

The complaint

Ms N complains Clydesdale Financial Services Limited trading as Barclays Partner Finance (the “Lender”) has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the “CCA”) and has participated in an unfair credit relationship with her under Section 140A of the CCA.

Ms N is represented in her complaint by a professional representative (“PR”).

What happened

This complaint relates to two timeshare purchases made by Ms N from a timeshare provider (the “Supplier”) on 27 April 2010 and 15 November 2011. I’ve outlined the basic details below:

Purchase 1

- The purchase made on 27 April 2010 was of a membership in the Supplier’s “European Collection”. Ms N bought 11,000 points in the European Collection, which could be used to book holiday accommodation annually. The price was £10,450.
- The Supplier arranged a loan (“Credit Agreement 1”) with the Lender for £9,450 of the purchase price, and Ms N paid the remaining £1,000 by other means. The loan was repayable over 120 months at £122.39 per month. Ms N finished repaying the loan in April 2020.

Purchase 2

- The second purchase made by Ms N, on 15 November 2011, was of a further allocation of points in the European Collection. Ms N bought 4,000 points, giving her a total of 15,000 to be used annually. This time, the price was £4,800.
- A second loan (“Credit Agreement 2”) was arranged by the Supplier with the Lender for the full £4,800 purchase price, repayable over 120 months at £68.46 per month. Ms N finished repaying this loan in January 2022.

In October 2024, through PR, Ms N complained to the Lender, seeking to find it responsible for the Supplier having mis-sold the timeshare and associated loan. PR didn’t really explain on what grounds Ms N was seeking to hold the *Lender* responsible, but the individual mis-selling concerns raised by PR were as follows:

- In relation to Purchase 1, Ms N had been falsely told by the Supplier that she would be able to go on a wide range of holidays anywhere she wanted, at any time she wanted, and that there would be no problem with availability of accommodation at luxury resorts. This had been false because she struggled to book the holidays she wanted.
- In relation to Purchase 2, Ms N had been falsely told that the reason she had struggled

to obtain the bookings she wanted, was because she didn't have enough points, and that she needed to buy enough points to become a "Silver" member. This had been untrue and availability had continued to be a problem.

- Ms N had not been told by the Supplier that the management fees associated with the timeshare would rise as much as they did.
- Ms N had asked to exit the timeshare, but had been told she had signed up "for life".
- Ms N suspected the loans hadn't been arranged properly. She was suspicious that the Supplier hadn't been an authorised credit broker, and she had not been told that she was taking out loans with the Lender, as opposed to borrowing money from the Supplier.
- Ms N had been a victim of misleading omissions by the Supplier.

Because PR's letter was worded as though it was a pre-action letter sent prior to litigation, it was passed to the Lender's solicitors. On the Lender's behalf, its solicitors rejected PR's points, arguing that Ms N's claims were time-barred under the Limitation Act 1980. The matter 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. Our Investigator noted that Ms N's complaint could be framed in different ways – as a complaint about the Lender's failure to honour claims brought under Section 75 of the CCA, and as a complaint that the Lender had participated in unfair credit relationships with Ms N in respect of the two Credit Agreements, within the meaning of Section 140A of the CCA. Our Investigator went on to conclude:

- That a claim from Ms N under Section 75 of the CCA against the Lender, was time-barred under the Limitation Act 1980, meaning it wasn't unreasonable of the Lender to have declined such claims.
- That there was insufficient evidence the Lender had participated in in credit relationships with Ms N that were unfair to her.

PR disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it has been passed to me. While I confess PR's submissions were somewhat difficult to follow, I understand it to have made the following points:

- The relevant limitation period under the Limitation Act 1980 can be extended, under Section 32 of the Act, in cases of fraud and where facts relevant to the claim have been concealed from the claimant. This was the case here, and Ms N's claims were not time barred as a result.
- Ms N could not possibly have known at the time the products were sold to her, that she had any cause to make a claim, and she only knew at the point she made her complaint. There was nothing that could have started time running from a limitation perspective.

PR also suggested, for the first time, that Ms N had been pressured into making the purchases, that the purchases were in some way illegal, and that the Supplier had failed to tell Ms N that she wouldn't be able to sell the products on for a profit.

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 published ombudsman decisions on very similar complaints – which can be found on the Financial Ombudsman Service's website. And with that being the case, it is not necessary to set out that context 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, I do not think this complaint should be upheld.

