

The investigation of a complaint against
Student Loans Company
(in respect of functions it performs on
behalf of the Welsh Government)

A report by the
Public Services Ombudsman for Wales
Case: 201806342

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Introduction

This report is issued under s.16 of the Public Services Ombudsman (Wales) Act 2005.

In accordance with the provisions of the Act, the report has been anonymised so that, as far as possible, any details which might cause individuals to be identified have been amended or omitted. The report therefore refers to the complainant as Mr X.

Summary

Mr X complained that the Student Loans Company (“the SLC”) failed to inform him that he was not eligible for funding for a tuition fee loan for the 2014-15 academic year in a reasonable and timely manner. He said that the SLC incorrectly asked him for evidence of his personal circumstances in 2015-16 when he was not entitled to additional funding, and did not tell Mr X that his position was such that he would not be entitled to that funding in a reasonable and timely manner. Mr X also complained that the SLC did not handle his complaint in a reasonable and timely way.

The investigation found that the SLC failed to inform Mr X that he was not eligible for a tuition fee loan for 2014-15 in a reasonable way. It found that it should have been known from December 2014 that Mr X was not eligible for a loan, but this was not properly communicated to Mr X until after he had incurred fees for the full academic year, leaving him in considerable debt. The investigation also found that the SLC knew from October 2015 that Mr X would not ever be entitled to additional funding due to his personal circumstances in 2015-16, but that the SLC continued to ask for information about Mr X’s personal circumstances, and even (wrongly) granted his application for additional funding, until February 2017, almost 18 months later. This, on top of the debt burden Mr X had already incurred, caused him considerable stress.

The investigation also found that the complaints process had taken almost 2 years, of which a significant amount was attributable to the SLC and an Independent Assessor appointed by the Welsh Government. It also found that the SLC and the Welsh Government’s complaint handling process was confusing, noting that the Independent Assessor completed a Stage Three report into Mr X’s complaint, but then had to issue an addendum report and an apology for referring to incorrect Regulations. This was stressful and confusing for Mr X, and unfairly raised his expectations that he was entitled to funding, only for him to be disappointed again when the position was clarified.

The SLC accepted the findings of the investigation, and agreed to apologise to Mr X, and pay him £250 redress for the poor complaints handling and £250 for requiring him to enter into unnecessary

correspondence regarding his personal circumstances when it knew he was not entitled to funding. The Ombudsman also recommended that the SLC satisfy the debt Mr X had incurred to his University between December 2014 and June 2015 (which he was not properly advised he was incurring), and instead arrange for Mr X to pay the debt back to the SLC on the usual terms and conditions which apply when SLC funding is granted. This would ensure Mr X was in no worse a position than he would have been in had the failings not occurred.

The SLC said that it had already commissioned a review of its complaint handling processes, and was in the process of working with the different UK administrations to implement changes. The Ombudsman recommended that as part of the review of its complaint process it should take on board the issues raised by this complaint.

The Welsh Government also agreed to work with the SLC to review the complaints handling process applicable to students in Wales and to work with the Ombudsman's office to ensure that it complies with the Principles of Good Complaint Handling and any model complaint handling process the Ombudsman issues in his capacity as the Complaints Standards Authority for Wales.

The Complaint

1. Mr X complained that the Student Loans Company (“the SLC”) did not deal with him in a reasonable and timely manner. In particular, Mr X complained that:
 - a) The SLC did not inform him that he was not eligible for tuition fee funding for the academic year 2014-15 in a reasonable and/or timely manner
 - b) The SLC acted incorrectly when it requested that Mr X provide evidence of his personal circumstances in 2015-16 because he was not entitled to funding, irrespective of his personal circumstances
 - c) The SLC did not inform Mr X that he was not entitled to funding, irrespective of his personal circumstances, in a reasonable and/or timely manner
 - d) The SLC did not handle Mr X’s complaint in a reasonable and timely manner.

Investigation

2. The SLC administers student finance on behalf of the Welsh Government, including tuition fee loans (which are paid directly to the institution the student attends to pay for their course), and maintenance loans (which are paid to students for their living expenses). As the SLC performs this function on behalf of the Welsh Government the complaint falls within my jurisdiction to investigate.
3. There are references within this report to communication between the University Mr X attended and the SLC. I am not able to comment on matters concerning universities, as they do not fall within my jurisdiction.
4. I obtained comments and copies of relevant documents from the SLC and considered those in conjunction with the evidence provided by Mr X. I have considered all of the documents provided to me in detail. A summary of the key information and events is outlined below.

5. Mr X, the SLC and the Welsh Government were given the opportunity to see and comment on a draft of this report before the final version was issued.

Relevant Guidance – student loans

6. Tuition fees (fees paid to institutions to cover the cost of a student's attendance) are usually paid in 3 termly instalments, roughly in line with the Autumn, Spring and Summer terms, however, students are liable for the tuition fees from the first day of each term (roughly the end of September, beginning of January and beginning of May). The processes governing how the SLC administers student finance are set out in the Education Act 1962, the Teaching and Higher Education Act 1998 and in a series of Regulations issued by Welsh Ministers.

