

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 the Autorité de la protection des données
- Gegevensbeschermingsautoriteit (Belgium DPA) pursuant to Article 77 of the General Data
Protection Regulation, concerning Google Ireland Limited.

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 14th day of April 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 24 May 2018, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Autorité de la protection des données - Gegevensbeschermingsautoriteit (“the **Recipient SA**”) concerning Google Ireland Limited (“the **Respondent**”). This complaint was submitted in anticipation of the coming into force of the GDPR on 25 May 2018.
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 26 April 2019.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject had previously made a number of requests to the Respondent for access to their personal data before the entry into force of the GDPR. This included requests on 7 November 2017 and 30 March 2018, respectively. However, the Data Subject was not satisfied with the response of the Respondent.
 - b. With the entry into force of the GDPR on 25 May 2018, the Data Subject submitted an access request pursuant to Article 15 GDPR and an erasure request pursuant to Article 17 GDPR to the Respondent on 28 May 2018. The Data Subject also submitted an objection to processing request.
 - c. The Respondent stated that it was unable to action the request, as it could not verify that the Data Subject was the owner of the account at issue. The Data Subject was not satisfied with the Respondent’s response.

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 30 October 2019, the DPC outlined the Data Subject’s complaint to the Respondent. Following engagement with the Respondent, it was established that the Respondent required the Data Subject to verify themselves as the owner of the secondary email address which they had previously submitted their requests through, which was a different email address from the one that was associated with the Data Subject’s account. The Respondent confirmed to the DPC that the account the Data Subject sought access to had been deleted, and therefore it only held residual data in relation to that account.
- 8. Following further engagement with the DPC and the Data Subject via the Recipient SA, the Respondent informed the DPC on 14 August 2021 that it had determined that the Data Subject’s secondary email address was an alternative email that had been associated with their account. Consequently, the Respondent confirmed to the DPC that it would be able to provide the Data Subject with a copy of the residual data retained following the deletion of their account.
- 9. The Data Subject subsequently outlined further concerns in relation to the Respondent’s processing of their personal data prior to the deletion of their account. Following further engagement with the DPC, the Respondent provided a response to the Data Subject, and subsequently confirmed to the DPC that it had provided the Data Subject with a copy of their residual data.
- 10. On 29 December 2021, the DPC wrote to the Data Subject via the Recipient SA, outlining the Respondent’s actions in relation to their complaint. In the circumstances, the DPC asked the

Data Subject to notify it, within two months, if they were not satisfied with the outcome, so that the DPC could take further action. On 23 August 2022 the Recipient SA confirmed that it had issued the DPC's correspondence to the Data Subject. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.

11. On 10 March 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