

The complaint

Mr and Mrs A's complaint is, in essence, that Shawbrook Bank Limited (the 'Lender') acted unfairly and unreasonably by (1) being party to unfair credit relationships 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.

What happened

Mr and Mrs A were trial members of a timeshare provider (the 'Supplier'). But the products at the centre of this complaint is their memberships of timeshares that I'll call the 'Fractional Club' and the 'Vacation Club' – which they purchased on the dates below:

- 1,750 Fractional Club points on 7 February 2019 for £24,188 ('Purchase Agreement 1').
- 2,300 Vacation Club points on 29 September 2019 for £7,998 – having traded in their Fractional Club membership ('Purchase Agreement 2').

(Which, when appropriate, I'll simply refer to as the 'Purchase Agreements'.)

As Mr and Mrs A's complaint concerns both purchases, 7 February 2019 ('Time of Sale 1') and 29 September 2019 ('Time of Sale 2') are the 'Times of Sale' for the purposes of my decision.

Fractional Club membership was asset backed – which meant it gave Mr and Mrs A more than just holiday rights. It also included a share in the net sale proceeds of a property named on Purchase Agreement 1 (the 'Allocated Property') after the end of their membership term.

Vacation Club membership, on the other hand, was not asset backed. It simply gave Mr and Mrs A an allocation of points each year which they could exchange for holiday rights.

Mr and Mrs A paid for their timeshares by taking the following amounts of finance of from the Lender:

- £20,000 on 7 February 2019 – Mr and Mrs A say the remaining £4,188 was paid separately ('Credit Agreement 1').
- £28,248 on 29 September 2019 – it's possible given the amount of finance that Credit Agreement 1 was consolidated into this loan ('Credit Agreement 2').

(Which, when appropriate, I'll simply refer to as the 'Credit Agreements'.)

Mr and Mrs A – using a professional representative (the 'PR') – wrote to the Lender on 15 November 2021 (the 'Letter of Complaint') to raise a number of different concerns. 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 A's concerns as Section 75 claims and issued its response on 10 January 2022, explaining why it was not prepared to accept these.

The complaint was then referred to the Financial Ombudsman Service. While the complaint was awaiting assessment by one of our Investigators, the Lender issued a final response letter, rejecting it on every ground.

The complaint was subsequently assessed by an Investigator who, having considered the information on file, rejected the complaint on its merits.

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

I considered the matter and issued a provisional decision (the 'PD') dated 13 November 2025. In that decision, I said:

"I have considered all the available evidence and arguments to decide what is 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 Times 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 the timeshare memberships had been misrepresented by the Supplier at the Times of Sale because Mr and Mrs A were:

1. Told that they had purchased investments that would "considerably appreciate in value".
2. Promised a considerable return on their investments because they were told that they would own shares in property that would considerably increase in value.
3. Told that they could sell their timeshare memberships to the Supplier or easily to third parties at a profit.
4. Made to believe that they would have access to "the holiday apartment" at any time all year round.

However, it seems to me that these allegations only relate to the sale of Fractional Club membership, given Vacation Club membership was not asset backed and therefore did not contain an investment element or an allocated property.

Considering the allegations on the basis they only applied to the sale of Fractional Club membership, neither points 1 nor 2 strike me as misrepresentations even if such representations had been made by the Supplier (which I make no formal finding on). 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. And even if the Supplier's sales representatives went further and suggested that the share in question would increase in value, perhaps considerably so, that sounds like nothing more than an honestly held opinion as there isn't any accompanying evidence to persuade me that the relevant sales representative(s) said something that, while an opinion, amounted to a statement of fact that they did not hold or could not have reasonably held.

As for points 3 and 4, while it's *possible* that Fractional Club membership was misrepresented at the Time of Sale for one or both of those reasons, I don't think it's *probable*. They're given little to none of the colour or context necessary to demonstrate that the Supplier made false statements of existing fact and/or opinion. And as there isn't any other evidence on file to support the suggestion that Fractional Club membership was misrepresented for these reasons, I don't think it was.

So, while I recognise that Mr and Mrs A – and the PR – have concerns about the way in which the timeshare memberships were sold by the Supplier, when looking at the claims 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 the Section 75 claims.

Section 140A of the CCA: did the Lender participate in one or more unfair credit relationships?