7. The Regulations are usually updated every year, ready for the new academic year. An academic year runs from 1 September to 31 August. For example, the academic year for 2014-2015 ran from 1 September 2014 to 31 August 2015.

8. Under the 2013 Regulations, the SLC calculated whether students were entitled to tuition fee funding for the academic year 2014-2015 by using this formula:

$$(OD + R + 1) - PrC$$

Where:

- OD is the length of the student's degree in years, e.g. a standard law degree is 3 years
- R is the number of years the student has had to repeat because they failed the year due to "Compelling Personal Reasons" (see below)
- PrC is the number of years of funding the student has already received from the SLC, excluding years the student has repeated due to Compelling Personal Reasons.

I will be referring to this calculation as "the Formula" throughout this report.

9. The last year of funding a student is eligible for must be kept back to pay for the student's latest year of studies. For example, if a student is on a three-year course and has 2 years of funding left, these must be used to pay for year 3 and year 2.

10. Compelling Personal Reasons ("CPR") outline the circumstances when a student is deemed not able to successfully complete an academic year of study through no fault of their own, for example if they did not pass their exams because they were in poor health. The SLC has a process for considering whether students have CPR and whether they should be granted an additional year of funding, as set out in the Formula at paragraph 8 above. The SLC usually requires evidence to be provided to support the student's application for CPR. A student is not eligible for CPR funding to repeat a year's study for which they were not entitled to funding when they first completed the year's study.

11. Up until January 2015, prospective students applied to their local authority for tuition fee loans and maintenance loans, which were awarded by the local authority and administered jointly by the SLC and local authorities on behalf of the Welsh Government. Until January 2015, the SLC and each local authority had a shared system, with the local authorities responsible for processing and assessing the applications. From January 2015, responsibility for processing applications and awarding funds passed from local authorities to the SLC.

Relevant Guidance – complaint handling

12. In 2011 the Welsh Government issued the Model Concerns and Complaints Policy and Guidance which gives guidance to public bodies. The purpose of the model policy for handling complaints was to establish common principles and a common model for dealing with complaints in Wales. One of the 5 principles outlined in the Guidance is to ensure that a complaints process is "Timely, Effective and Consistent" - "Investigate Once, Investigate Well". The Model Policy outlines a clear 2 stage process: Stage One being "Informal Resolution" and Stage Two "Formal Internal Investigation".

13. Complaints about the SLC are dealt with under a 3 stage Complaints Procedure (“the Complaints Procedure”), the third stage of which is independent of the SLC. At the initial stage, the complaint is handled by the SLC’s Customer Relations Unit, and a response should be provided within 15 working days. If complainants are not satisfied, they can ask for the SLC’s relevant Head of Service to review the complaint under the second stage of the Complaints Procedure. A response should again be provided within 15 working days. If complainants are still not satisfied, they may ask for a review by an “Independent Assessor”. Independent Assessors are appointed by the Welsh Ministers (and their equivalents in the other UK nations) to undertake an independent external review of complaints about the SLC and are responsible for carrying out Welsh Government functions.

14. Since the commencement of the Public Services Ombudsman (Wales) Act 2019 in July my office has the power to issue a statement of principles concerning complaints handling procedures for public bodies in Wales and to issue Model Complaints handling procedures for specific groups of public bodies which fall within my remit. I am currently consulting on draft Principles of Good Complaint Handling.

Relevant Background Information and Events

Mr X’s application for funding

15. In **2012** Mr X began studying a foundation year in engineering at his local University (“the University”). He received funding from the SLC for this year of study.

16. In **2013** he enrolled onto a different course at a different university and began studying the first year of a three-year law degree. Again, Mr X received funding from the SLC for this year of study.

17. Unfortunately, during the 2013-2014 academic year, Mr X became unwell. He attended the first year of his law degree, but because he only passed 4 out of the 6 modules of study, he could not progress onto the second year of the degree course.

18. As a result, Mr X decided to move back to the University, to study during the academic year 2014-2015 because it was closer to his home.
19. On Mr X's assumption on his application for funding that he would be attending the second year of a three-year law degree at the University, Mr X was informed on 12 August **2014** by his local authority that he was entitled to a maintenance loan and a tuition fee loan (which would be paid directly to the University). Mr X telephoned the SLC on 11 September to ask what would happen if he failed his first year of study again and had to repeat the first year for a third time.
20. Mr X then enrolled onto the first year of an accelerated two-year law degree at the University in September 2014.
21. The University incorrectly confirmed that Mr X had enrolled onto a three-year course.
22. On the basis of the information in Mr X's application form dated 11 August, Mr X was correctly assessed as being eligible to receive a tuition fee loan. As the local authority believed Mr X had enrolled onto a three-year course, using the Formula it assessed Mr X as being eligible for 2 remaining years of funding. The SLC paid the first instalment of Mr X's tuition fee to the University on 5 November.
23. On 18 December the University contacted the local authority and the SLC to advise them that Mr X had actually enrolled onto a two-year course.
24. On 18 December Mr X's eligibility was re-assessed by the local authority, and under the Formula, it was decided that Mr X was only entitled to funding for 1 remaining year of study. In accordance with the Regulations referred to above this remaining year of funding had to be held back for Mr X's final year of study. Mr X was not therefore entitled to any funding in respect of the 2014-2015 academic year.

