

The complaint

Mr D and Mrs A complain that Shawbrook Bank Limited (“Shawbrook”) won’t cancel their loan which was used to finance a timeshare purchase which they say was mis-sold to them.

What happened

I issued a provisional decision on Mr D and Mrs A’s complaint on 25 July 2025, in which I set out the background to, and provisional findings on, the case. A copy of that provisional decision is appended to and forms a part of this final decision, so it’s not necessary for me to go over all the details again. In short summary however:

- Mr D and Mrs A had bought a timeshare on 6 January 2020 from a timeshare provider (the ‘Supplier’), for £12,750. The purchase was financed by a loan from Shawbrook.
- Mr D and Mrs A had tried to cancel their purchase on 12 February 2020 because they were unhappy about having to pay booking fees for a holiday booking they’d tried to make. They also had concerns over the availability of accommodation. The Supplier refused to accept the cancellation, and Mr D and Mrs A then complained to the Lender. The Lender rejected their complaint.
- Mr D and Mrs A then referred their complaint to the Financial Ombudsman Service, adding various other concerns at this point. These included (among other things) that the Supplier had pressured them into signing up, had falsely told them the product was an investment, and that they’d not been given the information that was legally required in Spain before making such a contract. Mr D and Mrs A also sued the Supplier in the Spanish courts.

In my provisional decision, I didn’t think this complaint should be upheld. Again, the full details can be found in the appended document, but in short:

- I noted that a number of Mr D and Mrs A’s concerns were not included in their original complaint and had only emerged later.
- I thought there was a lack of persuasive evidence to support Mr D and Mrs A’s concerns that the Supplier had said things to them that were untrue (misrepresentations). It sounded like there had been a misunderstanding at the time of the purchase over a booking fee, but I was unable to conclude the Supplier had made false statements.
- I didn’t consider that the Supplier being unable to accommodate Mr D and Mrs A’s requested holiday dates on one occasion was a breach of contract by the Supplier, especially as the contract said bookings were subject to availability.
- It seemed unlikely to me that Mr D and Mrs A had signed up only because they’d been put under pressure by the Supplier, because they were given a 14-day cooling off period but didn’t use it.

- There had been nothing illegal about the payment arrangements for the purchase.
- While it may have been the case that the contract didn't comply with Spanish timeshare laws, it was English law which applied to the contract, and this had been clarified in recent court judgments. So I didn't think this point assisted Mr D and Mrs A.

I asked the parties to the complaint to let me have any further submissions they wanted me to consider. Shawbrook said it had nothing to add. Mr D and Mrs A did not respond.

The case has now been returned to me to consider once more.

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.

Because neither party to the complaint has provided any new evidence or arguments for me to consider, I see no reason to depart from the findings I reached in my appended provisional decision.

It follows that I remain of the view that this complaint should not be upheld.

My final decision

For the reasons summarised above, and explained in the appended provisional decision, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs A to accept or reject my decision before 5 January 2026.



Will Culley
Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint.

Having done so, I've arrived at broadly the same conclusions as our Investigator in his most recent assessment, but I've explained my reasons in some more detail, so I'm giving the parties to the complaint some more time to make further comments before I make my decision final.

The deadline for both parties to provide any further comments or evidence for me to consider is **8 August 2025**. Unless the information changes my mind, my final decision is likely to be along the following lines.

If I don't hear from Mr D and Mrs A, or if they tell me they accept my provisional decision, I may arrange for the complaint to be closed as resolved without a final decision.

The complaint

Mr D and Mrs A complain that Shawbrook Bank Limited ("Shawbrook") won't cancel their loan which was used to finance a timeshare purchase which they say was mis-sold to them.

What happened

This complaint relates to a timeshare Mr D and Mrs A bought on 6 January 2020 from a timeshare provider (the "Supplier"). The purchase was of 800 "points" in the Supplier's "Holiday Owners Club". This was a points-based timeshare club, where points would be added to an account held by Mr D and Mrs A every year, and they could then exchange the points for a range of holiday accommodation in the Supplier's portfolio.

The deal made on the day came with some extra features. For example, 200 temporary bonus points, and a "prelude" or "bonus" holiday which didn't need to be booked using points. The price of the product was £12,750, and Mr D and Mrs A signed a loan agreement with Shawbrook on the day to pay for it. The purchase came with a 14-day cooling off period.

Mr D and Mrs A had some concerns about their purchase and tried to cancel on 12 February 2020, just over a month after they'd signed the contract. They complained that they'd not been told they would have to pay holiday booking fees prior to deciding to make their purchase. They also said they had tried several times to book a holiday and there was no availability.

The Supplier denied Mr D and Mrs A's allegations and said it wouldn't cancel the contract because they were outside of the cooling off period. Mr D and Mrs A then complained to Shawbrook, who sent a final response on 31 March 2020, rejecting the complaint in full.

Mr D and Mrs A then referred the complaint to the Financial Ombudsman Service for an independent assessment. They also took court action against the Supplier in Spain, which they said resulted in the Spanish courts declaring their timeshare contract with the Supplier a nullity, because it did not comply with Spanish law.

Mr D and Mrs A raised various other concerns at the point they referred their complaint to this service. These included:

- They had been forced to sign the contract with the Supplier after eight hours of

pressured sales tactics.

