

The complaint

Mr S complains that Clydesdale Financial Services Limited trading as Barclays Partner Finance ('BPF') acted unfairly and unreasonably by making deductions from a redress offer it made to him in relation to finance it had provided to purchase a timeshare product.

What happened

In or around October 2017, Mr S purchased a timeshare product from a timeshare provider for an agreed purchase price of £13,108. Mr S paid for the timeshare product purchase by taking finance of £13,108 from BPF in his sole name (the 'Credit Agreement').

Mr S says he complained to BPF in August 2020 about his timeshare product purchase and the associated Credit Agreement. However, specific details of that complaint haven't been provided and it's unclear whether BPF provided a response to it.

In or around the middle of 2023, BPF wrote to Mr S offering to review his time share purchase and the related finance under the Credit Agreement. Mr S completed and submitted to BPF the Review Request Form it had provided, which he dated 25 July 2023.

In January 2024, BPF wrote to Mrs S confirming it had completed its review and as a consequence, would refund to him an amount representing all payments he'd made, including fees and deposits less any rental/sale income received, holiday benefit or refunds previously made plus compensatory interest (after deductions for income tax). A statement of Mr S's loan with BPF shows that it refunded a total of £29,601.94 on 28 June 2024.

Shortly before the refund was made, Mr S contacted the Financial Ombudsman Service specifically to complain about the deductions BPF had proposed within the refund amount offered. He wanted BPF to refund the holiday benefit deductions, together with associated interest, on the basis he'd already paid maintenance charges covering the holidays he'd taken using the timeshare product.

It appears Mr S hadn't formally complained to BPF about those deductions. So, on 20 August 2024, he submitted a complaint to BPF asking it to refund the deductions and associated interest. However, having considered Mr S's complaint, BPF rejected it on every ground.

Unhappy with BPF's response, Mr S asked this service to look into matters for him. Having considered all the information and evidence available, one of this service's investigators didn't think Mr S's complaint should be upheld. In particular, our investigator thought that BPF's offer was fair and reasonable and was in line with what this service would expect to see in the circumstances.

Mr S didn't agree with the investigator's findings and asked for an ombudsman to look into his complaint, which is why it has been passed to me. In support, Mr S said, *"I do not believe that monies should have been deducted from the refund. I paid for accommodation only via the annual Management fees"*. Mr S later added, *"When using the accommodation we had to pay for everything – NOTHING WAS PROVIDED & therefore, in our opinion the deductions are unnecessary"*.

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.

When first referring his complaint to this service, Mr S said that he'd complained to BPF in 2020. I haven't been provided with the specific details of that complaint, so it's unclear what Mr S's concerns and complaint points were. It also hasn't been confirmed whether BPF specifically responded to that complaint with their findings. However, it does appear, and Mr S confirms, BPF contacted him in the first half of 2023 offering to review the circumstances of his timeshare purchase together with the finance it had provided under the Credit Agreement. And in order to do so, Mr S needed to agree to that review taking place and complete and return the Review Request Form provided by BPF. Mr S did that on 25 July 2023.

Whilst I'm aware that BPF proactively undertook reviews of the sale of certain timeshare products where it had provided funding under regulated credit agreements, it's unclear whether the review of Mr S's timeshare purchase here formed part of that remediation exercise or whether it was prompted by the complaint Mr S says he made in 2020. And if it did fall under the remediation exercise, what it was that prompted BPF to include Mr S's purchase under it.

Assuming BPF did receive Mr S's complaint in 2020, it raises two scenarios in my mind.

- Firstly, that BPF initially investigated but did not uphold Mr S's complaint in 2020 and issued a final response confirming that. If that was the case, the subsequent review of Mr S's timeshare purchase in 2023 may constitute the reopening of that complaint resulting in an outcome that differs from BPF's original findings, so supersedes any previous final response. And as Mr S is unhappy with BPF's latest findings, he has the right to refer that outcome to this service – subject to the time limits that apply.
- Secondly, that BPF didn't investigate and respond to Mr S's complaint in 2020 and the review of his timeshare product purchase was, in fact part of a proactive remediation exercise by BPF. The absence of a formal response to Mr S's complaint in 2020 may also give him the right to refer his complaint to this service.

The Financial Ombudsman's Jurisdiction

DISP¹ 2.3.1R says that this service can consider a complaint under its Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on one or more of the regulated or other covered activities, or any ancillary activities carried out by the firm in connection with them. So, this means that this service is only able to consider the merits of a complaint submitted by Mr S to BPF in relation to any one of the regulated activities referred to in that particular section of DISP. That would include BPF's handling of any complaint or claim relating to any allegation of mis-sale of the timeshare product (from April 2007 onwards) together with the associated Credit Agreement – as long as that complaint was referred to this service within the timescales permitted within DISP.

So, I've thought about whether this service has jurisdiction to consider Mr S's complaint about the redress amount offered and paid by BPF, if it was made under a voluntary remediation exercise rather than being in response to a formal complaint or claim. A voluntary redress exercise isn't a regulated activity for the purposes of DISP 2.3.1 as it doesn't satisfy the definition of a regulated service or product. So, any offer made by BPF under that exercise would have been made as a gesture of goodwill, not as part of any formal complaint or claim outcome. This means that Mr S's complaint would fall outside of this service's jurisdiction to consider because it doesn't relate to a regulated activity.

However, whilst I've not seen any evidence of the complaint Mr S says he made to BPF in 2020, I've no reason to believe that complaint wasn't submitted. And BPF appear to have

¹ Dispute Resolution: Complaints Sourcebook ('DISP') – part of the Financial Conduct Authority's ('FCA') Handbook.

remained silent on that point. So, as I've explained in the two scenarios above, if that's the case – and in the absence of a clear explanation from BPF of the rationale prompting its remediation exercise – I believe Mr S's complaint does fall within this service's jurisdiction as it relates to the complaint he says he submitted to BPF in 2020.

Mr S's complaint

This complaint specifically relates to the redress offered and paid by BPF. So, on the face of it, there is no need for me to consider further the merits of any complaint Mr S says he submitted to BPF in 2020. I say that because BPF have already agreed to provide Mr S with a refund. And assuming I was to uphold such a complaint on its merits, the outcome and redress I would propose is likely to be broadly in line with that offered by BPF here.

Mr S's main concern relates to the deductions made by BPF in respect of the comparative cost of holidays Mr S took when using his timeshare product. Whether or not Mr S was entirely satisfied with those holidays, Mr S clearly benefitted from them and there was clearly a cost associated with them. So, I think it is fair and reasonable to make deductions from any redress offered for the holidays Mr S took using his timeshare product..

I've carefully considered the rationale and explanation used by BPF to calculate those deductions. Whilst I understand and appreciate the various representations Mr S has made; I'm satisfied that the rationale used to calculate the comparative holiday costs – taking into account annual maintenance charges paid by Mr S - was fair and reasonable. In particular, it appears they are in line with orders this service has made for similar complaints of this type.

Whilst I realise Mr S will undoubtedly be disappointed, I can't reasonably conclude that BPF's redress offer was unfair or unreasonable. Because of that, I won't be asking them to do anything more here.

My final decision

For the reasons set out above, I don't uphold Mr S's complaint against Clydesdale Financial Services Limited trading as Barclays Partner Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 6 March 2025.

Dave Morgan
Ombudsman