

## The complaint

Ms R complains about a conditional sale agreement in her name with Santander Consumer (UK) Plc trading as Santander Consumer Finance ("Santander").

## What happened

Ms R tells us that in early 2020 she was looking to buy a car using finance. The type of deal she wanted was one where she'd make payments for four years and then own the car outright by the end. Specifically, Ms R expected to make 48 equal monthly payments and nothing more. Further, she wanted to pay less than £200 per month in repayments. To get the deal she wanted Ms R was prepared to part exchange the car she already owned. Moreover, she was prepared to pay an upfront deposit.

Through a family friend Ms R heard about a third-party company who I will call "F". In the past, F had helped that family friend to acquire a car, so it appears Ms R felt reassured by this connection. Ms R contacted F to help her find both the car and the finance. According to Ms R, it appears that F said it could both find her the right car and put her in touch with a finance company that could supply the finance to fund the purchase of the car. Ms R and F mostly corresponded by WhatsApp. Ms R has provided us with copies of this correspondence.

After some to and fro F appeared to find the ideal car and the ideal finance for Ms R. Therefore, Ms R tells us she paid a deposit of £6,000 in total. In particular she tells us that this was made up of two bank transfers which together totalled £1,000 and then she paid £5,000 in cash. Ms R says the cash was a gift from her parents, they do not use digital banking and preferred therefore to give her the money in cash.

At some point during the negotiations Ms R was introduced by F to an individual who it turned out worked for another third-party company I will call "L". But Ms R position is that at the time she thought both individuals worked for the same company.

It's also Ms R's position that the employee of F and the employee of L were both there when she handed over the £5,000 in cash. Ms R tells us the employee of L gave her a receipt for the £5,000. But the employee only gave her this receipt when she insisted that he did. I will refer to this receipt as "Document 1".

Ms R says she also part-exchanged her car as part of the deal. Ms R's stance is that she was to get £1,000 for this.

After paying her deposit and handing over her original car Ms R tells us she picked up the new car which she was very happy with. Further, at this point, she got the documents she needed to register the car in her name and the manual for the car. Shortly afterwards Ms R received a welcome letter from Santander, that letter mentioned that *"your supplying dealer will have provided you with a copy of your finance agreement"*

However, Ms R indicates that she never saw any other paperwork, at this time, including the

finance agreement. Neither did she recall being asked to sign a finance agreement by e-signature. Ms R explains that she did not question this as the employee of L told her the paperwork would follow.

Shortly after Ms R acquired the car, which was in February 2020, the country went into lockdown due to the Covid-19 pandemic. Ms R explains that she thought this was why the paperwork had not come through. After a while though, when the lockdown restrictions eased, Ms R chased the employee of F for the paperwork by WhatsApp. In reply, he indicated, also via WhatsApp, that he'd sort this. But Ms R indicates that she heard nothing further from him after this.

Eventually, seemingly in December 2020, Ms R contacted Santander directly for the paperwork. Once Ms R received the paperwork, it appears she was surprised and dismayed to find out a number of things, namely:

- Her agreement with Santander involved 49 not 48 payments. The 49<sup>th</sup> payment was what is known as a balloon payment. This is a lump sum paid at the end of a conditional sale agreement if the consumer wishes to purchase the car. The amount of the balloon payment is £7,720.83. Ms R tells us she did not know about this payment, she could not afford this payment and she would not have gone ahead with the contract if she'd known about it.
- The deposit noted on the agreement was £3,000 not the £6,000 she says she handed over.
- The email address and the contact number written on the agreement, were not hers.
- The contract had what appeared to be her e-signature on it, which she says she did not authorize either F or L to fill in on the finance agreement.

Ms R complained to Santander. Ms R wants Santander to acknowledge the payment of the £6,000 deposit and also to remove the 49<sup>th</sup> payment i.e. the balloon payment from the agreement.

Santander responded to say the following. F acted as a broker. It had asked L about F. In response L had indicated that it had had "*issues*" in the past with the broker F. The issues concerned F charging consumers "*finder's fees*". It went on to say that F was "*renowned*" for trying to charge finder's fees. L, suggested Ms R had to have been aware of the "*finder's fee*".

Moreover, L told Santander that the documents it had showed that Ms R had only paid a deposit of £3,000. These documents included:

- A sales invoice between Santander and L ("Document 2"). The sales invoice came about because originally, L owned the car. It sold it to Santander and then Santander supplied the car to Ms R, this is how conditional sale agreements normally operate.
- A handwritten ledger from L showing it received £3,000 in cash as a deposit for the car ("Document 3").
- A document headed "*deposit*" which L says was a copy of the deposit receipt which it

gave to Ms R ("Document 4").

