

complaint

Mr M has complained Erudio Student Loans Limited won't accept his application form which he completed to defer payments on his student loan for 2015/16.

background

Mr M applied to defer his student loan for the 2015/16 period. He was unhappy about the form Erudio wanted him to sign so amended it. Erudio wouldn't agree his application until he completed the form properly. Mr M felt this changed the terms and conditions of his original loans and complained to Erudio. They said they'd done nothing wrong.

Mr M brought his complaint to the ombudsman service. Erudio told us they didn't think we had power to consider this complaint. Mr M had previously accepted settlement from them. They felt this stopped him from not completing his form to defer payments. And this issue had been considered by a court. Our adjudicator confirmed she didn't feel there were grounds to dismiss Mr M's complaint.

However she told Mr M she wouldn't be asking Erudio to do anything further. She felt Erudio were acting fairly in credit checking Mr M before agreeing to defer his loan payments.

Neither Mr M nor Erudio agreed with this outcome. This complaint has been referred to an ombudsman to complete.

my findings

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

On the issue raised by Erudio – whether we should dismiss Mr M's complaint or not – I agree with our adjudicator. I don't have to dismiss complaints where a court has considered the case or if a customer has agreed a settlement with a business. In this case Mr M's issue was about the 2014/15 application form. I agree with Erudio Mr M signed something which stated Erudio would do away with the application form for 2014/15 only. But I don't believe this stops Mr M complaining about an event which hadn't happened when he agreed settlement terms with Erudio. I'm satisfied I can consider Mr M's complaint.

I'm now going to turn to the main aspect of Mr M's complaint. He doesn't want Erudio to carry out a credit check on him. So is Erudio allowed to conduct a search on his credit record?

Mr M may feel we've said Erudio can do whatever they wish as long as they're making their own commercial decisions. I don't believe this is the case. What I'd say is we don't interfere if businesses are operating fairly. And I'm satisfied this is the case here.

Mr M drew our attention to another decision about someone else with Erudio loans. I'd say a couple of things. Firstly each complaint has its own different aspects and each decision refers to one individual complaint. And I've reviewed the other decision – which coincidentally I also made. I'm satisfied I wasn't saying Erudio couldn't look at their customer's credit record. Rather I felt they couldn't add what they were trying to add to this customer's terms and conditions in the way they were trying to do.

I'm satisfied there's no reason why Erudio can't review Mr M's credit record. This has no impact on Mr M. He will always know they've done this because there will be what's known as a soft footprint but anybody else reviewing his record won't see this.

I appreciate Mr M's strength of feeling about this issue and reviewed his detailed evidence carefully. He's right we are required to decide what's fair and reasonable. However whilst we take into account what the law says, it's worth saying I'm not interpreting it.

That said I think Erudio should allow Mr M another opportunity to complete his application form to defer payments in 2015/16. He may, based on what I've decided above, think he should now go ahead without altering the form. This would allow Erudio to sort things out. And if they agree to defer, I'm sure they will ensure there's no negative information on his credit record.

my final decision

For the reasons I've given, my final decision is not to uphold Mr M's complaint against Erudio Student Loans Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 29 December 2015.

Sandra Quinn
ombudsman