

The complaint

Mr S complains that Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance ('Novuna') is liable to pay him compensation following a complaint made about timeshares bought using credit provided by Novuna.

The two timeshares which are the subject of this complaint were bought in the names of Mr S and three other family members. But as the credit agreements used to finance the purchases were in Mr S's sole name, he is the only eligible complainant here.

What happened

Mr S, and three other members of his family purchased membership of a timeshare (the 'Fractional Club 1') from a timeshare provider (the 'Supplier') on 6 November 2013 (the 'Time of Sale 1'). They entered into an agreement with the Supplier to buy 1,500 fractional points at a cost of £18,049 (the 'Purchase Agreement 1').

Mr S paid for their Fractional Club 1 membership by taking out a loan from Novuna for £18,049 (the 'Credit Agreement 1') in his sole name.

On 18 June 2014 (the 'Time of Sale 2') Mr S and his family traded in their fractional points towards the purchase of 1,750 fractional points (the 'Fractional Club 2') from the Supplier. After the trade-in value given to their existing 1,500 fractional points, they ended up paying £5,750 (the 'Purchase Agreement 2') for Fractional Club 2.

Mr S paid for their Fractional Club 2 membership by taking out a loan from Novuna for £24,141 (the 'Credit Agreement 2') in his sole name. This consolidated and cleared the outstanding balance of Credit Agreement 1.

The balance of Credit Agreement 2 was cleared by Mr S on 24 August 2017.

On 3 September 2023, using a professional representative (the 'PR'), Mr S complained to Novuna (the 'Letter of Complaint') to complain about:

1. Misrepresentations by the Supplier at the Time(s) of Sale giving him a claim against Novuna under Section 75 of the CCA, which Novuna failed to accept and pay.
2. Novuna being party to unfair credit relationships under Credit Agreement 1 and 2 and related Purchase Agreement 1 and 2 for the purposes of Section 140A of the CCA.

As these complaints 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.

Novuna dealt with Mr S's concerns as a complaint and issued its final response letter on 27 December 2023. It said the Limitation Act 1980 (the 'LA') meant that Mr S's claims were invalid, as they had been made more than six years after the events being complained about.

The complaint was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, thought:

- Mr S's complaint of unfair credit relationships with Novuna under Section 140A of the CCA was not in the jurisdiction of the Financial Ombudsman Service because he had made his complaint too late.
- Novuna had not been unfair or unreasonable in not accepting Mr S's claims under Section 75 of the CCA as it would likely have had a defence to the claims under the LA.

The PR did not agree, and argued that Novuna was unable to rely on the six-year period as set out in the LA. It said this because Section 32 of the LA relates to the extension of time for starting action if fraud, mistake or concealment are found. The time limit only began when Mr S discovered that fraud, concealment or mistake. The PR then went on to say that the result of the Judicial Review in *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service* [2023] EWHC 1069 (Admin)¹ was the point that Mr S would have become aware of his cause to complain.

As agreement could not be reached, the complaint has been passed to me.

As decisions regarding our Service's jurisdiction are not usually published, I have dealt with whether our Service has jurisdiction to consider Mr S's complaint of unfair debtor-creditor relationships with Novuna, under Section 140A of the CCA, in a different decision.

What I am considering here, is whether Novuna was fair and reasonable when it did not accept Mr S's claim for misrepresentation, under Section 75 of the CCA.

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.

In this part of his complaint, Mr S is alleging that Novuna was unfair and unreasonable in refusing to allow his claim under Section 75 of the CCA. He says Novuna ought to have allowed it as there were misrepresentations made by the Supplier at the Time(s) of Sale, and one or more of those misrepresentations induced them into making the purchases. Novuna, in response to the claim, said it had a defence under the LA.

The LA imposes time limits for people to start legal proceedings – and there are different time limits for different types of claims. Essentially, this means that if someone waits too long to make a claim, the court will usually say it's 'time-barred'. For this reason, if a consumer makes a claim after the relevant time-limit has expired, this Service will usually say it was fair for the creditor to rely on the LA to decline the claim.

A claim under Section 75 is a "like" claim against the creditor. It essentially mirrors the claim a consumer could make against the Supplier. The limitation period to make such a claim against Novuna for alleged misrepresentations by the Supplier expires six years from the date on which Mr S had everything he needed to make such a claim.

I have read the PR's point about Section 32 of the LA extending the time in which Mr S could make his claim, but I cannot see that the time is extended in these circumstances. The example given by the PR of the judgement in *Shawbrook & BPF v FOS* being the point at

¹ 'Shawbrook & BPF v FOS'

which Mr S was aware of a problem with the Fractional Club purchase would relate only to his complaint of an unfair credit relationship under Section 140A of the CCA. The claim that has been made under Section 75 of the CCA is for misrepresentation, and in particular misrepresentations relating to being told that:

- Fractional Club would provide Mr S and his family a much superior standard of accommodation; and
- Fractional Club would be easy to use with easy access to luxury holidays around the world.

As the Letter of Complaint makes clear, Mr S and his family entered into the purchases of the Fractional Club membership on 6 November 2013 and 18 June 2014 based on the alleged misrepresentations of the Supplier, which Mr S says they relied on. And as Credit Agreement(s) from Novuna were used to help finance both purchases, it was when Mr S entered into Credit Agreement 1 and 2 that he suffered a loss – which means it was at those times that he had everything he needed to make a claim.

Mr S first notified Novuna of his Section 75 claim on 3 September 2023. As that was more than 6 years after they entered into the Credit Agreement 1 and 2 and related Purchase Agreement(s), I don't think it was unfair or unreasonable of Novuna to rely on the LA to decline Mr S's claim.

My final decision

I do not uphold Mr S's complaint against Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 10 October 2025.

Chris Riggs
Ombudsman