

## The complaint

Mr K's complaint is, in essence, that Clydesdale Financial Services Limited trading as Barclays Partner Finance (the 'Lender') acted unfairly and unreasonably by being party to an unfair credit relationship with him under Section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA').

## Background to the Complaint

Mr K, along with his partner, Mrs K, purchased the following "European Collection" products from a timeshare provider ('the Supplier'):

- 8,500 points at a cost of £5,245 on 29 July 2011
- 6,500 points at a cost of £6,500 on 3 April 2012 (the 'Times of Sale').

Mr K paid for his memberships by taking finance of £5,245 and £6,500 from the Lender (the 'Credit Agreements').

Mr K – using a professional representative – wrote to the Lender on 16 March 2018 (the 'Letter of Complaint') to raise a number of different concerns. This letter was accompanied by another letter addressed to the Supplier, and it covered both the above purchases and another purchase Mr K and his partner, Mrs K, made with the Supplier in 2015. As those concerns haven't changed since they were first raised, and as both sides are familiar with him, it isn't necessary to repeat them in detail here beyond the summary above.

The Lender did not respond to the complaint.

The complaint was then referred to the Financial Ombudsman Service by another professional representative (the 'PR'). It was assessed by an Investigator who, having considered the information on file, rejected the complaint on its merits.

Mr K disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me.

I issued a provisional decision (the 'PD') to both parties on 8 January 2026. In my PD, I said:

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

Mr K's complaint about the Lender being party to an unfair credit relationship was made for several reasons.

Having considered the entirety of the credit relationships between Mr K and the Lender along with all of the circumstances of the complaint, I don't think the credit relationships between them were 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 Times of Sale along with any relevant training material;
2. The provision of information by the Supplier at the Times of Sale, including the contractual documentation and disclaimers made by the Supplier;
3. The commission arrangements between the Lender and the Supplier at the Times of Sale and the disclosure of those arrangements;
4. Evidence provided by both parties on what was likely to have been said and/or done at the Times of Sale; and
5. The inherent probabilities of the sales, given their circumstances.

I have then considered the impact of these factors on the fairness of the credit relationships between Mr K and the Lender.

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

While the PR says that the right affordability checks weren't carried out at the Times of Sale, 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 K was actually unaffordable before also concluding that he lost out as a result and then consider whether the credit relationships with the Lender were unfair to him for this reason. But from the information provided, I am not satisfied that the lending was unaffordable for him.

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

The PR said the following in response to the investigator's rejection of Mr K's complaint:

*"Given the membership in question here was amended to a fractional one shortly after being purchased I believe this demonstrates that the product sold cannot ever have been suitable and this, and the matters complained of in these letters, make matters unfair."*

But that is not the case. Mr K, along with Mrs K, did go on to purchase a fractional timeshare membership from the Supplier in 2015, but that was a standalone purchase and the European Collection membership was not traded in or amended at that time. So, I don't agree that Mr K's subsequent purchase of another product with the Supplier demonstrates that the European Collection was not suitable for Mr K.

#### The Supplier's alleged misrepresentations at the Times of Sale

*It was said in the Letter of Complaint and accompanying letter to the Supplier that the Supplier misrepresented the European Collection to Mr K because he was told that the resorts were exclusive to members when that was not true. Mr K was staying at a resort in Portugal as a non-member when he made the first purchase, so I think it is unlikely that he was told the resorts were exclusive to members when he was not yet a member himself. In any case, I am not persuaded that Mr K has lost out as a result of the resorts being available to non-members as he has not provided me with any evidence or testimony to show that was the case.*

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

*The PR says that Mr K was not given sufficient information at the Times of Sale by the Supplier about the ongoing costs of the European Collection membership. The PR also says that the contractual terms governing the ongoing costs of membership and the consequences of not meeting those costs were unfair contract terms.*

*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.*

*I acknowledge that it is also possible that the Supplier did not give Mr K and his partner sufficient information, in good time, on the various charges they could have been subject to as European Collection members in order to satisfy the requirements of Regulation 12 of the Timeshare Regulations (which was concerned with the provision of 'key information'). But even if that was the case, I cannot see that the ongoing costs of membership were applied unfairly in practice. And as neither Mr K nor the PR have persuaded me that he would not have pressed ahead with his purchase had the finer details of the European Collection's ongoing costs been disclosed by the Supplier in compliance with Regulation 12, I cannot see why any failings in that regard are likely to be material to the outcome of this complaint given its fact and circumstances.*

*As for the PR's argument that there were one or more unfair contract terms in the Purchase Agreement, I can't see that any such terms were operated unfairly against Mr K in practice, nor that any such terms led him to behave in a certain way to his detriment. And with that being the case, I'm not persuaded that any of the terms governing the European Collection memberships were likely to have led to an unfairness that warrants a remedy."*

In summary, I didn't find any of the arguments put forward demonstrated that the Credit Agreements between Mr K and the Lender were unfair to him under section 140A of the CCA. And as there was no other reason for me to direct the Lender to pay Mr K compensation, I said I didn't propose to uphold the complaint.

#### **The responses to the provisional decision**

The Lender accepted my PD. The PR replied to say that it had not received any further instructions from Mr K.

#### **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 ombudsman decisions on very similar complaints. And with that being the case, it is not necessary to set it out 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 to the PD, I have considered everything afresh. As I have not received any new information or arguments in response to the PD, I see no reason to reach a different conclusion to that which I already reached.

Given the facts and circumstances of this complaint, I am not persuaded that the Lender was party to a credit relationship with Mr K under the Credit Agreement that was unfair to him 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 Mr K.

#### **My final decision**

I do not uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 2 March 2026.

Andrew Anderson  
**Ombudsman**

