

The complaint

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

What happened

In April 2014, Mr and Mrs H 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. The Purchase price was £22,284. However, Mr and Mrs H received a 'trade-in' value of £16,434 for their existing timeshare membership. Mr and Mrs H borrowed £5,850 from Shawbrook to pay the balance. The loan was repaid in full in July 2015.

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

- The Supplier told Mr and Mrs H that by purchasing the timeshare they would get a return on their outlay and in 2015 they were told that their purchase wasn't an investment.
- They were assured verbally that the timeshare would provide access to regular and exclusive holidays at top class resorts.
- They were told the value of the timeshare would increase over the investment period.
- The booking would be simple with accommodation readily available.
- They later discovered that the representations were false and / or misleading.

Mr and Mrs H 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*').

When the complaint was raised with this service, Shawbrook said that Mr and Mrs H had waited too long to make a complaint as they had repaid the loan more than six years ago in July 2015, and that it was time barred under the Limitation Act 1980 (LA).

One of our investigators considered the complaint. They didn't think it was unfair for Shawbrook to rely on the LA to decline a claim under section 75 of the CCA. And they didn't think this service could consider a complaint under section 140A of the CCA because it had been made more than six years after the loan was repaid.

In response, the PR argued that Section 32 of the CCA provided Mr and Mrs H with more time to raise their complaint. The investigator explained why they didn't think Section 32 of the CCA extended the time limit for Mr and Mrs H to complain.

The PR wrote again and asked for a final decision. It also provided further submissions in respect of the merits of the complaint.

This decision will deal solely with Mr and Mrs H's complaint that Shawbrook unfairly declined the claim they made under section 75 of the CCA. I have considered the rest of Mr and Mrs H'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 H to make a claim for misrepresentation. It's specifically referred to the LA, which essentially says Mr and Mrs H had six years from the date on which the cause of action accrued' to make their claim, after which Shawbrook has a complete defence to the claim.

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 H entered into an agreement based, they say, on the Supplier's misrepresentations. 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 H had six years from the date of sale to make a claim for misrepresentation. But they didn't make their claim until November 2023, which is outside the time limits set by the LA.

The PR says section 32 of the LA also gives Mr and Mrs H more time to make their claim. Again, I disagree. Section 32 of the LA has the potential to postpone the relevant limitation period in cases of fraud, concealment, or mistake. I have thought about that here. But in this case the PR has simply referenced section 32, but it hasn't explained what acts Shawbrook carried out, that would make it a relevant consideration that might extend time. So, I find it very difficult to see taking into account the brief submissions provided by the PR in this case, how section 32 could extend the time limit for Mr and Mrs H.

In the complaint referral to this service, the PR referred to a number of concerns that Mr and Mrs H became aware of shortly after purchasing their Timeshare. And in particular, it refers to Mr and Mrs H not being able to go on the holidays they wanted at the times they wanted. Therefore, my understanding is that they believed the Timeshare was misrepresented because they couldn't holiday in the way they say they were led to believe by the Supplier. But that would have been clear to them soon after the Time of Sale. And the PR says that they became aware in 2015 that the timeshare wasn't an investment which they had been led to believe it was when they first purchased it.

So, even if it could be said that section 32 is likely to have postponed the limitation period until they first discovered that the availability and quality of holidays was not what they thought it would be (and I make no such finding that it would), I'm not persuaded that would make a difference here.

As for the suggestion from the PR that Mr and Mrs H would only have become aware of cause for complaint after the judgment in *Shawbrook & BPF v FOS*, I can't see how this can

be true, as their claim predates this judgment. So, the PR is clearly wrong to suggest that the limitation period only started from this point in time.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 12 December 2025.

Simon Dibble
Ombudsman