

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 27th day of December 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 2 February 2023, [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 pursuant to Article 15 GDPR, seeking access to all their personal information related to their Facebook and Instagram accounts. The Data Subject noted that their accounts appeared to have been hacked and both had been suspended as a result. The Data Subject further noted that they did not create or link their Instagram account themselves and wanted to know when and how this account was created.
 - b. The Respondent explained that the Data Subject’s accounts had been disabled for a violation of its Terms of Use and directed the Data Subject to login to their account in order to download limited personal data. The Respondent also advised the Data Subject as to how they could request a review of the decision to disable their account, and how they could report their account as having been hacked. The Respondent provided similar responses and instructions in respect of the disabled Instagram account.
 - c. The Data Subject was dissatisfied with the above responses and the content of the data package provided as they remained unable to access their accounts and their full personal data. Accordingly, the Data Subject 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 the Respondent in relation to the subject matter of the complaint. On 19 July 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In response to the DPC’s investigation, the Respondent explained how the Data Subject’s accounts had been disabled for a serious violation of its Terms of Service and Community Standards. The Respondent further explained that its specialist team had since reviewed the matter again and identified signs that the Instagram account had been created by a bad actor impersonating the Data Subject, and which subsequently was disabled for posting violating content.
9. The Respondent explained that the Data Subject’s Facebook account had been disabled as a result of it being linked to the impersonating Instagram account. In light of the fact that the violation occurred on the impersonating Instagram account and was not committed by the Data Subject themselves, the Respondent agreed to reverse the disablement and confirmed that the Data Subject had subsequently regained access to their Facebook account following their successful clearance of a security checkpoint. The Respondent explained how the Data Subject could now obtain access to their personal data using the self-service tools, if they wished to do so. The Respondent also confirmed that the impersonating Instagram account would be permanently deleted.

10. In light of the explanations provided by the Respondent as set out above, and the fact that it had facilitated the Data Subject in regaining full access to their Facebook account in accordance with the Data Subject's wishes, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. On 18 September 2023, the DPC wrote to the Data Subject outlining the Respondent's response to its investigation and noting the confirmation received that they were now able to regain access to their account and access their personal data. 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. On 23 September 2023, the Data Subject confirmed to the DPC that their complaint was now resolved. As such, the DPC has now deemed the complaint 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