

The complaint

Mr D complains about the quality of a car he has been financing through an agreement with Close Brothers Limited, trading as Close Brothers Motor Finance ("Close Brothers").

What happened

The details of this complaint are well known to both parties, so I won't repeat them again here. Instead I'll focus on giving my reasons for my decision.

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.

I know it will disappoint Close Brothers, but I agree with the investigator's opinion. Please let me explain why.

Where the information I've got is incomplete, unclear, or contradictory, as some of it is here I have to base my decision on the balance of probabilities.

I've read and considered the whole file, but I'll concentrate my comments on what I think is relevant. If I don't comment on any specific point it's not because I've failed to take it on board and think about it but because I don't think I need to comment on it in order to reach what I think is the right outcome.

Mr D acquired his car under a conditional sale agreement. This is a regulated consumer credit agreement and as a result our service is able to look into complaints about it.

The relevant law is the Consumer Rights Act (2015). That says, amongst other things, that the car should have been of satisfactory quality when supplied. If it wasn't then Close Brothers, who are also the supplier of the car, are responsible. The relevant law also says the quality of goods is satisfactory if they meet the standard that a reasonable person would consider satisfactory taking into account any description of the goods, the price and all the other relevant circumstances.

In a case like this which involves a car the other relevant circumstances would include things like the age and mileage at the time the car was supplied to Mr D. The car here was about six and a half years old and had already completed over 90,000 miles. So, I think a reasonable person would expect quite a bit of wear and tear to be present.

The relevant legislation says that when we consider whether a car has been of satisfactory quality we should also think about whether it has proven durable. I don't think that can be said to be the case here.

I say that because I don't think a reasonable person would expect to have experienced the problems Mr D has even with a car of this age and mileage.

The December 2021 assessment shows that the turbo has now failed and will cost over £3,000 to replace. I don't think a reasonable person would expect to incur such significant expense on a car that cost a little under £7,400 only nine months earlier. I think that, along with the other problems that have needed rectifying since Mr D took receipt of the car, suggest the vehicle hasn't been durable.

And, even if I'm wrong about the car not being durable, I also think it's likely the turbo fault was developing on this car from the beginning. Mr D has explained that he complained about the car losing power within days of taking receipt of it. Whilst I understand that a turbo fault wasn't picked up in the April 2021 garage work I note the independent inspector identified "*evidence of a degree of wear in the turbocharger*" when he looked at the car in October 2021 and that Mr D complained to Close Brothers in September 2021 when he said the car had gone into limp mode. As the turbo had clearly failed completely by December 2021 I think the previous evidence supports the view of a developing fault.

The relevant legislation allows a business one chance to fix faults present, or developing, when cars are supplied. I think Close Brothers have had that opportunity. So, they should now allow Mr D to reject the car.

Putting things right

Close Brothers should end the finance agreement and collect the car from Mr D at no cost to him. They'll need to refund Mr D's deposit with interest as he's been deprived of that money.

I think it's fair for Close Brothers to retain some of Mr D's finance instalments in recognition of the use he's had from the car. The independent inspector noted that Mr D had travelled about 3,700 miles by October 2021; seven months into the agreement. That's a little under average mileage and I think Mr D has therefore had reasonable use of the car during that period. But there was very little change in the mileage Mr D was able to cover between the October 2021 inspection and the quote he received for works in December 2021 and he's not been able to drive the car since. So, I think Close Brothers should refund any finance instalments Mr D has paid since the independent inspection on 19 October 2021 and up to the point the car is collected, and the agreement ended. They'll again need to add interest to that refund as Mr D has been deprived of the money.

Mr D has clearly been inconvenienced by these matters as he's had to take the car back to the garage on several occasions and has had to refer the problem to a specialist. He's also had to escalate his complaint to this service when I think it could have been resolved earlier. In those circumstances I would agree with the investigator that Close Brothers should pay him £150 in compensation.

They should also refund the £130.80 Mr D paid to have faults diagnosed, again adding interest.

My final decision

For the reasons I've given above I uphold this complaint and tell Close Brothers Limited to:

- End the finance agreement and collect the car at no cost to Mr D.
- Refund Mr D's deposit and add 8% simple interest per year to that refund from the date of payment to the date of settlement.
- Refund any finance instalments paid since 19 October 2021, adding 8% simple interest per year to that refund from the date of payment to the date of settlement.

- Refund the £130.80 Mr D paid for diagnostics, adding 8% simple interest per year to that refund from the date of payment to the date of settlement.
- Pay Mr D £150 to compensate him for the distress and inconvenience he's experienced.
- Remove any adverse reports they may have made to Mr D's credit file in relation to this issue.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 June 2022.

Phillip McMahon
Ombudsman