

# An Garda Síochána



## **GARDA PROFESSIONAL STANDARDS UNIT**

### **GARDA HEADQUARTERS**

#### **EXAMINATION OF THE PROCESSES AND SYSTEMS IN PLACE TO DEAL WITH CANCELLATION OF FIXED CHARGE PROCESSING SYSTEM NOTICES BY SUPERINTENDENTS AND INSPECTORS ACTING IN THAT CAPACITY**

**APRIL 2013**

#### *Report*

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## **1. EXECUTIVE SUMMARY**

On the 30<sup>th</sup> November 2012, the Garda Commissioner directed the Garda Professional Standards Unit (GPSU) to carry out an “*Examination of the processes and systems in place to deal with cancellation of Fixed Charge Processing System (FCPS) notices by Superintendents and Inspectors acting in that capacity*”.

### **1.1. Introduction**

The Fixed Charge Notice and Penalty Points System was introduced under the provisions of the Road Traffic Act 2002 on the 31st October 2002. Over the past number of years the system was extended to incorporate other offences, such as the non-wearing of seatbelts, careless driving, insurance, public order and drink driving. Currently there are a total of 89 categories of Fixed Charge Offences 48 of which incur penalty points. The Fixed Charge Processing System (FCPS) is part of a national computerised system, designed to enable Gardaí process offences under Road Traffic and Public Order Acts that are subject of a fixed charge.

### **1.2. Examination Team**

An examination team within the GPSU was established consisting of Chief Superintendent Patrick Clavin, Inspector Anthony Twomey, Inspector Margaret Howard, Sergeant Louise Mulligan, Sergeant Irene Campbell, Garda Barry Mills and Mr. Alan Hall, CO.

### **1.3. Methodology**

The approach taken by the GPSU to complete the assigned task formed eight modules:

1. Analysis of the Fixed Charge Processing System in An Garda Síochána.
2. Analysis of the Fixed Charge Processing Office’s system in Thurles, Co. Tipperary.

3. Analysis of all relevant instructions in relation to the Cancellations of Fixed Charge Notices.
4. Analysis of the Fixed Charge Processing System Policies and Procedures Manual in particular the Cancellation Policy.
5. Analysis of a relevant PULSE Bulletins and Fixed Charge Processing System Information Bulletins.
6. Analysis of PULSE System and the Interface with Fixed Charge Processing System to Determine Technical Issues.
7. Comparative Analysis of International Best Practice on Cancellation Processes.
8. Exercise of Discretion.
9. Garda Síochána Ombudsman Commission Investigation into the Fixed Charge Processing System.

#### **1.4. Structure of this Report**

This report will outline the specific details of the analysis carried out under each of the modules outlined above with a section dedicated to each. Each chapter will contain its own individual findings and the recommendations have been outlined in a separate chapter categorised into three sections.

#### **1.5. Summary of Findings**

##### **1. The Computer System**

The Fixed Charge Processing System is a computerised system integrated with PULSE to permit users access to search, view and terminate Fixed Charge Notices.

##### **2. The Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005)**

The Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) is the manual for Fixed Charge Processing Systems in An Garda Síochána. The beginning of the document includes a foreword that contains transitional instructions. The instruction to remove this foreword was complied with on the 5<sup>th</sup> February 2013.

### 3. Functionality of PULSE and Access to Terminate Notices.

The facility to terminate a Fixed Charge Notice via the PULSE system was temporarily restricted from September 2009 until July 2010. This was as a result of the discovery of an anomaly on PULSE, whereby any Garda member who accessed the system under their own registered number could effectively cancel a Fixed Charge Notice by using the registered number of a Cancelling Authority. From July 2010 PULSE introduced the functionality that only members of Inspector rank or higher have access to terminate notices.

### 4. Amalgamation of Relevant Documentation

The Fixed Charge Processing System User Manual Policy and Procedures (Third Edition) was published in 2005 and since then ten HQ Directives, seven PULSE Bulletins and three different policy and procedures manuals have been disseminated to the organisation in relation to the Fixed Charge Processing System. In order to determine the current policy, an examination of information from several sources on the Fixed Charge Processing System Policy and Procedures was required. This revealed that relevant documents need to be amalgamated and the overall policy document updated to incorporate PULSE and legislative changes and HQ Directive instructions. All policy owners and personnel involved in producing policy documents should be instructed in version control.

### 5. Termination Reasons

On the Fixed Charge Processing System and the PULSE system there is a facility to record the termination reason on a drop down menu with options provided for the user to choose from. PULSE Release 6.3.2. introduced a list of termination reasons that were applied to PULSE and Fixed Charge Processing System. There was no HQ Directive that accompanied PULSE Release 6.3.2. and therefore no instruction issued to explain the rationale behind the termination reasons or in what circumstances they should be used.

#### 6. Comment Box

On the PULSE system there is a 'comment box', which is a mandatory field, the purpose of this field is to record any relevant information in relation to the cancellation of a Fixed Charge Notice. The users cannot terminate a notice until the 'comment box' is populated with some text. The user can insert blank spaces or data of no value into the 'comment box'. This permits the user to circumvent the system.

#### 7. Audit of FCPS Files Maintained at District Office Level

The Fixed Charge Processing System User Manual (Policy and Procedures, Third Edition 2005) instructed that a file be kept at District Officer level to record the reasons for cancellation. It stated that these files should be retained for audit purposes. Neither the policy document nor any other instructions assign ownership for these audits or state how often these audits should be conducted.

#### 8. The Fixed Charge Processing Office Administration

The Fixed Charge Processing Office administers notices that are received from two sources, namely Intercept and Non-intercept. The Fixed Charge Processing Office is assigned responsibility for the cancellation of notices in relation to intercept and Non-intercept offences as detailed in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005). The Fixed Charge Processing Office operates a paper based system to record the decision to cancel a notice. The number of signatures required is dependent on the level at which the query has been initiated. Where the query is addressed to and processed by management (Assistant Principal or Inspector) the notice may be cancelled without a signature but the details and rationale will be recorded on the correspondence register, this only relates to a limited number of cancellations. In other instances where it is received by a Clerical Officer or it is referred to him/her by management for administration purposes it is then furnished to management for approval. In the latter cases there might be two or three signatures attached to the cancellation request depending on whether an immediate supervisor is working on the date in question to recommend the cancellation provided by the Clerical Officer to senior management for approval. The internal procedures in the Fixed Charge Processing Office are practical and effective and therefore there is no improvement recommended.

9. Garda Síochána Ombudsman Commission investigation into FCPS

In December 2007 under Section 106 of the Garda Síochána Act 2005, a request was made by the Minister for Justice, Equality and Law Reform to GSOC to examine Garda practices, policies and procedures in relation to FCPS. The scope of the report produced did not include an analysis of the cancellation policy or procedures.

## **1.6. Summary of Recommendations**

1. Update Definition of Cancelling Authority

The current definition of the Cancelling Authority should be updated to the “*District Officer of the location where the fixed charge offence occurred and Inspectors only in circumstances where they are acting for the District Officer or the person in charge of the Fixed Charge Processing Office (Superintendent GNTB, Inspector in Charge FCPO, Assistant Principal FCPO, Higher Executive Officer FCPO) or the Superintendent in Charge of DMR Traffic only in respect of FCPS notices issued by members of DMR Traffic*”. The Inspector should only adjudicate on Fixed Charge Notices when he/she has been nominated by the Divisional Officer to take charge of the District in the absence of the District Officer. (Reference Chapter 2)

2. Centralise the Technical Ability to Cancel Fixed Charge Notices

The technical ability to terminate Fixed Charge Notices on the Fixed Charge Processing System should be limited to a central authority, in this case, the Fixed Charge Processing Office. The decision made by the Cancelling Authority is forwarded to the central authority whereby they will be responsible for cancelling the Fixed Charge Notice on the Fixed Charge Processing System. (Reference Chapter 5)

3. Cancelling Authority Should Absent Themselves from the Decision Making Process

Where there may be a conflict of interest the Cancelling Authority should absent themselves from the decision making process. (Reference Chapter 4)

4. Members Issuing Fixed Charge Notices outside their District Area

The Superintendent in charge of the member issuing the Fixed Charge Notice for an offence in another District should not be in a position to cancel the Fixed Charge Notice. (Reference Chapter 2)

5. Fixed Charge Processing System Audit Process

All Cancellation Requests to the District Officer should be submitted in written form. For the purpose of efficiency, cancellation requests submitted to the FCPO should be permitted in writing, e-mail, fax or telephone call. In both circumstances a file should be kept, recording the cancellation request, supporting documentation, the decision made by the Cancelling Authority and the rationale for that decision. An audit process should be developed to monitor this task and all files should be disposed of in accordance with the National Archives Act 1986 and HQ Directive 11/2009. (Reference Chapter 6)

6. Divisional Audits.

Functionality for visibility of Monthly Management Reports should be made available for Divisional Officers. The Divisional Officers should include Fixed Charge Processing System Terminations as part of their Divisional Audits. (Reference Chapter 6)

7. Garda Internal Audit Section Audits

Cancellation Requests should be held on file locally and these files should be retained for audit purposes. Ownership of these audits should be assigned to an independent party, namely, the Garda Internal Audit Section to ensure compliance with policy. The Garda Internal Audit Section should have access to the Monthly 'Terminated Offences Detail' Report in order to facilitate these audits. (Reference Chapter 5)

8. Monthly 'Terminated Offences Detail' Report

The Monthly 'Terminated Offences Detail' Report which is available in the District Folder on a District basis should be made available on a Divisional basis within the Divisional Folders. For the purposes of auditing, these reports should be made

available for a longer period or on a self serve basis for an auditor to run a report on the date range that is required. (Reference Chapter 6)

9. Enquiry Audit

There is no enquiry audit available on the Fixed Charge Processing System or on the PULSE (Fixed Charge Incident Search Screen). It is not possible to carry out an audit on enquiries that are conducted via PULSE. All queries should be available to audit. (Reference Chapter 6)

10. Previous History of Offender on Fixed Charge Processing System

The Superintendent should have the facility to search under the offender's name and to be able to view the Fixed Charge Processing System incidents and the reason for cancellations that were approved. This is required as an offender could request cancellations in a number of district areas, while using the same circumstances to support their Cancellation Request. This may be facilitated through a change in the PULSE system or through access to FCPS. (Reference Chapter 6)

11. Consolidation of All Documents Relevant to Fixed Charge Processing System

The current Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) should be updated and consolidated with all relevant HQ Directives and PULSE Releases and a new manual should be developed and communicated to the Organisation. (Reference Chapter 5)

12. Termination Reasons

It is recommended that 'Humanitarian Grounds' be included as a 'Termination Reason' on PULSE. The termination reasons included on the PULSE system are not reflected in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005). This should be included when compiling the consolidated policy document. (Reference Chapter 6)



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## **2. FIXED CHARGE PROCESSING SYSTEM IN AN GARDA SÍOCHÁNA**

### **2.1. Introduction**

This section focuses on the introduction of Penalty Points and the Fixed Charge Processing System. It also provides an overview of the cancellation policy and procedures established following the introduction of the Fixed Charge Processing System (FCPS). The different operating systems within the organisation that are associated with inputting or extracting of data on the Fixed Charge Processing System are examined.

