

The complaint

Mr S's complaint is, in essence, that Mitsubishi HC Capital UK Plc trading as Novuna Personal Finance (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with him 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 S was the member of a timeshare provider (the 'Supplier') – having purchased a number of products from it over time. But the product at the centre of this complaint is his membership of a timeshare that I'll call the 'Fractional Club' – which he bought on 11 April 2013 (the 'Time of Sale'). He entered into an agreement with the Supplier to buy 1,290 fractional points at a cost of £18,700 (the 'Purchase Agreement'). But after trading in his existing timeshare he paid £10,500.

Fractional Club membership was asset backed – which meant it gave Mr S 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 his membership term ends.

Mr S paid for his Fractional Club membership by taking finance of £10,500 from the Lender (the 'Credit Agreement').

Mr S – using a professional representative (the 'PR') – wrote to the Lender on 4 February 2021 (the 'Letter of Complaint') to raise a number of different concerns. As both sides are familiar with the concerns raised, it isn't necessary to repeat them in detail here beyond the summary above.

The Lender dealt with Mr S's concerns as a complaint and issued its final response letter on 20 May 2021, rejecting it on every ground.

The complaint was then referred to the Financial Ombudsman Service. I issued a provisional decision in September 2025 setting out why part of Mr S's complaint had been brought too late and was not within the Financial Ombudsman Service's jurisdiction and why I didn't plan to uphold the remainder of it. The parts of my provisional decision relevant to the parts of Mr S's complaint I said I could look at included:

"Section 75 of the CCA: the Supplier's misrepresentations at the Time of Sale"

As a general rule, creditors can reasonably reject Section 75 claims that they are first informed about after the claim has become time-barred under the Limitation Act 1980 (the 'LA') as it wouldn't be fair to expect creditors to look into such claims so long after the liability arose and after a limitation defence would be available in court. So, it is relevant to consider whether Mr S's Section 75 claim for misrepresentation was time-barred under the LA before he put it to the Lender.

As I mentioned above, a claim under Section 75 is a "like" claim against the creditor. It essentially mirrors the claim Mr S could make 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 (see Section 2 of the LA).

But a claim, like the one in question here, under Section 75 is also 'an action to recover any sum by virtue of any enactment' under Section 9 of the LA. And the limitation period under that provision is also six years from the date on which the cause of action accrued.

The date on which the cause of action accrued was the Time of Sale. I say this because Mr S entered into the purchase of his timeshare at that time based on the alleged misrepresentations of the Supplier – which he said were relied upon. And as the loan from the Lender was used to help finance the purchase, it was when he entered into the Credit Agreement that he suffered a loss.

Mr S first notified the Lender of his Section 75 claim on 4 February 2021. And as more than six years had passed between the Time of Sale and when that claim was first put to the Lender, I don't think it was unfair or unreasonable of the Lender to reject Mr S's concerns about the Supplier's alleged misrepresentations.

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.

As noted above when looking at the claim there was an unfair credit relationship, Mr S said that he could not holiday where and when he wanted to. On my reading of the complaint, this suggests that the Supplier was not living up to its end of the bargain, meaning it could be viewed as potentially breaching the Purchase Agreement. It is not clear precisely when this was alleged to have happened, but if it happened within six years of the time the complaint was first made, such a claim would not have been made too late under the LA.

Yet, 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 Mr S states that the availability of holidays was/is subject to demand. I accept that he 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.

So, from the evidence I have seen, I do not think the Lender is liable to pay Mr S 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..."

"...Insofar as Mr S's complaint about the Lender's decision to decline his Section 75 claims for misrepresentation and breach of contract is concerned, I think that part of this complaint is in jurisdiction. But I do not think that the Lender acted unfairly or unreasonably when it dealt with the relevant Section 75 claim(s)."

The PR did not agree with my provisional decision and provided further comments and evidence for me to consider. However recently it has withdrawn the complaint it originally made relating to commission and told us it accepts Mr S's complaint about an unfair relationship with the Lender was brought out of time and so is not within the jurisdiction of

the Financial Ombudsman Service.

The Lender did not respond.

I am therefore finalising my decision.

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

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.

Following the investigator's view, my provisional decision and the PR's responses to those, the issues that are left to determine are the Lender's handling of Mr S's Section 75 claims and the allegation of irresponsible lending. So that's what I've re-considered in this decision.

Mr S's complaint about the Lender's handling of his Section 75 claims

The PR said my findings on this point disregarded Section 32 of the Limitation Act 1980 (the LA') which suspends limitation where a claim is based on misrepresentation concealed by the defendant until the claimant discovered (or could reasonably have discovered) the truth. It said Mr S only became aware that the timeshare's alleged "asset-backed" nature was false after industry investigations and media reports surfaced from 2019 onward and he made his claim within six years of this.

However, the 'asset backed' nature of Fractional Club membership is not false as membership clearly included a share in the net sale proceeds of the allocated property and this was clear from the paperwork that Mr S would have seen at the Time of Sale. I do not think that Section 32 of the LA therefore extended the time within which Mr S could make his claim for the reasons the PR gave. I still don't find the Lender unreasonably declined to meet Mr S's Section 75 claim as more than six years had passed between the Time of Sale (when the misrepresentation cause of action arose) and when he made that claim.

Other points

I haven't seen anything to persuade me that the right checks weren't 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 Mr S was actually unaffordable before also concluding that he lost out as a result and then consider whether the credit relationship with the Lender was unfair to him for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for Mr S.

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 S's Section 75 claims. And having taken everything into account, I see no other reason why it would be fair or reasonable to direct the Lender to compensate him.

My final decision

For the reasons I have explained, I do not uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 February 2026.

Michael Ball
Ombudsman