

complaint

Mr N complains that Close Brothers Limited refused to let him reject a faulty caravan.

background

In April 2017 Mr N bought a second hand caravan from a dealer I will call M. It cost £9,000 and was funded by a conditional sales agreement with Close Brothers. He says it was sold as category C because it had a replacement sunroof which had been fully repaired. A category C caravan is one which has been written off by an insurance company and is defined as *"write off, the vehicle is repairable but the costs exceed the vehicles value. Can reappear on the road."*

About a year later he decided to sell the caravan and a prospective purchaser had it inspected and discovered it was category D vehicle. This is defined as *"write off, repairable, but the repair costs are significant compared with the vehicles value including the delays to source parts. Can reappear on the road."* Mr N undertook some research and discovered the caravan had been sold by an insurer to a salvage company which presumably repaired it before selling it to M.

Mr N complained to M and to Close Brothers that he had been misled and he also pointed out the caravan hadn't been registered in the Central Registration & Identification Scheme (CRIS) for caravans. M offered to carry out a National Caravan Council (NCC) engineer's report which would allow the caravan to be registered. Close Brothers said the caravan had been sold on the basis it was a category C write off and as this was deemed to be a worse category than D. It said the CRIS registration should be done by the new owner of a caravan.

Mr N brought his complaint to this service where it was considered by one of our adjudicators who didn't recommend it be upheld. She noted that the caravan could be put back on the road legally and category C vehicles tend to have more serious damage than category D ones and so she didn't think Mr N had been materially misled. He had suggested that the salvage yard hadn't completed the sale to M before he bought it, but our adjudicator didn't agree. She said that it seemed that the salvage yard hadn't banked the cheque for some months after the sale.

She thought the offer by M to carry out the NCC report which would allow Mr N to carry out the CRIS registration was fair. Mr N didn't agree and said the caravan had been advertised a category C vehicle with a minor defect of a replaced sunroof. He believed he had been sold an unroadworthy caravan. He added that he was told that the caravan was CRIS registered, but the number he had been given was the chassis number. He also said he had signed one contract and been sent a second one showing different dates of manufacture. Finally he noted that as the vehicle needed an inspection to have it CRIS registered M had misled him that it had been properly registered.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulator's rules, guidance and standards and codes of practice and (where appropriate) what I consider to have been good industry practice at the time.

The finance agreement, that is the conditional sale 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 relevant law says that under a contract to supply goods, there is an implied term that *"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. So it seems likely that in a case involving a caravan, the other relevant circumstances a court would take into account might include things like the age at the time of sale and the vehicle's history.

Under the relevant law 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.

It is clear that Mr N was aware he was buying a caravan that had suffered damage and it would appear that the price he paid reflected that. He says he was told the damage was to do with the sunroof and I have seen nothing to show that was incorrect. What was wrong was the category given by M. However, I cannot see that this would have had any impact on Mr N's decision to buy it. If anything M suggested it was in a worse category that it turned out to be.

I can see there has been some confusion over the CRIS registration, but I gather this needs to be done by Mr N as the new owner. For this to happen there needs to be a NCC report which M has offered to provide. I appreciate that Mr N says he has lost confidence in M, but I don't think the offer is unreasonable. It is visual inspection and will allow the caravan to be registered. I don't think it necessary for this to be done elsewhere. I know Mr N has said he hasn't used it much since he has been worried about it being safe, but I have seen nothing that would suggest it isn't roadworthy or usable.

Finally on the issue of the two contracts, it seems that a second one was sent with an incorrect date of manufacture on it. That doesn't invalidate the one signed by Mr N and I don't consider it grounds to unwind the contract.

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 Mr N to accept or reject my decision before 1 August 2019.

Ivor Graham
ombudsman