

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission pursuant to Article 77 of the General Data Protection Regulation, concerning [REDACTED]

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)

**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 5th day of August 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 06 May 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the **DPC**”) concerning [REDACTED] (“the **Respondent**”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject asserts that they requested deletion of their personal data under Article 17 GDPR. The personal data in question consists of photographs of the complainant, posted without their consent.
 - b. While, the Data Subject accidentally deleted his initial request, he did provide the DPC with a copy of the Respondent’s reply to him dated 06 May 2020. That respondent’s reply refused the erasure request on the basis that none of the relevant grounds of erasure applied in this instance.

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 provided to it by the Data Subject, 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 service user and a service provider); and
 - b. The nature of the complaint (in this case, an unsuccessful attempt by the Data Subject to exercise his/her 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 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 and the Respondent in relation to the subject matter of the complaint. On 30 June 2020, the Respondent informed the DPC that it had reviewed the Data Subject’s request and the images in question and determined that they did not violate the Respondent’s Terms of Service or Community Standards. The DPC thereafter engaged with the Data Subject on a number of occasions, to provide information received from the Respondent and attempt to facilitate an amicable resolution to the complaint.
8. On 2 November 2021 the DPC again reviewed the URL’s originally provided by the Data Subject. The DPC noted that the images contained in the URL’s were no longer visible. The DPC corresponded with the Data Subject advising that the relevant URLs, which formed the basis for the complaint, appeared to have been removed from the ██████████ platform. That correspondence noted that the removal of the URLs may adequately address the concerns raised in the complaint.
9. The Data Subject was invited to provide any outstanding concerns which they may have within one month of the date of the letter, so that additional action could be taken if required. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
10. 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

11. 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.

12. 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