

The complaint

Mr H complains that the car he acquired financed through a conditional sale agreement with Santander Consumer (UK) Plc wasn't of satisfactory quality.

What happened

In September 2023 Mr H acquired a used car financed by a conditional sale agreement with Santander.

Within weeks Mr H said the vehicle engine management light came on and he contacted a manufacturers garage, M, to fix the air bag fault under warranty in December. He returned the vehicle to M for water ingress into the footwells affecting wiring. One hour after collecting the car Mr H then had problems starting it and the recovery service towed the car back to M. At this point Mr H complained to Santander.

In its first final response letter Santander said the garage had diagnosed the battery junction box was corroded due to water ingress. It said the garage advised a battery drain test also needed to be done before returning the vehicle. It said when Mr H picked up the vehicle after the repairs had been completed, a few days later the air bag light came back on, and it arranged for the vehicle to be taken back to the garage for repairs under warranty. It upheld Mr H's complaint and paid him £179.15 for the time he'd been without the car and £100 as a gesture of goodwill.

In March Mr H reported the airbag light and engine management light came on and he raised this with Santander. Santander organised an independent inspection of the vehicle in April by X. In its second final response Santander said it couldn't uphold Mr H's complaint as the inspection stated the faults identified were not developing at the point of purchase. Further repairs were carried out in June 2024. Mr H brought his complaint to this service.

Our investigator asked Santander to arrange a further inspection as this had been recommended by X. Mr H arranged this inspection with a third-party, M, which showed multiple fault codes. Santander requested further diagnostic investigation. M carried out further diagnostics and more fault codes were found. Our investigator concluded that the vehicle wasn't of satisfactory quality when it was supplied and recommended Mr H be allowed to reject the car.

Santander didn't agree and asked for a decision from an ombudsman. It said it questioned the credibility of the report provided by M. It said M and a previous garage which had diagnosed issues failed in credibility.

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 conclusions reached by the investigator for the reasons I've outlined below.

Santander, as the supplier of the car, was responsible for ensuring that it was of satisfactory quality when it was supplied to Mr H. Whether or not it was of satisfactory quality at that time will depend on several factors, including the age and mileage of the car and the price that was paid for it. The car that was supplied to Mr H was approximately three years old, had been driven for 24,486 miles and had a cash price of £56,798. Satisfactory quality also covers durability which means the components within the car must be durable and last a reasonable amount of time – but exactly how long that time is will depend on several factors.

I'm satisfied there is a fault(s) with the car. I'm persuaded by the technical evidence provided by the independent inspections, the testimony of the senior advisor of the manufacturer's garage and the testimony of Mr H, which I find reliable.

Santander upheld a complaint by Mr H concerning the air bag, water ingress and the car not starting in February 2024 and paid Mr H compensation for these. So, it has already acknowledged that there were problems with the car it was responsible for. Problems with the car reappeared and testimony provided to this service by the manufacturer's garage confirmed that in March the airbag light and engine management light were back on. The car was also subsequently booked in for the exhaust gas oxygen sensor to be replaced.

Santander arranged for an inspection of the car in April 2024. The reported issues were airbag, vehicle not starting and water coming into vehicle causing a smell. The inspector noted:

- *..there is no active airbag warning lights illuminated on the dashboard however, there are corresponding fault codes residing within the diagnostics of the vehicle which would warrant further investigation.*
 - *B0028-13 Right side airbag deployment control open circuit.*
 - *B0020-13 Left side airbag deployment control open circuit.*
 - *B0050-13 Driver safety belt sensor open circuit.*
- *Similar to the fault with regards to the vehicle not starting, the vehicle does start however there are fault codes especially with the camshaft position sensor and the fuel pressure faults which could contribute to the failure and/or poor running of the engine.*
 - *P0090-13 Fuel pressure regulator control circuit open circuit.*
 - *P0237-00 Turbo/supercharger boost sensor A circuit low no sub type information.*
 - *P0342-00Camshaft position sensor A circuit low input Bank 1 or signal sensor no sub type information.*
- *Based on the evidence which was available to ourselves at this time we do not consider that the faults would have been present at the point of vehicle sale as the vehicle has covered sufficient mileage for the faults to have developed solely within the period of hire.*
- *We note from the information provided in our instructions that the vehicle has been on hire for 132 days. However, we further note that the vehicle has covered 10,677 miles since hire to the date of our inspection on the 17 April 24.*

