

## The complaint

Mrs N complains that Santander Consumer (UK) Plc has been charging her for repayments under a loan agreement that she wasn't aware had been provided when she acquired a car through a separate finance agreement.

## What happened

Mrs N entered into a finance agreement to acquire a used car in August 2020 (this agreement isn't part of this complaint). At the same time, she was provided with a fixed loan agreement to finance the purchase of additional products being paint and fabric protection, Gap insurance, SMART repair insurance and tyre and alloy wheel insurance. The total amount repayable under the loan was £2,380.80 through 48 monthly repayments of £49.60. Mrs N says that she wasn't aware that she had been provided with this finance and while the additional items covered were discussed she was told the cost would be included in the cost of the car.

Mrs N said that she noticed the payment of £49.60 being collected and asked about this and was told the payments were linked to the acquisition of the car and she had to pay them. Mrs N said that she didn't agree to pay for these products and didn't receive any correspondence or policy documents to enable her to make use of them. Mrs N then settled her finance on her car but the payments of £49.60 for the loan continued.

Mrs N raised a complaint with the dealer, and it provided copies of the supplementary order form and supplementary invoice which detailed the additional products purchased. It said that Mrs N signed a form confirming that she understood the associated costs of the additional policies. Mrs N raised a complaint with Santander, and it issued a final response letter dated 4 April 2024, not upholding her complaint. It said that all the relevant documents were provided to Mrs N, and it was her responsibility to ensure she had read them and agreed to them before signing.

Mrs N wasn't satisfied with Santander's response and referred her complaint to this service.

Our investigator upheld this complaint. He said that Mrs N had now been provided with a copy of the loan agreement which contained an e-signature. He noted Mrs N's comment that someone at the dealership completed the finance application and so couldn't rule out that this had been signed without Mrs N having full knowledge of the agreement details. He noted that Mrs N had made the payments under the agreement for three years but accepted this was because she had been told the payments were part of the cost of the car. He noted that the payments were for insurance policies and said that evidence hadn't been provided to show that Mrs N was provided with welcome letters, policy documents or any other documents that would show she could have used the services being provided. Based on the evidence provided, our investigator didn't think that Mrs N was made aware of what she was paying for and didn't receive the goods or services linked to the loan agreement. Because of this he recommended that all payments be refunded, and the agreement be unwound with nothing further owing. He also recommended Mrs N be paid £150 compensation for the distress and inconvenience she had been caused.

Santander agreed to cancel the agreement with nothing further to pay, refund any payments that were made after Mrs N sold the car in October 2023, along with interest and pay £150 for the distress and inconvenience caused. But it didn't agree to refund payments made while she had the car. It said that the sales agent would have discussed the products with Mrs N at the point of sale and she accepted these add-ons. It said that had Mrs N been concerned about these products she could have asked questions at the time.

Mrs N didn't accept Santander's offer. She said that she hadn't received any paperwork from Santander and had she done so she would have become aware of the misunderstanding about what was being included in the package she was being sold. She said that had the paperwork been received she could then have cancelled the additional loan and associated policies within the 14-day cooling off period.

### *My provisional conclusions*

I issued a provisional decision on this complaint, the details of which are set out below.

*Mrs N was provided with a loan to finance additional policies in regard to a car she acquired through a separate finance agreement. She was aware that the payments were being taken from her account but when she asked about these, she said she was told it was part of the cost of the car. Given this I can understand why Mrs N continued to make the payments and then raised a complaint when, after settling the agreement for the car she was still being required to make the payments.*

*Santander has agreed to end the agreement with nothing further owing and to refund all payments (along with interest) that Mrs N made since October 2023 when she settled the car finance. I find this reasonable. The outstanding issue relates to the payments Mrs N made while she had the car and whether she was made reasonably aware of the additional loan agreement she was entering into, and secondly, whether she benefitted from the policies financed by the loan.*

*The loan agreement was to cover the costs of paint and fabric protection, Gap insurance, SMART repair insurance and tyre and alloy wheel insurance. Mrs N said these products were discussed when she was acquiring the car and so I find it reasonable to accept that she was aware of these products being available to her.*

