DRN-6043382

The Complaint

Mrs R'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 her 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.

Background to the Complaint

From my understanding, Mrs R was the member of a timeshare provider (the 'Supplier') – having purchased a trial membership from it in 2007. She then traded her membership in when she acquired a points-based membership ('Vacation Club') in 2008. Mrs R purchased more Vacation Club points from the Supplier in 2009.

But the product at the centre of this complaint is her membership of a timeshare that I will call the 'Fractional Club' – which she bought on 21 March 2012 (the 'Time of Sale'). She entered into an agreement with the Supplier to buy 1,494 fractional points. After trading in her Vacation Club membership, the Fractional Club membership cost £6,172 (the 'Purchase Agreement').

Mrs R paid for her Fractional Club membership by taking finance of £6,172 from the Lender (the 'Credit Agreement').

Fractional Club membership was asset backed – which meant it gave Mrs R 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 her membership term ends.

Mrs R – using a professional representative (the 'PR') – wrote to the Lender on 7 January 2022 (the 'Letter of Complaint') to raise a number of different concerns. As those concerns have not changed since they were first raised, and as both sides are familiar with them, it is not necessary to repeat them in detail here beyond the summary above.

The Lender dealt with Mrs R's concerns as a complaint and issued its final response letter on 5 May 2022, rejecting it on every ground.

The complaint was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, rejected the complaint on its merits.

Mrs R 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 (my 'PD') on 12 December 2025. In that decision I said:

"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 Office of Fair Trading's Irresponsible Lending Guidance – 31 March 2010

The primary purpose of this guidance was to provide greater clarity for businesses and consumer representatives as to the business practices that the Office of Fair Trading (the 'OFT') thought might have constituted irresponsible lending for the purposes of Section 25(2B) of the CCA. Below are the most relevant paragraphs as they were at the relevant time:

- *Paragraph 2.2*
- *Paragraph 2.3*
- *Paragraph 5.5*

The OFT's Guidance for Credit Brokers and Intermediaries - 24 November 2011

The primary purpose of this guidance was to provide clarity for credit brokers and credit intermediaries as to the standards expected of them by the OFT when they dealt with actual
or prospective borrowers. Below are the most relevant paragraphs as they were at the relevant time:

- *Paragraph 2.2*
- *Paragraph 3.7*
- *Paragraph 4.8*

My provisional findings

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 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.

As a general rule, I think it is reasonable for creditors to reject Section 75 claims that they

are first informed about after the claim has become time-barred under the Limitation Act 1980 ("LA"), as it would not be fair to expect creditors to look into such claims so long after the liability arose and after a limitation defence would have been available in court. So, it is relevant to consider whether Mrs R's Section 75 claim was time-barred under the LA before the PR put the claim to the Lender on his behalf.

As I mentioned above, a claim under Section 75 is a "like claim". This means it mirrors the claim Mrs R could have made against the Supplier.

A claim for misrepresentation against the Supplier would ordinarily be made under Section 2(1) of the Misrepresentation Act 1967. And the limitation period to make such a claim expires six years from the date on which the cause of action accrued. A claim for breach of contract against the Supplier would also be subject to a limitation period of six years from the date on which the cause of action accrued.

Any claim against a lender under Section 75 is also "an action to recover any sum by virtue of any enactment" under Section 9 of the LA. Such claims also have a time limit of six years from the date the cause of action accrued.

In claims for misrepresentation, the cause of action accrues at the point a loss is incurred. In Mrs R's case, that is when she entered the agreement to purchase the timeshare, and the related Credit Agreement, on 21 March 2012. This would be mirrored in the claim against the Lender. I have read the PR's point about Section 32 of the LA extending the time in which Mrs R could make her claim, but I cannot see that the time is extended in these circumstances.

Mrs R first notified the lender of her Section 75 claim on 7 January 2022, more than six years after the cause of action accrued in relation to her claims for misrepresentation. So I do not think it was unfair or unreasonable of the Lender to decline the part of the claim relating to the Supplier's alleged misrepresentations.

In any event, I have considered whether the alleged misrepresentations could have been something that caused an unfair relationship.

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 R says that she could not holiday where and when she 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.

Notwithstanding it is unclear when this alleged breach occurred in this case, and this is necessary information to have when considering whether the Lender might have a defence under the LA, just as it did against Mrs R's concerns of misrepresentation, I accept it is possible that the alleged breach occurred within six years of the date Mrs R notified the Lender of her claim. But I do not find it necessary to make a finding on this point for the reasons below.

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 Mrs R states that the availability of holidays was/is subject to demand. I

accept that she 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 R behalf that the Supplier breached the Purchase Agreement because it went into liquidation which again I accept is possible that it occurred within six years of the date Mrs R notified the Lender of her claim. 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 R nor the PR have said, suggested or provided evidence to demonstrate that she 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 her Fractional Club membership ends.*

So, from the evidence I have seen, I do not think the Lender is liable to pay Mrs R 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?

