

The complaint

Mr N complains that a car acquired with finance from Santander Consumer (UK) Plc trading as Santander Consumer Finance wasn't of satisfactory quality.

What happened

In November 2020 Mr N was supplied with a car and entered into a conditional sale agreement with Santander.

Mr N experienced issues with the sunroof not operating properly. He obtained a diagnostic report which found a fault with the drive motor.

Mr N contacted Santander who arranged an independent inspection. The inspection found that the sunroof would not retract or raise and that there were 5 fault codes. The inspector said the faults were due to wear and tear.

Based on the findings of the report, Santander rejected Mr N's complaint.

Mr N remained unhappy and brought his complaint to this service.

Our investigator didn't uphold the complaint. He said that based on the available evidence, including the inspection report, he wasn't satisfied that the fault was present at the point of supply.

Mr N didn't agree. He said he'd discussed the issue with the manufacturer of the car and had been advised that this type of fault shouldn't develop in a car which had only covered 17,000 miles. Mr N said he wanted Santander to help him with the costs of repair.

Our investigator reconsidered the complaint and changed his view. He said he didn't think a reasonable person would consider it satisfactory that the sunroof failed within the first 3 months given the age and mileage of the car. The investigator said that the car wasn't durable, and recommended that Santander arrange for repairs to the sunroof at no cost to Mr N.

Santander didn't agree. It said the independent inspection found that the fault wasn't present at the point of supply. It also said the car had passed a pre delivery inspection and no issues with the sunroof were found. Santander said that because the fault was electrical, it wasn't the same as a mechanical component when assessing durability.

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.

The Consumer Rights Act 2015 is relevant to this complaint. It says that goods must be of satisfactory quality when supplied. Cars are of satisfactory quality if they are of a standard that a reasonable person would regard as acceptable, taking into account the age and mileage of the car and the price paid. The legislation says that the quality of the goods

includes their general condition, and other things including fitness for purpose, appearance and finish, freedom from minor defects, safety and durability. I would expect a second hand car – such as that supplied to Mr N – to have a degree of wear and tear and to require repairs and maintenance more often than a brand new car. So, in order to uphold this complaint, I would need to be satisfied that the car wasn't of satisfactory quality at the point of supply, taking into account the factors set out in the relevant legislation.

An expert engineers report can help in deciding whether a car was of satisfactory quality when supplied. I've carefully considered the ACE report. This says that in the engineer's opinion, the sunroof failed due to in use wear and deterioration. The engineer concluded that the fault wouldn't have been present at the point of supply.

The engineers report is persuasive, because its expert evidence. I've also taken into account the other evidence relied on by Santander, including a pre inspection check which didn't identify any issues with the sunroof.

I've also considered durability, which is one of the ways in which satisfactory quality is assessed. When the car was supplied to Mr N, it was around 3 years old and had covered around 15,000 miles. The sunroof failed within 3 months. Mr N has said that the sunroof failed the first time he used it. I'm not able to verify this, but I can see that the car was supplied in the winter, so its unlikely that Mr N would have wanted to open the sunroof until the weather got warmer.

I've thought about durability, and about whether a reasonable person would regard it as acceptable if a sunroof on a car of this age and mileage failed after 3 months. On balance, I don't think a reasonable person would regard this as acceptable. A sunroof isn't a serviceable component part of a car, and I think a reasonable person would expect it to function for a reasonable amount of time without any issues. I don't think a sunroof which fails after 3 ½ years/15,000 miles is sufficiently durable. Because of this, I don't think the car was of satisfactory quality when supplied.

I've taken Santanders comments on durability into account. In relation to durability, Santander has said that Mr N covered 4,600 miles in the car before the sunroof failed. This doesn't change my view on durability because, as I've explained above, I've taken the mileage into account in assessing whether a reasonable person would expect a sunroof to fail in a car of this age and mileage. And although Santander has suggested that durability can't be assessed in relation to an electrical fault, I don't think this is relevant because the fault isn't stated to be electrical but rather a mechanical fault with the drive motor.

Putting things right

I've already explained why I don't think the car was of satisfactory quality when supplied. To put things right, Santander should arrange for repairs to be carried out to the sunroof at no cost to Mr N. It should also refund the cost of the diagnostic report obtained by Mr N.

My final decision

My final decision is that I uphold the complaint. Santander Consumer (UK) Plc trading as Santander Consumer Finance must:

Arrange for repairs to be carried out to the sunroof at no cost to Mr N

Refund Mr N the cost of the diagnostic report

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or

reject my decision before 31 May 2022.

Emma Davy
Ombudsman