

DECISION

Background

- 1 The complainant, Mrs RR, first made a complaint to the Tolling Customer Ombudsman (TCO) on 3 April 2013, as follows:¹

"I would like this matter looked into Go via sending out demand notices and charging 21.60 on top of each individual toll this is just so wrong.I have spoken to them and they said they can do this .I have had demand notices from them before where they send you sometimes one months tolls and add 7.95 or something like that to the bill ,if that is not paid they are meant to send you the same bill but add 21.60 now they are getting greedy and ripping queenslanders off by charging a fine on each individual toll which means if you go through the same toll 2 times in one day that will cost over 50.00 so damn wrong .They sent me 13 of them at 25.00 and if i dont pay those in a certain time they will then send me to spur and add 140.00 on each toll .These people need to be stopped they are putting people in financial hardship like myself.When they have sent me a demand notice and added the 7.00 (approx) i have always paid them .But waiting nearly 3 months to send out demand notices from dec -jan and why are they waiting that long to send notices out.I also received a demand notice for 17.70 and has no tolls on it when i rang them to ask what that was for they started to give me the run around and kept changing the subject .What the heck do these people think they are doing i am not paying for something with no tolls on. Hoping you can help me out with this situation."

- 2 The attached Complaint Form contained the following complaint details:

*"Please give details of your complaint
Queensland Tolls sending me out 13 fines adding up to over \$330 00, and nearly 3 months after I had gone through the tolls. Also charging \$21-60 for each individual toll. Absolute disgrace ripping people off. And also sending me out a demand notice for \$17-70 with no tolls on it.*

What happened following your complaint to the tolling business?

¹ All parties' submissions used in this Decision are quoted verbatim

When ringing them they could not answer why I received a \$17-70 Demand Notice with no tolls on it. Just kept changing the subject. When asked why I had received 13 Demand notices each being \$25-00 for individual tolls. One Day of using the tolls twice cost me over \$52-00!! RIP OFF!!!

What do you want to happen for your complaint to be resolved?

They should be sending a demand notice a week after going through tolls adding all tolls plus \$7-95 approx like they are meant to. Not waiting 2 months then sending a whole envelope full each being \$25-00 for Each Individual toll."

- 3 The TCO acknowledged the complaint by email dated 4 April 2013 and referred it to Queensland Motorways Limited (QML) for investigation and response. The email contained the following clause:

"I must point out that I have jurisdiction over a range of complaints that are made by the users of toll roads, including Go Via. However, the level of account fees and toll charges does not fall within my jurisdiction. Fees charged by Tolling operators are set at a level that reflects the administrative costs involved by the operator. They cannot impose a fee at a level that would be a penalty on the customer. They are fixed by arrangement between the State Government and toll road operators and I do not have the power to vary them in any circumstances."

- 4 On 8 April 2013 QML responded directly to Mrs RR, copied to the TCO, as follows:

"Thank you for your email, forwarded to Queensland Motorways from the Tolling Customer Ombudsman (TCO).

You question the legality of our conduct in charging and collecting tolls from users of the Gateway, Logan and Gateway Extension Motorway toll roads.

To clarify Section 93 of the Transport Infrastructure Act 1994 (Qld) gives the Queensland Government authority to charge tolls for use of the Gateway, Logan and Gateway Extension Motorway toll roads. Queensland Motorways Pty Limited has entered into a Road Franchise Agreement with the Queensland Government, which allows Queensland Motorways Pty Limited to operate the Gateway, Logan and Gateway Extension Motorway toll roads and to collect the tolls for their use.

As the toll roads are a pre-paid service, it is required for the registered owner to make the necessary arrangements for their tolls. Whereby pre-arrangements are not made, we provide a grace period of 3 days before the toll recovery process begins.

After the grace period is due, tolls are subject to an administrative fee of \$7.56 and are allowed up to 30 days to be paid before demand notices of \$21.60 are issued per toll. All of our fees and charges are approved by the

State of Queensland and included in the Annual State of Queensland Gazette.

I acknowledge that you are a **go via** account holder that failed to meet the credit terms of your pre-paid tolling account. On the 24th of October 2012 your account was suspended but the vehicle continued to travel through the toll roads, ignoring all suspension warnings and balance alerts, as well as the 4 beeps of the tag. The account had a negative balance of \$89.54 by this stage.

