

DECISION

Background

- 1 The complainant, Ms JN, first made a complaint to the Tolling Customer Ombudsman (TCO) on 28 May 2012, as follows:¹

*“My name is [JN] goVia account ****170. I live in [Town, State]. We are in dispute with goVia, and at least one toll has already gone to SPER because goVia would not help. We were trying to work it out with them, hoping they would withdraw it from QLD Transport... instead it went to SPER with more tolls heading that way.*

This is not an ordinary case of just ignoring the tolls, it is a case of not getting the toll notices, and thinking that my goVia account would take care of the toll notices. I maintain that there was a computer glitch or something but they deny it.

*Most of the tolls occurred after October. However a couple happened before, but it is the same exact problem. So we are hoping that the TCO could talk to goVia, and if they agree to act as if we only just got the tolls (since we never got the toll notices) hopefully they would do it for *all* the fines and get it away from SPER before my sister has her licence suspended or worse.*

*The problem mainly is that I signed up for a goVia account, and *thought* that every time we went on the toll roads, the tolls would be charged through my goVia account. This didn't happen. I looked myself up and found my account number is ****170, but they either say I don't have an account or that it is inactive.*

The main problem is that we did NOT get the toll notices at all. The first we heard of the situation, we got Demand Notices, and then Infringement notices with huge fine. We tried to talk to goVia, but got a very rude response and were offered no hope whatsoever... except to say that if we do not pay, more fines will result. This has already gone to SPER and my sister could lose her licence or have it suspended through no fault of her own.

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

We moved, but we did not change address through goVia as we hardly ever travelled on the toll roads. We live in [town], and hardly make any trips. I really thought that my goVia account would take care of the tolls. The problem, which is a major complication, is that my sister and I both suffer severe mental illness – we have bipolar. We are terrible with money, and our memory sucks. That is why I signed up for a goVia account, as previously I had forgotten to pay the fine within the 3 days, and I have a phone phobia so I could not call them up to pay the fine. I also have Aspergers which explains why I have a phone phobia, so I could not contact them before. But it doesn't seem to matter since contacting them did no good as they were no help at all.

We really need help please. All we want is for the tolls to be treated as if the toll notice was just sent, wipe all the admin fees etc., and tell SPER to cancel the Toll Infringement notice. SPER is giving us some time to deal with this, but I don't think we have much more time before they take enforcement action and suspend [Name of sister's] licence.

PLEASE help!"

2 Ms JN further elaborated on her complaint in the TCO online complaint form:

"Please give the details of your complaint:

We received toll infringement notices plus unpaid toll notices with huge fees - when we did NOT get the original toll notices! Toll notices we got took MONTHS to get to us! We moved but I thought my govia account was active so why wasn't it paid through govia? GoVia won't help; they say account was inactive but I didn't know and we didn't receive toll notices! We get no help from goVia. Now it has gone to SPER but they are waiting to get a result from TCO.

What happened following your complaint to the tolling business?

Our complaint was basically ignored. Customer service was curt and claimed there was no computer glitch but there has to be, as I KNOW I had an account. Also they didn't care that toll notices were NOT received by us. They won't allow payment plan either! And because we did not receive the toll notices so couldn't pay it went to sper and my sister could lose her licence. goVia won't help and insist we pay in full, but we didn't get the toll notices.

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

The toll notices were not received. Govia should waive admin fees and let us pay tolls only. They need to tell Main Roads the toll notices were incorrect so that they can be removed from SPER so [Name of sister] doesn't lose licence when I DID the right thing by signing up for an account. Govia just won't listen though! The incident should be taken back to when the tolls were received with no admin fees, since we did not get the toll notices in the first place."

- 3 The TCO acknowledged receipt of the complaint on 29 May 2012 and forwarded same to Queensland Motorways Limited (QML) for response.
- 4 QML responded to the TCO on 29 May 2012 in the following terms:

"I have copied the email history for this customer below. I've tried many times to explain the reason why the notices were issued. They first contacted us in December 2011, however as no action was taken by them additional fees and charges were applied.

Please see email history below.

Note

04.05.2012 13:34:57

[Name of sister]

Thank you for the additional information.

I have copied below the email that I sent to [Ms JN] in February explaining why the notices were issued.

