

complaint

Mrs A complains that Erudio Student Loans Limited is requesting payment for loans that she is not required to make and cannot afford to repay.

background

Mrs A entered into two student loan agreements one in 1998 and one in 1999. Under the terms of the loans she is not required to make repayments in certain circumstances.

Mrs A says she sent her deferment form signed and dated 10 January 2018. She received a letter from Erudio dated 24 March to say it had received her application for deferment but information was missing. She says she called to discuss this. She says she doesn't have proof of postage and although she recalls speaking to Erudio she doesn't have a record of these calls. She then received a letter dated 23 August 2018 saying her deferment had been rejected.

Mrs A says that she provided the information for her deferment that had been provided and accepted previously. She says she isn't required to make payments because she doesn't work and hasn't done so since 2012 when she lost her job due to ill health. She is in receipt of industrial related injury benefit. Mrs A says she was advised that if she provided proof her disability meant she was unable to work then her debt would be cleared. She says this has been provided.

Mrs A says she is being asked to pay an amount to Erudio that she shouldn't have to pay and can't afford to pay and that the issues over the past year or so have affected her health.

Erudio processed Mrs A's deferment application on 22 March 2018 and says this was found to be incomplete as Mrs A's income was below national living standards. It says no mention of third party support was included in this application. It sent her a letter asking for further information and on a call dated 29 March, Mrs A was told it would look for information from her husband that he paid the bills and so on. It says Mrs A said she hadn't been asked for this before but would send in the details. It says Mrs A provided a copy of an email dated July 2018 in which she said she had resent the information but that this didn't include a third party support letter.

Erudio says the information it needs is included in its guide and because it didn't receive the requested information Mrs A's application was incomplete. It says when Mrs A made it aware of her health issues her record was updated and interest stopped being applied. It also removed Mrs A's phone number from her account as she had explained the calls made her anxious. It says a hold was placed on Mrs A's account which showed it was acting positively and sympathetically towards her.

It says the account was terminated correctly and because of the default the full balance is now due. It says it is unable to reinstate the account but could look to work with Mrs A to set up a suitable repayment plan.

Our adjudicator thought the fair resolution was for Mrs A's deferral to be accepted and backdated to 2018.

Erudio didn't accept our adjudicator's view. It said that it was accepted it hadn't done anything wrong. It also noted that further evidence had been requested on Mrs A's previous two deferment applications, and that the 2017 deferment was processed in error.

In regard to the write-off of the debt, it says that it would need to see evidence dated within the past 12 months from a medical professional confirming Mrs A was unable to work in the future. It says if this is provided it will consider a write-off.

my provisional findings.

I issued a provisional decision on this complaint. I concluded in summary:

- Mrs A had previously deferred her repayments on her two loans and intended to do so again at the start of 2018;
- Mrs A completed the deferment form and it was processed in March 2018;
- Mrs A's form clearly showed her income was below the threshold amount for payment deferral;
- the information provided in her 2018 application was similar to that provided in her 2016 and 2017 applications;
- although further information was requested in regard to Mrs A's 2016 and 2017 applications as these applications were accepted in 2016 and 2017, with the same level of information provided as in 2018, I understood why Mrs A felt further evidence wasn't required;
- I couldn't say that Erudio was wrong to request further as it's up to it to set its own criteria in that respect;
- I noted in the final response letter that Erudio said it had been provided with the information it needed to allow deferment after the default had been processed;
- Mrs A had provided medical evidence to show she has a long term disability, and while I accepted that this may not be sufficient to show she would never be able to work in the future, it did support her case.

Overall, I appreciated that Erudio did keep Mrs A informed on the situation on her account and that it had asked for further information. But as it was clear Mrs A was not earning the threshold amount, and she had provided information about this similar to that which was accepted in previous years, I thought the fairest outcome to this complaint would be for the account to be reinstated and the deferment applied as if it had been actioned in early 2018. I also thought that Mrs A's credit file should be updated to reflect this.

Erudio had said that it wasn't possible to reinstate the account and apply a deferment due to the actions that had already been taken. Therefore, if this was the case, I thought the only fair solution would be for the debt to be written-off in full and Mrs A's account closed.

Erudio didn't accept my provisional decision. It said that Mrs A hadn't sent the correct information and that it had been explained that the information in the final response letter

was incorrect. It said it hadn't received any medical evidence from Mrs A and that if this was received it would review it against its criteria.

my findings

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

My role is to consider each complaint on an individual basis. I take relevant regulations and guidelines into account but my decision is based on what I consider fair and reasonable in given the unique circumstances of the complaint.

I note Erudio's comments about it asking for information that wasn't provided. I also note that while in its final response letter it said all information had been provided, it later said this wasn't the case. In regard to the medical evidence, evidence of Mrs A's industrial injuries disability benefit has been provided saying that payment will be made for life and she discussed her condition on a telephone call with Erudio, although I understand that this may not be sufficient for the account to be written off. I also note the stress this issue has been causing Mrs A.

However, I think the main issue in this case is whether or not Mrs A was entitled to defer her payments in 2018. I understand further information can be requested and believe that had the third party letter been sent then the deferment would have taken place. I also note that on the call with Erudio she confirmed her husband paid the bills. Mrs A had provided information showing she wasn't earning the threshold amount and on these grounds she was entitled to defer the payments. Also, while I note comments about previous deferrals, these had occurred with the similar evidence being provided.

Therefore, given the above, I think the fairest outcome for this complaint is for the deferral to be backdated to 2018 to ensure no liability arises. In the event this can't happen, I think that the loans should be written off and Mrs A's account closed. I appreciate Erudio's comments regarding my decision but given the circumstances, I think this is a fair resolution.

my final decision

My final decision is that I uphold this complaint.

To resolve matters, Erudio Student Loans Limited should reinstate Mrs A's account with a payment deferral backdated to the required date in 2018 to ensure no liability arises. It should also amend Mrs A's credit file to reflect this.

If it isn't possible to reinstate Mrs A's account then the full debt should be written-off, and Mrs A's account closed, and any adverse information that has been recorded since 2018 removed from her credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs A to accept or reject my decision before 28 September 2019.

Jane Archer
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