

The complaint

Mr W's complaint is, in essence, that Mitsubishi HC Capital UK Plc (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 a claim under Section 75 of the CCA.

What happened

Mr W 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 February 2013 (the 'Time of Sale'). He entered into an agreement with the Supplier to buy 1,494 fractional points at a cost of £26,789 (the 'Purchase Agreement'). But after trading in his existing timeshare he paid £8,050.

Fractional Club membership was asset backed – which meant it gave Mr W 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 their membership term ends.

Mr W paid for his Fractional Club membership by taking finance of £8,050 from the Lender (the 'Credit Agreement').

Having not received the contractual payments from Mr W, the lender obtained judgment for the repayment of the debt on 16 January 2014.

Mr W – using a professional representative (the 'PR') – wrote to the Lender on 20 June 2023 (the 'Letter of Complaint') to raise a number of different concerns. Since then the PR raised some further matters it said were relevant to the outcome of the complaint. 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 didn't issue a final response letter and the complaint was then referred to the Financial Ombudsman Service.

I issued a provisional decision in November 2025 setting out that I planned to conclude part of Mr W's complaint has been brought too late and was not in the Financial Ombudsman Service's jurisdiction and explaining why I didn't plan to uphold the remainder of the complaint. The parts of my provisional decision relating to the parts of Mr W's complaint I thought were in jurisdiction 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 W’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 W 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 W entered into the purchase of his timeshare at that time based on the alleged misrepresentations of the Supplier – which he said was 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 W first notified the Lender of his Section 75 claim on 20 June 2023. 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 W’s concerns about the Supplier’s alleged misrepresentations.

Mr W’s complaint about the way interest was calculated

It has been submitted by the PR that the Lender did not properly calculate the interest due to be paid by Mr W meaning he has been overcharged. I am aware that the PR has raised this as a blanket point of complaint for every loan advanced by the Lender and other ombudsmen have issued detailed decisions rejecting the arguments that the PR say apply to all its complaints. I think that the Lender has worked out the interest in the way it said it would in the Credit Agreement, not least because it gave figures to Mr W in that agreement setting out the total interest payable if the loan ran to term as well as the monthly repayment. But even the Lender wasn’t as clear as it ought to have been about the interest charged or that it gave incorrect information on the interest rate that applied, I can’t see Mr W lost out as a result. He knew how much he was repaying each month and for how long, and there is no evidence that he was unhappy with those figures. So even if the Lender presented information differently, I can’t see how that would have made any difference to Mr W’s decision to take out the loan. It follows, I can’t say Mr W has lost out or that the Lender needs to do anything further because of this issue.

Mr W’s complaint about the affordability checks carried out by the Lender

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 W was actually unaffordable before also

concluding that he lost out as a result. But from the information provided, I am not satisfied that the lending was unaffordable for Mr W.”

The PR said it didn't agree with my provisional decision and provided further comments and evidence for me to consider. I then issued a decision finalising my findings on the Financial Ombudsman Service's jurisdiction to consider Mr W's complaint. I concluded that Mr W's complaint about an unfair relationship with the Lender under Section 140 of the CCA had been brought too late but that I could consider the remainder of his complaint.

Recently the PR has confirmed Mr W's complaint about the way interest was calculated is now withdrawn.

The Lender did not respond to my provisional decision.

The complaint has therefore been returned to me for a final 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, and as relates to the issues left to be decided, 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.

I set out in my provisional decision why I didn't think it was unreasonable for the Lender to decline to meet Mr W's Section 75 claim and why I didn't think the Lender should pay compensation in relation to any of the other complaint points that remain to be decided – which to my mind include Mr W's allegation the Lender irresponsibly lent to him. The PR has not provided any further comments or evidence in response to those findings. I see no reason therefore to change my findings in respect of those issues.

So, given the facts and circumstances of this complaint, I do not think that the Lender acted unfairly or unreasonably by declining to meet Mr W's Section 75 claim, and 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 W's complaint.

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

Michael Ball
Ombudsman