

The complaint

Mr A 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 2014, Mr A and another (Mrs A) 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. It cost £33,004. However, Mr and Mrs A received a 'trade-in' value of £20,361 for their existing timeshare membership and a further 'trade-in' reduction of £3,995, although it's not clear to me what for. In any event, Mr A borrowed £8,648 from BPF to pay the balance. The loan was repaid in full in June 2014.

In July 2021, Mr A wrote to BPF to complain about the purchase and the related loan.

In February 2022, Mr A used a professional representative ('PR') to refer the complaint to our service.

One of our investigators rejected the complaint on its merits. Mr A's PR wrote to say he didn't agree with the investigator, but he 'no longer wants to pursue this complaint and wishes to withdraw the same.'

In May 2024, Mr A's PR wrote to BPF to complain again about the purchase and the related loan.

When it didn't receive a response from BPF, it referred the complaint to our service in October 2024.

BPF told us Mr A had waited too long to make a claim/complaint under sections 75 and 140A of the CCA.

One of our investigators considered the complaint. First, she explained that Mr A had already referred a complaint about the lending decision and the status of the credit broker to our service, which one of our investigators had rejected on its merits before it was withdrawn by the PR. Our investigator explained that she couldn't revisit Mr A's complaint about either. Second, she didn't think we could consider the complaint under section 140A of the CCA because it had been made more than six years after the loan was repaid. Finally, she didn't think it was unfair for BPF to rely on the Limitation Act 1980 (the 'LA') to reject the claim under section 75.

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

This decision will deal solely with Mr A's complaint that BPF unfairly declined his claim under

section 75 of the CCA. I will consider the rest of Mr A'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 A to make a claim for misrepresentation. It's specifically referred to the LA, which sets the statutory time limits for bringing civil claims in England and Wales. The LA says Mr A had six years from the date on which the 'cause of action accrued' to make his claim, after which BPF has a complete defence.

It is of course for a court to determine whether a respondent can rely on the LA to defend a claim. That said, I wouldn't normally think it was unfair for a 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 A entered into an agreement based, he alleges, on the Supplier's misrepresentation(s). As the loan from BPF was used to finance the purchase, it was also then that he suffered a loss. It follows that Mr A had six years from the date of sale to make a claim for misrepresentation. But he didn't make his claim until May 2024, which is outside the time limits set by the LA.

Mr A's PR has referred me to section 32 of the LA, which postpones the limitation period in cases of fraud, concealment, or mistake. It's also referred me to a county court judgment.

Essentially, it says the facts relevant to the cause of action were concealed from Mr A at the point of sale, and 'were only revealed when [he] sought advice' and saw the judgment in *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd* [2023] EWHC 1069 (Admin) ('*Shawbrook v Financial Ombudsman Service*'). But the PR hasn't explained clearly how its concerns about the legality of Mr and Mrs A's timeshare membership amount to a misrepresentation for which BPF could be liable under section 75, nor otherwise provided persuasive evidence of fraud, concealment or mistake, such that section 32 of the LA would postpone the limitation period in this case.

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's unfair for BPF to rely on the LA to decline the claim.

For completeness I'd add that BPF could have simply declined the claim under section 75 because Mr A's purchase didn't meet the relevant criteria.

Section 75(3) says section 75(1) doesn't apply to a claim:

'(b) so far as the claim relates to any single item to which the supplier has attached a cash price...[of] more than £30,000...'

The cash price of the timeshare membership was £33,004. This means that section 75(1) doesn't apply.

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 A's claim under section 75 of the CCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 12 January 2026.

Christopher Reeves
Ombudsman