- Information to show what cash it had paid to Santander in relation to the deposit ("Document 5").

Moreover, L denied that it had created and given Ms R Document 1.

L also pointed out that the finance agreement showed the deposit paid was £3,000. L suggested Ms R needed to look to F if she thinks there is a discrepancy between the amount she paid for the deposit and the amount L documented. L indicated that it no longer had a relationship with F.

As to the balloon payment L suggested it had gone through the entire agreement with Ms R and then she had it. This included telling her about the balloon payment. It also sent a vehicle handover form ("Document 6") which it suggests showed it discussed the agreement with Ms R before she signed the agreement. It appears it also suggested this showed it had given Ms R a copy of the finance agreement at the time it was completed.

Santander indicated it had reached out to F too. At first, according to Santander, F told Santander it would need to discuss these issues with L. However, when pressed by Santander who told F it had discussed matters with L already, F declined to discuss the matter any further.

Santander rejected Ms R's complaint relying on the points raised by L. It added that its position is that Ms R had signed the agreement. By signing the agreement Ms R was indicating that she had read and understood the agreement. Santander contended it could not be held responsible if Ms R did not read the agreement before signing it.

Finally, Santander suggested that any incorrect contact details that may have been taken down and added to the finance agreement were a matter for L, not it.

Dissatisfied, Ms R complained to our service.

Once Ms R's complaint was with us, we asked both parties and L and F for further information. Ms R provided us with a letter from her parents confirming they gave her £5,000 in cash and in addition repeated her previous position, she also complained that Santander had not taken the information she provided as seriously as it took L's information. Santander and L repeated their stances too. After a bit of back and forth, F told us this about its dealings with L.

*"OK so what can I tell you about the famous [L] this could be a long-winded email. So, I worked for a gentleman there that carries himself under several names for whatever reasons. I used to have to refer to him as [name 1] or [name 2] when I used to work for him / generate leads. Yes, in February 2020 I generated a lead for [name of employee of L] at L with the customer [Ms R] if I remember correctly, I think they purchased a [make of car] and they did have a part exchange yes."*

Once she knew what Santander were saying about Document 1 Ms R suggested she now wanted the police to get involved. This was because in her opinion Santander is suggesting she fabricated Document 1. To her mind this amounts to fraud therefore the police should be involved.

Further, Ms R sent us a newspaper article about offences committed by F which trading standards had investigated. It appears that F agreed to settle outstanding finance on cars

used in part-exchange deals. But then did not settle the finance in line with what had been agreed with the consumers.

L also provided us with new information about the contact details on the contract, it told us F *"would have obtained the information needed for the application direct from the customer and then entered it directly into Santander's portal"*.

I issued a provisional decision. I said the following about what I'd provisionally 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."*

*First, I'm very aware that I've summarised this complaint in far less detail than the parties and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here.*

*Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.*

*I need to deal with Ms R's latest point about criminal matters, first. This service does not deal with criminal matters. It follows that we have no power to make any findings about criminal matters. Should Ms R wish to go to the police to ask the police to get involved that is entirely a matter for her.*

*The parties disagree about all the significant matters in this complaint. Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances.*

#### *The roles of the main participants*

*The roles of the principal participants are important here because the law says that a finance company can in certain circumstances be held responsible for certain acts of credit brokers. In particular, the finance company can be held to account where the credit broker(s) misrepresented the agreement.*

*The definition of credit broking includes introducing an individual to a person ("P") with a view to P entering into by way of business as lender a regulated credit agreement. The person doing the introducing is credit broking. But the definition also covers where the individual who is looking for the credit, does not come to the credit broker directly but comes via a third party. In other words, if person A introduces person B to person C, in order that person C can then introduce person B to person D for the purpose of entering into a regulated credit agreement, then both person A and person C are credit broking.*

*Misrepresentation here means where the credit broker gave inaccurate information that led to the consumer entering into the agreement. In particular, Section 56 ("Section 56") of the Consumer Credit Act 1974 ("CCA 1974") deals with misrepresentations made in "antecedent negotiations" by the credit broker. This means, amongst other things, it deals with what was said by the credit broker to the consumer before the credit agreement was entered into. Section 56 only applies to particular types of agreements. One of the types of agreement covered is conditional sale agreements.*

