

The complaint

Mr T complains that a car he acquired using a conditional sale agreement with Close Brothers Limited ("Close Brothers") wasn't of satisfactory quality.

What happened

In March 2023, Mr T acquired a used car under a five-year conditional sale agreement with Close Brothers. The cash price of the car was £8,482. It had covered just over 108,000 miles and monthly payments were around £190.

Mr T complained to Close Brothers in August 2023 as the car had experienced mechanical and electrical issues. An independent inspection of the car was carried out in October 2023 when the car's mileage was around 116,000. The engineer noted there were several faults as follows:

- There was a clicking sound when the car turned left and right. The engineer said this was because *'both outer CV boots were fully detached....and.....a lack of lubrication, as all the grease has expelled the driveshaft joint via the boots being fully detached which has caused excessive wear to CV joints'*.
- There were faults in relation to the power supply to the dashboard cluster which led to the instrument panel intermittently not working.
- The towing eye securing area was mis-shaped and mis-aligned. The engineer said this was consistent with possible rear collision damage. He also noted the rear cross-member behind the rear bumper showed signs of being mis-shapen.
- The tailgate of the car had minor mis-alignment on both sides, the central locking device was loose and there was free play on the lock.
- The air-conditioning didn't reduce the temperature of the car when it was applied on the fully cold setting.
- The cruise control didn't work as there was a lack of communication with the car's steering wheel controls.

Close Brothers sent Mr T their final response letter in January 2024, saying they wouldn't be upholding his complaint, although they did pay 50% of the cost of a new tow bar as a gesture of goodwill. And they paid Mr T £250 for the delays he'd experienced and for the lack of regular updates from them about his complaint.

Mr T's complaint was considered by one of our investigators, who didn't recommend that Close Brothers needed to take any action. He said, in summary, that the faults with the car were likely down to a reasonable level of wear and tear and that the car was of satisfactory quality when it was supplied.

Mr T didn't agree and so his complaint has been passed to me to decide.

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 want to acknowledge that I've summarised the events of the complaint. I don't intend any discourtesy by this – it just reflects the informal nature of our service. I'm required to decide matters quickly and with minimum formality. But I want to assure Mr T and Close Brothers that I've reviewed everything on file. And if I don't comment on something, it's not because I haven't considered it. It's because I've concentrated on what I think are the key issues. Our powers allow me to do this.

Mr T acquired the car under a conditional sale agreement with Close Brothers. Our service is able to consider complaints relating to these sorts of regulated consumer credit agreements.

The Consumer Rights Act 2015 (CRA) covers agreements like the one Mr T entered into. The CRA implies terms into the agreement that the quality of goods is satisfactory. Close Brothers is the "trader" for the purposes of the CRA and is therefore responsible for dealing with a complaint about the quality of the goods, which in this case is the car.

The CRA says that the quality of the goods is satisfactory if they meet the standard a reasonable person would consider satisfactory – taking into account the description of the goods, the price or other consideration for the goods (if relevant) and all other relevant circumstances. For this case, I think the other relevant considerations include the age and mileage of the car at the point of supply. In Mr T's case, the car supplied was used and had covered just over 108,000 miles. There'd be different expectations than if it was a brand-new car.

The CRA sets out that goods which don't conform to contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.

It's not in dispute there were faults with the car. The independent report highlighted several issues which I set out in the background section of my decision. I've noted though that the engineer concluded the following:

- They were unable to confirm when the CV boots became fully detached as the car had covered around 8,000 miles since 'purchase'. They couldn't confirm that this fault was evident or developing at the point of supply.
- The fault with the power to the car's dashboard cluster wasn't deemed to have been evident at the point of supply
- The car had damage to the rear towing eye, but they couldn't confirm when this happened.
- The problem with the air-conditioning wasn't deemed to have been developing at the point of supply due to the mileage that had been covered.
- The issue with the cruise control wouldn't have been developing at the point of supply due to the mileage covered.

The upshot of this report is that the engineer couldn't determine when the faults with the CV

boots occurred, and when the bodywork of the car became misaligned. However, he did conclude that none of the faults would have been present or developing at the time Mr T acquired the car.

I've considered the MOT history of the car, and in particular with reference to the faults with the CV boots. The history shows that this was listed as a major defect in January 2023, and which was a contributing reason why the car failed its MOT at that time. This was a couple of months before Mr T acquired the car. The MOT history also shows that the car passed its MOT a couple of days later so I would assume that attempts were made to rectify this fault.

I've noted that the same major fault occurred only five months later. So, that might indicate that a repair had been attempted to the CV boots which hadn't fixed the problem. And I don't know whether the engineer was aware of the MOT history of the car when he inspected it, so he may not have had that context in which to make his assessment of this particular issue. However, Mr T was able to cover around 6,000 miles before the fault with the CV boot occurred and I consider it more likely than not that he wouldn't have been able to do this had the issue not been properly fixed. The engineer also noted that there had been possible collision damage. And he noted that the other issues with the car weren't developing or present at the time of supply. The report seems quite definitive on those points, and I'm satisfied the report was independent and the expert was suitably qualified to make those findings. The report includes the expert's duty to the court and statement of truth. So, I think I can fairly put substantial weight on its findings. This is a very finely balanced case. But overall I don't think there's enough for me to say that the faults shown in the independent report are as a result of the car not being of satisfactory quality when it was supplied to Mr T.

I note that Mr T says the car experienced a major gearbox issue in January 2024. However, the garage who inspected the car said this was a 'spontaneous mechanical failure of the mechatronic unit' but no comment on what caused this. And this occurred around a year after the dealership had fitted a reconditioned transmission unit. So, I don't think there's enough to show me this was a result of the condition of the car when it was supplied to Mr T.

I'm sorry to disappoint Mr T as I'm fully aware he has had to spend money on fixing the car. As I've mentioned, this is a very finely balanced case. But overall, I'm not satisfied that the car was of unsatisfactory quality when it was supplied to him.

Finally, I note there might be an outstanding issue relating to the cost of a tow bar. As Close Brothers offered this as a gesture of goodwill, and because I haven't found that this issue, or any others, meant the car was of unsatisfactory quality, I won't be directing them to do anything specific in relation to this. It would only be common courtesy however for Close Brothers to do what they've agreed to do, if that includes giving Mr T the 50% cost that the dealership agreed to pay to him.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 29 November 2024.

Daniel Picken

Ombudsman