

complaint

Miss O's complaint is that she didn't receive correspondence from Erudio Student Loans Limited ("Erudio"), and as a result wasn't able to defer her student loan, with resultant consequences.

background

Miss O held a student loan with a previous lender, and her loan was taken over by Erudio.

Due to a medical condition, which the lender was aware of, Miss O had a continuing deferment agreed from April 2012 to April 2015, with no annual requirement to reapply until it ended.

When the deferment was nearing an end, Erudio sent three letters to Miss O to let her know she needed to reapply. But she says she didn't receive them.

Miss O says the first mail she received from Erudio was a default notice, saying her loan account was in arrears.

She didn't think this was fair. While initially she'd indicated she was able to repay her loan at £10 per month, she later said she wasn't willing to pay anything and wanted the arrears to be written-off.

Erudio didn't agree. It said it had sent Miss O three letters from February to April 2015, making her aware of the deferral end date, and asking her if she wanted to apply again.

But when it didn't hear back to her to its reminder on 20 April 2015, arrears started to accrue and her account was ultimately defaulted.

Miss O complained to this service.

Our adjudicator looked into matters, and noted that Miss O was a vulnerable customer due to her health issues, and dyslexia. He felt that had Erudio reviewed her case properly it would have realised this, and would have treated her differently before it defaulted her account.

He thought that Erudio needed to make things right with Miss O, and recommended that it backdate her deferral to April 2015, which is when he believed she would have renewed had she been aware she needed to, and also to write-off any arrears on the account.

He also said that any adverse information noted on Miss O's credit file linked to this complaint should be removed.

Finally, noting Erudio's age-related write-off policy and Miss O's age, he recommended that this process be started.

Erudio didn't agree. It didn't believe it had treated Miss O unfairly, and explained that the age-related write-off could only happen once arrears were cleared, at which point it would be automatic. In the meantime it confirmed that it would reinstate the deferment from April 2015 to April 2017.

And so the complaint's been passed to me for a final decision.

my findings

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

Having done so, I can see why we're where we are currently. But that doesn't mean it's okay, and that no steps should now be taken to sort things out.

I'd like to make it clear that I don't consider this a complaint where blame is appropriate. While I don't think Erudio did as good a job as it could have done, I do concede that it's to some extent understandable why it thinks it hasn't done anything wrong. And I think Miss O herself also needs to take some responsibility. It was her debt, which regardless of who owned it, wasn't going to disappear. And she must have known that.

But for me it's less about what either party did wrong to cause the problems, and more about what it should do now to help resolve it.

Erudio's in a position of power that Miss O isn't. I accept its explanation that it sent her the three letters about deferment before the deadline passed. And I'm not sure it's reasonable to believe that Miss O didn't receive them. She may well have.

However, that's forgetting that Miss O was in a reasonably unusual situation, whereby she wasn't in the habit of deferring annually. This was due to her medical situation, and the fact that her most recent deferment had been for a rolling programme of three years. I think that this fact, coupled with the condition itself, helps to explain why Miss O didn't realise or remember that she needed to defer again in 2015, and perhaps why if she did receive the mail she didn't recognise it for what it was and take action.

I quite agree with Erudio that deferment of the loan was Miss O's own responsibility, and also with the principle that if somebody takes a debt then they're bound to try to repay it. And to that extent, I didn't like Miss O's most recent change of attitude on whether she'd continue to pay as she'd initially offered, and where instead she demanded a write-off of the arrears. Write-offs aren't an automatic right, and aren't applied that way. And I'd also add that if a customer wants to appeal to a lender's better nature, that's not the way to do it.

Having said that, the specific circumstances here don't allow the principle of "you borrow money so should repay it" to be followed to the letter. And there's no point in trying to follow it in pure terms, when reality says that Miss O can't afford to repay the arrears.

I've no reason not to believe her when she says she can't repay them. And I've also no reason to believe that had she applied for the deferment in 2015, she wouldn't have been given it again. I think she would have. And had that happened she'd currently have a deferred loan account she still can't repay, but at least one without arrears on it.

So in all the circumstances, and without seeking to blame either party, I think the pragmatic and fair thing to do now is for Erudio to write-off the arrears on the loan.

It's told me that no credit file information's yet been recorded, so as long as that remains the case it doesn't need to take any action in that respect.

As Erudio's already explained, once arrears are cleared then an eligible customer will benefit automatically from its age-related write-off policy. So if Miss O satisfies that policy's criteria once the arrears are cleared, then that's what Erudio should allow to happen.

I won't be making an award of compensation in this case.

my final decision

My final decision is that to resolve this complaint, Erudio Student Loans Limited should:-

- Treat Miss O's loan as deferred from 2015 to April 2017, and remove any arrears;
- Ensure that no associated negative data is placed on her credit file; and
- Consider then whether she's eligible for its age-related write-off policy, and apply it.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 16 January 2017.

Ashley L B More
ombudsman