

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 Der Hamburgische Beauftragte für Datenschutz und Informationsfreiheit (Hamburg SA) 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 ON 12 MAY 2022)**

Dated the 6th day of July 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 24 January 2019, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 of the GDPR with Der Hamburgische Beauftragte für Datenschutz und Informationsfreiheit (“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) of the GDPR, the Recipient SA transferred the complaint to the DPC on 11 March 2021.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject received a number of regular, automated emails from the Respondent relating to a Facebook account associated with their email address. However, the Respondent did not have a Facebook account and submitted an access request on 14 November 2018 requesting access to all information held by the Respondent relating to them. The Data Subject also sought the subsequent deletion of this data.
 - b. The Data Subject was not satisfied with the response received from the Respondent and the emails continued to be received to their email address. The Data Subject then 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 his/her 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 8 June 2021, the DPC wrote to the Respondent to formally commence its investigation and requested that it fully address the concerns raised.
- 8. Over the course of the investigation, the Respondent explained that an active account existed on its platform using the Data Subject’s email address. In order to verify the authenticity of the account, the Respondent’s specialist team reached out to the Data Subject directly via that email address and requested that they provide ID to confirm that they were the holder of that email address.
- 9. On 22 August 2022, the Data Subject provided a copy of their ID directly to the DPC, to be provided to the Data Controller solely for the purposes of verifying their identity and then subsequently deleted. The DPC provided this to the Respondent accordingly, and requested that it investigate the matter further.
- 10. Following its investigation, the Respondent confirmed that the email address in question was associated with the account, but that the account did not appear to relate to the Data Subject. As a result, the Respondent advised that it was unable to provide access to any information associated with the account to the Data Subject. The Respondent confirmed that it had now disassociated the Data Subject’s email address from the account, and advised the Data Subject as to how they could report the account in the event they believed it was a fake or impersonating account. The Respondent also advised that, in light of the fact that the account was not associated with the Data Subject, it did not process any personal data relating to the Data Subject save for the personal information provided by the Data Subject in connection with their request.

11. The Respondent reached out to the Data Subject directly to advise them of the outcome of its investigation above. The DPC was notified of this on 30 September 2022, and a translated copy of the Respondent's correspondence with the Data Subject was provided on 16 November 2022.
12. On 1 December 2022, the DPC wrote to the Data Subject (via the Recipient SA) in relation to the Respondent's correspondence above. In its letter, the DPC noted that the Data Subject's concerns appeared to have been addressed and that their email address had now been disassociated from the account in question. 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.
13. The Recipient SA confirmed to the DPC that this correspondence was sent to the Data Subject on 9 January 2023. On 6 March 2023, the Recipient SA confirmed to the DPC that no response had been received from the Data Subject.
14. On 25 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.
15. 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

16. 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.
17. 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 that reads "Tom Delaney". The signature is fluid and cursive, with the first name "Tom" and last name "Delaney" clearly distinguishable.

Deputy Commissioner

Data Protection Commission