

The complaint

Mr P believes that a car supplied to him under a conditional sale agreement with Close Brothers Limited trading as Close Brothers Motor Finance (Close Brothers) was of an unsatisfactory quality.

When I refer to what Mr P or Close Brothers have said or done, it should also be taken to include things said or done on their behalf.

What happened

I issued my provisional decision to both parties on 28 February 2025, which set out the background and my provisional findings on this complaint. My provisional decision said:

In August 2023, Mr P acquired a used car through a conditional sale agreement with Close Brothers. The car was first registered in December 2014 and the finance agreement confirmed it had travelled around 99,239 miles. The cash price of the car was £9,000 and he paid a deposit of £300. The amount of credit was for £8,700 and the duration of the agreement was 60 months; with 59 monthly payments of around £222 and a final payment of around £232.

Mr P wasn't supplied with the car until two weeks later, due to the dealer finding an oil leak that required repair. An MOT was carried out before collection which confirmed the car had travelled around 99,382 miles at that time. Mr P also paid for an inspection, carried out on the day of collection, that found no issues.

Two days after collecting the car, Mr P reported a whistling noise and says he was advised by the dealership to take it to a nearby garage for diagnosis. His nominated garage initially diagnosed a fault with a lower boost pipe and the dealership agreed to repairs and arranged for the part to be sent to the garage. However, while carrying out the repair they later found the turbo bearings to be the issue. Repairs were later carried out to the turbo by Mr P's nominated garage and covered under warranty.

While the car was awaiting repair, Mr P complained to Close Brothers about the delay and the quality of the vehicle. Close Brothers upheld Mr P's complaint and agreed to the car being repaired at no cost to him, but said the delays were outside of their control. They refunded his first monthly instalment, insurance premium and tax payment to reflect the time he was left without a car.

The car was later returned to Mr P in November 2023. Less than two weeks later, the car lost power and was recovered. Mr P complained to Close Brothers again and asked to reject the car. Inspections were carried out which found the fault to be the result of poor repair practices by Mr P's chosen garage. As such, Close Brothers said they weren't liable for the poor workmanship carried out by Mr P's nominated repairer. However, the dealership did agree, as a gesture of goodwill, to cover the cost of a further reconditioning of the turbo.

In January 2024, Mr P complained to Close Brothers for the third time. He said there were further issues with the turbo and a broken coil spring he believed should've been picked up

during the inspection at the point of supply. In February 2024, the car went into limp mode and Mr P's garage confirmed the faults on the car as slipping clutch, damaged boot reflector, corroded exhaust pipe and engine management light (EML) illuminated due to a fuel regulator fault. Mr P also reported intermittent fault codes, shuddering and plumes of blue and white smoke.

Our Investigator reviewed matters and thought Mr P's complaint should be upheld. They said they were persuaded there were faults with the car that were present or developing at point of supply. Because of this, they thought Close Brothers should repair all faults found between September 2023 and February 2024, refund payments to reflect loss of and impaired use, and pay £250 compensation for the distress and inconvenience caused.

Close Brothers said they hadn't investigated all the faults, so asked for the opportunity to obtain an independent report. This was agreed, but following a delay in arranging it, Mr P declined for the inspection to go ahead. Mr P later reported a further breakdown in October 2024 following a clutch failure, and agreed to the independent inspection, which confirmed the faults present wouldn't have been present or developing at point of sale.

As no agreement has been reached, the matter has been passed to me to decide.

What I've provisionally 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.

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 taken into account 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.

Mr P was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it. The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr P entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality. The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances.

Mr P acquired a car that was nearly ten years old and had covered around 99,382 miles. Its cash price was £9,000. So, what would be considered satisfactory quality would be considerably different to if Mr P had acquired the same car brand new and at a greater cost. As this was a used car with considerable mileage and age, it's reasonable to expect parts may already have suffered wear and tear, and would need to be replaced sooner, when compared to a new car or one that is less travelled. So, Close Brothers wouldn't be responsible for anything that was due to normal wear and tear while in Mr P's possession.

