

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 Berliner Beauftragte für Datenschutz und Informationsfreiheit (Berlin DPA) 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 ON 12 MAY 2022)**

Dated the 11<sup>th</sup> day of April 2024



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 2 December 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 21 April 2021.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent on 7 October 2020, to request erasure of their account that was stored on the Respondent’s platform, as per Article 17 of the GDPR.
  - b. The Respondent replied to the Data Subject’s GDPR request on 9 October 2020, advising them that in order for it to validate the Data Subject’s identity and proceed with the request, the Data Subject would need to submit another erasure request together with a copy of their valid official identification document, such as driving licence or a passport.
  - 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, on 25 November 2021, the Respondent advised the DPC that if the Data Subject wished, they could proceed with the deletion of their account via a dedicated tool on its website using two-factor authentication instead of ID verification. Alternatively, the Respondent could engage with the Data Subject directly to authenticate their request through other verification means, and proceed with the erasure request that way. In follow up correspondence with the DPC on 24 December 2021, the Respondent confirmed that upon further investigation into the matter, due to a workflow error, the Data Subject was not initially directed to the dedicated tool on its website whereby they could have availed of the two-factor authentication as an alternative method to the ID verification. The Respondent expressed its apologies for this error, and confirmed additional training was being arranged for its agents.
8. The DPC forwarded this information to the Data Subject, via the Recipient SA, on 3 February 2022, seeking their views on the action taken by the Respondent. This correspondence requested that the Data Subject notify the DPC within a specified timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could investigate the matter further. The Recipient SA issued this letter to the Data Subject on 16 February 2022.
9. On 26 April 2022, the Data Subject responded to the DPC’s communication, via the Recipient SA, rejecting the amicable resolution proposal. In their correspondence, the Data Subject advised the DPC that they had tried to delete the account themselves, but were unsuccessful in doing so. In addition, the Data Subject raised a concern that even though the Respondent admitted that there were errors made in handling of their GDPR request, it made no offer to proceed with the account erasure on behalf of the Data Subject in this case.

10. Following further engagement with the Respondent, on 15 November 2022, the Respondent confirmed to the DPC that the Data Subject's account was now deleted. In addition, the Respondent provided a screenshot to be shared with the Data Subject as evidence. The DPC forwarded this information to the Data Subject, via the Recipient SA, on 24 November 2022. This correspondence requested that the Data Subject notify the DPC within a specified timeframe, if they were not satisfied with the action taken by the Respondent, so that the DPC could investigate the matter further. The Recipient SA issued this letter to the Data Subject on 4 January 2023.
11. On 31 January 2023, the Recipient SA provided the Data Subject's response, which rejected this further amicable resolution proposal. In their correspondence, the Data Subject outlined that they were not satisfied as they received no confirmation from the Respondent regarding their account erasure. Furthermore, the Data Subject advised the DPC that there seemed to be confusion around their case, as the Respondent had contacted them to request they confirm their email address, which led to the Respondent sending the Data Subject a response relating to a different, unrelated matter.
12. The DPC continued to engage with both the Data Subject and the Respondent in order to bring about an amicable resolution to the complaint. The Respondent sought confirmation that it could contact the Data Subject directly on this matter, and the DPC, having consulted with the Data Subject, confirmed the Respondent could proceed to contact the Data Subject directly.
13. On 23 January 2024, the Respondent indicated to the DPC that it reached an amicable resolution with the Data Subject, which included a gesture of goodwill. Following this, on 26 February 2024, the Recipient SA confirmed to the DPC that the Data Subject was agreeable to the amicable resolution proposal.
14. On 4 March 2024, 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.
15. 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**

16. 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.

17. 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:

A handwritten signature in black ink, appearing to read "Tom Delaney". The signature is written in a cursive, flowing style.

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Deputy Commissioner  
Data Protection Commission