

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 the Hamburg Data Protection Authority (Hamburgische Beauftragte für Datenschutz und Informationsfreiheit) pursuant to Article 77 of the General Data Protection Regulation, concerning Meta Platforms Ireland Limited (formerly Facebook 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 13th day of October 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 28 October 2020, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Hamburg 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 9 March 2021

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject emailed the Respondent on 15 and 17 October 2020, to request the deletion of two accounts that utilised their personal data without their permission.
 - b. The Data Subject only received automated responses from the Respondent, and claimed that these responses did not address the issue of their complaint.
 - c. As the Data Subject was not satisfied with the automated responses received from the Respondent regarding the concerns raised, the Data Subject lodged a complaint with their supervisory authority.

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, the Respondent reviewed the two accounts and considered them to be a case of impersonation. In the circumstances, the Respondent informed the DPC of the following information:
 - a. The Respondent confirmed that both accounts were enrolled in a “checkpoint”, meaning that the accounts were both suspended and no longer visible on the Facebook platform.
 - b. The Respondent further confirmed that both accounts would remain in a “checkpoint” until such time as the creator of the accounts provided identity documentation to prove that they were the person named in the accounts. According to the Respondent, if the creator was unable to verify this information, the accounts would be scheduled for permanent deletion by the Respondent, as per its impersonation policy.
8. On foot of receiving this information from the Respondent, the DPC issued a letter to the Data Subject via their Recipient SA on 9 June 2021, notifying them of this information as set out above. The DPC received the response of the Data Subject via their Recipient SA on 4 August 2021, requesting confirmation that the accounts had been erased. On 18 August 2021, the DPC engaged further with the Respondent, to seek confirmation that the accounts in question had been deleted. On 27 August 2021, the Respondent advised the DPC that the accounts were scheduled for deletion. This information was conveyed to the Data Subject via their Recipient SA on 13 September 2021. The DPC received the response of the Data Subject via their Recipient SA on 28 October 2021, again requesting confirmation that the accounts had been erased. The DPC engaged further with the Respondent seeking confirmation that the accounts in question had been deleted. On 8 November 2021, the Respondent advised the DPC of the date the accounts were scheduled to be permanently deleted in accordance with their standard deletion policies. On 16 February 2022, the Respondent confirmed to the DPC that the erasure of these accounts had occurred.

9. On 17 February 2022, the DPC issued a letter to the Recipient SA, for onward transmission to the Data Subject, to inform them that the accounts had been permanently deleted.
10. On 30 May 2022, the Data Subject confirmed to the DPC, via their Recipient SA, that they considered the matter amicably resolved.
11. On 28 July 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:



Deputy Commissioner
Data Protection Commission