

The complaint

Mr R complains that a used car he acquired through a hire purchase agreement financed by Close Brothers Limited trading as Close Brothers Motor Finance ('Close Brothers') is of unsatisfactory quality.

What happened

In September 2023, Mr R took out a hire purchase agreement to cover the cost of a used car. The car cost £7,988. It was over nine years old and had around 125,000 miles on the odometer.

Mr R contacted Close Brothers in November 2023 to complain. He said the car's battery was flat when he collected the car, and he'd replaced both the main and the auxiliary battery. Mr R added that the car was shaking when he put it in first gear.

Close Brothers instructed an expert to carry out an independent inspection, which took place on 30 November 2023. The expert noted the car juddering through transmission from first to second gear, along with multiple fault codes in multiple systems. The expert's report concluded there was an electrical fault with the vehicle, relating to the batteries, which was likely present when Mr R got the car.

Close Brothers issued a final response and upheld the complaint. It said was 'supporting' Mr R to repair the car based on the contents of the report. Close Brothers then asked Mr R to provide them with estimates for the repairs required.

After reviewing the estimates Close Brothers sent a further final response to Mr R's complaint in February 2024. This concluded that repair wouldn't be economical. So, they offered to take the car back and unwind Mr R's finance agreement.

In March 2024 Mr R told Close Brothers the electrical issues with the car had been repaired. He said he's spent £975 to sort out the electrical issues, and so he wasn't happy with the outcome Close Brothers had reached. Mr R said he didn't want to return the car in light of the money he'd spent.

Mr R referred his complaint to our service, where one of our investigators looked into what had happened. Our investigator said the car wasn't of satisfactory quality at the time of supply. Taking into account the quotes Mr R obtained for repairs she didn't think it was unreasonable for Close Brothers to conclude the car was beyond economical repair – and so the offer to reject the car was fair.

However, the investigator thought that Close Brothers should offer to refund Mr R the money he spent on the two batteries and a diagnostic and said they should pay him £200 for any distress and inconvenience caused to him.

Close Brothers accepted the recommendation, but Mr R didn't agree. In summary, he said he'd paid close to £2,000 already to fix the car so the investigator's recommendation would leave him out of pocket. Mr R said Close Brothers should end the agreement with nothing

further to pay and let him keep the car. Alternatively, they should pay for all the further repairs, including those recommended in the expert report.

Our investigator considered what Mr R said, but it didn't change her opinion. As no agreement could be reached, the complaint was passed to an ombudsman – and it came to me.

While awaiting a decision, Mr R sent in additional invoices showing he'd paid for further repairs, tyres, an MOT and other maintenance on the car.

I issued a provisional decision on 20 November 2024. In that I said:

"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 inclined to say that Close Brothers need to do more to resolve Mr R's complaint.

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 – Close Brothers 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 car's age, price, mileage, and description.

It's not in dispute that the car Mr R acquired in September 2023 wasn't of satisfactory quality as Close Brothers have offered to allow Mr R to reject the car. I don't think I need to go into significant detail here. But having read the expert report dated 30 November 2023, along with the estimates and other evidence, I also agree this was the case, given the faults were reported only eleven days after Mr R got the car. So, what remains for me to decide is how Close Brothers should put things right for Mr R.

Mr R has said from the outset that he wants to keep the car. While I can understand why he says that I must consider whether Close Brothers acted fairly when declining the repair and offering rejection of the car instead.

The CRA set out that if the goods aren't of satisfactory quality the consumer has certain rights, which can include the right to reject and the right to repair. Close Brothers said they would allow Mr R to reject the car. But Mr R asked for the car to be repaired.

The CRA sets out that generally, Mr R would have the right for the car to be repaired when he requested this. Crucially though, the CRA also sets out that Mr R couldn't require the trader to repair the car if this would impose disproportionate costs on the trader.

The car Mr R acquired was first registered in July 2014 and had travelled around 125,000 miles by September 2023. The cash price was £7,988. Mr R provided Close Brothers with two quotes for around £1,838 and around £2,933 respectively. The quotes were based on the repairs the expert report highlighted. I've thought about this carefully. I note that the report also said:

"We would recommend an auto-electrician within workshop facilities carry out further investigation to determine where the actual fault lies with this and we suspect that the humming sound coming from the rear of the vehicle is likely

to be related to that as there are electronic components, including relays within that area.”

Based on this I don't think it was unreasonable for Close Brothers to decline a repair of the car. The repair quotes were already significant in relation to the vehicle's value. And there was a realistic prospect of further problems being discovered upon further inspection. I'm also conscious the issue with the clutch/gears could also cost a significant amount. For this reason, I'm satisfied Close Brothers acted fairly when offering Mr R to reject the car rather than offering repair.

Mr R said he had significant outlay in trying to fix the car. He's sent us invoices and receipts to show what he's spent. And Close Brothers have agreed to reimburse Mr R for the batteries, totalling £589. I don't think this goes far enough.

