DRN-5835237

The complaint

Ms U complains that the car she acquired through Close Brothers Limited ("CBL") wasn't of satisfactory quality. She wants CBL to pay for repairs or, failing that, to accept rejection of the car.

Ms U is represented in her complaint. For ease of reading, I shall refer to Ms U's submissions as well as those of her representative as having been made by Ms U.

What happened

Ms U entered into a conditional sale agreement in August 2024 to acquire a used car. The cash price of the car was £11,495 and, after taking account of the advanced payment, the amount of credit provided totalled £9,693.66. The total repayable was £15,360.14 and was to be repaid through the credit agreement which was set up over a 60-month term with monthly payments of £225.98. At the time of acquisition, the car had already been driven more than 96,000 miles and was just over nine years old.

Ms U told us:

- She acquired the used car in August 2024, paying a deposit of £3,000 and part-exchanging her previous vehicle, and the car was delivered on 19 August;
- there were some early faults – worn suspension components and a malfunctioning running light – and these were reported to the supplying dealership within a couple of days, and it made a contribution towards repairs;
- in November, en-route to the airport, the car suffered abrupt and catastrophic engine failure. It seized completely without warning, and the gearbox became stuck in 'drive';
- the police attended and arranged recovery of the car to a secure garage, and it was collected by the supplying dealership some time later;
- a full service was carried out on the car between the date of acquisition and the date of engine failure, and the car had only been driven around 2,000 miles before the engine failed;
- the supplying dealership claimed that the car had been operated with insufficient oil, and that the ECU had been wiped and any fault codes removed;
- she wants CBL to pay for full repairs, or accept rejection of the car and end the finance agreement, refunding her deposit and part-exchange contribution in full;
- the whole matter has been dealt with unfairly by the supplying dealership and CBL and they've mis-applied consumer law.

CBL rejected this complaint. It said Ms U contacted and advised it of the issues she'd experienced with the car; the gearbox was faulty; the engine made a loud bang and stopped working; and the engine appears to have seized.

It arranged an independent inspection of the car to determine whether the faults highlighted by Ms U were present or developing at the point of supply. And it said the independent expert concluded that the engine damage was a result of the car having been driven with insufficient oil; it was a result of poor maintenance. And it concluded that neither the supplying dealership nor CBL could be held responsible for the costs. CBL said it would

refund Ms U two of her monthly payments, and it reminded her that the car needed collecting from the supplying dealership.

CBL said that Ms U had provided it with a police report – a statement from the officer who attended when the car engine seized – and it had sought further comments from the independent engineer. But the engineer concluded that this did not change their opinion, and they remained of the view that the engine had been poorly maintained.

Our Investigator looked at this complaint and said she didn't think it should be upheld. She went on to explain that just because something had gone wrong with the car, it didn't mean that it was of unsatisfactory quality when it was supplied, and she explained the relevance of the Consumer Rights Act 2015 ("CRA") in the circumstances of this case.

Our Investigator said that taking into account the report following the independent inspection, she'd seen no evidence that the car wasn't of satisfactory quality at the point of supply. She said the report was clear – the car had been driven with an insufficient level of oil; the car had been poorly maintained. And she couldn't conclude that the car supplied by CBL had been of unsatisfactory quality.

Ms U disagrees so the complaint comes to me to decide, and she highlighted what she said were discrepancies in the independent engineer's report. Our Investigator explained that Ms U could instruct another independent engineer to assess the car, and she provided Ms U with the names of alternative third-parties able to undertake this type of inspection.

Ms U made a number of further submissions. I won't repeat all of her submissions here but, in summary, she says:

- under the CRA, the presumption is that the fault was present unless CBL can prove otherwise;
- there's been an over-reliance on the independent engineer's report;
- her additional evidence, including the police statement and the recovery agent's statement haven't been taken into account;
- even though the car was more than nine years' old and had been driven nearly 100,000 miles, catastrophic engine failure shouldn't happen for a car that was priced at £11,495 and described as roadworthy and reliable and;
- she complains about the warranty (not) provided by the supplying dealership.

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've reached the same conclusion to that of our investigator, and I don't think this complaint should be upheld – and I'll explain why.

I hope that Ms U won't take it as a discourtesy that I've condensed her complaint in the way that I have. Ours is an *informal* dispute resolution service, and I've concentrated on what I consider to be the crux of this complaint. Our rules allow me to do that. Ms U should note, however, that although I may not address each individual point that she's raised, I have given careful consideration to all of her submissions before arriving at my decision.

When looking at this complaint I need to have regard to the relevant laws and regulations, but I am not bound by them when I consider what is fair and reasonable.

As the conditional sale agreement entered into by Ms U is a regulated consumer credit agreement this Service is able to consider complaints relating to it. CBL is also the supplier of the goods under this type of agreement, and it is responsible for a complaint about their quality.

Under the Consumer Rights Act 2015 ("CRA") there is an implied term that when goods are supplied "the quality of the goods is satisfactory". The relevant law says that the quality of the goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, price and all other relevant circumstances.

