

## The complaint

Mrs T and the estate of Mr T's complaint is, in essence, 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 claims under Section 75 of the CCA.

The timeshare in question was bought jointly by Mr and Mrs T, but sadly Mr T died after the complaint was made to the Lender. As such, this complaint is now brought jointly on behalf of his estate.

## What happened

On 8 June 2017 Mr and Mrs T bought a trial membership of a timeshare from a timeshare provider (the 'Supplier'). This allowed them five weeks' accommodation from the Supplier's portfolio of resorts in the following three years, and cost them £3,995. This was paid for by a loan from the Lender.

As part of their trial Mr and Mrs T were on holiday, and whilst there purchased a full membership of a timeshare from the Supplier that I'll call the 'Fractional Club' – which they bought on 9 January 2018 (the 'Time of Sale'). They entered into an agreement with the Supplier to buy 1,200 fractional points, and after trading in their trial membership they ended up paying £15,818 (the 'Purchase Agreement') for their Fractional Club membership.

Fractional Club membership was asset backed – which meant it gave Mr and Mrs T more than just holiday rights. It also included a share in the net sale proceeds of a property named on the Purchase Agreement (the 'Allocated Property') after their membership term ends.

Mr and Mrs T paid for their Fractional Club membership by taking finance of £19,311 from the Lender (the 'Credit Agreement') in their joint names. This amount consolidated the outstanding balance of the loan taken to pay for their trial membership.

Mr and Mrs T – using a professional representative (the 'PR') – wrote to the Lender on 8 November 2021 (the 'Letter of Complaint') to raise a number of different concerns about their Fractional Club membership and the associated Credit Agreement. 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 dealt with Mr and Mrs T's concerns as a claim, which it did not accept.

The complaint was then referred by the PR to the Financial Ombudsman Service on 24 January 2022. As part of its submissions, it included a written statement from Mr T which set out his and Mrs T's recollections of their purchases from the Supplier.

He started by setting out the circumstances around their purchase of the trial membership:

*"We were cold called and we were invited to Spain for a free week in June 2017. At the time we thought this would be a great idea. When we were on holiday we stayed in a top*

*of the range apartment. I think it was the Costa Del Sol near Marbella. We had to attend a meeting as part of the offer of the free week. Before we attended this meeting we were unaware of the commercial purpose of this meeting. This meeting persisted for around 5 hours. We were offered refreshments and we remember this meeting being very high pressured and we were advised that it was on special offer on the day and we had no time to think this over before signing. We were advised we would be able to use these points to holiday in Florida which was a real attraction to us. We eventually decided to purchase the trial membership. This meeting was held at the resort and we felt obliged to stay to the end of the meeting. We were advised this was exclusive this proved to be untrue. We were advised that we would have guaranteed availability as well anytime anyplace. When we attempted to use this to go to Paris we found that booking the hotels direct was much cheaper than using our [membership] points and the same when we looked at holidays in Florida. We were also advised that we would be guaranteed luxury accommodation this has not always been the case.*

*When it came to payment we were offered Shawbrook Bank. There was [sic] no other providers offered or we were not given time to source our own loan. They completed all the paperwork. We were not given any time to read over the terms and conditions alone and felt pressured to make the decision on the day. There was no full affordability check carried out on us that day. We were not made aware of any commission the representatives were receiving. I [sic] This all felt like part and parcel of the same purchase. The sole purpose of this loan was to purchase the product.*

*As such on the 8 June 2017 we purchased a trial membership with [the Supplier] for the total cost of £3,995. We paid for this by way of loan from Shawbrook Bank for the total cost of £3,995.”*

Mr T then went on to describe their purchase of the Fractional Club:

*“In January 2018 we were on holiday on one of our trial weeks or it might have been a free week in the Cotswolds. We were invited to an update meeting. When we attended this it was clear this was a sales presentation. The representative started to advise us that we should upgrade to fractional points. They advised is this was an investment where we would partially own property for 19 years this it [sic] would be sold and we would receive or [sic] money back and we would be out of the contract as it had a guaranteed exit strategy. When we purchased the only advice we received about the maintenance fee was that it would be £100 next January they did not fully explain this was an annual fee.*

*When it came to payment we were offered Ge Money. There was [sic] no other providers offered or we were not given time to source our own loan. They completed all the paperwork. We were not given any time to read over the terms and conditions alone and felt pressured to make the decision on the day. On the day the representative advised us that after 2-3 months we should change the loan to someone else. We did not have any contact with the finance provider on the day. There was no full affordability check carried out on us that day. We were not made aware of any commission the representatives were receiving. I think this might have been interest free if paid off within a certain time. This all felt like part and parcel of the same purchase. The sole purpose of this loan was to purchase the product.*

*When it came to payment we were offered Shawbrook Bank. There was [sic] no other providers offered or we were not given time to source our own loan. They completed all the paperwork. We were not given any time to read over the terms and conditions alone and felt pressured to make the decision on the day. There was no full affordability check carried out on us that day. We were not made aware of any commission the*

*representatives were receiving. I [sic] This all felt like part and parcel of the same purchase. The sole purpose of this loan was to purchase the product.*

*Therefore on the 9 January 2018 we purchased 1200 fractional [Supplier] points for the total cost of £15,818. This was paid by a loan from Shawbrook Bank for the total cost of £19,311. This was a consolidated loan.”*

When contacted by this Service, the Lender said it would reconsider their concerns as a complaint. And having done so, it confirmed it did not think the complaint ought to be upheld.

Mrs T's (and now the estate of Mr T's) complaint was assessed by an Investigator who, having considered the information on file, rejected the complaint on its merits. On the basis of what was said in the statement, and because of Mrs T's and the late Mr T's circumstances at the time, the Investigator didn't think the evidence showed that their motivation to purchase the Fractional Club was a potential profit from the sale of the Allocated Property. So, he didn't think their complaint of an unfair credit relationship with the Lender ought to be upheld because he didn't think any potential breach of Regulation 14(3) of the Timeshare Regulations was material to Mrs T and the late Mr T's purchasing decision.

As a result of the Investigator's opinion, the PR sent this Service some more comments from Mrs T. These said:

*“I would like to say that when this was purchased, we were told that we could holiday at any time and anywhere. We tried to cancel this within the 14days cooling off period to be told that we could not as [the Supplier] has already been paid. On the one occasion that my husband and I did try to use it was to no avail. This was sold to us a life-time investment and were specifically told that we would not lose a penny as our money was in bricks and mortar and that we owned some of the bricks which will always hold its value and we could potentially make a profit.*

*This has been a major problem from the start as we were sold something that we could not use, refused to be able to cancel within the cooling off period and has brought us nothing but years of stress and has been a finical burden for something that wasn't what we were told we would be getting for our money.*

*This was sold to us as a lifetime investment not a timeshare. (the words of the salesperson).”*

As Mrs T and the estate of Mr T disagreed with the Investigator's assessment, they asked for an Ombudsman's decision – which is why it was passed to me.

### **The provisional decision**

Having considered everything, I didn't think the complaint ought to be upheld. But as my reasons for doing so expanded somewhat on what the Investigator had said, I my initial thoughts to both sides in a provisional decision.