As the account was suspended all travel was billed as No Arrangement Travel (**NAT**) which is separate from your **go via** account.

The vehicle travelled on the below dates:

IRIS REF/PRC REF	Document Date	Time of Passage	Trans Description	Licence Plate Number	Amount
558	27/10/2012	12:55:05 AM	Loganlea West -	[KVD]	1.53
272	02/11/2012	9:59:32 AM	Heathwood West -	[KVD]	2.52
692	02/11/2012	2:27:46 PM	Heathwood East -	[KVD]	2.52
779	03/11/2012	7:57:17 AM	Loganlea East -	[KVD]	1.53
801	03/11/2012	5:06:58 PM	Loganlea West -	[KVD]	1.53
749	18/11/2012	2:03:57 AM	Kuraby North -	[KVD]	2.38
189	18/11/2012	2:13:31 AM	Kuraby South -	[KVD]	2.38
879	22/11/2012	12:25:08 PM	Kuraby North -	[KVD]	2.38
676	22/11/2012	12:37:16 PM	Murarrrie North -	[KVD]	4.04
027	22/11/2012	12:56:00 PM	Murarrrie South -	[KVD]	4.04
946	22/11/2012	1:08:39 PM	Kuraby South -	[KVD]	2.38
458	24/11/2012	2:12:24 PM	Kuraby North -	[KVD]	2.38

We sent unpaid toll notices with only the \$7.56 fee on the following dates:

31.10.2012, Due 10.11.2012, Payment requested \$9.52
 14.11.2012, Due 24.11.2012, Payment requested \$19.34

We did receive the payment of \$19.34 however it was only received on the 6th of December 2012 and as it did not meet the due date, was already charged further demand notices by this stage.

***558	28/11/2012	12:00:00 AM	Demand Notice Fee		21.60
	06/12/2012	12:00:00 AM	Payment Received Thank-you		-19.34

As the vehicle continued to travel and payment was received either short of the total balance or paid late, the NAT account could not be reconciled.

123	07/12/2012	12:15:41 PM	Heathwood West -	[KVD]	2.52
834	08/12/2012	11:06:08 AM	Heathwood West -	[KVD]	2.52
160	09/12/2012	12:24:41 PM	Heathwood East -	[KVD]	2.52

347	14/12/2012	12:55:13 PM	Loganlea East -	[KVD]	1.53
060	20/12/2012	10:10:50 AM	Heathwood West -	[KVD]	2.52
962	20/12/2012	10:48:49 PM	Heathwood East -	[KVD]	2.52
398	22/12/2012	9:39:13 AM	Heathwood West -	[KVD]	2.52
365	22/12/2012	9:15:53 PM	Heathwood East -	[KVD]	2.52
412	24/12/2012	1:52:24 PM	Heathwood West -	[KVD]	2.52
397	26/12/2012	1:23:53 PM	Heathwood West -	[KVD]	2.52
555	26/12/2012	8:58:15 PM	Heathwood East -	[KVD]	2.52
226	27/12/2012	11:34:42 AM	Heathwood West -	[KVD]	2.52
383	27/12/2012	5:49:53 PM	Heathwood East -	[KVD]	2.52
259	01/01/2013	11:30:22 AM	Heathwood West -	[KVD]	2.52
139	01/01/2013	9:53:51 PM	Heathwood East -	[KVD]	2.52
***801	02/01/2013	12:00:00 AM	Demand Notice Fee		1.74
***779	02/01/2013	12:00:00 AM	Demand Notice Fee		2.24
***779	02/01/2013	12:00:00 AM	Demand Notice Fee		19.36
***801	02/01/2013	12:00:00 AM	Demand Notice Fee		19.86
***272	02/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***692	02/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***558	10/01/2013	12:00:00 AM	Payment Received Thank-you		-23.15
930	11/01/2013	8:47:59 AM	Heathwood West -	[KVD]	2.52
935	11/01/2013	6:37:19 PM	Heathwood East -	[KVD]	2.52
814	13/01/2013	8:04:08 AM	Heathwood West -	[KVD]	2.52
469	13/01/2013	3:23:44 PM	Heathwood East -	[KVD]	2.52
628	13/01/2013	6:39:06 PM	Heathwood West -	[KVD]	2.52
622	14/01/2013	9:31:16 AM	Heathwood East -	[KVD]	2.52
638	14/01/2013	1:41:46 PM	Heathwood West -	[KVD]	2.52
267	14/01/2013	5:58:42 PM	Heathwood East -	[KVD]	2.52
	17/01/2013	12:00:00 AM	Payment Received Thank-you		-43.70
***834	30/01/2013	12:00:00 AM	Demand Notice Fee		2.55
***347	30/01/2013	12:00:00 AM	Demand Notice Fee		2.55
***879	30/01/2013	12:00:00 AM	Demand Notice Fee		6.20
***834	30/01/2013	12:00:00 AM	Demand Notice Fee		7.62
***834	30/01/2013	12:00:00 AM	Demand Notice Fee		11.43
***879	30/01/2013	12:00:00 AM	Demand Notice Fee		15.40
***347	30/01/2013	12:00:00 AM	Demand Notice Fee		19.05
***123	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***160	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***749	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***027	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***458	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***676	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***189	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
***946	30/01/2013	12:00:00 AM	Demand Notice Fee		21.60
	01/02/2013	12:00:00 AM	Payment Received Thank-you		-72.15
***692	01/02/2013	12:00:00 AM	Payment Received Thank-you		-24.12
***272	01/02/2013	12:00:00 AM	Payment Received		-24.12

