

## **The complaint**

Mrs O is unhappy that a car supplied to her under a conditional sale agreement with Santander Consumer (UK) Plc (Santander) was of an unsatisfactory quality.

## **What happened**

In June 2022 Mrs O was supplied with a used car through a conditional sale agreement with Santander. She paid an advance payment of £11,500 and the agreement was for £35,820 over 49 months; with 48 monthly payments of £271.09 and a final payment of £11,307.80. At the time of supply, the car was less than three months old, and had done about 500 miles.

Mrs O complains that the car had been with the garage for repairs for more than four months. She said the car developed faults with the engine and brakes in May 2023. She said these were the same faults that she'd had on two previous occasions and had previously complained about.

She said the car first broke down at the end of June 2022. She said the car came to an abrupt stop, with a warning light indicating an engine fault and no brakes.

She said the car was repaired and returned to her ten days later. She said the same fault reappeared two days later. The car was with a main dealer garage for repair for around four weeks. She said Santander acknowledged the faults and compensated her for the time she was without the car.

She said the same fault occurred again in May 2023. She said that Santander again agreed there was a fault and compensated her for the period she didn't have the car.

She said Santander said they would give the dealer eight weeks to fix the problem. Mrs O raised a new complaint with Santander in September 2023 (this complaint) when the faults had still not been fixed. She said she wanted the car replaced or that she be allowed to reject the car.

She also complained that she was told by the supplying dealer that the car was a demonstrator car. She said she later found out this was not the case as it had been registered to another individual owner who had used the car for one month before returning it to the dealer. She said this showed that the supplying dealer knew of the problems when it supplied the car to her.

Santander said that the dealer had told them the repair was taking longer to complete due to the availability of parts and a lack of staff to complete the repair. They said it gave the dealer a further eight to twelve weeks to complete the repair.

Mrs O brought her complaint to this service when the car had still not been repaired and she said she felt that Santander were not helping her or taking responsibility.

Our investigator said that the car had been with the garage for almost a full year since it had been agreed the car would be repaired. He said that because the repairs had not been done

in a reasonable time and, because they hadn't been completed, Mrs O was able to reject the car. He said that he'd asked Santander why there had been delays but they'd only provided comments from the supplying dealer. He said these didn't explain why the repairs had been delayed.

Santander asked that this case be passed to an ombudsman for a final decision. They gave no reason as to why they wanted that outcome. Instead they said the supplying dealer had disagreed with our investigator's view. It had said it wasn't aware that the car had been in for repairs. Our investigator asked Santander for their comments, but they referred only to what the supplying dealer had said.

Because Santander didn't agree, this matter has been passed to me to make a final decision.

### **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've reached the same overall conclusions as the investigator, and for broadly the same reasons. If I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. Where evidence has been incomplete or contradictory, I've reached my view on the balance of probabilities – what I think is most likely to have happened given the available evidence and wider circumstances.

In considering this complaint I've had regard to the relevant law and regulations; any regulator's rules, guidance and standards, codes of practice, and (if appropriate) what I consider was good industry practice at the time. Mrs O was supplied with a car under a conditional sale agreement. This is a regulated consumer credit agreement which means we are able to investigate complaints about it.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mrs O entered into. Under this agreement, there is an implied term that the goods supplied will be of satisfactory quality.

The CRA says that goods will be considered of satisfactory quality where they meet the standard that a reasonable person would consider satisfactory – taking into account the description of the goods, the price paid, and other relevant circumstances. I think in this case those relevant circumstances include, but are not limited to, the age and mileage of the car and the cash price.

In this instance, Santander do not dispute there were problems with the car supplied to Mrs O. In their response to Mrs O in August 2022 they said that the manufacturer had authorised repairs to the car.

In July 2023, after Mrs O told them the original faults had reappeared, they said they had spoken with the repairing garage and said it had advised them that it was repairing the car, but it had to first confirm whether this was being done under warranty.

So I'm satisfied that Santander were aware of the faults, and that these were the same faults that had caused the car to breakdown in June 2022, just a month after she acquired the car. For the avoidance of doubt, I'm satisfied that the car was not of a satisfactory quality. I say that based on the limited information I have about the faults. But it appears to me that the faults that were repaired after the car broke down in the first month of Mrs O acquiring the

car, reappeared and are the cause of the current breakdown. This means that Mrs O was entitled to a repair under the CRA.

Santander said that they understood the car had undergone a lengthy repair. Mrs O told us that she hadn't been told the car had been repaired. Our investigator asked Santander about the repair but they didn't respond. I've seen correspondence between Mrs O, the garage, and the manufacturer – this states that some work had been done but it had not fixed the fault.

So in the absence of any other information, I'm persuaded that the car has not been repaired.

Section 23 (2) of the CRA states:

*If the consumer requires the trader to repair or replace the goods, the trader must –*  
*(a) do so within a reasonable time and without significant inconvenience to the consumer*

Given that the car has been with the garage for repair since May 2023, and the repair appears not to have been done, it appears to me that Santander failed to comply with Section 23(2)(a) of the CRA.

Mr O has described the inconvenience this has caused to her, and her family, and the impact on her mental health and financial well-being. And, in these circumstances, I think Mrs O should be able to reject the car.

Mrs O also complained that the car had been misrepresented to her. She said she had purchased the car as an ex-demonstrator. But she later discovered there had been a previous owner. I've seen no evidence of this. I don't doubt her testimony, but I won't consider this point further as it doesn't affect the outcome of my decision. Instead, I'll focus on what I think Santander should do to put things right.

## **Putting things right**

### Payment Refund

The car has been off the road and undrivable since May 2023 and Mrs O wasn't supplied with a courtesy car. This meant she was paying for a car she was unable to use whilst waiting for it to be repaired. As Santander failed to keep her mobile, I'm satisfied they should refund the payments she made during this period. Santander need not pay compensation for periods it has already refunded to Mrs O.

### Other costs

Mrs O has provided evidence that the garage intended to start charging her storage costs. To avoid these escalating costs, I think it was reasonable that Mrs O took steps to recover the car to the supplying garage. Given the unreasonable time taken for repairs, I think it's only fair that Santander reimburse these costs on production of proof of payment from Mrs O, and the invoice.

### D&I

It's clear that Mrs O has been inconvenienced by the length of time she has been without a car for such a significant length of time. The impact on her has been significant, affecting her

mental health, and her family life. I think Santander should pay her £400 in compensation to reflect the distress and inconvenience caused.

Therefore, Santander should:

- end the agreement with nothing more to pay;
- collect the car at no cost to Mrs O;
- remove any adverse entries relating to this agreement from Mrs O's credit file;
- refund the £11,500 deposit Mrs O paid (if any part of this deposit is made up of funds paid through a dealer contribution, Santander is entitled to retain that proportion of the deposit);
- refund the cost of recovery on production of the invoice and proof of payment;
- refund all monthly payments Mrs O paid since the car was taken in for repairs;
- apply 8% simple yearly interest on the refunds, calculated from the date Mrs O made the payment to the date of the refund<sup>†</sup>; and
- pay Mrs O an additional £400 to compensate her for the distress and inconvenience caused by the delay in waiting for repairs.

<sup>†</sup>If Santander considers that tax should be deducted from the interest element of my award, they should provide Mrs O with a certificate showing how much they have taken off so she can reclaim that amount, if he is eligible to do so.

### **My final decision**

For the reasons explained, I uphold Mrs O's complaint about Santander Consumer (UK) Plc and they are to follow my directions above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 14 April 2025.

Gordon Ramsay  
**Ombudsman**