As the Penalty Infringement Notice is not issued by Queensland Motorways I am unable to assist you, you will need to contact the Tolling Offence Unit of the Department of Transport and Main Roads. SPER is essentially the collection agency for the Department of Transport and Main Roads.

Vehicle [LPN] still has \$65.03 in outstanding tolls and fees, It is important that you contact Queensland Motorways to arrange to make payment of the outstanding amount and avoid any further unnecessary fees and charges. If your tolls remain unpaid beyond the due date they may escalate to a Penalty Infringement Notice being issued to you. This notice attracts an administration fee of \$140.00. Our Customer Service team can be contacted on 13 33 31. Our Contact Centre is open between 7.00am and 10.00pm every day.

*Regards
[Name]*

Copy of email sent to [Ms JN] on the 21.02.2012:

*Good Morning [Ms JN]
Thank you for contacting Queensland Motorways
The account you created was a go via road pass valid for the period
26.04.2011 - 26.05.2011.*

Vehicle [LPN] has a current outstanding balance of \$48.97.

Queensland Motorways issued an Overdue Toll Notice to you on the 22.08.2011, as this remained unpaid, a demand notice was issued on the 29.09.2011.

As your demand notices remain unpaid after the due date Queensland Motorways are obliged, by legislation, to notify the Tolling Offence Unit.

Your email to Queensland Motorways in December 2012, which was responded to on the 21.12.2011 advised you of the outstanding balance and should payment not be received further charges may apply.

I recommend you pay your outstanding balance to Queensland Motorways, you will need to contact the Tolling Offence Unit in regards to the Penalty Infringement Notice

Regards

[Name]

Note

21.02.2012 10:01:16

Good Morning [Ms JN]

Thank you for contacting Queensland Motorways

The account you created was a go via road pass valid for the period 26.04.2011 - 26.05.2011.

Vehicle [LPN] has a current outstanding balance of \$48.97.

Queensland Motorways issued an Overdue Toll Notice to you on the 22.08.2011, as this remained unpaid, a demand notice was issued on the 29.09.2011.

As your demand notices remain unpaid after the due date Queensland Motorways are obliged, by legislation, to notify the Tolling Offence Unit.

Your email to Queensland Motorways in December 2012, which was responded to on the 21.12.2011 advised you of the outstanding balance and should payment not be received further charges may apply.

I recommend you pay your outstanding balance to Queensland Motorways, you will need to contact the Tolling Offence Unit in regards to the Penalty Infringement Notice

Regards

[Name]

Note

20.02.2012 23:23:14

Name: [Ms JN]
Email: [address]
Phone: [number]

HELP! I don't remember getting a Toll Notice, but I got a Toll Infringement notice? I also remember signing up for an account, but QT said I had no account? I have travelled since then and thought that those travels would be paid for, only to find out my account is no longer active? I didn't even know my account no! I didn't realize the account wasn't working until after I received the Toll Infringement notice. I don't remember getting Toll Notice! We were given a deadline by QT of tomorrow to pay fine but we cannot afford to pay the fine! Especially since it was a computer error! How many more notices could I get as I haven't seen any toll notice except 1 infringement? Will each 1 have admin fee? I am a mentally ill broke pensioner. Help"

5 On 3 June 2012, Ms JN emailed the TCO in the following terms:

"Thanks for sending the letter by snail mail. I don't know why my email address didn't work. I appreciate you forwarding it to govia, however we had already gone that route and it did not end well. In fact the female customer service woman was quite rude and would not help us one bit. That is why I sent a complaint to you. SPER have not given us much time before we have to pay the fines, so you can understand the urgency.

*goVia don't seem to care that we did not get the first toll notices, nor do they care that we can't afford the admin fees. They only seem to care about getting their money. And if we actually 'deserved' to pay, we would have paid. But it is shoddy customer service, and not getting the tolls until **months** later, with the admin fees included.. that is our basis for complaint.*

We did not get the first actual toll notices – only the demand ones, and the infringement notices. And because we did not get the actual toll notices, while we were trying to work it out with goVia, then Queensland Govt... it ended up going to SPER anyway and my sister could have her licence suspended. That is just atrocious given that we did not get the toll notices in the first place. and the fact that it took months to get the toll notices...

