

## DECISION

### Summary and outcome

- The complainant, Mr Z, lived in Sydney. Mr Z has an E-Toll Account and not a Linkt Account. His complaint made on 23 June 2023 was about Mr Z considering he was entitled to toll relief or compensation. Mr Z says he tried twice during 2022 to pay outstanding Tolls incurred by him in January 2022 and because the Linkt System failed when he tried to make payment, he incurred a cost of \$183 and he wants compensation from Linkt for that amount or more.
- In short, Mr Z believes that the Linkt system for payment was defective and that caused him a financial loss. Mr Z's view was also that he had paid the outstanding tolls and because Linkt did not take this properly into account he was entitled to toll relief and Linkt should compensate him. The dispute Mr Z suggests is entirely due to Linkt's systems failure. Mr Z has been in constant contact with the Tolling Customer Ombudsman over the last few months by phone and by email in relation to these matters.
- Presently, Mr Z does not owe an amount to Linkt before any settlement offer but has rejected their offer to waive certain toll fees as part of any settlement offer.
- Linkt's position was that its dealings with Mr Z commenced before January 2022 and that there had been significant communications between Mr Z and Linkt from this time until the date of lodging his complaint on 23 June 2023. Linkt also suggests it has continued to, after the complaint was lodged, engage appropriately with Mr Z to resolve the dispute.
- Linkt suggests that they made various offers during the course of their interactions and discussions with Mr Z over a number of years which involved a reduction on the administration fee to certain travel fees as well as waiving some toll charges. Linkt has suggested that all of its dealings with Mr Z have been appropriate. Linkt considers that its settlement offer is fair and reasonable in the circumstances.

## Background

- The complainant, Mr Z, first made a complaint to the TCO on 23 June 2023 but the dispute is in respect to matters going back to January 2022. I note that there were various interactions between Linkt and Mr Z since 2017. However, the focus of the dispute for Mr Z seems to be the payment or not of the January 2022 tolls. The overall dispute raised by Mr Z involves his interactions with Linkt and the processes of Linkt that facilitate payments for customers for toll use.
- The view of Mr Z is that Linkt should justify its position and compensate him because he incurred costs because the Linkt payment system did not work. He also suggests that Linkt's systems are cumbersome, not user friendly and not effective and this is one of the reasons for the present dispute continuing for a number of months. In particular, Mr Z considers that Linkt, as a result of its error and processes has complicated the matter and made payment of the outstanding amount and ultimately settlement more difficult.
- In his application to the TCO, Mr Z stated that:

“In 2022 March, I paid all the toll notice within one year via system  
In 2022 August, I paid all the toll notice which are more than 1 year via operator. I confirmed with operator that all the toll notices have been paid.  
in 2023, they notice approximate 31 toll notice was still unpaid, then I request list of toll notice, it happened in 2022 January. I checked my bill in Jan 2022 only paid half.

now I could not get cash back, and admin fee has changed from 1 dollar to 2 dollars.

this is not my fault. it was there fault, therefore, I want linkt to refund me 152 dollars ( toll notice ) + 31( extra admin fee) = 183 dollars.”

- Linkt responded to Mr Z on 28 July 2023:

“I acknowledge Mr. Z's concerns regarding toll relief.

I confirm that Mr. Z does not have a Linkt account. Mr. Z has an E-Toll account.

On the 4 March 2022, Mr. Z made our office aware that he was receiving communication from a Debt Collection Agency for unpaid toll invoices for vehicle [C\*\*\*\*F].

On the 23 August 2022, our agent advised to Mr. Z that vehicle [C\*\*\*\*F] had 47 outstanding toll notices from the 26 October 2017 – 09 March 2022. During this interaction, Mr. Z disputed this as he believed that these invoices had been paid through his E-Toll account. Our agent advised that the toll notices attempted to transfer onto the E-Toll account, however they had been rejected. This explanation was not acceptable to Mr. Z.

On the 19 October 2022, a reduction for the tolls accumulated prior to 2020 was offered and the tolls were settled. Mr. Z accepted this resolution.

On the 13 July 2023, Mr. Z's remaining invoice was waived.