#### **Introduction of Fixed Charge Notice and Penalty Points**

The Road Traffic Act 2002, introduced the penalty points system to Ireland on the 31<sup>st</sup> October 2002. One of the key strategic goals for An Garda Síochána as set out in An Garda Síochána's Corporate Strategy 2000 – 2004 was, *"contributing to improving road safety and the reduction of casualties"*.

The penalty for offences under this Act is a fixed charge, payable within 28 days from the issue of a Fixed Charge Notice by the Gardaí, together with penalty points endorsed on the driving licence and recorded in the National Driver File. The fixed charge is increased if the driver fails to pay within this 28 day period. The driver is allowed a further 28 days to pay the increased amount. If the total time of 56 days allowed for payment has lapsed and the fixed charge remains unpaid, a prosecution is initiated and the driver concerned may be summonsed to Court. In the case of drink driving offences, there is only one period of 28 days before prosecution is initiated.

#### **Fixed Charge Processing System**

The Fixed Charge Processing Office (FCPO) was established in 2003 as the national office for the administration of the Fixed Charge Processing System. The office is

responsible for administering the Fixed Charge Processing System (FCPS). The system was developed by An Garda Síochána in conjunction with external consultants following a public procurement exercise, to enable computerised, automated processing of Road Traffic and Public Order Offences that incur fixed charges. Public Order offences came into effect in 2008. The Fixed Charge Processing System is operated within the Fixed Charge Processing Office and is hosted in I.T. in Garda Headquarters. Within the Fixed Charge Processing Office, all staff have access to the Fixed Charge Processing System and a limited number of staff has access to the termination facility on the system.

The Fixed Charge Processing Office (FCPO) administers the Fixed Charge Processing System following the capture of information by manual notepads, handheld unit and safety cameras. A civilian staff member of Assistant Principal grade has responsibility for the running of the office and reports to the Chief Superintendent in charge of the Garda National Traffic Bureau.

#### **Overview of the Fixed Charge Processing System (Lifecycle of a Notice)**

- **Step One** - Offences are detected by way of intercept (Garda stops an offender at the time of the offence) or a non-intercept (where there is no intervention at the time of the offence, e.g.: recorded on camera) offence.
- **Step Two** - The details of the offence are recorded by inputting data into a handheld terminal, recorded on a fixed charge notepad or recorded by camera equipment (Garda or Go Safe).
- **Step Three** – The details of the offence are uploaded onto the Fixed Charge Processing System (FCPS), electronically in the case of handheld terminals and camera detections, and by post for notepads which require manual data entry in FCPO. When the details from all sources are entered onto the Fixed Charge Processing System the Fixed Charge Notice (FCN) is issued.
- **Step Four** - Payments are handled by an independent payment body. If the offender pays the fixed charge within the specified timeframe, the independent payment body will update the system with payment details via an electronic link to Fixed Charge Processing System. If the offence attracts penalty points

the Fixed Charge Processing Office will automatically transmit the details to the Department of Transport, Tourism and Sport, where penalty points will be attached to the Driver Record of the offender.

- **Step Five** – If the offender **does not pay** the fixed charge within the specified timeframe, Fixed Charge Processing System will automatically transmit summons applications via an electronic link to the Courts Service. However there are some cases where a manual summons is required to be produced, e.g. Public Order, Drink Driving,
- **Step Six** – The Courts Service will schedule a court date and produce the summons for the offender to appear before the courts. If the offender is convicted the Courts Service will transmit the details to Department of Transport, Tourism and Sport, where penalty points will be attached to the Driver Record of the offender.

#### **Enquiries in Relation to a Fixed Charge Offence**

When an offender receives a Fixed Charge Notice and believes that an error has been made, or they require help understanding the notice or have any questions, they are instructed on the Fixed Charge Notice to contact the Fixed Charge Processing Office. This information is also available on the Garda Síochána website ([www.garda.ie](http://www.garda.ie)) where the telephone and email details for the Fixed Charge Processing Office are available and it informs the offender that they will be advised by a member of staff regarding the enquiry. However, a number of enquiries are sent directly to the local Superintendent where the offence occurs or where the driver/owner resides.

#### **Overview of the Cancellation Policy and Procedures**

It is imperative with the introduction of any new system, that clear policies and procedures are also developed to assist in its successful implementation. Comprehensive policies and procedures provide personnel with the instruction to work within a system's specified guidelines. The purpose of the policy document '*Fixed Charge Processing System User Manual Policy and Procedures*' is to have a documented process that ensures the function of the system is carried out correctly and in a consistent manner.

The Cancelling Authorities (District Officers, Superintendents and the Member in Charge of the Fixed Charge Processing Office) may receive requests for cancellation of Fixed Charge Notices. The authority to cancel notices will be extended to Inspectors only in circumstances where they are acting for the District Officer/Superintendent. Within this policy document ‘Cancellation Requests’ and ‘Cancellation Policy’ are instructions given on the circumstances where it is permissible to cancel a Fixed Charge Notice and the procedure to be followed in such cases. The ‘Cancellation Requests’ section outlines the procedures to be followed when a request to cancel a notice is received and this can be divided into two separate procedures: the first is a Cancellation Request submitted to the Fixed Charge Processing Office and the second procedure is queries originating at a Garda Station.

### **Cancellation Requests Submitted to Fixed Charge Processing Office**

An alleged offender can submit a Cancellation Request in writing to the authorised person at the Fixed Charge Processing Office. The authorised person then sends an acknowledgement letter to the offender that is generated by the system and then prints, signs and posts it to the offender. This only happens if a delay in replying in full is envisaged. The authorised person at the Fixed Charge Processing Office examines each individual case to see if, on the basis of the circumstances and evidence provided, the offence warrants a termination. If the Cancellation Request is not justified, the authorised person at the Fixed Charge Processing Office sends a rejection letter to the offender. If the cancellation is justified, the authorised person follows the procedure to ‘Terminating a Fixed Charge Offence’. (Described below)

The authorised person at the Fixed Charge Processing Office may not have sufficient information on which to make a decision to cancel a Fixed Charge offence. In these circumstances, they forward the request for cancellation to the District Officer in charge of the area where the offence was committed for their investigation and decision. The FCPO send a letter to the offender to let them know that the query is now being dealt with by the District Officer who will communicate the decision directly to the offender.

### Termination of a Fixed Charge Notice

The status of 'Terminated' applies to offences after they have been entered onto the Fixed Charge Processing System. Terminations can be made in accordance with the Cancellation Policy or on direction from the National Juvenile Office, or when a System Error is identified. Fixed charge offences can only be terminated before they reach 'Summons Active' status. Terminations can be effected under any of the following reason codes:

1. Cancellation:

This is the decision of a Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review. Cancellation of a Fixed Charge offence can only occur under certain circumstances. These circumstances are detailed in the Cancellation Policy, which is included later in this report (Appendix C). Documentation provided by the offender in support of a Cancellation Request is kept for audit purposes. The authorised person at the Fixed Charge Processing Office uses the Fixed Charge Processing System to locate the offence by entering the Notice number on the Fixed Charge Processing System Search Function. When the offence details are returned to the authorised person, they validate whether it is the correct offence and has not proceeded to the 'Summons Active' stage. Any attempt to terminate an offence when it has proceeded to Summons Active status will be rejected by the Fixed Charge Processing System. If the offence has proceeded to summons, the authorised person sends out the 'Enquiry Non Resolution' letter to inform the offender that prosecution has already been initiated. If the offence has not proceeded to summons, the authorised person selects the 'Terminate' option and selects the relevant reason. The authorised person creates a letter informing the offender that their request for cancellation has been accepted.

2. National Juvenile Office (Juvenile Diversion Programme): If the National Juvenile Office has directed that the juvenile offender be dealt with under the Juvenile Diversion Programme, there is an automated process within the FCPS that terminates the FCN without intervention by staff in FCPO this function has been in place since PULSE Release 6.0.
3. System Error e.g.: incorrectly scanned image, or National Vehicle Driver File is out of date. If errors are identified by the Fixed Charge Processing Office



before the Notice has been printed, the offence should be terminated if the error has a reasonable potential to hinder the prosecution of the offence. If the error does not have a reasonable potential to hinder any prosecution, the Notice can proceed without any further intervention. If the error is identified by the detecting member, they should correct their note or re-enter corrected details to their handheld device. If the error is only identified after the Notice has been printed, no action should be taken. If and when the offender identifies the error and requests a termination on that basis, the Person in Charge at the Fixed Charge Processing Office will decide whether or not to terminate the offence. Such a termination would be classified as a System Error. The authorised person at the Fixed Charge Processing Office uses the Fixed Charge Processing System to locate the offence by entering the Notice number on the Fixed Charge Processing System Search Function. When the offence details are returned, the authorised person selects the 'Terminate' option and selects the relevant reason.

### **Cancellation Requests Submitted to An Garda Síochána**

A person may call in person or telephone a station to apply to have a notice cancelled. The member who receives the query, checks the status of the offence on the Fixed Charge Processing System to ensure that it has not already proceeded to summons stage. If it has, the member informs the applicant that they will need to pursue the matter in court. If the offence has not proceeded to the 'Summons Active' stage, the member informs the applicant that they must submit their Cancellation Request in writing, with any supporting documentation, to the District Officer in whose District the offence occurred. The member informs the applicant that the request for cancellation does not alter the obligations or payment periods as set out on the Fixed Charge Notice.

On receipt of a Cancellation Request, the District Officer/Superintendent ensures an 'Acknowledgement Letter' is sent to the applicant, which will inform the applicant that the request for cancellation does not alter the obligations or payment periods set out on the Fixed Charge Notice and the District Officer/ Superintendent signs this letter.

The District Officer examines each individual case to see if, on the basis of the circumstances and evidence provided, the offence warrants a termination. If the cancellation **is not** warranted, the District Officer ensures a rejection letter is sent to the applicant.

If the cancellation **is** warranted, the District Officer logs onto the PULSE system and selects the offence to be terminated via the Fixed Charge Processing System Search Screen. The District Officer ensures a 'Query Accepted' letter is sent to the applicant. All documentation relating to a cancellation is stored by the District Officer for audit purposes in accordance with the National Archives Act 1986 and HQ Directive 11/2009.

### **Cancellation Policy**

Cancellation is defined as “the decision of a Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review”. The Cancelling Authority is defined as the District Officer of the location where the fixed charge offence occurred or the District Officer/ Superintendent responsible for the detecting member or the person in charge of the Fixed Charge Processing Office. The authority to cancel notices has been extended to Inspectors only in circumstances where they are acting for the District Officer/ Superintendent.

The cancellation policy outlines the conditions required to conduct a review of a Fixed Charge Notice on receipt of a Cancellation Request. It details what can be reviewed, the timelines to be adhered to, the investigation and the records to be kept in relation to decisions made.