However, the car's condition at the point of supply, should have met the standard a reasonable person would consider satisfactory - considering its age, mileage and price. The CRA says the aspects of the quality of the goods includes their general state and condition, alongside other things such as their fitness for purpose, safety, and durability. So, if I thought the car was faulty when Mr P 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.

Turbo

Mr P first reported a whistling noise two days into the agreement, which was later diagnosed as a turbo issue. Given the short amount of time Mr P had been in possession of the car, and the minimal mileage covered, before it required a replacement turbo, I'm satisfied there was a fault with the car when it was supplied. I'm also satisfied that fault meant the car wasn't sufficiently durable and therefore wasn't of satisfactory quality when it was supplied – meaning there was a breach of contract. And this isn't disputed by Close Brothers.

The CRA provides a short term right to reject the car within the first 30 days if it was of unsatisfactory quality. Outside of the first 30 days, the right to reject may only be exercised if the goods don't conform to contract after one repair or replacement. Mr P did express his wish to reject the car after the first turbo repair failed, which was also within the first 30 days. But Close Brothers didn't agree to rejection, as they didn't consider they were responsible for the failed repair given it was carried out by Mr P's nominated garage.

Mr P says he acted on the advice of the dealership and wasn't given any other options - which hasn't been disputed by Close Brothers. It's also clear from the testimonies of both Mr P and the dealership that the warranty provider were actively involved in the repairs, such as providing parts to Mr P's nominated garage. I therefore consider that the repairs carried out by Mr P's nominated garage were authorised and therefore it's reasonable that Close Brothers remain responsible for failed repairs carried out by said garage.

That being said, the turbo was repaired again at no cost to Mr P, which I think was reasonable. Mr P also ultimately agreed for these repairs to go ahead, so he could only exercise his right to reject if, following repair, the car remained of an unsatisfactory quality. While Mr P mentioned ongoing turbo issues in January 2024, I've seen no evidence of an ongoing issue with the turbo following the second repair. So, I find this repair fixed the fault.

Other faults

For me to say Close Brothers should agree to rejection of Mr P's car, I must first be satisfied that based on evidence, the faults that presented after the turbo repair were more likely than not a result of a failed repair, or that they also made the car of an unsatisfactory quality when supplied. I've not been provided any evidence that confirms any of the other issues reported by Mr P were linked in any way to the previous turbo failure. So, I've considered if they alone would make the car of an unsatisfactory quality when it was supplied to Mr P.

With regards to the broken coil spring, I've considered the response from the warranty provider, which says coil springs commonly break suddenly due to natural fatigue or road conditions. An MOT was also carried out on the car by an independent garage the day before Mr P collected it. And given coil springs form part of the suspension, which is one of the main components checked during an MOT test, I think it's more likely than not this would've picked up if a coil spring was broken at the point of supply.

The slipping clutch, damaged boot reflector, corroded exhaust pipe and fuel regulator faults were found around a month after the car was returned to Mr P. At this point, the car was nearly 10 years old and had travelled around 101,000 miles. The clutch then failed completely around eight months later.

It's not unusual for a car with considerable age and mileage, like Mr P's, to have existing wear and tear damage – and that wouldn't make the car of unsatisfactory quality at supply.

Having considered the age and mileage of the car when these issues were noted and fixed, I find it's more likely than not all of those parts needed to be fixed because of normal wear and tear and parts coming to the end of their life cycle.

Independent report

An independent inspection of the car was carried out in January 2025. The purpose of the inspection was to seek an independent expert opinion on the condition of the car. Here, this also included all reported faults mentioned above, some of which had since been repaired.