- They had been told they were buying an interest in property which was an investment, but what they were actually buying was just a timeshare with no resale value.
- It had been illegal for the finance agreement to be made during the cooling off period.
- They weren't given the necessary information under Spanish law to know exactly what they were buying.

One of our Investigators looked into the case. Initially, he thought it should be upheld. This was because he believed the type of timeshare was what's known as a "fractional" timeshare, and it was likely the Supplier had marketed it in a way which breached the Timeshare Regulations 2010. Our Investigator later changed his mind after discovering the timeshare was not a fractional timeshare, and concluded that the complaint should not be upheld.

Mr D and Mrs A asked to appeal our Investigator's assessment, which is why the case has been passed to me to decide.

What I've provisionally 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 think it should be upheld.

My decision is based on what I believe is most likely to have happened. While I've considered every point raised, this summary outlines the reasons for my provisional decision and so it may not comment on everything which has been said.

This is a complaint against Shawbrook, not the Supplier. So first of all, it's necessary to set out how and why Mr D and Mrs A can seek redress from Shawbrook, if the Supplier has done something wrong.

Section 75 of the Consumer Credit Act 1974 ("CCA") allows a person who has used certain types of credit to make a purchase, to claim against the provider of the credit if the supplier of the goods or services they've purchased, has misrepresented something to them (told them something that isn't true) or breached its contract with them. There are various technical conditions which need to be in place for Section 75 to apply to a purchase. Shawbrook has not argued that these conditions are not in place, and I am satisfied that they are.

A claim can also be made under Section 140A of the CCA that the credit relationship between Mr D and Mrs A, and Shawbrook, was unfair to them because of something done (or not done) by, or on behalf, of Shawbrook, before the making of the credit agreement. An unfair credit relationship can also be based on the terms of a related agreement (such as the timeshare contract) and, when combined with section 56 of the CCA, on anything done or not done by the Supplier on Shawbrook's behalf before the making of the credit agreement or any related agreement.

I've set out my findings in a table for ease of reading. Where a particular point has needed more detailed explanation or analysis, this follows the table:

Section 75 - Misrepresentation	Reason why this complaint doesn't succeed
The Supplier falsely told Mr D and Mrs A that they were buying an interest in property and/or an investment.	There's a lack of evidence to support this allegation. Mr D and Mrs A signed to say they understood the product wasn't an investment. This allegation was also only made later and doesn't reflect the original complaint.
The Supplier failed to tell them about booking fees, or falsely told them there were no booking fees.	This appears to be a misunderstanding, rather than a misrepresentation. It seems a booking fee was only payable for the bonus/prelude holiday. There were no booking fees for other holidays.
Section 75 - Breach of Contract	Reason why this complaint doesn't succeed
There was no holiday availability.	While the Supplier couldn't accommodate Mr D and Mrs A's requested dates when they tried to book a holiday, the contract says bookings were subject to availability. So it's difficult to conclude the Supplier breached the contract, especially when only limited attempts were made to book.
Matters allegedly rendering the credit relationship unfair	Reason why this complaint doesn't succeed
Mr D and Mrs A were forced to sign the contract after eight hours of pressured sales tactics.	This allegation wasn't made until later and doesn't reflect the original complaint. Mr D and Mrs A had a 14-day cooling off period which I'd have expected them to have used if they had felt pressured into signing the contract.
It was illegal for the loan agreement to be made during the cooling off period.	This wasn't illegal under the Timeshare Regulations 2010. No payment was made, and the loan agreement was not started, until after the cooling off period.
Mr D and Mrs A were not given the information necessary under Spanish law to know exactly what they were buying.	English law applied to the contract, not Spanish law. This has been clarified in more recent European court judgments (see further discussion below).

Regarding Mr D and Mrs A's points around the application of Spanish law to the timeshare contract, and the fact that they've had a judgment in their favour in Spain, I think it's necessary to go into a bit more detail.

It may or may not be the case that the timeshare contract was unlawful under Spanish law because of alleged information failings by the Supplier. I think the point Mr D and Mrs A are getting at, is that I should follow the judgment of the UK's Supreme Court in *Durkin v DSG Retail* [2014] UKSC 21 ('*Durkin*') by treating the timeshare contract and loan agreement as rescinded and award them compensation accordingly.

However, I note that the timeshare contract says it is governed by English law. So, it isn't at all clear that Spanish law would be held relevant if the validity of the timeshare contract was

litigated between its parties and Shawbrook in an English court. For example, in *Diamond Resorts Europe and Others* (Case C-632/21), the European Court of Justice ruled that, because the claimant lived in England and the timeshare contract was governed by English law, it was English law that applied, not Spanish, even though the latter was more favourable to the claimant.

Overall, therefore, in the absence of a successful English court ruling on a timeshare case paid for using this kind of loan, on similar facts to this complaint, I'm not persuaded that it would be fair or reasonable to uphold Mr D and Mrs A's complaint for reasons related to them having a judgment in their favour in the Spanish courts against the Supplier.

While I can understand Mr D and Mrs A being unhappy with the product they bought from the Supplier, and wanting to cancel it, I'm ultimately unable to see any reason why Shawbrook should provide them with redress.

My provisional decision

For the reasons explained above, I am not minded to uphold Mr D and Mrs A's complaint.

I now invite the parties to the complaint to let me have any further submissions they'd like me to consider, by **8 August 2025**.

Will Culley
Ombudsman