The relevant law also says that 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 can be aspects of the quality of the goods. So, what I need to consider in this case is whether the car *supplied* to Ms U was of satisfactory quality or not.

The CRA also says that, where a fault is identified within the first six months, it's assumed the fault was present when the car was supplied, unless CBL can show otherwise. But, if the fault is identified after the first six months, then it's for Ms U to show the fault was present when she first acquired the car. So, if I thought the car was faulty when Ms U took possession of it, and this made the car not of a satisfactory quality, it'd be fair and reasonable to ask CBL to put this right.

First of all, I'll deal with the matter of the warranty that Ms U complains about. This complaint is against CBL, and it did not sell Ms U a warranty. Moreover, the supplying dealership didn't provide a warranty that was financed under CBL's conditional sale agreement. So unfortunately, I have to tell Ms U that any complaint about a warranty that was, or was not, provided by the supplying dealership isn't something that this Service can consider as part of this complaint. And although Ms U may be disappointed that our Investigator didn't look into this, I have to tell her that our Investigator could not have done so.

Now, I don't think there's any dispute that Ms U has experienced a major problem with the car. That has been well evidenced by her testimony and the other evidence such as the police statement and the comments of the recovery agent that she submitted. But, whilst I accept that there has clearly been an issue that manifested itself with the fault she's complained about, CBL would only be responsible for putting things right if I'm satisfied that this fault was present or developing when the car was supplied – that is to say, the car wasn't of satisfactory quality when Ms U first acquired it.

The single most compelling piece of evidence here is the report from the independent engineer. I've looked carefully at the other documents Ms U sent to this Service, but I don't find them to be as persuasive. The independent engineer is appropriately qualified to assess vehicles and compile a report of findings, and they conducted a physical examination of the car.

The police statement isn't persuasive; the officer was in attendance when the car broke down on a busy road, but their objective was to protect the public and clear the road. I've seen no evidence that the officer actually examined the car or that they have any automotive or mechanical expertise. Their views are simply a general opinion – but not a qualified or expert opinion in this matter.

Similarly, although they would have automotive and mechanical knowledge, the recovery agent's role in this situation was to recover the car from its dangerous position. They would've evaluated how to move it and then recovered it. But they weren't tasked with

assessing the fault, or the cause of the fault, or providing an independent report with their findings.

The third party instructed by CBL to carry out an independent inspection of Ms U's car is a recognised and trusted expert in this arena. From reading its report, it's clear that it was provided with an accurate background that clearly set out the issues.

In their report, the engineer said the following:

- *"Inspection findings suggest the vehicle has suffered from engine seizure, with possible transmission issues…"*

So, I'm satisfied that the fault that Ms U complained of is present and as she described.

But the simple existence of the fault in itself isn't enough to hold CBL responsible for repairing the car or accepting its rejection. The legislation says that this will only be the case if the fault was present or developing at the point of supply; the car supplied was not of satisfactory quality.

The independent report went on to address this, and confirmed that their opinion was based on *"on a physical assessment, written and verbal information supplied, observations made by the engineer, and our previous experience".*

And they made the following two key conclusions:

- *"The vehicle could not have covered the recorded 2,174 miles since purchase if the current problems had been present at the time of sale".*

- *"Given the evidence, we conclude that the sales agent is not responsible for the repair costs".*

So, on the basis that this fault was *not* present or developing at the point of supply; and I've seen nothing to suggest the fault was the result of previous repairs that subsequently failed, I simply can't say that the car was not of satisfactory quality when it was supplied.

When Ms U says that *"under the CRA, the presumption is that the fault was present unless CBL can prove otherwise",* she is correct. But this independent report is the evidence that *proves otherwise.*

Moreover, the engineer makes no cautionary statements about the conclusions reached, or that a different conclusion may have been reached with additional information. The instruction of an independent inspection is what's required and expected of CBL in these circumstances. And in the absence of any other persuasive and independent evidence to the contrary, I'm not persuaded that Ms U's car was of unsatisfactory quality when supplied. So, I can't hold CBL responsible for the problems Ms U has experienced with it.

Finally, Ms U questions the impartiality of the third-party inspector. But I have to tell her I disagree. The third party is independent; it's recognised in the industry as one of the experts in these types of assessments or inspections. It's true that it was *instructed* by CBL, but it wasn't *employed* by it. Both CBL, and our Investigator did tell Ms U that in the event she believed the independent engineer had reached incorrect conclusions, she could commission her own independent report, and contact details were provided for other

organisations able to carry out this sort of analysis. But I've not seen any other independent reporting or analysis, so I've made my decision on the basis of the report I have had sight of.

Taking into account all the evidence, I can't uphold this complaint. I know Ms U will be disappointed with this decision, but I hope she understands why I've reached the conclusions that I have.

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 Ms U to accept or reject my decision before 3 February 2026.

Andrew Macnamara
Ombudsman