

## The complaint

Mr H complains that a car that was supplied to him under a conditional sale agreement with Close Brothers Limited, trading as Close Brothers Motor Finance, wasn't of satisfactory quality and about a discrepancy with the car's mileage.

## What happened

I issued a provisional decision on this complaint in September 2025 in which I described what had happened as follows:

*"A used car was supplied to Mr H under a conditional sale agreement with Close Brothers Motor Finance that he electronically signed in July 2024. The price of the car was £6,495, Mr H made an advance payment of £600 and he agreed to make 47 monthly payments of £166.04 and a final payment of £176.04 to Close Brothers Motor Finance.*

*The car broke down in November 2024 and Mr H was told that the engine had seized so he complained to the dealer and to Close Brothers Motor Finance later that month. The car was inspected by an independent expert in December 2024 and Close Brothers Motor Finance arranged another inspection of the car in January 2025. Close Brothers Motor Finance then said that as the faults weren't present or developing at the point of sale it wasn't able to uphold his complaint.*

*Mr H then complained to Close Brothers Motor Finance that the car had been salvaged and about a discrepancy with its mileage. It said that it had checked the HPI database, which confirmed that the car wasn't a previous write-off, reviewed the MOT history and contacted the national mileage register database which it said confirmed that there was no discrepancy on the mileage of the vehicle. It also said that a manufacturer's dealer had confirmed that there was no evidence of mileage tampering on the car.*

*Mr H wasn't satisfied with its responses so complained to this service. His complaint was looked at by one of this service's investigators who, having considered everything, didn't recommend that it should be upheld. He wasn't persuaded that the car had covered significantly more mileage than stated at the point of supply or that it had been misrepresented to Mr H and he thought that the car was of satisfactory quality when it was supplied to Mr H.*

*Mr H didn't accept the investigator's recommendation and asked for his complaint to be escalated to an ombudsman for a decision. He has provided detailed responses to the investigator's recommendation and says, in summary and amongst other things, that:*

- his case hasn't been assessed consistently with a decision issued on another complaint;*
- the mileage discrepancy is clearly proved and publicly visible to other buyers, yet has been unfairly dismissed;*

- *the financial loss from being unable to sell the car due to the mileage discrepancy hasn't been properly considered;*
- *the statutory presumption that faults arising within six months of purchase existed at the point of sale unless the trader proves otherwise hasn't been applied; and*
- *he's provided photographic evidence confirming that defects existed from the outset".*

### **Provisional decision**

I set out my provisional findings in that provisional decision. I said:

*"Mr H had complained to Close Brothers Motor Finance about issues with the car and he then complained to it in January 2025 about a report that he'd located which showed that the car had previously been salvaged with a mileage of 167,911 miles. He's provided a copy of the report which I've carefully considered. Close Brothers Motor Finance has provided evidence to show that it checked the HPI database, which confirmed that the car wasn't a previous write-off, and it said that cars can be purchased from salvage yards by dealers and sold as long as there is no insurance write-off marker on the car. It also said that it had reviewed the car's MOT history and had contacted the national mileage register database which confirmed that there was no discrepancy on the mileage of the car.*

*Mr H says he's suffered a financial loss as he's unable to sell the car due to the mileage discrepancy and he's provided evidence from an on-line car sales service which says that it won't buy the car due to its undeclared category and because of the discrepancy between the mileage of 167,911 miles and 91,334 miles.*

*Close Brothers Motor Finance says that a manufacturer's dealer confirmed that there was no evidence of mileage tampering on the car. The invoice from that dealer says:*

*"Carried out diagnostics for mileage discrepancy. Carried out Guided fault finding and unable to confirm any sign of coding tampering. Dash shows 95756 miles and ECU shows 95758. ECU has signs of removal as sheer bolts removed and wiring loom to ECU has been worked on. Sent [manufacture] Technical a request to see if they could see any signs of tampering and there response was that if the mileage has been changed in anyway there is no way to confirm or deny based on what we can see from coding".*

*The car passed an MOT in April 2021 when its mileage was recorded as 79,755 miles and it then didn't have an MOT test until March 2024, nearly three years later, when its mileage was recorded as 91,334 miles. The report that Mr H has provided includes a photo of the car's dashboard showing a mileage of 167,911 miles and he's explained why the photos in that report are of the car that was supplied to him. The on-line car sales service has found evidence of a mileage of 167,911 miles for the car. The car's MOT history shows that there was no MOT test on the car between April 2021 and March 2024 and the manufacturer's dealer says that there are signs that the car's ECU has been removed.*

*In complaints such as this one, where the evidence is incomplete, inconclusive or contradictory, I have to make my decision on the balance of probabilities and on what I consider is most likely to have happened in light of the available evidence and the wider circumstances. Having done that in this case, I consider it to be more likely*

than not that the car's mileage wasn't correct when the car was supplied to Mr H and that it was misrepresented to him. The advert for the car shows that it had a mileage of 91,000 miles and the conditional sale agreement says that the car had been driven for 91,657 miles. I don't consider it to be likely that Mr H would have entered into the conditional sale agreement if he'd been aware of the car's correct mileage. As I consider that the car was misrepresented to Mr H, I find that it would be fair and reasonable for him to be able to reject the car and that Close Brother Motor Finance should take the actions described below.

