

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 Datatilsynet (Denmark 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 6<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## Background

1. [REDACTED], (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Datatilsynet (“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 2 March 2022.

## The Complaint

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent in June 2021, after being unable to login to their account on the Instagram platform. The Data Subject suspected that a bad actor had compromised the account. Following the Data Subject’s attempts to gain access to the account through the Respondent’s support function, the Data Subject contacted the Respondent on 4 July 2021, requesting the deletion of the account.
  - b. On 10 July 2021, the Respondent requested that the Data Subject supply it with further information associated with the account, so that it could appropriately address the Data Subject’s concerns and identify the account in question. The Data Subject supplied this requested information on 10 July, and 2 August 2021 respectively. However, the Respondent did not reply to the Data Subject.
  - c. As the Data Subject received no 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, the Respondent advised that the account in question had not been compromised by a bad actor, but had been placed in a checkpoint by the Respondent due to certain required fields on the account not containing the required information. The DPC understands that a checkpoint is placed on an account as a security measure to ensure that only the verified owner of the account can access it. In the circumstances, the Respondent informed the DPC that:
  - a. The Data Subject would be able to regain access to the account by supplying the relevant required information to have an account on its platform.
8. The DPC corresponded with the Data Subject on this basis, informing them of the steps required to regain access to the account. This letter issued to the Data Subject via the Recipient SA on 22 December 2022.
9. On 17 January 2023, the DPC received the Data Subject’s response, via the Recipient SA. The Data Subject informed the DPC that they were still experiencing issues with regaining access to the account. On foot of this, the DPC corresponded further with the Respondent, informing them of the difficulties faced by the Data Subject. The Respondent then informed the DPC that its specialist team was in direct contact with the Data Subject in relation to their issue.
10. On 17 April 2023, the Respondent confirmed to the DPC that the Data Subject had regained access to the account in question, after providing the required information, and had scheduled the account for deletion on 16 April 2023.

11. The DPC sent this information as an amicable resolution proposal to the Data Subject, via the Recipient SA on 18 April 2023. In its correspondence to the Data Subject, the DPC asked the Data Subject to 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. The Recipient SA confirmed that this letter issued to the Data Subject on 28 April 2023.
12. On 7 June 2023, the Recipient SA confirmed to the DPC that the Data Subject was agreeable to the amicable resolution of their complaint.
13. On 7 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.
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:



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Deputy Commissioner  
Data Protection Commission