

The complaint

Mr J has complained that he is unhappy with the quality of a car he acquired in April 2023, using a conditional sale agreement with Close Brothers Limited, trading as Close Brothers Motor Finance ("Close Brothers").

What happened

Mr J acquired a used Audi in April 2023 using a conditional sale agreement with Close Brothers. The car cost £26,500, of which Mr J borrowed £23,715 over 60 months, with monthly repayments of £529.83. The car was just over five years old at the time and the mileage stated on the agreement was 61,000 (although public records show a mileage of 61,337 at the MOT carried out in November 2022).

Mr J told us that after acquiring the car, he noticed that now and then the car would sound different in different gears and speed ranges, there was a mechanical sound coming from the rear side of the vehicle and the car stuttered at some points. He said he raised this within 30 days of collecting the car. Mr J further said that he went to another garage to get the car checked, and he was told that there was definitely something wrong with the car but that there would be a charge for further investigation.

Mr J said he then contacted Close Brothers to make a complaint and to say that he wanted to reject the car. Close Brothers' notes record this as being in June 2023, with the reported faults being as follows;

- chip in windscreen
- issues with brake discs and pads
- squeaking from brakes
- rattling noise from rear of vehicle
- deep scratches on the vehicle
- car shaking when idle
- audio system issues
- child lock malfunction

The notes from Close Brothers also refer to Mr J saying that he had paid for a wheel alignment, oil change and new wiper blades.

Close Brothers commissioned an independent inspection, which was carried out in early July 2023. The report lists the mileage as 61,337 at the point of supply and 67,078 on the day of the inspection. The engineer did find some faults – although not all of those listed above – but concluded that they would not have been present or developing at the point of supply. The engineer noted that Mr J had travelled over 5,700 miles since the point of supply.

Mr J said the engineer told him that the car should have not been sold in its current state, but this is not what is stated in the independent report. So Mr J is unhappy about the report.

Close Brothers issued its final response letter to Mr J in July 2023, saying that, as the independent report stated that the faults had not been present or developing at the point of supply, it did not uphold his complaint.

Mr J was not happy with this, so he brought the complaint to this service.

Whilst the complaint was at this service, the car had an MOT inspection in March 2024 and passed with no advisories. Public records show that the mileage recorded on the MOT was 65,398 (albeit this was lower than that recorded on the independent inspection report from July 2023).

After this, in May 2024, Mr J raised a second complaint with Close Brothers, saying that there were engine issues, a loss of power, misfiring and problems with the timing chain. Close Brothers' notes show that Mr J said the mileage at this point was around 73,000, but that he later confirmed the mileage as 81,367 in June 2024.

Close Brothers issued its final response letter on this complaint in June 2024, saying that it didn't uphold his complaint. This was because it was most likely that issues were due to wear and tear given that he had travelled around 20,000 miles since acquiring the car, and the overall mileage was over 80,000. Nonetheless, Close Brothers said that if Mr J was able to provide independent evidence that the issues were present or developing at the time of sale, it would look into his concerns again.

Following all this, our investigator looked into the complaint, but didn't think it should be upheld. Mr J didn't agree and asked for it to be reviewed by an ombudsman.

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've decided not to uphold this complaint. I'll explain why.

I've taken account of the relevant law, in particular the Consumer Rights Act 2015, ("CRA"). Because Close Brothers supplied the car under a conditional sale agreement, it's responsible for a complaint about the quality, and there's an implied term that the car was of satisfactory quality. Cars are of satisfactory quality if they are of a standard that a reasonable person would expect, taking into account all of the relevant circumstances such as (amongst other things) the age and mileage of the car and the price paid. When considering satisfactory quality, I also need to look at whether the car is durable – that is, the components within the car must be durable and last a reasonable amount of time.

There are certain times, set out in the CRA, when a consumer is entitled to reject goods, in this case the car, if they don't conform to contract – a short term right to reject within 30 days of taking delivery, or a final right to reject if a repair or replacement hasn't resulted in the car subsequently conforming – that is, it then being of satisfactory quality.

In this case, of course, the car was just over five years old, with a mileage of around 61,000, when Mr J acquired it. And the price was lower than that of a new car. So it's reasonable to expect that parts of the car would have suffered wear and tear, and that a car of this age would likely need repair and maintenance sooner than a newer car.