In this I said:

*“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 currently 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.*

#### Section 75 of the CCA: the Supplier's misrepresentations at the Time of Sale

*The CCA introduced a regime of connected lender liability under section 75 that affords 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 that there is an actionable misrepresentation and/or breach of contract by the supplier.*

*Certain conditions must be met if the protection afforded to consumers is engaged, including, for instance, the cash price of the purchase and the nature of the arrangements between the parties involved in the transaction. The Lender doesn't dispute that the relevant conditions are met. But for reasons I'll come on to below, it isn't necessary to make any formal findings on them here.*

*It was said in the Letter of Complaint that Fractional Club membership had been misrepresented by the Supplier at the Time of Sale because Mr and Mrs T were:*

- (1) Told by the Supplier that Fractional Club membership had a guaranteed end date when that was not true; and*
- (2) Told by the Supplier that Fractional Club membership was an "investment" when that was not true.*

*However, telling prospective members that they were investing their money because they were buying a fraction or share of one of the Supplier's properties was not untrue. After all, a share in an allocated property was, by its very nature, an investment. And while, as I understand it, the sale of the Allocated Property could be postponed in certain circumstances according to the Fractional Club Rules, the late Mr T and Mrs T have said little to nothing to persuade me that they were given a guarantee by the Supplier that the Allocated Property would be sold on a specific date when such a promise would have been impossible to stand by given the inevitable uncertainty of selling property some way into the future. And as there's nothing else on file to support the PR's allegation, I'm not persuaded that there was a representation by the Supplier on the issue in question that constituted a false statement of fact.*

*So, while I recognise that Mrs T and the late Mr T and the PR had concerns about the way in which 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 set out above, I'm not persuaded that there was. And that means that I don't think that the Lender acted unreasonably or unfairly when it dealt with this particular Section 75 claim.*

#### Section 75 of the CCA: the Supplier's Breach of Contract

*I have already summarised how Section 75 of the CCA works and why it gives consumers a right of recourse against a lender. So, it is not necessary to repeat that here other than to say that, if I find that the Supplier is liable for having breached the Purchase Agreement, the Lender is also liable.*

*Mrs T and the late Mr T said that they could not holiday where and when they wanted to – which, on my reading of the complaint, suggests that the Supplier was not living up to its end of the bargain, potentially breaching the Purchase Agreement.*

*Yet, like any holiday accommodation, availability was not unlimited – given the higher*

*demand at peak times, like school holidays, for instance. Some of the sales paperwork likely to have been signed by Mr and Mrs T at the Time of Sale states that the availability of holidays was/is subject to demand. It also looks like they made use of their fractional points to holiday on a number of occasions. I accept that they may not have been able to take certain holidays. But I have not seen enough to persuade me that the Supplier had breached the terms of the Purchase Agreement.*

*The PR also says on Mrs T and the late Mr T's behalf that the Supplier breached the Purchase Agreement because it went into liquidation. And if certain parts of the Supplier's business were put into administration, I can understand why the PR is alleging that there was a breach of the Purchase Agreement as a result. However, neither Mrs T, the late Mr T nor the PR have said, suggested or provided evidence to demonstrate that due to the administration Mrs T (and the estate of Mr T) is no longer:*

- 1. a member of the Fractional Club;*
- 2. able to use her Fractional Club membership to holiday in the same way she could initially; and*
- 3. entitled to a share in the net sales proceeds of the Allocated Property when the Fractional Club membership ends.*

*So, from the evidence I have seen, I do not think the Lender is liable to pay Mrs T and the estate of Mr T any compensation for a breach of contract by the Supplier. And with that being the case, I do not think the Lender acted unfairly or unreasonably in relation to this aspect of the complaint either.*

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

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*I've already explained why I'm not persuaded that Fractional Club membership was actionably misrepresented by the Supplier at the Time of Sale, or that the contract was breached. But there are other aspects of the sales process that, being the subject of dissatisfaction, I must explore with Section 140A in mind if I'm to consider this complaint in full – which is what I've done next.*

*Having considered the entirety of the credit relationship between Mrs T, the late Mr T (and now his estate) and the Lender along with all of 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. When coming to that conclusion, and in carrying out my analysis, I have looked at:*

- 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 on what was likely to have been said and/or done at the Time of Sale; and*
- 4. The inherent probabilities of the sale given its circumstances.*

*I have then considered the impact of these on the fairness of the credit relationship between all parties and the Lender.*

