

complaint

Mr F complains that Erudio Student Loans Limited refused to defer repayment of his student loans.

background

In 2015 Mr F made his annual application to defer his student loans for another year. Erudio declined, because Mr F had provided only one pay slip and Erudio wanted three. His account went into arrears and Erudio issued default notices. Mr F applied again, with the same result. In 2017 Mr F complained to our Service. He insisted that he had done enough to satisfy the requirements for deferment.

Erudio maintained that three pay slips were required, and that it had made this clear to Mr F. It says Mr F can still apply for a deferment if he provides the required evidence, and the deferment would be backdated by three months but no longer.

Our adjudicator did not uphold this complaint. He said that Mr F's complaint about events in 2015 had been brought more than six months after Erudio had given him its final response, which was too late under our time limits, and so that matter was out of our jurisdiction. He considered Erudio's refusal of the later applications, but concluded that Erudio had done nothing wrong.

Mr F did not accept that opinion. He said he had not received Erudio's final response, so the 2015 matter should be considered. He insisted that he had always been entitled to deferment, and that all he was required to do was to provide one pay slip and to forecast his likely earnings over the subsequent two months. Erudio was not entitled to ask for three pay slips, and he considered this to be harassment. He asked for an ombudsman's decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. I do not uphold it. I will explain why.

The Financial Ombudsman Service is bound by rules made by the Financial Conduct Authority. These rules include some time limits on when a complaint can be brought. They say that we do not have jurisdiction to consider a complaint if it is brought to us more than six months after the respondent sent the complainant its written final response to the complaint. We can only consider a late complaint if the delay is the result of exceptional circumstances, or if the respondent consents. Erudio has not consented.

Mr F says he did not receive Erudio's final response, but under the rules the six months runs from when it was sent. So I have considered whether not receiving it might amount to exceptional circumstances. It is correctly addressed, but there is no evidence to contradict Mr F's assertion that he did not receive it, and so I will give him the benefit of the doubt and assume that it was lost in the post. I will therefore consider what happened in 2015.

Before I do that, I will mention that Mr F's account was in arrears in 2014. He was sent notices of arrears in August and November 2014, which I've seen. He was therefore aware of the consequences of not having his student loans deferred.

Mr F then managed to have his loans deferred again until October 2015. In August of that year, Erudio sent him a deferment application form to fill in and send back if he wanted to defer his loans for another year. The covering letter which accompanied the form said that a *How to Guide* was also enclosed, and encouraged Mr F to read it, because it set out what supporting evidence he needed to provide. Mr F says he did not receive the guide. Even if I accept that, I don't think it's likely that he never received it with any of the other forms Erudio sent him subsequently. I think it's more likely than not that he did receive the guide with most of the forms that were sent to him. But I will still consider what happened in 2015 on the assumption that he either did not receive, or at least did not read, the guide in 2015. (I will come back to what the guide says later.)

One of the sections of the form is headed "Earnings from Employment." This begins with four sentences of instructions. The fourth sentence reads as follows:

"If you don't know the annual income, you should base this information on an average of your income for this month, and what you predict for the next two months."

Mr F relies on this sentence as proof that Erudio was only entitled to receive one pay slip, and that one was enough. He says that as he sent one pay slip, Erudio should have granted his application to defer.

That is all very well, but that is not all the form says. The last page contains a declaration for the applicant to sign. It contains this sentence:

"I understand that Erudio Student Loans has the right to ask me for more information and/or check the information I have provided is true."

So I do not agree that the sentence I quoted earlier means that Mr F only had to provide one pay slip and that Erudio was not entitled to ask for more evidence.

In fact, Erudio wanted three payslips, one for each of the three months immediately preceding the application. The *How to Guide* makes this quite clear. However, just in case this was not included with the 2015 form, I will consider where that leaves Mr F and Erudio.

Supposing that Erudio did not tell Mr F in August 2015 that three payslips were required, and assuming (since I have not seen evidence to the contrary) that only one payslip had been required in previous years, I think it would have been reasonable of Mr F to only send one pay slip with his application form. He would not have known better. But once Erudio asked him to send more evidence, which it was entitled to do, it was Mr F's responsibility to send it. He knew Erudio was entitled to ask for more evidence, because the form made that clear. And when Erudio did not receive the pay slips it had asked for, it was entitled to decline his application.

I don't know when Erudio first asked Mr F for three pay slips. It sent him a new application form in March 2016, and I presume that a copy of the *How to Guide* was included with it. But in case that was the first time three payslips were requested, then I would have considered whether Erudio should have backdated Mr F's deferment to October 2015 (even though that is longer than the usual maximum of three months for backdating a deferment), if Mr F had then provided three pay slips. But he did not.

I have seen a chain of emails between Mr F and Erudio, dated April and May 2016. In these emails, Erudio repeatedly made it very clear that three pay slips were needed, and that the

application would not be granted without them. Mr F steadfastly refused to provide them, and insisted that one was enough. He also demanded that Erudio only communicate with him by email, and demanded that Erudio pay him £100 for every letter it sent him by post. He also threatened to take Erudio to court if it did not pay him, and he dared Erudio to take him to court to enforce the arrears, which he insisted he did not owe. The tone of Mr F's emails could be described as petulant.

It is very clear that Mr F had not the slightest intention of co-operating with Erudio; quite the opposite. So there is no basis on which I could now direct Erudio to backdate Mr F's deferment by more than three months from whenever it grants him a deferment.

In May 2016 Erudio sent Mr F a default notice in respect of the arrears. It continued to send him arrears notices. It sent another default notice in August 2017. It was entitled to do that, because the arrears had not been paid, and a valid deferment application had not been sent. Even when Mr F finally relented and did send in three pay slips for consecutive months, they were not for the most recent three months but related to an earlier period. He has not yet submitted a proper application with the evidence required. So Erudio has not deferred his loans, nor can it do so.

For me to have upheld this complaint, it would not have been enough for me to be satisfied that Mr F was indeed eligible to have his loans deferred when he applied. I would also have to be satisfied that he sent in sufficient evidence with his application. To date, this has not happened. I cannot emphasize enough how important it is that Mr F provides all of the evidence Erudio asks him for – including his three most recent payslips at the time he makes his application. If he does not do that, then Erudio might terminate his loan agreements, and if that happens then he will permanently lose the right to defer his loans. This would also be recorded on his credit file for six years, making it harder for him to obtain credit in future.

For completeness, I will add that the law requires arrears notices and default notices (and termination notices) to be sent as hard copies in the post, not by email. So Erudio was not deliberately being difficult when it sent them in the post, it was just complying with its legal obligations. It wasn't obliged to pay Mr F £100 each time it did that.

my final decision

So my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 September 2019. But if we don't hear from him then we will presume that he rejects it.

Richard Wood
ombudsman