

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 5th day of September 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 14 October 2022, [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. On 15 July 2022, the Data Subject was notified that one of their posts had breached the Respondent’s Community Standards on Child Exploitation, and their Facebook and Instagram accounts were disabled as a result. The Data Subject disputed this allegation.
 - b. On 5 August 2022, the Data Subject (via their legal representative) submitted an access request to the Respondent. The Data Subject further sought all information held or retained by the Respondent relating to the disablement of their accounts.
 - c. The Data Subject was not satisfied with the response received from the Respondent and, accordingly, submitted a complaint to the DPC.

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 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 and Respondent in relation to the subject matter of the complaint. On 4 April 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. On 18 May 2023, the Respondent responded to the DPC providing a comprehensive response to all queries raised. The Respondent explained that the Data Subject’s accounts had been disabled for a serious violation of its Terms of Service and Community Standards. The Respondent provided an extensive explanation of the review and appeal process it applies to these situations. However, the Respondent’s specialist team subsequently carried out a review of the accounts and found evidence to suggest that the accounts had been compromised and that the violation in question occurred during the period when the accounts were compromised. As such, the Respondent facilitated the Data Subject in regaining access to their accounts, and confirmed that this had been carried out successfully. The Respondent explained that it relied on Article 15(4) GDPR in withholding certain limited information from the Data Subject relating to the specific reasons for the disablement, the content that triggered the disablement and how this content was flagged, assessed and reviewed internally. In the circumstances, and noting the fact that the content in question was acknowledged by the Respondent to have been posted by a third party who had unlawfully obtained access to the accounts, the DPC was satisfied that the Respondent’s reliance on Article 15(4) was appropriate here.
9. The Respondent also provided an explanation as to the most likely situations under which an account compromise may occur (such as third party obtaining access to a user’s password) and provided the Data Subject with advice as to steps they could take to protect their accounts from compromise in future. The Respondent emphasised that “[w]hile [it] necessarily takes appropriate steps to keep the platform secure, and to provide users with important tools (including the use of two-factor authentication) and advice on how to protect their accounts, it is the responsibility of individual users to ensure that their login details are secure in order to limit the opportunity for third parties to gain unauthorised access to their accounts.”

10. In addition, and noting certain concerns raised by the Data Subject's legal representative relating to how the Respondent verified their authority to act on behalf of the Data Subject, the Respondent explained how its requirements in this regard complied with the guidance set out at section 3.4 of the European Data Protection Board's "Guidelines 01/2022 on data subject rights – Right of access".
11. In light of the explanations provided by the Respondent and the fact that the Data Subject had since regained access to their accounts, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. As such, on 9 June 2023, the DPC wrote to the Data Subject (via their legal representative) outlining the Respondent's responses to the DPC's investigation and proposing an amicable resolution to the complaint. 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.
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.
2. 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 "Tom Delaney". The signature is written in a cursive, flowing style.

Deputy Commissioner

Data Protection Commission