

The complaint

Mrs B complains about a car supplied to her using a conditional sale agreement taken out with Santander Consumer (UK) Plc ("Santander").

What happened

Mrs B referred a complaint to us along with her representative. As the complainant is Mrs B, for ease, I have addressed my decision to her only throughout, when referring to what she and her representative have told us.

In November 2022, Mrs B acquired a used car using a conditional sale agreement with Santander. The car was under five years old, the cash price of the car recorded on the agreement was £40,997, the agreement was for 49 months, made up of 48 regular, monthly repayments of £635.63, followed by a final payment of £19,333.25. The advance payment recorded on the agreement was £600. The mileage recorded on the sales agency agreement for the car was 39,950 miles.

On the day Mrs B acquired a car, she said she noticed a battery fault, and a new battery was fitted.

Mrs B said later in the month, she noticed further issues with the car. Among other things, Mrs B informed the supplying dealership of issues with the steering column. Mrs B said she also identified issues relating to the car's engine and again with the battery, and these were resolved within a few months.

However, she said the steering column issue hadn't been resolved, after two attempts of repair. In February 2023, Mrs B said she told the dealership a fault was still present with the car and in March 2023, she was sent an email explaining that the steering column and rear wiper motor needed to be replaced.

After several months of arranging for the car to be repaired, it was collected towards the end of October 2023. Mrs B said she was told that the repairs carried out had failed and parts to repair it were on back order.

Mrs B said she was pregnant at the time issues persisted and not being able to adjust the steering impacted her ability to drive the car comfortably.

In February 2024, an independent inspection was carried out to the car due to the steering column fault. The mileage recorded at the time of the inspection was 48,018 miles. It said that the electric switch for the steering wheel adjustment was inoperative when attempting to manoeuvre it to certain positions. A diagnostic test was also carried out where a fault code was present in relation to the steering column adjuster switch. The engineer who carried out the report also said that they thought the fault was present at supply, from what they had been told.

In March 2024, Mrs B asked to reject the car. She said she reported the fault within the first month of acquiring the car. And she said it was attempted to be repaired already.

In May 2024, Santander issued their final response to Mrs B where they upheld the complaint. They said following an independent inspection, the fault with the steering column was identified and it was arranged to be repaired. Santander said they expected repairs to take 8-12 weeks.

Santander also offered a 20% pro rata monthly refund since the complaint was raised, as well as a £100 distress and inconvenience payment.

Unhappy with Santander's response, Mrs B referred her complaint to our service. The investigator upheld the complaint and in summary, he reached that conclusion as he thought there was a fault with the car which was present or developing at the point of supply. And he thought it was fair that Mrs B could reject the car as Santander had already had the opportunity to repair it.

Santander disagreed with the investigator's findings. Among other things, they said the dealership made reasonable efforts to arrange repair of the car. They supplied an email showing that the parts to repair the steering column had arrived in March 2024 and they were arranging a suitable time for the repairs to be carried out.

Our investigator issued a further view where he explained his opinion hadn't changed. He explained that Santander said in their final response that repairs were expected to take 8-12 weeks, and he hadn't seen that the dealership had attempted to carry out the repairs within that period.

As Santander disagreed with the investigator's findings, the complaint was 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.

Having done so, I'm upholding this complaint and I'll explain why below.

I'm aware I have summarised events and comments made by both parties very briefly, in less detail than has been provided, largely in my own words. No discourtesy is intended by this. In addition, 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 point or argument to be able to reach what I think is a fair outcome. Our rules allow me to do this. This simply reflects the informal nature of our service as an alternative to the courts.

Mrs B complains about a car supplied to her under a conditional sale agreement. Entering into consumer credit contracts such as this is a regulated activity, so I'm satisfied I can consider Mrs B's complaint about Santander.

When considering what's fair and reasonable, I take into account relevant law and regulations. The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. The CRA explains under a contract to supply goods, the supplier – Santander here – has a responsibility to make sure goods are of satisfactory quality. Satisfactory quality is what a reasonable person would expect – taking into account any relevant factors.

I would consider relevant factors here, amongst others, to include the car's age, price, mileage and description. So, it's important to note that the car Mrs B acquired was around five years old, had been driven around 40,000 miles and cost around £41,000. I think a

reasonable person would accept that it would not be in the same condition as a new car and was likely to have some parts that are worn. However, given the cost of the car, I think a reasonable person would also expect trouble free driving for some time as well.

