

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 Garante per la protezione dei dati personali 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 4<sup>th</sup> day of September 2023



Data Protection Commission  
21 Fitzwilliam Square South  
Dublin 2, Ireland

## **Background**

1. On 27 January 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Garante per la protezione dei dati personali (“the **Recipient SA**”) concerning Meta Platforms Ireland Limited (“the **Respondent**”).
2. In the 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 16 May 2022.

## **The Complaint**

3. The details of the complaint were as follows:
  - a. The Data Subject had purchased a new smartphone and attempted to log in to their Facebook account. The Data Subject requested a password reset in order to do so. However, the Data Subject had also changed their phone number and so had no access to the phone number to which the password reset message was sent.
  - b. The Data Subject submitted an access request to the Respondent in order to regain access to their account and to access the personal data contained in it. In the alternative, the Data Subject requested the erasure of their account should it not be possible for them to obtain access as requested.
  - c. The Data Subject stated that no response was received from the Respondent and, accordingly, on 27 January 2022, 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 and the Respondent in relation to the subject matter of the complaint. On 14 November 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised. The DPC requested that the Respondent write to the Data Subject directly and provide them with a copy of their data.
- 8. In response, the Respondent referred the matter to its specialist team who carried out a review of the account. In light of this, the Respondent explained that it had already reached out to the Data Subject upon receipt of their access request letter (the letter having been received on 24 November 2021) and, on 26 November 2021, provided the Data Subject with a password reset link using the information provided. The Respondent confirmed that the Data Subject had since regained access to their account using the password reset link.
- 9. The Respondent also detailed how the Data Subject could access and download the data associated with their account using the self-service tools. The Respondent noted that, since regaining access to their account, the account had been user-deactivated on 5 July 2022. The Respondent explained the difference between account deactivation and account deletion, noting that the Data Subject still had the option of reactivating their account and availing of those self-service tools if they so wished.
- 10. On 19 January 2023, the DPC wrote to the Data Subject via the Recipient SA in order to verify that the Data Subject was able to successfully reactivate their account and could access their data as stated by the Respondent. On 30 January 2023, the Recipient SA confirmed to the DPC that the Data Subject had confirmed to it directly that they had successfully regained access

to their account and had asked for their complaint to be closed. In light of this, the DPC considered it appropriate to conclude the complaint by way of amicable resolution.

11. Accordingly, on 22 February 2023, the DPC wrote to the Data Subject (via the Recipient SA) formally notifying them that the DPC proposed to conclude the complaint by way of amicable resolution. 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. The DPC received no further communication from the Data Subject. As such, and further noting the fact that the Data Subject had already expressly indicated on 30 January 2023 that their complaint had been resolved, the DPC has now deemed the complaint to have been amicably resolved.
12. On 29 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:

A handwritten signature in black ink, appearing to read 'Tom Delaney', written in a cursive style.

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Deputy Commissioner

Data Protection Commission