

The complaint

Mr C's complaint is that Clydesdale Financial Services Limited trading as Barclays Partner Finance (the 'Lender') acted unfairly and unreasonably by deciding against paying his claim under Section 75 of the CCA.

What happened

Mr C was an existing member of a timeshare club provided by a timeshare supplier (the 'Supplier') and which was financed by a different lender to the Lender in this complaint.

He went on to purchase a membership of a different type of timeshare (the 'Fractional Club') from the Supplier on 16 October 2011 (the 'Time of Sale') (which is the centre of this complaint). He entered into an agreement with the Supplier to purchase 1050 fractional points at a cost of £22,499 (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mr C more than just holiday rights. It also included a share in the net sale proceeds of a property named on his Purchase Agreement (the 'Allocated Property') after his membership term ends. Mr C paid for the Fractional Club membership by taking finance of £6799 from the Lender (the 'Credit Agreement') with the rest of the purchase price being covered by trading in the previous timeshare mentioned. Mr C settled the finance with the Lender on 13 August 2013.

Mr C, through the representations of a Professional Representative (the 'PR'), complained to the Lender on 30 September 2021. The Lender has said to this service that this complaint should be time limited and therefore it has nothing further to do. In March 2024, this complaint was assessed by an Investigator at this service who, having considered the information on file decided that the complaint about the Lender not paying the S140A claim couldn't be considered because it was outside of our jurisdiction. He also decided that the Lender had a full defence to the S75 claim as a result of the Limitation Act 1980.

The PR disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me.

I issued my provisional findings to the parties on 02 October 2025. In my provisional decision I thought that Mr C's complaint about the outcome of his S140A claim was out of this service's jurisdiction. Mr C's PR responded on this point and I then issued a jurisdiction decision dated 10 November 2025 concluding that issue was outside of this service's jurisdiction. With regard to the matters I concluded were in jurisdiction my provisional decision said (in italics and smaller font for clarity):

Within the correspondence the PR also made a claim under S75 of the CCA. I can see the claim made and all the arguments made by the PR are concerned with the sale of the timeshare. These include allegations of misrepresentation before and during the sale. This membership was purchased in October 2011 by Mr C and, as I've described, the Lender has said to this service it has nothing further to do because this claim is 'out of time' under the Limitation Act 1980.

Mr C said that the timeshare supplier misrepresented the nature of the membership to him when he bought it and that it had been mis-sold to him. However, under section 9 of the Limitation Act 1980,

Mr C had to make that claim within six years of when he entered into the Purchase and Credit agreements – which was in October 2011 – because that is when he says he lost out having relied on false statements of fact.

As the claim wasn't made to the Lender until September 2021 it is clearly outside that six-year time limit. Therefore it follows that the Lender's position of saying it doesn't have to do more in relation to Mr C's S75 claim to it is fair.

In summary, I wasn't minded to think that the Lender acted unfairly or unreasonably when it dealt with Mr C's section 75 claim.

At the time of my provisional decision I deferred my conclusions on the matter of commission disclosure in order to review that issue further. I've since written to the parties setting out my thoughts on why I wasn't persuaded to uphold this aspect of the complaint.

This was because the Lender had supplied information demonstrating that no commission was paid in relation to the arrangements involving Mr C. With that being the case, I wasn't persuaded that the Lender needed to take any action in redress. Absent any other reason why it would be fair or reasonable to direct the Lender to compensate Mr C, I said I didn't propose to uphold the complaint.

Responses to my provisional findings

The Lender accepted my provisional decision. The PR didn't accept the proposed outcome. It made further submissions in support of Mr C's position. Having received and reviewed these, I'm now proceeding with my final decision.

In doing so, I'm conscious that the PR has made a series of assertions surrounding the provision of information relating to commission arrangements. These include, among other things, expressing doubt that the Lender has provided key information, requesting that the information we have received be shared with it in full, and asking that we do not proceed with a decision before this is done and it has had an opportunity to make further submissions.

The PR's requests have been addressed by us under separate correspondence. For reasons I will explain in the course of this decision, I've concluded that it's appropriate for me to proceed with my determination.

