

Mr. Charlie Flanagan T.D.  
Minister for Justice and Equality,  
51 St. Stephen's Green,  
Dublin 22

Re: Garda Fixed Charge Processing System (FCPS) Cancellation Policy Oversight Authority

1. This is my Fifth Report following my appointment as the sole Independence Oversight Authority of the above title on the 27<sup>th</sup> January 2015.
2. For convenience I have set out my terms of reference hereunder:
  - a. Review and monitor the cancellation of FCPS notices by An Garda Síochana with a view to ensuring compliance with Garda policy on the cancellation of FCPS notices,
  - b. Communicate any matters he considers appropriate to the Commissioner of An Garda Síochana,
  - c. Communicate any matters he considers appropriate to the Minister and report to the Minister annually on his findings and on the discharge of his functions,
  - d. Examine and report on any specific matters relevant to the operation of the FCPS at the request of the Minister, should this be required.
3. The Fixed Charge Processing System Policy and Procedures Manual Fourth Edition which took effect on the 16<sup>th</sup> June 2014 provides the basis for the present system. The decision making process is centralised at the Fixed Charge Processing System Office (FCPO) in Thurles, Co. Tipperary, which comes within the remit of the Garda National Traffic Bureau (GNTB) and the following are authorised as sole cancelling Authorities:
  - i. Chief Superintendent GNTB
  - ii. Superintendent GNTB
  - iii. Superintendent Fixed Charge Processing System Office, ThurlesSince February 2015 all application for exemption under Section 87 of Road Traffic Act 2010 as amended by Section 23 of the RTA 2014 in respect of members of An Garda Síochana driving their private vehicles are referred to the Director of Public Prosecutions who directs whether the exemption applies.
4. The Garda Professional Standards Unit and the Garda Internal Audit Section continue to carry out examinations of random samples of decisions of the Cancellation Authority.
5. The staff in Thurles are very hard working and respond well to any additional burden placed on them.
6. As in previous years I have reviewed the Cancellations by choosing a random sample of a week in each three or four week period in keeping with my role as an Oversight Authority. I have examined files where the Cancelling Authority used their discretion and I would not disagree with the manner of the exercise of this discretion. Supporting documentation was provided where necessary.

7. It remains necessary for a Garda who is driving a private vehicle in the course of duty to satisfy the Director of Public Prosecutions that:
  - a. The driving or use of the vehicle by the member was in performance of his/her duties,
  - b. Such use did not endanger the safety of road users.
8. When a Garda is driving an official vehicle the application is made to the Cancelling Authority and the two items of proof required are namely:
  - a. That he/she was driving in the course of duty
  - b. That such driving did not endanger the public

It should be noted that accidents at relatively low speeds can cause death or serious injury. To this end, I have advised in the past, that Gardaí should state when applying for the exemption the specific reason for breaking speed limits. Despite this, applications have continued to be submitted merely stating that the Garda was on duty at the time and that road users were not endangered. If there is an emergency or other good reason to speed this is acceptable. It seem to me that the requirements that the "member" is driving in the course of his/her duty does not envisage excessive speeds where there is no emergency and that members who do so drive should incur the penalty, like other road users. I have dealt with this aspect in my Fourth Report.

9. There is substantial number of FCPN's returned "Undelivered-Gone Away" or "Unknown" at this address. Three additional Regional Enforcement Units have been established with the aim of assisting additional information to aid in the decision making process. The suspension of the statutory time limited of 28 days in circumstance where FCPN's are returned "Undelivered" – An Post" has not yet occurred. In addition the Gardaí have to rely on the National Vehicle File from the Department of Transport, Tourism and Sport to identify the registered owner of vehicles, which does not always have the information necessary. Overall the establishment of these units have resulted in a degree of compliance with the system but this continues to be a work in progress. The Enforcement Units are also centrally involved in the examination and review of the nomination procedure.
10. I have reviewed the Fixed Charge Processing System and the Cancellation System thereunder and I am satisfied that there has been substantial compliance with the Fixed Charge Processing System Policy and Procedures Manual Fourth Edition.
11. This is my report to you for the year 2019.

Dated: 27<sup>th</sup> Jan. 2020

Signed: Matthew Deery

Matthew Deery

Former President of the Circuit Court