

The complaint

Mr H complains that a car supplied to him under a conditional sale agreement (“agreement”) with Santander Consumer (UK) Plc (“Santander”) isn’t returning 188 miles per gallon and the battery isn’t charging to 39 miles as advertised by the manufacturer on its website.

Mr H is represented in his complaint by a third party. But for ease of reading, I’ll refer to any submissions and comments made by the third party as if they had been made by Mr H himself.

What happened

On 24 November 2022 Mr H acquired a new car costing £48,920.00 under an agreement with Santander. Under the terms of the agreement, everything else being equal, Mr H undertook to make an advance payment of £6,000.00 followed by 48 monthly payments of £614.13 and 1 monthly payment of £21,748.50 – making a total repayable of £57,226.74 at an APR of 6.4%.

On 5 December 2022 Mr H emailed the supplying dealership to say, amongst other things, that *“We understand we are still within the 14 days cancelation period and as the car is performing today we are not happy with [it]”*.

On 6 December 2022 Mr H emailed the supplying dealership to complain about the car not returning 188 miles per gallon, the battery not charging to 39 miles and a number of other issues. He also said that he would like *“to cancel the purchase of the car”*. Mr H says that as well as advising the supplying dealership of his concerns and his desire to *“cancel”* he also advised Santander of the same.

On 5 January 2023 Mr H complained to the supplying dealership that the car was still not returning 188 miles per gallon, the battery was still not charging to 39 miles and one of his other issues remained unresolved.

On 19 January 2023 Mr H contacted the supplying dealership to say that he accepted there wasn’t now any issues with the car other than it not returning 188 miles per gallon and the battery not charging to 39 miles, issues he would now be taking *“further”*.

On 16 March 2023, and after Mr H had complained to it, Santander issued a final response letter (“FRL”). Under cover of this FRL Santander said that having had regard to a report produced by an independent company that it had instructed to inspect the car, a company that I will call “A”, it wasn’t upholding Mr H’s complaint about the car not returning 188 miles per gallon and the battery not charging to 39 miles.

In April 2023, and unhappy with Santander’s FRL, Mr H referred his complaint to our service.

Mr H's complaint was considered by one of our investigators who came to the view that it shouldn't be upheld.

Mr H didn't agree and so his complaint has been passed to me for review and 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.

First, I would like to make it clear that I'm only considering in this decision whether Santander acted fairly and reasonably in its treatment of Mr H, having regards to its various obligations towards him as the provider of the agreement (and the owner of the car) and in light of what it is Mr H is complaining about. I'm not considering in this decision the treatment of Mr H by the supplying dealership because given what it is he is complaining about I don't have the power to do so.

The Consumer Rights Act 2015 ("CRA") is relevant to this complaint. It says, amongst other things, that the car should've been of a satisfactory quality when supplied. And if it wasn't, as the supplier of goods, Santander are responsible. What's satisfactory is determined by things such as what a reasonable person would consider satisfactory given the price, description, and other relevant circumstances. In a case like this, this would include things like the age and mileage at the time of sale, and the vehicle's history and its durability. Durability means that the components of the car must last a reasonable amount of time.

The CRA also says that the car should match its description.

issues with the car raised by Mr H other than the car not returning 188 miles per gallon and the battery not charging to 39 miles

I've considered these issues very carefully. But having done so I'm not persuaded that they made the car of unsatisfactory quality when supplied. And because of my finding in this respect, it follows that Mr H (in respect of these issues) had no short term right to reject the car. But even if I was to accept that these issues made the car of unsatisfactory quality when supplied, these issues were either deemed to not be faults, or repairs were undertaken to remedy them, repairs that proved to be successful. And despite what Mr H says to the contrary, I'm satisfied that he freely agreed to all the repairs that were undertaken.

issue with the car not returning 188 miles per gallon and the battery not charging to 39 miles

An advertised miles per gallon and battery charging figure are given to allow consumers to compare cars. They are undertaken in the same laboratory conditions so that consumers can be confident that they are comparing like with like. These figures are always explained in this way as they rarely represent real world driving conditions. So, it's unlikely that Mr H would ever achieve either.

But in any event, in the particular circumstances of this case Santander commissioned an inspection of the car by A. And it says that the report produced by A following its inspection doesn't support Mr H's submission that the car doesn't return 188 miles per gallon or that the battery doesn't charge to 39 miles.

I've considered the report very carefully. And although I accept that Mr H disagrees with many (if not all) aspects of it I'm satisfied that Santander was entitled to conclude from this report, and it did so fairly and reasonably, that the car was capable of achieving what the manufacturer advertised was achievable and that the car wasn't of unsatisfactory quality when supplied. And because of my finding in this respect, it follows that I can't say the car was faulty when supplied or that it was misrepresented.

Finally, because I can't say the car was faulty when supplied or that it wasn't misrepresented, it also follows that Mr H (in respect of these issues) had no short term right to reject the car.

I appreciate Mr H will be disappointed by my decision. But having taken everything into account I'm simply not persuaded that Santander acted unfairly or unreasonably in its treatment of him and it's under no obligation to accept rejection of the car or under any obligation to compensate him in any other way.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 1 September 2023.

Peter Cook
Ombudsman