

The complaint

Mr O and Mrs O complaint is, in essence, that Shawbrook Bank Limited (the 'Lender') acted unfairly and unreasonably by deciding against paying a claim under Section 75 of the Consumer Credit Act 1974 (the 'CCA').

What happened

Mr O and Mrs O purchased membership of a timeshare (the 'Fractional Club') from a timeshare provider (the 'Supplier') on 14 July 2015 (the 'Time of Sale'). They entered into an agreement with the Supplier to buy weekly periods at a cost of £13000 (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mr O and Mrs O 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.

Alongside this share of the Allocated Property Mr O and Mrs O say that the Supplier was contracted to take over their previous timeshare agreement (the 'Previous Membership') as part of this contract ('the Relinquishment Service').

Mr O and Mrs O paid for their Fractional Club membership by taking finance of £13000 from the Lender (the 'Credit Agreement').

Mr O and Mrs O – using a professional representative (the 'PR') – wrote to the Lender on 24 September 2020 (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 concerns as a complaint rejected the complaint on every ground.

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

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

I issued a provisional decision dated 8 September 2025 which didn't uphold Mr O and Mrs O's complaint about how the Lender considered their S75 claim to it. Both parties have responded with their positions on my provisional decision.

The legal and regulatory context

In considering what is fair and reasonable in all the circumstances of the complaint, I am required under DISP 3.6.4R to take into account: relevant (i) law and regulations; (ii) regulators' rules, guidance and standards; and (iii) codes of practice; and (where appropriate), what I consider to have been good industry practice at the relevant time.

The legal and regulatory context that I think is relevant to this complaint is no different to that shared in several hundred ombudsman decisions on very similar complaints. And with that being the case, it is not necessary to set it out here.

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.

And having done that, it is my decision that this complaint should not be upheld for the same reasons as I described in my provisional decision. So I'll repeat those reasons now (in italics) and then deal with the further arguments from Mr O and Mrs O under the title 'further arguments'.

My role as an Ombudsman is not to address every single point that has been made to date. Instead, it is to decide what is fair and reasonable in the circumstances of this complaint. So, if I have not commented on, or referred to, something that either party has said, that does not mean I have not considered it.

I should add at this juncture that the Letter of Claim (September 2020) solely made a s75 claim for misrepresentation and breach of contract. On 10 February 2024 the PR has made a new claim to the Lender on different grounds and that claim and in the event that claim being complained about and reaching this service-will be dealt with separately. This decision only deals with the Section 75 claim referred to above.

Section 75 of the CCA

The CCA introduced a regime of connected lender liability under section 75 that affords consumers ("debtors") a right of recourse against lenders that provide the finance for the acquisition of goods or services from third-party merchants ("suppliers") in the event that there is an actionable misrepresentation and/or breach of contract by the supplier.

Certain conditions must be met if the protection afforded to consumers is engaged, including, for instance, the cash price of the purchase and the nature of the arrangements between the parties involved in the transaction. The Lender doesn't dispute that the relevant conditions are met. But for reasons I'll come on to below, it isn't necessary to make any formal findings on them here.

It was said in the Letter of claim that Fractional Club membership had been misrepresented by the Supplier at the Time of Sale because:

- (1) The Supplier did not take ownership of the Previous Membership*
- (2) That the Supplier did not take responsibility for the costs arising in relation to the Previous Membership.*

The PR goes on to say that for the same reasons the Supplier breached the contract with Mr O and Mrs O. I've not seen any persuasive evidence from the PR showing that these statements were untrue at the time that they were made. So it seems clear to me that these comments are more aligned to a breach of contract allegation than a misrepresentation claim.

I've considered the documentation from the time and I can see a letter from the time of sale and from the Supplier to Mr O and Mrs O (which both have signed) which states:

“It is also our understanding that upon completion of (the timeshare purchase) any further costs due from completion date pertaining to (the Previous Membership) Points will be the responsibility of (the Supplier).”