25. The SLC said a letter addressed to Mr X dated 25 December (Christmas Day) was likely to have been generated by the local authority the day before and sent to Mr X on around 29 December. Although Mr X was not entitled to any funding in respect of the 2014 to 2015 academic year the letter included the following information:

- The SLC would pay **£0.00** towards the University's tuition fees
- That Mr X **would receive a maintenance loan**
- Under the heading "Next Steps" it advised Mr X **he did not have to do anything further**
- It said that the reason why the tuition fee amount had changed was because the tuition fee amount provided by the University was less than the amount Mr X had told the local authority on his application form
- That the SLC **had made a payment to the University in respect of Mr X's tuition fees on 5 November.**

26. Mr X says he did not receive the letter.

27. In January **2015** the SLC was given the power to assess applications for student finance on behalf of the Welsh Government, which had previously been held by local authorities. Mr X was advised of this change by email. The SLC was told by the Welsh Government that it did not need to review previous assessments undertaken by local authorities unless there was a change of circumstances. The SLC did not contact Mr X again until June 2015 because, as far as it was aware at that point, there was no reason to do so.

28. On 22 May the University sent the SLC a notification of a change in the course fee.

29. The SLC sent a letter to Mr X dated 17 June 2015, which was prompted by receiving the letter from the University on 22 May. Its content was generally similar to the letter dated 25 December except it said:

- Mr X **would** need to pay his tuition fees to the University for the 2014-2015 academic year

- The sentence about the tuition fees being less than the amount Mr X had claimed was deleted
- Under “Next steps” it again said Mr X **did not have to do anything**.

30. Mr X was unwell during the 2014-15 academic year. He did not pass the first year of the accelerated two-year course in June 2015 or when he re-sat the examinations in September 2015. He was informed by the University that he was able to postpone re-sitting the year until the 2016-2017 academic year on health grounds. This meant that he could take a year off (from September 2015 to the end of August 2016) to recover.

Mr X’s application for approval of “Compelling Personal Reasons”

31. When Mr X telephoned the SLC on 10 September 2015 he was told that he had 1 year’s worth of funding left which he needed to keep for his second (and final) year of his accelerated degree course. Mr X was told that if he needed to repeat the first year of his accelerated law degree, he would have to apply for CPR and provide medical evidence in support of his application. He was given similar advice when he telephoned again a day later.

32. On 1 October the SLC considered Mr X’s application for CPR. It rejected the application because no medical evidence had been provided in support. The SLC assessor noted that Mr X would not be eligible in any event, because a student may not be awarded CPR status to repeat an academic year during which they were not entitled to SLC funding. The note also states that a letter would be sent to Mr X to remind him to provide financial evidence to determine the level of his household income.

33. The SLC wrote to Mr X on 13 November informing him that he had not been eligible to receive a tuition fee loan for the 2014-2015 academic year. Again, under the heading “Next Steps” the letter informed Mr X that he “did not have to do anything”. However, the letter did set out the amount of tuition fees Mr X needed to pay the University. There was no specific mention of the CPR application or the decision to refuse the CPR application in the letter.

34. When Mr X telephoned the SLC on 22 February **2016** to find out whether his CPR application had been successful he was wrongly informed that because his application for funding for the academic year 2015-2016 was cancelled as a result of his ill health, his CPR had also been cancelled. He was not told that he was not entitled to CPR funding in any event. Instead, he was told to re-apply for the academic year 2016-2017. The record says he was advised if he was awarded CPR he would not be eligible for funding to re-sit the first year of his course.

35. On 1 August, 26 August and 13 September Mr X telephoned the SLC in relation to his application for CPR. On 23 September the SLC rejected Mr X's application for CPR "as the evidence received was insufficient to award CPR" and further evidence was required. The record says that if CPR was approved it would be allocated to the last year of the course, not the current academic year.

36. On 27 September Mr X telephoned the SLC to advise them that he had received a notice that he was in debt to the University for the 2014-2015 academic year, because the University had not been paid any of his tuition fees for that year. Mr X was informed that this was correct. He was told that his application for CPR had been rejected, and that the SLC needed further evidence from his GP.

37. Mr X telephoned the SLC on a number of occasions in September as he tried to find a way to complete his studies. At no stage, from the case system records, was Mr X advised that he would not be eligible for CPR for the 2014-2015 academic year.

