

The complaint

Mrs G complains that a used car she acquired through a hire purchase agreement financed by Close Brothers Limited trading as Close Brothers Motor Finance is of unsatisfactory quality.

What happened

In July 2021, Mrs G took out a hire purchase agreement to cover the cost of a used car. The car cost £10,495. It was just over seven years old, and the agreement shows it had around 56,700 miles on the odometer.

Mrs G said the car had problems with gear changes from the start. The dealer carried out a software update in August 2021 and changed oil and filters. In March 2022 the car broke down. Mrs G contacted the dealer, who found the gearbox needed replacing. Repairs were undertaken between April and July 2022, including fitting a reconditioned gearbox, and then replacing it when it became clear it was faulty.

In January 2024 Mrs G complained to Close Brothers. She said the car had broken down again in December 2023 and she was told a new gearbox was required. Mrs G said the car wasn't of satisfactory quality when it was supplied and asked for the car to be taken back and her repayments to be refunded.

Close Brothers didn't uphold Mrs G's complaint. They said it was up to her to provide evidence that the problems the car was experiencing were there at the point of supply. Close Brothers then issued a second complaint response after Mrs G sent in an independent report. They concluded that the recent faults were considered 'normal maintenance' given the mileage Mrs G had covered in the car.

Mrs G referred her complaint to our service, where one of our investigators looked into what had happened. He said it was clear there was a fault with the car in early 2024. But he concluded that there wasn't enough evidence to say the car was of unsatisfactory quality at the point of supply.

Mrs G didn't agree. In summary, she said the investigator hadn't considered the evidence she sent in to show the fault was present at the time of supply. She added that she'd have rejected the car at that point had she known this was an option. And Mrs G didn't think it was fair for Close Brothers to ask for an engineer's report to prove the fault was there from the start, to later say the problems wouldn't have been present at the point of the first gearbox replacement. Mrs G asked for an ombudsman to consider the complaint – and so it's come to me.

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.

Having done so, I'm not upholding this complaint. I'll explain why.

Mrs G has raised various points. But I'm going to focus on what I think is the key issue and the crux of Mrs G's complaint. This reflects the informal nature of our service.

The Consumer Rights Act 2015 (CRA) is relevant here. It says, amongst other things, that the supplier, (in this case Close Brothers), needs to make sure that goods are of satisfactory quality at the point of supply. When considering what amounts to satisfactory quality, the standard applied is that of a 'reasonable person'. In other words, what a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant factors.

In cases involving a car, I think it's likely that the relevant factors a court would take into account might include things like the cost, age and mileage at the time of supply. Here, Mrs G acquired a used car that cost £10,495. It was just over seven years old, and the agreement shows it had around 56,700 miles on the odometer. I think a reasonable person would expect a car of that age and mileage to have more wear and tear than a new car. And that it may need repair or maintenance sooner than a newer car would.

So, what I need to consider here is whether the car was of satisfactory quality at the time it was supplied. There are three main points at which Mrs G says the car developed a fault, so I've considered these in turn.

July 2021

Mrs G said she discovered problems with gear changes almost straight away. And she's sent us messages from a previous owner of the car who'd returned the car to the dealership not long after they acquired it because of similar issues. Mrs G said this is evidence showing the car wasn't of satisfactory quality. Based on what I've seen it's not in dispute that there was a fault with the car in July 2021. But I don't think Close Brothers need to take further action on this specific point. I'll explain why.

There is limited information available about exactly what happened here. But it appears the dealer carried out some repairs, including a software update free of charge. Repair was one of the rights available to Mrs G under the CRA if the car was of unsatisfactory quality. I'm satisfied the repairs were successful, as Mrs G drove the car for several months afterwards before it broke down. So, even if I concluded the car wasn't of satisfactory quality due to any initial issues with it, her rights under the CRA were broadly met at the time.

Mrs G says she should've been allowed to reject the car at this point. I accept the fault occurred within the 30 days the CRA allows for a short-term right to reject if the car was of unsatisfactory quality. But Mrs G didn't exercise this right. I acknowledge that Mrs G said she wasn't aware she could reject the car. However, I don't think Close Brothers are responsible for this lack of knowledge.

March 2022

Following the previous repairs Mrs G was able to use the car until March 2022 before it broke down and required a new gearbox to be fitted. According to the expert report Mrs G commissioned, the car had covered 68,988 miles at this point. This means Mrs G had the car for around seven months and it had covered around 12,300 miles.

I've carefully thought about this. And it's worth noting there is again a lack of evidence from this point. But I haven't seen enough to persuade me that any faults appearing here were linked to the initial issues Mrs G had with the car.

Assuming the gearbox failed for a different reason, I don't think it's likely this was present or developing at the point of supply given the timescales and mileage involved. Nor do I think a reasonable person would consider that the car wasn't durable, given Mrs G had covered over 12,000 miles in it.

It follows that I'm not persuaded the car was of unsatisfactory quality at the time of supply due to the failure that led to the car breaking down in March 2022.

December 2023

Mrs G told us the car broke down again in December 2023. At this point Mrs G had the car for nearly two and a half years. And from the mileage recorded on the report from January 2024, the car had covered over 35,500 miles since she got it.

It doesn't seem in dispute that the car again developed a fault with the gearbox, and this is the opinion given in the independent report. I've again thought carefully about this. But I've already explained above why I don't think Close Brothers are responsible for the earlier gearbox replacement from the issues in March 2022. It follows that they aren't responsible for any subsequent issues arising from it. This includes whether the replacement gearbox was durable, as questioned in the report.

I'm also satisfied, considering this issue in isolation, that the most recent fault wasn't present or developing at the point of supply and that a reasonable person would consider the car durable given the age and mileage of the car.

My final decision

For the reason set out above, I'm not upholding Mrs G's complaint.

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

Anja Gill
Ombudsman