Basically our case relies on two things

- 1. We did not get the toll notices in the first place*
- 2. I set up a goVia account – thinking that the account would do as it should and get the money for the tolls, like the site said it would. They said it was not an account, but it was and I showed you the account number...*

Now I am concerned what goVia customer service will do as I said, they were 'not' nice at all on the phone and no help at all.... Maybe they had a bad day, but it is making us have very bad days, especially when my sister's licence is at stake.

So what happens now – as I had already gone to goVia customer service and it was not resolved at all...”

- 6 On 12 June 2012 the TCO forwarded QML's response to Ms JN with the following final paragraph:

“Your comments on the above are sought. Also, please advise if you have taken steps to avoid any further fines by contacting SPER. This is important for your protection against further costs whilst your complaint is under consideration.”

- 7 Ms JN emailed the TCO on 13 June 2012 as follows:

“Thank you for your reply. The problem is that we got the demand/infringement notices without getting the actual first toll notice that you are supposed to get. We only got the demand/infringement notice months later when admin fees were already charged. I can't seem to get them to understand that we did not get the original unpaid toll notices.

I signed up for a goVia account, I have provided my account number. I thought that since I signed up for an account, the govia account would do as it should do, and take the toll fee out of my bank account.

I don't even remember when we travelled, and we kept forgetting to pay within the 3 days... but as I said, I thought it would be taken care of by the govia account. I also have a phone phobia (due to my Aspergers/Bipolar) and I could not therefore ring up for help. I did email but then my laptop was damaged so I didn't get their reply.

We are supposed to get this according to goVia

Unpaid Toll Notice Fee	\$7.46	<i>A pre-paid account which has not been maintained in credit in accordance with the go via terms and conditions or An Unpaid Toll Notice is issued.</i>
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If they say my account didn't exist or something... then shouldn't I have got an unpaid toll notice?

However, we did not get the original unpaid toll notice! If we had, we would have paid it and not been in this mess that we are in. How can it be over \$60 when we hardly made any trips at all... I just don't understand it, oh wait it's because of the admin fees 😞 I don't have a problem playing the \$7.46 but

paying the demand notice when we did not get the unpaid toll notice is unfair and the whole problem.

I don't know what to do with SPER right now or anything else. I am at a complete loss – as I can't understand why it doesn't seem to matter that we did NOT receive the unpaid toll notice, and only got the demand notice.

We tried to get it sorted with Queensland motorways, but they were less than helpful.

I was hoping you could help, since we did not receive the original toll notices.... and because I thought that my govia account would take care of any tolls, I just don't know what to do now. I am only on a pension, so is my sister. And she risks losing her licence because we did not get the original unpaid toll notices.

I did the right thing by signing up for a govia account, and I thought that would take care of the tolls. Now I don't know what to do...

Thanks for your help... now what?"

8 The TCO responded to Ms JN on 14 June 2012:

"I understand your complaint but it is important that you make a payment to Queensland Motorways to avoid further expenses whilst I am further examining the matter.

Please contact Queensland Motorways Customer Service on 13 33 31 to arrange payment."

9 On 19 June 2012, Ms JN wrote to the TCO:

"Sorry I didn't get back to you as I had exams last week. I will contact them, however they made it clear that we could not have a payment plan, and will only accept full payment. Having to pay the \$65, while only on a pension, is going to be tough. Especially since if we had got the original toll notices when due, this would not be an issue. Anyway I will contact them and see what they say.

I really really do appreciate your help. Thank you."

10 Then on 20 June 2012 a further email from Ms JN was received by the TCO, as follows:

"Thank you for your reply... unfortunately it came too late because we got another one from SPER today 😞 While we were trying to sort out this mess. Until your email below, I didn't think about making a payment to stop more going to SPER... but we were not allowed to have a payment plan with Qld

Motorways anyway.. and to those who have a job, \$65 dollars might not seem like a lot.. but to someone on a pension like me, it's more than I have to spare.

The problem is that if we had received the original toll notices they would have been paid within the required time and none of this would have happened. I signed up for a govvia account and I thought I was doing the right thing and that the tolls would all be paid using that govvia account. Now the due amount is a lot and we are only on a pension, and we were told we could not get a payment plan and had to pay the full amount. That's why we haven't paid yet because we can't afford it. So now there are two with SPER, and I don't know what I am going to do. Besides the fact that we haven't seen the original toll notices so we have not seen any proof of our travel. And because we are both bipolar with terrible memories, there is no way we know when we travelled.

