

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 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 11th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 25 February 2019, [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 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 April 2020.

The Complaint

3. The details of the complaint were as follows:
 - a. On 17 December 2018, the Data Subject made an access request to the Respondent pursuant to Article 15 GDPR. The Data Subject indicated that three mobile phone numbers appeared to have been associated by ‘Facebook Products’ with their Facebook profile, despite having never provided these numbers to the Respondent nor having ever used any Facebook apps on their mobile phone (or used the Facebook ‘single sign-on’ mechanism on any third party website). In addition to making a full access request, pursuant to Article 15 GDPR, in respect of all personal data linked to the three phone numbers, the Data Subject also raised concerns as to why their account appeared to have been locked on a number of occasions.
 - b. The Respondent replied on the same date and continued to correspond with the Data Subject in relation to their concerns over a period of time. However, the Data Subject was not satisfied with the responses received and, accordingly, 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. On 27 October 2022 (there having been some delay arising from an internal administrative error at the time the complaint was first received by the DPC), the DPC wrote to the Respondent formally commencing its investigation and requesting the Respondent to address the concerns raised.
8. On 16 December 2022, the Respondent replied to the DPC, noting that it had since written to the Data Subject directly in relation to the complaint (as per the DPC’s request) and provided a copy of this correspondence to the DPC. In this correspondence, the Respondent explained that its specialist team had reviewed the matter and confirmed that there were no phone numbers associated with the account and that no personal data (including metadata) had been processed relating to ‘Facebook products’, as suggested. In light of the Data Subject’s concerns that their account had been locked, Meta further explained that its specialist team had determined that the Data Subject’s account had been placed in a “*checkpoint*” system (and explained the circumstances in which this was likely to occur; e.g. where an account shows signs of being compromised, where there have been multiple failed login attempts, or where there has been a violation of Meta’s terms and policies) but that it was once again active. As the account was currently active, Meta explained how the Data Subject could access their personal information using the self-service tools.
9. Meta’s response also detailed the third parties to whom it shares personal data and provided a breakdown of the types of personal data that may be shared. In addition, Meta provided details of the personal information it processes that were not obtained from the Data Subject directly, as well as details as to the source and purposes of processing of such information.

Meta also confirmed that it had not identified any processing of the Data Subject's personal data that fell within the scope of Article 22(1) GDPR.

10. On 24 January 2023, the DPC wrote to the Data Subject via the Recipient SA outlining the Respondent's response to their complaint. In light of the detailed responses provided by the Respondent, as well as the Respondent's confirmation, following a review by its specialist team, that no mobile phone numbers were associated with the Data Subject's account, the DPC considered that the concerns raised by the Data Subject appeared to have been addressed. The DPC therefore 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 did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.
11. On 23 May 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.
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:

Tom Delaney

Deputy Commissioner

Data Protection Commission