

## DECISION

### Background

- 1 The complainant, Ms SK, first made a complaint to the Tolling Customer Ombudsman (TCO) on 3 December 2014, as follows:<sup>1</sup>

“My name is [Full name of Ms SK], and I am having an issue with QLD Transport.

On February 2013, the 19<sup>th</sup>, I had a major car accident, which I fractured my T3 – T6 in. I contacted QLD transport after this date, and I finalised all payments owing on the vehicle at the time [6\*\*\*M]. There was still an amount owing to SPER in which I have settled with them.

This year I had some issues with the payment of tolls on my new vehicle [9\*\*\*K], this is my fault admittedly. However I have worked extremely hard to pay them off and finalise everything, my account is now up to date and clear.

On the 30.07.2014, I removed a letter from the PROBE group for the amount owing over \$2000 for the old vehicle in FEB last year, one and a half years later regarding funds outstanding. I nearly had a heart attack, my heart sank and I rang Qld transport straight away. I spoke to a lady on the 30.07.2014, on my way back from a work appointment, she advised me that she could not find any reason for myself owing any funds on either of these two vehicles and to call the probe group. So I did and I told them what this lady had told me.

Then I sent a letter to QLD transport and the Probe Group early September. I haven't heard anything till 5 minutes ago, when I got a voice to text on my mobile asking to call Probe. I did and they have told me I still owe the money – 3months after I sent my letter to the both of them no one got back to me, so I assumed this matter was resolved.

Why am I being hounded and hassled for funds apparently owing, which no one told me about for one and a half years! They know my number, my address. So why only until 30.07 are they asking, I then call Probe that night and tell them QLD Transport said I don't owe anything. I didn't hear from them again till early September, which prompted me to send my letter above in early September. Now I am hearing from them again.

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<sup>1</sup> All parties' submissions used in this Decision are quoted verbatim

I know I have the mistakes in the past about my tolls. But I have worked hard to finalise them and this will not go away. No one can prove anything to me, why one and half years later are they telling me. I have paid over \$6000 in total to them over the last two years and I don't want to pay any more!

Please help me.”

2 On 16 December 2014 the TCO advised Ms SK in the following terms:

“I acknowledge receipt of your email and note its contents.

The Tolling Customer Ombudsman (TCO) is an independent person appointed to help customers of AirportlinkM7, CityLink<sup>®</sup>, EastLink<sup>®</sup>, Go Via<sup>®</sup>, Hills M2<sup>™</sup>, Lane Cove Motorways, Roam<sup>®</sup> and Roam Express<sup>®</sup> tolling businesses resolve complaints fairly, efficiently and free of charge. The TCO is empowered to deal with unresolved customer complaints relating to travel undertaken on these toll roads or the operation of their tolling account. I have no jurisdiction over Queensland Transport, SPER or Probe and therefore I cannot be of assistance to you.

I recommend you access the Queensland State Ombudsman.”

3 Ms SK replied:

“...the issue is with Go Via.”

4 The TCO acknowledged the clarification and referred the matter to go via for response.

5 Go Via promptly responded directly to Ms SK, copied to the TCO, as follows:

“Thank you for your email, forwarded to **go via** from the office of the Tolling Customer Ombudsman (TCO).

I have reviewed the notations linked to vehicle registration [5\*\*\*M] [sic] (QLD) and confirm;

- Our notes state we received a phone call from you on the 25<sup>th</sup> of February 2013, and it indicates that we made you aware that you owed \$1472.17 in toll invoices for vehicle registration [6\*\*\*M] (QLD)
- In a follow up phone call on the same day, you advised that you would only be completing a part payment of \$576.21 and that you would call back on the 2<sup>nd</sup> of March 2013 to negotiate the balance
- We did not receive that follow up phone call on the 2<sup>nd</sup> of March as you advised
- On the 3<sup>rd</sup> of September 2013 we received an email in which you offered \$500.00 as full and final settlement
- We were unable to accept this offer as the balance in outstanding invoices totalled \$2737.75, legitimately issued as the result of Account Suspension

I have attached the email thread for all our records.

We did not receive any more payments after the 25<sup>th</sup> of February 2013 after our emails recommended that you make payment for the amount. Whilst I appreciate that you were not able to make the payment in full, it certainly does not mean that you do not make any payment at all.