On receipt of a Cancellation Request the Cancelling Authority conducts a review of the Fixed Charge Notice which can be cancelled only in exceptional circumstances. The notice can only be reviewed if the Cancellation Request has been received prior to payments having been made. Section 11(9)(b) of the Road Traffic Act 2002 provides, that “*no payment... received shall in any circumstances be recoverable by the person who made it*”. There are a number of circumstances where refunds either

in part or in full are made (Advice received by GNTB from the Chief State Solicitor's Office dated 11 April 2005).

A review of the issue of a Fixed Charge Notice will not be conducted if the offence has progressed to summons stage. Where the offender has not paid the fixed charge within the specified timeframe, the Fixed Charge Processing System automatically transmits a summons application via an electronic link to the Courts Service.

Applications for cancellation will not alter the time period allowable for payments as contained in the Road Traffic Act 2002. The fixed charge is payable within 28 days from the issue of a Fixed Charge Notice and the fixed charge is increased if the driver does not pay within this 28 day period. The driver is allowed a further 28 days to pay the increased amount. If after the total time of 56 days has been allowed for payment and the fixed charge remains unpaid, a prosecution is initiated and the driver concerned may be summonsed to Court. In the case of Drink Driving offences, there is only one period of 28 days before prosecution is initiated.

The applicants will be informed of this, in writing, and the Cancelling Authority carries out the review as quickly as possible.

The Cancelling Authority reviews and examines each individual application and they must be satisfied, on the basis of the evidence presented, that the Fixed Charge Notice should be cancelled. The review may require an investigation that should include a consultation with the detecting member to ascertain if there are any objections to the cancellation. Generally the FCPO does not consult the detecting member unless there is insufficient information on which to base a decision to cancel. The bulk of cancellations conducted by the FCPO refer to camera detections where there is no added value in consulting with the detecting member or local District Officer, as the information is of a technical nature which is captured on the image. In general the FCPO consults the member on intercept cases with the exception of cancellations which must be conducted because of legal exemption e.g. safety belt exemption on production of doctors certificate, stolen vehicle etc.

Cancellation requests should be made in writing to the Cancelling Authority with a copy of the Fixed Charge Notice and is normally made by the person named on the

Fixed Charge Notice. The Cancelling Authority is required to record on Fixed Charge Processing System /PULSE all notices cancelled by them (to ensure that the system has a record of the fact they decided to terminate the notice) and retain a file for auditing purposes, including the specific reason for the cancellation.

Section A of the Cancellation Policy outlines the exemptions from the regulations and in such cases the Cancelling Authority **must** cancel a Fixed Charge Notice. These are outlined in the Cancellation Policy at Appendix C.

Section B of the Cancellation Policy outlines the ‘exceptional circumstances’ whereby the Cancelling Authority **may** cancel notices. There are no legal provisions whereby concessions are extended to any particular individual. However, by the nature of their work, doctors may by way of discretion, be afforded certain parking facilities in urgent cases when answering an urgent call where there are no parking facilities available in the immediate vicinity.

Other circumstances where the District Officer, if satisfied as to the facts, may cancel notices after considering all the conditions is outlined briefly hereunder:

- where the vehicle has been stolen,
- in an accident or broken down,
- the offender is resident outside the jurisdiction,
- a person entitled to claim diplomatic immunity,
- awaiting tax certificate or it is lost, stolen or accidentally removed from the vehicle,
- the vehicle is a hired car.

## **PULSE**

‘PULSE’ Police Using Leading Systems Effectively, is the incident record management system within An Garda Síochána which is used throughout the organisation to provide and retain information relevant to various policing functions.

PULSE Bulletin 59, dated April 2006, introduced the Fixed Charge Processing System screens available within PULSE. Four Fixed Charge Processing System

screens became available to all users from the PULSE browser screen and these include Fixed Charge Processing System incidents, Driver Lookup, View Notepad Range Summary and Allocate Notepad(s). The information on these screens is extracted from the Fixed Charge Processing System database and not a PULSE database.

In order for the PULSE user to gain access to the Fixed Charge Processing System, they must log onto PULSE on the Garda IS Domain. Once the user is logged on he/she has limited look-up access and termination functionality on the Fixed Charge Processing System. The capacity to terminate is limited to the permissions that have been granted.

### **OSCAM**

The safety camera project is managed and coordinated by an office based in Capel Street Dublin 1, known as the Office for Safety Camera Management (OSCAM). This office is headed up by Superintendent, Garda National Traffic Bureau and is supported by a number of civilian personnel, and manages the day-to-day running of the project, such as:

- financial control,
- reporting;
- monitoring of operations;
- communications;
- site selection (based on an analysis of five years of collision data, identification of collision clusters and regular speed surveys);
- consultation;
- performance management.

An Garda Síochána, following a public procurement exercise, has partnered with the GoSafe consortium who operate safety cameras to monitor speeding on roads on behalf of the Garda organisation. The primary purpose of this initiative is to reduce speed related collisions and save lives. This system went live on 16<sup>th</sup> November 2010.

When offences are detected, the offence details and images are uploaded to GoSafe where it is validated and vehicle registration numbers recorded. The data is transmitted electronically to Garda Headquarters, Phoenix Park, Dublin 8, where it will be uploaded onto the Fixed Charge Processing System (FCPS). All speeding offences detected will be administered by the Fixed Charge Processing Office, in the same way as detections that are made by Garda personnel. The office does not have any access to the system to terminate offences.

### **Garda Information Service Centre**

The Garda Information Service Centre (GISC) is based in Castlebar, Co. Mayo and is a service involved in the creation and review of all incidents on PULSE. The centre is operated by civilian staff who input and review incidents on PULSE on behalf of Garda Personnel. Personnel at GISC have direct access to the Fixed Charge Processing System which is required in the execution of certain 'Driver Licence Insurance Production' functions at GISC. GISC have no function in the cancellation process.

## **2.2. Comptroller and Auditor General Annual Report 2003**

The Comptroller and Auditor General Annual Report 2003, Chapter 7 details the Fixed Charge Notices and Penalty Points. It gives an overview of the system and details the operation of the system. This includes:

- Static and Video Camera Detections
- Detections involving Company Cars
- Foreign Registered Vehicles
- Drivers Holding Foreign Driving Licences
- Other Driver Nominations
- Statute Barred Offences
- No Driver Number
- Cancelled Notices

In relation to cancelled notices, an explanation was provided as to how notices can be cancelled which included that there were 2,600 cancellations in the period examined. There were no recommendations arising out of the report but the Comptroller and Auditor General highlighted a number of conclusions that revealed operational, administrative and legal impediments to the smooth and effective use of the system

- Low payment rate of fixed charges – 56% of notices issued in the first 14 months of operation
- Low summons rate for unpaid notices – 18%
- High rate of spoiled images/recordings – 47%
- Enforcement difficulties for foreign registered vehicles
- Inability to take appropriate action against drivers of company cars
- Inability to take appropriate action against certain drivers with foreign issued driving licences or foreign addresses
- Difficulties in assigning penalty points when inaccurate details are provided on returned fixed charge notices
- Level of inaccuracy in completing fixed charge notices giving rise to cancellations.

Some progress is being made in tackling the impediments by:

- Remediating camera and film defects
- Addressing the problems relating to the drivers of company cars, number plate issues and foreign registered vehicles with the appropriate authorities
- Clearing the backlog of films and tapes to be viewed
- Moving to verification of driver licence numbers when fixed charges are paid.

### **2.3. Benefits of FCPS Introduction**

As a result of the introduction of significant traffic enforcement and road safety policies including the implementation and expansion of the Fixed Charge Processing

System, there has been a measureable decrease in road traffic fatalities on Irish roads.

These are shown below:

YEAR	Road Traffic Fatalities
2005	396
2006	368
2007	338
2008	279
2009	238
2010	212
2011	186
2012	162

A core strategic goal for An Garda Síochána as set out in previous Corporate Strategy Documents issued by An Garda Síochána. A commitment was made to reduce the incidence of fatal and serious injury accidents and to improve road safety.



### **3. ANALYSIS OF THE FIXED CHARGE PROCESSING OFFICE IN THURLES, CO. TIPPERARY.**

#### **3.1. Introduction**

On Tuesday 8<sup>th</sup> January 2013, the Garda Professional Standards Unit examination team visited the Fixed Charge Processing Office (FCPO) to meet with representatives from that office. The purpose of this meeting was to determine the procedures used at the Fixed Charge Processing Office in relation to Cancellation Requests for Fixed Charge Notices received via e-mail, telephone or post.

#### **3.2. Background**

The Fixed Charge Processing Office administers notices that are received from two sources, namely Intercept and Non-intercept. The person in charge of the Fixed Charge Processing Office has authority for the cancellation of notices as detailed in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005). These include notices issued through the use of handheld terminals, Notepads and mobile safety cameras. Intercept offences (where a Garda member stops and talks with a driver) are generally not considered for cancellation at the Fixed Charge Processing Office. They are forwarded to the relevant local District for consideration by the District Officer.

#### **3.3. Overview of Fixed Charge Processing Office**

The Fixed Charge Processing System was demonstrated to the GPSU team and also the procedures that are in place in the Fixed Charge Processing Office. The demonstration showed how the system records all details.

- All correspondence / communication in relation to issued notices (e-mail, telephone, letter, fax) is entered on the Fixed Charge Processing System as either incoming or outgoing.
- Where a cancellation request or other query is received, the Fixed Charge Notice and all available information (camera grab etc) is assessed and as appropriate a decision is made in relation to cancellation at Fixed Charge

Processing Office or forwarding details of the Fixed Charge Notice to the District Officer of the location where the offence occurred or to the District Officer / Superintendent responsible for the detecting member. Where there is a corresponding picture or other relevant information, this is available to view on a separate Tab within each notice on the Fixed Charge Processing System (e.g. where a vehicle has been issued with a speeding notice the image of the vehicle can be viewed)

- Decisions to cancel or otherwise are recorded in a separate Tab within the Fixed Charge Processing System.

The Fixed Charge Processing Office operates a paper based system to record the decision to cancel a notice. The number of signatures required is dependent on the level at which the query has been initiated. These records are archived within the Fixed Charge Processing Office and recent records are now being scanned.

The mechanisms by which ‘terminated notices’ can be searched on PULSE were outlined. The main way of searching for notices is:

- Search by placing Garda Registered Number (Issuing Garda) in the Garda/Warden No. field along with ‘Terminated’ in the Offence Status field.
- Placing a Notepad No. or Notification No. in the corresponding field.
- Placing the Offender Surname and Offender Forename along with ‘Terminated’ in the Offence Status field.
- Search by Registered Number and along with ‘Terminated’ in the Offence Status field.

The Fixed Charge Processing System Incident Look-Up functionality on PULSE is a portal into the Fixed Charge Processing System which allows for basic information in relation to notices to be viewed. Notices on the Fixed Charge Processing System can be viewed through PULSE by all users. Details on vehicles, owners and terminated status are available to view. There is a functionality to terminate notices on the Fixed Charge Processing System via PULSE, however, access to this functionality is restricted. The comment box on PULSE is a mandatory field before submitting a notice for cancellation (see PULSE Bulletin 89). The information inputted in the comment box, however, is not transferred to the Fixed Charge Processing System.

