

## **The complaint**

Mr L has complained about the quality of a car provided on finance by Close Brothers Limited trading as Close Brothers Motor Finance.

## **What happened**

Close Brothers supplied Mr L with a used car on a conditional sale agreement in September 2023. The cash price of the car was around £6,000 and it had covered around 67,500 miles since first registration in March 2014. Mr L paid a deposit of around £600. The conditional sale agreement required payments of around £150 for 47 months and a final payment of around £160.

By the middle of October 2023 Mr L said that he noticed the car was losing coolant, so he topped it up. He said that he also replaced the expansion tank. After another six weeks or so he said he noticed it ran out of coolant so he contacted the selling dealer who I'll call "M".

Mr L said M told him to take it to a third-party garage and that they would pay for a repair. Mr L said he did as instructed but after a couple of days the garage told him he would have to pay for the repair. The garage replaced the radiator unit.

Mr L said he contacted Close Brothers to let them know, but paid for the repair as there was no agreement to pay to store the car with the third party. Mr L said he later came to an arrangement with M for a contribution towards the repair.

Mr L complained to Close Brothers in February 2024, he said the coolant was still draining. He also said that rainwater was going into the boot. Close Brothers commissioned an independent report by a company I'll call "Expert A". Mr L disputed the findings of the report which said there was no fault found.

Mr L said he was unhappy because he paid for repairs, and the fault was still present.

Close Brothers noted Mr L said he had replaced the expansion tank himself and the third-party garage had replaced the radiator before they became aware of the issues. Close Brothers considered the evidence from the independent report but reached the conclusion that as no faults could be found they didn't need to do anything further.

An investigator here considered the complaint. He said that he was satisfied the evidence showed that there might be a slow coolant leak. He said that as a repair was attempted the fair remedy was to end the agreement, collect the car and get a refund of his deposit and repair costs plus simple interest. Compensation of £200 was recommended.

Close Brothers didn't agree. They said that the inspection completed by Expert A did not find a fault. In addition they said that payment towards a repair was made as a gesture of goodwill by M without any acceptance of liability as they couldn't inspect the car.

The case was passed to me to make a decision. I issued a provisional decision which said:

*I've read and considered the evidence submitted by both parties, but I'll focus my comments on what I think is relevant. If I don't comment on a specific point, it isn't because I haven't considered it, but because I don't think I need to comment in order to reach what I think is the right outcome. This is not intended as a discourtesy but reflects the informal nature of this service in resolving disputes.*

*Where the evidence is incomplete, inconclusive or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.*

*The agreement in this case is a regulated consumer credit agreement. As such, this service is able to consider complaints relating to it. Close Brothers is also the supplier of the goods under this type of agreement, and responsible for a complaint about their quality.*

*The Consumer Rights Act 2015 (CRA) is of particular relevance to this complaint. It says that under a contract to supply goods, there is an implied term that "the quality of the goods is satisfactory".*

*The CRA says the quality of goods are satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances might include things like the age and mileage at the time of supply and the car's history.*

*The CRA says the quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.*

*When Mr L acquired the car in September 2023 the mileage was around 67,500 and the cash price was around £6,000. The car was first registered in December 2014, so by this stage it was around 9 years old. The mileage at supply was average considering its age, and it wouldn't be unreasonable to expect the car to be showing some signs of wear and tear, and that might include the underlying components.*

*Expert A confirmed the mileage of the car as 71,533 as at 27 February 2024. By the time of the most recent MOT in June 2024 the mileage was around 73,800. This means Mr L has been able to travel over 6,000 miles since the car was supplied. As a starting point there would need to be some evidence of what the fault was. And secondly, that the fault renders the car of unsatisfactory quality.*

*The CRA sets out that goods which do not conform to the contract at any time within the period of six months beginning with the day on which the goods were delivered to the consumer must be taken not to have conformed to it on that day. Unless it's established the goods did conform to the contract on that day or that the application is incompatible with the nature of the goods or with how they fail to conform to the contract.*

