

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

Dated the 14th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 11 April 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Bundesbeauftragter für den Datenschutz und die Informationsfreiheit (BfDI) concerning Microsoft Ireland Operation Limited (“the **Respondent**”). BfDI subsequently forwarded the complaint to the Bayerisches Landesamt für Datenschutzaufsicht (“the **Recipient SA**”).
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 September 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 9 March 2022 and 17 March 2022, the Data Subject made an erasure request to the Respondent pursuant to Article 17 of the GDPR, requesting the erasure of their personal data. In this regard, the Data Subject requested the deletion of their former username, used in connection with the Minecraft game on the Respondent’s platform.
 - b. The Data Subject received replies from the Respondent on the 17 March 2022 and 9 April 2022, refusing the deletion request on the basis that they were of the view that a username does not meet the necessary definition of personally identifiable information.
 - c. As the Data Subject was not satisfied with the responses 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. The DPC first engaged with the Respondent on 16 December 2022. Further to that engagement, the DPC established that when the Respondent had replied to the Data Subject earlier in the year, it had provided them with incorrect information.
8. In order to remedy this matter, on 20 January 2023, the Respondent informed the DPC that it had agreed to take the following actions:
- a. To delete the username in question as requested by the Data Subject in their initial request.
 - b. To provide additional technical information for the Data Subject to facilitate them in changing usernames in the future, should they wish to do so. The Respondent also agreed that this information would be provided in a way, which could be easily understood by the Data Subject.
 - c. The Respondent also advised the DPC it was reviewing its process for responding to Data Subjects.
9. On 21 April 2023, the DPC wrote to the Data Subject (via the Recipient SA) seeking their views on whether the action taken by the Respondent was sufficient in amicably resolving the complaint. In this regard, the DPC included a copy of correspondence, which the Respondent provided to the DPC with instructions for the Data Subject on how to change users names,

this correspondence also provided confirmation that the deletion request had been complied with. The Recipient SA thereafter issued this correspondence to the Data Subject on 24 April 2023. In this correspondence, the DPC requested a reply, within a stated timeframe.

10. On 16 May 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
11. On 23 May 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