

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 Österreichische Datenschutzbehörde; the Austrian Data Protection Authority 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 21st day of October 2022



Data Protection Commission
21 Fitzwilliam Square South
Dublin 2, Ireland

Background

1. On 6 August 2018, [REDACTED] (“the **Data Subject**”) lodged a complaint pursuant to Article 77 GDPR with the Austrian Data Protection Authority (“the **Recipient SA**”) concerning Meta Platforms Ireland Limited, formerly Facebook 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 September 2018.

The Complaint

3. The details of the complaint were as follows:
 - a. The Data Subject asserted that they corresponded with the Respondent on 8 June 2018, requesting information in relation to the processing of their personal data in accordance with Article 15 GDPR and raising issues in relation to the erasure of their Facebook account, for which they no longer had the login credentials.
 - b. The Data Subject was not satisfied with the response received from the Respondent in respect of their request.
 - c. As the Data Subject was not satisfied with the response 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 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 February 2019, the Respondent informed the DPC that the Data Subject was no longer able to access their data on their account as the Data Subject had previously deactivated the account in question and no longer had the account login credentials. Further to this, the Respondent noted that prior to the DPC contacting them on this matter, they had no previous evidence of an erasure request being lodged with them by the Data Subject in respect of this account.
- 8. As part of the amicable resolution process, the Respondent provided information to the DPC, for onward transmission to the Data Subject, advising him how he could regain access to his account. The Respondent further advised that once the Data Subject had regained access to the account, he could then self-delete the account.
- 9. The DPC sent this information as an amicable resolution proposal to the Data Subject, via the Recipient SA on 21 February 2019. On 14 May 2019, the Data Subject provided further comments and sought further clarification on the proposal offered by the Respondent.
- 10. The DPC interacted with the Respondent further and following this engagement, the Respondent provided further information on the solution proposed. In this regard, the Respondent confirmed that if the Data Subject provided a new secure email address, a member of their specialist team would make direct contact with the Data Subject in a bid to verify ownership of the account. The Respondent further advised that, if ownership of the account could be verified, then the request to delete the account would be complied with.

11. On 13 January 2020, the DPC sent an amicable resolution proposal to the Recipient SA, for onward transmission to the Data Subject. This letter issued to the Data Subject on 30 July 2020. On 3 November 2020, the Data Subject thereafter provided further comments querying, *inter alia*, the purpose of the procedure proposed and why the Respondent could not simply delete the data.
12. On 25 January 2021, the DPC issued a letter to the Recipient SA, for onward transmission to the Data Subject. This letter issued to the Data Subject on 10 May 2021. In this correspondence, the DPC provided further information to the Data Subject on the amicable resolution proposed, noting in particular, the obligations imposed on Data Controllers by the GDPR to ensure security of processing, and the ability of Data Controllers to request further information if there was a reasonable doubt as to the identity of the Data Subject making the request. This letter requested a response from the Data Subject within two months if they objected to the amicable resolution of their complaint and wished to pursue the matter further.
13. On 8 June 2022, the Recipient SA confirmed to the DPC that the Data Subject provided no further response to the DPC correspondence as of that date and, accordingly, the complaint was deemed to have been amicably resolved.
14. In light of the foregoing, the DPC wrote to the Recipient SA on 27 July 2022, 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 dark ink, appearing to read 'Tony Delaney'. The signature is fluid and cursive, with the first name 'Tony' and last name 'Delaney' clearly distinguishable.

Deputy Commissioner
Data Protection Commission