

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 Austrian
Datenschutzbehörde 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 6th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 22 February 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Austrian Datenschutzbehörde (“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 20 May 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. On 27 November 2021, the Data Subject made an access request to the Respondent pursuant to Article 15 GDPR, seeking access to all information to their Facebook and Instagram accounts. The Data Subject noted that their Facebook and Instagram accounts had both been suspended and that they were unable to avail of the self-service tools for downloading their data.
 - b. The Respondent’s responses did not appear to identify the matter as a valid access request and instead directed the Data Subject to Help Centre articles about how to reset a password and restore access to an account. The Data Subject explained to the Respondent that this information was not what they were looking for, but no further response was received.
 - c. As the Data Subject was dissatisfied with the response provided by the Respondent, the Data Subject subsequently 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. On 30 September 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting the Respondent to address the concerns raised. The DPC also asked the Respondent to explain the investigatory steps taken prior to the suspension of the Data Subject’s accounts.
8. On 11 November 2022, the Respondent replied to the DPC, explaining that the Data Subject’s Facebook account had been disabled for a serious violation of the Respondent’s terms and policies. The Respondent further explained that its specialist team had since reviewed the matter again and identified signs that the account had been compromised and that the serious violation referred to above had occurred during the time the account was compromised (i.e. were likely not committed by the Data Subject themselves). As such, the Respondent agreed to reverse the disablement and requested that the Data Subject provide it with a new secure email address to be associated with the account in order to do so. The Respondent explained how the Data Subject could obtain access to their personal data using the self-service tools, once they had regained access to their account.
9. The Respondent also confirmed that the Data Subject’s Instagram account had not been disabled and remained active.
10. The Data Subject (via the DPC) provided a new secure email address as requested and successfully regained access to their account. The Respondent was able to confirm this via its internal records. The Respondent also explained that, as an added security measure, it had also reset the password of the Instagram account and associated that account with the new

secure email address provided by the Data Subject. The Respondent again explained how the Data Subject could access their data in respect of both accounts using the self-service tools, if they still wished to do so.

11. On 23 February 2023, the DPC wrote to the Data Subject via the Recipient SA outlining the Respondent's response to their complaint. In light of the Respondent's confirmation that access to the accounts in question had been restored, as well as the explanations provided regarding how the Data Subject could now access their personal data, the DPC considered that the dispute between the Data Subject and Respondent appeared to have been resolved. 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 May 2023, the Recipient SA confirmed to the DPC that no response had been received within that time. Accordingly, the complaint has been deemed to have been amicably resolved.
12. On 2 June 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.
13. 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

14. 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.
15. 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:

Tom Delaney

Deputy Commissioner

Data Protection Commission