

complaint

Mr M complains that Erudio Student Loans Limited didn't cancel his student loan when it reached its maturity.

background

I issued my provisional decision, which attached to and forms part of this final decision in July 2018. In my provisional decision I explained the jurisdiction position, the cancellation terms of the loan and discussed why there are arrears. I asked both parties to provide me with comments.

Mr M provided further information to consider.

my findings

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

Mr M says he has always submitted deferment forms and says company S who he took the loan with did not update their records. I have reviewed the evidence with this change in mind and the information Mr M has provided cross checking the dates of deferment forms. I accept the information Mr M has provided but it only confirms further that there are gaps in Mr M's deferment. After taking into account the updated records with Mr M and Erudio, there are still gaps in the following years:-

04/1993 - 10/1994
10/1998 – 03/1999
03/2002 – 04/2002
04/2004 – 11/2006
11/2007 – 03/2011

Mr M says he was not informed when the maturity date was changed. Erudio purchased the loan in 2014 when the maturity date had already changed to 2016. It sent Mr M notices in 2016 informing Mr M that the loan had matured and the balance was outstanding. Whilst I acknowledge Mr M should have been notified of any change at the time, this is not something I can hold Erudio responsible for. I also do not think this could have had any impact as the balance outstanding had already accrued before the loan matured and any balance outstanding on maturity would still have to be paid.

I explained in my provisional decision that Mr M had accepted in a letter to Erudio in April 2007 that he owed the balance of £670.79 and was not disputing this. His complaint was about the charges and interest that had been added to the account and these have been removed. As far as I can see the issue is resolved and all Mr M has to do now is pay the outstanding balance of £670.79.

I know Mr M will be disappointed with my decision but my provisional decision remains unchanged.

my final decision

For the reasons set out in my provision decision and above I will not be upholding Mr M's complaint against Erudio Student Loans Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 October 2018.

Naima Abdul-Rasool
Ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr M complains that Erudio Student Loans Limited didn't cancel his student loan when it reached its maturity.

background

Mr M took a student loan in 1991 with company S, which was later transferred to Erudio. He thought the loan had matured in 2011 and that Erudio had cancelled the repayments at the same time. He found out in 2016, that the loan term had been extended to 2016 and he was in arrears. He disputed this. He says he has never earned more than the deferment threshold and so was never eligible to make repayments. He says he has submitted deferment forms every year. He doesn't believe that his account should be in arrears.

Erudio said the forms must be completed annually but there are periods where it hasn't received the forms from him, despite him being in contact with it. As a result, his account fell into arrears and Erudio added late payment fees and interest to the account. Both parties agreed the revised maturity date would be March 2011 but because of the arrears, the loan wasn't cancelled on this date, as Mr M had expected.

Mr M didn't think this was fair so he brought his complaint to this service. He says Erudio must have lost the deferment forms. He wants it to cancel the repayments. The adjudicator thought Erudio had acted fairly and reasonably. She said it was following the terms and conditions for the loan when it extended the loan term to 2016. She also said she couldn't investigate what had happened to the missing deferment forms because this happened more than six years ago and was now time barred.

Mr M disagrees saying he has submitted a deferment form every year and this has now come to me for a final decision.

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I have decided not to uphold this complaint. I will explain why.

jurisdiction

Firstly I would like to address the issue of whether we can look at this complaint or not because it concerns events which happened more than six years ago.

I'm afraid this service doesn't have a free hand to consider any complaint which is referred to us. We must follow the rules, which say what we can and can't look at. These rules are set out in the Financial Conduct Authority Handbook. The rules say we can't look at a complaint if it was made more than:-

- six years after the event complained of; or if later
- three years from when the customer was aware, or ought reasonably to have been aware, of the cause for complaint.

Mr M's complaint is that Erudio didn't cancel the repayments in 2011 when he believed the loan had matured. This is the 'event complained of' under the rules. This happened more than six years ago and so I agree that his complaint is outside the six-year rule.

I have gone on to consider the three-year rule. Mr M said he only found out in October 2016 that the loan term had been extended and the repayments hadn't been cancelled when he received a letter from Erudio. Although he was aware of arrears on the account, and had received notices from Erudio, there is nothing to suggest that Erudio had told him it was extending the term or that he still owed the debt. So I consider that he wasn't aware he had cause for complaint until October 2016 and that he wouldn't have known any earlier.

With the above points in mind, I have proceeded to review the complaint.

cancellation of the loan

The terms and conditions of the loan agreement say that Mr M must make 60 monthly payments and then the balance is payable on maturity of the loan. Loan payments can be deferred but an annual application to defer must be made. For every 12 months of deferment an extra 12 months is added to the end of the term which means the maturity date is extended by the same period. Mr M and Erudio agreed that the revised maturity date would be 31 March 2011 but Erudio extended the loan term again. Mr M said he didn't know it had done this. He now says the loan is 25 years old so the repayments should be cancelled anyway.

The terms and conditions say the repayments may be cancelled in the following circumstances:-

The present regulations provide for (a) cancellation of repayments if you die and (b) cancellation of repayments (so long as you are not in breach of any obligation to us) if (i) you are aged under forty when you last enter an agreement to borrow from us and you attain age fifty or all or part of your last borrowing from us has been outstanding for at least twenty five years..."

I can see the loan is more than 25 years old so this element is satisfied. But this provision also says that the borrower must not be in breach of any obligations under the agreement. There are arrears outstanding on the account and so Mr M hasn't satisfied this condition. As a result, he didn't qualify for cancellation of the repayments in 2016.

why are there arrears?

S said it hadn't received any deferment application forms from Mr M between October 1995 and March 1999; April 2004 and March 2006 and between November 2007 and March 2008. During these periods arrears accrued on his account. He made two repayments in April and September 1999. He continues to say he submitted a deferment form every year and there shouldn't be any arrears. Unfortunately, I can't see anything that would support this. There are no copies of the original deferment forms submitted for those particular years or any confirmation of these being sent.

I have considered the possibility that Erudio may have lost the forms. Although this is plausible, I don't think that's what's happened. I have listened to the call where Mr M tells Erudio he'd already returned the forms. Erudio sent him further forms to complete but he didn't return them. There is also evidence he returned the deferment forms late. And I also note that the communications between Mr M and Erudio record only that he disputed the charges, not the missing deferment forms. On balance, I think it's more likely that Mr M didn't return the forms or he returned them late. This resulted in a balance becoming due and then arrears, charges and interest being added the account when he didn't make the repayments. As he was in breach of the terms and conditions of the loan agreement, Erudio didn't have to cancel the repayments in 2016.

I understand that Erudio didn't hold updated information on Mr M's loan account. I can see how this would have added to his frustration. Erudio has apologised for this and have agreed to withdraw the interest and charges on the account. I should also point out here that there is no absolute right to

deferment if you do not meet the required threshold for repayment. It is for Mr M to ensure that S/Erudio knew about his financial situation by making sure he had returned the forms in time.

I can also see that Mr M had accepted in his letter to Erudio in April 2007 that he owed the balance of £670.79 and was not disputing it. As the charges and interest have been removed, all Mr M has to do now is pay the outstanding balance of £670.79.

I know Mr M will be disappointed with my decision but having reviewed all the evidence, I won't be asking Erudio to do anything else.

my provisional decision

For the reasons given above, I won't be upholding this complaint against Erudio Student Loans Limited.

I invite both parties with their comments by 25 July 2018.