The Fixed Charge Processing System contains information which is not available to view on the PULSE system such as the correspondence tracking tab, photographic and video data.

#### Cancellation Reasons outlined by Fixed Charge Processing Office

When the Fixed Charge Processing Office is adjudicating on a Cancellation Request, the cancellation reasons are clearly detailed. The Cancellation reasons from 2006 to 28<sup>th</sup> of March 2012 were:

- Scanning – incorrect registration number
- National Vehicle and Driver File defect
- System Error
- Juvenile Diversion Programme
- Vehicle Stolen
- Diplomatic Corps
- Cancelled

The Cancellation reasons outlined in PULSE Release 6.3.2 (these do not apply to Public Order Fixed Charge) from 28<sup>th</sup> March 2012 are:

CURRENT TERMINATION REASON	AVAILABLE IN PULSE and FCPS
Juvenile Diversion Programme	Y
Vehicle Stolen	Y
Vehicle/Driver File Defect(s) - New Owner	Y
Diplomatic Corps	Y
Data Entry/IT/Garda Errors	Y
Detection Details Error(s)	Y
Disabled Parking Pass	Y
Discretionary - Family Bereavement	Y
Discretionary - Medical Emergency	Y
Discretionary – Other	Y
Duplicate Notice	Y
Image Unsuitable	Y
Legislative Defect	Y
Seat Belt Detection –Medical Evidence	Y
Speed Limit Incorrect	Y
Statutory Exemption – Emergency Vehicles	Y
Tax / Insurance Disc/Trade Plate In Order	Y
CURRENT TERMINATION REASON	AVAILABLE IN FCPS Only
Scanning - Incorrect Registration Number	Y
Incorrect Nomination	Y
Payment Processing Issue	Y
Undelivered	Y

These cancellation reasons were created by the Garda National Traffic Bureau and submitted via ‘change request’ to Information and Communications Technology (ICT) section. They are implemented and included in the list of reasons that are available in the drop down menu for the PULSE and Fixed Charge Processing System cancellation screens. This list of reasons was drafted by the Garda National Traffic Bureau using a practical common sense approach to allow Cancelling Authorities to record the reason for cancellation as succinctly as possible.

A number of technical issues with the Fixed Charge Processing System were outlined which may pose problems when explaining the reasons and rationale behind cancellation of notices. These include:

- Notices not being recorded in Irish as the Handheld devices do not accommodate fadas (i.e.: á é í ó ú) and county names are only available in English.
- Foreign Licenses – a copy of the licence is required in order to process payment. Where a copy is not provided there is no method of validating the licence details and the FCN is subsequently cancelled.

### **3.4. Garda Professional Standards Unit Findings**

Following this meeting it would appear that the systems for processing, recording and auditing the cancellation of notices at the Fixed Charge Processing Office are robust and transparent. The Fixed Charge Processing System is a standalone computer system; however, there is functionality on PULSE to access the Fixed Charge Processing System incident and to terminate Fixed Charge Notices. The update facility on the Fixed Charge Processing System records the changes that are made to Fixed Charge Processing System incidents. The comment box on PULSE is a mandatory field; however the information is not transferred to the Fixed Charge Processing System. The Fixed Charge Processing System contains information which is not available to see on the PULSE system. That is to say that the correspondence log information on the Fixed Charge Processing System used by the Fixed Charge Processing Office is not available to view on the PULSE system if you check the Fixed Charge Processing incident via the PULSE system. This information would be beneficial to the District Officer in making a decision on a cancellation request.

During the course of the GPSU examination it was highlighted that previously there existed on PULSE a situation, whereby any Garda member could access and cancel a Fixed Charge Notice through PULSE by selecting the termination option for the offence and providing a Cancelling Authority's registered number and selecting the terminate option. HQ Directive 133/2009 Cancellation Procedures – Garda Fixed Charge Processing System was issued on the 11<sup>th</sup> September 2009 and this effectively locked down the facility to terminate a Fixed Charge Notice via the PULSE system from September 2009 until July 2010. In paragraph 15 of PULSE Bulletin 89 dated July 2010 it outlines that only members of Inspector rank or higher have access to terminate notices from this point forward.

Following consultation with the Fixed Charge Processing Office it was highlighted that, neither PULSE nor FCPS have a facility to record all inquiries for data from any source. The decisions to cancel or otherwise should be recorded on a separate Tab within PULSE. This allows for transparency on the rationale behind the decision to cancel and this information is recorded electronically on the Fixed Charge Processing System.

## **4. REVIEW OF ALL RELEVANT INSTRUCTIONS IN RELATION TO THE CANCELLATIONS OF FIXED CHARGE NOTICES.**

### **4.1. Introduction**

This chapter reviews all relevant documentation that provides any instruction or amendments in relation to the Cancellation Policy or Cancellation Procedures when a Cancelling Authority cancels a notice. It provides a description and summary of each document. The purpose of this is to offer an overview of the significant instructions issued in relation to the Cancellation Policy. It details the documents that are relevant to the Fixed Charge Processing System but do not relate to cancellations. All of these documents have a contribution to make in understanding the Policy and Processes involved in Fixed Charge Processing System. (See Appendix F)

### **4.2. Documents Relating To Cancellation Policy**

1. **HQ Directive 94/2004 - Fixed Charge Processing System (FCPS) – Phase 1 –Pilot Instructions.** This document dated the 29<sup>th</sup> June 2004 was the initial introduction of the system and the roll out of the Pilot. It detailed the phased implementation of the Fixed Charge Processing System for the pilot, DMR roll out and National roll out. It also included a Phase 1 Pilot – transition arrangements document.
2. **Foreword (Version 1) To the Fixed Charge Processing System Full User Manual Policy & Procedures – Pilot – User Manual Policy and Procedures.** First Edition 30<sup>th</sup> June 2004. This included a foreword that outlined the transitional arrangements for Phase 1(Pilot) of the Fixed Charge Processing System. It was to be used for the duration of the pilot and was intended to be read in conjunction with the Policies and Procedures User Manual for Fixed Charge Processing System.
3. **Foreword (Version 2) To the Fixed Charge Processing System User Manual Policy & Procedures – Full User Manual Policy & Procedures.**

**Second Edition** 2004 dated January 2005. This included a foreword that outlined the updates made to the Fixed Charge Processing System Policies and Procedures Manual and the transitional procedures that apply for the interim period.

4. **HQ Directive 166/2004 - Fixed Charge Processing System (FCPS) – Phase 2 –Go-Live in the Dublin Metropolitan Region.** This document dated the 16<sup>th</sup> November 2004 was the introduction of Phase 2 of the roll out of the system. It detailed the implementation of Phase 2 for the DMR roll out and actions required by Divisional Officers and a readiness checklist.
  
5. **HQ Directive 06/2005 - Fixed Charge Processing System (FCPS) – Phase 2 –Go-Live in Cork City Division.** This document dated the 17<sup>th</sup> January 2005 was the second part of Phase 2 of the roll out of the system. It detailed the implementation of Phase 2 for the Cork City Division roll out and actions required by Divisional Officer in Cork City Division and a readiness checklist.
  
6. **Foreword (Version 3) To the Fixed Charge Processing System Full User Manual Policy & Procedures - Full User Manual Policy & Procedures.** Third Edition 2005 dated December 2005. This stated the policies and procedures that will apply when the Fixed Charge Processing System (FCPS) is implemented in its entirety and all third parties have taken up their full responsibilities. Until then, temporary transitional procedures are required. The foreword outlined the transitional procedures and that further instructions will issue when the transitional procedures become obsolete or if they change. This Foreword (Version 3) and the Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) replace any earlier versions.
  
7. **HQ Directive 04/2006 – FCPS –Preparation for Nationwide Roll-out.** This document dated the 19<sup>th</sup> January 2006, detailed the phased roll out to that date and the preparations for national implementation from the 2<sup>nd</sup> February 2006. It included, in the ‘Actions required by the Divisional Officers’ section that all staff are to be made familiar with the HQ Directive 04/2006, The Fixed Charge Processing System User Manual – Third Editions(End January 2006)

and the Foreword (Version 3 to the User Manual (end January 2006). The HQ Directive gave partial effect to the contents of the manual and it contained a foreword that outlined the transitional arrangements.

8. **HQ Directive 11/2006 – FCPS –Phase 2 – Nationwide Go Live 2<sup>nd</sup> February, 2006.** This document dated the 30<sup>th</sup> January 2006 and it detailed the impact of national implementation. It included, in the ‘Actions required by the Divisional Officers’ section that all personnel are familiar with the new Fixed Charge Processing System procedures as contained in the Fixed Charge Processing System User Manual – third edition. It stated that the manual is currently being issued nationwide. It also included an instruction that all personnel be familiar with the transition arrangements required until the Fixed Charge Processing System Phase 3 is implemented. These instructions were contained in the Foreword (Version 3) to the Fixed Charge Processing System User Manual.
  
9. **HQ Directive 48/2006 – PULSE Release 3.5 and FCPS Phase 3, with effect from Wednesday 12<sup>th</sup> April 2006 was dated 6<sup>th</sup> April 2006.** Access to the Fixed Charge Processing System was made available at all networked stations via the PULSE screens. This Release included the upgrade of PULSE to new technologies and the integration of PULSE and the Fixed Charge Processing System. This Directive stated that Superintendents or Inspectors acting on their behalf will record cancelled fixed charge offences on Fixed Charge Processing System and that cancellations must be carried out in strict compliance with the policy set out in the third edition of the Fixed Charge Processing System policy and procedures manual. A file will be kept locally recording the reasons for cancellation. These files will be retained for auditing purposes.
  
10. **HQ Directive 45/2009 – Cancellation Policy – Garda Fixed Charge Processing System (FCPS).** This document dated the 7<sup>th</sup> April 2009, set out the procedures for dealing with Fixed Charge Notices for breaches of road traffic laws, issued to drivers of fire brigade vehicles, ambulances, members of the Garda Síochána driving on duty, civilian drivers driving a private vehicle



on the direction of a member of the Garda Síochána and civilian drivers driving Garda vehicles. Section 27 of the Road Traffic Act 2004 provided exemptions from the requirements of road traffic legislation. This Directive detailed the decision making process in respect of Section 27 of the Road Traffic Act 2004, in addition to Section 27, it stated that the decision with regard to cancellation of a Fixed Charge Notice rests solely with the District Officer/ acting District Officer for the District in which the incident occurred. It states that no Superintendent / acting District Officer shall adjudicate on their own case; it should be the Divisional Officer for the Division where the incident occurred. The member in charge of the Fixed Charge Processing Office shall not adjudicate in respect of the cancellation of a Fixed Charge Notice issued to members of An Garda Síochána. Where a cancellation of a Fixed Charge Notice is requested, a copy of the request, the Fixed Charge Notice and the Decision of the District Officer /Acting District Officer, (or other Officer where appropriate) and any supporting documentation will be retained at District / Divisional / Supervisors Office where appropriate and available for audit purposes.

