DRN-5976103

The complaint

Mr and Mrs M complain that Shawbrook Bank Limited (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with them under section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA') and (2) deciding against paying a claim under section 75 of the CCA.

What happened

Mr and Mrs M were members of a points-based fractional timeshare arrangement provided by a timeshare provider (the 'Supplier'). On 30 September 2015 (the 'time of sale') Mr and Mrs M upgraded their existing fractional membership by trading it in for a membership of the 'Signature Collection' fractional timeshare which I will call simply the 'Fractional Club'. They entered into a purchase agreement with the Supplier to buy 2,350 fractional points. The '*purchase price*' listed in the sales documents was £23,179. The '*trade in value*' was £11,700 and the '*amount due*' was £11,479.

This Fractional Club membership, like the one they traded in, was asset backed – which meant it gave Mr and Mrs M more than just holiday rights. They'd also get a share in the net sale proceeds of a property named on the purchase agreement (the 'allocated property') after their membership term ended.

Mr and Mrs M paid for their Fractional Club membership by taking finance through a credit agreement with the Lender. They still owed £14,534 for their previous membership, and so as a result of the upgrade they now entered a credit agreement for a total of £26,013.

Using a professional representative (the 'PR') Mr and Mrs M wrote to the Lender on 30 September 2021 to raise a number of different concerns. Because those concerns haven't changed since they were first raised, and because both sides are familiar with them, I won't repeat them in detail here beyond the summary above.

On 13 October 2021 the Lender replied to Mr and Mrs M's complaint. It said it didn't agree that there was any unfair relationship, and it specifically addressed the subject of commission, saying Mr and Mrs M had been made aware that the Supplier was entitled to commission for selling a membership and that Mr and Mrs M could've requested details of the commission.

Mr and Mrs M referred their complaint to the Financial Ombudsman Service.

An investigator asked the PR to provide any witness statement that had been made by Mr and Mrs M. The PR provided a statement dated 29 July 2024. In summary the statement said Mr and Mrs M attended a meeting with the supplier in return for receiving a week's holiday. During the meeting membership of the Fractional Club was explained to Mr and Mrs M. The meeting lasted for several hours and involved a lot of pressure to buy a membership, and Mr and Mrs M finally agreed to sign up as they were reaching the end of their tethers and wanted to go back to their accommodation.

The statement described the content of the sales presentation as follows:

‘*They started talking about the company and we were shown pictures of various holiday resorts that the company owned … throughout the world, we were constantly asked about where we went on holiday and what places we would like to go to and that if we made an investment we would be able to use these for our holidays and any of our family members.*

Other employees would come up to the table introduce themselves and ask further questions, and explain how we could enjoy holidays by investing in the company. They told us that we would be buying a fraction of one of their property’s on one of their resorts and that this would be an investment that when the contract ended and they sold the property, that we would receive a profit as the value of the property would always goes up.

… We asked where the property that we were buying a share of would be but they said that they could not confirm this, but that we could not go wrong as it was property and we would get a profitable return on our investment.’

Mr and Mrs M said the Supplier told them they could take holidays any time but that wasn’t the case, and on their next two holidays they had to attend meetings where the Supplier tried to persuade them to upgrade. They also said they were worried that the Supplier’s business had been liquidated which would mean they couldn’t take holidays, and the money they’d paid would be lost and their investment would be worthless.

The investigator considered all the information on file and said he thought the complaint ought to be upheld on its merits. He thought the Supplier had marketed and sold Fractional Club membership as an investment to Mr and Mrs M at the time of sale in breach of Regulation 14(3) of the Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 (the ‘Timeshare Regulations’). And given the impact of that breach on their purchasing decision, the investigator concluded that the credit relationship between the Lender and Mr and Mrs M was rendered unfair to them for the purposes of section 140A of the CCA.

Mr and Mrs M accepted the investigator’s view. The Lender disagreed.

