

The complaint

Mr B says Clydesdale Financial Services Limited trading as Barclays Partner Finance ('BPF') has unfairly declined his claim under section 75 of the Consumer Credit Act 1974 ('CCA'). And he says his creditor-debtor relationship with BPF was unfair to him under section 140A of the CCA.

What happened

In June 2006, Mr B purchased a timeshare membership from a timeshare provider (the 'Supplier'). It cost £11,530. Mr B borrowed the full sum from BPF to pay for it. The loan was repaid in full in July 2016.

In April 2021, Mr B wrote to BPF to complain about the purchase and the related loan.

BPF didn't provide a final response letter. In March 2022, Mr B used a professional representative ('PR') to refer the complaint to our service.

One of our investigators considered the complaint. He explained that we can't consider complaints about acts or omissions that happened before 6 April 2007 for point of sale loans (restricted credit) – and he didn't think we could consider Mr B's specific complaint points.

On 11 January 2023, Mr B's PR wrote to say it didn't accept our investigator's view, but Mr B didn't 'wish to pursue the matter further at this juncture'.

In October 2023, Mr B's PR wrote to BPF to complain again about the purchase and the related loan.

BPF issued its final response letter on 1 November 2023. It said Mr B had waited too long to make a claim/complaint under sections 75 and 140A of the CCA as he'd repaid the loan more than six years ago.

Mr B'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 since the loan was repaid. And she didn't think it was unfair for BPF to rely on the Prescription and Limitation (Scotland) Act 1973 ('the 1973 Act') to reject the claim under section 75.

Mr B's PR has asked for a final decision from an ombudsman.

This decision will deal solely with Mr B's complaint that BPF unfairly declined his claim under section 75 of the CCA. I will consider the rest of Mr B'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 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, BPF says it's too late for Mr B to make a claim for misrepresentation. In its final response letter, BPF referred to the Limitation Act 1980 ('LA'), which sets statutory time limits for bringing civil claims in England and Wales. The LA says a claimant like Mr B has six years from the date on which the 'cause of action accrued' to make his claim, after which the respondent has a complete defence. In its submissions to our service, BPF referred me to the 1973 Act, which imposes time limits for civil claims in Scotland through 'prescription', because Mr B is a resident of Scotland. The relevant prescriptive period is five years.

Of course, only a court can determine whether an obligation is prescribed in Scotland or a claim time-barred in England and Wales. That said, I wouldn't normally think it was unfair for a firm to rely on the LA or the 1973 Act to decline a claim that's been made outside the limitation/prescriptive period, and I don't think it's unfair in this instance.

The date on which the cause of action accrued (or the prescriptive period commenced) is, in this case, the date of sale. It was then that Mr B entered into an agreement based, he alleges, on the Supplier's misrepresentations. As the loan from BPF was used to finance the purchase, it was also then that he suffered a loss. It follows that Mr B either had six years or five years from the date of sale to make a claim for misrepresentation, depending on the jurisdiction. But he didn't make his claim until October 2023 – more than 17 years after the date of sale.

Mr B's PR has referred me to section 32 of the LA, which postpones the limitation period in cases of fraud, concealment or mistake.

Essentially, it says 'the facts relevant to [Mr B's] cause of action under section 75 of the CCA were concealed from [him] at the point of sale and were only revealed when [he] sought advice'. It says he couldn't possibly have known at the date of sale, or until he 'actually brought the complaint, the details of the complaint [he] was making', and '[t]here was nothing that alerted [Mr B] to the facts raised'.

I disagree and I'll explain why.

In the complaint letter Mr B's PR sent BPF in October 2023, it said the Supplier told Mr B that he would have exclusive access to luxury accommodation at the Supplier's resorts, and that '[he] would be able to go on holiday anywhere [he] wants and at any time [he] wants with no issue'. Despite these assurances, the PR says Mr B 'encountered significant challenges when attempting to book any holiday with the Supplier' – so Mr B must surely have known of the facts relevant to his claim under section 75 as they happened. The PR hasn't explained clearly how its concerns about the legality of the timeshare membership amount to a misrepresentation for which BPF could be liable under section 75, or otherwise provided persuasive evidence of fraud, concealment or mistake, such that section 32 of the LA would postpone the limitation period in this case. It hasn't made similar submissions in relation to the 1973 Act but, for completeness, I don't think the commencement of the prescriptive period was postponed in Scotland either.

I'd like to reiterate that only a court can decide whether this claim was made out of time. My finding is simply that I don't think it was unfair for BPF to rely on the LA and/or the 1973 Act to decline the claim.

My final decision

For the reasons given, I don't think it was unfair for Clydesdale Financial Services Limited trading as Barclays Partner Finance to decline Mr B's claim under section 75 of the CCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 17 December 2025.

Christopher Reeves
Ombudsman