I have already explained why I am not persuaded that Fractional Club membership was actionably misrepresented by the Supplier at the Time of Sale. 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 am to consider this complaint in full – which is what I've done next.

Having considered the entirety of the credit relationship between Mrs R and the Lender along with all of the circumstances of the complaint, I do not 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;*
4. *The inherent probabilities of the sale given its 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 credit relationship between Mrs R and the Lender.

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

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

However, I have firstly considered whether the misrepresentations she alleges were made by the Supplier in the context of her Section 75 claim could have caused any unfairness for the purposes of Section 140A.

It was said in the Letter of Complaint that Fractional Club membership had been misrepresented by the Supplier at the Time of Sale because Mrs R was:

(1) told by the Supplier that Fractional Club membership had a guaranteed end date when that was not true.
(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, Mrs R says little to nothing to persuade me that she was 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 is nothing else on file to support the PR's allegation, I am 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 R and the PR have concerns about the way in which Fractional Club membership was sold by the Supplier, I do not think this caused any unfairness in Mrs R's credit relationship with the Lender such that it warrants a remedy.

Turning to the points specifically raised in relation to the potential unfairness of the relationship between Mrs R and the Lender, the PR says:

1. the right checks were not carried out before the Lender lent to Mrs R; and
2. Mrs R was 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 reasons why this complaint should succeed.

I have not seen anything to persuade me that the right checks were not 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 R was actually unaffordable, before also concluding that she lost out as a result, and then consider whether the credit relationship with the Lender was unfair to her for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for Mrs R.

I acknowledge that Mrs R may have felt weary after a sales process that went on for a long time. But she says little about what was said and/or done by the Supplier during her sales presentation that made her feel as if she had no choice but to purchase Fractional Club membership when she simply did not want to. She was also given a 14-day cooling off period and she has not provided a credible explanation for why she did not cancel her membership during that time. And with all of that being the case, there is insufficient evidence to demonstrate that Mrs R made the decision to purchase Fractional Club membership because her ability to exercise that choice was significantly impaired by pressure from the Supplier.

Overall, therefore, I do not think that Mrs R's credit relationship with the Lender was rendered unfair to her 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 her. And that is the suggestion that Fractional Club membership was marketed and sold to her as an investment in breach of 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 R the prospect of a financial return – whether or not, like all investments, that was more than what she 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 does not 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 R 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 her as an investment, i.e. told her or led her to believe that Fractional Club membership offered her 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 Mrs R, 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 is equally possible that Fractional Club membership was marketed and sold to Mrs R 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 is not necessary to make a formal finding on that particular issue for the purposes of this decision.

Would the credit relationship between the Lender and Mrs R have been rendered unfair to her had there been a breach of Regulation 14(3) of the Timeshare Regulations?

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 R 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 R and the Lender that was unfair to her and warranted relief as a result, whether the Supplier's breach of Regulation 14(3) led her to enter into the Purchase Agreement and the Credit Agreement is an important consideration. To help me decide this point, I have carefully considered what Mrs R has said in the course of her complaint about how the membership was sold to her and her motivation for taking it out.

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 R decided to go ahead with her purchase. And I will explain why.

As part of its submissions to our service, the PR sent in a statement from Mrs R setting out her recollections of the Time of Sale, and why she ended up buying Fractional Club membership. Within this, Mrs R says:

"We were on holiday in 2012 when we were invited to chat with the reps. The reps advised that our European points were tied to a contract that would go on indefinitely and that our children would inherit the financial liability of our product. The reps advised that fractional points were an avenue for us to exit our contract.

We were advised that fractional points were an investment in property that would be sold in approx.19 years. We would have our fraction of the market value plus any profit. We would then have a guaranteed exit from our timeshare contract.

The reps advised that we should be exchanging our European points to fractional points however, we would need to purchase additional points to take us to phase one of fractions".

On my reading of this, Mrs R was concerned about some of the terms relating to her existing Vacation Club membership. As I mentioned, Mrs R traded in her Vacation Club membership when she purchased the Fractional Club membership. So, it seems to me that was the reason she made the purchase. After all, Mrs R said "we were concerned about the implications for our family and decided to take this opportunity to exit the contract".

I accept that it is possible that the Supplier positioned Fractional Club membership as an investment but what I need to establish is whether such positioning was material to Mrs R's decision to purchase the membership and in this case, I am not persuaded it was. For the reasons given above, I think she would have gone ahead with this purchase anyway as a way to terminate her existing timeshare contract.

That does not mean she was not interested in a share in the Allocated Property. After all, that would not be surprising given the nature of the product at the centre of this complaint. But as Mrs R herself does not persuade me that her purchase was motivated by her share in the Allocated Property and the possibility of a profit, I do not think a breach of Regulation 14(3) by the Supplier was likely to have been material to the decision she 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 R'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 she would have pressed ahead with her purchase 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 R and the Lender was unfair to her 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 R was not given sufficient information at the Time of Sale by the Supplier in order to make an informed choice.

