

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 Garante per la protezione dei dati personali pursuant to Article 77 of the General Data Protection Regulation, concerning Twitter International Unlimited Company

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 29th day of December 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 Garante per la protezione dei dati personali (“the **Recipient SA**”) concerning Twitter International Unlimited Company (“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 9 July 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject’s account was disabled for multiple violations of the Respondent’s terms of service. The Data Subject queried whether their account could be reinstated and then sought access to an archive of their tweets.
 - b. The Respondent provided the Data Subject with a link to access their data but the Data Subject stated that the link did not work. The Data Subject continued to engage with the Respondent in order to obtain a new link but the Data Subject was ultimately dissatisfied with the Respondent’s responses.
 - c. The Data Subject then submitted a formal access request pursuant to Article 15 GDPR. However, the Data Subject stated that they did not receive a response and, accordingly, submitted a complaint to 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. On 8 June 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
- 8. In response to the DPC's investigation, the Respondent explained that it had responded to the Data Subject's access request but that the Data Subject did not respond to its system's automated requests for authentication in order to provide them with access to their data. However, the Respondent explained that it had since taken the step to contact the Data Subject directly in order to request that they authenticate themselves so that the Respondent could now process their access request.
- 9. However, the Data Subject subsequently stated that they had not received any links from the Respondent despite the Respondent having confirmed on a number of occasions that they had since sent a new link to the email address associated with the Data Subject's disabled account. Departing from the established channels of communication, the Data Subject also reached out to the DPC directly in relation to this issue. At this time, the DPC noted that the email address from which the Data Subject corresponded was different from that which was associated with their disabled account. As such, and having obtained confirmation from the Respondent that a new link had since been resent to the account email address, the DPC reached out to both the Data Subject and the Recipient SA to clarify that the link for accessing the Data Subject's personal data had been sent to the email address associated with the disabled account.

10. In light of the explanations provided by the Respondent as set out above, as well as the fact that the Respondent had now sent a number of links through which the Data Subject could access their personal data to the email address associated with the account, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. On 6 September 2023, the DPC wrote to the Data Subject (via the Recipient SA) outlining the Respondent's response to its investigation. In this letter, the DPC noted that the Data Subject could access the link and their personal data through the email address associated with their disabled account. The DPC further explained that, in the event that the Data Subject no longer had access to that email address and subject to the Data Subject's confirmation of same, it would write further to the Respondent to ask what steps the Data Subject would need to take (i.e. by way of verification) in order for the Respondent to be able to send the link securely to the other email address that was not associated with the account. The DPC asked the Data Subject to notify it, within a specified timeframe, of whether they were able to access the link through the account email address or if they wished for the DPC to write further to Twitter in the manner outlined above. Given the circumstances, the DPC's letter noted that, in the absence of such a response, the DPC would presume that the Data Subject was able to access the new link and would deem the complaint amicably resolved. On 27 November 2023, the Recipient SA confirmed that no further communication had been received from the Data Subject. Accordingly, the complaint has been deemed to have been amicably resolved.
11. On 28 November 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
 - a. 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:

A handwritten signature in dark ink, appearing to read 'Tony Delaney'. The signature is fluid and cursive, with the first name 'Tony' and last name 'Delaney' clearly distinguishable.

Deputy Commissioner

Data Protection Commission