

complaint

Miss Z has complained that Erudio Student Loans Limited would not accept her application to defer her student loan, and then didn't deal with her complaint properly.

background

Miss Z has two student loans and got in touch with Erudio last year to defer these for a further period. She didn't hear from them in the short-term even though she had provided them with the required information to confirm her current earnings. In July 2014 they confirmed that she had to complete their application form to defer.

Miss Z disagreed with this as she had provided Erudio with the information they needed. She also felt that when she originally took out her loan, there was no obligation to fill out this form and couldn't see why the conditions of her right to defer were now being changed. She was also concerned that Erudio planned to mark her credit record with information about her deferral. As she was not satisfied with Erudio's response, she brought her complaint to the ombudsman service.

Our adjudicator reviewed Miss Z's case. She told Miss Z that she felt there was no reason why she shouldn't complete the form. However Erudio agreed that Miss Z could cross out the portion which allowed them to carry out credit checks on Miss Z. Miss Z did not feel this outcome really addressed her concerns – including the fact that Erudio had taken payments from her account. She has asked an ombudsman to review her case.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Firstly I can understand that Miss Z didn't want to allow Erudio to carry out credit checks but Erudio has agreed that she can delete that portion. They have accepted that this was not part of the terms and conditions of her original loans. Like our adjudicator I believe that Erudio can share information that they hold on Miss Z. That said, our adjudicator confirmed that Erudio should remove any adverse data that has been recorded on Miss Z's credit record. I believe this is a fair outcome.

However I can see no reason why Miss Z remains unwilling to sign and date the form.

She may well think this is bureaucratic and I accept that she has given Erudio the information needed to assess her application. But I don't believe that asking her to sign and date a form is an unreasonable request, and helps Erudio to manage the deferral requests it receives.

The last aspect of Miss Z's complaint that I have reviewed is whether Erudio were able to debit payments from her account. And this is where my decision differs from our adjudicator.

It's worth saying upfront that Erudio did not debit Miss Z without her permission. She had agreed to direct debits being taken from her account. So I don't agree with her when she says that Erudio has breached FCA guidelines. There is no evidence to show this.

However Erudio did tell Miss Z that whilst their investigation was taking place, they would suspend all collection activity. Whilst Erudio believed this period ended with their final response dated 3 July 2014, I can appreciate that Miss Z felt this would continue whilst she took her complaint to the ombudsman service. I don't doubt that Erudio would have known that Miss Z would be opting to bring her complaint to this service. And of course, we advised them of this when we received her complaint last July.

So I don't believe that Erudio acted fairly by collecting payments whilst we were considering her complaint, as they had led Miss Z to believe otherwise. This meant that Miss Z had to ask her bank to refund her payments and I believe this led to inconvenience. I have already confirmed to Erudio that I consider it fair to pay her £100 in redress for this.

It's worth reiterating the point our adjudicator made – we don't generally advise customers to cancel payment arrangements whilst we review complaints as this can have a knock-on effect on their credit records. And whilst this can be amended later, it can take some time and in the meantime might have an impact on customers.

my final decision

For the reasons stated above, my final decision is to partially uphold Miss Z's complaint. I instruct Erudio Student Loans Limited to:

- allow Miss Z to delete the section on her application to defer her loan payments which states "*accordingly therefore by submitting this application you confirm that you consent for Erudio to perform relevant checks at credit reference and fraud prevention agencies*";
- amend her credit record and ensure that any adverse data is removed; and
- pay Miss Z £100 in compensation for the inconvenience caused when they debited payments from her account.

Under the rules of the Financial Ombudsman Service, I am required to ask Miss Z to accept or reject my decision before 17 April 2015.

Sandra Quinn
ombudsman