### **M5 South-West Cashback Scheme**

The M5 South-West Cashback Scheme allows NSW residents, with NSW privately registered vehicles, to claim back tolls for eligible car trips on the M5 South-West Motorway. To be eligible, the customer must register online using a Linkt Sydney account. A claim can be lodged once the quarterly Cashback statement is received. Linkt notifies our customers once their statement is ready. Customers can elect to receive their Cashback statements online or via the Linkt app.

Customers are eligible for a Cashback refund if they are a NSW resident, have registered their Linkt account for Cashback, have submitted their claim within twelve months after the quarterly Cashback statement and have a vehicle registered in NSW for private, pensioner or charitable use. Mr. Z can find more information about the M5 South-West Cashback Scheme by using this link: <https://www.nsw.gov.au/driving-boating-and-transport/tolling/m5-south-west-cashback-scheme>

If a customer has been unable to claim the cashback but feels that they are eligible, they can request an eligibility review. Customers have until January 2024 to finalise their claims.

### **Linkt's offer**

We understand the stress and inconvenience caused to Mr Z. My recommendation to Mr. Z is to request an eligibility review through Service NSW to claim the Cashback refund.”

- Mr Z on 19 August 2023 suggested that:

“Claim: linkt failed letting me pay some of the 2022 January toll notices in the year of 2022 twice when I tried to pay toll notice due to their digital system failure and operator mistake which caused me 152 dollars loss. I want them to compensate for my loss.

see below events,

1. linkt did not send me the bill after there was a toll notice.

2. march 2022, I called the linkt try to pay outstanding toll notices, they offered over 1600 dollars to close off all the toll notice. I did not pay and try to find cheaper alternatives. a few days later, I find I can use their website to transfer toll notices within 1 year to my etoll account. I use their website system to paid all the toll notices which I can pay. look at my etoll account statement, all the Jananuary morning toll notices transferred to my account but afternoon toll notices did not transferred to my etoll account. there is system failure which forbid me to pay outstanding Janunanry 2022 toll notices.

3. in October their operator informed me that all toll notice has been paid There are currently four outstanding Toll Notices issued for vehicle [7\*\*\*\*V] (QLD).”

- Mr Z also on 23 August 2023 took a similar position when he stated that:

“Linkt apologies to me for their operator mistake so that they can ignore their system failure. I use website to pay all the outstanding toll notice within one year but some toll notice did not paid, clearly their system got error and they intended not to fix their system error.

they did not sent the bill within one month after their services (charge incurred) which violate the customer act. they intended not to fix their system error.

please ensure linkt read these email as a prove that consumer has complained their website system and billing system.”

- Linkt responded to Mr Z by email on 23 August 2023:

“I understand that Mr. Z is dissatisfied with the resolution that has been proposed and is requesting that a determination be made.

I would Mr. Z that his frustrations and concerns are acknowledged, and we apologise for any stress and inconvenience that has been caused.

The NSW M5 Cashback scheme is a government run program which allows NSW residents to claim the value of tolls paid while using a vehicle registered in NSW for private, pensioner or charitable use on the M5 Southwest Motorway. As this initiative is government imposed, it is monitored and distributed through ServiceNSW. Linkt has no jurisdiction or visibility over this scheme nor does Linkt have any authority as to how the M5 Cashback is administered to users.

The M5 Cashback have a strict criteria that a customer must meet in order to be eligible:

- They are a NSW resident
- Their vehicle is registered in NSW for private, pensioner or charitable use.
- They have registered for cashback with their tolling provider – which in Mr. Z’s case is E-Toll.
- They have paid M5 South-West tolls using a NSW issued electronic tag.
- They have submitted their claim within 12 months of the close of the M5 South-West Cashback quarter – claims received more than 12 months after the close of each quarter will not be accepted.

- If the account is active and the trips have been recorded on it.

Attached to this email is a report of the trips that Mr. Z made in vehicle [C\*\*\*\*F]. This report illustrates that Mr. Z paid for these invoices via transfer to his E-Toll account. No payment for these trips was made to Linkt. Further to this, a large portion of the trips made on the M5 are older than the 12 month quarter cut off for eligibility.

