

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Berliner Beauftragte für
Datenschutz und Informationsfreiheit Data Protection Commission pursuant to Article 77 of the
General Data Protection Regulation, concerning Airbnb 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 12 MAY 2022**

Dated the 27th day of November 2023



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 Berliner Beauftragte für Datenschutz und Informationsfreiheit (“the **Recipient SA**”) concerning Airbnb 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) GDPR, the Recipient SA transferred the complaint to the DPC on 27 January 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 7 November 2020 requesting access to their personal data pursuant to Article 15 GDPR. The access request was made in the context of a dispute between the Data Subject and the Respondent in relation to the repayment of a deposit. The Data Subject also sought the deletion of their account after the access request had been facilitated.
 - b. In order to access their personal data, the Data Subject was requested to submit a copy of photo ID in order to verify their identity, which the Data Subject refused to do and disputed the lawfulness of the request made under GDPR. Alternatively, the Respondent requested that the Data Subject verify their identity by logging into their account and accessing their personal data in that manner. However, the Data Subject could not access their personal data without first accepting the Respondent’s terms and conditions, which the Data Subject objected to.
 - c. The Data Subject was dissatisfied with the Respondent’s failure to facilitate the access request (and the requirements to be met before access could be obtained) and, accordingly, 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 and Respondent in relation to the subject matter of the complaint. On 31 March 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised. In response, the Respondent explained that in the past, ID verification for access and deletion requests was standard procedure but that it had since updated its practices in alignment with best practice and regulatory expectations in the area of data protection. As a result, the Respondent explained that it now utilizes two-factor authentication methods and other authentication methods instead of ID verification for access and deletion requests. The Respondent further explained how it now facilitates the manual authentication of requests received through other channels, where users so wish, noting that where a user is experiencing technical difficulties in accessing its platform or they do not wish to accept an update to the Terms of Service, requests can be authenticated by email or phone. Airbnb confirmed that it no longer requires ID to authenticate these requests. The Respondent explained that these new authentication mechanisms were introduced on a phased basis, and have been being fully functional since July 2022.
8. The Respondent apologised for the delays and frustrations experienced by the Data Subject as a result of the manner in which it handled the access request, and also addressed certain customer service concerns raised by the Data Subject at the time of their complaint. The Respondent confirmed that it had now written to the Data Subject providing them with a copy of their personal data as requested, and provided evidence to the DPC to demonstrate that

this had been carried out. The Respondent confirmed that once the access request had been completed to the Data Subject's satisfaction, it will then action the erasure request. In addition, and in the interest of achieving an amicable resolution to the complaint, the Respondent proposed a settlement offer to the Data Subject along with a formal apology.

9. The DPC considered the Respondent's proposal and weighted this against the actions taken by the Respondent to date in response to the DPC's investigation. In light of the explanations provided by the Respondent as outlined above, the fact that the Data Subject had now received their personal data pursuant to their request, and the fact that the policies to which the complaint related had been updated and were no longer in place, the DPC considered it appropriate to conclude the complaint by way of amicable resolution.
10. As such, on 6 June 2023, the DPC wrote to the Data Subject (via the Recipient SA) informing them of the settlement offer made by the Respondent and proposed to conclude the complaint by way of amicable resolution. In the circumstances, the DPC asked the Data Subject to notify it, within a specified timeframe, if they were not satisfied with the outcome, so that the DPC could take further action. The Recipient SA confirmed to the DPC that this letter was sent to the Data Subject on 26 June 2023. The Data Subject responded on 25 July 2023 agreeing to the Respondent's proposal and, accordingly, the complaint has been deemed to have been amicably resolved.
11. 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

12. 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.
13. 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