

Queensland Parliamentary Inquiry into the operation of toll roads in Queensland

Submission by Legal Aid Queensland



Inquiry into the Operation of Tolls Road in Queensland

Introduction

Legal Aid Queensland (LAQ) welcomes the opportunity to make a submission to the Queensland Parliamentary Inquiry into the operation of Toll Roads in Queensland. LAQ provides input into State and Commonwealth policy development and law reform processes to advance its organisational objectives. Under the *Legal Aid Queensland Act 1997*, LAQ is established for the purpose of “giving legal assistance to financially disadvantaged persons in the most effective, efficient and economical way” and is required to give this “legal assistance at a reasonable cost to the community and on an equitable basis throughout the State”. Consistent with these statutory objects, LAQ contributes to government policy processes about proposals that will impact on the cost-effectiveness of LAQ’s services, either directly or consequentially through impacts on the efficient functioning of the justice system.

LAQ always seeks to offer policy input that is constructive and is based on the extensive experience of LAQ’s lawyers in the day to day application of the law in courts and tribunals. We believe that this experience provides LAQ with valuable knowledge and insights into the operation of the justice system that can contribute to government policy development. LAQ also endeavours to offer policy options that may enable government to pursue policy objectives in the most effective and efficient way.

LAQ’s Consumer Protection Unit (CPU) provides legal advice in relation to people experiencing financial difficulty, which can include financial difficulty arising from unpaid toll road debts. LAQ’s First Advice Contact Team (FACT) also provides legal advice in relation to unpaid toll road debts, and unlicensed driving whilst suspended by the State Penalties Enforcement Registry (SPER) following unpaid tolls. Conviction can result in disqualification from holding a licence for up to six months. This submission is informed by that knowledge and experience.

Terms of Reference

(a) The operation of existing toll roads in South East Queensland

LAQ submits that the pricing structure, and payment collection method, for toll road use, should ensure equal access to toll roads for all drivers.

(b) Toll pricing and incentive options to deliver better outcomes for Queenslanders

In assisting financially disadvantaged Queenslanders, LAQ has encountered the following issues with toll pricing and incentive options regarding toll roads in Queensland:

- (i) High Administrative Fees can result in a ten dollar toll escalating to a debt of over \$280 if the toll remains unpaid and is referred to SPER. There is the potential for consumers to incur administrative fees of \$275.22 for every 3 days' of unpaid tolls. If Transurban opts to recover the debt through the civil debt recovery process, court costs and legal fees can result in the debt becoming significantly higher.
- (ii) Charging consumers high administrative fees early in the process creates a disincentive for financially disadvantaged consumers to try and pay the debt early, resulting in the rapid escalation of the debt to an amount that many financially disadvantaged consumers cannot pay. Cost of living pressures mean that paying toll debts are paid after expenses that the consumer considers more urgent, for example, rent or mortgage payments. Such consumers often allow the debt to escalate to SPER because it is easier to arrange a periodic repayment plan with SPER than making a similar arrangement with Transurban. This approach is followed by consumers despite the fact that the debt becomes significantly higher once referred to SPER, and the potentially serious consequences of non-payment of a SPER debt, for example, licence suspension or the issue of an enforcement order.
- (iii) The lack of an effective customer friendly hardship process within Transurban makes it very difficult for many consumers to engage with Transurban and negotiate payment of their debts without the debt continuing to escalate.
- (iv) Three days is too short a period of time for toll debts to be paid by many consumers, particularly financially disadvantaged consumers.
- (v) There is no clear avenue available for a victim of domestic violence to seek a waiver of a toll debt incurred in their name by the perpetrator of the violence. Also, joint toll accounts create a risk for consumers experiencing domestic violence as they potentially allow a perpetrator to track a victim's movements. There needs to be an effective and efficient method for account cancellation, including joint accounts where one of the account holders is a victim of domestic violence.
- (vi) Regional Queenslanders with no experience of the South East Queensland toll road system find it difficult to interact with the system. Regional Queenslanders are often unaware that they have incurred a toll debt until a notice has issued by which time they have already incurred administrative fees in addition to the toll debt.
- (vii) There is no clear process for reducing administrative fees in circumstances where the consumer is experiencing hardship such as major mental or physical health issues or domestic violence.
- (viii) Imposing fees for an unpaid debt after only three days, and then further increasing the fees after 14 days or when referred to SPER, is punitive and not consistent with the practice in other industries such as banking and finance, insurance, council rates, energy and water.
- (ix) Many consumers routinely do not receive reminder notices to pay toll debts.
- (x) Many consumers find the Transurban website hard to navigate, and have difficulty dealing with Transurban's call centre. When they are able to access the call centre,

they find the staff lack the knowledge, capacity and/or the authority to provide real assistance.

