

The complaint

Mr B complains Santander Consumer (UK) Plc trading as Santander Consumer Finance (SCF) supplied him with a car that he believes wasn't of satisfactory quality.

What happened

In March 2023, Mr B entered into a 49 month conditional sale agreement for a used car. The car's cash price was £12,058, it was around four years old and had travelled over 57,000 miles. Mr B paid a deposit of £2,500 and the rest was financed with a loan with SCF. The monthly instalments were £199 with a final payment of £3,607.

In February 2024, the car broke down. It was found that parts of the timing belt had blocked the vacuum pump causing damage to the engine. Mr B was quoted over £7,000 for repair. He complained to SCF.

SCF said the car had been in Mr B's possession for around a year and there was insufficient evidence the fault was present at supply.

Unhappy with their response, the complaint was referred to our service. The investigator recommended it was upheld. She said information from the engineer who looked at the car had indicated the timing belt should last 144,000 miles or 10 years and neither had been reached in this case. Therefore she concluded the timing belt had failed prematurely meaning the car wasn't durable at supply. She said SCF should do a number of things to put things right including covering the cost of repair, refund the instalments for the months Mr B was left without the car, pay Mr B's hire car costs, pay £250 compensation and remove adverse information recorded on Mr B's credit file.

SCF disagreed and maintained their stance. They also commented:

- With the exception of an advisory about headlamps, there were no other advisories recorded at the car's previous services or MOT;
- The lifespan of a turbo engine and timing chain is only a guideline which can change based on driving style and maintenance of the car. No matter the make or model of the car it's advised that the timing belt is changed around 50,000-60,000 miles;
- The manufacturer are unwilling to contribute to the repairs as the car was serviced outside of the manufacturer network;
- There's insufficient evidence the timing belt fault was present at supply, it happened after Mr B had use of the car for around a year;
- The fault may be a result of negligent servicing or the wrong grade of oil being used;
- If Mr B had raised the fault sooner, they would've covered the cost of the repair.

I issued a provisional decision outlining my intentions to uphold the complaint. I said:

"Mr B acquired a car under a regulated credit agreement. SCF was the supplier of the goods under this type of agreement meaning they are responsible for a complaint about the supply and the quality of the car."

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 – taking into account any description of the goods, the price and all the other relevant circumstances. In a case involving a car, the other relevant circumstances a court would take into account might include things like the age and mileage. The quality of goods includes other things like fitness for purpose, appearance, freedom from minor defects, safety and durability.

In this case, Mr B acquired a used car that was around four years old and had travelled around 57,000 miles. As this was a used car with considerable mileage and age, it's reasonable to expect parts may already have suffered substantial wear and tear when compared to a new car or one that is less travelled. Meaning there's a greater risk this car might need repair and/or maintenance sooner than a car which wasn't as road-worn.

Based on the evidence presented to me which includes findings from an engineer who looked at the car and a repair quote, I'm satisfied in February 2024 there was a fault with the car's timing belt which caused damage to the engine. From my understanding, the car had travelled around 66,100 miles at that point meaning Mr B had covered around 9,100 miles since he purchased it.

The engineer said the timing belt should last around 144,000 miles or 10 years which is consistent with the information I found when researching the general lifespan for timing belts for this model and manufacturer. In the absence of contradictory evidence, I find it's reasonable to rely on the same. As pointed out by the investigator, neither milestone had been reached in this case when the fault happened. I agree with SCF's comments that these are only guidelines and I understand car parts don't last indefinitely however I find the timing belt failing at less than 70,000 miles is significantly less than what is expected based on the above guidelines. SCF says the timing belt should've been changed around 50,000 miles but there isn't sufficient evidence to say that's what is recommended by the manufacturer.

I note SCF's comments that the fault may be due to lack of adequate services and/or the wrong type of oil being used in the car. However Mr B has provided documentary evidence of the car's service history and I can see since 2019, one has been carried out every year which is within the manufacturer guidelines. Based on the records, there's nothing to suggest a fault with the timing belt was identified and it needed changing. It has also been confirmed that for at least the last two services, the oil inputted was that recommended by the manufacturer. So I can't reasonably agree with SCF's comments the fault was caused by lack of service or general maintenance. Additionally, there's insufficient evidence to support SCF's comments that it may be down to Mr B's driving style.

I acknowledge SCF's comments that the fault happened too far from supply to say it was present when Mr B bought it. However as mentioned above when thinking about whether a car is of satisfactory quality, I need to consider durability. If parts fail prematurely, this is likely to indicate there was already a problem when the car was supplied. For the reasons highlighted above, on balance I'm not persuaded the car was reasonably durable therefore I don't find it was of satisfactory quality meaning there was a breach of contract.

Where this happens and it's outside the short term right to reject the car (30 days), the relevant law says there should be one opportunity of repair to fix the fault and that's what I believe should happen here. SCF should arrange and cover the cost of the repair. I'm aware Mr B has indicated he now wishes to reject the car rather than a repair as he's uncertain as to the current condition of the car. However I haven't been provided with enough evidence to say with the exception of the engine and the timing belt, the car is in poor condition. Therefore I don't intend to say SCF should allow Mr B to reject the car.

From my understanding, Mr B hasn't been able to use the car since it broke down in February 2024. Because of this he's said he's had to pay to hire cars (at a cost of around £900) and more recently he's bought a second car to use. Mr B has provided evidence of the car hire costs which I've reviewed.

