

The complaint

Mr C and Mrs C complaint is, in essence, Shawbrook Bank Limited (the 'Lender') acted unfairly and unreasonably by (1) being party to unfair credit relationships with them 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 C and Mrs C purchased a timeshare from a timeshare provider (the 'Supplier') in October 2015 which I'll call the 'Fractional Club'. Fractional Club membership was asset backed – which meant it gave Mr C and Mrs C 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 terms ended.

Mr C and Mrs C paid for their Fractional Club membership by taking a finance agreement in both their names from the Lender (the 'Credit Agreement') for £17,433. The Credit Agreement. This credit relationship was sold to another credit provider on 15 November 2019, which ended this credit relationship between Mr C and Mrs C and the Lender.

Mr C and Mrs C – using a professional representative (the 'PR') – wrote to the Lender on 20 September 2024 (the 'Letter of Complaint') to raise a number of different concerns. As those concerns haven't changed since they were first raised, and as both sides are familiar with them, it isn't necessary to repeat them in detail here beyond the summary above.

The Lender dealt with Mr C and Mrs C's concerns as a complaint and rejected it on every ground in its letter of 26 November 2024.

The complaint was then referred to the Financial Ombudsman Service. It was assessed by an Investigator who, having considered the information on file, said regarding the S140A claim that as the Lender no longer owns this debt it means that any claim for unfair relationship can only be made against the new debt owner and not the Lender. Regarding the S75 claim the Investigator didn't uphold the complaint as they concluded that both Limitation and Financial Limits applied.

The PR disagreed and gave its reasons for doing so and accordingly this case was appropriate for an Ombudsman's decision – which is why it was passed to me.

I issued a provisional decision dated 19 March 2026 which said (in smaller font and italics for clarity):

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. And having considered the above I do not 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 75 of the CCA: the Supplier's misrepresentations at the Time of Sale

The CCA introduced a regime of connected lender liability under section 75 that affords consumers ("debtors") a right of recourse against lenders that provide the finance for the acquisition of goods or services from third-party merchants ("suppliers") in the event that there is an actionable misrepresentation and/or breach of contract by the supplier.

Certain conditions must be met if the protection afforded to consumers is engaged, including, for instance, the cash price of the purchase and the nature of the arrangements between the parties involved in the transaction.

With regard to this sale here within the letter of claim the PR made a claim on Mr C and Mrs C's behalf under S75 of the CCA. This included allegations of misrepresentation during the sales process and submissions in support of those allegations. This membership was purchased in October 2015 and the Lender in its final response raised the Limitation Act in its defence.

Under section 9 of the Limitation Act 1980, Mr C and Mrs C had to make any claim within six years of when such misrepresentations are said to have happened or when alleged breaches of contract occurred, because those are the points from when they would have lost out. This particular membership was purchased in October 2015 but they didn't make this S75 claim until 20 September 2024. So it is clear to me that the Lender could rely on the Limitation Act as a complete defence from any such claims for alleged misrepresentations at the point of sale. I've not seen any allegations from Mr C and Mrs C which are of breach of contract which would be in time from the submission given. Accordingly I'm not persuaded Mr C and Mrs C have lost out due to the Lender not upholding the complaint about the outcome of their S75 claim.

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

As the debt has been sold to another firm as of 15 November 2019 there is no longer a credit relationship that exists with the Lender. The CCA requires claims for unfair relationship to be made against the current creditor and/or debt owner. But as the Lender no longer own this debt it means that any claim for unfair relationship can only be made against the new debt owner.

I see that the Investigator explained this to the PR and provided the Notice of Assignment to it, but the PR chose to not engage with this crucial aspect of this case and simply talk about merits of Mr C and Mrs C's case, which to my mind is disappointing. Nevertheless for the reasons given I can't consider this matter.

Commission

I appreciate that the PR has made arguments about commission. I understand from the business that no commission was paid in this case. So I don't see how this could cause unfairness to Mr C and Mrs C when considered as a stand-alone complaint point. Nor can I consider that this fact could cause an unfair relationship for the reason that I can't consider this as the Lender no longer owns the relationship.