11. **HQ Directive 133/2009 – Cancellation Procedures – Garda Fixed Charge Processing System (FCPS).** This document dated 11<sup>th</sup> September 2009, outlined transitional procedures relating to a decision to cancel a Fixed Charge Notice that will apply from the 13<sup>th</sup> September 2009, the date of Release of PULSE 5.2. The facility to terminate a Fixed Charge Notice was removed pending the addition of system enhancements. During the transitional period it will not be possible to cancel a Fixed Charge Notice on local PULSE computers. All decisions to cancel must be immediately communicated to the Inspector in charge of the Fixed Charge Processing Office who will have responsibility for cancelling the Fixed Charge Notice on the Fixed Charge Processing System. This HQ laid out the cancellation procedures and it stated that new procedures will be introduced as part of PULSE Release 6.0 and an appropriate HQ Directive will issue at the relevant time.

12. **PULSE Bulletin 84** issued on the 13<sup>th</sup> September 2009, which was the same day as the above procedures came into effect and this document referenced

HQ Directive 133/2009. This bulletin detailed the changes that were deployed as part of PULSE Release 5.2. including changes to the Fixed Charge Processing System, most notably the removal of the facility to terminate a Fixed Charge Notice pending the addition of system enhancements.

13. **PULSE Bulletin 89** issued in July 2010. This bulletin detailed the changes that were deployed in the live environment on 25<sup>th</sup> July 2010 as part of PULSE Release 6.0. It introduced the functionality to terminate and implemented access to terminate a Fixed Charge Processing System incident through PULSE system. Access to this was restricted to users with a rank of Inspector or higher.
14. **HQ Directive 119/2011 - Road Traffic Act 2010 Road Traffic (No. 2) Act 2011 Section 87** – Exemptions for Emergency Vehicles - The Road Traffic Act 2010 became law on the 20<sup>th</sup> July 2010. Commencement (No. 2) Order 2011 commences a number of provisions of the 2010 Act with effect from the 28<sup>th</sup> October 2011, including Section 87. This section provides that the requirements under the Road Traffic Acts relating to vehicles and requirements, restrictions and prohibitions relating to the driving and use of vehicles do not apply to the driving or use by a member of An Garda Síochána, an ambulance service or a fire brigade of a fire authority (within the meaning of the Fire Services Act 1981) of a vehicle in the performance of the duties of that member, or a person driving or using a vehicle under the direction of a member of An Garda Síochána, where such use does not endanger the safety of road users. This section repeals Section 27 of the 2004 Act.
15. **PULSE Release 6.3.2.** The Design Authority Team in ICT released a document on the 28<sup>th</sup> March 2012 called a Portal Release Note. It highlighted changes applied to the Fixed Charge Processing System Termination Reason.
16. **PULSE Release 6.3.3.** The Design Authority Team in ICT released a document on the 6<sup>th</sup> June 2012 called a Portal Release Note. It highlighted changes applied to the Fixed Charge Processing System Termination Reason for Public Order Offences only.

17. **HQ Directive 36/2013 - Cancellation of Fixed Charge Notices.** This document dated 3<sup>rd</sup> April 2013, details that an examination is being conducted. It also states that pending the outcome of this examination that the existing Garda Síochána Cancellation Policy remains in force.

### 4.3. Documents Relating To Fixed Charge Processing System

- 1 **PULSE Bulletin 59 April 2006** - PULSE Changes as Part of Release 3.5. This bulletin dated April 2006 outlined the four New Fixed Charge Processing System screens available within PULSE to all users namely Fixed Charge Processing System Incident, Driver Lookup, View Notepad Range Summary and Allocate Notepad(s). It drew attention to the fact that PULSE and Fixed Charge Processing System bulletins are available to all members on the PULSE system via the Public Folders. It made changes in Summons relating to Fixed Charge Processing System notepads.
- 2 **HQ Directive 113/2006** – European Communities (Compulsory Use of Safety Belts and Child Restraints Systems in Motor Vehicles) Regulations 2006. This document dated the 30<sup>th</sup> January 2006, introduced into Irish Law of the wearing of seatbelts and child restraints systems in motor vehicles. This comes under the Fixed Charge Processing System and incurs penalty points.
- 3 **PULSE Bulletin 68 October 2007** – This bulletin outlined the changes in Recording of Driving Licences and identified a Fixed Charge Processing System Driver Licence Screen Shot.
- 4 **PULSE Bulletin 76 November 2008** – PULSE Release 4.5, this bulletin brought a number of changes and enhancements to existing PULSE and Fixed Charge Processing System functionality. It introduced an upgrade to the Fixed Charge Processing System that facilitated matching for locations which are not ‘pre-defined’. This should help prevent duplicate locations from being created on PULSE as a result of Fixed Charge Processing System incidents. The system facilitated a search for Fixed Charge Processing System incidents

using First Name, Surname of the owner and vehicle registration number as the only search criteria.

- 5 **HQ Directive 118/2011 - Road Traffic Act 2010 Section 29 Fixed Penalty Notice Drink Driving (As Amended By Section 9 Road Traffic Act (No. 2) 2011** - this provided for an administrative fixed penalty in the case of certain drink driving offences. This provision does not apply to drivers who are; the holder of a learner permit, the holder of a first driving licence, is the holder of a driving licence licensing certain categories, is the holder of a licence to drive a small public service vehicle, or does not hold a driving licence for a vehicle of the category concerned.
  
- 6 **HQ Directive 63/2012 – Road Traffic Acts 1961 to 2011 (Fixed Charge Offences) Regulations 2012 S.I. no 294 of 2012.** This document dated 3<sup>rd</sup> August 2012, relates to the declaration of certain offences under the Road Traffic Acts and corresponding Regulations in four Offence Groups - Seatbelts, Vehicle Weights, Crash Helmets and Vehicle Lighting - to be Fixed Charge Offences and the relevant Fixed Charge amount.
  
- 7 **FCPS Bulletin I** this document dated 3<sup>rd</sup> August 2012 details changes as part of the Fixed Charge Processing System Release 6.3.5 which was deployed on the 3<sup>rd</sup> August 2012 containing enhancements to Fixed Charge Processing System functionality. It changed some of the offence codes, restricted the number of offences per Fixed Charge Processing System to 9. It introduced a validation so that the Fixed Charge Processing System notices can only be created up to 70 days before an offence goes statute barred and restricted the shortcut access to authorised users and access to certain reports through the Fixed Charge Processing System has been made available to authorised users.

#### **4.4. Garda Professional Standards Unit Findings**

A review of these documents contributes in a significant way to the understanding of the Cancellation Policy and the Cancellation Procedures. It assists in understanding the difficulties involved in introducing such a major project and the amendments that

are required post implementation. Each amendment that was made to the policy or procedure was accompanied by an instruction document to assist in ensuring that all the participants were aware of what the current situation was. Each amendment introduced in relation to Fixed Charge Processing System Policy and Procedures, was accompanied by an instruction with the exception of PULSE Bulletin 89, PULSE Release 6.3.2. and PULSE Release 6.3.3. There was no HQ Directive issued in relation to the additions or amendments to the policy, procedure or systems to clarify the changes and explain the instructions.

In excess of 24 different documents relating to the Fixed Charge Processing System Policy and Procedures have been published since the implementation of the FCPS project. It required extensive research by the Garda Professional Standards Unit to obtain all the information and material relevant to the Fixed Charge Processing System and the Cancellation Policy. In order for the Garda Professional Standards Unit to determine the current policy it required an examination of information from several sources. This examination revealed that the pertinent documents need to be amalgamated and the overall policy document should be updated to incorporate PULSE, legislative changes and HQ Directive instructions.

## 5. ANALYSIS OF THE FIXED CHARGE PROCESSING SYSTEM POLICIES AND PROCEDURES MANUAL

### 5.1. Introduction

In December 2005, the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) was issued to the organisation. This document was prefaced by a foreword, the purpose of this foreword was to outline that this Policy and Procedures Manual (Third Edition 2005) reflected the policies and procedures that would apply when the Fixed Charge Processing System (FCPS) was implemented in its entirety and all third parties had taken up their full responsibilities. The foreword also detailed the temporary transitional procedures that were put in place for preparation for nationwide roll-out. It stated that the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) replaced any earlier versions of Fixed Charge Processing System policy.

Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005)  
HQ Directive 04/2006 ‘FCPS – Preparation for National Roll-Out’ dated 10<sup>th</sup> January 2006 introduced the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) as a policy document to the organisation. The Directive requires the Divisional Officers to ensure that all staff are familiar with the contents of HQ Directive 04/2006, the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) (end of January, 2006), and the Foreword (Version 3) to the User Manual (End of January, 2006)’.

The Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) specified that further instructions would issue when the transitional procedures became obsolete or if they changed. This instruction is contained in HQ Directive 48/2006 ‘PULSE Release 3.5 and Fixed Charge Processing System Phase 3, effective from Wednesday, 12<sup>th</sup> April 2006’. This Directive contained a paragraph titled ‘*Foreword FCPS User Manual*’ - in this paragraph it was outlined that “*with this release of PULSE and FCPS the complete system functionality as outlined in the FCPS Policy and Procedures Manual (Third Edition 2005) will be in place*”. It stated

that the transitional arrangements contained in the foreword to the manual will be obsolete on the 30<sup>th</sup> May 2006 and the foreword be removed from the manual.

The Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) is the current policy document in relation to the Fixed Charge Processing System. The foreword on this document was removed on the 5<sup>th</sup> February 2013. Subsequent HQ Directives have been issued that impact on the procedures laid down in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) and they affect the cancellation policy. The current version of the Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) should be updated and incorporate all the relevant documentation into one consolidated document.

#### Cancellation Requests as per foreword to the Fixed Charge Processing System Policy and Procedures Manual

The Cancellation Requests section of the foreword states that *“Pending the availability of FCPS in District Offices, the Fixed Charge Processing Office will be the only location where approved cancellations can be entered on the system. Until then, the Cancelling Authorities must forward their decisions to cancel to the Fixed Charge Processing Office”*. The Fixed Charge Processing Office was the only location where cancellations could be entered onto the Fixed Charge Processing System. The cancelling authorities (District Officers, Superintendents, the Member in Charge of the Fixed Charge Processing Office) could receive requests for cancellation of Fixed Charge Notices. Pending the availability of FCPS in District Offices, the Fixed Charge Processing Office would be the only location where approved cancellations can be entered on the system. The Cancelling Authorities were permitted to make a decision on a Cancellation Request but then had to forward the decision to the Fixed Charge Processing Office. The Cancellation Policy remained the same but the procedures that were applied in the transitional period differed somewhat from the Manual.

