

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Agencia Espanola de Proteccion de Datos 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 16th day of September 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Agencia Espanola de Proteccion de Datos (“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 10 March 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject lost access to her [REDACTED] account held with the Respondent, stating that her login credentials have been changed by an unauthorised third party. The Data Subject therefore sought to regain access to her account, so that she could then schedule its deletion.
 - b. The Data Subject initially engaged with the Respondent in order to regain access to her account. As part of the process, the Respondent requested that the Data Subject provide photographic identification for the purposes of verifying her identity.
 - c. In response to this request, the Data Subject provided the Respondent with a redacted copy of her ID. The Data Subject had digitally redacted certain information in her ID (such as her identification number), citing a risk of identity theft.
 - d. The Respondent did not accept the redacted ID, noting that there was not sufficient information available for the purposes of verifying the Data Subject’s identity. The Data Subject disagreed with the Respondent’s position and filed a complaint with the Recipient SA, purporting to exercise her rights to access, rectification and erasure under the GDPR.

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 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 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 (via the Recipient SA) and Respondent in relation to the subject matter of the complaint. Further to that engagement, the Respondent explained that, in order to ensure the integrity of the IDs it receives, it does not accept images of ID's that have been digitally modified. However, the Respondent further explained that, in order to verify her account in this manner, the Data Subject may physically cover any non-essential information on the ID (e.g. with a piece of paper) before taking a photograph of the document to be used for this purpose. The Respondent also offered to contact the Data Subject directly in order to assist her further with the erasure request.
8. The DPC wrote to the Data Subject, via the Recipient SA, to advise her of the foregoing on 1 July 2021. The letter requested that the Data Subject respond within two months if she was not satisfied with the information provided, so 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.
9. On 14 December 2021 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.

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.

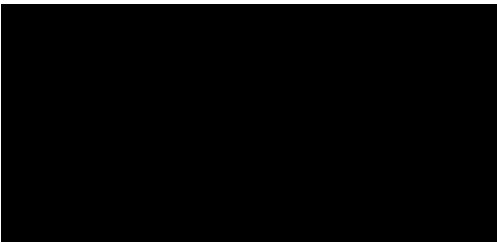
Confirmation of Outcome

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.