Summary

It is my current position for the reasons given that I cannot uphold this complaint. I do not think that the Lender acted unfairly or unreasonably when it dealt with Mr C and Mrs C's Section 75 claim. I can't consider whether there was an unfair relationship here for the reason given. And having taken everything into account, I see no other reason why it would be fair or reasonable to direct the Lender to compensate them.

Responses to my provisional findings

The Lender accepted my provisional decision. The PR didn't accept the proposed outcome. It made further submissions in support of Mr C and Mrs C's position. Having received and reviewed these, I'm now proceeding with my final decision.

In doing so, I'm conscious that the PR has made a series of assertions surrounding the provision of information. These include, requesting that the information we have received be shared with it in full, and asking that we do not proceed with a decision before this is done and it has had an opportunity to make further submissions.

The PR's requests have been addressed by us under separate correspondence. For reasons I will explain in the course of this decision, I've concluded that it's appropriate for me to proceed with my determination.

The legal and regulatory context

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 Consumer Credit Sourcebook ('CONC') – Found in the Financial Conduct Authority's (the 'FCA') Handbook of Rules and Guidance

Below are the most relevant provisions and/or guidance as they were at the relevant time:

- CONC 3.7.3 [R]
- CONC 4.5.3 [R]
- CONC 4.5.2 [G]

The FCA's Principles

The rules on consumer credit sit alongside the wider obligations of firms, such as the Principles for Businesses ('PRIN'). Set out below are those that are most relevant to this complaint:

- Principle 6
- Principle 7
- Principle 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.

After considering the case afresh and having regard for what's been said in response to my provisional decision, I find it offers no persuasive reason to depart from the conclusions I've previously set out. I'll explain why.

Firstly the PR says that "Assignment Does Not Extinguish Liability". However S140C (2a) of the CCA says:

"References in this section and in sections 140A and 140B to the creditor or to the debtor under a credit agreement include:

(a) references to the person to whom his rights and duties under the agreement have passed by assignment or operation of law;"

So clearly, I cannot uphold a complaint about this Lender in this situation.

As for Section 75 the PR says I've taken an overly narrow view. The simplicity of this case is that Section 75 enables debtors to pursue creditors under a 'like claim' to that against the Supplier. Here the Supplier would have a defence under the Limitation Act as I've explained. So as it is a 'like claim' it is fair for the Lender here to have the same defence available to it.

The PR now says that the right checks weren't carried out before the Lender lent to Mr C and Mrs C. I haven't seen anything to persuade me that was the case in this complaint given its circumstances. And for this complaint to be successful on this point not only would I have to be persuaded there was a failing (such as not doing the right checks) but I'd also have to be persuaded that Mrs C had lost out as a result. For example by demonstrating what their financial position was at the time. As the PR has done neither here, I cannot uphold on this point.

Lastly the PR has suggested it would be procedurally unfair to proceed to a decision here because Mr C and Mrs C were present at the time of purchase and by my so doing means they don't have the opportunity to '*Address inaccuracies; Correct misunderstandings; Respond to evidence that may have influenced the outcome*'. However for the reasons given Mr C and Mrs C are out on time due to the Limitation Act and I can't uphold a Section 140A claim complaint for the reasons given. The PR has put forward no persuasive evidence from the time to show the lending was unaffordable or irresponsible. And under the heads of complaint made by the PR and also my understanding of the evidence more broadly, I see no reason to uphold this case or reasonable opportunity for their complaint to be successful through further investigation. And as finality is in the interests of all parties, I think bringing this matter to a conclusion now is fair.

Conclusion

After careful reconsideration of the facts and circumstances of this complaint, I adopt my provisional conclusions as part of my final decision. For the reasons I've given above I don't think the Lender acted unfairly or unreasonably when it dealt with Mr C and Mrs C's section 75 claim. And I can't consider that the relationship was unfair under section 140A of the CCA as the Lender here is no longer a party to the relationship having sold it on. Having taken everything into account, I see no other reason why it would be fair or reasonable for me to direct the Lender to compensate Mr C and Mrs 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 Mrs C and Mr C to accept or reject my decision before 18 May 2026.

Rod Glyn-Thomas
Ombudsman