I note the inspector recommended further investigation which wasn't carried out. When the complaint came to this service our investigator asked Santander to follow up with that further investigation. Santander allowed Mr H to organise a further inspection with a garage of his choosing which was M. On receipt of the report Santander said:

I suggest that Mr H books the vehicle with M to clear all historical codes and check for any current faults with the vehicle. If faults are found then they should also be asked to confirm whether they think the faults were present or developing when Mr H

purchased the vehicle.

Mr H booked the car in with M again and on the morning of the inspection the engine management light reappeared. I can see more fault codes presented on M's second report.

Santander asked if Mr H had had the car serviced and Mr H provided evidence of servicing with garage, N.

Looking at the technical evidence it's not clear to me that the original problems with the vehicle were addressed fully. The problem with the airbag light has been present since October and although the inspection by X didn't pick it up it did recognise fault codes. And I'm persuaded by this evidence and Mr H's testimony that this is intermittent and hasn't been fully addressed. While the X report said the problems were likely not present at the point of sale it also said that further investigation was warranted because of the numerous fault codes presenting, and this investigation wasn't carried out by Santander or the dealer.

The inspections have picked up a lot of fault codes related to the electrics. And it does seem possible that these may be related to the water ingress.

In response to our investigator's view Santander said:

1. *The original report from M was questionable in its credibility. I have not seen any supporting evidence of any faults in the first months of ownership nor has the dealership received any contact/complaint or warranty claim, which would have expected.*

In February Santander itself upheld Mr H's complaint relating to the quality of the vehicle and paid him compensation both for lost use and distress and inconvenience. I'm persuaded this is an acceptance there were issues with the vehicle. When our investigator asked Santander to follow up on the report by X it told this service:

Mr H is arranging the inspection at a garage of his choice. We will then either reimburse him or pay the garage directly, again I have left that as his choice.

Santander had the opportunity to arrange this further investigation itself. Instead it asked Mr H to do this at a garage of his choosing. After M's first report it didn't raise any concerns about the garage's credibility. It then asked Mr H to take the car back to M for the codes to be cleared and a new diagnostic carried out. Again, if Santander had concerns I would expect it to either organise the inspections itself or raise those concerns when the inspection was first carried out.

2. *Both M and N (the garage Mr H took the car to for the service) do not possess any diagnostic equipment to read any faults, so fail in credibility.*

I've not seen any evidence to suggest there are any concerns about the credibility of either garage.

I'm persuaded there are faults with the car and repair either hasn't worked or the problems were broader or more serious than first identified. While I understand that X said the faults were not present at the point of sale the evidence of fault codes related to the initial problems mean I think it likely they were present or developing. A repair has already been tried on the vehicle and Santander has had opportunities to further repair it, but I think it fair and reasonable that Mr H is now allowed to reject the vehicle.

Mr H has been able to use the car and so I won't be asking Santander to refund any

payments as Mr H has had fair usage. He may also have to pay extra mileage charges per the agreement. I agree with the investigator that Mr H has experienced distress and inconvenience because of the problems with the vehicle and so I think it fair Santander should pay him £150 in compensation.

Putting things right

To put things right Santander Consumer (UK) Plc must:

- end the agreement with nothing further to pay;
- collect the car at no further cost to Mr H;
- refund the deposit/part exchange contribution of £5,000;
- pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement payment;
- pay a further amount of £150 for the distress and inconvenience caused to Mr H;
- remove any adverse information from Mr H's credit file in relation to the agreement.

My final decision

My final decision is that I uphold this complaint and Santander Consumer (UK) Plc must put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 24 February 2025.

Maxine Sutton
Ombudsman