

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Data Protection Commission 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 6th day of November 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 28 May 2022, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Data Protection Commission (“the DPC”) concerning Meta Platforms Ireland Limited (“the Respondent”).
2. The DPC was deemed to be the competent authority for the purpose of Article 56(1) GDPR.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject made an access request to the Respondent via post pursuant to Article 15 GDPR, seeking to regain access to their Facebook and Instagram accounts. The Data Subject noted that their Facebook and Instagram accounts appeared to have been hacked and both had been suspended as a result.
 - b. The Data Subject was unable to appeal the account suspension and was unable to regain access via the self-service tools and links they were directed to in the Respondent’s response. Accordingly, the Data Subject subsequently lodged a complaint with the DPC.

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 Data Subject, 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 Respondent in relation to the subject matter of the complaint. On 29 July 2022, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In its response, the Respondent explained that it had referred the matter to its specialist team which confirmed that the Data Subject’s Facebook account showed signs of compromise, and that activity which occurred on the account during this time was what led to the disablement of both their Facebook account and their associated Instagram account. The Respondent explained that its specialist team had now reached out to the Data Subject directly to assist with regaining access to their accounts.
9. Although the Data Subject was successful in regaining access to their Facebook account, it subsequently transpired that their Instagram account had been deleted due to the length of time that had passed since the accounts had been suspended. This deletion was carried out in accordance with the Respondent’s standard retention policies for suspended accounts. The Respondent explained that its retention period for suspended Facebook accounts was longer which was why only the Instagram account had been deleted in this manner.
10. In the interest of achieving an amicable resolution to the complaint, the Respondent and the Data Subject engaged directly in relation to the Data Subject’s outstanding concerns about their Instagram account. Subsequent to this engagement, on 22 September 2023, the Data Subject wrote to the DPC stating that *“I am withdrawing my complaint because I am satisfied that it has been amicably resolved by [the Respondent]”*. Accordingly, the complaint has been deemed to have been amicably resolved.
11. 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

12. 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.

13. 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