However I must take into consideration that Mr B was able to use the car for around a year before this fault happened so it's fair he pays to reflect that use. So I won't be saying he should be refunded the contractual payments made from inception to February 2024. However he shouldn't be held liable for the contractual payments from March 2024 up to the point the car is repaired and returned to him. This is to reflect the loss of use of the car. Therefore if instalments have been paid during this period, they should be refunded to him. If they haven't been paid, Mr B shouldn't be held liable for it and any adverse information recorded to credit reference agencies during this time should be removed.

Given the above, I disagree with the investigator that SCF should also pay the hire car costs. This is because that would mean Mr B had a period of time of using a car (albeit a hire one) at no cost to him. Therefore I don't intend to say SCF also needs to refund the hire car costs. I find the refund of the monthly instalments from March 2024 up to when the car is repaired and returned to him sufficiently covers the cost of the hire cars.

Mr B has indicated to avoid storage costs at the garage in which the car was being stored, he had to pay £91 to recovery the car to his home address. I consider this to be a cost incurred as a result of being supplied with the faulty car so it's fair SCF reimburses him for the same upon proof of evidence.

Lastly I've thought about the impact of this situation on Mr B. I'm sorry to hear the car didn't perform as expected. He's been left without a car for significant period of time, he's had to arrange alternative travel, etc. For this I agree with the investigator that SCF should pay £250 compensation for the trouble and upset caused.

In summary, due to the fault of the timing belt which caused damage to the engine I find the car wasn't reasonably durable at supply meaning it wasn't of satisfactory quality. Therefore I intend to say SCF should put things right as outlined in this provisional decision".

Responses to the provisional decision

SCF disagreed with the provisional findings. They said:

- They would like a copy of the supporting evidence including the engineer report (this was provided by the investigator);
- Their research suggests in general the timing belt should be changed between 60,000-100,000 miles or five to seven years.
- However for this particular model, the timing belt should be changed around 70,000 to 90,000 miles. It requires to be changed every 35,000 miles or every three years.
- The provisional decision is based on the car being manufactured in 2019. In this case the car has travelled more than 35,000 miles and is over three years old. Meaning the timing belt didn't fail prematurely.

Broadly speaking, Mr B accepted the provisional findings. However he also commented the following:

- He should be partially refunded for the hire car costs (£900) as that equates to 4.5 months of the monthly instalments (£199.86) but he only had the hire car for around 35 days (28 February to 2 April 2024);
- He's concerned that he won't be returned a road-worthy car that is in a similar condition to what could reasonably have been expected prior to the engine fault;
- He would like a guarantee that when the car is repaired and returned to him that it's in a road-worthy condition;
- An inspection to be carried out prior to repairs to determine whether additional components have failed or degraded due to the car not being used for a significant period of time (over a year) and being exposed to the elements;
- He's particularly concerned about the battery, brakes, tyres and exhaust.
- The MOT has expired and one is needed before it can be insured and driven legally. Who will cover that cost especially if it were to fail as a result of parts degrading from a lack of use;
- He's provided a copy of the receipt for the car's recovery in November 2024;
- He questions who will be responsible for arranging and covering the cost for the car to be recovered to the garage for repairs.

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.

I've thought about SCF's comments and I've seen a copy of the online evidence they've relied on which says for this particular model, the timing belt should be changed every three years or 35,000 miles. However I'm not persuaded by this evidence as this information doesn't appear to have been provided by the manufacturer or an engineer. It appears to be an online article. As already stated, I've relied on the findings of the garage who looked at the car. As they have the relevant expertise and knowledge, I still find it reasonable to rely on their findings which indicates the timing chain should last a lot longer than it did in this case.

Turning to Mr B's comments. I remain of the opinion that the refund of the monthly instalments from March 2024 up to when the car is returned plus the 8% simple interest sufficiently covers the hire car costs so I won't be saying SCF needs to make a partial refund of the same.

I appreciate his concerns about the condition of the car after not being used for a significant amount of time however I can't comment on a hypothetical scenario that potentially parts of the car aren't functioning as it should due to lack of use. I can only consider the issue at hand which is supported by evidence. In this case, that is the timing belt and engine which I've determined needs to be repaired. I expect that repair to be carried out to a satisfactory standard with reasonable care and skill and the car to be returned to Mr B in driveable condition.

For that reason, I won't be saying SCF need to arrange an independent inspection prior to repair to determine whether any other faults exist. Equally, I won't be saying SCF needs to cover the cost of the MOT, I find that to be Mr B's responsibility. However I do find that SCF are responsible for making the necessary arrangements for the car to be collected and transported to the relevant garage for repair.

On the basis I haven't been provided with any further information to change my decision I still consider my provisional findings to be fair and reasonable in the circumstances.

My final decision

For the reasons set out above, I've decided to uphold Mr B's complaint.

To put things right, Santander Consumer (UK) Plc trading as Santander Consumer Finance must:

- Arrange and cover the cost of the repair to the timing belt and engine;
- Refund any monthly instalments paid from March 2024 up to when the car is repaired and returned to Mr B;
- Refund the vehicle recovery cost (attached);
- Pay 8% simple interest on the above refunds from the date of payment to the date of settlement;
- Remove any adverse information about this agreement from Mr B's credit file from March 2024 up to when the car is repaired and returned to him;
- Pay £250 compensation to Mr B for the trouble and upset caused.

*If Santander Consumer (UK) Plc trading as Santander Consumer Finance considers tax should be deducted from the interest part of my award it should provide Mr B with a certificate showing how much it has taken off, so Mr B can reclaim that amount if he is entitled to do so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 11 April 2025.

Simona Reese
Ombudsman