

The complaint

Miss R complains about the quality of a car supplied to her by Close Brothers Limited ("Close Brothers").

What happened

Miss R entered into a conditional sale agreement with Close Brothers in January 2022 for a used car. The car was around five years old and had covered approaching 65,000 miles when supplied.

It appears that the car suffered a problem with the turbo sometime around July 2022, and Miss R has supplied a repair invoice from a main dealer where the repair work was carried out, she has told us this was carried out under a warranty. There was no warranty bought under this agreement with Close Brothers.

From looking at the contact notes supplied by Close Brothers, I can see that they had been in regular contact through 2022 with Miss R due to missed payments. The turbo repairs are first mentioned in the contact notes by Miss R in around November 2022. Miss R told us the repairs took until November/December 2022 to be completed and for the car to be returned, although Miss R has confirmed they were supplied with a courtesy car during this period.

There was a complaint about this turbo issue, which is separate from this complaint, so I won't be commenting on that, other than to reference any mechanical issues relevant to this subsequent complaint. The warranty wasn't part of this sale, and there hasn't been a complaint about it.

In October 2023 Miss R contacted Close Brothers to complain that the engine needed to be rebuilt and she wanted to reject the car. They asked her to provide evidence, and she sent them a word document, dated 29 September saying that a mechanic from a company had attended a service call to the car, describing some symptoms, and saying that the car mileage was just over 85,000. It focused on the opinion that the engine could have detonated due to left over filings within the engine, and said the turbo had failed prematurely, and that they deemed the subsequent engine failure was either a result of a manufacturing/factory fault, or a faulty turbo repair.

Close Brothers asked an independent engineer to inspect the car, and their report said that having covered over 20,000 miles since supply, they felt the fault had developed after the car was supplied. They said that the car would need a replacement engine, and they didn't believe the supplier was responsible. It also said a warning light was present saying that the car was overdue a service

Close Brothers issued their final response letter (FRL) in January 2024 saying they weren't upholding the complaint, because the mileage covered since supply showed the car was of satisfactory quality when supplied.

Miss R brought her complaint to our service, and it was investigated here. The investigator gave their opinion in March 2024 and didn't uphold the complaint. They said that the report

the consumer had supplied suggested this engine failure may be due to the repairs carried out to the turbo in 2022, and if so, those repairs weren't carried out by Close Brothers or their supplying broker, so Close Brothers couldn't be held responsible for them.

They also highlighted that the invoice for the turbo repairs didn't go into any detail about why those repairs were needed, and that they felt that if there was an inherent fault when the car was supplied which had caused this engine failure, it would have presented sooner than 20 months later after covering more than 20,000 miles.

Unhappy with this, Miss R asked for an Ombudsman to make a final decision. They said they had an additional report, and sent another word document from the same mechanic, unsigned and undated, saying this car was attended previously by them at the roadside and they now believed that the previous turbo failure was a sign of an underlying fault with the car, and the engine should last much longer than this. They said they believed the root of the problems predated Miss R's ownership.

Then whilst awaiting an Ombudsman decision, another unsigned report from the same mechanic was received at our service, dated 1 October 2024, saying they had carried out an onsite inspection, the expected lifespan for this engine was 217,450 miles and it had only covered 85,000 miles, and they'd never seen a failure like this so early in a car's life. It said that they felt that there was either an underlying fault or a manufacturer fault, either of which predated Miss R's ownership. The case was then passed to me 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.

Having done so, I've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Miss R was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we're able to investigate complaints about it.

The Consumer Rights Act 2015 ('CRA') says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Close Brothers are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also implies that goods must conform to contract within the first six months. So, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless Close Brothers can show otherwise. But, where a fault is identified after the first six months, the CRA implies that it's for Miss R to show it was present when the car was supplied.

So, if I thought the car was faulty when Miss R took possession of it, or that the car wasn't

sufficiently durable, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask Close Brothers to put this right.

Whilst I empathise with Miss R and the problems she's had with the car, I'm not persuaded that she's shown the problems with the car were present or developing when the car was supplied.

