

The complaint

Mr S complains that Sainsbury's Bank plc won't refund to him the money that he's claimed for issues that he's had with a car. His wife is also involved in his complaint.

What happened

Mr S used his Sainsbury's Bank credit card in May 2018 to pay £4,949 for a used car. He also paid £500 for a warranty from a third party. The car was serviced in August 2018 for which Mr S paid £230.72 and he also paid £461.98 for some repairs to the clutch. He says that he also found out that the car didn't have the car seat attachment that had been advertised. He complained to the dealer in April 2019 about the issues with the clutch, some other issues with the car and the missing car seat attachment. It offered to rectify the issue with the car seat attachment or pay £100 compensation to Mr S but it didn't agree that it was liable for any of the other issues.

Mr S then made a claim to Sainsbury's Bank under section 75 of the Consumer Credit Act 1974. It said that the dealer had offered a reasonable resolution to the car seat attachment issue, the mechanical fault looked to be from general wear and tear and there was no evidence of mis-selling or a breach of contract from the dealer. But it credited his account with £30 because of the length of time that it had taken to respond to his complaint.

Mr S wasn't satisfied with its response so complained to this service about his issues with the car, that the car was mis-sold to him and about the car's warranty. As the warranty was provided by a third party, his complaint about it is being dealt with separately. Our investigator didn't recommend that his complaint about the issues with the car, including the car seat attachment, or the car being mis-sold to him should be upheld. Mr S has accepted that he can't provide evidence to show that the issues with the auxiliary belt and tensioner were present or developing when he bought the car and our investigator couldn't say that Mr S wouldn't have bought the car had the information in the advert about the car seat attachment been accurate.

Mr S has asked for his complaint to be considered by an ombudsman. He's responded to our investigator's recommendations in detail and says that he's sold the car for £3,165. He concludes that an acceptable compromise would be for Sainsbury's Bank to pay for the repairs to the clutch, auxiliary belt and tensioner, refund the cost of the warranty, pay for travel expenses, and pay half of the difference between the price paid for the car less what it was sold for (which he's calculated to be £1,167).

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.

In certain circumstances, section 75 gives a consumer an equal right to claim against the supplier of goods or services or the provider of credit if there's been a breach of contract or misrepresentation by the supplier. To be able to uphold Mr S's complaint about Sainsbury's Bank, I must be satisfied that there's been a breach of contract or misrepresentation by the

dealer and that Sainsbury's Bank's response to his claim under section 75 wasn't fair or reasonable. I'm not determining the outcome of Mr S's claim under section 75 as only a court would be able to do that.

The dealer was responsible for ensuring that the car was of satisfactory quality when it was bought by Mr S - 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. 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 also depend on a number of factors.

The car that was bought by Mr S was more than eight years old, had been driven for 56,700 miles and had a price of £4,949. Mr S also paid £500 for a warranty but, as the warranty was provided by a third party, his complaint about the warranty is being dealt with separately.

Mr S was able to drive the car for about three months before he paid for it to be serviced and for some repairs to the clutch in August 2018. The car's mileage was recorded as 58,633 at that time so he'd been able to drive nearly 2,000 miles in the car. The dealer has provided evidence to show that the car was mechanically inspected and passed an MOT test before it was bought by Mr S. The dealer also provided Mr S with a one month guarantee for the car but I've seen no evidence to show that he made a claim to the dealer under the guarantee.

Mr S also paid £355 for new tyres in January 2019, £190.72 for some repairs to the car, including the auxiliary belt, in February 2019 and £65.98 for other repairs in June 2019. It's clear that Mr S has had some issues with the car but I'm not persuaded that he's provided enough evidence to show that those issues were present or developing when he bought the car or that it wasn't of satisfactory quality at that time.

The car was advertised as having a specified car seat attachment but Mr S says that he found out in August 2018 that it didn't have that attachment so he complained to the dealer. It said that any issue with the car seat attachment was easily rectified at little cost, which it would cover, or it offered to pay £100 compensation to Mr S. I consider that the car was misrepresented to Mr S because it didn't have the car seat attachment that was advertised - but I consider that the dealer's offer to rectify the issue was fair and reasonable in the circumstances. I've considered Mr S's concerns about the dealer fitting the attachment but I'm not persuaded that those concerns are enough to make its offer unfair or unreasonable – and Mr S has now sold the car so the attachment can't be fitted. Nor am I persuaded that there's enough evidence to show that the car was mis-sold to Mr S or that the dealer acted incorrectly when it asked Mr S to pay a deposit for the car.

I sympathise with Mr S for the issues that he had with the car but I consider that Sainsbury's Bank has responded to his claim under section 75 fairly and reasonably. It paid him £30 for its delay in responding to his complaint and I'm not persuaded that it would be fair or reasonable in these circumstances for me to require it to reimburse Mr S for any of the repair costs that he's incurred, any of the other costs that he's claimed or the loss that he suffered when he sold the car. Nor do I consider that it would be fair or reasonable for me to require it to pay him any other compensation or to take any other action in response to his complaint.

My final decision

My decision is that I don't uphold Mr S's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 11 June 2021.

Jarrold Hastings

Ombudsman