

The complaint

Miss M complains about the quality of a new car she acquired through a personal contract purchase with Santander Consumer (UK) Plc trading as MG Motor Financial Services ('MGFS'). Miss M says that the car has had number of issues since she acquired it and so it is not of satisfactory quality.

What happened

Miss M's complaint is about the quality of a new car she acquired in April 2023. The car had a retail price of £27,540. A £7,000 deposit was paid (£2,000 of this was from the manufacturer) meaning £20,540 was financed. The finance agreement was to be repaid through 48 monthly payments of £309.28 followed by a final repayment of £11,340. Based on the statement of account an outstanding balance remains due. If Miss M made the repayments in line with the credit agreement, she would need to repay a total of £33,185.44.

Below is a summary of the issues complained of by Miss M and the investigation and repair work that has been carried out by the dealership, alongside what has happened in respect of the complaint.

- Miss M says that when she acquired the car she noticed that the rear bumper was a different colour to the rest of it. This took a week to resolve before she could collect the car.
- When she did collect the car she says that a part of the infotainment system (the DAB radio) did not work. Miss M says she was told the part to repair this would take a month to obtain. I understand the part took a longer time to source than this but was available in September 2023.
- Miss M says that she became aware of other issues with the infotainment system while she was waiting for this part such as the screen freezing, and an intermittent problem with the reversing camera.
- The car was subsequently repaired but was not fully working when it was returned to her.
- I've been provided information that shows the dealership has looked at the infotainment system several times, but it's not always been able to identify a fault with it. It has said it needed a software update.

Miss M complained to MGFS about the problems she has had with the car. MGFS has considered this, but it didn't uphold it. It said an independent engineer had looked at the infotainment system and found that it was working as expected. Miss M didn't agree with this and brought her complaint to the Financial Ombudsman Service.

Our Investigator upheld Miss M's complaint. He said given all the evidence supplied, it was likely that the car wasn't of satisfactory quality. As MGFS and the dealership have been unable to resolve the faults with the car then Miss M should be allowed to reject it.

MGFS didn't agree with the Investigator. It noted that Miss M paid a £5,000 deposit and £2,000 was a manufacturers deposit, this won't be returned to her. Miss M didn't make a

complaint until she had the car for eleven months and no fault had been found by the dealership.

However, it did offer to replace the head unit on the car and said that the dealership had agreed to this. Miss M agreed to have the car repaired again and she also said that the car was not remaining in gear properly.

The car was taken in for a repair and the infotainment system was replaced. Miss M has said this repair didn't resolve the issues she had with it, and so our Investigator still thought that the car should be rejected.

Because agreement hasn't been reached, 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.

In considering what is fair and reasonable, I need to have regard to the relevant law and regulations, regulators' rules, guidance and standards, codes of practice and (where appropriate) what I consider was good industry practice at the relevant time.

The agreement in this case is a regulated personal contract purchase – so we can consider a complaint relating to it. MGFS as the supplier of the goods under this type of agreement is responsible for a complaint about their quality.

The Consumer Rights Act 2015 ('CRA') is relevant to this complaint. It says that under a contract to supply goods, there is an implied term that 'the quality of the goods is satisfactory'.

To be considered 'satisfactory', the goods would need to meet the standard that a reasonable person would consider satisfactory – considering any description of the goods, the price and all the other relevant circumstances. So, it seems likely that in a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage at the time of sale and the car's history.

The CRA quality of the goods includes their general state and condition and other things like their fitness for purpose, appearance and finish, freedom from minor defects, safety, and durability can be aspects of the quality of goods.

Here, the car was acquired new. So, I think it's fair to say that a reasonable person would expect the level of quality to be higher than a second-hand, more road-worn car and that it could be used – free from defects – for a considerable period.

When the car was supplied to Miss M it had a problem with the rear bumper being the wrong colour. This was repaired. And she also noticed that the DAB radio function of the infotainment centre was not working. A part was ordered for this, but I understand this failed to repair the problem. And going forward Miss M has raised other issues with the infotainment centre such as that it can freeze at times and the reverse camera is unreliable and can activate when the car is driving forwards.

The infotainment unit has been looked at by an independent reporting company who couldn't identify any faults. But the engineer went on to say that:

'information provided to us indicates that the vehicle was returned to the selling agent on the 08/12/23 at 5005 miles and the infotainment screen issue was diagnosed as being a software issue and a software update was not available. Therefore, we cannot rule out the fault with the infotainment is intermittent.'

I don't think this conclusively shows that the infotainment system is working as it should. And Miss M has repeatedly reported problems with it over a long period of time. And these problems seem to have been accepted, and looked at, by the dealership.

So, having considered everything I am persuaded that the car does have an intermittent problem with the infotainment unit. As this car was acquired new I would have expected all parts of it to work as intended. And this would include the consumer electronics of the car such as the infotainment system. As I think this isn't the case, I don't think the car was of satisfactory quality,

MGFS has tried to fix these intermittent problems which has included replacing the head unit of the car. But the information I have been provided shows that these problems are still present. So, I've considered if Miss M should now be able to reject the car.

As a starting point, Section 24 of the CRA says that:

'A consumer who has the right to a price reduction and the final right to reject may only exercise one (not both), and may only do so in one of these situations - after one repair or one replacement, the goods do not conform to the contract;'

The CRA doesn't say that there is one repair for each issue. It is one repair overall. It is arguable that the replacement of the bumper was the first repair to make the goods conform to the contract. But Miss M agreed to this first repair, and it doesn't seem to have inconvenienced her unduly.

But there was a repair needed to the infotainment system straight away as well. A software update has been implemented and a replacement head unit has also failed to fix the problems. Whilst Miss M has agreed to these repairs I think it's now reasonable to say they have been unsuccessful, and the car doesn't conform to the contract. And this is after more than one repair. So, I think Miss M does have the right to reject the car. And the finance agreement should be unwound.

I note that Miss M been inconvenienced by this. She has needed to take the car to the garage several times and she has explained how the reverse camera freezing and activating when she is driving forward has left her feeling unsafe in the car.

I think this has impaired her use of the car and she should receive back some of the monthly finance payments she has paid. I agree that refunding 5% of the repayments she has made so far is reasonable.

I also think the £200 suggested by our Investigator for the distress and inconvenience she experienced due to all of this is fair.

In summary I don't think this car was of satisfactory quality. MGFS has failed to correct the quality issues and so the car should now be rejected. MGFS should put things right.

Miss M has raised some issues about the car's gearbox. As I think the car should now be rejected, I haven't considered these.

Putting things right

I uphold this complaint and MGFS should now:

- End the agreement with nothing further to pay.
- Collect the car at no further cost to Miss M.
- Refund Miss M's deposit of £5,000.
- Pay a 5% refund of the finance repayments paid to the date of settlement.
- Pay 8% simple yearly interest on all refunded amounts from the date of payment until the date of settlement.
- Pay £200 for the distress and inconvenience that's been caused.
- Remove any adverse credit information relating to the agreement.

If MGFS considers that it's required by HM Revenue & Customs to withhold income tax from the interest part of my award, it should tell Miss M how much it's taken off. It should also give Miss M a tax deduction certificate if he asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

My final decision

For the reasons I've explained, I uphold Miss M's complaint.

Santander Consumer (UK) Plc should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 18 April 2025.

Andy Burlinson
Ombudsman