

The complaint

Mrs F's complaint is, in essence, that Clydesdale Financial Services Limited, trading as Barclays Partner Finance (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with her under section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA') and (2) deciding against paying a claim under section 75 of the CCA.

Background

Mrs F and her husband ('Mr F') purchased membership of a timeshare (the 'Fractional Club') from a timeshare provider (the 'Supplier') on 17 December 2014 (the 'Time of Sale'). They entered into an agreement with the Supplier to buy 8,000 fractional points at a cost of £11,000 (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mr and Mrs F more than just holiday rights. It also included a share in the net sale proceeds of a property named on the Purchase Agreement (the 'Allocated Property') after their membership term ends.

Mrs F paid for their Fractional Club membership by taking finance of £8,800 from the Lender (the 'Credit Agreement'), the balance being paid separately. Mrs F made two payments to settle that loan in March and April 2015. The loan was closed on 2 April 2015.

Mr and Mrs F – using a professional representative (the 'PR') – wrote to the Lender on 9 August 2022 (the 'Letter of Complaint') to raise a number of different concerns. As those concerns haven't changed since they were first raised, and as both sides are familiar with them, it isn't necessary to repeat them in detail here beyond the summary above.

The Lender dealt with Mr and Mrs F's concerns as a complaint and issued its final response letter on 11 August 2022, rejecting it on the ground that the matter was time-barred under the Limitation Act 1980.

The complaint was then referred to the Financial Ombudsman Service. As Mrs F had taken out the loan in her sole name, that makes her the only eligible complainant under our rules. It was assessed by an Investigator who, having considered the information on file, decided that our service did not have jurisdiction to consider part of the complaint because it had been brought too late, and decided that the Lender had a valid defence to the rest of the complaint under the Limitation Act.

Mrs F disagreed with the Investigator's assessment and asked for an ombudsman's decision – which is why it was passed to me.

What I've decided – and why

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

Having done that, I do not currently think this complaint should be upheld, for broadly the

same reasons as my colleague.

I will begin with my jurisdiction to consider this complaint.

Our jurisdiction is set out in rules made by the Financial Conduct Authority. These rules include time limits on bringing a complaint to our Service. These say we can normally only consider a complaint if it was made within six years of the event complained of, or (if later) within three years from the date on which the complainant became aware "*or ought reasonably to have become aware*" that he had cause for complaint. We can still consider a late complaint if it was late as a result of exceptional circumstances.

For the purposes of a claim under section 140A of the CCA, the time under the six-year time limit begins to run when the credit relationship between the debtor and the creditor ends. In this instance, that was when the loan was settled in April 2015. Mrs F brought her complaint more than six years after that, and I'm satisfied that she knew more than three years earlier that she had cause for complaint. It has not been suggested that the lateness of her claim is the result of exceptional circumstances. So I agree that I do not have power to consider this part of her complaint.

The position is different when it comes to a claim under section 75. For the purposes of my jurisdiction, time runs not from when the Credit Agreement was entered into, but from when the Lender rejected Mrs F's claim under that section, which it did on 11 August 2022. She complained to our service two months later, so I do have jurisdiction to consider her complaint about that.

However, time under the Limitation Act runs from 17 December 2014, so I agree with the Lender that Mrs F's section 75 claim was brought out of time, and that this gives the Lender a complete defence to her claim. So for that reason, I don't think it would be fair and reasonable of me to uphold her complaint.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs F to accept or reject my decision before 12 September 2025. But this final decision brings to an end our involvement in this matter.

Richard Wood
Ombudsman