DRN-6052695

The complaint

Miss O complains Mitsubishi HC Capital UK Plc (the "Lender") has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the "CCA") and has participated in an unfair credit relationship with her under Section 140A of the CCA.

Miss O is represented in her complaint by a professional representative ("PR").

What happened

I issued a provisional decision on Miss O's complaint on 15 October 2025, in which I set out the background to the case and my provisional findings on it. A copy of that provisional decision is appended to, and forms a part of, this final decision, so it's not necessary to go over the details again.[1] However, in very brief summary:

- Miss O bought a timeshare from a timeshare provider (the "Supplier") on 30 July 2019 (the "Time of Sale"), for £23,316, reduced to £18,921 after the trade-in of a "Trial" membership previously purchased from the Supplier. This was financed by a loan of £22,317 from the Lender (the "Credit Agreement"), which included the consolidation of some existing debt.

- The timeshare was a type of asset-backed timeshare which entitled Miss O to more than holiday rights. It also entitled her to a share in the proceeds of a property named on her purchase agreement (the "Allocated Property") after her contract came to an end.

- Miss O later complained, via PR, to the Lender about a number of concerns which included misrepresentations by the Supplier giving her a claim against the Lender under Section 75 of the CCA, and matters giving rise to an unfair credit relationship between her and the Lender.

- The Lender rejected the complaint and it was then referred to the Financial Ombudsman Service for an independent assessment.

In my provisional decision I said I didn't think the complaint should be upheld. Again, my full findings can be found in the appended provisional decision, but in very brief summary:

- The Lender had not been unfair or unreasonable in declining Miss O's Section 75 claim for misrepresentation because:

    - Some of the alleged misrepresentations were in fact true statements or statements of opinion which there was no evidence to demonstrate were not honestly held.

    - The remaining alleged misrepresentations were too vague and lacking in

[1] Some formatting errors were present in the original provisional decision, which have been corrected in the version appended to this final decision.

colour and context to be able to draw a positive conclusion that the Supplier had made false statements of specific fact to Miss O.

- The Lender had not participated in a credit relationship with Miss O that was unfair to her because:

    - Regardless of whether or not the Lender had carried out appropriate creditworthiness checks, there was a lack of evidence the loan had been unaffordable for Miss O at the time.

    - It was not the case that the credit broker which had arranged the Credit Agreement had not held the necessary permissions from the Financial Conduct Authority.

    - I couldn't see that any allegedly unfair terms in the purchase agreement with the Supplier had been operated unfairly against Miss O or would be operated in such a way in the future.

    - Miss O hadn't been able to explain specifically what the Supplier had done which had made her feel as though she had no choice but to make the purchase in question, and if she had been pressured, I would have expected her to have cancelled the purchase during the cooling off period, which she had not.

    - It was possible the Supplier had breached Regulation 14(3) of the Timeshare Regulations by marketing the timeshare to Miss O as an investment, but I was not persuaded by her testimony as to this issue. I had concerns over how late in the process Miss O had been asked to record her memories, after many years and various events that could have influenced her recollections. Ultimately, I felt I could not attach enough weight to Miss O's testimony on this issue.

I invited the parties to the complaint to respond to my provisional decision. The Lender acknowledged the provisional decision. PR didn't agree with the provisional decision, and asked me to consider various additional points, mostly relating to the alleged sale of the timeshare as an investment, but also relating to the alleged non-disclosure of a commission paid by the Lender to the Supplier for arranging the Credit Agreement, and an apparent discrepancy in the purchase paperwork. The case has now been returned to me to decide.

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 3.7.3R
- CONC 4.5.3R
- CONC 4.5.2G

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.

Following the responses from both parties, I've considered the case afresh and 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.

PR's comments in response to the provisional decision relate only to the issue of whether the credit relationship between Miss O and the Lender was unfair. In particular, PR has provided further comments in relation to whether the membership was sold to Miss O as an investment at the Time of Sale. It has also now argued for the first time that the payment of a commission by the Lender to the Supplier led to an unfair credit relationship.

As outlined in my provisional decision, 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 provisional decision. Indeed, it hasn't said it disagrees with any of my provisional conclusions in relation to those other points. And since I haven't been provided with anything more in relation to those other points by either party, I see no reason to change my conclusions in relation to them as set out in my provisional decision. So, I'll focus here on PR's points raised in response.