Because no agreement could be reached, the complaint was passed to me to review it afresh and make a decision. I considered the matter and issued a provisional decision (the ‘PD’) dated 10 November 2025. In that decision, I said the following:

<u>Section 75 of the CCA: were there misrepresentations by the Supplier at the time of sale?</u>

The CCA introduced a regime of connected lender liability under section 75 which gives consumers (‘debtors’) a right of recourse against lenders that provide the finance for the acquisition of goods or services from third-party merchants (‘suppliers’), in the event there’s an actionable misrepresentation and/or breach of contract by the supplier.

For that consumer protection to be engaged, certain conditions must be met in relation to things such as, for instance, the cash price of the purchase and the nature of arrangements between the parties involved in the transaction. In this case the Lender doesn’t dispute the relevant conditions are met. But for reasons I’ll come to I needn’t make any formal findings about those conditions here.

Mr and Mrs M's letter of complaint said that at the time of sale the Supplier misrepresented Fractional Club membership by doing the following:

1. *Telling Mr and Mrs M they'd purchased an investment that would 'considerably appreciate in value'*
2. *Promising Mr and Mrs M a considerable return on the investment by saying they'd own a share in a property that would considerably increase in value*
3. *Telling Mr and Mrs M they could sell their Fractional Club membership to the Supplier or easily to third parties at a profit*
4. *Making Mr and Mrs M believe they'd have access to 'the holiday apartment' at any time all year round*

Points 1 and 2 don't strike me as misrepresentations even if they were representations made by the supplier (which I make no formal finding on). That prospective members were investing their money by buying a fraction or share of a property wasn't untrue. And even if the Supplier's sales representatives went further and suggested the share in question would increase in value, perhaps considerably so, that sounds like nothing more than an honestly held opinion. There's no accompanying evidence to persuade me the sales representative(s) said something that, while an opinion, amounted to a statement of fact that they didn't hold or couldn't have reasonably held.

As for points 3 and 4, it's possible Fractional Club membership was misrepresented at the time of sale for one or both of those reasons. But I don't think it's probable. The letter of complaint and witness statement from Mr and Mrs M give little to none of the colour and context necessary to demonstrate that the Supplier made false statements of existing fact and/or opinion. There's no mention in the witness statement of Mr and Mrs M being told they'd be able to sell their membership. And although the statement says they were told they'd be able to book holidays any time, there is no supporting detail on that point. And I find the statement unpersuasive in the context of Mr and Mrs M having already, at the time of sale, been members of a fractional club provided by the Supplier. There's no other evidence on file that supports the suggestion that Fractional Club membership was misrepresented for these reasons. So I don't think it was.

Overall, while I know Mr and Mrs M and the PR have concerns about the way Fractional Club membership was sold by the Supplier, when looking at the claim under section 75 of the CCA, I can only consider whether there was a factual and material misrepresentation by the Supplier. For the reasons I've given above, I'm not persuaded there was. And that means I don't think the Lender acted unreasonably or unfairly when it dealt with this particular section 75 claim.

<u>Section 140A of the CCA: did the Lender participate in an unfair credit relationship?</u>

I've already explained why I'm not persuaded the Supplier actionably misrepresented Fractional Club membership at the time of sale. But there are other aspects of the sales process which, being the subject of dissatisfaction, I must explore with section 140A in mind.

Having considered the entirety of the credit relationship between Mr and Mrs M and the Lender, along with all the circumstances of the complaint, I don't think the credit relationship between them was likely to have been rendered unfair for the purposes of Section 140A. In coming to that conclusion, and in carrying out my analysis, I've looked at the following:

1. *The standard of the Supplier's commercial conduct – which includes its sales and marketing practices at the time of sale along with any relevant training material*
2. *The provision of information by the Supplier at the time of sale, including the contractual documentation and disclaimers made by the Supplier*
3. *Evidence provided by both parties of what was likely to have been said and/or done at the time of sale*
4. *The inherent probabilities of the sale given its circumstances*
5. *When relevant, any existing unfairness from a related credit agreement.*

I've then considered the impact of these on the fairness of the credit relationship between Mr and Mrs M and the Lender.

<u>The Supplier's sales & marketing practices at the time of sale</u>

Mr and Mrs M's complaint about the Lender being party to an unfair credit relationship was made for several reasons.