So far, we were not able to recover the tolls at the time of the trip, through unpaid and reminder toll notices, followed by Demand Notices and multiple conversations both by phone and emails over 2012 and 2013.

Having no success, I am glad that we were finally able to gain some contact through our appointed collection agency.

Reasonably, this process takes considerable time, as we provided you sufficient opportunity to remedy the balance directly with us.

I hope you will now take action to remedy the balance as it has been outstanding for almost 2 years.

Since the debt has been referred I recommend that you enter into arrangement with Probe.

They may be open to reasonable negotiation of the debt.

I appreciate that this may not be the response you were hoping for; however I hope I was able to explain the circumstances.”

**6** The following exchange of email correspondence followed:

Ms SK to Go Via:

“The times I have spoken to Go Via since the beginning of this year have not made me aware of these payments. With the payment plans I have been on with Go Via, and then my specific call on the date noted, no one could find this apparent bill that you are wanting me to pay. This is unfair you cant then come back 18 months later and ask for this amount of money – do you know what effect this has on someone’s life?

Then to not even listen or want to resolve is disgusting!

Every time I speak with you all you just tell me to go to Probe, who don’t even speak ENGLISH!”

Go Via to Ms SK:

“Thank you for your response.

A debt does not disappear over time when ignored.

I have provided evidence that you were aware of this debt from 2013, but have not made necessary arrangements to pay it using the methods we specifically outlined.

I cannot speak for Probe, however I am certain that their office only converses in English.”

Ms SK to Go Via:

“When I was speaking with Go Via for the entire time throughout 2014, they mentioned my debt and this debt was paid off, no other debt was mentioned AT ALL. So how does debt re-appear after 18 months? We even on these phone calls CHECKED that Registration. I have paid a lot of money to GO VIA, and wanted to clear my debt why would I ignore this if I knew about?”

Go Via to Ms SK:

“It is likely that when the vehicle was no longer linked to your tolling account, all phone calls only then related to [9\*\*\*K].

The identity of the registered owner of a vehicle remains anonymous, as the details of where notices are issued are not shared with us under Privacy laws.

The onus would be on you as the registered owner to address the balance, and not the responsibility of **go via**.”

Ms SK to Go Via:

“That is odd because in my phone calls I gave them the REGO for the Getz, which I still recall. And they advised there were no funds owing! 18 months later I get a random phone call from Probe after my account was even sent to the debt collection / management team of Go Via and yet still no mention after I asked. This is all odd to me, and extremely stressful. The onus is on Go Via to give the correct information.

I am not paying this account, I have paid so much money to Go Via.”

Go Via to Ms SK:

“I have noted that you have no intention to pay for the outstanding toll invoices.

Please note that enforcement will then continue.”

Ms SK to Go Via:

“You are a Compliance and **resolution Officer**, at no point are you trying to **resolve** this with me. Where is the compassion? The compromise?”

Could you please advise of my next step to take this matter further?

I would also like the records of the phone calls I have made with Go Via in 2014, including the date 30.7.2014. Whereby I specifically asked if there was money owing on [6\*\*\*M] and they said no.”

Go Via to Ms SK:

"We do not record our phone calls unless for training purposes.

I confirm however that we did not note nor access your account on the 30<sup>th</sup> of July 2014. Are you certain that it was **go via** that you were speaking to on 13 33 31?"

Ms SK to Go Via:

"Yes, that is correct, I spoke to Lady for over 25 minutes on my phone on this date it was after I received the letter and on my way back from Court with a tenant for work. I recall it vividly, she specifically said to me that no money was owing on that registration, I acted on it as soon as I got the letter, if I had known all of this throughout my dispute resolution with Go Via on my account throughout this whole year I would've been doing something about it, I thought all the stress was over until 18 months later I get a letter."

7 On 17 December 2014 Go Via replied to Ms SK:

"We have no records of this phone call or of access to your vehicle balances on this date.

All staff cannot access any invoice or account without leaving a "system footprint". To gain access to view anything on the system will result in a unique ID footprint.

I have no reason as to why our staff would advise you that there was no outstanding for [6\*\*\*M] when we have been trying to recover it all these years.

Again as the debt is held with Probe, and you wish for no further contact from them, you should discuss a resolution with them directly."

8 On 18 December 2014 the following emails were exchanged:

Ms SK to Go Via:

"I am not lying. I had a conversation on this day, the day I received this astronomical bill from Probe Debt collections, the first time I heard something in 18 months after I had a serious car accident which left my spine fractured and months of recovery. Why would I avoid this if I knew there was an issue, I paid off my debts owing to Go Via, and if I had no intention this would not be the case.

