

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 21st day of October 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 7 December 2020, [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 submitted an access request directly to the Respondent on 7 May 2020.
 - b. The Data Subject was not satisfied with the response received from the Respondent.

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 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 and Respondent in relation to the subject-matter of the complaint. Further to that engagement, it was established that the Data Subject's account had been disabled due to a serious violation of the Respondent's Terms of Service. The Respondent shared the reasons for the Data Subject's account suspension with the DPC, and stated that providing the Data Subject with access to their data may create a security risk for others and, as such, could adversely affect the rights and freedoms of other users. In the circumstances, the Respondent agreed to take the following action:
 - a. The Respondent agreed to send the Data Subject a burner link providing access to their non-sensitive account data. This non-sensitive account data would encompass any data not related to the reason for the Data Subject's account disablement and which would not infringe on any person's rights and freedoms; and
 - b. The Respondent requested that the DPC provide a secure email address for the Data Subject to which it could forward the burner link containing the relevant data.
8. On 13 July 2021, the DPC engaged with the Data Subject, outlining the Respondent's proposal to provide them with their non-sensitive account data (i.e. personal data not related to the reason for the account disablement, nor data that would infringe on the rights and freedoms of others). The Data Subject subsequently responded to the DPC, stating that they would accept the Respondent's proposal on the condition that all their uploaded photos and photos they had sent in private messages were included with the data identified by the Respondent as "non-sensitive". The DPC clarified to the Data Subject that the Respondent had agreed to provide them with their non-sensitive account data only, which may or may not include photos. The DPC subsequently provided the Respondent with the email address provided by the Data Subject.
9. On 20 August 2021, the Respondent confirmed to the DPC that it had provided the Data Subject with access to their non-sensitive account data. However, on 24 September 2021 the DPC received correspondence from the Data Subject, stating that the data provided by the Respondent did not include their Facebook photos, messages, or uploads. On 30 September 2021, the DPC wrote to the Data Subject, noting that, based on the information provided by the Respondent, the DPC was in of the opinion that it was entitled to rely on Article 15(4) GDPR to refuse providing them with some of their requested data, on the basis that it would adversely impact the rights and freedoms of others. In the circumstances, the DPC asked the

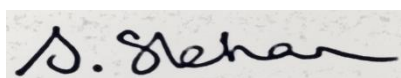
Data Subject to notify it, within one month, if they were not satisfied with the outcome, so that the DPC could take further action if required. The DPC did not receive any further communication from the Data Subject and, accordingly, the complaint has been deemed to have been amicably resolved.

10. 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

11. 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.
12. 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, appearing to read 'S. Skehan', on a light-colored rectangular background.

Sandra Skehan
Deputy Commissioner