38. On 25 October a letter was sent to Mr X which explained that he had been awarded 1 extra year of funding for CPR, which would be awarded to him for the academic year from **2017-2018**.

Mr X's complaint to the SLC

39. Mr X made a complaint to the SLC on 25 January **2017**. This was acknowledged on 1 February by letter, and a leaflet about the SLC's complaints process was enclosed. A Stage One response was sent on 3 February, which said that Mr X was not entitled to a tuition fee loan for

the 2014-2015 and 2016-2017 academic years, because he had already undertaken 2 years of study before September 2014. The response also said that Mr X had been sent letters in December 2014 and June 2015 showing that he was not entitled to a loan for his tuition fees. The response said that the SLC had mistakenly asked Mr X for evidence of his CPR, as he had not been entitled to a loan for his tuition fees for the 2014-2015 academic year, and the CPR had been awarded to him wrongly. An apology was given and the SLC said that the issue would be fed back to staff. The author referred to the Education (Student Support) Regulations 2013 in providing the response. The response did not explain the next steps in the complaint process, although it did offer the opportunity to speak to the author. The complaints leaflet sent 2 days earlier said that Mr X could ask for a senior manager to consider his complaint, but not how to ask for this.

40. Mr X wrote to the SLC on 3 April, asking for details of the Complaints Procedure and setting out his concerns. The SLC replied to Mr X on 10 May, again under Stage One of the complaints process, to explain that he could appeal the decision or escalate his complaint to Stage Two of the SLC's Complaints Procedure.

41. Mr X wrote to the SLC again on 17 May. He was advised (at Stage One) to submit a formal appeal on 22 May. Mr X emailed the SLC on 27 June and his email was considered by the Appeals Team. The email was passed back to the Complaints Department to consider as a formal complaint at Stage Two of the Complaints Procedure.

42. A response at Stage Two of the Complaints Procedure was sent to Mr X on 7 July. This explained that the recording of the telephone conversation from 11 September 2014 was no longer available, but it was known by 18 December 2014 that Mr X was now on a two-year course. The response said that a letter was sent to Mr X in December 2014 which confirmed that tuition fee support had been removed. Again, Mr X was advised that if he had any queries, he could contact the author.

43. Mr X wrote to the SLC again on 17 August. On 18 August, a further response was sent to Mr X at Stage Two of the Complaints Procedure which informed Mr X of the next steps in the Complaints Procedure.

44. Mr X submitted an appeal on 20 October, following advice from the University. This was re-directed as a complaint on 30 October and Mr X was advised of the process to follow if he wanted to pursue the Complaints Procedure. Mr X wrote to the SLC again on 31 December and was advised again to make a complaint at Stage Three of the Complaints Procedure on 9 January **2018**. The timescale for a Stage Three Complaint was noted to be 5 months at that time.

45. Mr X's Assembly Member wrote to the SLC on his behalf on 18 April. A response was sent at Stage One of the Complaints Procedure. On 17 May, Mr X requested that his complaint be considered under Stage Three of the Complaints Procedure.

46. On 25 May, the SLC wrote to Mr X advising him that the current timescale for an independent review under Stage Three of the Complaints Procedure was 4 months and offering him a payment of £50 because he had been given incorrect information about applying for CPR.

47. On 7 August, the SLC wrote to Mr X to advise that its Company Secretary had agreed that Mr X's case should now be reviewed by an Independent Assessor.

48. On 16 October, an Independent Assessor completed a review of Mr X's complaint. The conclusion was that the calculation undertaken by the SLC in September 2014 was incorrect, that Mr X had 2 full years of tuition fee support left to take from September 2014, and that there were issues over the length of time it took the SLC to resolve the mistake about CPR. The Independent Assessor recommended that Mr X should be re-assessed for his entitlement to tuition fee support and offered an ex-gratia payment of £150. The Independent Assessor made her decision based on the Education (Student Support) (Wales) Regulations 2013.

49. However, on 27 December, the Independent Assessor sent an addendum report which noted that the Regulations which she had considered in making her assessment were the 2013 Regulations, but Mr X had begun his university level studies in September 2012, and should have been assessed under the Education (Student Support) (Wales) Regulations 2012. Under the 2012 Regulations, Mr X did not have 2 years of tuition fee support

left to take from September 2014, so the Independent Assessor decided that Mr X should not be re-assessed, but he should still receive an ex-gratia payment of £150 in relation to the mistake made about CPR.

Mr X's evidence

50. Mr X said that he first found out that he had received no funding for his tuition fees for the 2014-2015 academic year, in September 2016, shortly after he had come out of hospital. Mr X said that he found out at the same time that he had been in debt to his University for 24 months. He said that he later received letters from debt collectors seeking payment of his tuition fees.

51. Mr X said that he felt that he had been “battered” by his health, and then by the University and the SLC. Mr X also noted that he had struggled to get complaint responses from the SLC within their own timescales and he had therefore asked for help from his Assembly Member. Mr X said that he took some time to pursue Stage Three of the SLC’s complaint process because he felt it was hopeless, and thought that an outcome would never be reached having been passed around for months.