The PR suggests, for instance, that the Lender didn't do the right checks before lending to Mr and Mrs M. I haven't seen anything to persuade me this was the case in the circumstances of this complaint. But even if I found the Lender failed to do everything it should've done when it agreed to lend – and I make no such finding – to uphold the complaint on that basis I'd have to be satisfied the amount of the loan to Mr and Mrs M was actually unaffordable and that Mr and Ms M lost out as a result, and then I'd have to consider whether the credit relationship with the Lender was unfair to them for this reason. From the information provided, I'm not satisfied the lending was unaffordable for Mr and Mrs M.

Connected to this is the suggestion by the PR that the credit agreement was arranged by an unauthorised credit broker and so the Lender wasn't permitted to enforce it. But it looks to me like Mr and Mrs M knew, amongst other things, how much they were borrowing and repaying each month, who they were borrowing from and that they were borrowing money to pay for Fractional Club membership. And as the lending doesn't look like it was unaffordable for them, even if the credit agreement was arranged by a broker who lacked the necessary permission (which I make no formal finding about), I can't see why that led to a financial loss for Mr and Mrs M such that I can say the credit relationship in question was unfair to them as a result. So I'm not persuaded it'd be fair or reasonable to tell the Lender to compensate them, even if the loan wasn't arranged properly.

The PR also says there were one or more unfair contract terms in the purchase agreement – including in relation to the Supplier's right to rescind the agreement and retain payments made in certain circumstances. But as I can't see that any such terms were operated unfairly against Mr and Mrs M in practice, nor that any such terms led them to behave in a certain way to their detriment. I'm not persuaded any of the terms governing Fractional Club membership are likely to have led to an unfairness that warrants a remedy.

Mr and Mrs M might well have felt weary after a sales process that went on for a long time. But they say little about what was said and/or done by the Supplier during their sales presentation that made them feel as if they had no choice but to purchase Fractional Club membership when they simply did not want to. Also, they were given a 14-day cooling off period. And they haven't explained why they didn't cancel the membership during that time. Moreover, the purchase they made was an upgrade of an existing fractional club membership – which I find difficult to understand if the reason they went ahead with the purchases in question was because they were

pressured into them. And with all of that being the case, there's insufficient evidence to demonstrate Mr and Mrs M made the decision to purchase Fractional Club membership because their ability to exercise that choice was significantly impaired by pressure from the Supplier.

So overall I don't think Mr and Mrs M's credit relationship with the Lender was rendered unfair to them under Section 140A for any of the reasons above.

The Supplier's alleged breach of Regulation 14(3) of the Timeshare Regulations

The PR says Mr and Mrs M's credit relationship with the Lender was unfair to them because Fractional Club membership was marketed and sold to them as an investment in breach of the prohibition against selling timeshares in that way.

The Lender doesn't dispute – and I'm satisfied – that Mr and Mrs M's Fractional Club membership met the definition of a 'timeshare contract' and was a 'regulated contract' for the purposes of the Timeshare Regulations.

Regulation 14(3) of the Timeshare Regulations prohibited the Supplier from marketing or selling Fractional Club membership as an investment. This is what the provision said at the time of sale:

> *'A trader must not market or sell a proposed timeshare contract or long-term holiday product contract as an investment if the proposed contract would be a regulated contract.'*

But the PR says the Supplier did exactly that at the time of sale – saying, in summary, that the Supplier told Mr and Mrs M Fractional Club membership was the type of investment that would only increase in value.

The term 'investment' isn't defined in the Timeshare Regulations. But for the purposes of this decision, and by reference to the decided authorities, an investment is a transaction in which money or other property is laid out in the expectation or hope of financial gain or profit.

A share in the allocated property clearly constituted an investment because it offered Mr and Mrs M the prospect of a financial return – whether or not, as with all investments, the return was more than they first put in. But the inclusion of an investment element in Fractional Club membership didn't itself transgress the prohibition in Regulation 14(3). The prohibition is against the marketing and selling of a timeshare contract as an investment. Regulation 14(3) doesn't prohibit the mere existence of an investment element in a timeshare contract, or the marketing and selling per se of a timeshare contract that includes an investment element.

In other words, the Timeshare Regulations didn't ban products such as the Fractional Club. They just regulated the way such products were marketed and sold.

