DRN-5708259

The complaint

Mr J complains National Westminster Bank Public Limited Company ("NatWest") has treated him unfairly by failing to uphold a connected lender liability claim in relation to a timeshare purchase which was partially funded by his credit card.

What happened

This complaint has rather a protracted history which it isn't necessary to go into all the details of. However, Mr J was a long-time customer of a timeshare provider (the "Supplier"), making various purchases going back as far as 2003.

On 25 June 2014, Mr J made the purchase from the Supplier which is the subject of this complaint He swapped 9,000 "points" in the Supplier's "European Collection" for the equivalent number of points in the Supplier's "Fractional Club". Mr J was given £9,000 consideration for the trade-in of his existing points, and was then expected to pay a further £5,891.

This balance was split across credit cards in Mr J's name and Mr J's wife's name. Mr J's contribution was £430 on his NatWest credit card, paid on 25 July 2014. I have already decided a complaint in relation to Mrs J's credit card used to finance this purchase, involving a different bank.

At some point in 2020 – it's not known exactly when as we have not seen a copy of the original letter or email – a professional representative ("PR") wrote to NatWest, seeking to make a claim under Section 75 of the Consumer Credit Act 1974 ("CCA") and, probably, under Section 140A of the CCA also, in relation to alleged mis-selling by the Supplier of the Fractional Club membership. It seems the bank wrote back to PR in June 2020 noting that it had only limited information (the bank referred to only a credit card statement having been provided), and asked PR to provide more.

It's unclear if PR did in fact provide further information. It later provided a copy of an email which it said had responded to the bank's request. However, the header was missing from this email, meaning the date on which it was sent, and the recipient's address, couldn't be determined.

On 15 May 2023 PR contacted the Financial Ombudsman Service to ask us to look into Mr J's complaint. We requested clarification as it appeared the material sent by PR related to a different customer. As far as I can see, the next we heard from PR in relation to Mr J's complaint was in June 2024, when it requested an update.

There was considerable back and forth between the various parties involved after this point. It's not necessary to relate everything that happened, but in November 2024 PR came off the record as Mr J's representative, and Mr J has represented himself from that point on.

The case came to one of our Investigators for an assessment in July 2025. He didn't think the complaint should be upheld. He noted that in order for a Section 75 or Section 140A claim to be made successfully, there needed to be certain arrangements in place between

the Supplier and NatWest. In Mr J's case, the right kind of arrangements were not in place because his credit card had not paid the Supplier directly, instead going to a trustee company. The Investigator said this was consistent with conclusions drawn by the High Court in 2022. Because the necessary arrangements weren't in place, Mr J could not bring a successful claim against the bank under Section 75 or Section 140A in respect of the Supplier's alleged mis-selling of the timeshare.

Mr J was disappointed by our Investigator's assessment. He noted that the Supplier appeared to be taking advantage of a loophole to prevent the bringing of connected lender liability claims under the CCA. He argued that the trustee which had taken his credit card payment was effectively indistinguishable from NatWest, that it was impossible to make a purchase from the Supplier without going through the trustee, and that both the trustee and the Supplier's name appeared on his credit card statement.

Our Investigator considered Mr J's points but wasn't persuaded to change his mind. Mr J appealed and his case has now been passed to me to decide.

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 so, I don't lack in sympathy for Mr J – he clearly feels strongly about the Supplier's practices and feels he's been let down by PR – but I'm concerned only with whether NatWest might have some responsibility to him under Section 75 or Section 140A of the CCA. For the reasons I'll explain, I don't think it does.

In order for a claimant to be able to make a successful claim under Sections 75 or 140A of the CCA, there needs to be something in place which I will refer to as a valid debtor-creditor-supplier ("DCS") agreement. This is what our Investigator meant by there being the right kind of arrangements in place between the parties to the transaction. In Mr J's case, there is no valid DCS agreement in place, because his credit card payment was not made to the Supplier, and instead went via a trustee company.