#### Cancellation Request Procedure

If the Cancellation Request is approved, the Cancelling Authority will complete and sign a letter of approval addressed to the applicant. However, the Cancelling

Authority will not issue this letter directly to the applicant. They will issue it via the Fixed Charge Processing Office, as outlined below. Where the payment period is about to expire, the Cancelling Authority should immediately notify the Fixed Charge Processing Office by fax or telephone of the Cancellation Requests. This is to avoid unnecessary summons applications being created. The Cancelling Authority will then forward their original signed letter of approval, together with a covering report, to the Fixed Charge Processing Office, specifying the notice number in question and the reason why the notice should be cancelled. The Cancelling Authority will record on the file the reason for the decision and maintain the file at the District Office. This file should include the original cancellation request, a copy of the letter of approval forwarded to the Fixed Charge Processing Office for the applicant, and details of the information sent to the Fixed Charge Processing Office to update FCPS. The member in charge of the Fixed Charge Processing Office will ensure that the FCPS is updated on the date of receipt of the decision to cancel a notice. The cancellation report from the Cancelling Authority is filed for audit purposes. The letter of approval received from the Cancelling Authority is issued to the applicant notifying him/her of the decision to cancel. If the Cancellation Request is rejected, the Cancelling Authority will notify the person in writing that the cancellation request is rejected. The Cancelling Authority will retain a file on rejected requests at the District Office. This should include the original request letter and the letter to the appellant informing him/her that their request has been rejected. There is no need to inform the Fixed Charge Processing Office of rejected Cancellation Requests, as the life cycle of the offence will continue automatically.

#### Cancellation Requests Procedure as per the Fixed Charge Processing System Policy and Procedures Manual

On receipt of a Cancellation Request, the District Officer/Superintendent ensures an 'Acknowledgement Letter' is sent to the applicant. The District Officer examines each individual case to see if, on the basis of the circumstances and evidence provided, the offence warrants a termination. If the cancellation **is not** warranted, the District Officer ensures a rejection letter is sent to the applicant.



If the cancellation **is** warranted, the District Officer logs onto the PULSE system and selects the offence to be terminated via the Fixed Charge Processing System Search Screen. The District Officer ensures a Query Accepted letter is sent to the applicant. All documentation relating to a cancellation is stored by the District Officer for audit purposes in accordance with the National Archives Act 1986 and HQ Directive 11/2009

### Cancellation Policy

In the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005), ‘cancellation’ is defined as “the decision of a Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review”. The Cancelling Authority is defined as the District Officer of the location where the fixed charge offence occurred or the District Officer/Superintendent responsible for the detecting member or the person in charge of the Fixed Charge Processing Office. The authority to cancel notices has been extended to Inspectors only in circumstances where they are acting for the District Officer/Superintendent. This paragraph of the cancellation policy clearly states the definition of a cancellation and it identifies who has the capacity to cancel a fixed charge notice.

The cancellation policy outlines how a review should be conducted and details the exceptional circumstances whereby concessions are extended to particular individuals and the occasions the Cancelling Authority can consider. The Cancelling Authority reviews and examines each individual application and they must be satisfied, on the basis of the evidence presented, that the Fixed Charge Notice should be cancelled.

The Cancelling Authority is required to record on Fixed Charge Processing System or PULSE all notices cancelled by them and retain a file for auditing purposes recording the specific reason for the cancellation.

### Introduction of Transitional Cancellation Procedures 2009

HQ Directive 133/2009 ‘Cancellation Procedures – Garda Fixed Charge Processing System (FCPS)’ was issued on 11<sup>th</sup> September 2009. The facility on PULSE to terminate a Fixed Charge Processing System incident was removed pending the addition of future system enhancements to be included in PULSE Release 6.0. While

awaiting these changes transitional procedures were applied which removed the option to cancel a Fixed Charge Notice on local PULSE computers. The interim procedures required that all decisions to cancel Fixed Charge Notices must be immediately communicated to the Inspector in Charge Fixed Charge Processing Office who would be responsible for cancelling the notice on the Fixed Charge Processing System. During the period of the interim measures the decision to cancel still remained with the Cancelling Authority. If the Cancellation Request was approved, the Cancelling Authority e-mailed the following information to the Inspector in Charge Fixed Charge Processing Office:

- Fixed Charge Notice number,
- Name and address on the relevant Fixed Charge Notice,
- Relevant District Officer File number,
- The reasons for acceding to the Cancellation Request.

The Inspector in Charge Fixed Charge Processing Office on receipt of an email from a Cancelling Authority notifying a decision to approve a Cancellation Request ensured:

- The Fixed Charge Notice was cancelled on the Fixed Charge Processing System and the Cancelling Authority notified by return email,
- A letter confirming the cancellation, issued in the name and address on the Fixed Charge Notice,
- The Cancelling Authority is notified by return e-mail where a Fixed Charge Notice cannot be cancelled, (This was only in circumstances where the termination was not possible i.e. Gone to Summons Stage)
- A record of the request is filed at the Fixed Charge Processing Office for audit purposes.

The HQ Directive stated that new procedures will be introduced as part of PULSE Release 6.0. and an appropriate HQ Directive will issue at the relevant time. There was no Directive that accompanied PULSE Release 6.0. It was issued as part of PULSE Bulletin 89.

PULSE Release 6.0.

PULSE Release 6.0 restored the 'Fixed Charge Processing System Notice Terminations Functionality'. Access to terminate a Fixed Charge Processing System incident through PULSE was restricted to users of Inspector rank or higher. A mandatory text box was made available on the termination screen, to allow the user to enter the station file number, handheld or notepad number. This was to facilitate the instruction as set out in the Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) and instructions issued in HQ Directive 133/2009, that all documentation relating to a cancellation is stored by the District Officer for audit purposes. All documentation relating to a cancellation request is required to be retained by the District Officer for audit purposes. To facilitate these audit purposes the mandatory text boxes on PULSE was made available for recording the details of the file namely the file reference number.

Fixed Charge Processing System Termination Reasons

When a Fixed Charge Processing System incident is cancelled, a 'reason' is recorded in a drop down menu on both PULSE and Fixed Charge Processing System. These reasons were submitted to ICT from Garda National Traffic Bureau. With the introduction of PULSE Release 6.3.2 a list of termination reasons were applied to both systems. A HQ Directive to accompany PULSE Release 6.3.2 was not issued. There was no instruction that explained the rationale behind these reasons or on what occasion that you should use them, particularly in the case of 'Discretionary Other', to explain the circumstances when it can be used.

Documentation and Records

In the documentation and records section of the Cancellation Policy it states that the Cancelling Authority will 'be required to record on Fixed Charge Processing System all notices cancelled by them' and to 'Retain on file, for auditing purposes, the specific reason for the cancellation'. The purpose of an audit is to methodically and independently evaluate a documented process. It assesses the effectiveness of a process and ensures conformity with policies, systems and procedures of an organisation. While the policy stated that an audit is required it did not outline the

conditions that would attach to this type of audit or who should conduct it or the planned intervals at which the audit should be carried out.

## **5.2. Garda Professional Standards Unit Findings**

The Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) is the instruction for the Fixed Charge Processing Systems in An Garda Síochána at this present time. The Cancellation Policy contained within the Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) was written by An Garda Síochána. It has replaced any earlier versions of the Fixed Charge Processing System policy. The beginning of the document includes a foreword that contains transitional instructions that were in place for a specified period. An instruction was issued to remove this foreword by 30<sup>th</sup> May 2006 (HQ Directive 48/2006) which was complied with on the 5<sup>th</sup> February 2013.

The procedures that were in place and outlined in HQ Directive 133/2009 ‘Cancellation Procedures – Garda Fixed Charge Processing System (FCPS)’ were successful for the period of time that they were applied. All Cancellation Requests that are approved are submitted to the Fixed Charge Processing Office, a central location for recording the cancellations on the Fixed Charge Processing System. The Cancelling Authority emails the relevant information to the Fixed Charge Processing Office who in turn records the outcome of the request and notifies the applicant. The hard copy of the file will be retained at the District Office for auditing purposes

The current PULSE termination reasons were issued as part of PULSE Release 6.3.2. No instruction or HQ Directive issued to explain these reasons or the circumstances when these reasons could be used when recording a cancellation.

The Fixed Charge Processing System User Manual (Policy and Procedures, Third Edition 2005) and HQ Directive 48/2006 instructed that a file be kept locally recording the reasons for cancellation and that these files will be retained for audit purposes. This instruction does not state how often or by whom these audits should be conducted and as such there is no evidence of any audits being completed.

## **6. ANALYSIS OF PULSE SYSTEM AND ITS INTERFACE WITH FIXED CHARGE PROCESSING SYSTEM TO DETERMINE TECHNICAL ISSUES.**

### **6.1. Introduction**

On the 11<sup>th</sup> January 2013 the Garda Professional Standards Unit met with the Information and Communications Technology (ICT) section. ICT support all the IT applications and infrastructure used throughout the organisation including: PULSE, TETRA a digital radio technology, Automated Fingerprint Identification System (AFIS), Garda National Immigration Bureau (GNIB), Automatic Number Plate Recognition (ANPR), Fixed Charge Processing System (FCPS) and other miscellaneous applications. The purpose of the meeting was to identify and gain an understanding of the Fixed Charge Processing System cancellation process from the perspective of the IT Section. The GPSU team were trying to establish the origins of the drop-down options provided on PULSE for cancellation, when the decision was made to include them, when they were implemented on PULSE and the rationale behind the terms used.

### **6.2. PULSE System and its Interface with Fixed Charge Processing System**

The Fixed Charge Processing System (FCPS) contains quite a lot of information which is not available to see on the PULSE system. The Fixed Charge Processing System Incident Look-up functionality on PULSE provides a window into the Fixed Charge Processing System which allows for basic information in relation to notices to be viewed and provides for cancellation functionality for those authorised to do so.

Access to the Fixed Charge Processing System is via the Garda IS Domain and once logged onto PULSE the user has limited look-up access and termination functionality on the Fixed Charge Processing System with the capacity to terminate limited to the permissions that have been granted.

### **6.3. Summary of Instructions Received in Relation to PULSE**

On Wednesday 12<sup>th</sup> April 2006 PULSE Release 3.5 and Fixed Charge Processing System Phase 3 were completed and HQ Directive 48/2006 gave effect to this. Access to the Fixed Charge Processing System was made available at all networked stations via the PULSE screens. This Release included the upgrade of PULSE to new technologies and the integration of PULSE and the Fixed Charge Processing System. The impact on the Fixed Charge Processing System included:

- Access to the Fixed Charge Processing System through PULSE screen.
- The introduction of NTAS (Notepad Tracking and Allocation System).
- Superintendents instructed to record cancelled fixed charge offences on the system.
- MIS reports on fixed charge offences will be available.
- Automated summons processing for unpaid fixed charges and associated linked offences.

This Directive stated that Superintendents or Inspectors acting on their behalf will record cancelled fixed charge offences on Fixed Charge Processing System and that cancellations must be carried out in strict compliance with the policy as set out in the Fixed Charge Processing System Policies and Procedures Manual, Third Edition 2005. All documentation in relation to the Cancellation Request and the record of the reasons for cancellation and will be kept locally and retained for auditing purposes.

PULSE Bulletin 89 dated July 2010 introduced the functionality to terminate and implement access to terminate an FCPS incident through the PULSE system. Access to this was restricted to users with a rank of Inspector or higher. This bulletin introduced a mandatory free text box which is present on the termination screen, to allow the user to enter the station file number or replacement handheld or notepad number. An issue in relation to the mandatory free text box exists. There is a capability to place spaces and information of no value in this mandatory field on PULSE when submitting information. This allows the user to proceed to the next stage and to terminate a notice without recording the details as required.