- (xi) The final debt of many consumers is often disproportionate to the debt initially incurred.
- (xii) There have been instances where a consumer is dealing with a debt collector employed by Transurban and a debt collector employed by SPER. This dual approach creates unnecessary confusion for consumers and makes it difficult for them to negotiate ways to resolve their debts.
- (xiii) LAQ is not aware of any concessions for consumers or small businesses for bulk use resulting from their places of residence or work.

Recommendations:

LAQ makes the following recommendations:

- (1) Continuation of the three months Transurban Hardship Pilot which was recently conducted in the Logan area. The trial included:
 - (i) A dedicated hardship telephone line for both the general public and community workers;
 - (ii) An on-line hardship application form;
 - (iii) The ability for financial hardship assistance to be granted to consumers experiencing financial difficulties.
 - (iv) The tailoring of hardship assistance to a client's individual circumstances.

LAQ understands a report about the trial will be released shortly. LAQ looks forward to engaging with Transurban to roll out a hardship program for toll debts state-wide.

- (2) Monthly billing for the use of toll roads with 14 days from the date of the bill to pay. This will:
 - (i) Stop the imposition of punitive and multiple administrative fees being imposed;
 - (ii) Ensure toll debts are treated in the same way as any other debts owed by consumers, for example energy, water, credit cards, and personal loans;
 - (iii) Encourage consumers to budget their toll debts as part of their monthly expenses.
 - (iv) Ensure the time frame for payment of a toll is consistent with the timeframes for unpaid loans and credit cards which can affect a consumer's credit report in the banking and finance industry.
- (3) The introduction of a concession system for tolls for eligible consumers. An appropriate concession system, in combination with a hardship scheme, would address many of the issues currently faced by consumers in vulnerable circumstances dealing with toll debts.

- (4) Training for Transurban staff in dealing with consumers in vulnerable circumstances may address call centre staff's lack of knowledge, capacity and authority to provide for real assistance.

(c) The operation of the existing complaint process and current statistics

Many consumers, particularly those in vulnerable circumstances, find the complaint process very difficult to navigate.

Some of the problems they have encountered are:

- (a) The timeframes for disputing a debt are very short.
- (b) The process of disputing a debt does not take into account other issues affecting a consumer such as family and domestic violence and mental or physical health problems.
- (c) Consumers do not always receive reminder notices. As a result, they may not be aware of a debt until after it has been referred to SPER.
- (d) Once a debt has reached SPER it is very difficult for consumers to meaningfully complain about the amount of a debt and how it was incurred.
- (e) Consumers find it difficult to navigate the Transurban website or obtain individualised assistance from the Transurban call centre. It is easier for them to deal with SPER; however the consequence of this is that they are dealing with a much larger debt than they would have had to, if early intervention and assistance had been available from Transurban.
- (f) Consumers are not aware of the existing complaint process and do not have a good knowledge of how to access the Tolling Ombudsman or the Queensland Ombudsman.

(d) Possible measures to improve customer service standards

LAQ refers to the responses above.

(e) The existing relationship between the Tolling Customer Ombudsman and the Queensland Ombudsman

In LAQ's submission, industry ombudsmen and external dispute resolution schemes perform an important role in resolving complaints in other industries providing essential services such as:

- (a) Banking and finance and insurance (Financial Ombudsman Service (FOS) and Credit and Investment Ombudsman (CIO) soon to be replaced by the Australian Financial Complaints Authority (AFCA);
- (b) Energy and water (Energy and Water Ombudsman Qld (EWOQ))
- (c) Telecommunications (Telecommunications Industry Ombudsman ([TIO](#))).

LAQ supports the role of the Tolling Customer Ombudsman (TCO) and the Queensland Ombudsman in providing an independent, impartial and cost free way for consumers to address complaints that they have about toll debts.

Under the existing relationship between the two Ombudsmen, the following issues arise for vulnerable consumers:

- (a) Having two Ombudsman involved in the same process creates confusion for consumers in vulnerable circumstances, who are often unsure about which Ombudsman to complain to at which stage of the process.
- (b) Compared to other Industry Ombudsman, the TCO is very small and has limited capacity to deal with large numbers of disputes.
- (c) The terms of reference for the TCO are not easily available on the TCO website which makes it difficult to understand the extent of their powers and ability to resolve complaints.

These issues can be addressed by:

- (a) Developing strong Terms of Reference for the TCO that are publicly available on the TCO website www.tollingombudsman.com.au
- (b) The Tolling Industry providing the TCO with greater powers and funding to address toll debt disputes as early as possible in the process. The earlier that intervention occurs the more likely it will be that the results achieved are fair and contain outcomes which are achievable for consumers in vulnerable circumstances.
- (c) Improving community knowledge of the existence of the TCO to deal with toll debt disputes is improved in the community.
- (d) The introduction of one contact point for complaints about Toll Debts.