

The complaint

Miss H complains that a car she'd acquired via a conditional sale agreement with Close Brothers Limited wasn't of satisfactory quality. Miss H wants to now reject the car and cancel the agreement.

What happened

In August 2020 Miss H entered into a five-year conditional sale agreement for a used car with Close Brothers. The car was around three years old and had a mileage of about 43,300.

Miss H says that when she acquired the car the supplying dealer informed her that it was covered by a warranty and so if she had problems she would be able to take the car to a local manufacturer approved garage for any repairs.

In February 2021 Miss H began to experience issues with the car's electrics and the infotainment system stopped working and there were intermittent issues with the indicators and hazard lights. Miss H arranged for the car to be seen at her local garage.

The garage diagnosed an issue with the car's fuse box and also advised that there was a recall on the car's fuel pump. It ordered the necessary part and kept the car. Unfortunately, there was a delay in the part being delivered and so in May 2021 Miss H complained to Close Brothers about the faulty car.

Close Brothers spoke with the supplying dealer who said it would be happy to investigate the issues with the car. The car was collected and returned to the dealer who said it couldn't find a fault. Close Brothers arranged for an independent engineer to inspect the car in August 2021.

The independent engineer reported that although they found the infotainment system didn't work, they couldn't find any issues with the indicators and hazards. They also said that as the car was able to be started several times without any problem, they weren't able to find any issue with the fuel pump. The independent engineer said that in their opinion the fault with the radio wouldn't have been present at the point of supply and was likely due to wear and tear. They said electrical faults can develop instantaneously and often without warning and were usually caused by sudden shorts due to failures with insulators or open circuits due to solder issues.

Close Brothers didn't uphold Miss H's complaint. It said that the issues with the car had arisen through wear and tear and hadn't been present at the point of supply and so it wasn't liable for any repairs. It said the car had been of satisfactory quality when supplied to Miss H.

The car was returned to Miss H and Close Brothers also reimbursed her the monthly payments she'd made during the period the car had been at the garage. Miss H says since it was returned, the car has suffered further issues with its heating, locking system and lights.

Miss H disagreed with Close Brothers' view and complained to this service. She said the faults with the car, save the infotainment system, were all intermittent in nature and she'd

been advised there was an electrical fault with the car. She said the manufacturer approved garage had diagnosed an issue with the fuse box which hadn't yet been repaired.

The independent engineer was asked to provide a further opinion as to the diagnosed fault with the fuse box. This was because at the time of the independent engineer's original report, they hadn't been aware that the manufacturer approved garage had made this diagnosis following an inspection of the car in March 2021.

The independent engineer agreed that the intermittent faults complained of by Miss H could be due to an issue with the fuse box but said that the only way to be sure would be by replacing this part. They also said it was unlikely this was a fault that would have been present from the point of supply when looking at the amount of time that had passed between the inception of the agreement and when the issue had arisen. The engineer said electrical issues can arise at any time.

Our investigator recommended that Miss H's complaint should be upheld. He said he was satisfied that although this was a used car, a reasonable person wouldn't have expected electrical issues with the car to have developed as soon as they had, and he didn't think the car had been durable.

Our investigator said that he thought it would be fair for Miss H to now reject the car, have her deposit repaid and receive £200 compensation for the distress and inconvenience caused having to deal with the faulty car.

Close Brothers disagreed with the view of our investigator. It said that the independent engineer had provided clear evidence as to the unique nature of electrical faults and their impact. Close Brothers said the issues had arisen between three and six months after Miss H had acquired the car, it said it had been reasonably durable.

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.

When looking at this complaint I need to have regard to the relevant law and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the conditional sale agreement entered into by Miss H is a regulated consumer credit agreement this service is able to consider complaints relating to it. Close Brothers is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 there is an implied term that when goods are supplied the quality of the goods is satisfactory. The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price, and all other relevant circumstances.

