

The complaint

Mr W complains about a motorbike supplied under a conditional sale agreement, provided by Close Brothers Limited trading as Close Brothers Motor Finance ('CB').

What happened

Towards the end of May 2024 Mr W acquired a used motorbike under a conditional sale agreement with CB. The motorbike is listed with a cash price of £6,588 on the agreement, was around sixteen years old and had covered around 16,777 miles. Mr W paid a deposit of £246.

Unfortunately, Mr W says the motorbike developed issues. He says within thirty minutes of acquiring it the motorbike had engine problems and wouldn't start.

In June 2024 Mr W complained to CB. He said the motorbike had a faulty clutch, engine and a faulty 'protector'. CB arranged for an independent inspection that took place towards the beginning of July 2024.

CB was also in touch with the dealer around this point, who explained it had got a report from a third-party garage. The dealer explained the reason the motorbike wouldn't start is because it had been dropped.

CB issued its final response at the end of July 2024. In summary, this said the motorbike had been returned to the dealer who found the faults were due to 'driver misuse' rather than a mechanical issue that was present at the point of supply. CB said the independent report that was carried out said the issue with the clutch and the damage were due to rider error.

Mr W remained unhappy and referred the complaint to our service. He said the motorbike went wrong so soon after he got it that he couldn't even make it home. And he said the motorbike was dropped by the person who recovered it following the breakdown.

Our investigator issued a view and didn't uphold the complaint. In summary, they said they hadn't seen evidence to suggest the issues with the motorbike were present when it was supplied to Mr W.

Mr W responded and didn't agree. He said it wasn't right the motorbike broke down so soon after he got it.

As Mr W remained unhappy, the complaint was 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.

Having done so, I do not think this complaint should be upheld. I'll explain why.

I should explain upfront that I might not comment on every point raised nor every piece of

evidence. I will instead focus on the key issues and the crux of Mr W's complaint. This reflects the informal nature of our service.

Mr W complains about a motorbike supplied under a conditional sale agreement. Entering into regulated consumer credit contracts such as this as a lender is a regulated activity, so I'm satisfied I can consider Mr W's complaint against CB.

When considering what's fair and reasonable, I take into account relevant law, guidance and regulations. The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. This says, in summary, that under a contract to supply goods, the supplier – CB here – needed to make sure the goods were of 'satisfactory quality'.

Satisfactory quality is what a reasonable person would expect, taking into account any relevant factors. I'm satisfied a court would consider relevant factors, amongst others, to include the motorbike's age, price, mileage and description.

So, in this case I'll consider that the motorbike was used, was around sixteen years old and cost around £6,588. This means I think a reasonable person wouldn't expect it to be in the same condition as a newer, less road worn model. But I think they would expect it to be free from anything other than reasonably minor issues and would expect trouble free riding for at least a short time.

What I need to consider in this case is whether I think Mr W's motorbike was of satisfactory quality or not.

All parties are in agreement here that Mr W's motorbike had significant issues after a very short amount of time. The key point I need to consider in this case is *why* these issues appeared and if CB are responsible.

I'll firstly address the issue around the bike being crashed or dropped. It doesn't seem in dispute that this was the case. Mr W explains the damage wasn't caused by himself and instead explained the bike was dropped when being recovered. But testimony from the dealer explains:

"there is a lot of evidence it has been heavily dropped/crashed since he has had it.

The customer said someone recovering it initially dropped the bike although the recovery driver that delivered it to us was keen to say it wasn't him."

I've also seen a copy of the independent report dated 5 July 2024. This said:

"We noted on our inspection that the motorcycle displayed damage to the left side which is consistent with the motorcycle being dropped - left fairing split and mounting bracket broken, left crash bung adrift with part of the main frame attached (frame snapped)."

I've thought about this. Clearly there are contradictory versions of events for what caused this damage. But it's important to stress that CB are responsible for the motorbike when *supplied*. Whether Mr W caused the damage, or a third party, I'm satisfied this happened *after* Mr W got the bike. And so, either way, under the circumstances of this specific case I find CB aren't responsible for this.

I've gone on to consider the other issues.

I've seen testimony from the dealer to CB about the situation dated 19 June 2024. This said:

“The technician found the starting issue was just a faulty relay (this is likely from it being dropped as it breaks the contacts inside”

“the clutch had been completely destroyed. There are burn marks, evidence of excessive heat, warping of the plates and a lot of broken fragments. We don't believe this is due to the drop/crash or faulty friction plates due to the friction plates having no tread at all left on them.”

*“The only answer to this is that **the clutch has been destroyed through misuse.**”*
(emphasis added by myself)

I've seen a copy of a handwritten note on headed paper from a third-party garage. I've assumed this was the report organised by the dealer. This says:

“Clutch plates destroyed”

*“Evidence of excessive heat **from improper use** found from smell and fusion of parts and excess debris”* (emphasis added by myself)

“Recommend engine change due to debris and contamination”

The independent report states:

“The dealer removed the clutch casing and clutch plates, the clutch plates are blue in colour, have little or no friction material left, the plates are warped, there is evidence of the friction material within the clutch housing and engine.

*It is our opinion that the failure of the clutch is as a **result of incorrect use / rider abuse** and not wear and tear, it is also our opinion that with the clutch in its current condition **it would be absolutely impossible for the client to have collected the motorcycle and ride off at the point of sale.***

The clutch fault in our opinion was a direct result of the rider and not present at point of sale.

*We believe that the bike was sold in an acceptable condition for its age and mileage at point of sale, we believe that the current issues with the clutches and **the damage to the bike is caused by rider error.**”* (all emphasis added by myself)

Thinking about this, there is very consistent testimony, from three different parties, that is very clear that the damage to the clutch was caused by rider error. And the independent report states it would be *“absolutely impossible”* for Mr W to have been able to leave on the bike in the condition it was inspected in.

I've also seen a copy of an *“internal transaction”* from the dealer, dated from the end of May 2024. This appears to be for the preparation of the motorbike as it included details of a service, MOT and tyres. Part of this states:

“TEST RIDE – (name of employee)”

No issues with the clutch are recorded.

So, I'm satisfied a staff member from the dealer test rode the motorbike before Mr W got it. Given the extent of the damage noted, I'm persuaded this would've flagged up the issues with the clutch if they were present at the time.

I've thought very carefully about this. And I want to reassure Mr W that I've considered everything he's said. But, the evidence from the experts who have seen the motorbike is extremely clear in this case. I've not been given anything to suggest the findings they've made are incorrect. So, I find the damage to the clutch occurred after Mr W got the motorbike. It follows this means I find it was of satisfactory quality when supplied to him.

I have considered the very low mileage covered by Mr W – this was only about 11 miles. But, again, the dealer, third party garage and independent report have been clear on this matter. And I've considered the performance available on this specific bike and how this might have affected things if it was used incorrectly. So, the mileage doesn't change my opinion.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 1 July 2025.

John Bower
Ombudsman