			Thank-you		
***779	01/02/2013	12:00:00 AM	Payment Received Thank-you		-21.60
***801	01/02/2013	12:00:00 AM	Payment Received Thank-you		-21.60
***189	06/02/2013	12:00:00 AM	Payment Received Thank-you		-23.98
***749	06/02/2013	12:00:00 AM	Payment Received Thank-you		-13.98
***749	06/02/2013	12:00:00 AM	Payment Received Thank-you		-10.00
	26/02/2013	12:00:00 AM	Payment Received Thank-you		-56.05
***962	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***935	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***383	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***930	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***365	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***060	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***412	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***397	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***555	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***226	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***398	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***259	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***139	28/02/2013	12:00:00 AM	Demand Notice Fee		21.60
***879	14/03/2013	12:00:00 AM	Payment Received Thank-you		-8.58
***027	14/03/2013	12:00:00 AM	Payment Received Thank-you		-4.04
***676	14/03/2013	12:00:00 AM	Payment Received Thank-you		-4.04
***123	14/03/2013	12:00:00 AM	Payment Received Thank-you		-2.52
***834	14/03/2013	12:00:00 AM	Payment Received Thank-you		-2.52
***160	14/03/2013	12:00:00 AM	Payment Received Thank-you		-2.52
***458	14/03/2013	12:00:00 AM	Payment Received Thank-you		-2.38
***946	14/03/2013	12:00:00 AM	Payment Received Thank-you		-2.38
***347	14/03/2013	12:00:00 AM	Payment Received Thank-you		-1.53
***622	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60
***638	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60
***469	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60
***814	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60
***628	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60
***267	28/03/2013	12:00:00 AM	Demand Notice Fee		21.60

*Payment is required to reconcile the No Arrangement Travel (NAT) account. The outstanding balance at the time of my response is **\$458.28**.*

If your tolls and Demand Notices remain unpaid and continue to be ignored, they will be referred to the Department of Transport and Main Roads and a Penalty Infringement Notice may be issued from their Tolling Offence Unit. This notice attracts an administration fee in excess of \$154.00 for toll evasion offences.

If you would like to be proactive on the matter I have provided payment options below:

*To make payment of **\$458.28** you may choose from the following options;*

- *credit card payment online at <http://www.govia.com.au> - to make payment please [click here](#) and use reference [***001] and registration plate number [***KVD]*
- *credit card payment over the phone with a **go via** representative on 13 33 31*
- *by Cheque sent to Queensland Motorways PO Box 2125 Mansfield Queensland 4122 with the detached portion from the notice*
- *BPay using biller code 10306 and reference [***015]"*

5 On 9 April 2013 Mrs RR responded to QML:

"Just to add to my last message i have been through what you have sent me out i would like to know why a demand notice for

*ref no***638*

*ref no***622*

*ref no***469*

*ref no***814*

*ref no***267*

*ref no***628*

Not once have i received these tolls with a \$7.56 fee added to them

Also payments were made toto go via of

17/01/13 43.70

26/2/13 56.05

1/2/13 72.15

6/12/12 19.34

What tolls were these for please i would like a copy of what tolls these were for and the reference number they relate to.