The relevant legal provisions are as follows:

s.75(1) CCA states:

> *"If the debtor under a debtor-creditor-supplier agreement falling within section 12(b) or (c) has, in relation to a transaction financed by the agreement, any claim against the supplier in respect of a misrepresentation or breach of contract, he shall have a like claim against the creditor, who, with the supplier, shall accordingly be jointly and severally liable to the debtor."*

s.12(b) CCA states that a DCS agreement is a regulated consumer credit agreement being:

> *"a restricted use credit agreement which falls within section 11(1)(b) and is made by the creditor under pre-existing arrangements, or in contemplation of future arrangements, between himself and the supplier"*

An agreement is a s.11(1)(b) restricted-use credit agreement if it is a regulated CCA agreement used *"to finance a transaction between the debtor and a person (the "supplier") other than the creditor".*

s.140A CCA states:

"(1) The court may make an order under section 140B in connection with a credit agreement if it determines that the relationship between the creditor and the debtor arising out of the agreement (or the agreement taken with any related agreement) is unfair to the debtor because of one or more of the following –

(a) any of the terms of the agreement or of any related agreement;

(b) the way in which the creditor has exercised or enforced any of his rights under the agreement or any related agreement;

(c) any other thing done (or not done) by, or on behalf of, the creditor (either before or after the making of the agreement or any related agreement).

(2) In deciding whether to make a determination under this section the court shall have regard to all matters it thinks relevant (including matters relating to the creditor and matters relating to the debtor).

(3) For the purposes of this section the court shall (except to the extent that it is not appropriate to do so) treat anything done (or not done) by, or on behalf of, or in relation to, an associate or a former associate of the creditor as if done (or not done) by, or on behalf of, or in relation to, the creditor."

Section 140C CCA says that the reference in s.140A CCA to a "related agreement" includes a linked transaction in relation to the main agreement, which is defined in s.19 CCA as:

"(1) A transaction entered into by the debtor or hirer, or a relative of his, with any other person ("the other party"), except one for the provision of security, is a linked transaction in relation to an actual or prospective regulated agreement (the "principal agreement") of which it does not form part if -

…

(b) the principal agreement is a debtor-creditor-supplier agreement and the transaction is financed, or to be financed, by the principal agreement…"

What all of this means is that for a valid claim under s.75 CCA, there needs to be a valid DCS agreement in place. In practical terms it means Mr J (the debtor) needs to have used his NatWest (the creditor) credit card to pay the Supplier (the supplier). On the face of it, this didn't happen in this case because the Supplier was not paid directly using the credit card. Rather, the payment was made to the trustee company.

In some circumstances a valid DCS agreement can still be in place, even if the supplier is not paid directly using a credit card. The law in this area (which is complicated) was clarified by the judgment in *Steiner v. National Westminster Bank Plc [2022] EWHC 2519 (KB)* ("Steiner"). *Steiner* considered whether there was a valid DCS agreement in circumstances where the same trustee company took payment on a credit card in relation to the purchase of a timeshare from a different timeshare supplier. The court considered the arrangements between the parties and concluded that, as the payment to the Supplier was made outside of the credit card network, in that instance there was not a valid DCS agreement in place.

The circumstances in Mr J's case are very similar. The same credit card company is involved, and the same trustee company. The only difference is the identity of the timeshare provider. Based on the judgment in *Steiner*, I think a court would come to a similar conclusion and say that there was no valid DCS agreement in place and, in turn, no valid s.75 CCA claim as the Supplier was not paid under an agreement involving the card

network, but through a third-party trustee.

I've considered Mr J's arguments as to why the payment should be treated as having been made to the Supplier directly as well as the trustee. Both Supplier and trustee are clearly different companies, albeit with commercial arrangements between them. It may well be the case that both the Supplier and trustee's name appeared on the credit card statement, but that doesn't mean the payment was made to the Supplier directly or that the companies are the same. It's possible it appeared on Mr J's statement in that way to make it clear what the payment was in relation to and avoid potential queries over unrecognised transactions. And I note the credit card receipt doesn't mention the Supplier at all – it mentions only the trustee. I acknowledge Mr J thinks the Supplier was taking advantage of a loophole, but I don't think there's enough evidence to conclude the payment arrangements were set up in this way to evade consumer protection.

I've also thought about how the *Steiner* judgment affects Mr J's claim under s.140A of the CCA. Under that provision of the CCA, one can only consider how the interactions between Mr J and the Supplier affected the fairness of the credit relationship between him and NatWest if there was a valid DCS agreement in place. And, as already explained, I do not think such an agreement was in place.

It wouldn't be fair or reasonable to conclude NatWest ought to be responsible for the Supplier's alleged wrongdoing in circumstances where it has no legal liability, and in light of that, I have to conclude that NatWest did not act unfairly or unreasonably by failing to honour the claims brought originally by PR and continued by Mr J.

My final decision

For the reasons explained above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 16 January 2026.

Will Culley
Ombudsman