

The complaint

Miss G has complained that she is unhappy with the quality of a car she acquired in December 2022, using a conditional sale agreement with Close Brothers Limited ("Close Brothers").

What happened

Miss G acquired a used Toyota in December 2022, using a conditional sale agreement with Close Brothers. The car was twelve and a half years old, with a mileage of 69,446. The cost of the car was £9,000, of which Miss G borrowed £6,360 over a term of 48 months, with a monthly repayment of £190.12.

Close Brothers' records show Miss G first made contact about the car in January 2023, although the notes only record a query about the terms of the finance agreement rather than any issues with the car at that point.

The next record of Miss G contacting Close Brothers is 14 February, when she complained about mechanical issues with the car and said she wanted to hand the car back and get a refund of her deposit. Close Brothers' records show that Miss G specifically mentioned the entertainment system. The records then show various unsuccessful attempts by both parties to make contact, and on 21 March Close Brothers said it would close the complaint, but that Miss G should make contact again if she wished to pursue the complaint.

Miss G then contacted Close Brothers on 31 March, and said she wanted the complaint to be reopened as there had been no progress in repairing the vehicle. I don't have information on how the complaint was progressed, but I can see that Miss G contacted Close Brothers on 30 May and 7 June to say (amongst other things) that she hadn't heard from the complaints department.

Close Brothers then arranged for an independent inspection of the car. This took place at the end of June 2023. The issues reported by Miss G were as follows:

- the car was pulling to the side;
- water was coming through the windscreen;
- there were wires hanging under the seat;
- the entertainment system wasn't working correctly;
- the rear windows didn't open with the switch;
- there was a heating issue; and
- the petrol cap was making a loud noise when opening

The engineer reported that there was excessive oil in the engine, so he was unable to start the car or check the heating issue. However, he was able to check other issues. He said the car was jacked up and he checked all the steering and suspension joints - there were no visible defects on the front and rear suspension. He also said that smoke and water tests were carried out, and there were no visible leaks, and no damp patches evident in the car. The engineer could not find any fault with the fuel cap, and whilst the rear windows didn't work from the drivers switch, they did work on individual switches on the passenger doors.

He did find that wires were hanging from the entertainment system, and they needed securing. However, the entertainment system was working apart from Google Maps, but this may have been due to either a fault or the lack of a SIM card in the system.

The engineer concluded that he did not consider the reported faults to have been present or developing at the point of supply. He also noted that the car had been driven for over 3,000 miles since the point of supply.

Following the independent inspection, Close Brothers did not uphold Miss G's complaint. Miss G was unhappy with this, so brought her complaint to this service. Our investigator looked into it, but didn't think it should be upheld. Miss G didn't agree, and asked for the complaint to be reviewed by an ombudsman.

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 Miss G's complaint. I'll explain why.

Because Close Brothers supplied the car under a conditional sale agreement, it's responsible for a complaint about the quality, and there's an implied term that the car was of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would expect, taking into account all of the relevant circumstances such as (amongst other things) the age and mileage of the car and the price paid. When considering satisfactory quality, I also need to look at whether the car is durable – that is, the components within the car must be durable and last a reasonable amount of time.

In this case of course, the car was twelve and a half years old, with a stated mileage of 69,446 when Miss G acquired it. And the price was much lower than that of a new car. So it's reasonable to expect that parts of the car would have suffered wear and tear, and that a car of this age would likely need repair and maintenance sooner than a newer car.

I've taken account of the relevant law, in particular the Consumer Rights Act 2015, ("CRA"). There are certain times, set out in the CRA, when a consumer is entitled to reject goods, in this case the car, if they don't conform to contract – a short term right to reject within 30 days of taking delivery, or a final right to reject if a repair or replacement hasn't resulted in the car subsequently conforming – that is, it then being of satisfactory quality.

Close Brothers sent in copies of the finance agreement, the invoice for the car from the dealership, its records of its contact with Miss G and the independent report, Miss G also provided a copy of the independent report, along with information from another garage after it had also inspected the car.

As I've described above, the independent engineer noted a possible fault with the entertainment system, and also mentioned that wiring for that system needed to be secured. However he concluded that that he did not consider these and the other reported faults to have been present or developing at the point of supply. I should also say here that it looks as though the entertainment system was changed by separate agreement with the dealer, so I don't consider I can fairly hold Close Brothers responsible for those particular issues.

I've looked at the information Miss G sent in from another garage – this was a computer and mechanical check and a diagnostic report. Neither document shows the car registration number or mileage. The computer and mechanical check lists a number of issues, but I note

that the diagnostic report is not consistent with the computer and mechanical check. The reports were dated 27 July 2023, some seven months after Miss G acquired the car.

I've thought carefully about what these reports say, but there is very little detail and there's no comment about when the faults might have developed. So it's not possible to determine that any of the items listed were present at the point of supply. I've also kept in mind that, given the age and mileage of the car, none of the items listed seems unusual.

I also note from the car invoice that the car was stated to be an import so there was no service or condition history and the mileage could not be guaranteed. So there is a possibility of the car having done more mileage than it says, which increases the risk of maintenance issues arising at an earlier stage than might otherwise be expected.

Overall, I have to place most weight on the independent inspection report, it being independent of all parties. As I noted above, the engineer concluded that he did not consider the reported faults to have been present or developing at the point of supply. And whilst I've considered the evidence provided by Miss G, I'm not satisfied there's enough to outweigh the independent report. So I can't fairly say that the faults Miss G has complained of were present or developing at the point of supply or that the car wasn't of satisfactory quality at the point of supply. Therefore I don't consider it fair or reasonable to require Close Brothers to arrange repairs, or to allow Miss G to reject the car.

I appreciate that all this has been very distressing for Miss G, but in summary, based on all the evidence and information provided, I'm not persuaded that the car wasn't of satisfactory quality at the point of supply. So I don't think Close Brothers has done anything wrong, and therefore I am not upholding this complaint.

My final decision

For the reasons given above, I have decided not to uphold Miss G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 7 June 2024.

Jan Ferrari
Ombudsman