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

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

PR says it hadn't shared the Investigator's assessment on this complaint with Miss O, saying

this was done in order not to influence her recollections. PR said Miss O was also unaware about the judgment handed down in *Shawbrook and BPF v FOS*[2]. PR said this means her recollections have not been influenced by either the Investigator's assessment or the judgment.

PR also argued that studies had shown high pressure sales would tend to lead to someone having vivid recollections of what happened during that process, for a variety of reasons. That may or may not be the case, but I don't think it assists PR in addressing the concerns I expressed in my provisional decision.

Part of my assessment of Miss O's testimony was to consider *when* it was written, and whether it may have been affected by external factors such as the widespread publication of the outcome of *Shawbrook and BPF v FOS*.

I have thought about what PR has said, but on balance, I don't find it a credible explanation of the contents of Miss O's evidence. Here, PR responded to our Investigator's assessment to say that Miss O alleged that Fractional Club membership had been sold to her as an investment and it provided evidence from Miss O to that effect. I fail to understand how Miss O disagreed with the assessment on the basis that the timeshare was sold as an investment if she didn't know our Investigator's conclusions. It follows, in my view, that Miss O did know about our Investigator's assessment before her evidence was provided.

So, I maintain that there is a risk that Miss O's testimony, vivid or not, was coloured by the Investigator's assessment and/or the outcome in *Shawbrook & BPF v FOS*. And, on balance, the way in which the evidence has been provided makes me conclude that I can place little weight on it.

So, ultimately, for the above reasons, along with those I already explained in my provisional decision, I remain unpersuaded that any breach of Regulation 14(3) was material to Miss O's purchasing decision.

<u>The discrepancies between dates on the Purchase Agreement and Miss O's timeshare certificate</u>

I will also address another point made by PR regarding an apparent ambiguity in the proposed sale date of the Allocated Property. PR suggests that a delayed sale date could lead to an unfairness to Miss O in the future, as any delay could mean a delay in the realisation of her 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, is 31 December 2037. This same date is set out under point 1 of the Members Declaration, which has been initialled and signed as being read by Miss O. This date indicates that the membership has a term of 18 years. The ambiguity identified by PR is that in the Information Statement provided as part of the purchase documentation it says 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.*" (bold my emphasis).

It seems clear to me that the commencement date for the start of the sales process is 31

[2] *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service* [2023] EWHC 1069 (Admin) ('*Shawbrook & BPF v FOS*').

December 2037. This actual date is 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 unfair and uphold this complaint.

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

PR 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 don't think *Hopcraft, Johnson and Wrench* assists Miss O 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.

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 Miss O, 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 Miss O into a credit agreement that cost disproportionately more than it 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 Time 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 Time 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 relationship in question unfair to Miss O.

In 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 Miss O entered into wasn't high. At £892.68, it was only 4% of the amount borrowed and 3.7% 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'm not currently persuaded that she either wouldn't have understood that or would have otherwise questioned the size of the payment at that time. After all, Miss O had no obvious means of her own to pay for the timeshare. And at such a low level, the impact of commission on the cost of the credit she needed doesn't strike me as disproportionate. So, I think she would still have taken out the loan to fund the purchase at the Time of Sale had the amount 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 a successful timeshare sale. 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 Agreement. And as it wasn't acting as an agent of Miss O but as the supplier of contractual rights she obtained under the Purchase Agreement, the transaction doesn't 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'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 relationship unfair to Miss O.

S140A conclusion

Given all of 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 relationship between Miss O and the Lender under the Credit Agreement and related Purchase Agreement was unfair to her. 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 Miss O's credit relationship with the Lender wasn't 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 Miss O's complaint about an unfair credit relationship. 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 a payment of commission from the Lender without telling Miss O (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'm not persuaded that the Supplier – when acting as credit broker – owed Miss O 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 her. 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 because, for the reasons I also set out above, I think she would still have taken out the loan to fund the purchase at the Time of Sale had there been more adequate disclosure of the commission arrangements that applied at that time.

My final decision

For the reasons explained above, and in my appended provisional decision, I do not uphold Miss O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss O to accept or reject my decision before 30 January 2026.

Will Culley
Ombudsman

COPY OF PROVISIONAL DECISION

I've considered the relevant information about this complaint.

