

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 Österreichische Datenschutzbehörde (Austria 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 13<sup>th</sup> day of December 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 4 February 2021, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with the Österreichische 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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 4 August 2021.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject contacted the Respondent via registered post on 28 October 2020, to request erasure of a Facebook account pursuant to Article 17 of the GDPR, that had been created by them using a pseudonym, and which they no longer had access to. The Data Subject provided a copy of their ID document to the Respondent as part of their erasure request.
  - b. The Data Subject received no response from the Respondent to this postal request.
  - c. As the Data Subject did not receive any 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, it was established that the Respondent received the Data Subject’s erasure request on 12 November 2020, but due to an administrative error, the letter was not routed to the appropriate team and therefore not responded to. Furthermore, the Respondent requested that the Data Subject provide it with a new secure email address, which its support team could use to correspond with the Data Subject for the purpose of 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 15 December 2022.
9. Subsequently, the Respondent informed the DPC that a member of its specialist team had contacted the Data Subject directly on 20 December 2022, 18 January 2023 and 16 March 2023 respectively. 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 relevant account.
10. The DPC continued to engage with both the Data Subject and the Respondent (via the Recipient SA) in order to bring about an amicable resolution to the complaint.
11. On 18 August 2023, following further engagement with the Respondent, the Respondent advised the DPC that on 17 August 2023, it had contacted the Data Subject directly to assist them in regaining access to the account.

12. On 19 September 2023, the Respondent confirmed to the DPC that on 21 August 2023, the Data Subject regained access to their account and scheduled it for permanent deletion on the same day.
13. On 28 September 2023, the DPC wrote to the Data Subject via the Recipient SA, seeking their views on the action taken by the Respondent. In this correspondence, the DPC requested a reply, within a stated timeframe. The Recipient SA thereafter issued this correspondence to the Data Subject on 2 October 2023.
14. On 11 October 2023, the Recipient SA confirmed to the DPC that no response had been received from the Data Subject.
15. On 18 October 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.
16. 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**

17. 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.
18. 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, appearing to read "Tom Delaney". The signature is written in a cursive, flowing style.

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Deputy Commissioner  
Data Protection Commission