

DECISION

Summary and outcome

- The complainants, Mr E and Mrs E live in Sydney. Mr E has an E-toll Account and not a Linkt account. Mrs E the wife of Mr E is the registered owner of the car in question. For the sake of ease of description and analysis we will refer to Mr E as the complainant as he has generally been the person corresponding with the TCO and Linkt during the dispute process. His complaint made on 23 October 2023 was regarding a debt with Linkt and the debt collection process of this debt by C H. Mr E is concerned that his outstanding debt with Linkt was not appropriately communicated with him and as such, he was not aware that the debt was at risk of progressing to C H until it had contacted him. It was not until C H commenced its collections process that Mr E was made aware of the debt with Linkt and as such, he feels that he should not settle the matter and instead feels that he is entitled to compensation because of the stress and inconvenience that this matter has caused him.
- In short, Mr E believes that Linkt systems for resolving disputes with consumers generally are ineffective and defective particularly in relation to the use and control by Linkt of debt collectors for Linkt. Moreover, the communication of Linkt to its customers in relation to debts is flawed.
- Presently, Mr E owes an amount of \$356.36. This includes \$260.00 of administration fees and \$96.36 of toll fees. This is before any settlement offer where Linkt have sought to waive various outstanding administration fees. However, Mr E has rejected their offer to waive the admin fee for the toll charge and wants Linkt to waive the whole toll fee payable.
- Linkt's position was that generally its dealings with Mr E were professional and appropriate. They point out that they actually proactively sought to waive the admin fees on the toll road fees. However, Linkt did subsequently apologise on a number of occasions about the delay in resolving the matter. Linkt considers that the manner in which they had used the debt collectors to seek to recover the toll debts from Mr E was appropriate. Linkt suggests that there had been significant communications

between Mr E over a long period of time including from the time of lodging her complaint on 23 October 2023. Linkt also suggests it has continued to, after the complaint was lodged, engage appropriately with Mr E to seek to resolve the dispute.

- Linkt suggests that they made various offers during the course of their interactions and discussions with Mr E in respect to toll road trips which involved a reduction on the administration fees to certain travel fees. Linkt considers that its settlement offer is fair and reasonable in the circumstances, in view of the amount of outstanding charges it has waived in this case. Linkt point out they had been consistent in their settlement position including in their direct discussions with Mr E.

Background

- The complainant, Mr E, first made a complaint to the TCO on 23 October 2023.
- The overall dispute raised by Mr E involves his interactions with Linkt and the processes of Linkt to recover toll debts. This includes Linkts use of debt collectors.
- The view of Mr E is that Linkt should justify its position and compensate him because of the impact on him and his wife of the debt collectors contacting him. 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 E considers that Linkt, as a result of its processes has complicated the matter, caused undue stress to them and made ultimately settlement of the matter more difficult.
- In the complaint lodged with the TCO it was stated:

“We have an overdue amount with LINKT which we were not advised that we needed to pay. The matter was referred to a c h. We have made a genuine offer to pay the costs but not fees which make up the majority of the amount due. C H has not responded to our offer. We continue to receive automated contact from both c h and LINKT. We are unsure who is managing the matter. We raised our dissatisfaction with c h directly on 13th October and requested to be sent through their IDR process, but this has been ignored.”
- This seems to be a systemic issue with multiple parties following up the same debt amount. There also seems to be an issue with c h IDR process which has failed.
- Linkt responded to Mr E on 11 December 2023:

“Please accept my sincere apologies for the delayed response and I thank Mr E's for his patience.

I understand Mr E is disputing Toll Notices admin fee for vehicle [E****M] (NSW).

I have recently attempted to call Mr E on [0*****5], however this seems to be wrong number.

Linkt account number [4*****7] provided in complaint form does not bring any database, to investigate further please provide correct Linkt account number.

Toll Notices are issued if there is no valid tolling arrangement in place. Both the initial Notice and Reminder Notice were issued via post by Transport for NSW on behalf of Linkt can be located [Pay Sydney toll notices \(linkt.com.au\)](https://linkt.com.au).

There are a number of outstanding tolling Notices for Mr E's vehicles [E****M] (NSW) can be searched [Pay Sydney toll notices \(linkt.com.au\)](https://linkt.com.au).

I am unable to confirm an accurate representation of the debt owing on the vehicles without knowing the dates of ownership as this may include debt that Mr E is not liable for and may have privacy implications for another party. Please provide date of ownership for vehicle.