So to conclude that Fractional Club membership was marketed or sold to Mr and Mrs M in breach of Regulation 14(3) I must be persuaded it was more likely than not that the Supplier marketed and/or sold membership to them as an investment. That is, I must be persuaded the Supplier told them or led them to believe Fractional Club membership offered them the prospect of a financial gain (i.e., a profit) given the facts and circumstances of this complaint.

There's competing evidence in this complaint as to whether Fractional Club membership was marketed and/or sold by the Supplier at the time of sale as an investment in breach of regulation 14(3) of the Timeshare Regulations.

On the one hand, it's clear the Supplier made efforts to avoid specifically describing membership of the Fractional Club as an 'investment' or quantifying to prospective purchasers, such as Mr and Mrs M the financial value of their share in the net sales proceeds of the allocated property along with the investment considerations, risks and rewards attached to them.

On the other hand, the Supplier's sales process left open the possibility that the sales representative may have positioned Fractional Club membership as an investment. So it's equally possible that Fractional Club membership was marketed and sold to Mr and Mrs M as an investment in breach of Regulation 14(3).

But whether or not the Supplier breached the relevant prohibition is not ultimately determinative of the outcome in this complaint for reasons I will come to shortly. So I don't need to make a formal finding on that particular issue for the purposes of this decision.

Was the credit relationship between the Lender and the Consumer rendered unfair?

Having found it was possible the Supplier breached Regulation 14(3) of the Timeshare Regulations at the time of sale, I need to consider what impact that breach – if it occurred – had on the fairness of the credit relationship between Mr and Mrs M and the Lender under the credit agreement and related purchase agreement. That's because case law makes clear that regulatory breaches don't automatically create unfairness for the purposes of Section 140A. Such breaches and their consequences (if there are any) must be considered in the round, rather than in a narrow or technical way.

If I'm to conclude that a breach of Regulation 14(3) led to a credit relationship with the Lender that was unfair to Mr and Mrs M and so warrants relief, I need to consider whether the breach led Mr and Mrs M to enter into the purchase agreement and the credit agreement. And on the evidence I've seen, I can't safely conclude that it did.

The letter of complaint submitted by the PR on Mr and Mrs M's behalf was nearly identical to many other letters of complaint the PR wrote on behalf of other consumers. The personal testimony from Mr and Mrs was written in September 2024 – nine years after the sale I'm considering, nearly three years after the letter of complaint, and after the judgment was handed down in R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd ('the Judicial Review'). Experience tells me that the more time that passes between a complaint and the event complained about, the greater the risk that the consumer's recollections will be vague and inaccurate, and/or potentially influenced by discussions with others, the news or even the complaint process itself. Here, there's no evidence that corroborates Mr and Mrs M's recent testimony and there's a real risk that it was influenced by the letter of complaint and/or the judgment in Shawbrook.

Of particular concern to me, however, is that Mr and Mrs M already owned a fractional timeshare membership with the Supplier when they purchased membership of the Signature Collection. As I mentioned above, they received a 'trade-in' value of £11,700 for this membership. Yet their statement was written as if they were being introduced to the concept of fractional timeshare for the first time. They described having the concept of fractional timeshare explained to them. Their recollections aren't consistent with how the meeting would likely have gone given they'd already purchased a fractional membership and were now being presented with an option to upgrade.

In the absence of credible and persuasive evidence I can't conclude that their purchase was motivated by the possibility of a profit arising from the investment element of the fractional club membership. And so I'm not satisfied I can say a breach of Regulation 14(3) by the Supplier – if one occurred – was likely to have been material to the decision Mr and Mrs M ultimately made. And for that reason I don't think the credit relationship between them and the Lender was made unfair to them by a breach of Regulation 14(3) even if the Supplier did commit such a breach.

For completeness I'd add that I'm aware that Mr and Mrs M took proceedings against the Supplier in Spain to have their purchase agreement annulled. And I've seen translations provided by the PR of the judgments resulting from those proceedings, with the earliest having been written in February 2021. Although the various grounds submitted by Mr and Mrs M included the membership having been sold as an investment, the court's description of Mr and Mrs M's general complaint against the Supplier at that time doesn't indicate to me that the membership's status as an investment was a motivating concern for them. And this service hasn't received any direct testimony produced by Mr and Mrs M at the time of the court proceedings or earlier, despite the investigator for this service having asked for a copy of any such testimony.

