

The complaint

Miss K complains that a car that was supplied to her under a conditional sale agreement with Santander Consumer (UK) plc, trading as Santander Consumer Finance, wasn't of satisfactory quality.

What happened

A used car was supplied to Miss K under a conditional sale agreement with Santander Consumer Finance that she signed in August 2021. The car's clutch failed in January 2022 so Miss K complained to Santander Consumer Finance. It arranged for the car to be inspected by an independent expert later than month.

Santander Consumer Finance said that the independent inspection had shown that the faults wouldn't have been in development from the point of finance inception so the selling agent couldn't be held liable. Miss K wasn't satisfied with its response so complained to this service.

Our investigator recommended that her complaint should be upheld. He was persuaded that the car wasn't of satisfactory quality when it was supplied to Miss K as it wasn't reasonably durable. He thought that it would be fair for Santander Consumer Finance to cover the cost of the repair. He also recommended that it should refund the monthly payments that Miss K had made since she had to stop using the car in January 2022, with interest, and that it should pay her a further £150 for the distress and inconvenience that she experienced.

Santander Consumer Finance has asked for this complaint to be considered by an ombudsman. It says, in summary, that:

- the car was used and sold with just under 50,000 miles so it carries the wear and tear of previous users;
- clutch faults are commonly very dependent on driver style;
- Miss K has driven 7,200 miles in the car in five months (which it says is excessive in the circumstances);
- the independent expert confirmed that the fault wasn't present at sale or due to an unsuccessful previous repair and that it had reached the end of its serviceable life so the fault wasn't unexpected at the age and mileage of the car; and
- it doesn't agree that the car isn't durable.

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.

Having done so, I agree with the outcome recommended by our investigator for these reasons:

- Santander Consumer Finance, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Miss K - 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;
- the car that was supplied to Miss K was nearly six years old, had been driven for about 49,000 miles and had a price of £7,795;
- 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 was supplied to Miss K in August 2021 and she complained to Santander Consumer Finance about the car's clutch in January 2022 – less than six months later;
- Santander Consumer Finance arranged for the car to be inspected by an independent expert and the inspection report recorded the car's mileage as 56,202 miles;
- the inspection report said: "... the vehicle does not display any faults relating to the gearbox unit. However, the clutch pedal biting point was noted to be high. We would consider that the clutch components have simply reached the end of their serviceable life and the vehicle would not have displayed these faults at the point of finance inception and therefore the selling agent would not have liability for the faults found. The condition would not be unexpected on a vehicle of this age, type and mileage or any second hand vehicle. The clutch components including release bearing require replacement";
- Miss K then took the car to a gearbox specialist in February 2022 and it said: *"Flywheel collapsed and badly worn, flywheel out of tolerance, clutch diaphragm at end of travel, recommend new clutch & flywheel. Customer should refer to [a manufacturer's dealer] as there is a technical bulletin out for this problem"*;
- Miss K had used the car to drive more than 7,000 miles in about six months which Santander Consumer Finance says is excessive use – but I'm not persuaded that her use of the car was excessive and I don't consider that Santander Consumer Finance has provided any evidence to show that the issues have been caused by Miss K's driving style;
- I don't consider that it's reasonable to expect that the clutch components on a car that had only been driven for 56,202 miles would have reached the end of their serviceable life and I consider that it was reasonable for Miss K to expect that the clutch on the car would last for more than five months after the car was supplied to her;
- I don't consider that the car was as durable as it was reasonable for Miss K to expect it to be and, for that reason, I consider that it wasn't of satisfactory quality when it was supplied to her; and
- I find that it would be fair and reasonable for Santander Consumer Finance to take the actions described below.

Putting things right

I find that it would be fair and reasonable for Santander Consumer Finance to arrange and pay for the issues with the car's clutch to be repaired. Miss K hasn't used the car since the issues with the clutch started in January 2022. She's continued to make monthly payments under the agreement to Santander Consumer Finance. I find that it would also be fair and

reasonable for Santander Consumer Finance to refund those payments to Miss K for the period from when the clutch issues started until those issues are repaired, with interest.

These events have clearly caused distress and inconvenience for Miss K. I find that it would also be fair and reasonable for Santander Consumer Finance to pay her £150 to compensate her for that distress and inconvenience.

My final decision

My decision is that I uphold Miss K's complaint and I order Santander Consumer (UK) plc, trading as Santander Consumer Finance, to:

1. Arrange and pay for the issues with the car's clutch to be repaired.
2. Refund to Miss K the monthly payments that she's made under the agreement for the period from when she stopped using the car in January 2022 until the car is repaired.
3. Pay interest on the amounts at 2 above at an annual rate of 8% simple from the date of each payment to the date of settlement.
4. Pay £150 to Miss K to compensate her for the distress and inconvenience that she's been caused.

HM Revenue & Customs requires Santander Consumer Finance to deduct tax from the interest payment referred to at 3 above. Santander Consumer Finance must give Miss K a certificate showing how much tax it's deducted if she asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss K to accept or reject my decision before 6 September 2022.

Jarrold Hastings
Ombudsman