I would like to know how to take this further with Go Via not probe."

Go Via to Ms SK:

"I have not stated that you are lying.

I am simply not confident that it was **go via** you spoke with that day.

My final outcome to you is that payment is required in full to **go via**.

I am not certain if Probe may offer you a better outcome, however it is up to their discretion in their debt management.”

Ms SK to Go Via and TCO:

“I spoke to Go Via, I am not lying – directed at the Ombudsman, and how do I take this matter further, can I apply to court?”

Ms SK to Go Via:

“I have below the phone records, Sorry it was the 28/07/2014 & the 30/07/2014 I spoke to the woman, she asked me to hold for a while so she cold look, and came back and advised there was nothing owing. And, again on the 27 Aug 10:40am Holland Park 13/1300 133331 37:07.”

28 Jul 11:30am CAMPHILL 13/1300 133331 7:52  
29 Jul 09:00am CAMPHILL Mobile [04\*\*\*53] 1:06  
29 Jul 02:00pm CAMPHILL Mobile [04\*\*\*58] 2:24  
29 Jul 02:04pm CAMPHILL Mobile [04\*\*\*43] 0:28  
29 Jul 05:16pm Holland Park W Mobile [04\*\*\*53] 0:05  
29 Jul 05:17pm Holland Park Mobile [04\*\*\*53] 0:21  
29 Jul 07:08pm YERONGPILLY Mobile [04\*\*\*65] 1:49  
30 Jul 12:49pm ELLEN GROVE Brisbane [07\*\*\*71] 0:20  
30 Jul 02:09pm Holland Park 13/1300 133331 8:60”

Go Via to Ms SK:

“Thank you for supplying that information.

I have done further investigation and found that all representatives on those dates only accessed [9\*\*\*K] (QLD) as there were outstanding balances as a result of Account Suspension.

You entered into arrangement with our Debt Recovery Officer.

Over this period you settled invoices owed for [9\*\*\*K] (QLD), however as [6\*\*\*M] was not queried, we did not at any time provide advice for [6\*\*\*M], including your claims that there were no outstanding balances for [6\*\*\*M].”

**9** On 19 December 2014 Ms SK emailed Go Via:

“Im sorry but they couldn't FIND a account for the old car, that's why they said no money was owing. I want to take this further to court, how do I do this?”

**10** Go Via responded:

“The TCO can provide you a formal decision in respect of mediation.

Our notices do not have a court elect option.

You should check your options with the Tolling Offence Unit and SPER as they may have an option for you.

Otherwise, you can lodge your own case through the courts if you wish for a determination.”

**11** To which Ms SK replied:

“Thank you if TCO could let me know.”

**12** Go Via subsequently provided the following summary to the TCO:

“[Ms SK] has expressed that she has no intention of making payment in full to **go via** in respect of toll invoices for her vehicle [6\*\*\*M] (QLD).

She continues to dispute the debt despite her full awareness that the debt was outstanding since 2013.

A new vehicle was then purchased, and that vehicle did also travel on our network without a valid means to pay for the toll.

A resolution was made in respect of the outstanding charges for [Ms SK’s] second vehicle, but no payment was made towards the first.

When we confirmed the balance for the second vehicle [9\*\*\*K] (QLD), [Ms SK] mistakenly assumed that the first vehicle’s debt was also resolved.

We have not at any time confirmed that there was no debt owed for [6\*\*\*M] (QLD).

[Ms SK] believes that this is grounds for the debt to be waived; however I am unable to accept such reasoning to be valid excuse for non-payment of these invoices. Ultimately, I believe it to be in [Ms SK’s] best interest to negotiate the balance with Probe Group, whom the debt has been referred.

I would welcome your commentary on how best to approach resolution.”

**13** On 2 January 2015 this summary was forwarded by the TCO to Ms SK for comment.

**14** On 9 January 2015 Ms SK responded to the TCO as follows:

“Could they please confirm the date the debt was paid for my second vehicle on [9\*\*\*K]

As I spent time on the phone with them as per the telephone account I sent through, why would I be on the phone to them if no debt was owing on my second vehicle, clearly I was calling about my debt collection letter I received 18 months after I had a accident. They couldn’t find anything, then magically 18 months later they find \$2500 bill, and have no repercussions because they are the government on what this does to someone, let alone try and resolve my questions I have with them.