Linkt utilises the Debt Collection agencies from time to time to collect the payment of outstanding Notices which is passed the due date and to avoid an infringement.

When resolving complaints, we consider what would be a fair and reasonable outcome in the circumstances. It's not common practice for companies pay to customers when resolving disputes. As such, it would not be reasonable for Linkt to make payment of the compensation.

Once again please accept our sincere apologies for any inconvenience caused."

- Mr E on 11 December 2023 suggested in response to Linkt that:

"They have attempted to address one of my concerns but seem to have ignored a majority of the complaint.

Yes, we have originally requested that the admin fees are waived for the tolls as we have advised that the notices were not received. We are now requesting that the whole debit is waived and compensation is provided. I find it ridiculous that Linkt believe that compensation is not standard in these kind of cases. I have raised numerous systemic issues in regards to their debt collection partner, who refused to deal with the issues as they don't own the debt.

I can also confirm that our etoll is up to date and has always had sufficient funds available to pay these tolls. It appears that i have provided the wrong contact number in the application. my wifes number is [0*****5] and my best contact number is [0*****5].

While the matter was being managed by C H (who is the authorized agent for Linkt) they have ignored our communication and offers to pay this matter. I then raised a complaint due to continues collections demands despite the offers we have made. This complaint was not acknowledged which is a clear breach of the IDR process. I

continued to follow up on the matter with no response until a AFCA complaint was lodged. C H continue to advise that they cannot respond to the AFCA complaint as Linkt own the debit. We also raised this complaint which was again not responded to by Linkt. What timeframe is required of them to respond and address a complaint? Surly 6 weeks to acknowledge the complaint is also outside of the complaint handling guidelines.

I maintain that we are requesting that \$1000.00 in compensation is paid and all of the outstanding toll notices are waived. “

- Linkt on 21 December 2023 sought to respond to Mr E’s email by explaining their processes in these matters stating that:

“We appreciate your assistance and Mr E patience with this matter. Please accept my sincere apologies for the delayed response and I thank Mr E for his patience.

As advised, due to privacy regulations we can only discuss Toll Notices with the registered owner of the vehicle at the time the notices were issued. Mr E is required to provide us the dates of ownership of vehicle [E****M] (NSW) to determine debt.

Further to prior email, please see additional responses to the questions:

1. Linkt does not have visibility of e-toll account, any disputes related to Toll Notice issuance reasons needs to be raised by tolling provider for them to investigate and determine the reason.

2. Toll notices are issued by Transport for NSW who holds the ownership details including information pertaining to the registered owner’s details including Phone Number, Email etc. In the instance where if both the original toll notice and the reminder toll notices remain unpaid, after a certain period of time, Transport for NSW would then release the information to Linkt’s credit team to engage with communicating the outstanding toll notices via our debt collection agency.

I can appreciate this has been a frustrating experience for Mr E, for us to offer a resolution for the outstanding toll notices, date of ownership for vehicle [E****M] (NSW) is important then only we can put request with collection to hold debt”.

- Mr E responded on 29 December 2023 and stated that:

“I can confirm that my wife is the owner of the car and we purchased the car new. Our etag is owned by myself.

I continue to wonder why this drags out instead of you dealing with the actual issues raised against you and your agent (C H).”

- Linkt responded to Mr E on 4 January 2024 on the following basis:

““Thank you for providing this update. I note Mr. Es' frustrations.

I would like to refer to my previous email dated 21 December 2023, in which I requested the vehicle ownership dates. Once this information has been provided, I will be able to continue my investigation and provide a swift resolution.

Linkt does not hold registration details of vehicles and further to this, as Mr. E is an E-Toll account holder and does not have a Linkt account, we do not have any visibility over the vehicle/e-toll account.

Further to this, as Mr. E has mentioned that the vehicle is registered under his wife's name, can I please kindly ask that he returns the Letter of Authority that is attached to this email.

Thank you for your assistance with this and we look forward to a swift resolution.

Thanks again for your enquiry. If you require any further assistance or wish to discuss this further, please get in touch with me via return email. You can also contact the Customer Resolutions team on 1300 381 570.”

- Mr E responded to Linkt on 4 January 2024 on the basis that:

“Should this not have been done at the start of the process not now? Have they been breaching privacy laws by communicating without the relevant authority?”

I have attached a LOA doc which has been signed when the matter has been raised with AFCA.

