

Ms. Frances Fitzgerald T.D.  
Minister for Justice and Equality,  
94 St. Stephens Green,  
Dublin 2



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

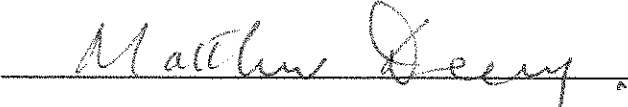
- 1) This is my second report following on my appointment as the sole Independent Oversight Authority in respect of the above.
- 2) My Terms of Reference are as follows:
  - a. Review and monitor the cancellation of FCPS notices by An Garda Síochána with a view to ensuring compliance with Garda policy on the cancellation of FCPS notices,
  - b. Communicate any matters he considers appropriate to the Commissioner of An Garda Síochána,
  - 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) I reviewed the Fixed Charge Processing System Policy and Procedures Manual Fourth Edition which took effect on the 16<sup>th</sup> of June 2014. The decision making process is centralised at the Fixed Charge Processing 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, Thurles

Since 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 Síochána 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.
- 5) The Garda Internal Audit Sections (GIAS) has conducted regular Audit checks on the full operation of the FCPS to ensure full compliance with all aspects of the policy - these audits have included the following:
  - a. Audit of the files where the Cancelling Authority cancelled the FCN's having reviewed a request direct from a member of the public
  - b. Audit files where an application for cancellation was refused by the Cancelling Authority.
  - c. Audit files where the Cancelling Authority has requested a local District/Divisional Officer to carry out enquiries on the validity of the request made by the Applicant prior the cancellation of the FCN
- 6) This work has involved a number of meetings with members of An Garda Síochána including a meeting with the Garda Commissioner, an Assistant Commissioner and the three members of the Cancelling Authority. I have also visited the Fixed Charge Processing Office in Thurles

- and spoken with the members of staff there. The members of staff understand the procedures applicable and what is required of them.
- 7) As in the previous year 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, and the Garda Internal Audit Section 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.
  - 8) 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.
  - 9) 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.
  - 10) There is a substantial number of FCN's returned "Undelivered – An Post". This is of some concern and has already been highlighted by the Garda Professional Standards Units at Recommendations 5.9 – as a result – three additional Regional Enforcement Units have been established namely the Northern, the Eastern and the South Eastern bringing the number to six. This assists the Cancelling Authority with additional information to aid in the decision making process. It is noted that 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. 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
  - 11) The establishment of this unit is resulting in an improvement in the degree of compliance with the system.
  - 12) 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 16<sup>th</sup> June 2014.
  - 13) This is my report to you for the year 2016.

Dated 3<sup>rd</sup> Day Feb. 2017

  
Matthew Deery

(Retired President of the Circuit Court)