

The complaint

Mr C's complaint is, in essence, that Mitsubishi HC Capital UK PLC trading as Novuna (the 'Lender') acted unfairly and unreasonably by not cancelling his Fixed Sum Loan Agreement when he tried to cancel it and by not upholding his free-standing complaint about commission.

What happened

Mr C purchased a membership of a timeshare (the 'Fractional Club') from a timeshare provider (the 'Supplier') – on 28 October 2019 (the 'time of sale'). Mr C paid for this by taking finance of £15,388 from the Lender (the 'credit agreement'). Mr C says he cancelled the agreement within the 14-day cancellation period. He complained to the Lender but it said his cancellation didn't take effect because he didn't cancel properly and in time.

Mr C – using a professional representative (the 'PR') also complained about the sale of the timeshare to him. This service issued an assessment of Mr C's complaint not upholding Mr C's complaint. Mr C's PR informed this service on 04 May 2023 that it was withdrawing Mr C's complaint.

In December 2024 Mr C brought his complaint to this service. In an assessment dated 09 December 2025 our Investigator said that he couldn't look at the complaint about the sale of the Timeshare because it had been considered already and the outcome accepted by Mr C's PR. The Investigator did consider whether the Lender had done anything wrong when Mr C tried to cancel the borrowing and Mr C's complaint about commission.

The Investigator didn't uphold any element of Mr C's complaint. Mr C disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me.

The legal and regulatory context

The legal and regulatory context that I think is relevant to this complaint has been shared in several hundred published decisions on very similar complaints, as well as in previous correspondence with the parties. So there's no need for me to set this out again in detail here. I simply remind the parties that our rules¹ say that in considering what is fair and reasonable in all the circumstances of the complaint, I will take into account: relevant (i) law and regulations; (ii) regulators' rules, guidance and standards; and (iii) codes of practice; and (where appropriate), what I consider to have been good industry practice at the relevant time.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

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

And having done that I've decided that this complaint should not succeed. Firstly I'm satisfied that Mr C's complaint about the outcomes of his S75 claim and S140A claim to the Lender under the Consumer Credit Act 1974 have already been considered by this service and that Mr C's PR withdrew his complaint on 04 May 2023, thereby accepting that Investigator's conclusion that the Lender had done nothing wrong.

This service's role is to bring finality to disputes and Mr C's PR informed this service that Mr C no longer wished to carry on his complaint about the sale of the Timeshare. So I'm satisfied that matter was closed fairly. Consequently, and despite Mr C's clear wish to reopen that matter, I'm satisfied it would be unfair to consider the sale of the timeshare here. Any dispute Mr C has with the actions of his PR are between him and his PR.

I've considered the Investigator's position that he could consider whether Mr C cancelled within the 14-day period and Mr C's new stand-alone complaint about commission. And I think I should consider those two complaint points.

Did Mr C cancel in time?

According to section 66A(5) of the Consumer Credit Act 1974 ('CCA'), to withdraw from this kind of finance agreement Mr C needed to use the correspondence addresses specified for that purpose in the agreement. The agreement said Mr C could withdraw:

"[...] by giving notice to us, either orally or in writing. The telephone number to call is (phone number) and the address to write to is (postal address)."

This notice was immediately next to Mr C's signature on the loan document. So I'm satisfied the Lender didn't make a mistake in informing Mr C of his right under this part of this legislation.

Mr C has provided evidence that he says shows he emailed the Lender in time. However the emails he's provided were to an email address which firstly aren't accepted manners of informing the Lender of the wish to cancel as I've described above and secondly the emails he's provided are responding to an email from the Lender which specifically states "*Please note that this is an unmonitored email address*". So it is clear from the email Mr C has provided that Mr C knew, or reasonably should have known, that sending such an email as he did wouldn't not achieve his aim of cancellation of his loan. So at that point he reasonably knew he needed to contact the Lender in another way if he wanted to cancel the loan.

Mr C also says he contacted the Supplier to cancel the membership and lending. However firstly this wasn't the described way of cancelling the borrowing with the Lender and secondly (and in any case) the evidence shows he was outside of the 14-day period in any event and thus too late to cancel the loan.

Later Mr C asked the Lender for a copy of the loan agreement and on receipt of it wrote to the Lender in a letter dated 07 February 2021 saying that as he'd just received the agreement the 14 days should count from that point of receipt and thus he was cancelling the agreement within the 14 days period. I'm satisfied Mr C signed the agreement in October 2019 in person and was given a copy at that point. So the 14 days ran from that point. So I'm satisfied this letter of 2021 is too late to cancel the lending taken out in 2019.

So, whichever manner of cancelling Mr C chooses to put forward (or indeed all of them together) I'm satisfied the Lender hasn't done anything wrong here in expecting Mr C to continue to pay the borrowing (as he has been doing for some years) because he didn't properly cancel in time.

Commission

There are two grounds I can see upon which Mr C could complain about commission outside of the areas considered by the assessment issued by this service to Mr C in February 2023. The first ground relates to whether the Lender is liable for the dishonest assistance of a breach of fiduciary duty by the Supplier because it took a payment of commission from the Lender without telling Mr C (that is, secretly). The second relates to the Lender's compliance with the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between them.

I'm not persuaded that the Supplier – when acting as credit broker – owed Mr C a fiduciary duty. I say this because 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 Mr H, but as the supplier of contractual rights they 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 him when arranging the Credit Agreement and thus a fiduciary duty. So, the remedies that might be available at law in relation to the payment of secret commission aren't, in my view, available to him.

And while it's possible that the Lender failed to follow the regulatory guidance in place at the Time of Sale insofar as it was relevant to disclosing the commission arrangements between it and the Supplier, I don't think any such failure on the Lender's part is itself a reason to uphold this complaint. Mr C paid commission of £615.52, which was only 4% of the amount borrowed, and only 5.94% as a proportion of the charge for credit (which is the measure the Supreme Court used recently in a decision on such a commission). Had this relatively low level of commission been disclosed to Mr C at the Time of Sale, I still think he would have taken out the Credit Agreement to purchase the Timeshare as he was without any other obvious means to pay for the timeshare and considering its small proportion in relation to the advanced amount and the charge for credit, I don't think it was sufficient to put him off taking the lending. So I think he would still have taken out the loan to fund his purchase at the Time of Sale had there been more adequate disclosure of the commission arrangements that applied at that time.

Having taken everything into account across these two matters, I see no reason why it would be fair or reasonable for me to direct the Lender to compensate Mr C.

My final decision

For the reasons set out above, my final decision is that I don't uphold this complaint.

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

Rod Glyn-Thomas
Ombudsman