



Coimisiún um  
Iomaíocht agus  
Cosaint Tomhaltóirí

Competition and  
Consumer Protection  
Commission



# C R CRIME INVESTIGATIONS

CONSUMER GUIDE

This guide is for consumers who are thinking about making a consumer protection complaint about car crime to the Competition and Consumer Protection Commission (CCPC).

Your complaint may be investigated and could result in enforcement action being taken by the CCPC against the car dealer, including a case being taken in court. This guide explains your role in the process, the role of the CCPC and what you can expect during an investigation and court case.

## YOUR CONSUMER RIGHTS WHEN BUYING A CAR

Buying any car is a big financial decision. When you buy a used car from a business, you have some protection under consumer law. The car should be:



**Of reasonable, acceptable quality** given the car's age, cost and history



**As described** – matching the description given verbally, in an advert or on a website

**FIT FOR PURPOSE**

**Fit for the purpose** intended and roadworthy

## THE DANGERS OF CAR CRIME

### What is car crime?

Car crime is a serious offence under consumer protection law. Car dealers must give you complete and correct information when they are selling you a used car. Also, they must not give you any misleading information about themselves, for example, they cannot pretend to be a private seller if in fact they sell cars for a living. Sellers who mislead consumers can face criminal prosecution.

### Why is it dangerous?

It is an offence for a dealer to give you misleading information about a car. Misleading information could include falsely telling you that the car has not been involved in a crash, or that the car was not recorded as an insurance 'write off'. Misleading information could also arise if the car was 'clocked' – that means the wrong mileage is showing on the odometer.

If you are not given all of the information about a car before you buy, it could cost you a lot of money if you have to pay for repairs and damage that you did not know about. More importantly, it is also potentially very dangerous. Without the right information, you cannot judge the true condition of the car. In order for you to be able to do this, the dealer must give you correct information about the car's roadworthiness and its history, particularly its mileage and any damage history. For complete peace of mind, you should get a used car independently checked by a mechanic before buying.

## THE ROLE OF THE CCPC

The CCPC is an independent statutory body that enforces competition and consumer protection law in Ireland. We are responsible for applying a wide range of legislation that protects consumers and their rights.

Stopping car crime is a priority for the CCPC. The CCPC takes action against dealers who sell cars with tampered mileage clocks, known as 'clocked cars', or who hide the fact that a car was crashed before.



# 1 MAKING A COMPLAINT



## If I make a complaint to the CCPC, will they open an investigation into my case?

The CCPC is not an Ombudsman, and does not take cases on behalf of individual consumers. The CCPC's role is to investigate and prevent car crime in the State. If we investigate your complaint and the case goes to court, you will be acting as a witness in the CCPC's case. The CCPC is not taking a case on your behalf.

## If I make a complaint to the CCPC, will I get my money back?

Unfortunately, there is never a guarantee that you will get your money back, although car dealers who are investigated by the CCPC often do refund consumers. If the CCPC brings a criminal prosecution against the car dealer in the District Court and you are a witness, then the Court may approve a compensation order in your case.

## Why should I make a formal complaint when I might not get my money back?

While a refund is not guaranteed, your complaints make the CCPC aware of dealers who may be breaking the law. This information could lead to a number of actions being taken by the CCPC against the dealer, including:



carrying out unannounced inspections and searches at the car dealership

serving them with a compliance notice

getting agreement from the dealer to end certain practices

taking a court case against them

Your complaint will help us to warn other people about the car dealer. It tells us about car dealers who may be putting consumers at risk and will help future investigations.

# 2 THE INVESTIGATION

## What happens if my complaint is investigated by the CCPC?

If the CCPC investigates your complaint, you will be asked to give a witness statement. A witness statement is needed in order to progress an investigation. It sets out all the details of the transaction and all of your contact and interaction with the dealer. Your witness statement may be used to start a full criminal investigation. It will be really helpful to the investigation if you can give us as much detail as possible in your witness statement.

## What is a witness statement and what's involved in making it?

A statement is a written record of your evidence. When you make a statement:

- You will meet with an Authorised Officer of the CCPC, usually in person.
- You will tell us about your experience of buying the car – from when you first became aware of the car for sale, when and how you bought the car, what happened up to the time of your complaint.
- The Authorised Officer will look for any available documents you have related to buying the car to help the investigation. Ideally, you will have them with you when you come to make a statement.
- You will be asked to sign a declaration to say that any information you have given is true, to the best of your knowledge.

## What information and documents will I need for the witness statement?

The Authorised Officer of the CCPC will ask you for original documents you have that will help the investigation. This may include documents about:

- The make and model of the car.
- The dealer's address and contact details.
- The date you bought the car.
- Receipts and financial records.
- Registration and insurance details.
- The current mileage – photograph of the dashboard if possible.
- Details and documents related to any NCTs carried out
- Any communications with the dealer, such as emails or text messages.
- Any other documentation which may help the investigation.

## Why is the date I bought the car important?

In most cases, the CCPC can only investigate a complaint if you bought the car within the last three years. The date that you bought the car will tell us when the alleged offence is likely to have taken place.

## Does this mean that I might have to go to court and the dealer will know about my complaint?

If a decision is made to prosecute the dealer, you will be:



This means the dealer will be aware of the complaint. Authorised Officers of the CCPC will guide you through the process and support your attendance at court. You will be able to claim reasonable costs that you have to pay to attend court. More information about going to court as a witness is available on the Director of Public Prosecution's website [www.dppireland.ie](http://www.dppireland.ie)

## Will I have to identify the car dealer and give his/her contact details?

You will be asked to describe what they look like, the location of the dealership and any other information that can help identify them and their business.