### The Supplier's sales & marketing practices at the Time of Sale

*Mrs T and the late Mr T's complaint about the Lender being party to an unfair credit relationship was and is made for several reasons.*

*The PR says, for instance that:*

- *The right checks weren't carried out before the Lender lent to Mr and Mrs T; and*
- *Mr and Mrs T were pressured by the Supplier into purchasing Fractional Club membership at the Time of Sale.*

*However, as things currently stand, neither of these strike me as a reason why this complaint should succeed.*

*I haven't seen anything to persuade me that the right checks weren't carried out by the Lender given this complaint's circumstances. But even if I were to find that the Lender failed to do everything it should have when it agreed to lend (and I make no such finding), I would have to be satisfied that the money lent to Mrs T and the late Mr T was actually unaffordable, before also concluding that they lost out as a result, and then consider whether the credit relationship with the Lender was unfair to them (and now the estate of Mr T) for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for Mrs T and the late Mr T.*

*And as regards the allegation that they were put under pressure at the Time of Sale, I acknowledge that Mrs T and the late Mr T may have felt weary after a sales process that went on for a long time. But the late Mr T said 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. They were also given a 14-day cooling off period and they have not provided a credible explanation for why they did not cancel their membership during that time. And with all of that being the case, there is insufficient evidence to demonstrate that Mrs T and the late Mr T made the decision to purchase Fractional Club membership because their ability to exercise that choice was significantly impaired by pressure from the Supplier.*

*Overall, therefore, I don't think that Mrs T and the late Mr T's (and now the estate of Mr T's) credit relationship with the Lender was rendered unfair to them under Section 140A for any of the reasons above. But there is another reason, perhaps the main reason, why the PR now says the credit relationship with the Lender was unfair to them. And that's the suggestion that Fractional Club membership was marketed and sold to Mrs T and the late Mr T as an investment in breach of the prohibition against selling timeshares in that way.*

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

*A share in the Allocated Property clearly constituted an investment as it offered Mrs T and the late Mr T the prospect of a financial return – whether or not, like all investments, that was more than what they first put into it. But it is important to note at this stage that the fact that Fractional Club membership included an investment element did not, itself, transgress the prohibition in Regulation 14(3). That provision prohibits the marketing and selling of a timeshare contract as an investment. It doesn't prohibit the mere existence of an investment element in a timeshare contract or prohibit the marketing and selling of such a timeshare contract per se.*

*In other words, the Timeshare Regulations did not ban products such as the Fractional Club. They just regulated how such products were marketed and sold.*

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

*And there is 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 is clear that 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 T, 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.*

*But on the other hand, I acknowledge that the Supplier's sales process left open the possibility that the sales representative may have positioned Fractional Club membership as an investment. So, I accept that it's equally possible that Fractional Club membership was marketed and sold to Mrs T and the late Mr T as an investment in breach of Regulation 14(3).*

*However, whether or not there was a breach of the relevant prohibition by the Supplier is not ultimately determinative of the outcome in this complaint for reasons I will come on to shortly. And with that being the case, it's not necessary 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 that it was possible that the Supplier breached Regulation 14(3) of the Timeshare Regulations at the Time of Sale, I now need to consider what impact that breach (if there was one) had on the fairness of the credit relationship between Mrs T and the late Mr T (and now the estate of Mr T) and the Lender under the Credit Agreement and related Purchase Agreement, as the case law on Section 140A makes it clear that regulatory breaches do not automatically create unfairness for the purposes of that provision. Such breaches and their consequences (if there are any) must be considered in the round, rather than in a narrow or technical way.*

*Indeed, it seems to me that, if I am to conclude that a breach of Regulation 14(3) led to a credit relationship between Mrs T, the late Mr T (and now his estate) and the Lender that was unfair and warranted relief as a result, whether the Supplier's breach of Regulation 14(3) led Mrs T and the late Mr T to enter into the Purchase Agreement and the Credit Agreement is an important consideration.*

