

The complaint

Miss H complains that a car supplied to her under a conditional sale agreement with Close Brothers Limited (trading as Close Brothers Motor Finance) (CBL) is of unsatisfactory quality.

Miss H has been represented during the complaints process. For ease of reference, I will refer to any comments made, or any action taken, by either Miss H or Mr G as “Miss H” throughout the decision.

What happened

In January 2023 Miss H entered into a conditional sale agreement with CBL to acquire a used car. The car was just under seven years old, with a mileage of 67,850. The cash price of the car was £7,690, and a deposit of £474.61 was paid by method of trade-in. So, the total amount financed on the agreement was £7,215.39 payable over 60 monthly repayments of £179.68.

In November 2023, Miss H experienced an issue with what she described as the vehicle’s cambelt snapping. Miss H took this in for repairs and complained to CBL about the issue. CBL didn’t uphold the complaint. An engineer’s report was carried out by an independent car inspector. In this, the engineer explained the fault that needed repair was not present at the point of sale. In its final response, CBL said because Miss H had experienced the faults more than six months after the point of supply, it was up to her to show that the faults were present or developing at the point of supply.

Miss H remained unhappy and brought her complaint to this service where it was passed to one of our investigators. She originally wanted to reject the vehicle. However, during the complaints process Miss H took the decision to have the vehicle repaired as she said she needed use of it. Miss H also supplied later comments from the engineer that carried out the report stating that there was no evidence that her driving of the vehicle was directly responsible for the failure of the timing belt unless a low gear was selected at very high RPM.

The investigator didn’t uphold the complaint. He said that because of the length of time Miss H had been using the car and because of the mileage she’d covered during that time, it was more likely that the faults were due to reasonable wear and tear and that the fault would not have been present at the point of sale, making the car of satisfactory quality at the point of sale.

Miss H didn’t agree so I’ve been asked to review the complaint to make 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.

Miss H acquired a car under a conditional sale agreement. Entering into consumer credit contracts like this is a regulated activity, so I'm satisfied we can consider Miss H's complaint about CBL. CBL is also the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply of the car and its quality.

The Consumer Rights Act 2015 (CRA) is relevant in this case. It says that under a contract to supply goods, there is an implied term that "*the quality of the goods is satisfactory, fit for purpose and as described*". To be considered as satisfactory, the CRA says the goods need to meet the standard that a reasonable person would consider satisfactory, considering any description of the goods, the price and all the other relevant circumstances. The CRA also explains the durability of goods is part of satisfactory quality.

So, it seems likely that in a case involving a car, the other relevant circumstances a court would consider might include things like the age and mileage at the time of sale and the vehicle's history.

In this case, Miss H acquired a car that was just under seven years old and had travelled over 67,000 miles. As this was a used car with this mileage and age, it's reasonable to expect parts may already have suffered more wear and tear when compared to a new car or one that is less travelled. There's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.

I've reviewed the available evidence about the issue Miss H experienced with the car. Based on what I've seen, I'm satisfied that there is a fault with the wet timing belt. I say this because the independent inspection report confirmed there was a fault with the wet timing belt due to engine cranking and crankshaft turning without the wet belt, inlet camshaft and exhaust camshaft turning in relationship along with fault codes displayed at the time of inspection. Having considered the car had a fault, I've considered whether it was of satisfactory quality at the time of supply. I'll also consider whether the timing belt was suitably durable.

In their report, the engineer describes the fault as a fault with the wet timing belt due to the error codes present and the physical evidence on inspection.

Regarding the key issue of if the fault was likely to have been present or developing at the point of sale, the engineer stated that the fault would not have been present at the point of sale.

The engineer stated the following "*Given that this vehicle was in the customers possession for 312 days before the failure then the faults with the timing belt would not have been present at the point of sale. This would be an in-service fault.*"

This suggests to me that the engineer is persuaded the fault with the wet timing belt was not present at the point of sale, and this would support that the car was of satisfactory quality at the point of supply.

Taking into account the amount of time Miss H had the vehicle, and that during this time Miss H travelled over 5,000 miles, research suggests this to be around average mileage for the ten months of ownership, indicating Miss H had good use of the vehicle. This, alongside the engineer's opinion and analysis of the issue, persuades me that the fault was not present or developing at the point of supply, because if it had been, I would have expected the fault to present itself much sooner than it did with less mileage being covered.

With that taken into account, I then moved on to consider if the car was suitably durable.

Within the engineer's report, it is stated that timing belts on these vehicles are scheduled for replacement at either ten years or between 100,000 to 140,000 miles dependent on the manufacturer.

The engineer also states that in their experience these belts can need replacing around every six years or around 60,000 to 80,000 miles to provide a further layer of protection and to prevent failure. The engineer also states that oil condition past and present can be very significant in the deterioration of the belt.

Whilst considering if the vehicle was durable, I've looked at the engineer's report, the expected lifetime of the wet timing belt and when this might reasonably need to be replaced. This fault has occurred before the manufacturers schedule as confirmed by the engineer, however it has occurred within the timeframe the inspecting engineer might have expected it needed replacing for protection from their experience, as explained in the report. Miss H was able to travel over 5,000 miles and use the car for around ten months before the fault occurred, and I am persuaded the information I have, suggests the car was suitably durable at the point of supply due to the distance covered, and the engineer's experience of these parts.

Miss H provided further comment from the inspecting engineer due to something she states they said to her at the time. These have been provided in writing by the inspecting engineer as follows *"I would agree in driving the vehicle the operator could not have been directly responsible for the suspected timing belt failure, unless a low gear was selected at very high rpm. There was no physical evidence of this so operator influence is not suspected in this case."*

Whilst this does show that the engineer's opinion is Miss H hasn't directly caused the fault through her driving style, this also does not contradict their opinion during the inspection that the fault would not have been present at the point of sale due to the length of time Miss H had the vehicle and the amount of mileage covered since the point of sale. Alongside in their experience, the timing of the replacement needed after six years and within the range of 60,000 to 80,000 miles to prevent failure. Having carefully considered all of this information, I do not think it would be fair to say the car wasn't suitably durable when it was supplied based on this information.

I acknowledge Miss H feels the car wasn't of satisfactory quality as she may not have expected a fault like this to occur within the timeframe it did. However, I haven't found anything to show the fault was present or developing at the point of sale, or that the car wasn't durable. I do think it is more likely that the issue with the timing belt was due to general wear and tear taking everything into account.

Based on everything I've seen, there isn't enough evidence to persuade me that the car wasn't of satisfactory quality or that it wasn't suitably durable at the point of supply. So I won't be asking CBL to do anything further.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss H to accept or reject my decision before 3 December 2024.

Jack Evans

Ombudsman