I say this because the expert report suggests that the diagnostic tests and repairs Mr R had done prior to contacting Close Brothers about the problem were necessary to determine the fault with the car. I'm satisfied on balance this includes the work Mr R had done on or around 20 October 2023, which included work on the alarm, clearing fault codes from the control units and resetting all control unit adaptations. This is because I think it's most likely this work was linked to the electrical issues.

With that in mind, I'm inclined to say Close Brothers should reimburse Mr R a total of £921.40, to include the following:

- £108 for diagnostic testing on 22 September 2023
- £274.80 for a new auxiliary battery on 14 November 2023
- £274.20 for a new starter battery on 17 November 2023
- £40 for diagnostic testing on 21 November 2023
- £224.40 for repairs including removing and renewing alarm siren and wiring plug sockets, clearing fault codes and resetting control unit adaptations on 20 October 2023.

I've thought about the additional things Mr R has said he's paid out on. I can see from the invoices Mr R sent in that he paid £975 to sort out the electrical problem and around £260 to replace injector bolts and seals and a rocker cover seal. I'm mindful here that these repairs took place after Close Brothers had told Mr R that they'd concluded it was uneconomical to repair the car and offered to unwind the agreement instead, which as above I think was reasonable. Mr R went ahead knowing Close Brothers wouldn't pay for repairs, so I don't think it would now be reasonable for me to ask Close Brothers to reimburse Mr R.

Mr R also raised that he's paid for other things including MOT, re-gassing the air conditioning and servicing the tyres. These expenses are general maintenance of the car. And given how many miles Mr R has covered, I don't intend to ask Close Brothers to reimburse Mr R for these costs.

While there clearly were problems with the car, I can see Mr R was able to drive the car regularly – so I think it's fair for Close Brothers to keep the majority of the monthly rentals Mr R paid. But it's clear that the car wasn't performing in the way it should have, and this affected Mr R's driving experience. And so, I think Close Brothers should refund 10% of the payments Mr R made to account for the impaired use of the car from the time of supply to the date Close Brothers collect the car.

Being supplied with a car that wasn't of satisfactory quality resulted in multiple trips to the garage, and this will have caused Mr R some distress and inconvenience. All things considered, I think Close Brothers should pay Mr R £200 to compensate him for the upset caused."

Mr R responded with additional information and asked me to reconsider what I said about rejecting the car. And he provided an invoice for the alarm siren, as the invoice he previously submitted only included labour to fit the part. Mr R said that £200 wasn't enough to compensate him for the danger he'd been put in because the car wasn't of satisfactory quality – and the garage had told him the car was a fire hazard. He said the car had stopped in the middle of a junction with his children on board, and he had to be towed several times.

I wrote to both parties to let them know I intended to include the cost of the alarm siren in the redress and asked for further submissions. Close Brothers didn't respond to my provisional decision or my subsequent email. And Mr R let me know he changed his mind about keeping the car. He said he'd accept the redress I set out.

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.

I set out in my provisional decision why I thought the work on the alarm siren was likely linked to the electrical issues with the car. Mr R has now submitted an invoice for the alarm siren part, which came to £165.60. I think Close Brothers should reimburse Mr R for the cost of the alarm siren – and I've included it in the overall amount set out below.

I've considered Mr R's comments about the safety of the car and the award for trouble and upset. He sent a copy of diagnostics from a garage in response to my provisional decision. But I'd already considered this as part of my provisional decision, as we had a copy of the diagnostics on file. Similarly, I was aware that the car had broken down and had to be recovered several times. I was sorry to hear that the car broke down when Mr R was travelling with his children. I appreciate that would have been a scary experience, but I don't think that this additional breakdown warrants an increase to the award for trouble and upset I've already made.

Putting things right

Having considered all the available evidence, and for the reasons set out above, I uphold this complaint. Close Brothers should now:

- end the agreement with nothing further to pay;
- collect the car (if this has not been done already) at no further cost to Mr R;
- refund 10% of each monthly rental payment from the date Mr R acquired the car to the date Close Brothers collect it;*
- refund Mr R's deposit of £2,999.98;*
- refund Mr R £1,087 for additional expenses as directed in my findings, which have been incurred as a result of the inherent quality issues with the car. Close Brothers may deduct any payments they've already made in respect of the items listed above.*
- pay a further amount of £200 for any distress and inconvenience that's been caused due to the faulty goods;

- remove any adverse information from Mr R's credit file in relation to the agreement.

*Close Brothers should pay 8% simple yearly interest on these amounts from the date of payment until the date of settlement. If Close Brothers considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr R how much it's taken off. It should also give Mr R a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons set out above I uphold Mr R's complaint and I direct Close Brothers Limited trading as Close Brothers Motor Finance to take the steps outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 16 January 2025.

Anja Gill
Ombudsman