Also going through demand notices that were sent why would your company send out 3demand notices totally up to 21.60 do you think I am stupid or what you did not send any of these out and especially 3 on the same day.

Not one of the other demand notices that you sent out to me have you sent me the first fee of 7.56 AND IF YOU HAVE I WOULD LIKE PROOF BECAUSE ON THE STATEMENT YOU HAVE JUST SENT ME OUT THERE IS NO DEMAND NOTICES SHOWING WITH THE SMALLER FEE.

I would like this done ASAP as I am sick of your company trying to take me for a ride I have now the proof that you sent me prior showing no 7.56 demand notices sent

payments for demand notices

****879*

****027*

****676*

****123*

****834*

****946*

****347*

these were all paid via the go via page and when putting in the reference number I paid the amount in which it told me was owing and i have receipts for all payments.

If you would like to speak to me on this you can give me a call as do not try and overcharge me

[mobile number]"

6 On the same day QML replied to Mrs RR as follows:

"I will explain the process of account suspension again.

*Your **go via** account when suspended cannot accept tolls. This balance on your **go via** account is referred to Dun & Bradstreet for recovery. We are not discussing any arrangements you may have held with them.*

*The tolls that cannot apply to the suspended account are billed to a NO ARRANGEMENT TRAVEL (NAT) account and unpaid toll notices are sent to the registered owner (separate to your **go via** account). There are administrative fees involved with this and cannot be associated with your **go via** account, because at the time of the trips the account was not valid.*

Your vehicle was recorded travelling through a toll point without a valid account or pass.

When this occurs, and payment is not arranged within 3 days of travel, an unpaid toll notice will be issued to the registered owner of the vehicle.

Due to privacy legislation, notices are issued on behalf of Queensland Motorways by the Department of Transport and Main Roads based on their records.

This notice will include all travel information, listing the date and times of the infringement and includes an administration fee of \$7.56 to cover the cost of requesting the Department to issue these notices. If payment is not received by the due date of the final notice, a demand notice will be issued incurring a further \$21.60 per outstanding toll.

You have advised that you have not received the original notices, however you have made payment according to these notices?

I have advised that you have made payments late resulting in further fees and have not made necessary arrangements to pay for the shortfall.

Please review the transactional listing I have included in my last email and balance your payments with your toll usage. If you require further clarification on the chronology please advise which part of the time line you would like me to explain.”

7 To which Mrs RR responded:

“I understand what you have told me I am not stupid now I am asking for answers to my questions and if you cannot give them to me who else can I contact.”

8 On 11 April 2013 QML emailed Mrs RR, copied to the TCO, in the following terms:

“I do not suggest any stupidity on your part; however it is clear that you are having difficulty understanding your toll usage and payment transactions.

The Department of Transport and Main Roads who forwarded the notices on our behalf to the registered owner has kindly provided copies of the notices they have sent, and I have taken extensive time to label the trips and your payments in a spread sheet.

You have requested for evidence showing that we have billed for the trips with only a \$7.56 fee before sending out the demand notices. I have advised you that this was complete, and not even the \$7.56 was applied other than the 1st bill, but we still did not receive payment.

I have attached all of your required documentation for your perusal.

If, after your study on the transactions you are still not able to reconcile the amounts as I have done, then I’m unsure of what other avenues we can explore, as I am the only point of contact within Queensland Motorways that can provide you this in-depth information.

I have included the TCO in all of our correspondence and as previously advised neither Queensland Motorways nor the TCO have any jurisdiction in the level of fees incurred by your vehicle from you failing to pay for your tolls within the required 3 days after travel.

We cannot assume responsibility for you not receiving your mail, as you should not depend on a bill before payment of tolls. Rather you are to maintain credit on your tolling account or seek alternative payment in passes,

and ultimately avoid toll roads completely if it is not your intention to make payment. You are aware that you are travelling on a toll road and you have an obligation to make payment for those tolls.