I find that it would be fair and reasonable for Close Brothers Motor Finance to end the conditional sale agreement and arrange for the car to be collected from Mr H, both at no cost to him. The conditional sale agreement shows that Mr H made an advance payment of £600 for the car. I find that it would also be fair and reasonable for Close Brothers Motor Finance to refund to Mr H the advance payment that he made for the car, with interest.

Mr H was able to use the car to drive about 4,000 miles between July 2024, when it was supplied to him, and November 2024, when it broke down. I find that it would be fair and reasonable for Close Brothers Motor Finance to refund to Mr H the monthly payments that he's made under the conditional sale agreement for the period since it broke down, with interest. I consider that it's fair and reasonable for it to keep the payments that he made for the period before then as payment for the use that he's had from the car. If Close Brothers has reported any adverse information to the credit reference agencies about Mr H's payments under the conditional sale agreement, I find that it would be fair and reasonable for it to remove that information.

Mr H paid £144 for the garage to diagnose the issues with the car in November 2024. I find that it would be fair and reasonable for Close Brothers Motor Finance to reimburse him for that cost, and for other similar costs that he's incurred since the car broke down, with interest. In responding to this provisional decision Mr H should provide invoices for any such costs that he considers should be reimbursed to him.

These events have clearly caused distress and inconvenience for Mr H. I find that it would also be fair and reasonable for Close Brothers Motor Finance to pay him £200 to compensate him for that distress and inconvenience.

As Mr H's first complaint was that the car wasn't of satisfactory quality, for completeness I've also considered that part of his complaint. Close Brothers Motor Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr H. Whether or not it was of satisfactory quality at that time will depend on a number of factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr H was first registered in April 2018 so was six years old, the conditional sale agreement says that it had been driven for 91,657 miles and the price of the car was £6,495. Satisfactory quality also covers durability which means that the components within the car must be durable and last a reasonable amount of time, but exactly how long that time is will depend on a number of factors.

The car broke down in November 2024, about four months after it had been supplied to Mr H and a garage found that the engine and turbo had seized and it said that it suspected an oil pump failure. Mr H complained to the dealer and to Close Brothers Motor Finance about the car. The dealer arranged for the car to be inspected by an independent expert in December 2024. The inspection report says:

"It is therefore considered, based on the available evidence, that the vehicle has evidently been used in a clear and obvious failing state until engine seizure. It is unknown when the initial oil leaks began, although the operator would have been aware of this for some time due to depleting levels prior to breakdown, and earlier intervention would have prevented engine seizure. Taking into consideration the time and mileage elapsed since inception, we do not consider the vehicle to have been in its current state at that point".

*Close Brothers Motor Finance arranged another inspection of the car by an independent expert in January 2025. The inspection report records the car's mileage as 95,755 miles and says:*

"In our opinion based on the visible evidence, we can confirm we did observe issues with the vehicle in the form of the battery being dead, the engine struggling to start and excessive emissions from the exhaust. We also retrieved fault codes from the vehicles ECU for sensor reference voltage issues, glow plug issues, turbocharger boost sensor issues and oil temperature sensor issues. We would recommend further investigation to ascertain the root cause of these faults and what remedial action is required. Faults of this nature would be due to wear and deterioration and would not be unexpected on a vehicle of this age and mileage".

*Mr H says that the statutory presumption that faults arising within six months of purchase existed at the point of sale unless the trader proves otherwise hasn't been applied and that he's provided photographic evidence confirming that there was a defect with the glow plugs when the car was supplied to him. The evidence from the two independent inspection reports is that the faults wouldn't have been present when the car was supplied to Mr H, so I consider that Close Brothers Motor Finance has provided evidence to show that the faults wouldn't have existed when the car was supplied to Mr H. The report from the January 2025 inspection says that fault codes for glow plug issues were retrieved from the car's ECU and Mr H says that there were glow plug issues when the car was supplied to him. I'm not persuaded that there's enough evidence to show that the engine seizure in November 2024 was caused by glow plug issues.*