<u>The Supplier's alleged breach of Spanish Law and its implications for the credit agreement</u>

The PR argues that, because the purchase agreement was unlawful under Spanish law in light of certain information failings by the Supplier, it should treat that Agreement and the credit agreement as rescinded by Mr and Mrs M and award them compensation accordingly – in keeping with the judgment of the UK's Supreme Court in Durkin v DSG Retail [2014] UKSC 21 ('Durkin').

However, as the Lender hasn't been party to any of the court proceedings in Spain, there's an argument for saying the purchase agreement is valid under English law for the purposes of Durkin.

I also note that the purchase agreement is governed by English law. So it's not clear Spanish law would be held relevant if the validity of the agreement were litigated between its parties and the Lender in an English court. For example, in Diamond Resorts Europe and Others (Case C-632/21), the European Court of Justice ruled that, because the claimant lived in England and the timeshare contract was governed by English law, it was English law that applied, not Spanish, even though the latter was more favourable to the claimant in ways that resemble the matters seemingly relied upon here by the PR.

What's more, if Mr and Mrs M have gone some way to taking advantage of the purchase and credit agreements – which I think is likely – an English court might

hesitate to uphold a claim for rescission of either agreement because there are equitable reasons to do so.

So overall, in the absence of a successful English court ruling on a timeshare case paid for using a point-of-sale loan on similar facts to this complaint, and given the facts and circumstances of this complaint, I'm not persuaded it'd be fair or reasonable to uphold the complaint for this reason.

Mr and Mrs M's Commission Complaint

I note that one of Mr and Mrs M's other concerns relates to alleged payments of commission by the Lender to the Supplier for acting as a credit broker and arranging the Credit Agreements. The Supreme Court's recent judgment Johnson v FirstRand Bank Ltd, Wrench v FirstRand Bank Ltd and Hopcraft v Close Brothers Ltd [2025] UKSC 33 ('Johnson, Wrench and Hopcraft') clarified the law on payments of commission – albeit in the context of car dealers acting as credit brokers. In my view, the Supreme Court's judgment sets out principles which appear capable of applying to credit brokers other than car dealer–credit brokers. So, once the implications of that judgment become clear, I will finalise my findings on this complaint.

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

The Lender responded to say it accepted the PD and it didn't pay any commission or subsidy on the loan to Mr and Mrs M. The PR didn't accept the PD and provided some further comments and evidence to be considered.

I also issued the following further provisional findings:

In my provisional decision, I noted that one of Mr and Mrs M's concerns related to the alleged payment of commission by the Lender to the Supplier for acting as a credit broker and arranging the Credit Agreement. And I said that the Supreme Court's pending (at that time) judgment on this issue might have proved important to this aspect of Mr and Mrs M's complaint. So I said I wouldn't finalise my thoughts on this complaint until the judgment had been handed down and I'd considered its implications on this complaint, if there were any.

I've now seen that the Supreme Court judgment has been handed down. In contrast to the facts in Mr Johnson's case, the Lender in this case has provided evidence that there was no payment of commission to the Supplier for arranging Mr and Mrs M's credit agreement. I can't see, therefore, that any of the arguments made around a failure to disclose that fact could possibly succeed, particularly as it can't be shown that Mr and Mrs M would've made a different decision about whether to take out the loan had they known there was no commission.

Neither the Lender nor the PR provided any comments on my further provisional findings.

Having received the relevant responses from both parties, I'm now finalising my decision.

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, in many ways. 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 in detail 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.

Following the responses from both parties, I've considered the case afresh and having done so, I've reached the same decision as that which I outlined in my provisional findings, for broadly the same reasons. Again, my role as an Ombudsman isn't to address every single point which has been made to date, but to decide what is fair and reasonable in the circumstances of this complaint. If I haven't commented on, or referred to, something that either party has said, this doesn't mean I haven't considered it. Rather, I've focused here on addressing what I consider to be the key issues in deciding this complaint and explaining the reasons for reaching my final decision.

