

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 2nd day of October 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 7 December 2022, [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 23 February 2023.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject was listed as a host on the Respondent’s platform in respect of two properties. On 17 November 2022, the Data Subject received correspondence from someone purporting to be a “*registration specialist*”, advising that two properties which they had listed on the Respondent’s platform were not in compliance with local legislative requirements, and advising that they should take certain actions in order to continue to be permitted to host those properties on the platform.
 - b. The Data Subject responded to state that they no longer operated their previous hosting business and requested access to their data as well as the deletion of their account.
 - c. In response, the registration specialist informed the Data Subject that they were not allowed to process such requests and that the Data Subject should contact the Respondent’s customer support team instead.
 - d. The Data Subject was not satisfied with this response 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 5 May 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 the Data Subject was contacted by an external agent acting on behalf of the Respondent in relation to a specific project it had initiated in order to make sure certain properties listed on its platform were in compliance with local law requirements in the region of Germany where those properties were located. The Respondent advised that this project had now concluded.
8. The Respondent further explained the various means and channels through which data subjects can exercise their data subject rights, and explained, with specific reference to paragraphs 53 to 57 of the EDPB’s ‘Guidelines 01/2022 on data subject rights – Right of access’, that the channel to which the Data Subject had communicated their access and erasure requests was not competent to deal with such requests. The Respondent explained that the appropriate course of action for the agent in question was to direct the Data Subject to a team that was equipped to deal with such requests.
9. The Respondent nonetheless apologised for the inconvenience caused to the Data Subject, and stated that it would review the project to determine what improvements could be made in future to give greater guidance and clarity to data subjects. The Respondent stated that it would now action the Data Subject’s access request and, subject to the Data Subject’s

confirmation of satisfactory receipt, would then delete the account as requested. Further, and in the interest of achieving an amicable resolution to the complaint, the Respondent proposed a settlement offer to the Data Subject.

10. The DPC considered the Respondent's proposal and weighted this against the explanations provided by the Respondent, and the actions it had agreed to take, in response to the DPC's investigation. In the circumstances, the DPC considered it appropriate to conclude the complaint by way of amicable resolution.
11. As such, on 22 June 2023, the DPC wrote to the Data Subject (via the Recipient SA) informing them of the explanations provided by the Respondent as set out above, as well as the settlement offer made, 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. On 9 August 2023, the Recipient SA confirmed to the DPC that the Data Subject agreed to the amicable resolution of their complaint as proposed. Accordingly, and following subsequent confirmation received by the DPC as to the performance of the settlement referred to above, the complaint has been deemed to have been amicably resolved.
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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

Deputy Commissioner

Data Protection Commission