*However, Mrs N has said she wasn't aware there was a separate cost for the additional policies. I understand that when acquiring a car through finance, there is a lot of information provided and offers can be made to include extra items as part of the acquisition. But, Santander has provided a copy of a supplementary order form that details the additional products and the costs and this was signed by Mrs N on 26 August 2020. It has also provided a copy of a compliance confirmation form which Mrs N signed listing the additional products (without prices) and states that Mrs N has agreed to purchase the insurances and that the associated costs are included in the sales invoice or supplementary sales invoice. So, while I appreciate that Mrs N has said she thought these additional items were part of the overall car finance package rather than requiring a separate agreement, based on the evidence provided, it seems more likely than not that Mrs N was aware of the additional products and accepted these.*

*Mrs N's loan agreement lists the additional products. Mrs N said she didn't receive this until after raising her concerns. The loan agreement that has been sent to this service doesn't contain a signature, but Mrs N has said she received a paper copy which does include an e-signature but also incorrect details. I note Mrs N's comments, and I do not have evidence that she was sent a copy of the loan agreement when she entered into it, but, based on the above, I do not find I can say that she wasn't aware of the provision of the additional*

*products or the costs of these. I also note that Mrs N was aware that she was making a separate payment of £49.60 each month while she had the car finance outstanding. While I note her comment about being told this was part of the car finance, I think it reasonable to accept that Mrs N would have been reasonably aware that there needed to be a separate agreement in place to support this payment.*

*Mrs N has said that had she received a copy of the loan agreement at the time, she would have then realised that she was paying for a separate agreement and cancelled this within 14 days. I cannot say for certain what action Mrs N would have taken had she been provided with better information about the additional loan agreement at the time. So, I have considered whether she has benefitted from the products she paid for. We have requested evidence to show that Mrs N was sent information about the products she had acquired (policy documents or similar) and this hasn't been provided. While I accept that Mrs N hasn't made claims for the additional items, this doesn't mean that she hasn't had the benefit. When insurances are provided, they give peace of mind that a claim could be made if needed. While Mrs N may not have been provided with policy documents, as she has said she was aware of the products (but thought they were part of the car finance package) I think, on balance, had she had an issue that would have been covered by one of the additional products, she could have contacted the dealer or Santander about this.*

*Taking all of the above into account, I do not find I can say that Santander is required to refund the payments Mrs N made while she had the car finance in place. I note it has agreed to refund all payments (along with interest) from the point the car finance was settled.*

*While I do not require Santander to refund the payments Mrs N made up to October 2023 under the loan agreement, I accept, based on Mrs N's testimony that she didn't receive clear information about the loan agreement or copies of the agreement or policy documents at that time. So, while I think she was aware of the products being available to her and that she was making separate monthly payments, I find it possible that she wasn't aware that the additional items were optional extras and not a requirement of the car finance.*

*I think that this issue has caused Mrs N distress and inconvenience, especially when the payments continued after she settled her car finance. I note our investigator recommended £150 because of this and Santander accepted. But taking everything into account I think an amount of £300 is fair.*

Mrs N accepted my provisional decision. Santander didn't respond.

### **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.

When making a decision I take into account all relevant rules, regulations and guidance but my decision is based on what I consider to be a fair and reasonable outcome given the unique circumstances of the complaint. I consider all evidence provided, but where the evidence is incomplete, inconclusive, or contradictory, I make my decision based on the balance of probability. That is, what I consider most likely to have happened given the circumstances of the complaint.

For the reasons I set out in my provisional decision, and noted above, I do not find I can say that Santander is required to refund the payments Mrs N made under the loan agreement while she had the car finance in place. Santander has agreed to refund all payments (along with interest) from the point the car finance was settled which I find reasonable.

While I do not require Santander to refund the payments Mrs N made while the car finance was in place, I accept Mrs N's testimony that she didn't receive clear information about the loan agreement or copies of the agreement or policy documents at that time. So, while I think she was aware of the products being available to her and that she was making separate monthly payments, I find it possible that she wasn't aware that the additional items were optional extras. I accept that this has caused Mrs N distress and inconvenience, especially when the payments continued after she settled her car finance. Because of this I think it right that she is paid compensation and taking everything into account I think an amount of £300 is fair.

### **Putting things right**

Santander should:

- cancel the agreement with nothing further to pay;
- refund all payments that have been made after Mrs N sold the car (October 2023);
- apply 8% simple interest to all refunds, starting from the date of payment, up to the date of settlement;
- remove any adverse information that may have been recorded on Mrs N's credit file in relation to the agreement; and
- pay Mrs N £300 for the distress and inconvenience she has been caused.

### **My final decision**

My final decision is that Santander Consumer (UK) Plc should take the actions set out above in resolution of this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 13 January 2025.

Jane Archer  
**Ombudsman**