

The complaint

Mr G has complained about the way Erudio Student Loans Limited assessed his deferment application, and about them defaulting his account before he'd received the proper notice.

What happened

In 2021, Mr G's deferment application was turned down based on his total income, including income his employer gave him to cover certain living costs. Mr G pointed out that these living cost payments had not been included in Erudio's previous deferment assessments. Erudio explained that they were supposed to be included, and had been left out by mistake before.

Mr G lived abroad, and had told Erudio a number of times that their post either didn't get through or only got to him months late. He asked Erudio to send things by email. But Erudio chose to only send him his key documents by post. This included the notices that Mr G's deferment had been rejected, the notice of arrears, and the default notice. As such, Mr G didn't receive these until his account was already in default, which he said was unfair.

Erudio argued that Mr G should have contacted them to check things himself. They also said that he could have called them and asked for the deferment outcome to be sent by email.

Our investigator looked into things and didn't uphold the complaint. Mr G didn't agree, so the complaint's been passed to me to decide.

I sent Mr G and Erudio a provisional decision on 7 September 2022, to explain why I thought the complaint should be upheld. In that decision, I said:

The deferment criteria was based on Mr G's total income, less certain disability-related benefits. So all the income he received from his employer was supposed to be included, even the income which was meant to cover his living costs. Erudio didn't change the terms there – they just made a mistake in letting Mr G set that income aside in previous years. So Erudio were correct to turn down Mr G's 2021 deferment application based on his income.

I can certainly understand why Mr G would prefer for Erudio to discount that income. But just because Erudio made errors in Mr G's favour before, that doesn't mean they have to keep making the same errors going forward.

So I think the deferment outcome was correct. However, when it comes to the default, I don't think Erudio have acted fairly.

I can see that Mr G told Erudio repeatedly that their postal correspondence either would not get through or would be subject to severe delays. So Erudio were fully aware of this. Yet they continued to only send Mr G very important correspondence by post, while knowing it was unlikely to get through in time, if it got to him at all.

Erudio argue that Mr G should have checked things himself or tried to mitigate his circumstances. But the onus was on Erudio to make sure Mr G got the proper notices on time, the onus was not on Mr G to check that Erudio had done their role properly. And given that Mr G's deferments had been accepted every year for a long time, he didn't have a good reason to think he'd be rejected on the same circumstances now. So it's understandable that he didn't think to check whether Erudio had rejected his deferment without getting the proper notice to him. Further, Mr G did mitigate his circumstances by making it clear to Erudio that their post would not get through, and by asking for emails instead. Erudio say they would have sent Mr G his deferment outcome by email if he'd asked for this over the phone – so I see no good reason why they didn't do so when he asked for this over email.

It may well be Erudio's normal process to send things by post, and there may not be a specific rule telling them to use another particular contact method. But Erudio are required to treat customers fairly, and that will sometimes mean breaking from the normal process or doing things that one is not technically compelled to do. Erudio knew Mr G's situation, and knew they'd need to do something different to make sure he was aware of what was going on in time. It's standard industry practice to use more than one contact method. And Erudio were perfectly capable of contacting Mr G by email – which they've admitted they would have done had he asked them for this over the phone rather than over email, or they could have given him extra time to account for the expected postal delays, and so on.

But not only did Erudio not show Mr G any due consideration or forbearance, they actually defaulted him at the earliest possible point – despite knowing he was unlikely to get their postal notices in time, if at all. It's difficult to view such actions as being in entirely good faith.

Ultimately, Erudio were required to properly notify Mr G before a default. But they sent these notices by a method which they knew was unlikely to reach Mr G in time, if at all. And Mr G didn't get the notices in time, so he didn't get the required opportunity to avoid the default.

Taking everything into account, I find that this default was unfair. It follows that the best thing now is for the default to be reversed and the account reinstated, giving Mr G the opportunity to clear his arrears and then run his account as close to normal as possible. I also understand that Erudio caused Mr G some real stress, which also needs to be put right.

