

The complaint

Mr L's complaint is, in essence, that Clydesdale Financial Services Limited trading as Barclays Partner Finance (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with him under section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA'), (2) deciding against paying a claim under section 75 of the CCA, and (3) lending to him irresponsibly by failing to check that he could afford his loan.

Background to the complaint

Mr and Mrs L purchased membership of a timeshare (the 'Fractional Club') from a timeshare provider (the 'Supplier') on 19 March 2013 (the 'Time of Sale'). They entered into an agreement with the Supplier to buy 2,241 fractional points at a cost of £29,511 (the 'Purchase Agreement'). But after trading in their existing timeshare, they ended up paying £13,000.

Mr L paid for their Fractional Club membership by taking finance of £13,000 from the Lender (the 'Credit Agreement') in his sole name. He says he then settled this loan "*almost immediately.*"

Mr L – using a professional representative (the 'PR') – wrote to the Lender on 3 June 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 did not respond, and it's not clear whether it actually received that letter or not.

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. She said that some of it did not fall within the jurisdiction of this service, and the part that did – the claim under section 75 – was time-barred under the Limitation Act 1980.

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

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.

Having done that, I do not currently think this complaint should be upheld, for essentially the same reasons as my colleague.

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.

Our jurisdiction is set out in rules made by the Financial Conduct Authority. These rules include time limits on bringing a complaint to our Service. These say we can normally only consider a complaint if it was made within six years of the event complained of, or (if later) within three years from the date on which the complainant became aware “*or ought reasonably to have become aware*” that he had cause for complaint. We can still consider a late complaint if it was late as a result of exceptional circumstances.

For the purposes of a claim under section 140A of the CCA, the time under the six-year time limit begins to run when the credit relationship between the debtor and the creditor ends. In this instance, that was when the loan was settled in 2013. So I’m satisfied that Mr L’s claim under section 140A in 2020 was brought out of time. The three-year alternative time limit does not assist him either, because he certainly knew he had cause to complain within the first three years after the Time of Sale. (Indeed, he knew about the Supplier’s alleged high-pressure sales tactics on that date.) And I have not been told of any exceptional circumstances which would explain the lateness of this complaint. So I am satisfied that I cannot consider Mr L’s claim under section 140A. For the same reasons, I cannot consider his irresponsible lending complaint either.

The position is different when it comes to a claim under section 75. For the purposes of my jurisdiction, time runs not from when the Credit Agreement was entered into or from the alleged misrepresentation, but from when the Lender failed to uphold Mr L’s claim under that section in 2020. He complained to our service three months later, so I certainly do have jurisdiction to consider his complaint about that.

However, time under the Limitation Act runs from the Time of Sale, so I agree with the Investigator that Mr L’s section 75 claim was time-barred, and that this gave the Lender a complete defence to his claim. I therefore cannot say that the Lender should have upheld it.

My final decision

My decision is that I do not uphold this complaint. Part of it is not within the jurisdiction of the Financial Ombudsman Service, having been brought too late; and after considering the rest of it on its merits, I do not uphold it.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr L to accept or reject my decision before 3 December 2025. But this decision brings our involvement in this matter to an end.

Richard Wood
Ombudsman