Having done so, I've arrived at the same overall conclusions as our Investigator, but I'm issuing this provisional decision to allow the parties to the complaint a further opportunity to make submissions.

The deadline for both parties to provide any further comments or evidence for me to consider is **29 October 2025**. Unless the information changes my mind, my final decision is likely to be along the following lines.

If I don't hear from Miss O, or if they tell me they accept my provisional decision, I may arrange for the complaint to be closed as resolved without a final decision.

The complaint

Miss O complains Mitsubishi HC Capital UK Plc (the "Lender") has failed to honour a claim under Section 75 of the Consumer Credit Act 1974 (the "CCA") and has participated in an unfair credit relationship with her under Section 140A of the CCA.

Miss O is represented in her complaint by a professional representative ("PR").

What happened

This complaint relates to a timeshare purchase made by Miss O from a timeshare provider (the "Supplier") on 30 July 2019. She had previously purchased a "Trial" membership from the Supplier, in September 2018. I've outlined the basic details below:

- The purchase made on 30 July 2019 was of a membership in the Supplier's "Fractional Club". Miss O bought 1,540 points in the Fractional Club, which could be used to book holiday accommodation annually (the "Purchase Agreement") This type of timeshare was also asset-backed, meaning it included a share in the future sale proceeds of a specific timeshare apartment named on Miss O's purchase paperwork. The purchase cost £23,316, reduced to £18,921 after trading in the Trial membership.

- The Supplier arranged a loan (the "Credit Agreement") with the Lender for £22,317. This covered the balance of the purchase price and the consolidation of debt left over from a loan taken out to pay for the Trial membership. This was repayable over 180 months at £257.77 per month.

- In July 2022, through PR, Miss O complained to the Lender, seeking to find it responsible for the Supplier having mis-sold the timeshare and associated loan. The individual mis-selling concerns raised by PR can be found in the table below, but broadly-speaking they included misrepresentations for which Miss O sought to hold the Lender liable under Section 75 of the CCA, and matters which were alleged to have rendered the credit relationship between her and the Lender unfair under Section 140A of the CCA.

The Lender rejected the complaint, which 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.

Miss O disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me. PR supplied a witness statement from Miss O to support her appeal.

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 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 here.

What I've provisionally 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. And having done that, I do not 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.

I think it's also important at this stage to outline very briefly the general grounds on which Miss O seeks redress from the Lender in relation to what are, at least in part, the *Supplier's* alleged wrongdoings as opposed to the Lender's. The grounds are that Miss O has a claim under Section 75 of the CCA, and Section 140A of the CCA.

Section 75 of the CCA gives a person who has purchased goods or services with certain kinds of credit, a right to claim against their lender in respect of any breach of contract or misrepresentation on the part of the supplier of those goods or services. This is subject to certain technical conditions being met, which I am satisfied have been met in this case.

Section 140A of the CCA operates in a more complex manner. Insofar as is relevant to Miss O's case, it means that the credit relationship between her and the Lender can be found unfair because of anything done (or not done) by, or on behalf of, the Lender.

An unfair credit relationship can also be based on the terms of a related agreement (such as the agreement to buy the timeshare) and, when combined with Section 56 of the CCA, on anything done or not done by the Supplier on the Lender's behalf before the making of the timeshare or loan agreements. The Supplier's acts or omissions during the process of negotiations leading up to the purchase are deemed to be the Lender's responsibility.

In the interests of efficiency and ease of reading, I have set out my findings in a table format. Where a particular finding requires further explanation or analysis, I have indicated this and provided the further explanation below the table.