I am not negotiating with the probe group, these are people from another country who cannot get involved in a toll dispute. They need to negotiate with me! I cannot accept that the government can just send me a bill for \$2500 18 months after fatal crash, and expect me to pay it, when I have countless phone calls with them, including three long conversations as per my phone bill and they could not locate any debt against the Getz I had.

This is ridiculous and extremely stressful!”

**15** On 11 January 2015 the TCO acknowledged receipt and confirmed further comment will be sought from Go Via.

**16** On 12 January 2015 the following correspondence between the parties took place:

Go Via to Ms SK:

“I confirm receipt of your email from the Tolling Customer Ombudsman (TCO).

The full balance owed for [9\*\*\*K] (QLD) was last paid on the 20<sup>th</sup> of October 2014 by a caller named “[D]”, and the discussion only entailed [9\*\*\*K] (QLD) and no other vehicle registration.”

Ms SK to Go Via:

“It wasn’t [D], it was myself. There was conversations about the other vehicle registration on the times I received letters from Probe and no account was found under that car. No discussion has taken place since 18 months ago about the other vehicle as far as I knew the account was paid.”

Go Via to Ms SK:

“We confirmed that we verified [D] as the caller on two occasions on the 20<sup>th</sup> of October 2014.”

Ms SK to Go Via:

“There is no [D], it was my [S].”

Go Via to Ms SK:

“I am confused.

You contacted go via and identified yourself as [D]/[D]?”

Ms SK to Go Via:



"No I did not. I identified myself as [SK] any time I rung, my mother is [DK], [9\*\*\*K] is owned by both of us but the GO VIA is in my name, The two conversations in October, were actually asking for two go via bills to be transferred into my name, which we then organised with a JP to sign them over, this has absolutely nothing to do with my earlier phone calls last year (July, August September) about the Getz. My mum must have made those calls in October about the two bills in her name as the car is registered in her name.

So if this is recorded can you please bring up my conversation in July, as this was one of the phone calls that I asked about the Getz and you had no record, which is under my name, it should've come up on your searches your staff did. Also for the last 18 months! Including when I was speaking to your senior staff about my debts with Go VIA.

You seem to know so much about October, why so little about July / August and September."

Go Via to Ms SK:

"You requested for the date in which [9\*\*\*K] (QLD) was paid in full;  
*"Could they please confirm the date the debt was paid for my second vehicle on [9\*\*\*K]"*

I confirmed that this occurred on the 20<sup>th</sup> of October 2014 and was completed by a caller who identified themselves as [D], per the notes of the interaction recorded by our representatives.

The interactions through 2014 only concentrated on [9\*\*\*K] (QLD) with no reference to [6\*\*\*M] (QLD). No phone calls were made to discuss [6\*\*\*M] (QLD).

The interactions for [6\*\*\*M] occurred mostly by email in 2013 only. During this correspondence we advised that the balance for [6\*\*\*M] (QLD) was to be paid in full, and this advice has not changed."

Ms SK to Go Via:

"Are you saying that I am lying?"

I had three conversations with Go Via about the Getz and they could not find an account owing, the lady spent ages looking for me.

You are lying. And after all of this I am not just going to pay \$2500, its wrong, so very wrong!"

Go Via to Ms SK:

"Your unwillingness to make payment for the balance owed for [6\*\*\*M] (QLD) is noted.

Please note that this will not prevent further enforcement of the matter, as the tolls were legitimately incurred without a valid means to pay.”

Ms SK to Go Via:

“This is ridiculous.

Can the Tolling Ombudsman please advise my next step, and if I need to proceed to court, or what happens from here.

Thank you.”

Go Via to TCO:

“Just confirming that I will no longer be responding to [Ms SK] as I have addressed all matters relating to the debt.”

- 17** On 19 January 2015 the TCO advised Ms SK of the following, which was acknowledged by Ms SK:

“I have reviewed your complaint and Go Via’s response.

It is apparent from the negotiations that there is not going to be an outcome with which you will be satisfied. Accordingly, I will make a written Decision.”