## 3 ENFORCEMENT ACTION



### Do I need to keep the car for the court case?

If you still have the car, the CCPC may want to inspect it. However, we understand that it may not be possible to keep it for a long time just for the court case. If you are getting rid of the car for any reason, we would ask you to tell us before you do, as it may impact the case.

### Is there any other information I should give?

Yes, the CCPC may ask you for further information about the car. For example, did your local garage inspect the car and find it was crashed before, or that its mileage was tampered with? In cases like this, we will contact the garage to confirm their findings.

To build the best possible case, the Authorised Officer will interview all relevant witnesses, gather all available evidence and may interview the car dealer.

### I have contacted a solicitor who has offered to help. Will this affect or help the CCPC's investigation?

It won't affect the CCPC's investigation but you should tell your solicitor that you have made a complaint to the CCPC. Also, let us know if your solicitor has taken any legal actions or steps on your behalf relating to the complaint, including claims, compensation or litigation.

### What happens after an investigation?

After investigating, the CCPC will decide on the most appropriate action. There are a number of options available to the CCPC including an Undertaking, a Compliance Notice, or a criminal prosecution in court. In some cases, after investigating all of the facts, the CCPC may decide there is not enough evidence to take any enforcement action.

### What is a Compliance Notice?

A Compliance Notice is a legal notice issued by the CCPC to a dealer. It tells them to carry out certain actions, or to stop practices that are not allowed. Compliance Notices are published on the CCPC's website, in the CCPC's annual report and in our Consumer Protection List.

If a car dealer does not obey a Compliance Notice, this is a separate criminal offence. Compliance Notices also help other consumers by bringing attention to a dealer's consumer protection law breaches.

### What is an Undertaking?

An Undertaking is a formal agreement between a dealer and the CCPC where the dealer agrees to fix any wrongdoing and commits to not breaking consumer protection law in the future.

# 4

## GOING TO COURT



### How will I know if I have to go to court?

The Authorised Officer will update you on how the investigation is going. They may come back to you with follow-up questions. The Authorised Officer will let you know if the CCPC decides to prosecute the dealer.

If you have to attend court, you will receive a witness summons which will include the date, time and location of the court sitting. We try to notify witnesses as far in advance of court dates as possible to make sure they are available. However, it is up to the court to decide when sittings take place. It is important to know that if you are a witness in a case before the courts, you must attend court.

### How long will the process take?

At the end of an investigation, the CCPC will decide whether or not to prosecute the dealer. If we decide to prosecute the dealer, a case is brought to the District Court. Once again, it is up to the court when a case will be heard so the length of the process can vary from case to case. But the Authorised Officer will keep you updated on the progress of the case.

### Will I be given any assistance or help before being called to give evidence?

The Authorised Officer will go through your statement with you on the morning of the court sitting. When you are giving evidence, all you need to do is tell the truth.

Some courts give help to victims of crime, but this is usually only the higher courts for more serious crimes.

### Can I bring a solicitor to represent me at the trial?

You do not need your own solicitor to represent you at the trial. However, if you wish you can bring your own solicitor, at your own expense, but they cannot take part in the hearings. The case is brought by the CCPC and you are a witness in the case.

### I work Monday to Friday. If I have to take the day off, will I be compensated for loss of wages, and will I receive expenses?

If you lose earnings as a result of having to appear in court, you can claim for lost wages and travel and subsistence at public sector rates from the CCPC, to cover your costs on the day. You will need to have a letter from your employer showing your loss of earnings.

### What happens if the car dealer decides to refund me after I make a statement or before the trial?

Throughout the investigation, you should let the Authorised Officer know if any of your circumstances change. This includes being offered a refund or any further contact with the dealer. If the dealer contacts you as a result of the investigation or prosecution, tell the Authorised Officer without delay. A refund will not prevent a prosecution.

# 5 AFTER THE COURT CASE

## If the car dealer is found guilty by a court, will I get my money back?

If a dealer is convicted in court, the judge may sentence them to up to six months in prison, a maximum fine of €4,000, or both. Repeat offenders could face stricter sentences. Following a guilty verdict, the CCPC may apply to the court for a compensation order. This is a sum of money paid to the consumer to cover any loss or damage they have suffered. However, it is up to the court to decide whether to make a compensation order and is decided by the court on a case by case basis.

## If the car dealer is found guilty and ordered to pay a refund to me, how will I get the money?

If the judge makes a compensation order, the Court will decide how the payment should be made, and by when.

If the dealer fails to pay by the agreed time, you can give a copy of the order to the District Court, or the Circuit Court if the value is above a certain amount. This is called registering a judgement, where it is made public that the dealer owes you money. You should know:

- Registering a judgement does not directly enforce the judgement.

- It publicises the fact that there is a judgement against the dealer and means it is unlikely they will be able to borrow money.
- Before you register the judgement, you must tell the dealer that you are going to register it and give them a chance to pay the debt.
- You should send a registered letter to the dealer giving them the date you are planning to register the debt unless it is paid.
- Once the judgement is registered, a judge will look at all the facts and ask the dealer to pay in the most appropriate way, such as in instalments or a charge against a property.

You will be given a copy of the court order to help you and you should also talk to a solicitor. The CCPC cannot give you legal advice or get this money for you.

## Do I have any other options to get my money back if there is no compensation order?

Yes, you can choose to bring your case to the civil courts. This usually means hiring a solicitor and taking a case against the car dealer yourself. The CCPC cannot advise or assist you with a personal civil action. Citizens Information may be able to offer you help for civil claims. You should get your own legal advice to see if you can make a civil claim.





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