*I have to take account of relevant law, amongst other things when I decide what is fair and reasonable. So, in this complaint I am first going to look at what role F and L played here. Then I will look at if I think that F and L made relevant misrepresentations in the course of the antecedent negotiations. If I'm persuaded on balance that this happened, I would think it is fair and reasonable that Santander take responsibility for this and for putting things right for Ms R.*

*There seems to be no disagreement that L was credit broking. Santander and L also refer to F acting as a broker. Even F has told us its role was in essence a credit broker although it styles itself as an introducer. It also tells us it worked for L. In any event, I am satisfied that Ms R came to F for the purpose of finding finance to acquire a car, and it introduced her to L who in turn introduced her to Santander. In all the circumstances I am satisfied that F as well as L acted as a credit broker in relation to the finance provided by Santander. Alternatively, I am satisfied that F was working for L when L was acting as a credit broker.*

### *Misrepresentation*

*The next question is what was most likely said in the course of those antecedent negotiations by whom and did any of it amount to misrepresentation?*

*Ms R tells us about both verbal and written misrepresentation.*

*By their very nature such alleged verbal conditions are hard to substantiate and I therefore have to assess this aspect on the basis of the balance of probabilities. However, I do think what was said in the course of the pre contract conversations was likely to be in line with the written contact between Ms R and F in the form of the WhatsApp communications. I have no reason to doubt the accuracy of the copies of these WhatsApp messages.*

*In these written communications F says things to Ms R about the terms of the agreement that are not reflected in the official paperwork. Santander's stance is that only the written documents provided by L reflect what happened in the antecedent negotiations. I disagree with Santander's position. I find that the WhatsApp correspondence most likely reflects what was said in the pre contract negotiations. I don't find it likely that Ms R and F said one thing in those messages and then something completely different was agreed when it came making the deal.*

*Moreover, I am not persuaded that L accurately reflected what was agreed in the documents it has provided to Santander. I will say more about this below. Moreover, I think Santander can fairly and reasonably be held responsible for the things that F said in the antecedent negotiations on the basis that F acted as a credit broker in relation to the agreement it entered into with Ms R. But I also think I can go further and say that the representations made by F were also made by L directly. It follows that Santander can also fairly and reasonably be held responsible for the representations of L. I say this for the following reasons. F and L seem now to be suggesting that each did not know what the other was doing or saying. However, I think it is clear based on all the information I have seen that they formerly had a close enough arrangement that F was able to supply Ms R not only with details of at least one car that L had but also to tell her about funding options for that car. Moreover, what F and L say about their working relationship suggests that they were working very closely together at the relevant time. I find it unlikely then that L did not know what F was saying to Ms R and I find it likely that it was providing some of the responses that F gave to Ms R such as about likely repayment amounts. I also find that most likely, L and F were saying the same things to Ms R when they were all together.*

*Moreover, in the alternative F suggests it was working for L and I find that likely too, in the circumstances, given the apparent closeness of their relationship. Therefore, L and by*

extension Santander can be held to account for relevant misrepresentations made by F on this basis too.

*When I think about if it is likely F and L gave Ms R incorrect information, I take on board that F indicates that L did not always behave in a straightforward manner and L suggests the same about F. I find it significant that these two entities who worked together closely should have formed such opinions about each other. In other words, Ms R tells us F and L gave her inaccurate information and [it supports her case that] F suggests L might have behaved in that way and L suggests the same about F.*

*I also find it significant that rather than deny Ms R's version of events outright, F and L in general merely suggest that any questioner needs to talk to the other not it.*

*The newspaper article about F does not talk about exactly the type of behaviour that Ms R is complaining about on the part of F. That said, it does suggest that F had a degree of sharp practice in how it went about its business.*

*All of this impacts on the weight I feel able to give to the information provided by F and L especially when it comes to what money was handed over and what they told Ms R about the contract.*

*I'm satisfied from the information I have seen that Ms R paid F £1,000 and she believed it was for a deposit. I am also satisfied that Ms R's parents did provide her with £5,000 of cash.*

*Ms R has provided us with Document 1. It shows, on the face of it, that L accepted it received £5,000 in cash from Ms R. Santander suggests Document 1 was not provided by L. If I accepted Santander's stance, I would have to be persuaded that Ms R likely created this document herself. Document 1 bears L's logo. The signature on Document 1 looks like the signature on Document 2. Moreover, if Ms R was going to raise an unsubstantiated complaint about the deposit, it would seem strange she did not do this when she acquired the car but instead waited months to do so. On balance I don't agree that Document 1 was not created by L and given to Ms R.*