The SLC's evidence

52. The SLC said that Mr X had told the local authority in August 2014 that he would be attending the second year of his three-year law degree. Funding was awarded to Mr X on this basis. A letter was sent to Mr X on 12 August 2014 which gave the course details he had told the local authority, but which were in fact incorrect by September 2014. The SLC said that their notes for applying for funding clearly state that the student must notify the SLC of the correct details of the course they are applying for and if their circumstances later change. The SLC said that Mr X did not contact it to tell it that the course details it had recorded for him were wrong.

53. In September 2014, the University confirmed that Mr X was on a three-year course. The University then contacted the SLC and the local authority again on 18 December to advise that Mr X had in fact transferred to the first year of a two-year accelerated law degree. Mr X’s

eligibility for his tuition fee loan was re-assessed on 18 December 2014, using 1 September 2014 as the date when Mr X transferred to the two-year course.

54. The SLC said that a letter was generated on 24 December 2014 and dated the following day to be sent to Mr X as soon as possible explaining that his eligibility for a tuition fee loan for the 2014-2015 academic year had been withdrawn. The SLC said that this letter was generated automatically on 24 December and was uploaded overnight to be printed and sent out the next working day (i.e. 29 December).

55. The SLC said that there would be no need for it to contact Mr X between December 2014 and June 2015 given the previous assessment carried out by the local authority, because the SLC would have no reason to review the account and/or contact Mr X. The SLC said that when functions were transferred from local authorities to the SLC in January 2015, a decision was taken by the Welsh Government that the SLC would not review assessments previously completed by local authorities unless there was a change of circumstance.

56. The SLC said that a letter was sent to Mr X in October 2015 advising Mr X that he had not been awarded CPR in September 2015, however, no copy of the letter was available. The SLC said that when bespoke letters are sent they are now copied into the notes so that they can be reproduced later on; however, that was not the case at the time.

57. The SLC said that in cases where an application is being reassessed and any funding removed, the SLC now also issue a bespoke letter to the student explaining the impact of any previous funded years of study on their on-going eligibility for funding as well as the system-generated letter.

58. In relation to complaint handling, the SLC said that it had noted that the complaint should not have been re-directed as an appeal and should have been escalated to Stage Two of the Complaints Procedure. It said that this had been raised with the member of staff concerned.

59. The SLC also said that the Company Secretary is required to sign off that all the information being submitted to the Independent Assessor is a full, true and accurate account of the complaint, and that the complaint has gone through the full internal process. The SLC said that on rare occasions, the Company Secretary may note that a complaint is wrong in law, or that the previous stages of the Complaints Procedure have not been completed, but that the Company Secretary is not a further tier of the complaints handling process. It said that in this case the Company Secretary reviewed and agreed to the matter being escalated to Stage Three within 3 days of the file being passed to him. The SLC said that it has to wait for an Independent Assessor to become available before the file can be passed to them; it said that any delays on the part of Independent Assessors cannot be attributed to the SLC as they are not appointed by the SLC, but under a separate process. The SLC noted that the Welsh Ministers had recruited additional Independent Assessors in 2018 and the waiting time for independent assessment had reduced to around 6 weeks. The SLC said that it had undergone a full external review of the complaints process in 2018 and is in the process of working closely with the different UK administrations, including the Welsh Government, to implement changes in response.

Analysis and Conclusions

60. I have carefully considered the SLC's casework system notes and records before reaching my findings on Mr X's complaints.

- a) The SLC did not inform him that he was not eligible for tuition fee funding for the academic year 2014-15 in a reasonable and/or timely manner.**

61. In relation to the first complaint that the SLC failed to inform Mr X that he was not eligible for tuition fee funding for the academic year 2014 to 2015 in a reasonable and/or timely manner, I **uphold** this complaint.

62. From August to December 2014 the local authority believed that Mr X was on a three-year course because it had received this information from Mr X and it was confirmed by the University. The local authority's assessment, using the Formula, that Mr X was entitled to

funding, was therefore administered correctly albeit it was based upon incorrect information. As the local authority and the SLC had not been informed that Mr X had enrolled onto a two-year course at that time I do not find any fault on the SLC's part when the initial decision was made.

63. However, when the correct information was provided by the University on 18 December, Mr X was not clearly informed that he was not, and never had been, entitled to a tuition fee loan for the academic year 2014-2015 in a clear and timely way. Although the letter dated 25 December was marked "sent by post", and the SLC says it was likely to have been sent on 29 December, Mr X says he did not receive this letter. However, even if the letter was posted to Mr X immediately after the Christmas holiday period, the content of the letter was unclear and confusing. It contained conflicting information and it gave Mr X the impression that his funding was secure because, for example, it informed Mr X that he "did not have to do anything further" and referred to the payment the SLC had made to the University in November 2014 in respect of his tuition fees. This was maladministration.