What I need to consider is whether the car was of satisfactory quality when it was supplied. And in order to do that, I first need to consider whether the car developed a fault.

Had the car developed a fault?

I don't think it is in dispute that the car developed a fault. I say this because Santander and Mrs B both acknowledged there to be an issue with the steering column. But for completeness, I have considered this below.

While Mrs B has mentioned several other issues she experienced with the car throughout the time she was in possession of it, I haven't made a finding on all of those, nor do I think I need to, in order for me to reach a fair and reasonable conclusion to this complaint.

Low battery warning fault

Job sheets haven't been supplied relating to this issue Mrs B raised. However, Mrs B supplied a photo of the car's dashboard. It showed a low battery message appear in December 2022. An email that Mrs B sent to the dealership at the time said:

"Just saw this warning appear... despite [dealership] changing the battery (twice) to a new one on collection..."

The supplying dealership later responded saying:

"Yes that's very strange as it had a new battery."

I have inferred from the comments above that there was a battery fault early on from when Mrs B took possession of the car. I say this because Mrs B informed our service that the battery was replaced on the day the car was supplied. And the comments above suggest that the battery fault hadn't been resolved. Considering the above, I'm satisfied the car had a battery fault shortly after the car was acquired.

Steering wheel adjustment fault

In February 2024, an independent inspection was carried out where the report said:

"In our opinion, we can confirm the electric switch for the steering wheel adjustment was found to be inoperative for lowering or raising the steering wheel and when placing the steering wheel into the dashboard by the electric switch, it was found to not be released back out."

A diagnostic fault code was found in regards to the steering column adjuster switch actuator stuck closed."

So, I'm satisfied the car had a fault with its steering wheel adjustment, which was diagnosed in February 2024.

Was the car of satisfactory quality at the point of supply?

The inspection report went on to say:

"We consider the fault would have been present at purchase with the details provided through our instruction details."

I have also seen an email chain between Mrs B and the supplying dealership from November 2022, within a month of the car being supplied to Mrs B. The email chain said:

"... Ive [sic] found that the steering wheel column doesn't go up or in... only comes out and down (which of course is a problem)."

Considering the fault initially presented itself shortly after the car was acquired, and the inspection report says they believed the fault to be a pre-existing condition, I'm satisfied the fault was likely present or developing at the point of supply.

In addition, I'm also satisfied the battery fault which presented itself early on after the car was acquired also meant the car wasn't of satisfactory quality, considering how soon it presented itself.

Remedies under the CRA

I have considered Mrs B's remedies available to her under the CRA. One of the remedies available is to reject the car. I'm aware this is also the remedy which Mrs B would like to pursue.

Section 24(5) of the CRA says:

"A consumer who has ... the right to reject may only exercise [this] and may only do so in one of these situations –

(a) after one repair or replacement, the goods do not conform to contract;

...

(c) the consumer has required the trader to repair or replace the goods, but the trader is in breach of the requirement of section 23(2)(a) to do so within a reasonable time and without significant inconvenience to the consumer."

Section 24(5)(a) refers to the single chance of repair. And this applies to all issues with the goods, and to all repairs i.e. it's not a single chance of repair for the dealership *and* a single chance of repair for Santander – the first attempted repair is the single chance at repair. What's more, if a different fault arises after a previous repair, even if those faults aren't related, the single chance of repair has already happened – it's not a single chance of repair per fault.

In this case, I'm satisfied that there was a repair carried out to the battery fault that was identified early on when Mrs B took possession of the car, as the battery had been replaced. So, I consider this to have been the single chance of repair.

And then, from correspondence I have seen, a further repair was needed to be carried out to the steering wheel column towards the end of October 2023.

So, I'm satisfied Santander already had the opportunity to repair the car and I think there was an underlying fault that was never put right.

Furthermore, the CRA under Section 24(5)(c) says that agreed repairs should be carried out within a reasonable time and without significant inconvenience to the consumer. The repair carried out in late October 2023 failed which resulted in further parts being ordered. The parts didn't arrive until March 2024, over four months later.

