The complaint

Mrs S complains that a conditional sale agreement with Santander Consumer (UK) plc, trading as Santander Consumer Finance, under which a car was supplied to her, wasn't affordable for her. Her husband is also involved in her complaint.

What happened

A used car was supplied to Mrs S under a conditional sale agreement with Santander Consumer Finance that she electronically signed in May 2023. The price of the car was £30,923, Mrs S made an advance payment of £1,500 and she agreed to make 48 monthly payments of £552.66 and a final payment of £12,912.16 to Santander Consumer Finance.

Mrs S's husband, on behalf of Mrs S, complained to Santander Consumer Finance in October 2024 about the affordability of the agreement and other issues. It said that identity and credit checks were completed and confirmed that Mrs S had a good credit score that met the threshold for its in-house scoring system. It also said that Mrs S had made all payments on time and hadn't raised any concerns or complaints so it was unable to uphold the complaint. It also said that it doesn't guarantee any price for the car to be sold at, other than that it will buy the car from Mrs S before the final payment is made.

A complaint was then made to this service and the complaint form says that Santander Consumer Finance artificially increased the resale value of the car to lower the repayments and can't have carried out the necessary affordability checks as they would've shown that Mrs S was unemployed with no income.

The complaint was looked at by one of this service's investigators who, having considered everything, didn't think that Santander Consumer Finance had acted fairly. He didn't think that the checks that Santander Consumer Finance completed were reasonable and proportionate and he was satisfied that reasonable and proportionate checks would have shown that the agreement wasn't affordable and sustainable for Mrs S. He didn't think that it was fair for Santander Consumer Finance to charge any interest or charges under the agreement but he said that it's fair for Mrs S to pay for the use of the car (and he calculated that a fair monthly charge would be £375, which for the 25 months that Mrs S had used the car would total £9,375).

He recommended that Santander Consumer Finance should: end the agreement and collect the car; refund the deposit, with interest; calculate how much Mrs S has paid in total and deduct £9,375 for fair usage; remove any adverse information recorded on Mrs S's credit file regarding the agreement; and, if there are any arrears after the settlement has been calculated, arrange an affordable repayment plan.

Mrs S has accepted the investigator's recommendation but Santander Consumer Finance asked to be provided with copies of the new evidence on which the investigator based his decision. It also says that the finance agreement that Mrs S signed states that she was employed and had been employed for six years. The requested information has been provided to Santander Consumer Finance but it hasn't provided any further response to the investigator's recommendation, despite being asked to do so, so I've been asked to issue a decision on this complaint.

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.

Santander Consumer Finance was required to make reasonable and proportionate checks to ensure that the conditional sale agreement was affordable for Mrs S. In its final response letter that was sent to Mrs S's husband in November 2024, Santander Consumer Finance described the identity and credit checks that were completed and said that the checks confirmed that Mrs S had a good credit score that met the threshold for its in-house scoring system.

The price of the car was £30,923 and Mrs S was committing to make monthly payments of £552.66 for four years. I consider that reasonable and proportionate checks in these circumstances would have required Santander Consumer Finance to have obtained information about Mrs S's income and expenditure to ensure that a monthly payment of £552.66 was sustainably affordable for her.

Santander Consumer Finance says that the conditional slae agreement says that Mrs S had been employed for six years but I've seen no evidence to show that it obtained any information about Mrs S's income and expenditure. I don't consider that the checks that were made by Santander Consumer Finance were reasonable and proportionate checks to ensure that the conditional sale agreement was affordable for Mrs S.

One way that Santander Consumer Finance could have obtained information about Mrs S's income and expenditure would be to have asked her for copies of her bank statements. Mrs S has provided copies of bank statements for a joint account with her husband for the period from January to May 2023. I consider that those statements show that Mrs S wasn't receiving a regular salary during that period and she has confirmed to the investigator that she wasn't working when she entered into the conditional sale agreement. Mrs S also says that she stopped working for the employer shown on the conditional sale agreement in August 2022 and the evidence provided shows that it stopped trading in March 2023.