64. The letter should have clearly explained the decision to withdraw funding, that Mr X was in debt to the University for his tuition fees for the Autumn term 2014 which the SLC had paid on 5 November, and that he would incur further debt to the University if he returned to his studies in the Spring and Summer terms in 2015. This should have been done at the first possible opportunity after 18 December 2014 when Mr X's eligibility for a loan was reconsidered. This misinformation amounts to maladministration and had serious financial consequences for Mr X.

65. By the time the SLC next wrote to Mr X on 17 June 2015, he was already liable to pay in full the tuition fees for the academic year 2014 to 2015, but he was not aware of this.

66. The letter of 17 June 2015 was again unclear and confusing. I am not satisfied that this second letter clearly informed Mr X of the situation he was in. It again contained contradictory information: on the one hand informing Mr X that he needed to pay his tuition fees to the University, but on the other hand informing Mr X that he did "not need to do anything". Given that Mr X was not aware that there had been a change to what he believed was his

entitlement to funding, this letter also failed to inform him of the true position. This again amounts to maladministration. I am concerned that the template letters used by the SLC were not clear, or staff have not used them properly in this case.

67. The failure to inform Mr X of the correct position caused a significant injustice to Mr X. By continuing his studies in the Spring and Summer terms of 2015 under the misapprehension that his tuition fees were being funded he incurred further debt to the University. He was also liable for the payment which the SLC had made on behalf of the local authority in respect of the first instalment of the fees in November 2014, because the SLC had recouped that payment from the University.

68. When considering how to remedy the injustice caused to a person I consider whether it is possible to put the person back in the position they would have been in had the maladministration or service failure not occurred. I have therefore recommended below that the SLC remedies the injustice to Mr X by ensuring that the debt he incurred to the University (which he was not properly advised that he was incurring) is redeemed and that he is responsible for paying the SLC back in the way he would have been if he had received a tuition fee loan from 18 December 2014 to the end of the academic year in 2015.

- b) The SLC acted incorrectly when it requested that Mr X provide evidence of his personal circumstances in 2015-16 because he was not entitled to funding, irrespective of his personal circumstances.
- c) The SLC did not inform Mr X that he was not entitled to funding, irrespective of his personal circumstances, in a reasonable and/or timely manner.

I **uphold** both of these complaints.

69. Even though Mr X was not entitled to CPR funding for the academic year 2014-2015 the SLC did not inform him of this. Instead, the SLC wrongly asked Mr X for proof of his personal circumstances and evidence in support of his application on a number of occasions in 2015 and 2016. This was maladministration which caused Mr X injustice because he

wrongly believed that he simply needed to supply adequate evidence to the SLC in order to obtain his funding. Mr X obtained a number of confidential pieces of medical evidence and sent them to the SLC, causing him inconvenience because it was not possible for Mr X to be granted CPR for the 2014-2015 academic year. Providing GP letters about confidential aspects of his health condition to the SLC would also have cost implications for Mr X, as well as potentially sharing sensitive information about himself. I consider it unlikely that Mr X would have continued to contact the SLC regarding his application for CPR, if it had sent a clear explanation that he was not entitled to CPR in any circumstances in October 2015. Mr X's mis-held belief that he was entitled to CPR was confirmed when it was wrongly granted on 25 October 2016, only to be withdrawn during the Complaints Process on 3 February 2017, causing disappointment to Mr X.

70. I also find maladministration on the part of the SLC because it did not inform Mr X that he was not entitled to funding, irrespective of his personal circumstances, in a reasonable and/or timely manner.

71. Mr X was initially told he would need to apply for CPR on 10 September 2015. He asked for further information on how to make that application on 11 September and submitted an application which was rejected on 1 October 2015. On that date, the SLC's assessor correctly noted that Mr X would not be eligible for CPR for the 2014-2015 academic year anyway, because he had not been eligible for funding at all.

72. Whilst the SLC said that it wrote to Mr X on 1 October 2015, there is no copy of this letter in its records and I have not seen any evidence that Mr X was told in writing he would never be eligible for CPR for 2014-15 after 1 October 2015, despite the fact that this was clearly recognised by the SLC's assessor. A letter was sent to Mr X by the SLC which advised him to provide financial evidence to determine the level of household income and funding available. On the balance of the evidence available I am not persuaded that the information that he would not be eligible for CPR was sent to Mr X at this time. In fact, it was not until after Mr X made his complaint at Stage One of the Complaints Procedure that he was clearly informed that he was not entitled to CPR, no matter what his personal circumstances were, and despite the fact that he had been

granted CPR earlier in 2016. This was on 3 February 2017, over 16 months after he was first advised to make an application for CPR. In my view, this delay amounts to maladministration. Mr X suffered significant injustice because he wrote to and telephoned the SLC on at least 8 occasions over 16 months and the considerable delay would have caused Mr X frustration and concern that he was unable to resume his studies until he knew what the position in respect of his funding was. Mr X would also have had to pay for medical evidence from his GP and sent a number of letters to the SLC, with cost implications. Whilst the SLC and the Independent Assessor did identify this error during the complaints process, injustice had already been caused to Mr X.

