

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 Hamburg Data Protection Authority pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms Ireland 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 12 MAY 2022**

Dated the 13th day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 6 April 2020, ██████████ (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Hamburg Data Protection Authority (“the **Recipient SA**”) concerning Meta Platforms Ireland Limited (“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 April 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject was unable to access their Facebook account following a password change, as they no longer had access to the e-mail address and phone number used to create their Facebook account. The Data Subject subsequently submitted an access request to the Respondent on 2 February 2020, seeking access to their personal data.
 - b. The Data Subject was not satisfied with the response received from the Respondent.

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, it was established that the Respondent had contacted the Data Subject directly to assist them in regaining access to their Facebook account. In the circumstances, the Respondent agreed to take the following actions:
 - a. The Respondent agreed to have its specialist team reach out to the Data Subject directly to assist them with regaining access to their account; and
 - b. The Respondent confirmed to the DPC that should the Data Subject have any further issues with regaining access to their account and personal data, then it would assist them further.
8. In the Data Subject’s access request to the Respondent, the Data Subject outlined that, after a successful password change, they were still unable to log into their account. The Data Subject informed the Respondent that they no longer had access to the e-mail address and phone number used to create their Facebook account. Upon receipt of the Data Subject’s complaint from the Recipient SA, the DPC engaged further with the Data Subject via the Recipient SA, in order to assess the complaint and fully understand the Data Subject’s desired outcome, as it was unclear from the received correspondence whether or not the Respondent had responded to the Data Subject’s initial access request. The DPC asked the Recipient SA to provide copies of correspondence between the Data Subject and the Respondent, in order to fully assess the complaint and to progress the complaint further. On 29 April 2022, the DPC outlined the Data Subject’s complaint to the Respondent. The DPC requested that the Respondent review the complaint documentation provided, and write to the Data Subject directly, responding to their access request.
9. On 25 May 2022, the Respondent responded to the DPC. The Respondent noted that it had previously contacted the Data Subject directly at their alternative email address on 1 April 2022, after the Data Subject had provided the Respondent with the ID documentation necessary to verify their identity. The Respondent explained that it had sent the Data Subject a password reset link on this date, which was resent to them on 28 April 2022, at their request.

However, the Respondent confirmed that following a review of its internal systems, it appeared that the Data Subject did not make use of the password reset link within the 7 day period specified and, as such, the link expired. In its correspondence to the DPC, the Respondent stated that its specialist team would again reach out to the Data Subject to assist them in regaining access to their account and accessing their personal data. The Respondent stated that once the Data Subject had regained access to their account they would be able to use its self-serve access tools to download a copy of their personal data. The Respondent outlined that if the Data Subject was experiencing any issues with accessing the password link once it is received then it could assist the Data Subject further.

10. On 24 July 2022, the DPC wrote to the Data Subject via the Recipient SA, outlining the response received from the Respondent. The DPC highlighted to the Data Subject that, once the Respondent contacted them, they would need to follow the instructions provided, and use the password link before it expires, in order to reset their password. In the circumstances, the DPC asked the Data Subject to notify it, within two months, if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 25 October 2022, 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:

A handwritten signature in black ink that reads "Tom Delaney". The signature is written in a cursive style with a large, prominent 'D'.

Deputy Commissioner

Data Protection Commission