As previously stated, Mr. Z does not have a Linkt account, nor has he made a payment to Linkt regarding these invoices. If Mr. Z wishes to pursue a refund, monetary compensation or the cashback refund for previous trips, he will need to follow up with his tolling provider - E-toll or Service NSW to request and eligibility review or special consideration.

We understand that this is a disappointing outcome to Mr. Z which is why we waived the remaining outstanding invoice totalling \$23.41 in acknowledgement to his concerns.”

## Current position of the parties

- Mr Z stated that he wants Linkt to pay the outstanding amount of \$183 albeit that Linkt has agreed to waive certain administration charges and an outstanding toll charge as part of its settlement offer.
- Linkt states, whilst it understands Mr Z is frustrated that this matter has taken some time to resolve, it considers all of the charges imposed have been imposed on Mr Z legitimately. It considers the various interactions with Mr Z over the last 18 months and it proposing various settlement offers during that period indicates its desire to seek to assist Mr Z and ultimately settle the dispute. Linkt denies that its payment system was not operating at the times Mr Z was attempting to pay the January 2022 outstanding tolls.
- The offer of Linkt to Mr Z was for it not to pay \$183 to Mr Z but to waive an outstanding toll fee of \$23.

## Discussion

- When making a decision, I am required to examine all the available information and to reach an outcome which is fair to both parties and is based on the “balance of probabilities”. This means that where the parties do not agree on an issue, I need to decide whether it is more likely than not that a particular event did, or did not, happen.
- From examining all the information and based on a review of what is fair in the circumstances, I am satisfied that the following is what most likely occurred.

- As a general observation, the matters relating to this decision were complicated by the fact that Mr Z was trying to deal with all of the issues that arose in 2022 with Linkt and the manner in which his E-Toll account interacts with the Linkt system and Linkt tolls.
- In my view, the crucial evidence in this case is whether the Linkt payment system not operating properly was the reason that Mr Z could not pay the January 2022 toll payments. In my objective view, Mr Z has not adduced any evidence that shows in any way that the Linkt system was not working properly when he tried to make payment of the January 2022 tolls.
- Linkt has offered to waive any administration charges on the outstanding tolls and also waived certain toll fees and has reduced the amount payable by Mr Z.

## Determination

- I am satisfied that, in the circumstances, Mr Z has not established grounds for his complaint against Linkt in respect to this matter.
- In my view, the dispute largely involves a particular view from Mr Z as to the system of payment of Linkt for consumers to pay for outstanding tolls. More particularly that the Linkt system was not working on the 2 occasions he claimed he tried to pay the January 2022 tolls. This is also complicated by the fact that Mr Z has an E-Toll account as opposed to a Linkt account. It has not been established by Mr Z in the present situation that the Linkt system was not working and as a result Linkt have not responded or acted appropriately and correctly in the present circumstances.
- I remind the parties that under the TCO process, my decision is not binding on Mr Z and that he can seek relief in any other forum.
- In making this Determination, subject to the comments above, I note that the manner in which Linkt's resolution team has engaged with Mr Z in respect to the issues in dispute and this complaint more broadly, has been clear, transparent and conciliatory. This is shown by the fact that Linkt has waived administration charges and has continually been in contact with Mr Z during 2022 and particularly 2023.
- When responding to consumers, complaints management staff have a responsibility to properly investigate the matters being raised and provide clear responses, supported by relevant evidence. In my view, the Linkt resolution team has reasonably discharged this responsibility in the present circumstances. As discussed with Linkt previously however, it remains of fundamental importance to consumers that their matters are dealt with in a timely and efficient manner. There are valid reasons why this matter has taken some while to resolve but the onus is on Linkt to ensure effective turn around times for these disputes.

- I note that Mr Z had an honest belief he had satisfied his obligations appropriately to the toll operator in respect to making payments in respect to travelling on toll roads and all of his trips taken on the toll roads. He has been in constant communications with the TCO and Linkt during this process.

**Phillip Davies**  
**Tolling Customer Ombudsman**

**Dated: 28 September 2023**