- d) The SLC did not handle Mr X's complaint in a reasonable and timely manner.

73. In relation to Mr X's complaint that the SLC did not handle his complaint in a reasonable and timely manner, I **uphold** this aspect of the complaint.

74. In making this decision, I recognise that Mr X also contributed to the delay in a complaint response being provided at Stage Three of the Complaints Procedure.

75. Mr X made his complaint to the SLC on 25 January 2017. The first response to his complaint at Stage One was issued on 3 February 2017, within the SLC's timescales. I am concerned that the SLC contended in the response that the letters dated December 2014 and June 2015 had notified Mr X that he was not entitled to tuition fee funding for 2014-2015. For the reasons I have outlined above, the content of the December letter suggested the exact opposite, namely that Mr X did not need to do anything further and that a payment had already been made to the University. The June letter still did not fully advise Mr X of the correct position.

76. The response did not contain any information about how Mr X could escalate his complaint to the next stage, although it did contain an offer to contact the author. The SLC had sent Mr X a leaflet about the complaints process when it acknowledged his complaint on 1 February,

however, it would have been prudent to have included in the response a reminder about what Mr X should do next if he wished to pursue the matter further. Mr X asked how to escalate his complaint and was incorrectly advised to submit an appeal. It was only after Mr X had appealed and the appeal had been correctly re-categorised as a complaint that Mr X's case was considered at Stage Two of the Complaints Procedure. This was a delay of almost 5 months, during which time Mr X had contacted the SLC on 3 further occasions.

77. Mr X received a response to his complaint at Stage Two of the Complaints Procedure on 7 July 2017. Again, he was not advised at that point how to escalate his complaint, and had to contact the author to find out. This took another 6 weeks.

78. Mr X did not escalate his complaint to Stage Three for 9 months. He asked the SLC to escalate his complaint to the Independent Assessor on 17 May 2018. It then took 2 months before it was agreed that Mr X's complaint should be independently assessed.

79. The Independent Assessor, appointed by the Welsh Government, provided her report by 16 October 2018, just over 2 months later. Unfortunately, that report was wrong, and an addendum report was provided on 27 December 2018, 2 months later again.

80. In total, it took over 23 months for Mr X's complaint to complete the SLC's Complaints Procedure. I accept that 9 months of this were due to Mr X choosing not to pursue a Stage Three complaint until May 2018, and that he could at times have responded more promptly to correspondence from the SLC. However, the SLC and Independent Assessor were responsible for over 10 months of delays, as set out above. I find that this was not a timely response to Mr X's complaint.

81. In relation to the reasonableness of the SLC's complaint handling process, the SLC should have advised Mr X how to escalate his complaint as part of their response on 3 February 2017, and properly escalated it when he replied to that email, rather than advising him to submit an appeal. Further, the SLC should have advised Mr X how to escalate his complaint

on 7 July 2017. It was a failure on the part of the SLC not to confirm to Mr X how to correctly escalate his complaint at the first opportunity.

82. There was also a failure when the Independent Assessor used incorrect Regulations in assessing Mr X's complaint, resulting in an incorrect outcome, followed by further delay.

83. As the SLC is performing a function on behalf of the Welsh Government I am surprised its complaints process does not follow the Welsh Government's own Guidance, in particular the principle of a 2 stage complaints procedure which aims to "Investigate Once, Investigate Well".

84. I do understand that the SLC performs a UK wide function and its current 3 stage complaints procedure appears to apply across the UK. However, having adopted the 3 stage process it appears that there were significant delays in cases progressing to Stage Three (Independent Assessor) of the process, albeit those timescales have now reduced with the recruitment of additional Independent Assessors. Also, there is no mention in the Complaints Procedure of the SLC's Company Secretary having to approve a case before it can progress to Stage Three. I accept that wanting to avoid complaints being passed to an Independent Assessor unnecessarily when either they are not at the correct stage or the complaint actually has some merit and could be resolved is sensible, however, for complainants the role of the Company Secretary is unclear and is not mentioned in the SLC's own complaints leaflet.

85. Unreasonable delay in dealing with complaints, incorrect information about how to progress to the next stage and incorrect responses being given are all examples of maladministration. These will have caused Mr X an injustice due to the frustration caused by the protracted nature of the complaints process and the worry that he owed the University money while he was trying to resolve the situation.

86. I am concerned that such a long and protracted complaints process will have deterred many students in Wales from pursuing their complaints. It is to Mr X's credit that he persevered in pursuing his

complaint despite the personal difficulties he faced as a result of his ill health and his on-going worries about his financial situation and the impact of his debts both on his studies and on him personally.