The legal and regulatory context

The legal and regulatory context that I think is relevant to this complaint has been shared in several hundred published decisions on very similar complaints, as well as in previous correspondence with the parties. So there's no need for me to set this out again in detail here. I simply remind the parties that our rules¹ say that in considering what is fair and reasonable in all the circumstances of the complaint, I will 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.

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.

¹ Financial Conduct Authority ("FCA") Handbook – DISP 3.6.4R ("R" denotes a rule).

After considering the case afresh and having regard for what's been said in response to my provisional decision and in my subsequent correspondence, I find it offers no persuasive reason to depart from the conclusions I've previously set out. I'll explain why.

The PR originally raised various points of complaint, such as those giving rise to Mr C's section 75 claim, which I addressed in my provisional decision. In its response, it hasn't made any further comments in relation to most of its original points or said anything that leads me to think it disagrees with my provisional conclusions in relation to those points. So I'll focus here on the points the PR *has* made in response.

The PR has sent in generic arguments and hasn't specifically addressed Mr C's specific circumstances with regard to his S75 claim. Nor has it addressed my reasoning for considering why the Lender has a complete defence under Limitation to Mr C's S75 claim. I've also considered its arguments around affordability and lending but note its provided no evidence or persuasive argument regarding Mr C's financial position at the time or regarding foreseeable events during the term of the lending. So I don't think the Lender has done anything which has led to Mr C losing out here.

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

The PR has asked for the documents the lender has provided to us to show that no commission was paid. While I appreciate the PR would like to have full disclosure of all of the documents and information the Lender has provided, our rules do not require me to provide this when dealing with a complaint.

As the PR has been informed, under DISP 3.5.9R I may, where I consider it appropriate, accept information in confidence (so that only an edited version, summary or description is disclosed to the other party). That is what I have done in my provisional decision. I'm satisfied that agreements between the Lender and the Supplier are commercially sensitive and that the summary information on commission arrangements we've already shared with the PR is appropriate in this case.

I see no reason to find that this prejudices any arguments the PR or Mr C is able to make in support of Mr C's position. The PR has demonstrated its ability to present Mr C's case and has had sufficient time to consider and make any further arguments.

I've previously set out my thoughts on any impact the Supreme Court's conclusions in *Hopcraft, Johnson and Wrench* has on Mr C's arguments.

I'm satisfied the Lender has provided sufficient information in response to my enquiries to enable me to reach a conclusion about its commission arrangements with the Supplier. I've seen nothing in this case that leads me to think what the Lender has said about there being no commission paid is inaccurate. So there's no reason for me to reach a different finding over those commission arrangements.

Commission: The Alternative Grounds of Complaint

In my previous correspondence I mentioned that some of the grounds for complaint could also constitute separate and freestanding complaints. I'll reiterate my findings here.

The first ground relates to whether the Lender is liable for the dishonest assistance of a breach of fiduciary duty by the Supplier because it took a payment of commission from the Lender without telling Mr C (that is, secretly). The second relates to the Lender's compliance with the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between them. For the reasons I set out

previously, I'm not persuaded that the Supplier – when acting as credit broker – owed Mr C a fiduciary duty. So, the remedies that might be available at law in relation to the payment of secret commission aren't, in my view, available to him. And while it's possible that the Lender failed to follow the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between it and the Supplier, I don't think any such failure on the Lender's part is itself a reason to uphold this complaint. For the reasons I have also previously set out in my addendum to my provisional decision, I think he would still have taken out the loan to fund his purchase at the Time of Sale had there been more adequate disclosure of the commission arrangements that applied at that time.

Conclusion

After careful reconsideration of the facts and circumstances of this complaint, I adopt my provisional conclusions as part of my final decision. For the reasons I've given above and in my earlier correspondence I've mentioned, I don't think the Lender acted unfairly or unreasonably when it dealt with Mr C's section 75 claim. Having taken everything into account, I see no other reason why it would be fair or reasonable for me to direct the Lender to compensate Mr C.

My final decision

For the reasons set out above, 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 C to accept or reject my decision before 23 March 2026.

Rod Glyn-Thomas
Ombudsman