The engineer confirmed the nearside reflector was cracked and exhaust was heavily corroded, but found the overall condition of the car to be commensurate to the age and mileage. Other faults were found to be present on the car that required further investigation, including a knocking noise, coolant system issues and diagnostic fault codes. However, the report confirms these faults wouldn't have been present or developing at the point of supply, and no evidence of failed previous repairs was found. It's also noted that Mr P had covered around 18,000 miles over a 16-month period since he acquired the car. And had the faults been present at the point of supply, they would've expected them to have materialised within the first 1,000 miles of use.

Mr P has concerns over the impartiality of the report given the company is used regularly by Close Brothers. However, the engineer confirmed their duty is to the courts, not to the person who instructed or paid for the report. As such, I'm satisfied this report is reasonable to rely upon. I've also not been presented with any persuasive evidence that contradicts the findings of the independent engineer and demonstrates the faults were likely present or developing at the point the car was supplied to Mr P.

So, having considered the independent engineer's findings, the age of the car and how far it had already travelled before Mr P purchased it, and the amount of mileage Mr P has been able to cover, I'm satisfied there is insufficient evidence to demonstrate any of the faults found after the turbo repair would make the car of an unsatisfactory quality when it was supplied, or the result of failed repairs.

Putting things right

Having determined the car wasn't of satisfactory quality due to the turbo fault, I've thought about whether Close Brothers has done enough to put things right for Mr P.

While the car was with the garage awaiting the repair, he was paying for goods that he couldn't use. As the car was off the road due to it being of an unsatisfactory quality, and Close Brothers failed to keep Mr P mobile with a courtesy car; they should refund payments to reflect loss of use. Close Brothers has already refunded one monthly payment, but Mr P was without the car for over 17 weeks in total, from the agreement start date in August 2023 and the car being successfully repaired in January 2024. I therefore think Close Brothers should refund a further three monthly payments, in addition to the one they've already refunded.

To reflect the time Mr P was without access to the sums of money mentioned above, interest should be added to each of the refunded amounts from the date of each payment until the date of settlement. Interest should be calculated at 8% simple per year.

Close Brothers has also refunded one car insurance premium and tax payment. Insurance and tax are general expenses that Mr P would've had to pay for any car he acquired, they are legal and contractual requirements so I wouldn't expect Close Brothers to refund these costs. So, I think their offer to refund these for one month is fair in the circumstances.

Mr P was inconvenienced by having to take the car to a garage to be repaired twice and needing to be recovered due to the car breaking down. He was left a significant period of time without the car, when he was relying on it for work and family commitments, and wasn't kept mobile with a courtesy car while repairs were carried out. So, I think Close Brothers should pay £250 in compensation to reflect the distress and inconvenience caused.

As I find all the other issues with the car to be the result of wear and tear, that do not make the car of an unsatisfactory quality when supplied, I don't agree Close Brothers is responsible for the impact or cost caused by those faults. I realise this will come as a disappointment to Mr P, but for the reasons I've explained, I don't think Close Brothers need to do anything more than what I've set out above.

Responses to my provisional decision

Close Brothers accepted my provisional decision and offered no further comments or submissions for my consideration. Mr P didn't respond.

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.

As there are no further submissions for me to consider in relation to this matter, I see no reason to alter the conclusions reached in my provisional decision.

That is, Mr P was supplied with a car that wasn't of satisfactory quality, due to the turbo fault, and Close Brothers needs to do more to put things right as set out within my provisional decision. However, I'm satisfied the turbo fault has been fixed and all the other faults are the result of wear and tear, so I won't be asking Close Brothers to allow Mr P to reject the car.

My final decision

For the reasons I've set out above, my final decision is that I uphold Mr P's complaint. In addition to what Close Brothers has already paid, I direct them to:

- Refund three monthly payments to reflect loss of use;
- Pay 8% simple yearly interest on this refund, calculated from the date Mr P made each payment to the date of the refund[†];
- Pay £250 compensation for the distress and inconvenience caused.

[†]If Close Brothers considers that tax should be deducted from the interest element of my award, they should provide Mr P with a certificate showing how much they have taken off so he can reclaim that amount, if he is eligible to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 14 April 2025.

Nicola Bastin
Ombudsman