*Payment is required immediately for **\$458.28**.*

*To make payment of **\$458.28** you may choose from the following options;*

- credit card payment online at <http://www.govia.com.au> - to make payment please [click here](#) and use reference [***001] and registration plate number [***KVD]*
- credit card payment over the phone with a **go via** representative on 13 33 31*
- by Cheque sent to Queensland Motorways PO Box 2125 Mansfield Queensland 4122 with the detached portion from the notice*
- BPay using biller code 10306 and reference [***015]*

*Failure to make payment will result in the Department of Transport and Main Roads issuing you a Penalty Infringement Notice (PIN) in excess of \$154 for **each** outstanding toll. This is separate from the amount owed to Queensland Motorways.”*

9 Mrs RR responded:

“I have been through the spreadsheets that you sent me and i can see all the demand notices and what dates they were sent out and in actual fact all tolls were paid for before those demand notices were sent out .Also 4 demand notices were sent out after you guys received a payment for all of them and i also paid those demand notices when i should not have.Had the payments been put on the spreadsheets in the right place then it would have been visible to see payments had been made for those tolls and demand notices should not have been sent.

I am doing business admin at the moment and I can see i am being charged money for something that has already been paid for.

In actual fact i would think if all the payments were put down on the spreadsheet at the time they were paid you would be able to see that i am correct and in actual fact i have paid 86.40 for tolls for which i had already paid for before those demand notices were sent out.

Maybe i will do my own spreadsheets and show you where the payments were already paid before demand notices were sent out then you can see where i am coming from .I am fighting this for a good reason if i knew i had not done the right thing i would pay it but you can see it plain as day”

10 QML replied:

“I welcome your take on the matter and await your records.”

11 On 17 April 2013 Mrs RR emailed QML as follows:

“To whom it may concern

Thank you for taking the time to reply to my email regarding my issue with your notices of demands and processes

I have taken the time to thoroughly read and verify the spreadsheet you had emailed me regarding my tolls and fees that have been charged against me.

I currently hold a govia account with your company for a couple of years now. Up until now, I have not been made aware to why these tolls that have received over due notices and were not linked to my toll account at the time of travel.

In no circumstances was I made aware when signing up with a toll account, that if my account falls under credit, that govia have created an unknown account for tolls to be transferred. I created a toll account in order for my vehicle to link and debit the funds at the time. However there was no notification received to me by your company regarding a new process due to account suspension.

My account was made overdrawn at times before but I had never received these substantial notices or fees, nor was I made aware by govia of a new account suspension process by mail, email or txt which is my form of contact that I have set up with your company.

You have made it clear for all pre-paid accounts that additional fees may apply, yet these fees have not been applied to my govia account but on an account that govia has decided to create which has not been specifically explained in any notification by letter or on your website please see below:

If at any time your pre-paid Account is not in credit, additional fees and charges may apply and:

(a)

if we have provided you with a Tag, we may ignore it and use photographs of your Vehicle as it travels through toll points on Queensland Motorways Roads to identify it;

(b)

we may direct you to return any Tags we have provided to you, and charge tag fees to your Account for any Tags which you have not returned to us;

(c)

we may treat each trip as an infringement and send you an invoice requesting payment;

In your terms and conditions you have stated in clause 2 - 2.1-d our right to record and use the Personal Information you provide to us, and to link the details of

your Tags to your Account and the details of your Vehicles to your Account or Pass, to allow your toll passages to be processed correctly;

(e)

our rights to charge your Account or post-paid Pass for use of Queensland Motorways Roads and Compatible Toll Roads and to charge your pre-paid Pass for use of Queensland Motorways Roads, and our rights (including the right to close your Account) if you don't comply with your obligations; and

(f)

our obligations to provide you with statements (if you have an Account or post-paid Pass) about your use of Queensland Motorways Roads and Compatible Toll Roads or, if you have a pre-paid Pass, to provide you with a listing of the amounts charged to your Pass for your use of Queensland Motorways Roads, and to maintain the privacy of your Personal Information

Again you stipulate that for all vehicles or tags that are detected travelling through QML roads will be charged to my account.

3.3

Travel on Queensland Motorways Roads

3.3.1

If we detect your Tag travelling on Queensland Motorways Roads, we will charge your Account with the applicable toll.

3.3.2

If we detect your Vehicle travelling on Queensland Motorways Roads and we have not provided you with a Tag, we will charge your Account or Pass with the applicable toll plus the video matching fee.