I said I'd consider anything else anyone wanted to give me – so long as I received it by 5 October 2022. Mr G let us know he didn't have anything further to add. Erudio made some further submissions, which I'll talk about below.

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.

Erudio argued that they told Mr G they'd send him key correspondence by post. But I already took this into account in the provisional decision. Mr G informed Erudio that he had trouble getting their post, he repeatedly asked for email correspondence, and Erudio have admitted that they could have sent him correspondence by email.

Erudio pointed out that the courier say they “aim” to get post to Mr G’s territory in about a week or two, so it shouldn’t have been that heavily delayed. But this is just an aim, and Erudio have not provided any evidence which actually substantiates that their post did arrive with Mr G in time. Further, the courier also states that post to Mr G’s territory must be formatted in a specific way – which it looks like Erudio’s post was not – otherwise it faces delay or return. And Mr G’s actions, as well as his consistent and credible testimony about this over the years, evidence that he was indeed having trouble getting their post. So I think it’s most likely that Erudio’s post was not getting through in time, and what’s more it looks like this may have been due to Erudio not sending it in the required format.

Erudio reiterated their argument that Mr G should have contacted them. But as per the provisional decision: the onus was on Erudio to make sure Mr G got the proper notices on time; the onus was not so much on Mr G to check that Erudio had carried out their role. And given that Mr G’s deferments had been accepted every year for a long time, he didn’t have a good reason to think he’d be rejected on the same circumstances. So it’s understandable that he didn’t think to check whether Erudio had rejected his deferment without getting the proper notice to him. Further, Mr G *did* mitigate his circumstances by telling Erudio about his troubles getting their post, and by asking for emails instead. Erudio say they would have sent Mr G his deferment outcome by email if he’d asked for this over the phone – so I see no good reason why they didn’t do so when he asked for this over email.

Erudio clarified that, while they did default Mr G at a relatively early point, it was not the earliest point they could have. But I don’t find this significant. The fact remains that Erudio did not show Mr G the proper consideration or forbearance.

Erudio also argued that Mr G didn’t have a payment plan in place. But I also do not see that this is significant to the outcome of this case. As far as I can see, it seems that Mr G hadn’t received the proper notification that any payments were due, and he didn’t have a good reason to think they were.

Lastly, Erudio pointed out that payments may be due for the 2022 to 2023 period. That will be the case if the backdated deferral I’m directing is not successful. I have taken account of that in the redress.

Ultimately, Erudio were required to properly notify Mr G before a default. But they sent these notices by a method which they reasonably knew was unlikely to reach Mr G in time, if at all. And it looks like Mr G didn’t get the notices in time, possibly even due to incorrect address formatting by Erudio, so he didn’t get the required opportunity to avoid the default. So having reconsidered the case, I’ve come to the same conclusion as before – that the default was unfair, that it should be reversed, and that the account should be reinstated, such that Mr G has the opportunity to clear the arrears and then run his account as close to normal as possible.

Putting things right

I direct Erudio Student Loans Limited to take such actions as are needed to effectively undo the default and reinstate the account.

That means reinstating each terminated loan. Or if Erudio are no longer able to do so, then it means making arrangements so the debt is treated as if it had been reinstated – including honouring the original terms and conditions and removing any related negative information from Mr G’s credit file.

It also means making arrangements such that Mr G has six months from the date of the final decision to clear the arrears from the 2021 to 2022 period. And it means allowing Mr G to make a backdated deferment application for the current 2022 to 2023 period. If the 2022 to 2023 deferment application does not succeed, then it means allowing a further six months for Mr G to pay any payments currently outstanding for that period. I recommend that Erudio contact Mr G about this by email.

Lastly, Erudio should pay Mr G £100 compensation for the trouble and upset they caused.

My final decision

I uphold Mr G's complaint, and direct Erudio Student Loans Limited to put things right in the way I 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 2 November 2022.

Adam Charles
Ombudsman