However, before I explain why, I want to make it clear that 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 think it's also important at this stage to outline very briefly the general grounds on which Ms N can seek redress from the Lender in relation to what are, at least in part, the *Supplier's* alleged wrongdoings as opposed to the Lender's. PR has not, in my view, made clear the grounds on which Ms N is seeking redress, but in general in cases like this, the grounds would be that Ms N has a claim (or claims) under Section 75 of the CCA, and Section 140A of the CCA.

Section 75 of the CCA gives a person who has purchased goods or services with certain kinds of credit, a "like claim" against their lender in respect of any breach of contract or misrepresentation on the part of the supplier of those goods or services. This is subject to certain technical conditions being met, which I am satisfied have been met in this case.

Section 140A of the CCA operates in a more complex manner. Insofar as is relevant to Ms N's case, it means that the credit relationship (or relationships) between her and the Lender can be found unfair because of anything done (or not done) by, or on behalf of, the Lender.

An unfair credit relationship can also be based on the terms of a related agreement (such as the agreements to buy the timeshares) and, when combined with Section 56 of the CCA, on anything done or not done by the Supplier on the Lender's behalf before the making of the timeshare or loan agreements. The Supplier's acts or omissions during the process of negotiations leading up to the purchases are deemed to be the Lender's responsibility.

As part of my consideration of the matter of Ms N's claim that there has been an unfair credit relationship, I've thought about, amongst other things, the commission arrangements between the Lender and the Supplier, and the disclosure of those arrangements to Ms N. I've also thought about any existing unfairness from a related credit agreement, where one exists or existed.

The impact of the Limitation Act 1980 on Ms N's Section 75 claims

As a general rule, I think it's reasonable for creditors to reject Section 75 claims that they are first informed about after the claim has become time-barred under the Limitation Act 1980

(from now on, simply: “LA”), as it wouldn’t be fair to expect creditors to look into such claims so long after the liability arose and after a limitation defence would have been available in court. So, it is relevant to consider whether Ms N’s Section 75 claim was time-barred under the LA *before* PR put the claim to the Lender on her behalf.

As I mentioned earlier in this decision, a claim under Section 75 is a “like claim”. This means it mirrors the claim Ms N could have made against the Supplier.

A claim for misrepresentation against the Supplier would ordinarily be made under Section 2(1) of the Misrepresentation Act 1967. And the limitation period to make such a claim expires six years from the date on which the cause of action accrued. A claim for breach of contract against the Supplier would also be subject to a limitation period of six years from the date on which the cause of action accrued.

Any claim against a lender under Section 75 is also “an action to recover any sum by virtue of any enactment” under Section 9 of the LA. Such claims *also* have a time limit of six years from the date the cause of action accrued.

In claims for misrepresentation, the cause of action accrues at the point a loss is incurred. In Ms N’s case, that’s when she entered the agreements to purchase the timeshare, along with the related Credit Agreements, in April 2010 and November 2011 respectively. This would be mirrored in the claim against the Lender.

Ms N first notified the Lender of her Section 75 claims in October 2024, more than six years after the cause of action accrued in relation to her claims for misrepresentation. So I don’t think it was unfair or unreasonable of the Lender to decline the part of the claim relating to the Supplier’s alleged misrepresentations.

PR has argued that the limitation period has been extended in Ms N’s case under Section 32 of the LA. While it is true that Section 32 of the LA makes provision for the extension (or postponement) of the limitation period in the case of fraud, concealment, or mistake, I don’t think Section 32 operates to extend the limitation period in this case.

Section 32 will only postpone the limitation period until such time as the claimant discovers (or could with reasonable diligence have discovered) the fraud, concealment or mistake in question.

Ms N’s misrepresentation claims are based, in essence, on having been given false information about the availability of holiday accommodation she would be able to book using the products she purchased. PR’s submissions indicate that Ms N was already dissatisfied with the availability of accommodation before she made Purchase 2. So it seems to me that she had the information she needed to bring a claim in respect of misrepresentation in relation to Purchase 1, as early as November 2011. So I don’t think there’s a persuasive argument that Section 32 of the LA means she was still within the relevant limitation period at the time the Lender was first notified of her claim in respect of Purchase 1. My views in relation to Purchase 2 are similar: the Supplier’s records indicate Ms N made six accommodation bookings between November 2011 and February 2018. This included bookings in December 2011, June 2012 and November 2016. If the availability of accommodation was not as Ms N had expected based on what she’d been told by the Supplier, I think she would have discovered this when she began making bookings. So I don’t think Section 32 of the LA means she was still within the relevant limitation period with respect to Purchase 2 either.