*Document 2 shows the deposit L told Santander about but just because L told Santander the deposit was £3,000 does not rule out that Ms R handed over the £6,000, she tells us about.*

*Document 3 does not persuade me it appears merely to be a handwritten extract from L's ledger which it seems could have been written at any time. I note there are no entries after the entry relating to Ms R's contract.*

*Document 4 I note has a space for the customer to sign to say that the deposit was £3,000 but the space is blank. It is not clear why L went to the trouble of drawing up a receipt specifically to document what deposit was paid but then did not get Ms R to sign it. I am not persuaded therefore that this document accurately reflects the transaction.*

*There is no dispute that L only sent Santander £3,000 that is all that Document 5 shows.*

*I recognise that the conditional sale agreement set out the deposit and the deposit there is noted as £3,000. And I accept that if Ms R had seen this document when she acquired the car, she ought to have read it. Not least because it would have given her a chance to question the deposit that had been noted. I also agree with Santander, that as a starting point where a consumer signs an agreement they should be taken to have read and understood it.*

*That said I find it significant that Ms R's correct contact details were not on the agreement. It does not appear to be contested that the contact details on the contract were not hers. I'm satisfied that the wrong details on the contract would have prevented Ms R from being sent the agreement by Santander. I am not persuaded by what Santander and L have said about how these contact details came to be filled in. Ms R was L's customer, so it seems odd that L says F filled in the details. That might have happened but that then makes it more likely that F was working for L as F suggests.*

*In any event, the first time that Santander is able to demonstrate that Ms R did receive a copy of the agreement, that is months after it started, Ms R complained about it. I find her actions to be consistent with her version of events. That is that she was never presented with a copy of this contract at the time the contract was made. I also note the WhatsApp messages show Ms R chasing the paperwork which I don't find it likely she would have done if she had seen it before. I am satisfied that Ms R did want to enter into a finance agreement with Santander. But I am also satisfied that on balance Ms R was not presented with the actual agreement when she acquired the car. Rather I am persuaded that she was told verbally that the agreement was in line with what she has told us was said. And Ms R relied on this verbal representation. It follows that I don't find that in agreeing to enter into the agreement with Santander Ms R was also accepting that her deposit was £3,000.*

*I note that the WhatsApp correspondence is in part about deposits, but there is no mention of finder's fees. The same correspondence confirms that £6,000 was paid for a deposit.*

*Moreover, L indicates that F had a history of not providing accurate information about finder's fees. It also suggests Ms R would have known about a finder's fee. These two positions appear to contradict each other. I mention L's stance on this because it appears that Santander seems to have adopted it as its own. Therefore, I am not persuaded that any part of the £6,000 was for a finder's fee.*

*For each of the individual reasons I have gone through above, in all the circumstances, I am persuaded that the deposit Ms R paid was not reflected accurately on the finance agreement. In other words, I am persuaded that Ms R paid a deposit of £6,000 to F and L albeit I am also satisfied the full £6,000 deposit was never passed on to Santander.*

*From the information I have available to me I can see F carried on negotiations with Ms R about monthly repayments and deposits. I've seen nothing in those communications to suggest that F mentioned anything about balloon payments. Rather, the talk was of monthly repayments. I'll add for completeness that I am satisfied for the reasons that I have already gone through that both L and Santander can be held responsible for these representations.*

*In addition, I don't find it persuasive that L has provided Document 6. Document 6 has a section headed "Documentation" under that it says, "finance agreement" and this is ticked. However, Document 6 is inaccurate on the face of it, against the statement "I have been offered finance options for my new vehicle" both option "yes" and option "no" are ticked. When L and Santander both agree that L offered to credit broker Santander's finance to Ms R, so only "yes" should have been selected. Moreover, the document is unsigned although there is a space where clearly the customer was meant to sign and a separate space where L was meant to sign too.*

*I find it unlikely that Ms R provided the inaccurate contact details. I note the impact of this is that on balance the first time Ms R saw the contract is when Santander provided it to her months down the line. I have already mentioned above why Ms R's actions support her submission that she was not provided with a copy of the contract at the time it was made.*

*In addition, as I also mentioned above, I am persuaded that F and L did not always provide*

accurate information to Ms R. And I have difficulty relying on the accuracy of the submissions from F and L about this part of the complaint.

Moreover, I am persuaded that Ms R could not have afforded a balloon payment amounting to thousands of pounds, and therefore it does not make sense for her to have entered an agreement with such a clause in it.