*The car was more than six years old and had been driven for more than 90,000 miles when it was supplied to Mr H and it had passed an MOT test in March 2024 so it was in a roadworthy condition at that time. Mr H was able to use the car for four months, in which time it was driven for more than 4,000 miles, and I don't consider it to be likely that the issues that caused the engine to seize in November 2024 would have been present when the car was supplied to him. I'm not persuaded that there's enough evidence in these circumstances to show that the car wasn't of satisfactory quality in July 2024 when it was supplied to Mr H".*

Subject to any further comments or evidence that I received from Mr H and Close Brothers Motor Finance, my provisional decision was that I intended to uphold this complaint. Mr H has confirmed that he agrees with my provisional decision but Close Brothers Motor Finance has provided further evidence in support of its position. It says that it has demonstrated that appropriate checks were completed using regulated sources and that the car was sold at a fair market value. It says that the report that Mr H has provided is unregulated, lacks transparency and isn't recognised under any formal industry standards and disproportionate weight has been placed on it. It has referred to another complaint, where there was similar evidence, that wasn't upheld.

## **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'm not persuaded that I should change my provisional decision. As I said in my provisional decision, the evidence in this complaint is inconclusive and contradictory so I have to make my decision on the balance of probabilities and on what I consider is most likely to have happened in light of the available evidence and the wider circumstances. I've considered, among other things, the HPI and MOT records, the report that Mr H has provided, the evidence from the manufacturer's dealer and what the on-line car sales service has said.

Close Brothers Motor Finance has provided evidence to show that it checked the HPI database, which confirmed that the car wasn't a previous write-off, reviewed the car's MOT history and had contacted the national mileage register database which confirmed that there was no discrepancy on the mileage of the car. The car passed an MOT test in April 2021 when its mileage was recorded as 79,755 miles and it then didn't have an MOT test until March 2024, nearly three years later, when its mileage was recorded as 91,334 miles. The report that Mr H has provided includes a photo of the car's dashboard showing a mileage of 167,911 miles and he's explained why the photos in that report are of the car that was supplied to him, but Close Brothers Motor Finance has explained why it considers the report to be unreliable. The manufacturer's dealer says that there are signs that the car's ECU has been removed, but Close Brothers Motor Finance says that that doesn't constitute evidence of tampering. The on-line car sales service has found evidence of a mileage of 167,911 miles for the car.

Close Brothers Motor Finance has referred to another complaint, where there was similar evidence, that wasn't upheld. The complaint to which it's referred was closed without a decision being issued because the complainant said that everything was sorted as Close Brothers Motor Finance had agreed to accept rejection of the car and cancellation of the finance agreement. This service considers each complaint on its individual merits. The investigator that was considering the complaint to which Close Brothers Motor Finance has referred said that he couldn't be certain that the car shown in the report was the subject of the agreement and he didn't mention any other evidence which would have raised concerns about the car's mileage. Mr H has explained why the photos in the report that he's provided are of the car that was supplied to him, an on-line car sales service has found evidence of the higher mileage, the car has an incomplete MOT history and there are signs that the car's ECU has been removed.

Having carefully looked at all of the evidence on this complaint, I consider it to be more likely than not that the car's mileage wasn't correct when the car was supplied to Mr H, the car was misrepresented to him and he would have entered into the conditional sale agreement if he'd been aware of the car's correct mileage. As I consider that the car was misrepresented to Mr H, I find that it would be fair and reasonable for him to be able to reject the car.

## **Putting things right**

I find that it would be fair and reasonable in these circumstances for Close Brothers Motor Finance to take the actions described in my provisional decision, and as also set out below.

## **My final decision**

My decision is that I uphold Mr H's complaint and order Close Brothers Limited, trading as Close Brothers Motor Finance, to:

1. End the conditional sale agreement and arrange for the car to be collected from Mr H, both at no cost to him.
2. Refund to Mr H the advance payment that he made for the car.
3. Refund to Mr H the monthly payments that he's made under the conditional sale agreement for the period since the car broke down.
4. Pay £144 to Mr H to reimburse him for the cost of the November 2024 diagnosis.
5. Pay interest on the amounts at 2, 3 and 4 above at an annual rate of 8% simple from the date of each payment to the date of settlement.
6. Ensure that any adverse information about the conditional sale agreement that it's reported to the credit reference agencies is removed from Mr H's credit file.
7. Pay £200 to Mr H to compensate him for the distress and inconvenience that he's been caused.

HM Revenue & Customs requires Close Brothers Motor Finance to deduct tax from the interest payment referred to above. Close Brothers Motor Finance must give Mr H a certificate showing how much tax it's deducted if he asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 27 November 2025.

Jarrold Hastings  
**Ombudsman**