This means I agree with our Investigator that the Lender did not act unfairly or unreasonably by declining Ms N’s Section 75 claims on the grounds they were time-barred under the LA.

The allegedly unfair credit relationship within the meaning of Section 140A of the CCA

Misrepresentations can also be matters relevant to the fairness of a credit relationship, as can many other acts or omissions. Because Ms N complained about the fairness of her credit relationships with the Lender within six years of her having settled the loans in question, she is “in time” to complain to the Lender, and the Financial Ombudsman Service, about this.

However, I don't think there's persuasive evidence either of any of the misrepresentations Ms N alleges, nor do I think the other matters she has referred to, have rendered either of her credit relationships with the Lender unfair to her. I'll explain why.

Alleged misrepresentations

Ms N's allegations in relation to the availability of bookings and holidays using the European Collection products she purchased, are vague and lacking in sufficient detail, context or colour to demonstrate that the Supplier made specific false statements of fact to her.

I note the paperwork completed for both purchases refers to accommodation being subject to availability, and that Ms N ticked and signed to agree to a declaration which stated this. In the absence of any persuasive evidence that she was told something else, I think it's more likely this is what the Supplier would have told her at the time she made both purchases. So I'm unable to conclude any actionable misrepresentations occurred.

Alleged misleading omissions

As with the alleged misrepresentations, the allegations made are vague and lack detail, colour and context. I don't think the evidence is sufficiently persuasive that the Supplier made misleading omissions or that, if it did, this prejudiced Ms N's purchasing decisions to the extent that it would have rendered her credit relationships with the Lender unfair to her.

Other allegations

It's been alleged that the Supplier pressured Ms N into the purchases. But no evidence has been put forward of what specifically the Supplier said or did which meant Ms N felt she had no choice but to make the purchases. I also note Ms N was given a cooling off period to reflect on the purchases and cancel them if she wanted to. If Ms N had been pressured into the purchases, then I would have expected her to cancel them using her cooling off period. No credible explanation has been offered as to why she did not do so. Ultimately, I don't think her ability to exercise a choice to make the purchases or not, was significantly impaired by improper pressure by the Supplier.

It's also been alleged that the Supplier failed to tell Ms N that the products she was being sold were illegal and that she wouldn't make a profit by selling them later. These allegations were made following our Investigator's assessment and had not been made previously, so I am not sure what has prompted their appearance at this late stage in the case. PR hasn't provided a coherent explanation as to why it thinks the products were illegal, and I can see no obvious reason why they would have been. And I can't see that the Supplier was under any obligation to warn Ms N that she wouldn't make a profit if she tried to sell the products later. So I don't think these points help advance Ms N's complaint any further.

Finally, PR has expressed some concerns about the regulatory status of the Supplier at the time it arranged the Credit Agreements, and that Ms N was not made aware she was borrowing from the Lender rather than the Supplier.

Having checked the historic database of the regulator¹ of consumer credit licensees as of April 2010 and November 2011, I can see the Supplier held the appropriate permissions from the regulator to arrange credit agreements. So I think the concerns about the Supplier's regulatory status are unfounded. And regarding the complaint that Ms N wasn't made aware she was borrowing from the Lender, I firstly don't see immediately how this would have prejudiced her decision to go ahead and enter any of the agreements in question. Ms N has not said, for example, that she didn't specifically want to borrow from the Lender, or only wanted to borrow from the Supplier. And secondly, for both loans she signed agreements which prominently stated they were loans from the Lender, not the Supplier. So I think she was aware at the time of entering into the agreements, that she was in fact borrowing from the Lender.

Conclusion

In conclusion, given the facts and circumstances of this complaint, I do not think that the Lender acted unfairly or unreasonably when it dealt with Ms N's Section 75 claim, and I am not persuaded that the Lender was party to a credit relationship with her under the Credit Agreement that was unfair to her for the purposes of Section 140A of the CCA. And having taken everything into account, I see no other reason why it would be fair or reasonable to direct the Lender to compensate her.

My final decision

For the reasons explained above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 8 May 2026.

Will Culley
Ombudsman

¹ At the time, this was the Office of Fair Trading.