

complaint

Ms E says that Erudio Student Loans Limited has terminated her account and won't put it back to how it was.

background

Erudio says it terminated the account because of the unpaid amounts that added up when Ms E didn't renew her deferment. It says the account has now been passed to another business ('Business B') and Ms E has lost her right to defer.

Ms E says she couldn't complete the deferment due to her medical condition. She thinks it would be fair if Erudio put the account back as it was and accept her deferment.

Erudio says it gave Ms E plenty of time to give the information it needed— even after the deadline had passed on 9 December 2014. It said it spoke to her several times and sent her the application form more than once.

Our adjudicator looked at the medical evidence that has come to light. And he thought it would be reasonable for Erudio to remove arrears and charges. And work with Business B, Ms E and her representative to determine the best way forward (such as deferring the loans or considering a medical write off).

In summary, Erudio says because the account has been terminated there are no arrears to write off. And Ms E can't defer the account as the full balance has become due. It says that she should talk with Business B which can manage her account through a 'Care Policy'.

I wrote a provisional decision on this case on 27 June 2016. I said:

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

I broadly agree with the findings of our adjudicator. But my proposal for putting things right is a bit different.

I can see that Erudio did give Ms E plenty of time to provide the information for deferment. It appears to have made adjustments to its normal process to try and help her. And I am not saying that it could have done much more at the time.

But now there is a clearer picture of Ms E's situation. Through her representative she has provided compelling expert medical evidence. And it shows that since 2012 a health condition has stopped her from properly managing her finances.

From this evidence it is clear to me that completing the recent deferment application wasn't the type of task that Ms E could reasonably have dealt with. And now that Ms E has someone helping her it seems that this type of thing is unlikely to happen again.

I think the right thing to do is for Erudio to react positively and sympathetically to what it knows now. And in my opinion that would involve putting Ms E back in the position had she been able to provide the correct medical evidence before the deadline ended.

From what I understand, had Ms E sent in the information in time she would've got a three year medical deferment from 9th December 2014. It was unfortunate her condition prevented her from sending this in. It feels fair that her account should be placed back as if this medical deferment had been granted at the time.

I know Erudio says that Ms E and her representative can speak to Business B about paying the balance. But it doesn't seem right that Ms E has lost the deferral and forgiveness options that would have been available to her had the account not been closed.

Erudio has said it can't take back an account unless it made an error before it was closed. This indicates that it can therefore take back accounts. And Erudio still owns the debt – so it can make the decision about what to do with Ms E's account.

My provisional decision, subject to any further information I receive by 24 June 2016, is that I intend to uphold this complaint.

In particular, I will require Erudio to place Ms E back into the position she would've been in, had it received the information it needed to defer her account on time.

I asked the parties for their comments on my decision.

Ms E's representative didn't object. He said he hoped that Ms E's complaint would not affect how Erudio treated her going forward.

Erudio said it didn't agree with my decision. In summary, it says that it hasn't made an error and that if it were to put back the account this would be breaking the terms of the loan. It says that it can only do this in exceptional circumstances and if it made an error. It says to recall the account and wipe the arrears after the customer hasn't deferred on time wouldn't be fair.

my findings

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

Erudio says that it can only put the account back in exceptional circumstances. But I think this applies here. Ms E has now provided evidence that she couldn't defer on time due to a serious medical condition. And, despite its own policy, Erudio needs to do what is fair and reasonable.

Erudio says it can't act unless it did something wrong. I accept that Erudio acted fairly at first. But now it knows more (based on strong medical information) it needs to respond in a reasonable way.

Erudio talks about treating customers fairly. But leaving Ms E in this situation isn't reasonable. It means she loses key benefits relating to deferment because of her medical condition. It just doesn't feel fair. Erudio has said this is against the terms of the loan agreement. But I don't think the terms of the loan account deal with this type of situation. In my mind they are not a barrier to putting things right.

Overall, my thoughts remain the same as my provisional decision (above). Erudio hasn't convinced me that my proposal is unfair, or that it can't do what I am asking. I remind it that this decision is legally binding if the consumer agrees to it.

my final decision

I uphold this complaint. In particular, Erudio Student Loans Limited should place Ms E back into the position she would've been in, had it received the information it needed to defer her account on time.

For clarity, as part of any account re-working Erudio should remove any arrears that would not have been added – and ensure that Ms E's credit file hasn't been negatively affected.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms E to accept or reject my decision before 29 July 2016.

Mark Lancod
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