

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 16th day of October 2023



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 16 January 2023, [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 contacted the Respondent requesting access to their personal data. The Data Subject noted that their Facebook and Instagram accounts had been hacked and appeared to have been disabled by the Respondent as a result.
 - b. In response, the Data Subject was informed that their accounts had been disabled for a violation of the Respondent’s Terms of Use. The Data Subject disagreed with this, given their position that their accounts have been hacked, and continued to engage with the Respondent in an attempt to have the disablement overturned.
 - c. However, the Respondent refused to overturn the disablement and, accordingly, the Data Subject lodged a complaint with 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. The Data Subject confirmed to the DPC that they had subsequently managed to regain access to their Instagram account, but that their Facebook account remained disabled. On 18 April 2023, the DPC wrote to the Respondent formally commencing its investigation and requesting that it address the concerns raised.
8. In its response, the Respondent explained how the Data Subject’s Facebook account had been disabled for a serious violation of its Terms of Service and Community Standards. The Respondent further explained that, following the commencement of the DPC’s investigation, it referred the matter to its specialist team for further review, which found evidence to suggest the account had been compromised and that the serious violation in question occurred during the period in which the account was compromised (i.e. the violation was likely not committed by the Data Subject themselves). As such, the Respondent agreed to reverse the disablement of the account and reached out to the Data Subject directly to request a new secure email address that could be associated with the Facebook account and to facilitate them in regaining access. The Respondent also confirmed that the Data Subject’s Instagram account was currently active.
9. On 17 July 2023 and having reached out directly to the Data Subject as per the above, the Respondent confirmed to the DPC that the Data Subject had successfully regained access to their account and explained how the Data Subject could now obtain access to their personal data using the self-service tools, if they wished to do so. On 21 July 2023, the Data Subject wrote to the DPC to verify that access had been restored.
10. In light of the explanations provided by the Respondent as set out above, and the fact that it had facilitated the Data Subject in regaining full access to their account, the DPC considered it appropriate to conclude the complaint by way of amicable resolution. On 24 August 2023, the DPC wrote to the Data Subject outlining the Respondent’s response to its investigation and noting the confirmation received that they were now able to regain access to their

account and access their personal data. 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. 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

12. 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.

13. 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