I Wonder how much more time will be wasted on this...”

- Linkt responded to Mr E again on 19 January 2024 stating that:

“I appreciate Mr E patience in this matter and apologise for any inconvenience this may have caused.

To process Mr E complaint, we need Letter of Authority sent by Linkt to be filled and signed. I have reattached it once again. We apologise if its inconvenient for Mr E.”

- Mr E again responded to Linkt on the same day and stated that:

“I have provided a signed LOA document.

Why has this not been accepted?

Is AFCA format not acceptable? Or are you delaying this process further?”

- Linkt responded to Mr E on 23 January 2024 and stated:

“I understand Mr E frustrations related to this situation.

Linkt Letter of Authority authorises another person to speak on the customer's behalf for matters relating to toll notices incurred by the vehicle.

AFCA form only provides authority for a person to act on the customer's behalf for an Australian Financial Complaints Authority complaint, not a Tolling Customer Ombudsman complaint.

As the wording of AFCA authority does not give authority for the TCO complaint, related tolling matters more broadly, we cannot accept that form as a letter of authority.

Please advise if any further information is required.

Thanks again for your enquiry. If you require any further assistance or wish to discuss this further, please get in touch with me via return email. You can also contact the Customer Resolutions team on 1300 381 570."

- Mr E responded to Linkt on 25 January 2024 and stated that:

"I disagree.

The AFAC LOA form allows me authority to discuss the complaint (same one that was raised with AFCA) with anyone on behalf of my wife. Again more BS stalling from Linkt when they have already been discussing the matter with me previous

Have they responded to that breach of privacy?

Regardless of the BS i have organise for their LOA doc to be signed and this is attached. "

- Linkt responded to Mr E on 7 February 2024 to Linkt and stated:

"I understand that Mr E's concern related to Toll Notices for vehicle [E****M] (NSW).

Vehicle [E****M] (NSW) currently has a total of \$356.36 outstanding. This includes \$260.00 worth of administration fees and \$96.36 worth of tolls. As a goodwill gesture I can offer a reduction on the administration fees, reducing the outstanding amount to \$124.96 (Last travel 21st June 2023). Payment of the reduced amount can be made by contacting the Linkt Customer Resolutions team by 27 February 2024 on 1300 381 570 and quoting reference no. [****9968**-**].

To comply with its privacy obligations (particularly Australia Privacy Principle 12 – Access to personal information) Linkt is required to complete verification of an individual's identity before it can discuss a customer's personal information (including customer account information) with a third party. When it became apparent that the tolling invoices to which the dispute related were in a name other than Mr. E, we required a letter of authority to resolve the complaint on behalf of the vehicle owner. As no personal information of the registered owner (including details of the invoices or vehicles) were disclosed during our correspondence with Mr. E prior to obtaining

authorisation from the registered owner, we are satisfied that all privacy compliance requirements were adhered to. “

- Mr E responded to Linkt on 7 February 2024 and stated that:

“No we will not be accepting the offer.

Linkt has not made any effort to address the complaint. They have only made a offer to resolve the outstanding amounts, which we have requested to be waived in full and compensation paid of \$1,000.00.”

- On 14 February 2024, Linkt responded to Mr E and stated that:

“I acknowledge and understand Mr. E’s frustrations and would like to provide a further update to this matter and to try and progress this complaint to the resolution stage.

As I understand it, Mr E’s complaint is regarding the debt collection process with C H. Mr E is concerned that his outstanding debt with Linkt was not appropriately communicated with him and as such, he was not aware that the debt was at risk of progressing to C H until it had. It was not until C H commenced its collections process that Mr E was made aware of the debt and as such, he feels that he is not entitled to settle this and instead feels that he is entitled to compensation because of the stress and inconvenience that this has caused him.

As stated below, Mr. Es’ vehicle [E****M] has \$356.36 worth of outstanding tolls. This includes \$260.00 worth of administration fees and \$96.36 worth of toll charges. The reason why Mr. E received these toll invoices with additional administration fees attached is because vehicle [E****M] used the toll roads without a valid tolling arrangement as he does not have an account nor has he acquired a pass for any trips made.

To resolve this complaint, I will offer a full administration fee waiver of \$260.00 meaning that Mr. E will only need to settle the toll only amount of \$96.36. To settle the outstanding amount, Mr. E will need to contact the Customer Resolutions Team on 1300 381 570 and pay over the phone. I would like Mr. E to note that this discount will only be applied once as he has now been educated on the correct way to manage travel on the toll roads.