*Considering the requirements of the CRA I think Close Brothers have done what I would expect by getting an expert report. The report indicated that there wasn't a fault with the car and that it likely conformed to the contract. The report was written by an independent expert with details of their credentials and a statement to the court. So I find it persuasive.*

*Other evidence submitted by both parties indicates that Mr L replaced the expansion tank himself, and that a repair was completed by a third party to replace the radiator. When something goes wrong with a car it isn't automatically something that the finance provider is responsible for. Sometimes the underlying components of a car suffer wear and*

*tear which might mean that they come to the end of their serviceable lifespan during the course of a finance agreement.*

*Mr L didn't let Close Brothers know about the issue with the car until after he had made his own repair, and a third party had completed a repair. The issue with the radiator and/or the cooling system could be due to damage sustained during Mr L's possession of the car, which wouldn't be Close Brothers' responsibility. Or it could point to a defect that was present at the point of supply. We don't now have any way of establishing what was wrong which meant it needed those initial repairs, because they were done before Close Brothers became involved. Based on what I've seen about those repairs it would be difficult for me to say it wasn't of satisfactory quality when the car was supplied.*

*Given Mr L has taken these steps without consulting Close Brothers I don't think it would be fair to say they are liable for any issues caused by those repairs. I'm not saying that Mr L is at fault, I expect he tried to mitigate the situation he found himself in as best he could. Mr L has provided further evidence from other third-party garages. I've seen an email which said "Upon carrying out a water pressure test, we found the corner of the radiator to be leaking. As you said the radiator is new so I would suggest you ask the previous garage who fitted this part to carry out a water pressure test to find this leak".*

*Mr L seems to assert that the repair has failed. His evidence also indicates this might be the case. But given the repair was not conducted on behalf of Close Brothers I can't say they should be liable for any issues caused by the repair. Mr L may want to approach the third-party garage with this evidence to see if they are prepared to check their repair. Another garage has said "Reported coolant loss. Vehicle showing no signs of any visible leaks. Water pump working okay, circulating as it should. No overheating issues. Person opinion is water is directly entering the cylinders via head gasket or cracked cylinder wall and being burnt off through exhaust" [sic].*

*His other evidence might suggest there is another problem, but it seems unrelated to the earlier issue and at this point the onus is on Mr L to show what the fault is, and that it was present or developing at the point of supply. To my mind, the diagnostics from Mr L's mechanic are less detailed and persuasive than Expert A's report, and don't set out when the issue developed.*

*I would need to be satisfied that the evidence presented to me shows that there is a current fault in relation to something that made the car of unsatisfactory quality at the point of supply.*

*The reports provided by Mr L aren't conclusive and appear to point to differing issues. So I think Close Brothers acted reasonably based on the evidence presented. I appreciate my decision will be disappointing to Mr L, but I don't currently find I have the grounds to instruct Close Brothers to cover repair costs or allow him to leave the agreement at no further cost.*

*Close Brothers didn't respond to my provisional decision. Mr L said that he was unhappy with the provisional decision as it didn't recommend Close Brothers need to take any further action. Mr L asked whether Close Brothers could be directed to do a more thorough inspection as previously the source of the leak couldn't be found.*

### **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 appreciate that Mr L is disappointed with my findings. But I don't find I have cause to direct Close Brothers to do a further inspection as they have already provided a comprehensive expert report, which I think was fair in the circumstances given when the fault happened. If Mr L wants to get a further inspection, then he can. He may be able to present any new material evidence to Close Brothers to consider afresh, but it won't affect the decision that I've reached here.

As I don't consider I've been provided with any further information to change my decision I still consider my findings to be fair and reasonable in the circumstances.

Therefore, my final decision is the same for the reasons set out in my provisional decision.

### **My final decision**

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 5 February 2025.

Caroline Kirby  
**Ombudsman**