3.3.3

If we have provided you with a Tag but do not detect the Tag when your Vehicle travels on Queensland Motorways Roads, we will charge your Account with:

(a)

the applicable toll; and

(b)

the applicable video matching fee if the failure to detect your Tag is not attributable to our Tolling

I have taken my time to verify these trips and on the spreadsheet you also have provided that I have paid for all notices that were mailed to me, after confirming that these notices were not paid by due date, but paid either 2-3 days after the notice is due. This is evident on your spreadsheet, these notices do not arrive to me til either on the due date a 2 days later, which I

have been told this is not a matter for QML yet, this is a matter knowing that you have only given 2weeks notice from when the toll is due.

I also like to confirm that I made payments through your website with the reference numbers on the notice of demands, and these amounts were paid by what your website made visual to me. Please see below:

<i>*** 458 20000836348 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-2.38</i>
<i>*** 123 19001000394 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-2.52</i>
<i>*** 834 19001000402 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-2.52</i>
<i>*** 160 19001000411 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-2.52</i>
<i>*** 347 18000873687 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-1.53</i>
<i>*** 027 21000657796 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-4.04</i>
<i>*** 676 19001000422 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-4.04</i>
<i>*** 946 19001000428 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-2.38</i>
<i>*** 879 22000555906 14/03/2013 12:00:00 AM Payment Received Thank-you</i>	<i>-8.58</i>

I have taken a screen shot of these individual payments as these amounts were prompted to pay with no fee? I have attempted to do right by paying for these amounts on what your notices have advised as well as your website

Your spreadsheet collates tolls and and the extra administration charges, but does not then clearly advise in order of payments I made by the notices I have received. Again this is confusing that you have structured this spreadsheet to show my payments credited at the bottom of the spreadsheet? It is clear and evident that I as a customer is paying for these tolls and fees as my ethics to paying bills are not to leave these to occur infringement notices.

In total I have paid off the tolls and administration fees advised by the notices I have received, there is no mention of extra charges on the first notice to advise of these extra \$21.60 charge or charging each individual toll.

In upon receiving any notifications to my goviva account regarding my account suspension, there is no mention of the process on why and how the account is suspended that this will create a unknown account under my registration only?

I am hoping you will thoroughly absorb my request that I have paid my tolls and the administration fees on the notices provided, therefore I am not abide to pay for these extra Notice of demands charged to me at \$21.60 each. As on your spreadsheet it shows there are 35 Notices of Demands charged at \$21.60 each this amt totals to \$756 in total? these notices do not reflect to the amount of tolls you have provided.

I would like this matter to be resolved in the best interest of both your company and myself, if I have outstanding tolls that are still unpaid, there has been no other notices mailed to me. I have paid for the tolls as advised by the statements that I had received, although you advise these notices were not paid by the due date, it is not within my grasp that your postage company delivers these notices late to me.

Please reply to me on your outcome, if this matter is not resolved I will then hence to take this further. After reading your terms and conditions on your website your company has not fully advised of all new processes on how the govia account works. Your notices and notifications do not legally advise on what matters that occur if payment is not due or paid on time. My final recommendation is to advise that these charges of \$21.60 to waiver due to queensland motorways failing to advise of the account suspension of warning to their customers, there is no use that you advise this is on the website? there was no letter issued out to me? or via email or text message so your company says is my alert warning in regards to my account. I have fully complied to Queensland Motorways by paying the amounts and administration fees as advised.

Thank you for taking the time to read my email and I am hoping that your company comes in agreement that these charges be written off, and now fully reading on your website the process to avoid this in future.”

12 On 19 April 2013 QML responded to Mrs RR, copied to the TCO, as follows:

“Thank you for your response.

This separate account is not one that we have simply created as part of the account suspension process.

This No Arrangement Travel account is one that is required by State legislation, under the Transport Infrastructure Act (1994) of the State of Queensland.

I have included a copy of this Act for your perusal.

You may like to refer specifically to Chapter 6, Part 7, Division 3, Section 96:99.

*Queensland Motorways have issued unpaid toll notices, final overdue toll notices and demand notices to the registered owner of [***KVD], as payment was not received for the tolls within the grace period of 3 days, as the vehicle was travelling without a valid account, according to the law. You did not meet the terms and conditions of your pre-paid **go via** account as it was constantly in debit to ensure that you were compliant to tolling legislation.*

*Based on the succinct and thorough accounting I have provided, there is no capacity to withdraw the amounts outstanding for vehicle registration [***KVD] for travelling without a valid account/pass.*

The tolls are a pre-paid service and should be paid before you travel. As you have chosen not to ensure there is credit for this travel, we have allowed up to 3 days before we began to bill you in the form of unpaid toll notices. These

initial notices have a 14 day payment window, and a final overdue notice is sent. These final overdue notices have a further 14 day payment window. Demand Notices are then issued with a 30 day payment window.