PULSE Release 6.3.2 introduced changes applying to the Fixed Charge Processing System 'Termination Reason'. The termination reasons were drafted by GNTB and forwarded to ICT for insertion onto the Fixed Charge Processing System and PULSE systems to record the reason for cancellation as concisely as possible.

HQ Directive 63/2012 – on the 3<sup>rd</sup> August 2012, detailed the declaration of the certain offences under the Road Traffic Acts and corresponding Regulations in four Offence Groups, Seatbelts, Vehicle Weights, Crash Helmets and Vehicle Lighting, to be Fixed Charge Offences and the relevant Fixed Charge amount.

#### **6.4. Access to the Fixed Charge Processing System**

PULSE allows access to the four Fixed Charge Processing System screens available to all users from the PULSE browser screen and these include Fixed Charge Processing System incidents, Driver Lookup, View Notepad Range Summary, and Allocate Notepad(s). The information on these screens is extracted from the Fixed Charge Processing System database. Access is automatically granted to an Inspector (on the appointment to the rank) or higher whereby they gain the PULSE permission to cancel Fixed Charge Processing System notices.

Direct access to the Fixed Charge Processing System is granted through the use of an ITSU (Information Technology Systems User) form. This form is available on the Portal and has to be signed off by a supervisor.

#### **6.5. Management Reports**

An Oracle Discoverer report is run every month and is available in the Public Folders within the e-mail Microsoft Outlook accounts of each respective District, for the Superintendent in that District to view. There is a national version of the program available for the Fixed Charge Processing Office and the Garda National Traffic Bureau. These reports are generated on the 2<sup>nd</sup> day of every month and are cleared on a three monthly cycle from the Public Folders. Up to December 2012 there was an anomaly on the system where the reports generated in respect of 'Terminated Offences' were stopped at 16 pages but this has since been rectified.

In the District Folder of the Public Folders, the District Officer can view cancellations for Fixed Charge Notices detected within their District, irrespective of who cancelled the notice. A District Officer cannot see the cancelled Fixed Charge Notices which were issued by members assigned to their District but were geographically outside that District Officer's District.

There is a Divisional Folder for the Divisional Officer to view Monthly Management Reports. The Monthly Management Reports on the Fixed Charge Processing System Terminations are not available in the Divisional Folder of the Public Folders for the Divisional Officer to access. It would be beneficial to the Divisional Officer to have access to these reports to assist in monitoring the Fixed Charge Processing System terminations in their area of responsibility.

## **6.6. Enquiry Audit on PULSE**

There is no enquiry audit available on the Fixed Charge Processing System or on the PULSE (Fixed Charge Incident Search Screen) but there is a full update audit available on the Fixed Charge Processing System. An audit can be conducted on the Fixed Charge Processing System where updates have been made; these include updates to the correspondence tab, terminations status and/or upload of images. Update audit does not include the location of the terminal (Terminal ID) in the Fixed Charge Processing System or PULSE. Since Release 6.3 all tables on the PULSE database (not on the Fixed Charge Processing System database) have records of all searches initiated. It is not possible to carry out an audit on enquiries that are conducted via PULSE and consequently those conducting queries do so anonymously. All queries should be available to audit. Details available should include log on details, Terminal ID and query details.

## **6.7. Statistical Analysis of Fixed Charged Processing System Notices 2011/2012**

**Total number of terminated notices appearing on PULSE without a comment in the comment box for 2011 and 2012:** (these figures exclude all notices cancelled by Inspector in Charge Fixed Charge Processing Office, as these are cancelled through



the Fixed Charge Processing System whereby there is no corresponding comment field – and thus they show up on PULSE as having no comment)

YEAR	TOTAL (no comment)
2011	68
2012	9
<b>TOTALS</b>	<b>77</b>

**Total number of cancellations resulting from Undelivered Notices for 2011 and 2012** (note that the functionality to generate this report has only been available since 01/04/2012 – effectively there are only statistics from 01/04/2012 – 31/12/2012)

YEAR	Undelivered Notices
2011	4
2012	3,241
<b>TOTALS</b>	<b>3,245</b>

**Total number of notices issued and terminated for 2011 and 2012:**

YEAR	TOTAL NOTICES	TOTAL TERMINATED	PERCENTAGE TERMINATED
2011	514,959	22781	4.42
2012	449,403	21960	4.88
<b>TOTALS</b>	<b>964,362</b>	<b>44741</b>	<b>4.64</b>

## 6.8. Garda Professional Standards Unit Findings

The Fixed Charge Processing System Incident Look-Up functionality on PULSE is a portal into the Fixed Charge Processing System which allows for basic information in relation to notices to be viewed. The ‘comment box’ on PULSE is a mandatory field before submitting a notice for cancellation. The information in the ‘comment box’ however is not transferred to the Fixed Charge Processing System. The ‘comment box’ which is a mandatory field also has the capability to allow blank spaces to be placed in it. This allows the user to avoid compliance with policy requirements and to proceed to the next stage. Decisions to cancel or otherwise are recorded in a separate

Tab within the Fixed Charge Processing System at the Fixed Charge Processing Office. There is no audit feature on the 'comment box'; therefore, there are no statistics available in relation to compliance with this requirement. A report could be produced to provide information on the terminated offences that have no information placed in the 'comment box'. This would be of benefit for auditing purposes and recording the rationale behind the decisions being made by the Cancelling Authority. If this 'comment box' was populated with the reason, or exceptional circumstance, considered by the Cancelling Authority, then it would provide valuable information on the review or audit process. This would be beneficial for notices cancelled on PULSE so that the rationale for the decisions is recorded and available to a Cancelling Authority to view in the future.

The management reports available in the Divisional Folder of the Public Folders do not include the Fixed Charge Processing System 'Terminated Offences Detail' Report for a Division. Therefore, a Divisional Officer does not have a combined report on the Fixed Charge Notices that were terminated by each District Officer within their Division. The Divisional Officer does have access to the District Folders but will have to merge the figures and details manually. A District Officer can see, via their respective District Folder on Public Folders through their personnel e-mail address, all notices in their District that have been cancelled. However, a Superintendent cannot currently see cancelled notices which were issued by members assigned to their District, if the offence took place outside their District.

The Superintendent should have the facility to search under the offender's name and to be able to view the Fixed Charge Processing System incidents and the reason for cancellations that were approved. This is required as an offender could request cancellations in a number of district areas, while using the same circumstances to support their Cancellation Request.

It is not possible to carry out an audit on enquiries carried out on PULSE. All enquiries carried out in relation to an FCPS incident should be auditable and include all possible details that any review of PULSE would require.

It is possible to search for terminated Fixed Charge Notices in the name of the offender. But this is only possible on an individual basis and there is no link connecting an offender to the number of offences that they may have accumulated. The offender screen displays the Notice Number, the name of the offender and the location of the notice. It does not display the address of the offender nor does it link the offender by address, to display the number of notices issued to one offender.

The permission to terminate could be removed entirely from all operators of the PULSE system and the technical ability to perform the terminations could be centralised to one location with only those at this central location having access to terminate.

It is possible to amend the permissions granted on PULSE to terminate, so that it only allows the District Officers and Inspector of the location where the fixed charge offence occurred, access to terminate on the basis of their role within that District and not on the basis of rank. In effect, this means that the District Officer or Inspector acting on behalf of the District Officer would be aligned to their District and they would only have the technical ability to terminate FCN's within their own assigned District where the offence occurred.

## **7. COMPARATIVE ANALYSIS OF INTERNATIONAL BEST PRACTICE ON CANCELLATION PROCESSES.**

### **7.1. International Termination/Cancellation Procedures**

As part of the review of An Garda Síochána Policy and Procedures for the cancellation of Fixed Charge Processing System, the Garda Professional Standards Unit examined the procedures for appealing traffic infringement notices in Victoria (Australia), England and Scotland. The selection of these jurisdictions was based on their inclusion in the Department of Transport report on ‘The Review of the Irish Penalty Points System and Comparison with International Systems’ (2012).

#### **Victoria (Australia)**

The Fines on The Spot system operated in the Victoria Jurisdiction incorporate an Internal Review Process. An application for internal review can be made at any time before the offence is lodged with the Infringements Court or before the expiry of the period for bringing a proceeding to Court in relation to the offence. The review process can be invoked if a person believes that the decision to serve the infringement notice was contrary to law or involved a case of mistaken identity or if they believe that their conduct should be excused as exceptional circumstances were involved or that special circumstances apply.

Special circumstances are defined in Australian legislation as;

- A person with a mental or intellectual disability, disorder, disease or illness, a serious addiction to drugs or alcohol which results in a person being unable to understand the offending conduct or unable to control the conduct.

There is no definition provided of what constitutes an exceptional circumstance therefore, individuals have to explain their circumstances and provide evidence to back up the case presented, e.g.: a letter from a medical practitioner.

Applications are processed through a central office, must be in writing, state the grounds for review provide current address details and contain letter of consent or other evidence of consent, if done on behalf of a third party. Victoria Police have the

discretion, upon review, to withdraw an infringement notice and issue an official warning in its place.

Official warnings can be issued to persons who:

- Hold a current driver's licence, including probationary or current learner driver's permit.
- Have not been issued with a speeding, other traffic fine or official warning within the previous two years.
- Were caught doing less than 10 kilometres per hour over the speed limit. (Low Speed Infringements).
- Do not deny that they committed the offence.

Records of official warnings issued are maintained to assist in future applications for internal review.

Discretion can also be applied to multiple low speed infringements within a 24 hour period or over a number of days in the period before receipt of notice of an initial infringement.

On completion of the internal review the agency can;

- withdraw the infringement notice and take no further action,
- withdraw the infringement notice and issue an official warning in its place.
- refer the matter to the Magistrates' Court (or the Children's Court if you are under 18 years of age)
- waive or vary any additional fees payable (if the applicant demonstrates that they did not receive the original infringement notice)
- waive or vary any additional steps imposed by the infringement notice
- confirm its decision to issue an infringement notice. If so, the applicant will be required to pay the infringement notice by the due date to avoid being issued with a penalty reminder notice and incurring additional costs. Alternatively, the applicant can apply for a payment plan or elect to go to court.

## **England and Wales**

On receipt of a Fixed Penalty Notice a person has 28 days to pay the amount shown if they accept the offence. If, before the expiry of the suspended enforcement period, the recipient of the notice requests a hearing, the case may be tried at court. However, if by the end of the suspended enforcement period they have not requested a hearing, and the fixed penalty charge has not been paid, a sum equal to the fixed penalty plus one-half of the amounts of that penalty may be registered for enforcement against the recipient as a fine.

The Association of Chief Police Officers (ACPO) has issued a speed enforcement policy guidance, which outlines what enforcement will normally occur when a driver exceeds the speed limit by a particular margin. This is normally 10 per cent over the speed limit plus 2 mph. It also sets guidelines for when it would not be appropriate to issue a Fixed Penalty Notice but to issue a summons instead. Note that these are guidelines and that a police officer has discretion to act outside of them, providing he/she acts fairly, consistently and proportionately.

