

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 Autorité de la protection des données - Gegevensbeschermingsautoriteit (Belgium DPA) pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms Ireland Limited (formerly Facebook 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 ON 12 MAY 2022)**

Dated the 4th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 18 November 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Autorité de la protection des données - Gegevensbeschermingsautoriteit (“the **Recipient SA**”) concerning Meta Platforms Ireland Limited (formerly Facebook 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 17 February 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject contacted the Respondent on 8 November 2021, after being unable to login to their account on the Facebook platform. In their contact with the Respondent, the Data Subject advised that they suspected that a bad actor had compromised the account.
 - b. The Respondent replied to the Data Subject on 15 November 2021, informing them that a bad actor had not compromised the account in question but that it had been suspended for a violation of Facebook’s Terms of Service. On foot of the Respondent’s reply, the Data Subject requested erasure of the account in question and all their personal data under Article 17 of the GDPR.
 - c. As the Data Subject did not receive a response 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 1 November 2022, the Respondent advised the DPC that due to a violation of its Terms of Service it had suspended the account in question. The Respondent also provided an overview of the assistance it had provided to the Data Subject and confirmed that the Data Subject had since regained access to their account.
8. The DPC’s letter outlining the information provided by the Respondent as part of the amicable resolution process issued to the Data Subject on 8 December 2022 via the Recipient SA. In its correspondence to the Data Subject, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the information provided by the Respondent, so that the DPC could take further action.
9. On 19 December 2022, the Recipient SA provided the DPC with a copy of the Data Subject’s response. In this response, the Data Subject confirmed that while they had regained access to their account on the Facebook platform, they had been unable to access their Instagram account.
10. The DPC engaged further with the Respondent regarding this matter. In its reply, the Respondent advised that its specialist team had reviewed the information provided by the Data Subject and it had been unable to locate the Instagram account. In the Respondent’s opinion, this was due to the fact that the Instagram account had been either deleted by the user or by the Respondent in accordance with its deletion policies.

11. The DPC's letter outlining the information provided by the Respondent as part of the amicable resolution process issued to the Data Subject on 6 April, 2023 via the Recipient SA. In this correspondence, the DPC requested that the Data Subject notify it, within a specified timeframe, if they were not satisfied with the actions taken by the Respondent.
12. On 12 May 2023, the Recipient SA confirmed to the DPC, that no response had been received from the Data Subject.
13. On 26 May 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.
14. 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

15. 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.
16. 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:



Deputy Commissioner
Data Protection Commission