For all of these individual reasons I'm satisfied that Ms R was led to believe that she was entering into an agreement with 48 equal payments and that she was not made aware of the balloon payment. I am also satisfied that if Ms R had known about the balloon payment she would not have entered into the agreement with Santander.

Further, Ms R complains that Santander did not take her as seriously as L. I see suggestions of this in this complaint for example Santander suggesting that if there are incorrect contact details on the contract that is a matter for L not it. The information I have seen about the likely working practices of F and L might have merited I think further investigation. For all these reasons I think Santander has not dealt with Ms R in the way she is entitled to expect. I think this likely caused her to experience distress and inconvenience. I find it fair and reasonable that Santander ought to pay Ms R £300 for this.

I have been persuaded that the contract was materially misrepresented by F and L and that it is fair and reasonable that Santander take responsibility for this. Therefore, Ms R is entitled to be put in the position she would have been in if things had been explained to her correctly.

But despite what Ms R asks for she is not entitled to be put in the position she would have been in if the misrepresentation had been true. This is not the normal remedy for misrepresentation. That means I cannot ask Santander to keep the agreement in place but to strike out the requirement for the 49<sup>th</sup> payment.

However, what I can ask Santander to do is the following:

- To end the conditional sale agreement with nothing further owed by Ms R and nothing further showed as owing by Ms R on her credit file. Ms R does not own the car, Santander does so Ms R must understand she will need to hand back the car.
- To refund her £6,000 and to pay interest on that £6,000. The interest should be calculated at the rate of 8% simple per year. The interest should run from the date Ms R made the deposit payments until the date of settlement.

### *Part-exchange*

I can see that at first at least the part-exchange of the car was discussed. But then the WhatsApp messages stop mentioning the part-exchange and the deposit and just talk about the deposit.

I also notice that Ms R did not initially talk about part-exchange when she complained although she gave detailed submissions.

That said, I think it is likely that the car that Ms R formerly possessed was handed over to F and L but on what basis is not clear. There are a number of possibilities. On balance I don't have enough information about this part of the deal to be able to say that there was a misrepresentation made by F and L about this in the antecedent negotiations that Santander must be responsible for on a fair and reasonable basis. It is fair and reasonable that Santander take responsibility for this."

My provisional decision was as follows:



*"My provisional decision is that Santander Consumer (UK) Plc trading as Santander Consumer Finance must.*

- *End the conditional sale agreement with nothing further owing.*
- *It must arrange with Ms R to retrieve its car at no cost to Ms R. And the retrieval must happen at a mutually convenient time.*
- *It must ask the credit reference agencies to remove any information it has asked them to register on Ms R's credit file about the finance agreement.*
- *Refund Ms R's deposit of £6,000. It must add interest to that deposit at the rate of 8% simple per year. The interest to run from the dates the deposit was paid until the date of settlement.*
- *Pay Ms R £300 for distress and inconvenience."*

I invited both Ms R and Santander to respond to my provisional decision, they both did.

In brief, Ms R accepted the provisional decision. However, she did express her disappointment about receiving no payment for her former car that she reiterated she had part exchanged as part of the deal that is the subject matter of this complaint.

In summary, Santander rejected the provisional decision. In particular, it repeated its stance that Ms R had signed the agreement so should be taken to have agreed with it. Further, it suggested that the only evidence that I had mentioned to support the finding that Ms R had paid a deposit of £6,000 was Document 1. Its stance is that Document 1 was "*forged*". It added that it did not consider the signatures on Document 1 and Document 2 look alike.

In addition, Santander also sent us a document from L's solicitors responding to the provisional decision. It was not clear though if Santander was adopting L's response as its own, so we asked it about this. Santander let us know that the points made in the paragraph above were the points it relied on. Therefore to that limited extent it was adopting these points made by L. But the remainder of the points provided by L's solicitors are not its points.

L provided new information. In summary, it suggested Ms R had been "*insistent*" about using F. F had wanted L to pay it an "*introductory fee*" of £1,000. L declined to do this and said it would not go ahead with the deal. Therefore, at this point Ms R had agreed to pay this introductory fee to F herself.

In response Ms R repeated her position that at no time before she went ahead with the agreement was she made aware that F and L were not one and the same company. Therefore, she had no reason to think that F would be requiring or expecting a fee for introducing her to L. Moreover, she reiterated she had discussed only paying a deposit there was no talk of introductory fees.

In their responses to the provisional decision both Ms R and Santander have mentioned the condition of the car. Ms R suggests the car is in good condition. Santander talks about being entitled to recover money from Ms R under the agreement if the car is not returned to it in the condition required under the agreement.