Table of Summarised Findings

Section 75 - Misrepresentations	Reason why this complaint doesn't succeed

It was falsely represented that the product was an investment that would "considerably appreciate in value".	There's insufficient persuasive evidence this was said. If it was said, it would not be untrue to describe the product as an investment as it contained investment features. Any statements regarding future value are likely to have been statements of honest opinion in the absence of evidence to show otherwise.
It was falsely represented that there would be a considerable return on investment because the purchase involved a share in a property that would increase in value.	As per the point above, there is insufficient persuasive evidence these representations were made. If they were, there's insufficient evidence they were anything other than statements of honest opinion.
It was falsely represented that the Fractional Club membership could be sold back to the Supplier or easily to third parties at a profit.	There's very little colour or context to this allegation, meaning it's difficult to conclude the Supplier represented this to be the case. Miss O also signed to say she understood the Supplier would not buy back the membership.
It was falsely represented that Miss O would have access to "the holiday apartment" at any time all year round.	This is a vague allegation which also lacks sufficient detail, context or colour to demonstrate the Supplier made such statements.
Matters allegedly rendering the credit relationship unfair	**Reason why this complaint doesn't succeed**
Miss O was pressured into making the purchase.	There is little evidence of what specifically the Supplier said or did which meant Miss O felt she had no choice but to purchase. Miss O also did not use the cooling-off period to cancel the purchase, which I would have expected had she only purchased she was pressured into doing so.
The Lender failed to carry out the creditworthiness/affordability checks required by industry guidance or regulations.	While Miss O has referred to being in financial hardship, she has not provided evidence that the loan was actually unaffordable, which would need to be shown if the complaint were to succeed on this point.
The Credit Agreement was arranged by an unauthorised credit broker, meaning it was unenforceable.	It appears the entity which arranged the Credit Agreement held an interim permission from the Financial Conduct Authority at the relevant time, so the agreement was not arranged by an unauthorised credit broker.
The Purchase Agreement contained terms which were unfair to Miss O, such as terms allowing the Supplier to repossess the timeshare for minor breaches of the agreement.	While I think there are some terms within the Purchase Agreement which could be applied in an unfair way, I've not seen evidence they have been applied in this way in Miss O's case, or that they will be in the future.
The Supplier marketed and sold the membership as an investment in breach of Regulation 14(3) of the Timeshare Regulations.	While it's possible the Supplier marketed the product in this way, it would need to have played a material part in Miss O's decision to buy the Fractional Club membership, to render the credit relationship between her and the Lender unfair. **See further details below.**

I'll now set out the expanded reasons for my decision relating to the allegations that the Supplier marketed the Fractional Club membership as an investment, leading to an unfair credit relationship between the Lender and Miss O.

Given what is known about the way in which the Supplier sold Fractional Club memberships, I think it's possible the sales representatives could have said or suggested to Miss O that Fractional Club membership was an investment which could lead to a financial gain or profit, and therefore have acted in contravention of the relevant prohibition in the Timeshare Regulations.

However, it's necessary to show that any such breach by the Supplier had a material impact on Miss O's decision to go ahead with her purchase, to be able to arrive at a conclusion that the credit relationship between Miss O and the Lender was rendered unfair to her as a result. In this case, the evidence is not persuasive, for reasons I'll explain.

Up until December 2023, the Financial Ombudsman Service had received no evidence from Miss O, in her own words, in relation to any aspect of her complaint. All we had to consider was the letter of complaint from PR, which was identical in nearly all respects to other letters of complaint I have seen from PR on behalf of other complainants. In other words, it was generic in nature, and not of any assistance in determining what had happened at the Time of Sale or what Miss O's reasons were for making her purchase.

It was only after the Investigator issued an unfavourable assessment of the merits of the complaint, and after the judgment in *R (on the application of Shawbrook Bank Ltd) v Financial Ombudsman Service Ltd and R (on the application of Clydesdale Financial Services Ltd (t/a Barclays Partner Finance)) v Financial Ombudsman Service* [2023] EWHC 1069 (Admin) ('*Shawbrook & BPF v FOS*') was handed down, that we received a witness statement from Miss O. In this, Miss O recalled that the Supplier led her to believe that Fractional Club membership offered her the prospect of a financial gain. Experience tells me that, the more time that passes between a complaint and the event complained about, the more risk there is of recollections being vague, inaccurate and/or influenced by discussion with others. In light of this, I find it difficult to understand why the Financial Ombudsman Service was only given such evidence when it was.

There isn't any other evidence on file to corroborate Miss O's more recent evidence about her motivations at the Time of Sale, and there seems to me to be a very real risk that her recollections were coloured by the judgment in *Shawbrook & BPF v FOS*. And with that being the case, I'm not persuaded that I can give her written recollections the weight necessary to conclude that the credit relationship in question was unfair for reasons relating to a breach of the relevant prohibition.

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 Miss O's Section 75 claim, 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. 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.

My provisional decision

For the reasons explained above, I'm not minded to uphold this complaint.

Will Culley
Ombudsman