I've already explained why I'm not persuaded the timeshare memberships were actionably misrepresented by the Supplier at the Times of Sale. But there are other aspects of the sales processes 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 relationships between Mr and Mrs A and the Lender along with all the circumstances of the complaint, I don't think the credit relationships between them were 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 Times of Sale along with any relevant training material;
2. The provision of information by the Supplier at the Times 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 Times of Sale;
4. The inherent probabilities of the sales given their circumstances; and, when relevant
5. Any existing unfairness from a related credit agreement.

I have then considered the impact of these on the fairness of the relevant credit relationships between Mr and Mrs A and the Lender.

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

Mr and Mrs A's complaint about the Lender being party to unfair credit relationships was 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 A. I haven't seen anything to persuade me that was the case in this complaint given its 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 Mr and Mrs A was actually unaffordable before also concluding that they lost out as a result and then consider whether the credit relationships with the Lender was unfair to them for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for Mr and Mrs A.

Connected to this is the suggestion by the PR that the Credit Agreements were arranged by an unauthorised credit broker, the upshot of which is to suggest that the Lender wasn't permitted to enforce the Credit Agreements. However, it looks to me like Mr and Mrs A 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 the timeshare memberships. And as none of the lending looks like it was unaffordable for them, even if the one or more of the Credit Agreements were arranged by a broker that didn't have the necessary permission to do so (which I make no formal finding on), I can't see why that led to Mr and Mrs A experiencing a financial loss – such that I can say that the credit relationships in question were unfair on them as a result. And with that being the case, I'm not persuaded that it would be fair or reasonable to tell the Lender to compensate them, even if the loans weren't arranged properly.

The PR also says that there was one or more unfair contract terms in the Purchase Agreements. But as I can't see that any such terms were operated unfairly against Mr and Mrs A in practice, nor that any such terms led them to behave in a certain way to their detriment, I'm not persuaded that any of the terms governing Fractional Club membership are likely to have led to an unfairness that warrants a remedy.

I acknowledge that Mr and Mrs A may have felt weary after sales processes that went on for a long time. But they say little about what was said and/or done by the Supplier during their sales presentations that made them feel as if they had no choice but to purchase the timeshare memberships when they simply did not want to. They were also given 14-day cooling off periods and have not provided a credible explanation for why they did not cancel their memberships during that time. Moreover, they did go on to upgrade their 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 that being the case, there is insufficient evidence to demonstrate that Mr and Mrs A made the decisions to purchase their timeshare memberships because their ability to exercise choice was significantly impaired by pressure from the Supplier.

Overall, therefore, I don't think that Mr and Mrs A's credit relationships with the Lender were 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 says the credit relationships with the Lender were unfair to them. And that's the suggestion that the timeshare memberships were marketed and sold to them as investments in breach of a prohibition against selling timeshares in that way.

Time of Sale 1: The Supplier's alleged breach of Regulation 14(3) of the Timeshare Regulations

The Lender does not dispute, and I am satisfied, that Mr and Mrs A'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 that the Supplier did exactly that at Time of Sale 1 – saying, in summary, that Mr and Mrs A were told by the Supplier that Fractional Club membership was the type of investment that would only increase in value.

The term "investment" is not defined in the Timeshare Regulations. But for the purposes of this provisional 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 as it offered Mr and Mrs A 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 Mr and Mrs A 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.

There is competing evidence in this complaint as to whether Fractional Club membership was marketed and/or sold by the Supplier at Time of Sale 1 as an investment in breach of Regulation 14(3) of the Timeshare Regulations.

On the one hand, it's 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 A, the financial value of their share in the net sales proceeds of their allocated property along with the investment considerations, risks and rewards attached to it.

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 also possible that Fractional Club membership was marketed and sold to Mr and Mrs A 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 provisional decision.

Time of Sale 1: Was the credit relationship between the Lender and Mr and Mrs A rendered unfair?

Having found that it was possible that the Supplier breached Regulation 14(3) of the Timeshare Regulations at Time of Sale 1, I now need to consider what impact that breach had on the fairness of the credit relationship between Mr and Mrs A 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 Mr and Mrs A and the Lender that was unfair to them and warranted relief as a result, whether the Supplier's breach of Regulation 14(3) led them 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 they decided to go ahead with their purchase.

