

## **complaint**

Mr B complains that Erudio Student Loans Limited has acted incorrectly when assessing his application to defer making repayments to his loan. He suggests he hasn't made repayments to it because he doesn't have to. But despite this, Erudio has now defaulted his loan due to non-payment and is demanding he repays the entire loan.

Further, Mr B complains that Erudio ignored him when he contacted it.

## **background**

Mr B took out a student loan when he was studying. Under the terms of his loan if his gross income is under a certain amount then he doesn't have to start repaying his loan. He was assessed each year to check whether his gross income was still under the relevant threshold.

Mr B said that he'd been deferring his loan repayments without a problem for several years when his account was owned by the previous debt holder – "S". But then the debt was sold on by S to Erudio. After this sale, in December 2014 Mr B made his yearly application to defer his loan repayments. Nothing had changed in his circumstances, but to his surprise and dismay this time his application was rejected. Mr B said this was because Erudio failed to assess his gross income in line with the previous approach used by S, which in turn was in line with the approach taken by HMRC.

Erudio said his gross income was over the threshold. It said because of this he was no longer entitled to defer making repayments to his loan. It said it had done nothing wrong in requesting repayments. It hadn't received these despite writing to Mr B on several occasions to explain its position. It pointed out that under the relevant terms and conditions it is able to terminate the agreement in these circumstances and to ask for payment in full.

Erudio rejected the suggestion it had ignored Mr B. It said it had no record of any contact from Mr B in response to this issue, apart from receiving this complaint.

Our adjudicator didn't recommend upholding Mr B's complaint. She didn't agree that Erudio had acted incorrectly in assessing Mr B's gross income. It followed she didn't think it was mistaken therefore about rejecting his application to defer his repayments. Neither could she fairly and reasonably say it was wrong to terminate the agreement and ask for repayment.

Mr B rejected this recommendation. In summary he said, S had assessed his gross income differently from Erudio. He said S had taken the approach he wants Erudio to take. He said S had set a precedent that Erudio must follow.

Added to which, he thought he had been discriminated against because he had both a salaried income and an income from his self-employed activities. He thought if he'd had only self-employed income the losses would've been taken from the profits to assess the "*final position*" and he would've been under the threshold.

He also said he was disappointed that we'd not commented on whether we thought Erudio had responded to him or not. He said if it had they might not be in this situation now. Mr B asked that an ombudsman review his complaint.

Erudio didn't tell us whether it accepted or rejected our recommendation.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've finished my review. I think I have no proper basis to ask Erudio to take any further action. I don't wish to disappoint Mr B but I think he will be disappointed by this decision and I regret that. Please let me explain why I've come to this conclusion.

Mr B and Erudio don't always agree about what happened here. Where this is the case, I've got to decide which version of events I find the most likely.

Mr B says that his gross income should be assessed in one way. Erudio says it should be assessed in another way.

Mr B explains that his overall gross income should be calculated taking his self-employed losses into account. He tells us his gross income from his self-employment is a negative figure. Therefore if the self-employed negative income figure is added to his employed income, due to these losses, his overall gross income from both sources is below the threshold.

Erudio says in this situation it has assessed Mr B's gross income from self-employment as being zero. It explains since his employed gross income is over the threshold he can no longer defer his repayments.

I agree with Mr B. I think Erudio should assess his gross income for the purposes of whether he is entitled to defer in the same way that S did. But what approach did it use? That's really not clear.

I asked Mr B to send me information to show how S assessed his gross income in the past. Several weeks have gone by since I asked for this - we've not received a response from him.

I asked Erudio why it has taken the approach it has. It sent us information that was irrelevant. I asked it what approach S had taken. Its response was not particularly helpful. It suggested if Mr B had said to S he was making no money from his self-employment S would've wanted to know how he was supporting himself. I find this response perplexing as it doesn't answer the question I asked and merely raises another (irrelevant) question.

I've looked at the relevant regulations. These say "*The borrower can defer making repayments of the loan if ... he can show that his gross income for the relevant month is not more than the deferment level*" and "*gross income*" means *income from all sources before deduction for or relief from tax or other statutory charge, but not including any disability related benefits, and less any disability related costs*".

It doesn't seem to me that this definition of gross income helps Mr B. It seems he is asking for his gross self-employed income to be his self-employed profits minus his self-employed losses. In other words he is saying his gross income is what is left after a deduction for or relief from tax or other statutory charge. Even if I accepted that his gross self-employed income should be a negative figure it doesn't follow that this should then be taken off his gross employed income to get to an overall gross income figure. This is not how I'm reading these regulations.

Neither do I think he is being treated unfairly because he has income from two different sources just because Erudio hasn't taken the approach he's suggested. He is being assessed on his income in line with the approach set out in the relevant regulations. And his point about if he was solely self-employed doesn't come into play as he isn't solely self-employed. And it's not clear that his gross self-employed income would be assessed as he suggests even if he only had self-employed income. Further in the scenario he outlines he would be treated exactly as he is being treated now by Erudio, in that it would be assessing his gross income not the source of the gross income.

The relevant terms and conditions say if Mr B's gross income is no longer below the threshold then he can no longer defer his repayments as of right. For the reasons I've gone through it seems his gross income is over the threshold. It follows I've no proper basis here to say that Erudio should reverse its decision and reconsider his application to defer his repayments.

Neither do I think it's unfair that the agreement has been terminated as Erudio's records show it did keep Mr B informed about what it intended to do. He hasn't said that he never received this information. And it did act in line with the terms and conditions which both have agreed to follow.

It's not clear to me why Erudio might not have received Mr B's communications. He hasn't given us exact details of when he contacted Erudio and how so it's difficult to comment further on this point. But given that both sides seem to be very firm in their views about how gross income should be assessed I doubt very much if either side would've changed position even if they had talked.

### **my final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 28 July 2017.

Joyce Gordon  
**ombudsman**