## **Decision**

- 18** 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. The TCO decision is binding on the toll road operator but not on the customer. Customers retain all their legal rights.
- 19** 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.
- 20** 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

- 21** I am satisfied that the parties have had the opportunity to resolve this matter and it would not benefit from further mediation.
- 22** Ms SK had an account with go via for travel on its toll roads. Under the terms and conditions of the account, Ms SK was required to keep it in good order in respect to any vehicles attached to the account. The evidence indicates that Ms SK had two vehicles attached to her account over the period that is subject of this dispute, vehicles 6\*\*\*M (QLD) and 9\*\*\*K (QLD).
- 23** It would appear that Ms SK’s problems with her account followed on from an incident in February 2013. She has stated:
- “On February 2013, the 19<sup>th</sup>, I had a major car accident, which I fractured my T3 – T6 in. I contacted QLD transport after this date, and I finalised all payments owing on the vehicle at the time [6\*\*\*M]. There was still an amount owing to SPER in which I have settled with them.”
- 24** Ms SK has conceded in her complaint that in 2014:
- “...I had some issues with the payment of tolls on my new vehicle [9\*\*\*K], this is my fault admittedly. However I have worked extremely hard to pay them off and finalise everything, my account is now up to date and clear.”
- 25** Go via responded to the first contention by advising;
- “Our notes state we received a phone call from you on the 25<sup>th</sup> of February 2013, and it indicates that we made you aware that you owed \$1472.17 in toll invoices for vehicle registration [6\*\*\*M] (QLD)
  - In a follow up phone call on the same day, you advised that you would only be completing a part payment of \$576.21 and that you would call back on the 2<sup>nd</sup> of March 2013 to negotiate the balance
  - We did not receive that follow up phone call on the 2<sup>nd</sup> of March as you advised
  - On the 3<sup>rd</sup> of September 2013 we received an email in which you offered \$500.00 as full and final settlement
  - We were unable to accept this offer as the balance in outstanding invoices totalled \$2737.75, legitimately issued as the result of Account Suspension”
- 26** Go via has advised Ms SK that the obligations in respect to vehicle 9\*\*\*K (QLD) were paid in full on 20 October 2014. It also advised that the interactions through 2014 only concentrated on 9\*\*\*K (QLD) with no reference to 6\*\*\*M (QLD). No telephone calls were made to discuss vehicle 6\*\*\*M (QLD).
- 27** Go via stated that the interactions for 6\*\*\*M (QLD) occurred mostly by email in 2013 only. During this correspondence go via advised that the balance for 6\*\*\*M (QLD) was to be paid in full, and this advice has not changed.
- 28** Ms SK denies that the conversations were only about vehicle 9\*\*\*K (QLD) and says that conversations with go via’s staff indicated that there was not any money owing

on her account in respect to 6\*\*\*M (QLD). However, such an interpretation of conversations runs contrary to:

- the conversation had with go via in February 2013 in respect to the outstanding debt on this vehicle
- her offer of settlement of the debt in September 2013
- the written demands she had received from go via's debt collector in 2014, and
- the emails that she had received from go via that the debt was owing and due for payment.

- 29** Leaving aside the conflicting arguments that the interactions between go via and Ms SK were about vehicle 9\*\*\*K (QLD) and not 6\*\*\*M (QLD), Ms SK could not reasonably have believed in these circumstances that she did not owe monies to go via in respect to vehicle 6\*\*\*M (QLD) or that she was required to pay them. She paid the monies owing to SPER but not to go via.
- 30** I appreciate that Ms SK had been in an accident in February 2013 but it was prior to this that she had incurred \$1,472.17 for toll invoices for travel on the go via toll roads. She understood this obligation in February 2013 when she had the discussion with go via and commenced a negotiated payment plan, which she subsequently did not keep. Ms SK further had the opportunity to negotiate with go via's debt collector in respect to payment of the debt in 2014.
- 31** Ms SK did not address the outstanding debt in respect to vehicle 6\*\*\*M (QLD) in February 2013 or subsequently. This led to her subsequently incurring further fees. I am satisfied that go via had acted in accordance with its procedures in seeking recovery of its tolls from Ms SK. I am further satisfied that Ms SK was informed of the amount owing to go via and the fact that she was liable to pay them.
- 32** In these circumstances I cannot uphold Ms SK's complaint against go via. I cannot direct go via to accept a repayment plan but I recommend that Ms SK negotiate a satisfactory payment arrangement with go via's debt collection agency if achievable.

**Michael Arnold**  
**Tolling Customer Ombudsman**

**Dated: 11 February 2015**