

In the matter of the General Data Protection Regulation

DPC Complaint Reference: [REDACTED]

IMI Complaint Reference Number: [REDACTED]

In the matter of a complaint, lodged by [REDACTED] with the Austrian Data Protection Authority 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 15th day of December 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 30 September 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Austrian Data Protection Authority (“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) GDPR, the Recipient SA transferred the complaint to the DPC on 12 November 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject was dissatisfied with the delay in the Respondent’s response to their access request, which they submitted to the Respondent via post on 1 May 2020.

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 there was a delay in the Data Subject's letter reaching the Respondent's office and that, in the intervening period, the Data Subject had initiated the permanent erasure of their account. In the circumstances, the Respondent took the following actions:
 - a. The Respondent confirmed to the DPC that it had investigated the Data Subject's complaint and determined that the Data Subject had initiated the erasure of their own account in the intervening period between the Data Subject's postal access request being sent and it being received by the Respondent.
 - b. The Respondent explained to the DPC that when a Facebook user initiates the deletion of their own account, they are presented with a notification, offering them an opportunity to use the Respondent's self-serve tools to download a copy of their personal data before the deletion of their account. Consequently, the Respondent suggested to the DPC that the Data Subject's access request might have already been fulfilled, and that given that there had been no follow up correspondence to the initial postal access request, other than the deletion request, it assumed that the deletion request superseded the access request. It agreed to follow up with an explanation by post and email to the Data Subject.
8. On 18 June 2021, the DPC outlined the Data Subject's complaint to the Respondent. The DPC noted that the Data Subject submitted an access request via post on 1 May 2020 and was dissatisfied with the response. The DPC requested that the Respondent investigate this request further and provide the DPC with a response.
9. On 19 July 2021, the Respondent outlined to the DPC that there was a delay in receiving the Data Subject's complaint via post. The Respondent stated that the Data Subject sent the request on 1 May 2020 but it did not arrive to the Respondent's office until the 26 June 2020. Following further investigation the Respondent found that, before the access request was received, the Data Subject initiated the permanent deletion of their account. The Respondent stated that when a user schedules the deletion of their account, they are prompted to use the self-serve tool to download a copy of their personal data before the request is completed.

10. On 29 December 2021, the DPC outlined the Respondent's correspondence to the Data Subject, which they received on 11 January 2022 via the Recipient SA. The DPC noted that the Respondent suggested that the access request may have already been fulfilled following the deletion of the Data Subject's account and, given that the Data Subject had initiated the deletion of their account in the intervening period, it had assumed that the erasure request superseded the initial access request. However, the Respondent stated that, in light of the delay in relation to the postal correspondence sent by the Data Subject, it would contact the Data Subject in relation to their queries directly by email and post. In the circumstances, the DPC asked the Data Subject to notify it, within two months if they were not satisfied with the outcome, so that the DPC could take further action. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 5 August 2022, 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.
12. 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

13. 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.
14. 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, reading "Tom Delaney". The signature is written in a cursive style with a large, stylized 'T' and 'D'.

Deputy Commissioner

Data Protection Commission