I consider four or so months to be an unreasonable amount of time for repairs to take place. And I'm mindful of the distances Mrs B had to travel for repairs to be carried out, alongside not having the car available to her whilst it was being repaired. So, I also think the delays caused significant inconvenience.

Considering things here, I think it is fair that Mrs B can now reject the car.

Monthly repayments and impaired usage

I'm satisfied that Mrs B has had regular use of the car since it has been in her possession. I say this because, I can see from the inspection report, for example, the mileage has increased in the car. However, there were two occasions where Mrs B didn't have use of her car and Mrs B has informed our service that she wasn't kept mobile with a courtesy car, for example. These instances were when repairs were being carried out between 6 February 2023 until 13 February 2023, and 30 October 2023 until 3 November 2023. So, I think it is fair for Santander to reimburse Mrs B a pro rata of her monthly repayments for the dates she didn't have use of her car and wasn't kept mobile.

I'm also mindful that Mrs B has had an issue with the steering wheel, which initially presented itself early on after acquiring the car. Mrs B has provided an email where she identified the problem as early as 28 November 2022. And from what I have seen, the issue continued to present itself and hadn't been resolved.

I'm satisfied Mrs B suffered impaired usage of the car, as she couldn't operate the steering wheel as she would have liked, and it wasn't performing as it should. Considering things here, I think it is fair for Santander to reimburse Mrs B 20% of monthly rentals across the entire period the steering column wasn't working as it should have been. So, from 28 November 2022 to 5 February 2023, from 14 February 2023 until 29 October 2023, and from 4 November 2023 until the date of settlement.

I'm mindful that Santander has already offered compensation in relation to Mrs B's impaired usage of the car. If compensation has already been paid, then Santander can deduct this amount from the reimbursement I've directed them to make.

Other costs

From correspondence I have seen, Mrs B has a cherished number plate attached to the car. There will be a cost incurred in retaining the number plate. In the circumstances, I think it is fair Mrs B is reimbursed the cost of retaining the cherished plate, if proof of payment can be supplied to Santander once the car is returned and the plate is removed.

Distress and inconvenience

I think it must have been frustrating and inconvenient for Mrs B to have to deal with the issues the car has. The issues with the steering column lasted well over a year and from my understanding, they still haven't been resolved. Mrs B has also explained the impact it had on her of not being able to adjust the steering wheel, whilst she was pregnant.

In the circumstances, I think Santander should also pay Mrs B a slightly higher amount than they offered in their final response, of an additional £150 for the distress and inconvenience caused. I think £250 more fairly reflects the level of distress and inconvenience Mrs B has experienced because of the above.

My final decision

For the reasons I've explained, I uphold this complaint and I instruct Santander Consumer (UK) Plc to put things right by doing the following:

- End the agreement with nothing further to pay.
- Collect the car (if this has not been done already) at no further cost to Mrs B.
- Refund Mrs B's advance payment towards the agreement of £600. If any part of this advance payment was made up of funds through a dealer contribution, Santander doesn't need to refund this amount. *
- Reimburse Mrs B a pro rata of her monthly repayments made from 6 February 2023 to 13 February 2023; and from 30 October 2023 to 3 November 2023. *
- Reimburse Mrs B 20% of repayments made towards the agreement from when the car first presented faults with the steering column on 28 November 2023 to 5 February 2023; from 14 February 2023 to 29 October 2023; and from 4 November 2023 until when the agreement ends and the car is collected. *
- Pay Mrs B £250 to reflect the distress and inconvenience caused.
- Reimburse Mrs B the cost incurred to remove and retain her cherished plate from the car, if any. This should be paid to Mrs B on production of evidence to Santander to show that payment was made by her. *
- Remove any adverse information from Mrs B's credit file in relation to the agreement, if any.

* These amounts should have 8% simple yearly interest added from the time of payment to the time of reimbursement. If Santander considers that it's required by HM Revenue & Customs to withhold income tax from the interest, it should tell Mrs B how much it's taken off. It should also give Mrs B a tax deduction certificate if they ask for one, so they can reclaim the tax from HM Revenue and Customs if appropriate.

If Santander has already given compensation in relation to this specific complaint, the final amount should be less the amount already given.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 9 April 2025.

Ronesh Amin
Ombudsman