Following the Investigator's view that Mr and Mrs A's complaint should not be upheld, the PR provided a statement containing their recollections of the Times of Sale. In relation to Time of Sale 1, this says:

- Mr and Mrs A "were shown how [they] could improve the quality and extent of [their] holidays if [they] upgraded [their] Trial Membership to full membership."
- The sales representative(s) emphasised the higher standard of accommodation they would receive with a full membership when compared to a trial membership.
- The sales representative(s) "showed [them] all these amazing resorts [they] could go to if [they] took out full membership."
- The sales representative(s) "knew the level of holidays [they] liked and places [they] said [they] would love to go to".
- Based on the above, Mr and Mrs A called the Lender for a settlement figure for the loan taken to fund their trial membership and applied for finance with another lender but were turned down as Mr A had recently changed job. They then applied for finance with the Lender, but this application was also rejected. The sales representative(s) suggested reducing the number of points (and accordingly the cost of the timeshare and the amount of finance required).
- It was only after the above that the sales representative(s) introduced Fractional Club membership. Mr and Mrs A agreed to pay £4,188 themselves

to lower the amount of the loan and applied for the balance to be financed by the Lender. This later application was approved.

It therefore seems to me that the investment element of Fractional Club membership was not a material factor in Mr and Mrs A's purchasing decision at Time of Sale 1, given they had already agreed to purchase full membership by the time Fractional Club membership was offered to them. By this point, they had requested a settlement figure for their trial membership and applied for finance, albeit unsuccessfully, from two lenders. And this appears to have been on the basis of comments from the sales representative(s) in relation to the improved choice of destinations and standard of accommodation that full membership offered. So, it does not appear that the investment element of Fractional Club membership was the motivation behind their purchase at Time of Sale 1.

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 as Mr and Mrs A don't persuade me that their purchase at Time of Sale 1 was motivated by their share in the Allocated Property and the possibility of a profit, 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 Mr and Mrs A's decision to purchase Fractional Club membership at Time of Sale 1 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 whether or not there had been a breach of Regulation 14(3). And for that reason, I do not think the relevant credit relationship between Mr and Mrs A and the Lender was unfair to them even if the Supplier had breached Regulation 14(3).

Time of Sale 2: The Supplier's alleged breach of Regulation 14(3) of the Timeshare Regulations

As I've already explained, Vacation Club membership was not asset backed, so it did not give Mr and Mrs A an interest in the sale proceeds of a property in the way that Fractional Club membership did. Accordingly, Vacation Club membership did not include a means by which Mr and Mrs A could have hoped or expected to profit from it.

It's therefore unlikely that the Supplier would have marketed or sold membership to Mr and Mrs A as an investment because it did not include an investment element. Indeed, I note that Mr and Mrs A do not say that Vacation Club membership was marketed or sold to them as an investment in the statement provided by the PR following the Investigator's view.

Consequently, I am not persuaded that the Supplier breached Regulation 14(3) of the Timeshare Regulations with regard to Time of Sale 2. And for that reason, I do not think the relevant credit relationship was unfair to Mr and Mrs A for reasons related to a breach of Regulation 14(3)."

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 A's Section 75 claims, and I was not persuaded that the Lender was party to credit relationships with them under the Credit Agreements that were 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 PR responded that it did not accept the PD and provided some further comments and evidence to be considered. The Lender accepted the PD and had no further comments.

I am now in a position to finalise my decision.

The legal and regulatory context

In my PD, I explained that 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 was not necessary to set out that context in detail. But, following my PD, 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.

I've considered the case afresh following the response from the PR. 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 further comments in response to the PD only relate to the issue of whether the

credit relationships between Mr and Mrs A and the Lender were unfair. In particular, the PR has provided further comments in relation to whether the memberships were sold to Mr and Mrs A as investments at the Times of Sale. It's now also argued for the first time that a contradiction in the purchasing documentation and the payment of commission by the Lender to the Supplier led to unfair credit relationships.

As I outlined in my PD, the PR originally raised various other points of complaint, all of which I addressed at that time. But it didn't make any further comments in relation to those in its response to my PD. Indeed, it hasn't said it disagrees with any of my provisional conclusions about those other points. And since I haven't been provided with anything more in respect of those other points by either party, I see no reason to change my conclusions about them as set out in my PD. So, I'll focus here on the PR's points raised in response.

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

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

As I explained in my PD, Mr and Mrs A's statement explains that they made the decision to purchase membership at Time of Sale 1 before the concept of fractional ownership was introduced to them. So, I remain unpersuaded that the investment element of Fractional Club membership was material to their purchasing decision at Time of Sale 1. I note the PR's comment that the trial membership already offered some holiday rights but nothing it's said addresses this crucial point.