The relevant law also says that the quality of the goods includes their general state and condition, and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of the goods.

Here, the car wasn't new being around three-years old and with a mileage of about

43,300. I think that, taking into account these things, a reasonable person would have expected there to be some issues over time with maintenance and repair since components of the car would have been subject to some wear and tear through use. So, unlike a new car, there wouldn't be expectation that the car was fault free.

Miss H raised issues with the car with her local manufacturer approved garage around February 2021. She says many of the problems were intermittent such as the indicators and hazard lights not working on occasions. Miss H has also reported an increase in the faults with the car that all appear to be electrical in nature such as the locking system.

Miss H's local manufacturer approved garage diagnosed a fault with the fuse box and ordered a new part. Unfortunately, it has taken several months for this part to be delivered so this repair hasn't yet been undertaken. It also appears that when the independent engineer first inspected the car in August 2021, they were unaware that the issues with the car were intermittent and that an issue with the fuse box had already been identified by another garage. However, although no problems with the car's lights were found the engineer did confirm the fault with the infotainment system and that this was potentially an electrical issue.

It appears that following the independent engineer reviewing the additional evidence, they now accept the problems Miss H describes having with the car could be linked to issues with the fuse box. Though they also said electrical faults can be difficult to diagnose and the only way to test if the fuse box was the source of the problems would be to replace it and see if that resolved the issues. So, there is a possibility that replacing the fuse box may not address the issues reported by Miss H.

However, looking at the evidence, I am satisfied that there is a current fault with the car. I also think it's reasonable to conclude that the problems Miss H is experiencing are electrical in nature. Further, that these electrical issues appear to have started around February 2021 meaning Miss H had had the car for around five months before they appeared.

Close Brothers says that due to the nature of electrical faults which can arise suddenly and at any time, that the car didn't have this fault either present or developing at the point of supply. It also says that the nature of the faults with the car do not mean that the car wasn't as durable as would reasonably be expected.

However, I've seen that although electrical problems can suddenly arise without warning these failures can, as set out by the independent engineer, be due to failures of insulation or circuits. And I think that when taking into account the car's age and mileage when the faults became apparent, that a reasonable person wouldn't have expected electrical issues to arise with the car so soon. Particularly as a number of different components appear to have been affected. Just because electrical issues can happen instantaneously doesn't necessarily mean that the car should be considered as durable. I don't think I can say the issue with the car has arisen through expected wear and tear.

I've seen that Miss H has had to wait several months for the fuse box to be repaired and that there is no guarantee that the issues with the car will all have been fixed when that new part has been fitted. I think in these circumstances that it's fair for Miss H to now reject the car and for the agreement to be unwound. As Miss H has been reimbursed for the period she was without the car already by Close Brothers I'm not asking it to reimburse further payments. I've seen that Miss H has been able to make some use of the car once it was returned to her, but she has suffered distress and inconvenience having to deal with the faulty car. I agree with our investigator that £200 compensation is fair and reasonable in the circumstances.

So, for the reasons set out above I'm upholding Miss H's complaint.

Putting things right

I'm asking Close Brothers to do the following:

- Arrange for the car to be collected at no cost to Miss H
- Reimburse Miss H her deposit of £2,000 together with added interest at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Pay Miss H £200 compensation for the distress and inconvenience caused by having to deal with the faulty car.
- Remove any adverse information about this account from Miss H's credit file.

My final decision

As set out above, I'm upholding Miss H's complaint. I'm asking Close Brothers Limited to do the following:

- Arrange for the car to be collected at no cost to Miss H
- Reimburse Miss H her deposit of £2,000 together with added interest at the yearly rate of 8% simple from the date of payment until the date of settlement.
- Pay Miss H £200 compensation for the distress and inconvenience caused by having to deal with the faulty car.
- Remove any adverse information about this account from Miss H's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 12 April 2022.

Jocelyn Griffith
Ombudsman