It is not 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 also possible that the Supplier did not give Mrs R 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 R nor the PR have persuaded me that she was deprived of information that would have led her 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 cannot see why that led to an unfair credit relationship as a result.

The PR also says that a payment of commission from the Lender to the Supplier at the Time of Sale should lead me to uphold this complaint because, simply put, information in relation to that payment 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 Financial Conduct Authority's Dispute Resolution Rules ('DISP').

But I do not think Hopcraft, Johnson and Wrench assists Mrs R in arguing that her credit relationship with the Lender was unfair to her for reasons relating to commission given the facts and circumstances of this complaint.

As the Supreme Court said in paragraph 326 of its judgment in Hopcraft, Johnson and Wrench, it is not possible to simply apply the reasoning of the Supreme Court in Plevin v Paragon Personal Finance Ltd [2014] UKSC 61 ('Plevin') to this complaint (as the PR does) when it is concerned with a product and marketplace that were very different to those in Plevin. What is more, Mrs R was provided with information as to the price of Fractional Club membership and the cost of the Credit Agreement (interest rate, fees, APR and monthly repayments). So, she was at least in a position from which she could understand the cost of the Credit Agreement and compare it with other options that might have been available at the Time of Sale.

I have not seen anything to suggest that the Lender and Supplier were tied to one another contractually or commercially in a way that was not properly disclosed to Mrs R, 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 Mrs R into a credit agreement that cost disproportionately more than it otherwise could have.

I acknowledge that it is possible that the Lender and the Supplier failed to follow the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between them. But as I have 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 is not 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 Time of Sale, it is for the reasons set out below that I do not currently think any such failure is itself a reason to find the credit relationship in question unfair to Mrs R.

In stark contrast to the facts of Mr Johnson's case, the amount of commission paid by the Lender to the Supplier for arranging the Credit Agreement that Mrs R entered into was not high. At £632.63, it was only 10.25% of the amount borrowed and even less than that (5.55%) as a proportion of the charge for credit. So, had she known at the Time of Sale that the Supplier was going to be paid a flat rate of commission at that level, I am not currently persuaded that she either would not have understood that or would have otherwise questioned the size of the payment at that time. After all, Mrs R wanted Fractional Club membership and had no obvious means of her own to pay for it. And at such a low level, the impact of commission on the cost of the credit she needed for a timeshare she wanted does not strike me as disproportionate. So, I think she would still have taken out the loan to fund her purchase at the Time of Sale had the amount of commission been disclosed.

What is more, based on what I have seen so far, the Supplier's role as a credit broker was not 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 a successful timeshare sale. I cannot 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 Agreement. And as it was not acting as an agent of Mrs R but as the supplier of contractual rights she obtained under the Purchase Agreement, the transaction does not strike me as one with features that suggest the Supplier had an obligation of 'loyalty' to her when arranging the Credit Agreement and thus a fiduciary duty.

Overall, therefore, I am not currently 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 relationship unfair to Mrs R.

Section 140A: Conclusion

Given all of the factors I have looked at in this part of my decision, and having taken all of them into account, I am not persuaded that the credit relationship between Mrs R and the Lender under the Credit Agreement and related Purchase Agreement was unfair to her. And as things currently stand, I do not think it would be fair or reasonable that I uphold this complaint on that basis.

Commission: The Alternative Grounds of Complaint

While I have found that Mrs R credit relationship with the Lender was not unfair to her 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 Mrs R complaint about an unfair credit relationship. So, for completeness, I have 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 a payment of commission from the Lender without telling Mrs R (i.e., secretly). And 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.

However, for the reasons I set out above, I am not persuaded that the Supplier – when acting as credit broker – owed Mrs R a fiduciary duty. So, the remedies that might be available at law in relation to the payment of secret commission are not, in my view, available to her. And while it is 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 do not 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 she would still have taken out the loan to fund her purchase at the Time 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 Mrs R's Section 75 claims, and I am not persuaded that the Lender was party to a credit relationship with her under the Credit Agreement and related Purchase Agreement that was unfair to her for the purposes of Section 140 A 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 her."

PR on behalf of Mrs R confirmed receipt of my PD and said they had nothing further to add.

The Lender acknowledged receipt of my PD and accepted what I had said.

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 party has provided any new evidence or arguments, I do not believe there is any reason for me to reach a different conclusion from that which I reached in my provisional decision (outlined above). I do wish to stress that I have considered all the evidence and arguments afresh before reaching that conclusion.

Given the facts and circumstances of this complaint, I do not think that the Lender acted unfairly or unreasonably when it dealt with Mrs R's Section 75 claims, and I am not persuaded that the Lender was party to a credit relationship with her under the Credit Agreement that was unfair to her for the purposes of Section 140A of the CCA.

My final decision

For these reasons, I do not uphold Mrs R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 3 February 2026.

Sameena Ali
Ombudsman