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

I accept that Mr and Mrs A said they were told they "would be investing in the Holiday Owners Club" at Time of Sale 2, and that membership could be inherited by their children. But Mr and Mrs A's comments do not suggest that they purchased Vacation Club membership on the understanding that they could profit from it. As I've already explained, it would be surprising if they did so, given Vacation Club membership did not involve an investment element. Therefore, my findings in respect of this sale also remain unchanged.

Having carefully considered the PR's further comments, I was not, and still am not, persuaded that the evidence suggests that Mr and Mrs A purchased the memberships because of any breach of Regulation 14(3). And for that reason, I still don't think the credit relationships between Mr and Mrs A and the Lender was unfair to them.

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

The PR says that payments of commission from the Lender to the Supplier at the Times of Sale should lead me to uphold this complaint because, simply put, information in relation to those payments went undisclosed at the Time of Sale.

As both sides already know, the Supreme Court handed down an important judgment on 1 August 2025 in a series of cases concerned with the issue of commission: *Johnson v FirstRand Bank Ltd*, *Wrench v FirstRand Bank Ltd* and *Hopcraft v Close Brothers Ltd* [2025] UKSC 33 ('*Hopcraft, Johnson and Wrench*').

The Supreme Court ruled that, in each of the three cases, the commission payments made to car dealers by lenders were legal, as claims for the tort of bribery, or the dishonest assistance of a breach of fiduciary duty, had to be predicated on the car dealer owing a fiduciary duty to the consumer, which the car dealers did not owe. A “disinterested duty”, as described in *Wood v Commercial First Business Ltd & ors and Business Mortgage Finance 4 plc v Pengelly* [2021] EWCA Civ 471, is not enough.

However, the Supreme Court held that the credit relationship between the lender and Mr Johnson was unfair under Section 140A of the CCA because of the commission paid by the lender to the car dealer. The main reasons for coming to that conclusion included, amongst other things, the following factors:

1. The size of the commission (as a percentage of the total charge for credit). In Mr Johnson’s case it was 55%. This was “so high” and “a powerful indication that the relationship [...] was unfair” (see paragraph 327);
2. The failure to disclose the commission; and
3. The concealment of the commercial tie between the car dealer and the lender.

The Supreme Court also confirmed that the following factors, in what was a non-exhaustive list, will normally be relevant when assessing whether a credit relationship was/is unfair under Section 140A of the CCA:

1. The size of the commission as a proportion of the charge for credit;
2. The way in which commission is calculated (a discretionary commission arrangement, for example, may lead to higher interest rates);
3. The characteristics of the consumer;
4. The extent of any disclosure and the manner of that disclosure (which, insofar as Section 56 of the CCA is engaged, includes any disclosure by a supplier when acting as a broker); and
5. Compliance with the regulatory rules.

From my reading of the Supreme Court’s judgment in *Hopcraft, Johnson and Wrench*, it sets out principles which apply to credit brokers other than car dealer credit brokers. So, when considering allegations of undisclosed payments of commission like the one in this complaint, *Hopcraft, Johnson and Wrench* is relevant law that I’m required to consider under Rule 3.6.4 of the FCA’s Dispute Resolution rules (‘DISP’).

But I don’t think *Hopcraft, Johnson and Wrench* assists Mr and Mrs A in arguing that their credit relationships with the Lender were unfair to them for reasons relating to commission given the facts and circumstances of this complaint.

I haven’t seen anything to suggest that the Lender and Supplier were tied to one another contractually or commercially in a way that wasn’t properly disclosed to Mr and Mrs A, nor have I seen anything that persuades me that the commission arrangement between them gave the Supplier a choice over the interest rate that led Mr and Mrs A into credit agreements that cost disproportionately more than they otherwise could have.

I acknowledge that it’s possible that the Lender and the Supplier failed to follow the regulatory guidance in place at the Times of Sale insofar as it was relevant to disclosing the commission arrangements between them.

But as I’ve said before, 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. And with that being the case, it isn't necessary to make a formal finding on that because, even if the Lender and the Supplier failed to follow the relevant regulatory guidance at the Times of Sale, it is for the reasons set out below that I don't think any such failure is itself a reason to find the credit relationships in question unfair to Mr and Mrs A.

