

complaint

Ms F complains that Erudio Student Loans Ltd (Erudio) didn't defer her student loan repayments following her 2015 application.

background

Ms F complained to Erudio in April 2015 about its handling of her student loan deferment application. Erudio sent her two final response letters (FRL) in May and August 2015, explaining how it had assessed her income and that it was in line with student loan regulations. As her income was over the threshold, Ms F didn't qualify for deferment. Erudio told Ms F that she had six months to make a complaint to our service.

Ms F was unhappy with Erudio's response and complained to us in 2018. Our investigator told Ms F that she'd made her complaint too late. And there were no exceptional circumstances to allow us to take it forward.

Ms F complained to Erudio again in 2019. She said that her complaint was based on new information, which was that Erudio applied different approaches when assessing her student loan applications from 2016 onwards (those applications were successful) compared to her 2015 application.

Erudio sent Ms F an FRL in June 2019. It explained to her that unlike her income levels from 2016 onwards, her income for 2015 was considered to be above the level for deferment. Erudio said it didn't agree that Ms F's application in 2015 had been assessed differently and advised her she could contact our service within six months of the date of the letter if she was unhappy with its response. As Ms F was unhappy, she contacted our service again a few weeks later.

Our Investigator looked into Ms F's complaint and thought Erudio had acted in line with the Student Loan Regulations and Ms F's other deferment applications when it decided on the 2015 application. Ms F didn't agree with the investigator's view and amongst other things said "*...it can be shown that I was treated differently on the 2015 application. As a result of Erudio refusing to deference my account in 2015, it now presents as having arrears*".

Because Ms F was not happy with our investigator's view, the complaint was passed to me to consider.

my provisional decision

In my provisional decision I said:

Ms F says that her complaint is new and differs from the previous one that she sent to us in 2018. I agree that the complaint is new in the sense that she referred it to us around a year after her previous complaint. And I can also appreciate that, as Ms F referred the complaint to us within the time limit that Erudio set out in its FRL in June 2019, she feels we should look into the merits of her complaint.

But I don't agree that the complaint is new in terms of its substance. Like Ms F's complaint, which we excluded in 2018 because it was made out of time, her 2019 complaint also relates to Erudio's handling of her 2015 student loan application.

So, I then went on to consider whether we should look into the merits of Ms F's complaint in line with our rules. And I intend to decide that I don't think we should. I'll now explain why.

Our rules recognise and allow a complaint about the same issue to be referred to us again. But when this happens, we must think about whether it would be appropriate for us to consider the complaint, or to use our discretion under DISP 3.3 to dismiss it. DISP 3.3.4.A says that one of the grounds for dismissing a complaint is where we believe that considering it could seriously impair the effective operation of our service. And DISP 3.3.4.B says that a complaint might impair the effective operation of our service if it has previously been considered or excluded by us.

And I think these rules apply to Ms F's case. We excluded her complaint in 2018 without considering its merits because it was made out of time. And, we didn't think there were exceptional circumstances that led to the delay in her complaint being made, so that didn't allow us to consider the complaint either.

But there is an exception under DISP 3.3.4 B that might allow us to look into a complaint if it has already been considered or excluded by us. And that's when there's new information, that's likely to affect the outcome. I've carefully considered whether the new information that Ms F gave us might have led to a different outcome in 2018. And I'm not currently persuaded that it would have done.

The new information Ms F referred to is evidence of her earnings from 2016 onwards. But regardless of what the information is and when Ms F received it, I can't see that it would have affected Ms F's ability to refer her previous complaint to us on time. Nor am I satisfied that it's likely to have affected our decision to exclude her complaint because it was out of time.

For all of these reasons, I'm intending to decide that it wouldn't be appropriate for me to consider the merits of Ms F's complaint and I won't be taking it any further.

the response to my provisional decision

Erudio didn't have any comments. But Ms F said she didn't agree that her 2019 complaint could have the same outcome as the previous complaint. She said that her 2019 complaint was that her later deferment applications were treated differently to the 2015 application.

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. I've also considered again my provisional findings in light of Ms F's response.

Ms F again told us that Erudio treated her later deferment applications (which were successful) differently to her 2015 application. And it's for that reason that she still believes we should look into her complaint now taking account of the new information she received.

But, it's clear to me that it's the 2015 application that Ms F is unhappy about because Erudio wouldn't defer her arrears. She isn't seeking any remedy in relation to the 2019 deferment, other than would impact the 2015 application. And it's her complaint in relation to the 2015 application that we've already decided was made to us out of time.

After careful consideration, I'm still not persuaded that the new information Ms F received would have affected her ability to refer her previous complaint to us on time. And I don't think it's likely to have affected our decision to exclude her complaint because it was out of time.

So, for these reasons and the reasons set out in my provisional findings, I'm not persuaded to change my mind about taking the complaint forward.

my decision

My decision is that I won't be taking Ms F's complaint forward.

Amanda Scott
ombudsman