I’ve also seen correspondence between the Supplier and Lender when the Lender was looking into the matter. The Supplier points to making payments directly to Mr O and Mrs O in 2016 and 2017 which were to cover the costs of the Previous Membership. The Supplier goes on to state:

“(The Supplier) was abiding by the purchase agreement and covering the costs where they would have continued to do so until at such time the issue was resolved. Mr & Mrs O made their own decision to stop contact with (the Supplier) whereby they no longer gave us the opportunity to finalise the relinquishment.”

I’ve also seen a copy of a cheque payment from the Supplier to Mr O and Mrs O. So having considered the evidence available here I’m not persuaded that Mr O and Mrs O have shown that the Supplier did breach the contract or have lost out due to what the Supplier did. From the evidence available it seems Mr O and Mrs O stopped liaising with the Supplier and any losses suffered from that point onward do not result from any breach by the Supplier. Accordingly I’m not persuaded that the Lender has acted unfairly in considering the S75 claim made to it and not paying it.

In response to the assessment of the Investigator Mr O and Mrs O provided a statement of their recollections of the sale but chose not to comment on the Relinquishment Service other than to say they were told that the Supplier would work on exiting them from the Previous Membership and that they wouldn’t have had to pay three management fees. But they’ve not commented on why they stopped liaising with the Supplier or acknowledged that the Supplier did pay the costs of the Previous Membership until when the contact between the parties stopped. Or provided any further substantiation of their S75 claim.

Accordingly I’m not persuaded that Mr O and Mrs O have shown that there was a breach of contract in their S75 claim or a material misrepresentation. And as that was all the Letter of Claim alleged, I’ve seen no persuasive evidence that the Lender acted unfairly by not paying the claim. So I currently think this complaint should not succeed.

Further arguments

I said in my provisional decision:

“I should add at this juncture that the Letter of Claim solely made a s75 claim for misrepresentation and breach of contract. On 10 February 2024 the PR has made a new claim to the Lender on different grounds and that claim and in the event that claim being complained about and reaching this service-will be dealt with separately. This decision only deals with the Section 75 claim referred to above.”

I think it worth reiterating that Mr O and Mrs O’s complaint was solely regarding the timeshare relinquishment service that the Supplier supplied as part of the agreed contract. This claim did not complain about the interest in the proceeds of the allocated property or the provision of holiday benefits. I reiterate this point because those issues are to be dealt with separately as the PR didn’t raise these issues in this original claim letter. Much of Mr O and Mrs O’s response to my provisional decision is in relation to the claim made in February 2024 which, as I described is being dealt with separately. So I shall only deal with the relevant comments to this Section 75 claim.

With a section 75 claim the creditor has to treat it fairly but also the claimant (Mr O and Mrs O) has to make out their claim. Their letter of claim was very specific and set out the two bases for claim (as I've quoted). And the evidence the Lender considered showed that these claims were not supported by the evidence available. The Supplier very clearly states Mr O and Mrs O "*made their own decision to stop contact with (the Supplier) whereby they no longer gave us the opportunity to finalise the relinquishment*". And I've not seen persuasive evidence to show that statement is untrue or required further investigation by the Lender. So I don't think the Lender acted unfairly when it didn't look into the matter further.

Mr O and Mrs O point to other companies and individuals that they've liaised with. However the Lender is only responsible under s75 for the contract it financed with the Supplier. It isn't responsible for any other parties actions or inactions. And I can see that Mr O and Mrs O later paid money to another party, but clearly that decision sits with them and isn't as a result of what the Lender has done in relation to this claim.

It is clear Mr O and Mrs O feel they've lost out here through making this purchase. However the Lender under Section 75 is only responsible for breach of contract or misrepresentation by the Supplier and I'm not persuaded its treated this claim unfairly regarding the relinquishment service. I say this because it looked into the matter and received evidence from the supplier and I've not seen persuasive evidence from Mr O and Mrs O demonstrating that the supplier was at fault.

My final decision

I do not uphold this complaint against Shawbrook Bank Limited in relation to the section 75 claim made to it in the claim letter dated September 2020.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O and Mr O to accept or reject my decision before 25 December 2025.

Rod Glyn-Thomas
Ombudsman