In stark contrast to the facts of Mr Johnson's case, the amounts of commission paid by the Lender to the Supplier for arranging the Credit Agreements that Mr and Mrs A entered into weren't high. For Time of Sale 1, it was £1,000, which was only 5% of the amount borrowed and only 5.02% as a proportion of the charge for credit. For Time of Sale 2, it was £1,412.30, which was only 5% of the amount borrowed and even less than that (4.63%) as a proportion of the charge for credit. So, had Mr and Mrs A known at the Times of Sale that the Supplier was going to be paid flat rates of commission at those levels, I'm not persuaded that they either wouldn't have understood that or would have otherwise questioned the size of the payments at those times. After all, Mr and Mrs A wanted the Fractional Club and Vacation Club memberships and had no obvious means of their own to pay for them. And at such low levels, the impact of commission on the cost of the credit they needed for timeshares they wanted doesn't strike me as disproportionate. So, I think they would still have taken out the loans to fund their purchases at the Times of Sale had the amounts of commission been disclosed.

What's more, based on what I've seen so far, the Supplier's role as a credit broker wasn't a separate service and distinct from its role as the seller of timeshares. It was simply a means to an end in the Supplier's overall pursuit of successful timeshare sales. I can't see that the Supplier gave an undertaking – either expressly or impliedly – to put to one side its commercial interests in pursuit of that goal when arranging the Credit Agreements. And as it wasn't acting as an agent of Mr and Mrs A but as the supplier of contractual rights they obtained under the Purchase Agreements, the transaction doesn't strike me as one with features that suggest the Supplier had an obligation of 'loyalty' to them when arranging the Credit Agreements and thus a fiduciary duty.

Overall, therefore, I'm not persuaded that the commission arrangements between the Supplier and the Lender were likely to have led to a sufficiently extreme inequality of knowledge that rendered the credit relationships unfair to Mr and Mrs A.

I will also address the PR's point regarding the apparent ambiguity in the proposed sale date of the Allocated Property. The PR suggests that a delayed sale date could lead to an unfairness to Mr and Mrs A in the future, as any delay could mean a delay in the realisation of their share in the Allocated Property.

It does appear that the proposed date for the commencement of the sales process, as set out on the owners' certificate, was 31 December 2032. This same date will have been set out under point 1 of the Members Declaration, which will have been initialled and signed as being read by Mr and Mrs A. This date indicates that the membership had a term of around 14 years. The ambiguity identified by the PR is that in the Information Statement provided as part of the purchase documentation it will have said the following:

"The Owning Company will retain such Allocated Property until the automatic sale date in **19 years time** or such later date as is specified in the Rules or the Fractional Rights Certificate."

[my emphasis]

It seems clear to me that the commencement date for the start of the sales process is

31 December 2032. This actual date will have been repeated in the sales documentation as I've set out above. So, I can't see that this is a reason to find the credit relationship relating to the First Credit Agreement unfair and uphold this complaint. And in any event, Mr and Mrs A traded in their Fractional Club membership, and presumably any interest in the Allocated Property, when they purchased Vacation Club membership. So, I cannot see how any harm will occur from the alleged discrepancy in the future.

S140A conclusion

Given all the factors I've looked at in this part of my decision, and having taken all of them into account, I'm not persuaded that the credit relationships between Mr and Mrs A and the Lender under the Credit Agreements and related Purchase Agreements were unfair to them. So, I don't think it is fair or reasonable that I uphold this complaint on that basis.

Commission: the alternative grounds of complaint

While I've found that Mr and Mrs A's credit relationships with the Lender weren't unfair to them for reasons relating to the commission arrangements between it and the Supplier, two of the grounds on which I came to that conclusion also constitute separate and freestanding complaints to their complaint about unfair credit relationships. So, for completeness, I've considered those grounds on that basis 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 payments of commission from the Lender without telling Mr and Mrs A (i.e. secretly). And the second relates to the Lender's compliance with the regulatory guidance in place at the Times of Sale insofar as it was relevant to disclosing the commission arrangements between them.

However, for the reasons I set out above, I'm not persuaded that the Supplier – when acting as credit broker – owed Mr and Mrs A 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 them. And while it's possible that the Lender failed to follow the regulatory guidance in place at the Times 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 because, for the reasons I also set out above, I think they would still have taken out the loans to fund their purchases at the Times of Sale had there been more adequate disclosure of the commission arrangements that applied at that time.

Overall conclusion

In conclusion, given the facts and circumstances of this complaint, I do not think that the Lender acted unfairly or unreasonably when it dealt with Mr and Mrs A's Section 75 claims, and I am not persuaded that the Lender was party to credit relationships with them under the Credit Agreements that were 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 them.

My final decision

My final decision is to not uphold Mr and Mrs A' complaint about Shawbrook Bank Limited for the reasons provided.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs A to accept or reject my decision before 13 January 2026.

Alex Salton
Ombudsman