

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 (Norway DPA) 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 ON 12 MAY 2022)**

Dated the 3rd day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 2 February 2022, [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 (“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 31 August 2022.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject lost access to their Facebook account as a result of a bad actor gaining control and changing the email address associated with the account. Following this, the Data Subject contacted the Respondent on 11 December 2022, to request erasure of the account pursuant to Article 17 of the GDPR.
 - b. On 15 December 2022, the Respondent provided the Data Subject with instructions on how to access their account and referred the Data Subject to its self-deletion tools.
 - c. As the Data Subject was not satisfied with the response received 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 22 May 2023, the Respondent confirmed that the Data Subject’s account had shown signs of being compromised and as such, requested that the Data Subject provide it with a new secure email address. The Respondent noted that its support team could use this new, secure email address to correspond with the Data Subject for the purpose of verifying if they were the rightful owner of the account and assisting them in regaining access to the account. The Respondent explained that once the Data Subject had regained access to the account, they could then make use of the self-serve tools in order to schedule the permanent deletion of the account.
8. The DPC engaged with the Data Subject, via the Recipient SA, in order to obtain a new secure email address. The DPC provided the new, secure email address to the Respondent on 30 June 2023.
9. Subsequently, the Respondent informed the DPC that a member of its specialist team had contacted the Data Subject directly on 5 July 2023. Within this correspondence, the Respondent offered to assist the Data Subject in regaining access to their account, and requested further documentation necessary to verify that the Data Subject was the rightful owner of the account.
10. Thereafter, the Respondent advised the DPC that on 11 July 2023, the Data Subject provided it with the necessary documentation, but had not accessed their account. Therefore, the Respondent reached out to the Data Subject on 21 July 2023 with the aim of assisting them in regaining access to the account. On 24 July 2023, the DPC corresponded with the Data Subject via the Recipient SA, to inform them that the Respondent had contacted them via their new, secure email address.
11. On 24 July 2023, the Recipient SA confirmed to the DPC that the Data Subject regained access to their account and scheduled it for permanent deletion.

12. The DPC's letter outlining the actions taken by the Respondent as part of the amicable resolution process issued to the Recipient SA on 26 July 2023. 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 actions taken by the Respondent, so that the DPC could take further action. The Recipient SA thereafter issued this correspondence to the Data Subject on 8 August 2023. On 5 September 2023, the Recipient SA confirmed that no further response had been received from the Data Subject.
13. On 11 September 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