

The complaint

Mr G complains that Erudio Student Loans Limited (“Erudio”) has refused to backdate the deferral of payments towards his student loan fairly.

What happened

Mr G made an application to defer payments towards his student loan, which expired on 14 May 2019. He contacted Erudio to make a further deferment application and provided a tax return which was incomplete.

Erudio said this was insufficient and that it would need a fully completed tax return in order to process the application for deferment. Mr G disagreed, saying he’d never needed to provide a full tax return before and didn’t think it was necessary. That complaint was investigated by this service and it was eventually agreed that Mr G would provide Erudio with a fully completed tax return. Erudio also accepted that it hadn’t treated Mr G fairly and so it offered £100 compensation for this.

However, the parties didn’t agree on how to proceed with the deferment of Mr G’s student loan. Erudio said it told Mr G he’d need to provide his fully completed tax return by 14 September 2019, but that it didn’t receive this from Mr G. It’s said if it receives the correct paperwork from Mr G, it’s still willing to backdate the deferment by four months and remove four months’ worth of arrears – but that it won’t be able to backdate further than this or remove any more of Mr G’s accrued arrears.

Mr G struggles with his mental health and also has a severe form of dyslexia. He’s said Erudio has not understood the challenges he faces because of his disability and hasn’t treated him fairly by refusing to backdate the application for deferment by longer than four months.

Unhappy with Erudio’s response, Mr G referred his complaint to our service. Our investigator considered what had happened and recommended that the complaint be upheld. He said Erudio should – provided Mr G sends it the necessary information promptly – agree to backdate the deferment and removal of arrears to May 2019.

Erudio didn’t respond to our investigator’s assessment and so the complaint has come to me to decide.

What I’ve decided – and why

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having done so, I’ve decided to uphold this complaint. I’ll explain why.

In its final response letter dated 16 August 2019 to Mr G, Erudio said:

“To complete your application, we require a copy of your tax return that satisfies our requirements...Once received, [we] would usually backdate your deferment by a

maximum of three months however, as we should have reiterated this on your call...I am happy to extend this to four. This will mean that, providing we accept your application by 14 September 2019, you won't be left with any arrears balance".

I'm satisfied from the above that Erudio has the discretion to backdate a deferment application more than three months in certain circumstances, for example, where it has identified it hasn't provided adequate service to a borrower, such as the situation referred to in the final response letter. The four-month period it refers to is more than the maximum deferment period allowed under The Education (Student Loans) Regulations 1998, which state:

"Each deferment period will last for 12 months beginning on a date the lender tells the borrower. This date will be not more than three months before or two months after the date the lender accepts the borrower's deferment application."

I've considered carefully whether it would be fair for Erudio to backdate Mr G's deferment application for more than four months. And I haven't seen any evidence from Erudio which makes me think this wouldn't be possible. In terms of whether it would be fair for Erudio to do so, I've thought about what's happened from the time Mr G's deferment application expired in May 2019, until now.

It isn't for me to determine whether Erudio has breached the Equality Act 2010 – only a court can make such a finding. But I can consider whether Erudio has treated Mr G fairly and taken account of his disability in its dealings with him. And I don't think it has taken account of Mr G's difficulties sufficiently.

I say this because, Mr G has been proactive in contacting Erudio and has been in touch with Erudio regularly about the issue of further deferment. So I'm satisfied this is not a case of Mr G having done nothing or ignoring communications from Erudio. But Erudio has continued to take a rigid approach in setting deadlines for Mr G to comply with, despite the fact it was aware of Mr G's difficulties and at its discretion could have shown more flexibility towards him.

I've considered the impact of Mr G's disability and I think both his dyslexia and his mental health conditions would've made it difficult for Mr G to comply with all of Erudio's requests. And I'm not satisfied, based on what I've seen, that Erudio has acted reasonably since becoming aware of Mr G's disability or been flexible enough in its approach. It follows, therefore, that I don't think it would be fair for Erudio to apply a maximum roll back of four months in Mr G's case.

Mr G has also said he hasn't received a deferment application form from Erudio so it hasn't been possible for him to submit it. So I'll be requiring Erudio to send this to Mr G in a timely manner if Mr G chooses to accept my decision.

Putting things right

In order to put things right for Mr G, Erudio must do the following:

- Send Mr G in a timely manner and without any unreasonable delay all the necessary documents in order for him to make a deferment application.
- Subject to Mr G submitting the deferment application and any necessary paperwork in a timely manner and without unreasonable delay, assess Mr G's application for deferment fairly.

- Subject to Mr G's application for deferment being accepted, backdate the application for deferment to 14 May 2019 and from that date remove any arrears from Mr G's student loan account.

My final decision

My final decision is that I uphold this complaint and I direct Erudio Student Loans Limited to put things right as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 16 April 2021.

Ifrah Malik
Ombudsman