

complaint

Miss C complains about the quality of a car she acquired which was financed by a conditional sale agreement with Close Brothers Limited.

background

Miss C entered into a conditional sale agreement with Close Brothers in July 17 to acquire a car. It was a used car with a mileage of 111,600. The car developed a number of faults. It broke down on 14 September 2017. A local garage said the car had oil and coolant leaks. A second garage also confirmed the car had an oil leak. Miss C was told the engine had been previously rebuilt and that the rebuild was of a poor standard.

Miss C took the car to the dealer. It repaired a faulty gearbox seal. The dealer could not identify where the coolant was leaking from.

The car broke down again several days later. Miss C took it to the local garage. It said a poor repair had been carried out on one of the coolant leaks since they'd last saw the car. They found the car was still leaking oil as silicone had simply been applied to the outside of the engine, which they felt wasn't sufficient to repair the problems.

Miss C spoke to the dealer. It disputed the inadequate repair as it said it had only repaired a gearbox oil leak. The dealer said the local garage was biased towards Miss C.

Miss C spoke to Close Brothers. She was advised to obtain an independent report. On 18 October 2017 a third party garage sent Miss C its report. It found numerous oil leaks from the engine, which it felt to be the result of a poorly done rebuild as well as several coolant leaks. The report said the engine would need to be removed to carry out repairs.

Miss C asked Close Brothers if she could reject the car. It refused as it said Miss C had been able to drive the car for 6,000 miles. The issue was one of wear and tear given the car's high mileage. Miss C brought a complaint to us to consider.

The investigator recommended that the complaint should be upheld. He considered that the independent report suggested the oil leaks were due to a poor engine repair in the past. This repair appeared to have been carried out prior to Miss C acquiring the car. The investigator considered the fault with the car was present at the point of sale.

The investigator noted that the dealer said the issues were caused by wear and tear, but there was no evidence to support this. The dealer did not document any faults when the car was in for repair.

There appeared to be agreement that the engine had been rebuilt to a poor standard. The independent report supported the view of the local garage. The dealer had not provided evidence to disagree with this. The investigator considered the fact that Miss C was friends with someone whose father owned the local garage was not enough for him to reach a view that the report was incorrect.

The investigator agreed that Miss C had been able to drive the car more than expected given the faults. However she had not driven it between the gear box repair and the car displaying issues again. As such, it is unlikely the faults listed in the independent report

developed between late September and early October. A report on 19 September 2017 said the engine had been rebuilt to a poor standard.

The investigator agreed that driving a car with an oil leak will damage an engine. He had not seen anything to show Miss C drove more than was necessary once the leak was identified. Driving with a leak in one component would not lead to a leak in other parts of the car.

Miss C needed the car for work and to take her children to school. She has not been able to drive her car.

The investigator considered Miss C has grounds to reject the car. Close Brothers should cancel the finance agreement and collect the car from Miss C. Her deposit should be refunded with interest. The agreement should be removed from her credit file. Miss C should be paid £250 compensation for the trouble and upset caused to her.

Close Brothers did not agree to the recommendation. It said, in summary, that there is nothing to suggest a failed repair attempt took place. A comment from a garage chosen by Miss C cannot be relied upon.

Close Brothers say the car had a high mileage of 111,600 when it was acquired by Miss C. As such the parts may not be new. Repairs may be necessary and deemed as fair wear and tear. Miss C drove the car for 5,000 miles. This would not have been possible if the leak was present at the point of sale.

Close Brothers said the independent report was not independent as Miss C chose the garage who prepared it.

The investigator replied to say the dealership did not carry out an adequate repair. Two reports say the car's engine was rebuilt to a poor standard. The investigator was not persuaded the mileage caused the faults rather than the poorly repaired engine. The engine was in a poor state at the point of sale and it has not been repaired.

Miss C experienced problems with the car very soon after it was repaired. She took the car from the dealer on 30 September 2017 and had to take it to another garage on 4 October. The investigator considered it was unlikely the problem would develop in such a short space of time. Close Brothers has not had the car inspected by its own expert. Two reports from different garages say the car has the same problem. The coolant leak seems to be due to a pre-sale substandard engine repair. The dealer had a chance to repair it but was not able to.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Where the evidence is incomplete, inconsistent or contradictory, I have made my decision based on the balance of probabilities - that is what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Miss C acquired a used vehicle through a conditional sale agreement in July 2017. Under the regulations Close Brothers is liable if the vehicle was not of satisfactory quality at the point of supply. The assessment of satisfactory quality takes into account the vehicle and mileage of the vehicle. In this case the vehicle was registered in March 2008 and had been driven over 111,600 miles at the point of acquisition.

Miss C took her car to a local garage on 17 September 2017 as she had noted an oil and coolant leak. The garage has provided a note to say it found multiple oil leaks and a coolant leak. Miss C was advised to take the car back to the dealer at this point. The car was returned to the dealer and repairs were carried out. Miss C received the car back on 30 September 2017.

The car broke down on 4 October 2017. The local garage looked at it and said the oil leaks had been poorly sealed.

Another garage has looked at the car. It says the engine has had an entire rebuilt which was of poor standard. This is causing oil to leak as well as coolant. A second garage says an examination of the car leads it to suspect the engine has previously been removed for repair and a poor repair has been carried out.

Close Brothers says the oil leaks have been caused by wear and tear given the age and mileage of the car. It points out that Miss C was able to drive the car for 6,000 miles between July and September 2017. However, set against this, I have two reports from two garages which say the problems have been caused by a previous engine repair. Such repairs took place before Miss C acquired the car. For me to uphold this complaint I have to be satisfied that the issues were present or developing at the point of supply. On the evidence before me, on balance, I find the faults with the leaks were caused by a faulty engine repair which took place before the car was supplied to Miss C. The fault was not fixed when the car was returned to the dealer.

I note that Close Brothers says Miss C knows one of the garage owner's. This is not enough to persuade me that the faults developed after sale. Two garages inspected the car and reached the same conclusion. Close Brothers has not arranged its own inspection of the car.

my final decision

My final decision is that Close Brothers Limited cancel Miss C's agreement with nothing further owing and refund her deposit plus 8% simple interest from the date of payment until the date of settlement. Close Brothers should arrange to collect the car at no cost to Miss C at a date and time convenient to her. It should pay her £250 for trouble and upset. Details of the finance agreement should be removed from Miss C's credit file.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 4 May 2018.

Rosemary Lloyd
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