

## The complaint

Mr and Mrs H's complaint is, in essence, that Shawbrook Bank Limited (the 'Lender') acted unfairly and unreasonably by (1) being party to an unfair credit relationship with them under Section 140A of the Consumer Credit Act 1974 (as amended) (the 'CCA') and (2) deciding against paying claim under Section 75 of the CCA.

## What happened

Mr and Mrs H were members of a timeshare provider (the 'Supplier'), having purchased several timeshares from it since November 2000. But this complaint is about their purchase of a timeshare (the 'Fractional Club') on 25 February 2014 (the 'Time of Sale'). They entered into an agreement with the Supplier to buy 11,000 Fractional Points at a cost of £7,480 (the 'Purchase Agreement').

Fractional Club membership was asset backed – which meant it gave Mr and Mrs H 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 and Mrs H paid for their Fractional Club membership by taking finance of £11,998.08 from the Lender (the 'Credit Agreement'). The additional amount was used to pay off a loan used for an earlier timeshare purchase.

Mr and Mrs H – using a professional representative (the 'PR') – wrote to the Lender on 5 January 2023 (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 did not uphold the complaint, which was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, said that complaint point (1) was outside of our jurisdiction because the complaint was made too late under the relevant rules, and complaint point (2) was within our jurisdiction but should not be upheld because the Section 75 claims were made too late under the provisions of the Limitation Act 1980.

Mr and Mrs H disagreed with the Investigator's assessment and asked for an Ombudsman's decision – which is why it was passed to me. The PR has since confirmed that it accepts that the complaint about an unfair relationship is outside of our jurisdiction and that Mr and Mrs H's concerns about undisclosed commission should not be upheld (in this case the commission was only 8% of the amount borrowed).

## 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.

I've decided not to uphold this complaint.

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 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 and Mrs H's Section 75 claim for misrepresentation was time-barred under the Limitation Act 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 and Mrs H 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 Limitation Act).

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 Limitation Act. 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 and Mrs H entered into the purchase of his timeshare at that time based on the alleged misrepresentations of the Supplier – which they say were relied upon. And as the loan from the Lender was used to help finance the purchase, it was when they entered into the Credit Agreement that they suffered a loss.

Mr and Mrs H first notified the Lender of his Section 75 claim on 5 January 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 and Mrs H's concerns about the Supplier's alleged misrepresentations.

### **My final decision**

For the reasons I've explained, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 12 March 2026.

Phillip Lai-Fang  
**Ombudsman**