

The complaint

Mr and Mrs D say Shawbrook Bank Limited ('Shawbrook') has unfairly declined a claim they made under section 75 of the Consumer Credit Act 1974 ('CCA').

What happened

In October 2015, Mr and Mrs D purchased a timeshare membership from a timeshare provider (the 'Supplier'). The membership was asset backed – which meant it included a share of the net sale proceeds of a property named on the purchase agreement (the 'Allocated Property') after the membership term ended. It cost £7,485, and Mr and Mrs D borrowed the full amount from Shawbrook to pay for it. The loan was repaid in full in July 2016.

Sadly, Mr D was diagnosed with a serious illness in 2017. Mr and Mrs D relinquished their membership at no cost 'on health grounds' in or around August 2017, with the help of a solicitor.

In August 2023, Mr and Mrs D used a professional representative ('PR') to complain about the purchase and the related loan. Specifically, the complaint letter said:

- The Supplier told Mr and Mrs D that purchasing the membership, which had a fixed end date, was the 'best' way of 'getting out' of their existing membership with the Supplier. However, as Mr D was 69 years old at the time, they could have relinquished their existing membership much sooner –when he turned 75 – and at no cost. Mr and Mrs D say the Supplier didn't tell them this, or that they could relinquish their membership in other exceptional circumstances.
- The Supplier told Mr and Mrs D that they could easily sell their membership to someone else or the Supplier before the end date.
- The Supplier told Mr and Mrs D that the Allocated Property would increase in value over time and it was therefore an investment for the future.
- The Supplier didn't give them an opportunity to read the paperwork carefully.
- Mr and Mrs D were concerned about the financial commitment and asked that the first loan payment was deferred until January 2016. This didn't happen.

Mr and Mrs D say this led to an unfair relationship for the purposes of section 140A of the CCA, specifically relying on *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd* [2023] EWHC 1069 (Admin) ('*Shawbrook v Financial Ombudsman Service*').

Shawbrook responded to Mr and Mrs D's complaint in November 2023. It said they'd waited too long to complain as they'd repaid the loan more than six years ago.

Mr and Mrs D's PR referred the complaint to our service.

One of our investigators considered the complaint. She didn't think we could consider the complaint under section 140A of the CCA because it had been made more than six years after the loan was repaid. She also considered a claim under section 75 of the CCA, which

says, in certain circumstances, that a finance provider is legally answerable for any misrepresentation or breach of contract by the supplier. However, as Shawbrook would have a defence under the Limitation Act 1980 (the 'LA'), she thought a claim under section 75 would be too late too.

Mr and Mrs D's PR asked for a final decision from an ombudsman.

This decision will deal solely with Mr and Mrs D's complaint that Shawbrook unfairly declined their claim under section 75 of the CCA. I will consider the rest of Mr and Mrs D's complaint in a separate decision.

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.

Section 75(1) of the CCA protects consumers who buy goods and services on credit. It says, in certain circumstances, that the finance provider is legally answerable for any misrepresentation or breach of contract by the supplier.

However, Shawbrook says it's too late for Mr and Mrs D to make a claim for misrepresentation. It's specifically referred to the LA, which essentially says Mr and Mrs D had six years from the date on which the 'cause of action accrued' to make their claim, after which Shawbrook has a complete defence.

I wouldn't normally think it was unfair for a respondent firm to rely on the LA to decline a claim that's been made outside the limitation period, and I don't think it's unfair in this instance.

The date on which the cause of action accrued is, in this case, the date of sale. It was then that Mr and Mrs D entered into an agreement based, they allege, on the Supplier's misrepresentation(s). As the loan from Shawbrook was used to finance the purchase, it was also then that they suffered a loss. It follows that Mr and Mrs D had six years from the date of sale to make a claim for misrepresentation. But they didn't make their claim until August 2023, which is outside the time limits set by the LA.

Mr and Mrs D's PR says section 14A of the LA gives them more time to make their claim. I disagree. Section 14A provides claimants with a '[s]pecial time limit for negligence actions where the facts relevant to [the] cause of action are not known at date of accrual'. However, in *Thomas v Taylor Wimpey Developments* [2019] EWHC 1134 (TCC), the court confirmed that claims under section 2(1) of the Misrepresentation Act 1967 are not claims of negligence and section 14A of the LA doesn't apply to them. And, based on PR's brief submissions, I don't see how section 14A could otherwise extend the time limit for Mr and Mrs D.

My final decision

For the reason given, I don't think it was unfair for Shawbrook Bank Limited to decline Mr and Mrs D's claim under section 75 of the CCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D and Mr D to accept or reject my decision before 27 November 2025.

Christopher Reeves

Ombudsman