

## 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 (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

In October 2011, Mr K purchased a timeshare membership – (Fractional Club membership) from a timeshare provider (the 'Supplier'). The membership was asset backed – which meant it included a share of the net sale proceeds of a property named on the purchase agreement (the 'Allocated Property,') after the membership term ended. The Purchase price on the purchase agreement was £64,648. However, Mr K received a 'trade-in' value of £52,013 for his existing timeshare membership. Mr K borrowed £7,635 from the Lender to help pay the balance. The loan was repaid in full in June 2016.

In April 2024, Mr K used a professional representative ('PR') to complain about the purchase and the related loan. It said Mr K had been made aware of the case of *Shawbrook Bank Limited V FOS*, [2023] EWHC 1069. It raised a number of concerns including the lack of checks to ensure Mr K was eligible for the loan and that the Fractional Club membership was sold as an investment.

In its response to the complaint, the Lender said it had been made out of time. In its referral of the complaint to this service in April 2025, the PR raised a number of concerns. In summary:

- The Fractional Club membership had been sold to Mr K as a good investment that would provide a return after 17 years.
- It considered the purchase price and trade in value to be over inflated.
- The representations and purported benefits made to Mr K were false and misrepresented.
- Booking holidays proved almost impossible.
- The Loan agreement was void and unenforceable.
- Mr K was told that the Fractional Club membership would give him exclusive stays at Luxury resorts.
- The limitation period was postponed under Sections 32 and 14 of the Limitation Act 1980 (LA).

One of our investigators considered the complaint. They didn't think it was unfair for the Lender to rely on the LA to decline a claim under Section 75 of the CCA. And they didn't think this service could consider a complaint about an unfair relationship between Mr K and the Lender under Section 140A of the CCA, because it had been made more than six years after the loan was repaid. They explained that Mr K's concerns regarding whether the broker was authorised to arrange the loan, and whether the loan had been irresponsibly provided to Mr K, had been considered in a previous complaint to this service and could not be considered in this complaint.

In response, the PR explained why it didn't agree with the investigator's reasoning as to why Mr K ought reasonably to have been aware of cause for complaint. And in summary, it said Mr K had been pressured to believe and accept that all of the information relayed to him was true and accurate. And it went on to reiterate that in its view false representations had been made to Mr K which was a material factor, and he was assured the purchase would be an investment which was in breach of Regulation 14(3) of the Timeshare Regulations. In relation to the allegations of misrepresentation, it reiterated that the time limit had been extended under Section 32 of the LA.

This decision will deal solely with Mr K's complaint that the Lender unfairly declined the claim he made under Section 75 of the CCA. I will consider the rest of Mr K's complaint in a separate decision.

### **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.

And having done so, I've decided not to uphold this complaint. 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(1) of the CCA protects consumers who buy goods and services on credit. It says, in certain circumstances, that the finance provider is legally answerable for any misrepresentation or breach of contract by the supplier.

However, the Lender says it's too late for Mr K to make a claim for misrepresentation. It has specifically referred to the LA, which essentially says Mr K had six years from the date on which the cause of action accrued' to make his claim, after which the Lender has a complete defence to the claim.

I wouldn't normally think it was unfair for a respondent firm to rely on the LA to decline a claim that's been made outside the limitation period, and I don't think it's unfair in this instance.

The date on which the cause of action accrued is, in this case, the date of sale. It was then that Mr K entered into an agreement based, he says, on the Supplier's misrepresentations. As the loan from the Lender was used to finance the purchase, it was also then that he suffered a loss. It follows that Mr K had six years from the date of sale to make a claim for misrepresentation. But he didn't make his claim until April 2024, which is outside the time limits set by the LA.

Mr K's PR says Section 14A of the LA gives Mr K more time to make his claim. I disagree. Section 14A provides claimants with a 'special time limit for negligence actions where the facts relevant to [the] cause of action are not known at the date of accrual'. However, in *Thomas v Taylor Wimpey Developments* [2019] EWHC 1134 (TCC), the court confirmed that claims under section 2(1) of the Misrepresentation Act 1967 are not claims of negligence and Section 14A of the LA doesn't apply to them. And, based on the PR's brief submissions, I don't see how Section 14A could otherwise extend the time limit for Mr K.

The PR also says Section 32(1) of the LA also gives Mr K more time to make his claim. Again, I disagree. Section 32(1) of the LA has the potential to postpone the relevant limitation period in cases of fraud, concealment, or mistake. I have thought about that here. But in this case the PR has simply referenced Section 32(1), but it hasn't explained what acts the Lender carried out, that would make it a relevant consideration that might extend time. So, I find it very difficult to see taking into account the brief submissions provided by the PR in this case, how Section 32(1) could extend the time limit for Mr K.

In the complaint referral to this service, the PR referred to a number of concerns that Mr K became aware of shortly after purchasing his Fractional Club membership. And in particular, it refers to Mr K experiencing that booking holidays proved to be almost impossible. Therefore, my understanding is that he thinks the Fractional Club membership was misrepresented because he couldn't holiday in the way he says he was led to believe by the Supplier. But that would have been clear to him soon after the Time of Sale.

So, even if it could be said that Section 32(1) is likely to have postponed the limitation period until he first discovered that the availability and exclusivity of holidays was not what he thought it would be (and I make no such finding that it would), I'm not persuaded that would make a difference here.

As for the suggestion from the PR that Mr K would only have become aware of cause for complaint after the judgment in *Shawbrook Bank Limited V FOS*, I can't see how this can be true, as his claim predates this judgment. So, the PR is clearly wrong to suggest that the limitation period only started from this point in time.

For completeness, I'd add that the Lender could simply have declined a claim under Section 75(1) because Mr K's purchase did not meet the relevant criteria. Section 75(3) says Section 75(1) doesn't apply to a claim:

'(b) so far as the claim relates to any single item to which the supplier has attached a cash price...[of] more than £30,000...'

Mr K's PR says the value of the membership was 'inflated.' However, in my opinion, that's not relevant. The Supplier has attached a cash price – inflated or not – of £64,648 to Mr K's Fractional Club membership, so Section 75(1) doesn't apply.

### **My final decision**

For the reason set out above, I don't think it was unfair for that Clydesdale Financial Services Limited, trading as Barclays Partner Finance, to decline Mr K's claims under Section 75 of the CCA.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 20 May 2026.

Simon Dibble  
**Ombudsman**