## **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 thank both Ms R and Santander for their responses to the provisional decision. It has been particularly helpful that each of the parties took the time to set out their views on the provisional decision, so that I have been able to gain a fuller understanding of their respective positions and concerns. I've thought about their responses, I've reviewed the file again and revisited my provisional decision.

I note Ms R's disappointment in relation to my finding about the car she tells us that she part exchanged. But in the circumstances, as she has raised no new arguments, in relation to this point, I have no proper basis for coming to a different conclusion from that which I reached in the provisional decision.

As I said in my provisional decision, as a starting point I agree with Santander where a consumer has signed an agreement they should be taken to have read and understood it. But, that is only the starting point. Santander's response suggests that all I need to take account of is whether the agreement is signed. I disagree, I need to take account of all relevant circumstances. In the provisional decision I explained in great detail why this was not the only relevant consideration. Moreover, I found that it was unlikely that Ms R had signed the agreement. Moreover, in the circumstances, I find it unlikely that Ms R gave either F or L her permission to sign on her behalf. I also set out in my provisional decision why I did think that Ms R had wanted nevertheless to enter into an agreement with Santander, just not the agreement she got. And I also set out why ultimately I was satisfied that the agreement had been materially misrepresented to Ms R. Therefore, it followed that Santander had to take steps to put things right. Nothing in Santander's response persuades me that it would be fair and reasonable to set aside all this further reasoning.

In my provisional decision, I set out several individual reasons that persuaded me that Ms R paid a deposit of £6,000. I did not base this finding solely on Document 1 as Santander suggests. Santander has not commented on those other individual reasons. Further, I also set out why I was not persuaded on balance that Document 1 had been created by Ms R rather than given to her by L. Whilst I accept that Santander's stance remains that L did not provide Document 1 and Ms R likely created it, merely restating its position again, (which I've already considered), with no new reasoning does not persuade me that its version of events is the most likely version of events.

I have thought about if it is likely that Ms R would have been insistent about keeping F in the loop. I note why Ms R might have been so insistent about involving F is not explained. I have also thought about the sequencing of events as L has described it. From its explanation, out of the blue, Ms R was told she had to pay F £1,000 because L was not going to do so. And Ms R did not quibble. Rather she merely agreed to pay £1,000 there and then to F. Ms R appeared to have a limited budget for this purchase so how she could have afforded a "surprise" £1,000 at the last minute is not clear. I also find it significant that there was no mention of this fee in any of the pre contractual correspondence. Given the size of the fee I might have expected the fee to have been mentioned in the correspondence if this was something that had been in the offing. I also repeat what I said in my provisional decision that given the information I have seen this impacts the weight I feel able to give to the submissions of L. In the circumstances, for each of these individual reasons, I prefer Ms R's version of events about this point.

I have not been persuaded by the responses to my provisional decision. It follows I have come to the same conclusions for the same reasons as I did in it.

I have made no findings about the current condition of the car. But from what Ms R tells us Santander will have no cause to charge her for end of contract repairs because they will not be necessary. But, in any event, nothing in this decision prevents Santander from pursuing Ms R for end of contract repairs. I have slightly amended the redress to reflect this. If however, Santander does seek to charge Ms R for end of contract repairs that will be a new complaint. In those circumstances she would have to complain to it first about this.

### **My final decision**

My final decision is that Santander Consumer (UK) Plc trading as Santander Consumer Finance must.

- End the conditional sale agreement.
- It must arrange with Ms R to retrieve its car at no cost to Ms R. And the retrieval must happen at a mutually convenient time.
- It must ask the credit reference agencies to remove any information it has asked them to register on Ms R's credit file about the finance agreement.
- Refund Ms R's deposit of £6,000. It must add interest to that deposit at the rate of 8% simple per year. The interest to run from the dates the deposit was paid until the date of payment.
- Pay Ms R £300 for distress and inconvenience.

Santander must pay the total compensation within 28 days of the date on which Ms R accepts my final decision. If it pays later than this it must also pay interest on the £300 from the date of the final decision until the date of payment at the rate of 8% simple per year.

If it considers it is legally required to deduct income tax from the interest, it must send a tax deduction certificate with the payment so that Ms R can reclaim the tax if she is able to.

Ms R should refer back to Santander if she is unsure of the approach it has taken and both parties should contact HM Revenue & Customs if they want to know more about the tax treatment of this portion of the compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 7 October 2022.

Joyce Gordon  
**Ombudsman**