Based on our records, you simply have not met the legislative requirement to make payment for your tolls without incurring additional administrative fees are is fully liable for the outstanding amounts.

*Payment is required immediately for **\$458.28**.*

*To make payment of **\$458.28** you may choose from the following options;*

- credit card payment online at <http://www.govia.com.au> - to make payment please [click here](#) and use reference [***001] and registration plate number [***KVD]*
- credit card payment over the phone with a **go via** representative on 13 33 31*
- by Cheque sent to Queensland Motorways PO Box 2125 Mansfield Queensland 4122 with the detached portion from the notice*
- BPay using biller code 10306 and reference [***015]*

*Failure to make payment will result in the Department of Transport and Main Roads issuing you a Penalty Infringement Notice (PIN) in excess of \$154 for **each** outstanding toll. This is separate from the amount owed to Queensland Motorways.”*

13 On 22 April 2013 Mrs RR emailed QML and follows:

“In response to your last email I am not happy with the outcome and I think I am being treated unfairly as I am not one of your customers that did not just forget about paying the notices at least I made an effort and paid all of them .Maybe some of them were a few days late but you cannot pay if your money is not in the bank on that day ,but atleast I paid them.

The ones that were paid on the Go Via website I have no intention of paying anymore to those as when I put the ref no in off the demand notices That was the amount that came up and that is what I paid not my fault your website did not have the right amount on there.I will be taking this further and I will get some advice from my local MP as to what steps I can take to sort this out.I have also made contact to my local paper as I have all my receipts from your website showing the amount I was told to pay.I think you are a money making company that rip people off and I am sure if you were in my shoes you would do the same.I dont believe you cannot do anything about this I just think you are treating me like I have ripped you off.The spreadsheet shows I have clearly paid more back to you people ,more than the actual tolls that I have been through.I will also be going to another ombudsman with all the paper work that I have and showing them because I do not believe the tolling ombudsman is there for the customer he is more there for your business.”

14 On 23 April 2013 QML emailed Mrs RR, copied to the TCO:

"Thank you for your reply.

I welcome any further mediation you may seek, as all correspondence will be directed back to this office to ensure full visibility on the matter.

I have included in all our correspondence correct information and it is noted that you do not have intention to make payment for the balance. I have also included that you may receive Infringements for toll evasion offences which can be discussed further with DTMR.

Your enquiry has now been filed, pending further communications from yourself or your representatives."

15 Mrs RR replied to QML:

"I did not say I was not going to pay all the payment that is due I said I was not going to pay anymore to the ones I paid online at GO VIA as the demand notices ref no was put in and the amount that came up is what I paid and that is not my fault so those payments need to be adjusted on the amount I am owing .If you did not put the correct amount that was due for payment on your website I should not be accountable for your mistakes can you not see your compny is in the wrong there ? I really think you are being nasty whern you say I have avoided paying my infringements and you are going to put it through as toll invasion when i have never avoided paying them at all. What does DTMR stand for and I will ring and discuss it with them"

16 On 24 April 2013 QML responded, copied to the TCO:

"The payments you have made using the reference numbers on the demand notice will thus only reflect the balance on the demand notice.

The amount listed on all demand notices only includes the demand notice fee of \$21.60 and the trip amount.

The issue is that you did not pay all the demand notices issued to you hence there is still a balance. Of course I do not expect you to make payment for the notices that you have already paid. The amount of \$458.28 relates to amounts that you have not paid.

The accounting figures indicate simply that payment was not received as required, and that equates to the registered owner not making payment for their tolls and also have not made payment for the administrative charges associated with their tolls."

17 On 2 May 2013 the TCO wrote to Mrs RR and QML in the following terms:

“As it appears that this matter will not be resolved by conciliation, I will now proceed with making a written Decision.

Pending a TCO Decision it is recommended that the toll road operator customers regularise their accounts to prevent any further loss accumulating in the form of additional fees. Any such payment made to regularise an account will be refunded in a TCO Decision favourable to the customer.”