87. As I will be reviewing complaint handling procedures across Wales as part of my function as the Complaints Standards Authority in Wales, I will be liaising with the Welsh Government to ensure that students in Wales are able to raise their complaints against the SLC and receive timely responses in accordance with my Principles of Good Complaint Handling. In light of my findings in the case I have made a recommendation to the Welsh Government below in respect of this matter.

Recommendations

Recommendations to the SLC

88. In making these recommendations, I note that the SLC has already undertaken training of relevant staff in relation to CPR.

89. I **recommend** that within **3 months**, the SLC should:

- a) Apologise to Mr X for the failings identified in this report
- b) Satisfy the debt incurred to the University between 18 December 2014 and the end of the summer term 2015 on Mr X's behalf (including any additional interest and debt recovery charges incurred to the present day) upon provision by Mr X of evidence of any debts owed
- c) Arrange for Mr X's tuition fees for the period from 18 December 2014 to the end of the summer term 2015 to be subject to the standard terms of a tuition fee loan agreement (not to include any additional interest and debt recovery charges incurred to the present day)
- d) Pay Mr X £250 financial redress for the needless correspondence and delay identified by the SLC in relation to his application for CPR

- e) Pay Mr X £250 financial redress to reflect the additional inconvenience and delay caused to him by the complaints handling process followed by the SLC in relation to his complaint.

90. The SLC says it has undergone a full external review of its complaints process and is in the process of working closely with the different UK administrations, including the Welsh Government, to implement changes. I am pleased that the SLC is already undertaking this work. I make this formal recommendation in relation to the SLC's complaints handling so that I can review the work being undertaken to ensure that the SLC's process and procedure complies with the Principles of Good Complaints Handling.

91. I therefore **recommend** that as part of the review of its Complaint Process and Procedure, the SLC should consider undertaking the following:

- a) Amending its complaints handling process and/or any related template letters or emails to ensure that all complaint responses sent at Stage One and Two advise students how to escalate their complaint to the next stage of the Complaints Procedure
- b) Reviewing the Complaints Procedure was followed in relation to the handling of this complaint in order to identify areas where the overall timescale could have been reduced
- c) Considering whether it would be helpful to put into place an escalation process or single point of contact for complex cases of this nature.

92. I would have recommended that the SLC prepare amended standard letters to send to students who are at risk of incurring debt to their university due to a change in their eligibility for tuition fee loans. I would have suggested including a clear statement, preferably in bold or other emphasised text, on the front page of such letters that the student is no longer eligible for a tuition fee loan, that they are now responsible for paying their tuition fees to their higher education institution and that the student should contact their university and/or the SLC urgently.

Further I would have recommended that the SLC prepare a standard letter to send to students where their application for CPR has been rejected setting out clearly the reasons for this. However, as the SLC has indicated that it has already identified this issue and prepared appropriate template letters I have not made a formal recommendation in this regard. Should I receive any future complaints I will, of course, expect to see an improvement in the way in which letters are drafted.

Recommendation to the Welsh Government:

93. I **recommend** that within **9 months**, the Welsh Government should:

- a) Work with the SLC to review the complaints process applicable to students in Wales.

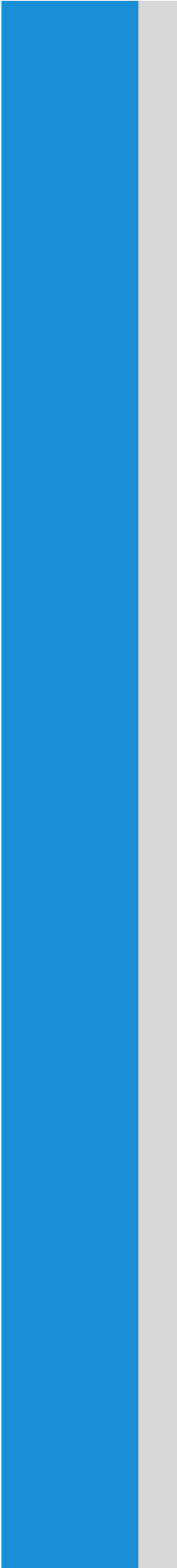
94. If the Welsh Government wishes to liaise with my office during this review I and my staff will provide it with assistance in formulating any policy which complies with the Principles of Good Complaint Handling and any model complaint handling process I issue in my capacity as the Complaints Standards Authority for Wales. As the process for finalising these Principles must comply with the terms of the Public Services Ombudsman (Wales) Act 2019 and is likely to take some months, I consider that a time period of 9 months for completion of this review by the Welsh Government is appropriate for this recommendation. This will allow the Welsh Government sufficient time to work with the SLC to ensure that any fresh approach is compatible with these Principles. I recognise that the SLC operates on a UK wide basis, therefore once my staff have developed a model Complaints Standards Process for the Welsh Government SLC complaints, I will share this with my counterparts across the UK.

95. I am pleased to note that in commenting on the draft of this report the Welsh Government and the Student Loans Company have agreed to implement these recommendations.



Nick Bennett
Ombudsman

12 February 2020



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