

The complaint

Mr L complains about a car which he acquired under a conditional sale agreement financed by Close Brothers Limited (trading as Close Brothers Motor Finance). The car broke down three times in six months.

What happened

In February 2022 Mr L acquired a car under a conditional sale agreement with Close Brothers. The car had been registered in September 2011, the mileage was 129,601 miles, and its cash price was £4,295.

12 days later, in March, the car broke down. There is a brief report by the RAC which says that there was a wiring fault. The mileage is reported to have been 130,412 miles, or 811 miles since the point of sale. It was repaired under warranty and returned to Mr L a week later. But only eight days after that, the car broke down again. Mr L says the same warning lights had appeared on the dashboard as the last time. The mileage was now 130,899 (an increase of 487). The dealership took it back, but this time it arranged for the car to be repaired by a third party. It was repaired about three weeks later, in April.

The third breakdown happened in July 2022, at 134,421 miles (three months and 3,522 miles after the last repair). The car wouldn't start. Also, the fans and radio kept coming on, and so Mr L disconnected the battery. Again, Mr L says the same warning lights had appeared on the dashboard as the last two times. And again, the dealership arranged for the car to be repaired by a third party (a main dealer). The battery was reconnected. But this time, the garage tasked with the repair was unable to find any fault. Mr L did not accept that conclusion, and the car remains with the dealership to this day.

In August 2022 Mr L complained to Close Brothers about the car. In view of the latest information from the garage, Close Brothers did not uphold his complaint, but nevertheless in October it commissioned an inspection by an independent expert to see if it could find anything wrong with the car.

That expert provided a report in which he described finding that there was a loose connection to one of the battery terminals. Other than that (and a defective headlight, which he thought was ordinary wear and tear), he could find nothing else wrong with the car. He concluded that this loose connection had been the cause of all the reported electrical faults, and that it had probably not been present at the point of sale. Based on this evidence, Close Brothers maintained its stance, and our investigator did not uphold this complaint when Mr L referred it to our service.

Mr L did not accept the expert's conclusion. He did not doubt the expert's competence, but he questioned what information the expert was given by Close Brothers when the report was commissioned. That was mainly because the battery had been disconnected as a result of the July breakdown, when the car wouldn't stop running, so the loose connection would not necessarily have been present prior to that (and if it had been, then it is likely that it would have been fixed in March). He also said that it did not appear from the report that the expert was aware that the car had broken down three times. And he was concerned that the report

gave the wrong date for the day he acquired the car, and the wrong date for the latest breakdown, which gave him further reason to wonder what the expert had been told.

The investigator disagreed. He thought that he could not assume that the breakdown in July had occurred for the same reason as the earlier breakdowns. Just because the dashboard warning lights had been the same each time did not necessarily mean that the cause was the same. He noted that the car had been driven about 5,000 miles since Mr L had acquired it, 3,500 of them between the second and third breakdowns. The expert had been unable to replicate the alleged fault. He decided that any problems which the car now has are the result of wear and tear.

Mr L asked for an ombudsman to review this case. He specifically requested that Close Brothers be asked to disclose what information it had given to the expert when it had instructed him to inspect the car.

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 asked Close Brothers to share with me what it had told the expert when it had commissioned his report, but they did not reply. I considered upholding this complaint on that basis. But I think that to do so would be giving too much weight to that issue. After all, whatever Close Brothers told the expert, the expert carried out a full inspection of the car and found nothing wrong with it except for the loose battery connection and the defective headlight. If there had been some other problem, I am sure the expert would have found it, and so would the garage the car was taken to in July. Two professional mechanics have examined the car and have not found any fault which was present at the point of sale. So I do not think I need to see the requested information in order to fairly resolve this complaint.

I have read the expert's report. On page 1 it sets out a summary of what it was asked to investigate. That reads as follows:

"Customer states the whole dashboard has faults with the engine. Airbags, service, park and brake service required, DSTC¹ service required. Brake failure stop safely and these faults have been all the way through. When the customer turns the vehicle off it will not start again. ECU² faults, engine management lights. Radio does not work. The main issue is the engine no starting. Dealer has been unable to find faults." (sic)

I accept that this does not refer to the previous breakdowns, but I think it was still made plain to the expert that he was supposed to be looking for a reason why the car would have broken down in July and would not start again. From that, I infer that he would have known that it was necessary to carry out a thorough check of the car. And the expert went on to describe his examination of the car in his report.

The expert says he started the car from cold and it started readily. No warning lights came on, other than one relating to the headlight. There were no current diagnostic codes stored. He stopped and started the engine several times, all with the same result. He found that the radio was working correctly.

¹ DSTC: Dynamic Stability & Traction Control.

² ECU: Electronic Control Unit.

There was one historic fault code, “system internal failure – internal electrical failure”. He attributed that to the loose battery connection. He said that was causing the intermittent faults which Mr L had reported. He did not think that this had been present at the point of sale.

I think that Close Brothers was entitled to rely on that report, especially as it was corroborated by what the garage had already said. I am not persuaded that the report was unreliable just because it gives the wrong dates in a couple of places. The date of the finance agreement is off by just one day, which I do not think is significant. The day of the third breakdown is incorrectly given as 2 August, which is actually the date when Mr L complained to Close Brothers. But I don't think that mistake could have affected the findings in the report (whether that was the expert's mistake or Close Brothers'), or that it indicates that Close Brothers sought to mislead the expert in some way or otherwise acted in bad faith.

My final decision

For all of the reasons I have given above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 August 2023.

Richard Wood
Ombudsman