*But on my reading of the evidence before me, the prospect of a financial gain from Fractional Club membership was not an important and motivating factor when Mrs T and the late Mr T decided to go ahead with their purchase. I'm simply not persuaded by the evidence submitted that that was the case. I'll explain.*

*As I said, as part of its initial submissions, the PR sent this Service a statement from the late Mr T. But, from what the late Mr T said, I am not persuaded that their decision to purchase the Fractional Club membership was motivated by a potential profit from the eventual sale of the Allocated Property. I think it sets out that they were attracted by the holidays the membership offered them, which is why I think they probably decided to buy it. I am also*

concerned as to whether Mr T's recollections are reliable, as there are a number of inconsistencies in the statement.

For example, when initially describing the funding arrangements for the purchase, he describes, in great detail, how they used a different lender. And I can't understand how this mistake would have been made, as there were no other timeshare purchases funded by any other business other than the Lender. So, in addition to being unpersuaded by what he has said, I have some concerns about how much weight I can place on the statement in any case.

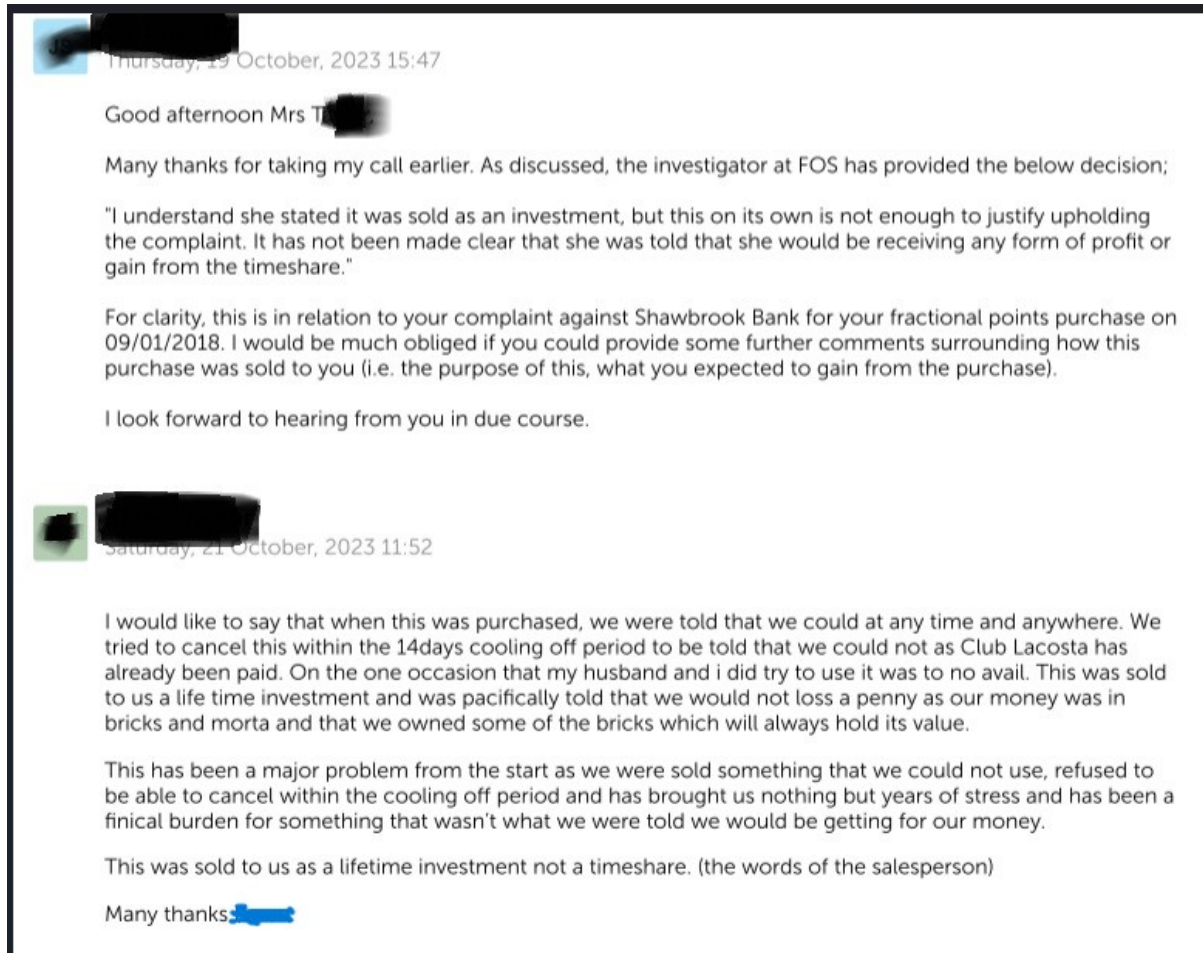
But as I've said, following the Investigator's view, the PR sent in some further comments from Mrs T. These said:

*"I would like to say that when this was purchased, we were told that we could holiday at any time and anywhere. We tried to cancel this within the 14days cooling off period to be told that we could not as Club La Costa has already been paid. On the one occasion that my husband and I did try to use it was to no avail. This was sold to us a life-time investment and were specifically told that we would not lose a penny as our money was in bricks and mortar and that we owned some of the bricks which will always hold its value **and we could potentially make a profit.***

*This has been a major problem from the start as we were sold something that we could not use, refused to be able to cancel within the cooling off period and has brought us nothing but years of stress and has been a financial burden for something that wasn't what we were told we would be getting for our money.*

*This was sold to us as a lifetime investment not a timeshare. (the words of the salesperson)." (Bold my emphasis)*

*On the face of it, these further comments do appear to suggest that Mrs T and the late Mr T were motivated to make the purchase of the Fractional Club because of the investment element of the membership and the potential profit. But I wanted to know more about how these further comments came about. So, I asked the PR to send me the full transcript of the email conversation which led to Mrs T's further comments. The PR sent me this (redacted):*



*Having considered the nature of the request from the PR in its email, I felt that there was a risk that Mrs T had been influenced, even subconsciously, by what the PR had asked her to do, and that she might have been led into her reply. So, I didn't feel I could place much weight on these further comments when considering what her and the late Mr T's motivations had been at the Time of Sale.*

*But in addition to this, I noticed that the text of what the PR initially sent to this Service, that it said were 'some further comments from our client', were somewhat different to what Mrs T actually said in her email. Alongside some spelling and punctuation corrections, the words "and we could potentially make a profit" were an addition (see **bold** my emphasis above). When asked about this anomaly the PR said that Mrs T had been spoken to over the telephone following the email and had consented to the amendments.*

*But, given the leading nature of the PR's request to Mrs T, and because it is unclear what Mrs T has said and when, I do not feel able to place much, if any, weight on what she has said here.*

*So, I am not persuaded that Mrs T and the late Mr T were motivated to purchase the Fractional Club for the potential profit the sale of the Allocated Property could bring them.*

*That doesn't mean they weren't interested in a share in the Allocated Property. After all, that wouldn't be surprising given the nature of the product at the centre of this complaint. But I am simply not persuaded by the late Mr T and Mrs T themselves that their purchase was motivated by their share in the Allocated Property and the possibility of a profit. So, I don't think a breach of Regulation 14(3) by the Supplier was likely to have been material to the decision they ultimately made.*

*On balance, therefore, even if the Supplier had marketed or sold the Fractional Club membership as an investment in breach of Regulation 14(3) of the Timeshare Regulations, I am not persuaded that Mrs T and the late Mr T's decision to purchase Fractional Club membership at the Time of Sale was motivated by the prospect of a financial gain (i.e., a profit). On the contrary, I think the evidence suggests they would have pressed ahead with their purchase for the potential holidays it offered, whether or not there had been a breach of Regulation 14(3). And for that reason, I do not think the credit relationship between Mrs T, the late Mr T, and now his estate and the Lender was unfair to them even if the Supplier had breached Regulation 14(3).*

