

Mr Charlie Flanagan T.D.

Minister for Justice and Equality,

51 St. Stephen's Green,

Dublin 2



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

1. This is my Third Report following on my appointment as the sole Independent Oversight Authority of the above title on the 27th January 2015.
2. My terms of Reference are as follows:
 - a) Review and monitor the cancellation of FCPS notices by An Garda Siochana 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 Siochana,
 - c) Communicate any matter 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 16th June 2014 which 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 applications 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 Siochana driving their private vehicles are referred to the Director of Public Prosecutions who directs whether the exemption applies.
4. The implementation of most of the recommendations contained in the Report of the Garda Professional Standard Unit has immensely strengthened the system. The Garda Professional Standard Unit has continued to carry out monthly examinations of random samples into decision by the Cancelling Authority. The Garda Internal Audit Section completed an audit of the FCPS in September 2014 and carried out a subsequent review audits in July 2015. The details of these audits were contained in my Second Report.

5. The work to date has involved meetings with the 3 members of the Cancelling Authority and visits to the Fixed Charge Processing Office in Thurles. I am satisfied that the members of staff are well motivated and understand the procedures applicable.
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. In addition, the involvement of the Garda Professional Standards Unit provides a great deal of reassurance. I have examined files where the Cancelling Authority used his discretion and I would not disagree with the manner of the exercise of that discretion. Supporting documentation was provided where necessary and it has to be stated that these cases were very few in number.
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 duties,
 - b) Such use did not endanger the safety of road users.
8. Where a Garda is driving an official vehicle the application is made to the Cancelling Authority and the two items of proof are required. This procedure was followed in each case reviewed by me. It should be stated however that a Garda applying for an exemption would be advised to state that he was exceeding the speed limit in furtherance of investigating a specific crime.
9. There is a substantial number of FCN's returned "Undelivered – Gone Away" or "Unknown at this address". Three additional Regional Enforcement Units have been established with the aim of assisting the Cancelling Authority with the provision of additional information to aid in the decision making process. The suspension of the statutory time limit of 28 days in circumstances where FCN's are returned "Undelivered – An Post" has not yet occurred. In addition the Gardai 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 all the information necessary. Overall the establishment of this unit is resulting in an improvement in the degree of compliance with the system but this continues to be a work in progress. The Enforcement Unit is also centrally involved in the examination and review of the nomination procedure. The unit currently carries out the following functions:
 - a) Pre-vetting of all foreign nominations (excluding hire vehicle)
 - b) Processing of undelivered FCN's for hand delivery
 - c) Examination of all returned undelivered and refuted FCN's arising from nominations
 - d) Preparation of investigation packs for regional enforcement units

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 which took effect on 16th June 2014.

11. This is my report to you for the year 2017.

Dated _____

Signed _____

Matthew Deery

(Retired President of the Circuit Court)