

#### The complaint

Mr P complains about the quality of a car he has been financing through an agreement with Close Brother Limited ("Close Brothers").

#### What happened

I issued my provisional decision on this complaint in March 2022. An extract from that provisional decision is set out below.

## What I've provisionally 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 know it will disappoint Close Brothers but I'm expecting to uphold this complaint. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr P acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Close Brothers, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr P.

The car here was about five years old and had already completed about 64,000 miles. So, I don't think a reasonable person would expect it to be fault free as they would a new car.

Close Brothers are right to assert that the relevant legislation says if the fault occurs after the consumer has been in possession of the goods for more than six months we are to assume it the fault wasn't present when the goods were supplied.

So, the relevant legislation would place the onus on Mr P to demonstrate that the timing chain failure on the car was something that was developing when he acquired the vehicle. Mr P hasn't provided any expert reports to argue that point, but I think the evidence suggests it's likely to be the case. Mr P has explained that the pandemic restrictions in place at the

time reduced his use of the car. I can see that was the case as he'd only completed about 2,350 miles when he reported the timing chain noise in June 2021, about eight months after he'd taken receipt of the vehicle. That's much lower than average usage and, as the timing chain is something that's likely to deteriorate with use, I think Close Brothers should have taken that into account.

I also think it's likely the chain has failed earlier than would normally be expected. On line research would suggest a timing chain should last at least 80,000 miles.

So, given the very limited mileage completed since inception and evidence that suggests a replacement was premature, I think the fault was likely to have been developing when the car was supplied to Mr P.

Mr P was happy to have the car repaired and he's provided a receipt for the repairs he had completed in November 2021. I think it would therefore be reasonable for Close Brothers to refund that cost of £500 and as Mr P has been deprived of that money they'll need to add interest to any refund.

I also think Mr P has experienced some distress and inconvenience as a result of this issue. He reported the fault to Close Brothers in June 2021 but as they didn't accept his claim the repair wasn't completed until November 2021. When Mr P reported the problem to Close Brothers he told them the car was noisy and he therefore had to continue to drive a noisy car whilst he waited for a resolution. He also had to arrange his own repairs when I think, on the evidence provided, Close Brothers could have resolved the matter earlier and completed repairs for him. In those circumstances I think Close Brothers should pay Mr P £150 to compensate him for the distress and inconvenience caused.

### My provisional decision

For the reasons I've given above I am expecting to uphold this complaint and tell Close Brothers Limited to:

- Refund the £500 Mr P paid to repair the car and add 8% simple interest per year from the date of payment to the date of settlement.
- Pay Mr P £150 to compensate him for the distress and inconvenience he's experienced.

# 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.

Neither Mr P nor Close Brothers had any further information to add so I've not seen any reason to change my provisional decision on this complaint.

## **Putting things right**

My provisional decision therefore becomes my final decision.

#### My final decision

For the reasons I've given above I uphold this complaint and tell Close Brothers Limited to:

 Refund the £500 Mr P paid to repair the car and add 8% simple interest per year from the date of payment to the date of settlement. • Pay Mr P £150 to compensate him for the distress and inconvenience he's experienced.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 9 May 2022.

Phillip McMahon Ombudsman