

## The complaint

Mrs L's complaint is, in essence, that Mitsubishi HC Capital UK Plc trading as Novuna (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with her under Section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA') and (2) deciding against paying her claim under Section 75 of the CCA.

## What happened

Mrs L purchased a membership of a timeshare (the 'Fractional Club') from a timeshare provider (the 'Supplier') on 10 March 2013 (the 'Time of Sale'). She (and Mr L) entered into an agreement with the Supplier to buy 4140 fractional points at a cost of £53,361 (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mrs L 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 the membership term ends. Mrs L paid for this Fractional Club membership by trading in non-fractional timeshare membership (valued at £44,011) and taking finance of £9350 from the Lender in Mrs L's sole name (the 'Credit Agreement').<sup>1</sup> The loan was repaid in full on 28 October 2013.

Mrs L – using a professional representative (the 'PR') – wrote to the Lender (dated 21 July 2020) and said that Mrs L had lost out and wished to make a claim under S140 CCA and under S75 of the CCA against the Lender.

On 15 April 2021, the Lender issued their final response letter on the matter applying time limits to the case as well as rejecting Mrs L's claims on every ground. So, Mrs L brought her complaint to this service.

On 06 June 2024 Mrs L's complaint was assessed by an Investigator who, having considered the information on file, decided that Mrs L's S140 claim wasn't in this service's jurisdiction. The Investigator also decided that in regard to Mrs L's S75 misrepresentation claim the Lender had fairly rejected it but for a different reason-applying the financial limits requirement of S75.

Mrs L, through her PR, disagreed with the Investigator's assessment by making arguments about the merits of the matter. The PR did not make arguments about jurisdiction or the Limitation Act. The PR on behalf of Mrs L asked for an Ombudsman's decision – which is why it was passed to me.

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<sup>1</sup> Because the Credit Agreement was in Mrs L's sole name, only she is eligible to bring this complaint, so I will refer to her throughout.

I issued a provisional decision dated 03 September 2025 saying that S140A claim was out of jurisdiction. I also said in relation to the rest of the complaint that the Lender didn't have to do any more. The PR has provided their comments on the matter. I have issued a jurisdiction decision on the S140A claim separately.

### **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.

It is my decision in relation to the S75 claim that this complaint is unsuccessful. I shall set out my thoughts on the matter as set out in my provisional decision before turning to the PR's recent comments on my provisional decision (under the heading 'further comments').

### **The S75 claim**

Within the letter of claim the PR also made a claim on Mrs L's behalf under S75 of the CCA. These include allegations of misrepresentation during the sales process and submissions in support of those allegations.

This membership was purchased on 10 March 2013 by Mrs L and the Lender in its final response dated 15 April 2024 applies the Limitation Act 1980.

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. In short, a claim against The Lender under section 75 essentially mirrors the claim Mrs L could make against the Supplier.

Certain conditions must be met for section 75 to apply including, for instance, the cash price of the purchase and the nature of the arrangements between the parties involved in the transaction. Section 75(3)(b) says this protection does not apply if:

*"the claim relates to any single item to which the supplier has attached a cash price not exceeding £100 or more than £30,000."*

In this case we have the pricing sheet from this purchase which clearly shows the purchase price of the membership is £53,361. Accordingly, the misrepresentation claim under section 75 of the CCA isn't within the financial limits set by the CCA. And so, any section 75 misrepresentation claim made to the Lender cannot be successful.

Under S75A (which has different financial limits and which applies only to alleged breaches of contract) under section 9 of the Limitation Act 1980, Mrs L had to make that claim within six years of when such alleged breaches of contract occurred because that is when she would have lost out. But I note in her letter of claim dated 21 July 2020 there are no allegations of breach of contract let alone Mrs L making out such a breach of contract claim or showing them to have happened 'in time'. Accordingly I'm not persuaded Mrs L has lost out due to the Lender applying the Limitation Act in her case.

### **Lending**

The PR says that the right checks weren't carried out before the Lender lent to Mrs L. I haven't seen anything to persuade me that was the case in this complaint given its

circumstances. But even if I were to find that the Lender failed to do everything it should have when it agreed to lend (and I make no such finding), I would have to be satisfied that the money lent to Mrs L was actually unaffordable at the time before also concluding that she lost out as a result. And as I've explained I'm not persuaded that I've seen enough to conclude that Mrs L has lost out.

### **Further comments**

The PR has pointed to other sections of the Limitation Act and situations where the time limit is treated differently. However the PR hasn't given any persuasive arguments or evidence that those other situations apply here or why S9 of the Act shouldn't be applied as I have here. Similarly the PR has not engaged at all with the financial limits clause within S75 which clearly apply to any misrepresentations made as I've set out. So I don't think any misrepresentation claim under S75 can be successful here for that reason. And the PR hasn't pointed to any breach which would be 'within time' or any persuasive argument why the Limitation Act doesn't provide the Lender a complete defence here. Lastly the PR hasn't responded to my findings regarding the Lending. So I see no reason to deviate from my provisional thoughts on that matter either.

So having considered everything in the round here I see no persuasive reason for this complaint to succeed.

### **My final decision**

It is my decision that this complaint about Mitsubishi HC Capital UK Plc trading as Novuna does not succeed for the reasons given. It has nothing further to do in this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 7 November 2025.

Rod Glyn-Thomas  
**Ombudsman**