

The complaint

Mr B complains about a car supplied to him via a conditional sale agreement by Close Brothers Limited ('CB').

What happened

The parties are familiar with the background details of this complaint – so I will briefly summarise them here. It reflects my role resolving disputes with minimum formality.

Mr B says the car had issues from an early stage and is now showing a warning light and is undrivable. He wants CB to pay for repairs or take the car back.

CB says that it tried to get in touch with Mr B several times but he did not respond. It says it doesn't have sufficient evidence that the car is not of satisfactory quality to take any further action.

The matter came to this service. Our investigator did not uphold the complaint so Mr B has asked for an ombudsman to look at things again for a final 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.

While I might not comment on everything (only what I consider key) this is not meant as a discourtesy to either party – it reflects my role resolving disputes with minimum formality.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider to have been good industry practice at the relevant time.

The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. CB is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.

The Consumer Rights Act 2015 is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".

The Consumer Rights Act 2015 says the quality of goods are 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. So it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the vehicle's history.

The Consumer Rights Act 2015 ('CRA from now on') says 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 goods.

It is worth pointing out here that CB claims that when Mr B got in touch it tried to reach out to him on three occasions for more information about the problems with the car and didn't get a response. If that were the case then it might not be fair for me to uphold this complaint as Mr B would be expected to co-operate with helping CB get reasonable information it needed to investigate the matter and have an opportunity to put things right. However, I have not focused on looking more closely at this issue here, because I am not upholding this complaint in any event.

In March 2023 CB supplied Mr B with a second-hand car that was around 13 years old and had done 96,228 miles at the point of supply. The dealer priced it at around £8,000 which is notably less than what a new or newer model with less mileage would cost. It is fair to say that in these circumstances (particularly noting the age and mileage) a reasonable person would consider that the car had already suffered significant wear and tear – and was likely to require more maintenance and potentially costly repairs much sooner than you might see on a newer, less road worn model. And I can't see evidence that the dealer described the car in such a way that would alter those expectations.

I am sorry to hear about the issues Mr B has described with the car. Unfortunately, there is not persuasive evidence that the car was not of satisfactory quality at the point of sale. I will explain why.

Firstly, although I accept Mr B says the problems with the car started at an early stage – the first persuasive information about an issue is an invoice showing that the oil pump and oil filters were replaced in September 2023. I also note that by that stage Mr B had used the car to travel over 2,000 miles already (the mileage was 98,843). Based on this information (and in the absence of expert/other persuasive evidence to say otherwise) I am unable to fairly conclude the problem was present at the point of sale.

Even if I am not persuaded that the oil pump was broken at the point of sale I have considered if the developing issue with the oil pump was an indication of a lack of reasonable durability (as this is a factor in the CRA). However, because the car was around 13 years old and had high mileage it seems likely that any such failure would be classed as due to reasonably expected wear and tear. And I don't have compelling evidence such as an expert report to persuade me otherwise.

I note that Mr B says the car still has issues and has shown photos of dashboard warning lights related to oil pressure. However, I note that:

- The car has now covered over 3,000 miles in Mr B's possession and around 100,000 miles total; and
- there is no information clearly diagnosing the current problem with the car and explaining the likely cause (and whether it is linked to a likely inherent fault or indicative of a lack of reasonable durability in a car of this age and mileage).

So while I am sorry to hear about the current problem with the car I don't think there is persuasive evidence showing the car as supplied is not of satisfactory quality in accordance with the CRA. It follows that it wouldn't be fair to ask CB to pay for repairs or take the car back.

I note that since our investigator's view Mr B has mentioned that the car went for an MOT and failed only on exhaust emissions as it hasn't got a catalytic convertor. Mr B thinks this shows the car must have been mapped prior to sale and mis-sold.

I know our investigator commented to say there wasn't persuasive evidence that the car was sold without a catalytic convertor or misrepresented in regard to engine mapping. However, I think these matters are effectively new complaint points about issues which do not appear directly related to the problems which Mr B brought to CB originally. So I think it is best that I do not comment on those here. Mr B is free to raise these points as a separate complaint with CB if he wishes.

I know that Mr B is likely to be disappointed by my decision. However, he does not have to accept it and may pursue the matter against CB by alternative means (such as court) if he considers this the right next step (seeking suitable advice to help him decide).

My final decision

I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 November 2024.

Mark Lancod
Ombudsman