I've seen no evidence to show that Mrs S had any other income that would have meant that she could sustainably afford a monthly payment of £552.66. If Santander Consumer Finance had made reasonable and proportionate checks to ensure that the conditional sale agreement was affordable for Mrs S, I consider it to be more likely than not that it would have concluded that the conditional sale agreement wasn't affordable for her and that it shouldn't have lent to her. I find that it would be fair and reasonable in these circumstances for Santander Consumer Finance to take the actions described below to put things right.

I've also considered whether Santander Consumer Finance acted unfairly or unreasonably in some other way, including whether its relationship with Mrs S might have been unfair under section 140A of the Consumer Credit Act 1974. As I'm upholding Mrs S's complaint for the reasons given above, I don't consider that I need to make a finding on that or the complaint that Santander Consumer Finance artificially increased the resale value of the car to lower the repayments. I consider that the actions that I've described below result in fair compensation for Mrs S in the circumstances of this complaint and I'm not persuaded that it would be fair or reasonable for me to require Santander Consumer Finance to take any actions other than as described below.

Putting things right

I find that it would be fair and reasonable for Santander Consumer Finance to end the conditional sale agreement and arrange for the car to be collected from Mrs S – both at no cost to her. The conditional sale agreement shows that Mrs S made an advance payment of £1,500 for the car. I find that it would also be fair and reasonable for it to refund the advance payment made by Mrs S to her, with interest.

The investigator said that he didn't think that it was fair for Santander Consumer Finance to charge any interest or charges under the agreement but he said that it's fair for Mrs S to pay for the use of the car (and he calculated that a fair monthly charge would be £375, which for the 25 months that Mrs S had used the car would total £9,375). Santander Consumer Finance hasn't responded to the investigator's calculation of a fair monthly charge and I consider that a monthly charge of £375 is fair and reasonable in these circumstances.

I find that Santander Consumer Finance should calculate: a total usage charge for the period that Mrs S has had the car based on a monthly charge of £375; and the total of the monthly payments that Mrs S has made to it under the conditional sale agreement. If the total usage charge is less than the total of the monthly payments, then Santander Consumer Finance should refund the difference to Mrs S, with interest at an annual rate of 8% simple from the date of each payment to the date of settlement. If the total usage charge is more than the total of the monthly payments, then Santander Consumer Finance should deduct the difference from the other amounts to be paid to Mrs S as described in this decision. If there's still an amount due to it from Mrs S, she should pay that amount to Santander Consumer Finance but, if she doesn't want to pay that amount in one payment, it should agree an affordable repayment arrangement with Mrs S for the amount that she owes.

The investigator said that Santander Consumer Finance should remove any adverse information recorded on Mrs S's credit file regarding the agreement. I've seen no evidence to show that Santander Consumer Finance has reported any adverse information about the conditional sale agreement to the credit reference agencies but, if it has done so, I consider that it should ensure that it's removed from Mrs S's credit file.

My final decision

My decision is that I uphold Mrs S's complaint and order Santander Consumer (UK) plc, trading as Santander Consumer Finance, to:

1. End the conditional sale agreement and arrange for the car to be collected from Mrs S – both at no cost to her.

2. Refund to Mrs S the advance payment that she made for the car.

3. Pay interest on the amount to be refunded at an annual rate of 8% simple from the date of payment to the date of settlement.

4. Take the actions described above about the charge for Mrs S's use of the car.
5. Ensure that any adverse information about the conditional sale agreement that it's reported to the credit reference agencies is removed from Mrs S's credit file.

HM Revenue & Customs requires Santander Consumer Finance to deduct tax from the interest payments to be made to Mrs S. Santander Consumer Finance must give Mrs S a certificate showing how much tax it's deducted if she asks it for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 1 October 2025.

Jarrod Hastings
Ombudsman