#### *The provision of information by the Supplier at the Time of Sale*

*The PR says that Mrs T and the late Mr T were not given sufficient information at the Time of Sale by the Supplier in order to make an informed choice.*

*It isn't clear what information the PR thinks the Supplier failed to provide at the Time of Sale. But as I've already indicated, the case law on Section 140A makes it clear that it does not automatically follow that regulatory breaches create unfairness for the purposes of the unfair relationship provisions. The extent to which such mistakes render a credit relationship unfair must also be determined according to their impact on the complainant.*

*So, while I acknowledge that it is possible that the Supplier did not give Mrs T and the late Mr T sufficient information, in good time, in order to satisfy the requirements of Regulation 12 of the Timeshare Regulations (which was concerned with the provision of 'key information'), even if that was the case, neither Mrs T, the late Mr T nor the PR have persuaded me that they were deprived of information that would have led them to make a different purchasing decision at the Time of Sale. And with that being the case, even if there were information failings (which I make no formal finding on), I can't see why they led to a financial loss.*

#### *Mrs T and the estate of Mr T's Commission Complaint*

*I note that one of their other concerns relates to alleged payments of commission by the Lender to the Supplier for acting as a credit broker and arranging the Credit Agreement. 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.*

#### *Conclusion*

*In conclusion, as things currently stand, I do not think that the Lender acted unfairly or unreasonably when it dealt with the relevant Section 75 claims, and if I put the issue of commission to one side for the time being, I am not persuaded that the Lender was party to a credit relationship with Mrs T and the late Mr T (and now his estate) under the Credit Agreement that was unfair to them for the purposes of Section 140A of the CCA – nor do I see any other reason why it would be fair or reasonable to direct the Lender to compensate*

*Mrs T and the estate of Mr T.*

*But, as I've already said, once the implications of Johnson, Wrench and Hopcraft become clear, I will finalise my findings on this complaint."*

### **The responses to the PD**

Both the PR, on behalf of Mrs T and the estate of Mr T, and the Lender responded to the PD and said they had nothing further to add.

Following this I also communicated to both sides how I was not persuaded that Mrs T and the late Mr T's credit relationship with the Lender was unfair to them for reasons relating to the commission arrangements between it and the Supplier.

The PR responded to say it also had nothing further to add in relation to the commission arrangements.

Having received the relevant responses from both sides, I am 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. But I would add that the following regulatory rules/guidance are also relevant:

The Consumer Credit Sourcebook ('CONC') – Found in the Financial Conduct Authority's (the 'FCA') Handbook of Rules and Guidance

Below are the most relevant provisions and/or guidance as they were at the relevant time:

- CONC 3.7.3 [R]
- CONC 4.5.3 [R]
- CONC 4.5.2 [G]

#### The FCA's Principles

The rules on consumer credit sit alongside the wider obligations of firms, such as the Principles for Businesses ('PRIN'). Set out below are those that are most relevant to this complaint:

- Principle 6
- Principle 7
- Principle 8

### **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.

As neither side has provided any arguments or evidence following my provisional decision, and having reconsidered everything afresh, I see no reason why I should depart from my provisional findings as set out above.

I do not think that the Lender acted unfairly or unreasonably when it dealt with the relevant Section 75 claims, and I am not persuaded that the Lender was party to a credit relationship with Mrs T and the late Mr T (and now his estate) under the Credit Agreement that was unfair to them for the purposes of Section 140A of the CCA – nor do I see any other reason why it would be fair or reasonable to direct the Lender to compensate Mrs T and the estate of Mr T.

### **My final decision**

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T and the estate of Mr T to accept or reject my decision before 9 January 2026.

Chris Riggs  
**Ombudsman**