

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 Bayerisches Landesamt für
Datenschutzaufsicht (Bavaria DPA) pursuant to Article 77 of the General Data Protection
Regulation, concerning Ancestry 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 ON 12 MAY 2022)**

Dated the 12th day of May 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 23 November 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Bayerisches Landesamt für Datenschutzaufsicht (“the **Recipient SA**”) concerning Ancestry 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 8 March 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 22 November 2021 to request deletion of their personal data that had been uploaded on the Respondent’s platform by a third party user.
 - b. The Respondent replied to the Data Subject advising that they would not delete the data in this case, as it did not violate their Terms of Use or Community Rules.
 - c. As the Data Subject was not satisfied with the response received from the Respondent, they lodged a complaint with 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. Further to that engagement, the Respondent provided an update, on 11 July 2022, to be shared with the Data Subject:
 - a. The Respondent noted that, after the Data Subject brought this issue to their attention, it had taken the necessary steps to remove the data in question.
 - b. The Respondent further advised the DPC that they would like to take the opportunity to express their sincere apologies for any misunderstanding, poor communication or frustration caused to the Data Subject by the Respondent throughout their communication.
8. Following this engagement with the Respondent, the DPC sent the Data Subject a letter on 23 August 2022, via the Recipient SA, informing them of this response provided by the Respondent. The Recipient SA issued this update to the Data Subject on 25 August 2022. On 1 September 2022, via the Recipient SA, the Data Subject provided a reply to the DPC’s letter seeking evidence that the data was deleted.
9. On 30 September 2022, the DPC engaged with the Respondent on the subject matter of the Data Subject’s latest reply. Further to this engagement, on 14 October 2022, the Respondent confirmed that the Data Subject’s personal information, which was the subject matter of the complaint, had been deleted.
10. On 17 November 2022, the DPC communicated this information to the Data Subject, via the Recipient SA. When doing so, the DPC noted that, the personal data that formed the basis of the complaint was now deleted. The DPC asked the Data Subject to notify it, within a stated timeframe, if they were not satisfied with the outcome, so that the DPC could take further action, if necessary. The Recipient SA sent the DPC’s update to the Data Subject on 10 January 2023. On 3 February 2023, the Recipient SA confirmed to the DPC, that no response has been received from the Data Subject.

11. On 14 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 now conclude the case and inform the Respondent. On 8 March 2023, the Recipient SA confirmed receipt of the DPC correspondence, which had advised that the complaint was deemed withdrawn
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