEMENTATION OF AMICABLE SETTLEMENTS, ADOPTED 18 NOVEMBER 2021

Dated the 2nd day of September 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 2 October 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Berlin Commissioner for Data Protection and Freedom of Information (“the **Recipient SA**”) concerning [REDACTED] (“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 7 February 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 2 October 2019, by way of a chat function on the platform of the Respondent and by email, requesting a change of the email address on his customer account with the Respondent.
 - b. The Respondent informed the Data Subject that it would require a copy of an ID document to authenticate account ownership and proceed with the request. The Data Subject declined to provide this information and his request was therefore not progressed by the Respondent.

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 update an email address on his customer account with the Respondent).
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 Internal EDPB Document 06/2021 on the

practical implementation of amicable settlements, adopted on 18 November 2021 (“**Document 06/2021**”), 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 the Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that the Respondent does not require data subjects to provide an ID document to update an email address and that the customer service agent of the Respondent had used the incorrect operating procedure when responding to the request of the Data Subject. Following its investigation into this process breakdown, the Respondent concluded that the agent responding to the Data Subject’s request had accessed a tool that was disabled and had not been updated with the correct procedure.
8. In this regard, the Respondent clarified, by way of correspondence to the DPC dated 15 May 2020, that it did not consider that it is necessary to collect customers’ personal ID in order to update an email address. Furthermore, the Respondent clarified that it is not the policy of the Respondent to request that customers send their personal IDs by email to update such information. Rather, the Respondent’s standard operating procedure directs customer service agents to advise customers that they can update their email address by signing in to their account and making the change directly in their ‘Account’ settings page.
9. The Respondent further noted that if a customer does not wish to, or is not able to, update their email address on their own, [REDACTED] standard operating procedure directs its customer service agents to request information from the customer to confirm their identity. This does not involve requesting a copy of the personal ID. Instead, the correct procedure is for agents to request limited information to help verify the account such as the data subject’s full name, postal code, first line of postal address, or information about a purchase made on [REDACTED] in the last 12 months.
10. If the Data Subject still wished to update his email address, the Respondent noted that he could do so by simply signing in to his account and the Respondent provided clear instructions to the Data Subject on how this update may then be carried out. Further, while the Data Subject asserted that he had contacted the DPO of the Respondent when his request was not dealt with appropriately, the Respondent confirmed that the Data Subject appeared to have used an incorrect email address (which had no relation to the Respondent) and no contact

was thus received by the DPO. However, the contact information for the DPO was provided should the Data Subject wish get in contact.

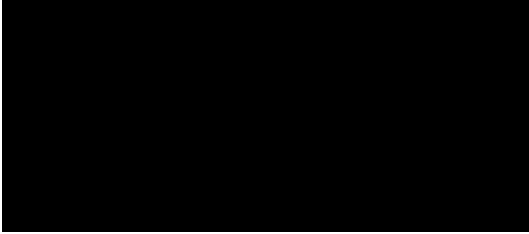
11. In light of the complaint, the Respondent agreed to take the following action:
 - a. The Respondent provided clear instructions on how the Data Subject may update his account information without providing any additional personal data.
 - b. The Respondent conducted a thorough review of its customer service systems and identified only one other instance where the old tool was accessed and the incorrect standard operating procedure used. The Respondent noted that this had now been addressed.
 - c. The Respondent confirmed that it was providing further refresher training to all of its customer service agents on the correct standard operating procedures.
 - d. The Respondent provided the correct contact details for its DPO should the Data Subject wish to contact the DPO in relation to any further issues.
12. The DPC thereafter engaged with the Data Subject (via the Recipient SA), on a number of occasions, to provide information received from the Respondent and attempt to facilitate an amicable resolution to the complaint on this basis. The Data Subject confirmed to the DPC, by way of correspondence to the Recipient SA of 1 January 2021, that he had successfully updated his email address with the Respondent.
13. The DPC issued further correspondence to the Recipient SA, for onward transmission to the Data Subject, on 3 August 2021, setting out the information obtained during the complaint handling process, and noting that his desired resolution to this complaint had been achieved. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if he was 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.
14. 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

15. For the purpose of Document 06/2021, 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 06/2021 the DPC has now closed off its file in this matter.

16. 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