

The complaint

Mr B complains about the quality of a car he acquired under a conditional sale agreement with Santander Consumer (UK) Plc (Santander).

When I refer to what Mr B has said and what Santander have said, it should also be taken to include things said on their behalf.

What happened

In April 2023, Mr B entered into a conditional sale agreement with Santander to acquire a car first registered/manufactured in March 2016. At the time of acquisition, the car had travelled around 74,000 miles. The cash price of the car was around £12,750. The total amount payable was approximately £15,163. The duration of the agreement was 48 months, and each monthly payment was around £253.

Mr B said the car has been back with the supplying dealership for repairs more than four times for the same problem between July 2023 and October 2023. Mr B said the issues with the car he was experiencing were lack of power, no coolant in the tank, and backfiring. He said the situation had a negative impact on him financially as well as had a negative impact on his health. He would like to reject the car and would like a refund plus compensation for not being able to use the car as it was faulty so many times.

In May 2024 Santander wrote to Mr B and said that they commissioned an independent inspection which found no faults with the car.

Mr B remained unhappy, so he referred his complaint to the Financial Ombudsman Service (Financial Ombudsman).

Our investigator considered Mr B's complaint and while he thought the car was not of satisfactory quality when Santander supplied it to Mr B, the faults have since been repaired. So, the investigator did not think that Santander needed to take any further action in relation to Mr B's complaint.

Mr B disagreed with the investigator. So, the complaint has been passed to me to decide.

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.

Where evidence is unclear or in dispute, I reach my findings on the balance of probabilities – which is to say, what I consider most likely to have happened based on the evidence available and the surrounding circumstances.

In considering what is fair and reasonable, I need to take into account the relevant rules, guidance, good industry practice, the law and, where appropriate, what would be considered good industry practice at the relevant time. Mr B acquired the car under a conditional sale

agreement, which is a regulated consumer credit agreement. Our service can look at these sorts of agreements. Santander is the supplier of goods under this type of agreement and is responsible for dealing with complaints about their quality.

I have summarised this complaint very briefly, in less detail than has been provided, and largely in my own words. No discourtesy is intended by this. If there is something I have not mentioned, I have not ignored it. I have not commented on every individual detail. But I have focussed on those that are central to me reaching, what I think is, the right outcome. This reflects the informal nature of the Financial Ombudsman as a free alternative to the courts.

The Consumer Rights Act 2015 (CRA) covers agreements such as the one Mr B 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. The CRA says the quality of the goods includes their general state and condition, as well as other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability.

In Mr B's case the car was used, with a cash price of around £12,750. It had covered around 74,000 miles and was around seven years old when he acquired it. So, the car had travelled a reasonable distance, and it is reasonable to expect there to be some wear to it because of this use. I would have different expectations of it compared to a brand-new car. As with any car, there is an expectation there will be ongoing maintenance and upkeep costs. There are parts that will naturally wear over time, and it is reasonable to expect these to be replaced. And with second-hand cars, it is more likely parts will need to be replaced sooner or be worn faster than with a brand-new car. So, Santander would not be responsible for anything that was due to normal wear and tear whilst in Mr B's possession.

Mr B, in summary, thinks that he should be entitled to reject the car.

The CRA sets out that Mr B has a short term right to reject the car within the first 30 days, if the car is of unsatisfactory quality, not fit for purpose, or not as described, and he would need to ask for the rejection within that time. Mr B would not be able to retrospectively exercise his short term right of rejection at a later date.

The CRA does say that Mr B would be entitled to still return the car after the first 30 days, if the car acquired was not of satisfactory quality, not fit for purpose, or not as described, but he would not have the right to reject the car until he has exercised his right to a repair first – this is called his final right to reject. And this would be available to him if that repair had not been successful.

First, I considered if there were faults with the car. I've considered Mr B's testimony and I've seen job sheets for the work that was completed in September and November of 2023. In September 2023, I can see that a leaking radiator was replaced and in November 2023 the car was overheating. So, the garage replaced, among others, the head gasket, timing chain, and spark plugs. After this repair the car was weekend road tested, and the job card indicates that it was performing perfectly.

Based on all of the above evidence, it is clear that the car had faults within a few months of supply. But I understand that during most of those repairs Mr B was kept mobile and there was no direct cost to him, as the repairs were covered by either the supplying dealership or under warranty. And even though I think, most likely, some of these faults would have rendered the car of unsatisfactory quality at the time, I have considered that these have now

all been all rectified. I say this because the independent inspection commissioned by Santander in May 2024, did not identified any evidence of engine misfire, abnormal engine, operating concerns, or issues that required further attention. And they concluded that there is no evidence of previous unsuccessful repairs.

I know Mr B feels that the same faults he was experiencing shortly after he acquired the car are still present. So, he has provided an independent inspection which was completed in October 2024. And from this inspection I can see that the turbocharger may have reached the end of its operational life. But the engineer said that they were unable to find a connection with the previous report that was completed and that this appeared to be a new issue most likely a result of in-service wear and deterioration. The report concluded there was no evidence to indicate the condition was developing at the point of sale, and they consider this is a maintenance repair to keep the car serviceable.

Combined with that independent report, I also considered the fact that at the time, the car had travelled about 80,034 miles, and approximately 6,000 miles since Mr B acquired it. And, when considering the age and mileage of the car, combined with when the above issues were noted, alongside the information from both of the independent inspections, I think it is most likely the faults that Mr B is experiencing (as per the October 2024 independent inspection) are because of normal wear and tear and parts coming to the end of their life cycle. As such, I've not seen enough evidence to be able to say that Santander should be responsible for these.

While I sympathise with Mr B for the difficulties that he is experiencing, based on all the information available in this case, I do not think there is sufficient evidence to say that most likely Santander should be responsible for the faults with the car that have been noted in the independent inspection from October 2024. As such, I do not think it would be fair and reasonable to ask Santander to take any further action regarding this complaint.

My final decision

For the reasons given above I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 10 April 2025.

Mike Kozbial
Ombudsman