I appreciate your help, I really do. But if we had been allowed to have a payment plan or received the original toll notices, this wouldn't be an issue.

Thank you for your help and your understanding."

- 11** On 22 June 2012 the TCO notified Ms JN and QML by email that as it appears that this matter will not be resolved by conciliation, it will now proceed to a written Decision:

"I acknowledge your email of 20 June 2012 and note your comments.

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."

- 12** On 1 July 2012, Ms JN emailed QML, copied to the TCO, as follows:

"Following the advice of the TCO below (thanks to him), can you please advise how much is still owing, since one more has already been sent to SPER 🙄 As I am only a mentally ill pensioner, I will do the best that I can to pay what is owed (but like many I can't even keep the phone on due to all the bills, but I will do my best). I just wish this mess hadn't started in the first place. I only got a goVia account because of my bad memory and thought that would ensure something like this didn't happen.

Anyway, please advise what is now owed, since one had gone to SPER... and I will do the best that I can.

Thank you."

- 13 QML responded on 2 July 2012:

"Vehicle [LPN] has a current outstanding balance of \$120.27."

- 14 The TCO sought an explanation of the increase in fees and received the following explanation from QML:

"Vehicle [LPN] had 5 Demand Notice Fees @ \$21.32 added on the 21.05.2012 totally \$106.60

The balance of \$13.67 is tolls.

The amount of \$65.03.

In February I advised the [Ms JN and her sister] that the balance was \$48.97 and if no payment was made further fees and charges would apply

On the 04.05.2012 I again sent an email advising of the balance of \$65.03 – this amount had increased as they had continued to travel without a payment arrangement. I again advised further fees may apply if no payment was made.

Demand Fees were added on the 21.05.2012."

- 15 The TCO received copies of correspondence between Ms JN and QML. On 2 July 2012 Ms JN emailed QML as follows:

"Thank you very much for your reply. I suppose there is no way to have a payment plan? It's just that we have to move this month and it is really going to be hard to pay it. I know this is costing me a lot of money since it was half that last time I knew...and with 2 at SPER over \$100..."

- 16 To which, on 3 July 2012, QML responded:

"On this occasion, as a gesture of good will, management have agreed to a payment plan.

The balance of \$120.27 will need to be paid over 6 months. A payment of \$20.05 per month.

Please note that any future travel will need to be paid within 3 days, if it is not paid within 3 day the collections process will be enforced.

Payment can be made using any of the payment options and reference numbers on the demand notices issued to you."

- 17 QML notified the TCO of the payment plan offered to Ms JN and her sister.
- 18 Further, QML has suggested that Ms JN and her sister arrange to set up a full account.

Decision

- 19 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.
- 20 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 legislation such as the Transport Infrastructure Act (1994) can be accessed through Government websites.
- 21 The TCO is not a judicial body and does not have punitive powers. When making a decision it 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. I only have jurisdiction over the conduct of QML and cannot determine matters in relation to allegations against SPER or other outside bodies.
- 22 I accept the evidence of QML when it stated:

"The account you created was a go via road pass valid for the period 26.04.2011 - 26.05.2011.

Vehicle [LPN] has a current outstanding balance of \$48.97.

Queensland Motorways issued an Overdue Toll Notice to you on the 22.08.2011, as this remained unpaid, a demand notice was issued on the 29.09.2011.

As your demand notices remain unpaid after the due date Queensland Motorways are obliged, by legislation, to notify the Tolling Offence Unit.

Your email to Queensland Motorways in December 2012, which was responded to on the 21.12.2011 advised you of the outstanding balance and should payment not be received further charges may apply."

- 23 In these circumstances, I am satisfied that Ms JN had an outstanding account of \$65.03 with QML. I have previously encouraged Ms JN to enter into a repayment plan with QML in order to avoid any further fees. I do not believe she has done so and the fees now total \$120.27.
- 24 I find Ms JN liable to pay QML \$120.27 that is outstanding together with any other fees that may subsequently be incurred as a consequence of her failure to pay the amounts outstanding.

- 25** I recommended that QML enters into a repayment plan to enable Ms JN to make the payment over the next six months in view of the fact she and her sister are pensioners. QML has agreed with this recommendation.
- 26** I strongly recommend that Ms JN and her sister enter into this repayment plan to avoid further fees and set up a full account with go via.

Michael Arnold
Tolling Customer Ombudsman

Dated: 3 July 2012