I would also recommend that Mr. E opens a Linkt account as this is a the most convenient way to manage travel. Mr E can find more information about our assortment of account options here: <https://www.linkt.com.au/accounts-and-passes/open-an-account/sydney> .”

- On the same day, Mr E responded declining Linkts offer and stated:

“I again decline the offer.

I have a etag and understand how to use toll roads and successfully do this regularly. Thank you for the patronising response.

Once again Linkt has not responded to the lack of IDR process that either C H or Linkt have.

Please escalate the complaint. I do not want to have a reconciliation as this will have no benefit as we are so far apart on this issue”.

Current position of the parties

- Mr E wants significant compensation on the basis of the impact that continual contact from the debt collectors has had on Mr and Mrs E. Mr E stated that he wants Linkt to pay an amount of \$1000 albeit that Linkt has offered to waive all administration charges and pay only the outstanding toll charge.
- Linkt states, whilst it understands Mr E is frustrated that this matter has taken some time to resolve, it considers all of the toll charges originally imposed have been imposed on Mr E legitimately. The offer of Linkt to Mr E which involves the waiver of admin charges is fair and reasonable offer.

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 matter has been complicated by the fact that Mr E has an E-toll account rather than the Linkt account and the fact that Mr E has an E-toll tag and Mrs E is the registered owner of the vehicle in question. There is no dispute between the parties that Linkt have offered to waive the administration charges of Mr E in respect to toll road travel. There is no dispute between the parties that the original toll charges were incurred by Mr E for the use of toll roads.
- The two parties have a different view as to what are the crucial facts that are relevant to the construction of the dispute between the parties. Mr E seems to take a view which focusses on the activities of the debt collectors for Linkt and the methods and strategies of Linkt in using the debt collectors including privacy concerns irrespective of the toll road travel. The Linkt view is focussed on the customers travel on the toll

road but also in respect to the wider issues suggests they have used debt collectors appropriately and have not breached Mr and Mrs E's privacy.

- In my view, the crucial issue in this case is the difference in the perception of Mr E as to the manner in which the interaction between E-toll and Linkt should work for customers and in fact what are Linkt's obligations and responsibilities to customers in the event of circumstances where an E-Toll customer with the E-toll e-tag is not also the registered owner of the vehicle and the vehicle is used on a Linkt toll road. I consider this is an honest belief of Mr E (more of this below).

Determination

- I am satisfied that, in the circumstances and on the basis of all of the evidence provided by the parties, Mr E has not established grounds or evidence for his complaint. I note also that there is also a general principle that consumers who travel on toll roads should pay for the use of toll roads.
- As discussed with Mr E previously I do not have jurisdiction over debt collectors per se. However, in my view when responding to and dealing with consumers, Linkt have a responsibility to properly brief, instruct, communicate and manage their agents and in particular their debt collector agents. In this case, I consider that Linkt have discharged those obligations in this instance. However, Linkt must continue to carefully monitor their debt collector's activities and approach to ensure appropriate behaviour of debt collectors to consumers. The TCO will also closely monitor these matters as well. As Mr E has expressed the view that given the number of times the debt collectors contacted Mr E and Mrs E this has caused them stress and Mr E has a particular fixed understanding/perception of how this process should be undertaken (see above), it is in my view appropriate that Linkt has taken this into account and waived any admin fee on the primary toll charge as its offer of settlement in this particular circumstance.
- When responding to consumers, Linkt have a fundamental responsibility and duty to consumers to protect their privacy. I consider Linkt have discharged their duties in respect of this issue in the present circumstances.
- Accordingly, on the basis of the above, I consider that the Linkt offer which waives all of the admin fees but requires a payment of the primary toll charge on Mr E of \$96.36 is fair and reasonable in the circumstances.
- I remind the parties that under the TCO process, my decision is not binding on Mr E and that he can seek relief in any other forum.
- As discussed with Linkt previously, 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 turnaround times for these disputes. As referred to above, I do however note again that this matter has been complicated by Mr E having an E-toll account and Mrs E being the registered owner of the vehicle in question. I also note that Linkt, during the dispute (including correspondence between the parties through the TCO) apologised on a number of occasions in writing for any delay in responding to Mr E.

Phillip Davies
Tolling Customer Ombudsman

Dated: 12 April 2024