The PR's comments in response to the PD mainly related to the issue of whether the credit relationship between Mr and Mrs M and the Lender was unfair. In particular, PR commented further on whether the membership was sold to Mr and Mrs M as an investment at the time of sale.

As outlined in my PD, the PR originally raised various other points of complaint, all of which I addressed at that time. But the PR didn't make any further comments in relation to those points in response to my PD. And the PR didn't express any disagreement with my provisional conclusions in relation to those other points, or the further provisional findings that I shared with the parties. And since neither party has given me anything more in relation to those other points, I see no reason to change my conclusions in relation to them as set out in my PD. So I'll focus here on the points the PR raised in response to the PD which I haven't already addressed.

Section 140A of the CCA: did the Lender participate in an unfair credit relationship?

The Supplier's alleged breach of Regulation 14(3) of the Timeshare regulations

In response to my PD the PR said Mr and Mrs M hadn't been shown the investigator's view on their complaint. The PR said the view was kept from them 'in order not to influence their recollections'. The PR also said Mr and Mrs M hadn't heard about the judgement handed down in *Shawbrook and BPF v FOS*[1] - and if they had heard about it, they wouldn't have understood the issues because they didn't have a '*legal background'*. The PR said these things meant Mr and Mrs M's recollections hadn't been influenced by either the investigator's view or the aforementioned judgment.

Part of my assessment of the testimony was to consider when it was written, and whether it

[1] *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service* [2023] EWHC 1069 (Admin) ('*Shawbrook & BPF v FOS*').

may have been affected by external factors such as the widespread publication of the outcome of *Shawbrook and BPF v FOS.* Here, the PR responded to our investigator's view to say Mr and Mrs M wanted an ombudsman to consider their complaint. I find it unlikely that they took that position without knowing what the investigator had concluded. And I maintain that there's a risk their testimony was coloured by the investigator's view and/or the outcome in *Shawbrook & BPF v FOS*.

I also maintain that the passage of time will have affected their recollections despite the PR disagreeing with that. The effect of time is particularly apparent during this case given that it appears likely Mr and Mrs M's testimony confuses different meetings they had in relation to timeshare purchases. As I said in my PD, Mr and Mrs M's testimony was written as if Mr and Mrs M were purchasing timeshare membership for the first time when in fact they had a membership already and were upgrading at the time of sale. The PR has argued that the Supplier would've presented Mr and Mrs M with much of the same information whether they were purchasing for the first time or upgrading their membership. But it remains that I can't rely on the statement as an accurate recollection of the purchase that is the subject of this complaint, and so it doesn't give me a basis to conclude that Mr and Mrs M's purchase at the time of sale was motivated by the prospect of a financial profit.

So, ultimately, for the above reasons, along with those I already explained in my PD, I remain unpersuaded that any breach of Regulation 14(3) was material to Mr and Mrs M's purchasing decision.

The PR said that in the judgment handed down in *Shawbrook & BPF v FOS*, it wasn't challenged that the product in question was marketed and sold as an investment. But, as I explained in my provisional decision, the Timeshare Regulations didn't ban products such as the Fractional Club. They just regulated how such products were marketed and sold. And the judgment referred to didn't make a blanket finding that all such products were mis-sold in the way the PR appears to suggest. Any complaint needs to be considered in the light of its specific circumstances.

And, as I said before, even if the Supplier had marketed or sold the membership as an investment in breach of Regulation 14(3) (which I still make no finding on here), I'm not persuaded Mr and Mrs M's decision to make the purchase was motivated by the prospect of a financial gain. So, I still don't think the credit relationship between Mr and Mrs M and the Lender was unfair to them for this reason.

Conclusion

In conclusion, given the facts and circumstances of this complaint, I don't think the Lender acted unfairly or unreasonably when it dealt with Mr and Mrs M's section 75 claim, and I'm not persuaded the Lender was party to a credit relationship with them under the credit agreement that was unfair to them 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 Mr and Mrs M.

My final decision

For the reasons I've set out my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 16 March 2026.

Lucinda Puls

Ombudsman