18 This notification was acknowledged by QML.

19 Mrs RR responded to the TCO as follows:

“In my defence to this matter I feel that I have paid what I owe and just because I have been a few days late paying it should not mean I should be penalized for it.They sent me the spreadsheets and it shows all payments were made .I am not a person that just lets things goes and never pays I did pay .I feel that there is a lot of people out there that never ever pay .At least I did the right thing.The payments that I paid on the Go Via website I paid according to what was on there and they now want to penalize me for that.To be honest I am already under a lot of financial stress and this matter does not make me feel any better.This has also put me under a lot of mental stress as This company is making me pay extra money I do not have.I have spoken to people who have worked at Go Via and they have even said to me that what is happening to me is not fair.If this was to go to Spur It would cause me so much financial stress that I would just be devastated and probably would have to lose everything and I would have to go bankrupt as I could not cope.I do not work at present and I am trying to finish Tafe so I can get a job and I have a family to worry about.HONESTLY if I did not ever pay what was expected of me I would not be fighting this at all ,but I really feel sad about what I am coping with these fines.”

20 This was acknowledged by the TCO on 3 May y2013:

“I acknowledge receipt of your email below and confirm its contents will be taken into account in my Decision.”

Decision

- 21** The objective of the TCO is to resolve complaints, which fall within its jurisdiction, between toll road operators and their customers efficiently, fairly and without charge to the customer. In attaining this objective the focus is to look at the issues that are relevant to the resolution of the complaint between the toll road operator and its customer.
- 22** This is done in the context of the circumstances of the complaint, any terms of the use of toll roads and legal requirements. Relevant terms are contained in the Customer Service Agreement, on a toll road operator's website or in other material that is available to customers, whilst the applicable legislation can be accessed through Government websites.
- 23** The TCO is not a judicial body and does not have punitive powers. The TCO, when making a decision, does so on the basis of what it considers fair in the circumstances, taking into account the effect of a decision on each party and any public interest. The TCO only has jurisdiction over the conduct of toll road operators and cannot determine matters in relation to allegations against other outside bodies.
- 24** This is a matter that essentially revolves around the payment of fees consequent upon Mrs RR's failure to keep her account in good order. She initially held a pre-paid account that was suspended on 24 October 2012 for her failure to meet her credit terms.
- 25** Despite this, Mrs RR continued to use the toll road, ignoring all suspension warnings and balance alerts as well as the four beeps on her tag. Her account ran up to \$89.54 and she was placed on No Arrangement Travel.
- 26** QML sent Mrs RR accounts for the outstanding pre-paid travel and the No Arrangement Travel but she only made intermittent payments that could not be reconciled with the tolls charged for the use of the toll road. As a consequence of this, she received Demand Notices that attracted fees of \$21.60 per toll. This continued until the end of March 2013, leaving Mrs RR with an amount owing of \$458.28.
- 27** Mrs RR has complained about both the charging of the additional fees and the level of the fees charged.
- 28** QML has explained the process in relation to the levying of fees, including the grace period that is allowed and the fact that all fees and charges are approved by the State of Queensland and are included in the Annual State of Queensland Gazette.

- 29** Due to privacy legislation, notices are issued on behalf of QML by the Department of Transport and Main Roads, based on their records. The notice includes all travel information, listing the date and times of the infringement and includes an administration fee of \$7.56 to cover the cost of requesting the Department to issue the notices. If the payment is not received by the due date of the Final Notice, a Demand Notice will be issued incurring a further \$21.60 fee for every outstanding toll.
- 30** Mrs RR states that she did not receive these original notices but, as QML has pointed out, Mrs RR has made payments in respect of the notices. The problem was that she made the payments late, resulting in further fees and no arrangements were made to pay for the shortfall.
- 31** I cannot be satisfied on the evidence that the notices were not sent by the Department of Transport and Main Roads and not received by Mrs RR.
- 32** I am satisfied that QML has provided a comprehensive explanation of its processes together with spreadsheets of Mrs RR's usage of the toll road, the fees incurred and the payments made. This, in my view, adequately dealt with the issues Mrs RR has raised.
- 33** I am satisfied that if Mrs RR had kept her account in good order and paid the tolls in a timely manner she would not have incurred the administration fees she has.
- 34** In these circumstances, I find that Mrs RR is liable to pay the amount of \$458.28 to QML.

Determination

- 35** The complaint is not upheld.

Michael Arnold
Tolling Customer Ombudsman

Dated: 17 June 2013