I have considered the content of the three reports Miss R has supplied. Unfortunately, the content of the reports lacks detail and is inconsistent, despite apparently being from the same mechanic. The first report supplied suggests it might have been an inherent manufacturing fault or might have followed on from the turbo repairs carried out previously. The second report says they believe the engine failure it's due to an underlying fault, but doesn't explain what or why, and the third report says there must have either been an underlying fault, or a manufacturer fault, both of which would predate Miss R's ownership, but again, doesn't explain why or give any details of the fault.

As I've said above, the CRA implies that where a fault occurs more than six months after supply of the car, it's for Miss R to prove it was present when the car was supplied. These reports don't really diagnose exactly what the fault was, or why its only caused this problem now, 20,000 miles and 20 months down the line from when the car was supplied. If the fault has led on from the repairs to the turbo, as the first report suggests might be the case, then it would not be fair to hold Close Brothers responsible for this. Miss R appears to have had extensive repairs carried out in 2022, without informing the broker or Close Brothers of the problems the car was having, so they haven't had the chance to inspect or repair the car.

The only other conclusion the reports draw is that the faults must have been developing prior to the car being supplied to Miss R. But the mechanic is just stating that they believe this, based on their experience of this type of engine previously, without providing a diagnosis of precisely what the faults are with this car, or how they might have developed over this time period.

Fundamentally, the CRA requires Miss R to prove that the problems she's having with the car now, were present or developing at the point the car was supplied to her. None of the reports provided do this, and they don't persuade me that this is what has happened. They are inconsistent, and lacking in detail to explain how this may have happened.

I also can't fairly say that the car isn't durable, as I've seen no evidence of what's actually gone wrong with the car, or why it's happened. At the point of failure, the car has covered 85,000 miles from new. Depending on how its been maintained and serviced, it's quite possible that parts are failing due to wear and tear at this point. But again, I can't know this without further evidence, which hasn't been supplied.

Miss R has supplied three different reports from the same mechanic. Only one of them is signed, and none of them are on headed paper. They are also word documents that could be edited. I can see that after the first report was supplied, Close Brothers highlighted their concerns with this, and laid out their requirements to Miss R for a report to be on headed paper, signed, not on an editable word document, and that they needed a report to explain if the faults were present or developing at point of sale, including evidence to back up this opinion. An email was sent to Miss R by Close Brothers in November 2023 outlining these requirements. None of these requirements have been met.

They had also previously said that any report should be from a VAT registered garage or independent engineer service. These are reasonable requests, and very similar to what our service would advise a consumer about getting a report. I noted that whilst they weren't on headed paper, the reports did have a footer that showed a limited company registration

number and a VAT registration number.

However, when I investigated these, the named limited company, which matched the company registration number printed on footer of the reports, was dissolved in July 2023 according to Companies House, and I could find no record for the VAT registration number given. All the reports were dated after the date that the company is showing as having been dissolved. I've also been unable to find any details for this company on the internet, and there was no address provided on the reports, just a mobile phone number.

Close Brothers produced an independent engineer's report, and it would be fair to also consider this, particularly if this evidenced that the faults might have been present or developing when the car was supplied. However, the report doesn't do this, instead concluding the faults are more likely to have developed after the car was supplied. I'm not persuaded that this is necessarily the case from this report either, as it also doesn't go into much detail about exactly what's gone wrong with the car now.

But the problem here is that 20 months after supply, the CRA requires Miss R to prove what's happened to the car, and that any fault was present or developing when the car was supplied. Unfortunately, I haven't seen any persuasive evidence of either what has happened to the car/what the faults are, or whether they were present or developing at point of sale. Alongside this, I have some concerns about the authenticity or reliability of the reports Miss R has provided as discussed above.

Unfortunately, when buying a used car, it's sometimes difficult to know what sort of use and wear the car has suffered previously. It can also be difficult to know if something subsequently goes wrong, whether the problem is a newly developed one, or whether it was developing when the car was supplied. The CRA says that in circumstances like those here, Miss R needs to obtain and provide evidence to show what's gone wrong and whether it was developing when the car was supplied to her.

I'm afraid I'm not persuaded by the evidence she's provided, so I'm not able to uphold her complaint and I won't be asking Close Brothers to do anything more.

My final decision

I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss R to accept or reject my decision before 20 April 2025.

Paul Cronin
Ombudsman