Close Brothers sent in copies of the finance agreement, its records of its contact with Mr J, and the independent inspection report. Mr J sent in his account of events, and, after our

investigator had issued her initial view, he sent in two reports dated June 2023 from the garage that checked the car.

I've summarised the details of the problems with the car above, but I've read and considered all of the evidence provided by both parties. Having done so, I'm not satisfied there's enough evidence to say that the car wasn't of satisfactory quality at the point of supply. I say this for the following reasons.

As I noted above, the independent inspection report stated that there were faults with the car. But the engineer concluded that the faults had not been present or developing at the point of supply, and noted that Mr J had been able to travel over 5,700 miles since he had acquired the car just over a month earlier.

The faults identified in the report were a chip in the windscreen, the front and rear brake discs being scored and lipped and a squeaking noise evident when the brakes were applied. However, the engineer noted that the brakes had achieved a 64% efficiency. These all seem to me to be items that would be subject to wear and tear, and these issues don't seem unexpected given the age and mileage of the car.

Mr J has more recently provided a 'vehicle maintenance & condition report' and a 'vehicle inspection report', both dated June 2023, from a garage that checked the car at that point. These list a mileage of 66,893 (which I note is consistent with the independent inspection but not with the later MOT). The reports refer to engine oil and transmission fluid leaks, fault codes showing the timing was out, and fragments of metal in the oil filter, and say that the car is not deemed roadworthy. One of the reports says that it is strongly advised that the car not be driven until all issues have been repaired. The other report refers to the issues likely being due to the previous owner's excessive driving and lack of proper maintenance – but it also refers to the previous owner having driven the car for 66,000 miles.

There are some inconsistencies here. It is not clear why the oil and transmission fluid leaks noted in the reports from the garage were not included in the items complained about to Close Brothers. And I note that the engineer who carried out the independent inspection report did not find leaks or fault codes relating to timing. On the other hand the garage report states the brakes and paintwork to be in good condition, whereas these items were raised with Close Brothers and looked at by the engineer when he carried out the independent inspection.

The difference in mileage between the garage and the later independent inspection reports is just over 100 miles, so it seems Mr J had carried on driving the car. But he hasn't said that he had any repairs carried out. As I noted above, the garage report also refers to pre-existing problems and the previous owner's driving and lack of maintenance. But other records show the mileage as being around 61,000 when Mr J acquired the car, meaning that Mr J had driven well over 5,000 miles since then, in just over a month – the garage reports don't account for this. And the garage reports refer to 'likely causes' of the problems it found, and the need for further inspection. So this seems rather speculative, and because of these inconsistencies I don't feel that I can place a great deal of weight on the garage reports. So I don't consider them sufficient to outweigh the evidence set out in the independent inspection report.

Turning to the later complaint, when Mr J raised engine issues, a loss of power, misfiring and problems with the timing chain, I don't have any details of what happened, or any reports from a garage to give details of the problems or the causes. I note that at this point Mr J told Close Brothers in June 2024 that the mileage was 81,367, and more recently he told us that the mileage was 88,000. So Mr J had travelled over 20,000 miles in the 14 months since he acquired the car, which is quite a high usage, and seems to have continued to use the car

after that. I've also kept in mind the MOT in March 2024 which was a 'pass' with no advisories.

I've been provided with no evidence to suggest the more recent problems were present or developing at the point of supply, and Mr J having travelled over 20,000 miles in the car suggests to me that they most likely were not – I think they would have developed more quickly had they been so. It seems to me that with an overall mileage of over 80,000, a number of the components would have been reaching the end of their expected lifespan due to wear and tear.

Mr J has told us how all this has affected him, and I appreciate that things have been difficult for him. But although I understand that Mr J feels strongly about this, overall it seems most likely that the problems with the car arose from reasonable wear and tear – I'm not satisfied that there is enough evidence to say otherwise. So from the evidence I have, I can't fairly say the car wasn't of satisfactory quality at the point of supply, and therefore I can't fairly require Close Brothers to do more than it has. So I've decided not to uphold this complaint.

My final decision

For the reasons given above, I have decided not to uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 26 June 2025.

Jan Ferrari
Ombudsman