## **Parking Ticket Rules in England and Wales**

The Parking and Traffic Adjudicators Tribunal is a statutory tribunal independent of the enforcement authorities. Cases are decided by independent adjudicators, each of which is qualified either as a barrister or solicitor. The Parking and Traffic Adjudicators decide appeals relating to Penalty Charge Notices issued by Transport for London and the London local authorities known as the 'enforcement authority' (EA) for parking, bus lane, moving traffic, lorry ban, littering and waste receptacle contraventions. Appeals are usually decided by a single adjudicator who will consider all the evidence, make findings of fact and apply the law.

The Traffic Penalty Tribunal decides appeals against parking penalties issued by Civil Enforcement Authorities in England (outside London) and Wales and against bus lane penalties issued by Civil Enforcement Authorities in England (outside London). The Traffic Penalty Tribunal is the final stage of appeal for motorists or vehicle owners against a penalty issued by a council in England (outside London) and Wales.

The Traffic Penalty Tribunal is a judicial body. It is independent of the council that issued the penalty. The parties offer evidence for the Adjudicator to consider. The Tribunal does not investigate the matter on its own account. An Adjudicator decides on the appeal after considering the applicable law and the evidence presented by both parties.

### **Northern Ireland**

As in England and Wales, the Police Service of Northern Ireland can issue Endorsable Fixed Penalty Tickets (EFPN) to speeding drivers at the roadside, or a Conditional Offer of an EFPN through the post, for drivers not stopped at the time of the alleged offence, or caught on camera.

A Notice of Intended Prosecution is served within 14 days and the registered keeper is legally obliged to name the driver and return the documentation within 21 days of the date of the notice. This allows drivers to take advantage of the fixed penalty system rather than going to court.

### **Parking Ticket Rules in Northern Ireland**

The Parking Enforcement Processing Unit (PEPU) is responsible for collecting parking ticket fines, enforcing non-payment and arbitrating on disputes. On-street parking and waiting restrictions are now enforced through parking attendants, provided by private contractor National Car Parks. They issue Penalty Charge Notices (PCNs) in the same way as in the rest of the UK. If you receive a PCN parking ticket and want to appeal, first write to the Parking Enforcement Processing Unit stating why the notice is unfair or incorrect. If they reject the appeal, an appeal can be made through the Northern Ireland Traffic Penalty Tribunal. It can then be dealt with in two ways where the appellant attends the Tribunal and gives evidence or by postal application, where the Adjudicator gives a decision based on all the documentation provided. The Adjudicator considers the facts and issues a decision in writing which is binding on both parties.

## **Scotland**

Scottish proceedings operate in much the same way, except that in England and Wales officers can issue an FPN to a driver they stop. In Scotland Conditional Offers are always used. When you receive the Notice of Intended Prosecution, return it within 28 days, giving details of the driver at the time of the alleged offence. The police will send a Conditional Offer of a Fixed Penalty after receiving your returned Notice of Intended Prosecution. Conditional Offers have no official system for appeals. Some police forces accept informal letters of appeal, especially if the speeding ticket has been issued in error. A letter to the police force is required, where you provide an explanation as to why you believe you should not have received the speeding notice. If the police force issuing the speeding notice has no informal appeals option, or if it rejects your speeding ticket appeal, you will have to either pay the speeding fine or formally contest the speeding offence in court. A court hearing is requested, a statement of mitigation is attached and a summons will be issued.

## **Parking Ticket Rules in Scotland**

The rules about fixed penalties and penalty charges depend on the policy of the local authority of where the appellant parked. An appeal can be made to the local authority within 28 days of receiving the notice. The local authority must consider the case and inform the appellant whether it accepts or rejects the appeal. If the local authority accepts the appeal, it will cancel the charge notice. If the local authority rejects the appeal, they must send a notice of rejection. The appellant may then appeal to the Scottish Parking Appeals Service (SPAS) against a Penalty Charge Notice, issued anywhere in Scotland by a local authority that has rejected the appeal.

## **7.2. Garda Professional Standards Unit Findings**

Victoria Police provide an Internal Review Process where an application can be made within a specific time period or alternatively the recipient can elect to go to court. There are various types of fixed penalties within England, Wales, Northern Ireland and Scotland with different procedures attached to each type of fixed penalty. It is difficult to draw direct comparisons relating to cancellations or terminations of all the



different traffic penalties. The traffic fixed penalties have a process of paying the fine within the time period or request a hearing in court. For parking fixed penalties tickets there is a clear appeals process, where there is an initial review and if unsuccessful a further appeal can be made to an independent body. These independent bodies are statutory and judicial bodies that are officially authorised in legislation. The legislation in Ireland does not provide for this type of review and would require changes to the current legislation.

## **8. EXERCISE OF DISCRETION**

### **8.1. Introduction**

The Legal Section of Crime Policy & Administration forwarded a request to the Attorney General on the 31<sup>st</sup> January 2006 titled 'Request for Law Officers Direction: FCPS (Fixed Charge Processing System) - Policies and Procedures Manual'. The advice of the Attorney General was sought as to whether it is within the remit of An Garda Síochána to adopt the proposals contained therein for cancelling Fixed Charge Notices/Fines on the Spot, particularly as cancellation is not provided for in legislation. The documentation provided to the Attorney General was the cancellation policy from the 'Full User Manual Policy and Procedures Second Edition 2004', the specific exemptions for drivers of emergency vehicles as provided for in Section 27 of the Road Traffic Act, 2004 (this has since been replaced by Section 87 of the Road Traffic Act 2010 which became effective from the 28<sup>th</sup> October 2011) and a copy of the then current policy in respect of cancellations of Fixed Charge Notices / Fines on the Spot as contained in the Garda Síochána Code Chapter 24.43(6) and (7). The response was issued from the Office of the Attorney General on the 21<sup>st</sup> May 2006, and in the meantime a new policy document had issued. This chapter will discuss the advice given by the Attorney General.

### **8.2. Discretion**

Members of An Garda Síochána have the ability to exercise a power of discretion in deciding if someone will be subject to a penalty, for example a member may decide to formally charge a person or to issue a warning. Discretion is the freedom of being able to make that choice. Those who are in a position of power are able to exercise discretion but it is **how** they exercise their discretion that has to be considered. Each case has to be considered on its own merits.

The function of the Garda Síochána is set out in Section 7(1) of the Garda Síochána Act 2005 which includes the provision of policing and security services for the State with the objective of protecting property, vindicating the human rights of each individual, preventing crime, and bringing criminals to justice, including by detecting

and investigating crime. Section 7(4) of the Garda Síochána Act 2005 provides that *“this section does not affect any powers, immunities, privileges or duties that members of the Garda Síochána have by virtue of any other enactment or at common law”*. The Minister may issue to the Garda Commissioner written directives concerning any matter relating to An Garda Síochána, however the Minister’s power may not be exercised to limit the independence of a member of the Garda Síochána in performing functions relating to the investigation of a specific offence or the prosecution of an offence as authorised by Section 8 of the Garda Síochána Act 2005.

An examination of Section 103 of the Road Traffic Act 1961 has established that it does allow for discretion as to whether or not to issue a notice. The legislation does not say that a prosecution **must** be instituted, it actually states in subsection (8)(b) that a notice contains a term in respect of “a person **liable** to be prosecuted” and Section 103(18) sets out the time periods in which a prosecution “**may** be brought”. The Attorney General further stated that the legislation “has to be read against the backdrop of the long established general principle that *“there is no obligation on prosecuting authority to prosecute in any given case”*. The cancellation of a notice is simply saying that the notice that was issued is no longer going to be pursued any further and a prosecution will not be instituted. The cancellation policy states that *“Cancellation is defined as the decision of a Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review”*. In this respect, the Attorney General advises that:

*“I do not see anything in the wording of the legislation that would displace the normal prosecutorial discretion that is enjoyed by a prosecuting authority. The criminal justice system would quite simply grind to a halt if the Gardaí were obliged to prosecute every single infraction of the law no matter how technical or no matter what the public interest is”*.

The Attorney General stated that it is a good strategy to have guidelines as and when discretion could be exercised. It would be more convenient for members to have some guidance and a policy on what to consider. The following extract reflects this view: *“If you are entitled to exercise discretion not to prosecute it is difficult to see why you should not be able to, as a matter of administrative convenience for your*

*staff, set out general policy consideration and examples of when such discretion might be exercised”.*

### **8.3. Exceptional Circumstances - Humanitarian**

As part of the Full User Manual Policy and Procedures, Second Edition 2004 the Cancellation Policy states under the heading of Review that Fixed Charge Notices will be cancelled only in exceptional circumstances. A list of exceptional circumstances is also provided in the document. In the Fixed Charge Processing System, Policies and Procedures Manual, Second Edition 2004, at the end of the list of exceptional circumstances, a broad paragraph was included that was all-encompassing stating, *“There may be exceptional circumstances (humanitarian) other than those listed here that may warrant cancellation. The notice may be cancelled at the discretion of the Cancelling Authority who will decide on the merits of each case as it is presented”*. In the advice received from the Attorney General on the Fixed Charge Processing System: Policies and Procedure Manual, a comment was made in relation to this paragraph *“this is important, as it means that each case will be determined on its own facts (as it must be) and that meritorious circumstances that have not been anticipated in advance (as will always happen) can nonetheless benefit from consideration for cancellation”*. The Attorney General stated that the *“catch-all humanitarian clause is important since it preserves the breadth of discretion”*. This exceptional circumstance was omitted from the third edition of the policy in the absence of the Attorney General’s advice.

The Attorney General stated that it is fairer to **record the basis** on which discretion is exercised. The more that a prosecuting authority says about the basis of its decisions, the easier it will be to identify what is alleged to be a flaw in the decision-making process. The criteria set out under Section A of the cancellation policy ‘Exceptions from Regulations’ are the statutory exemptions which must be cancelled. Those set out under section B ‘Exceptional Circumstances’ identify the practical situations where it is not in the public interest to initiate prosecution and where the Garda would have exercised discretion anyway. Detailing these criteria makes the rationale behind the decision making process clearer and more transparent.

## 8.4. Legislation

The prospect of An Garda Síochána adopting a policy where there was no statutory basis in legislation for a general discretion to cancel notices was discussed. There is an exemption under Section 87 of the Road Traffic Act 2010 effective from the 28<sup>th</sup> October 2011 and Section 27 of the Road Traffic Act 2004 prior to that date, for specific drivers named in that legislation. The Attorney General does refer to the policy *“as an ad hoc scheme which the Gardaí have presumably devised for their own administrative purposes”*. The Attorney General does agree that it is necessary to have such a policy in order to conduct the functions of An Garda Síochána *“any other view would render the criminal justice system unworkable”*. The Attorney General concluded by saying that *“I do not believe that this is inconsistent with the existence of a prosecutorial discretion”* although *“the legislation is silent as to a general discretion to cancel notices”*.

## 8.5. Director of Public Prosecutions Guidelines for Prosecutors

The Guidelines for Prosecutors issued by the Director of Public Prosecutions (DPP) are a guide for prosecutors acting on behalf of the DPP but they do not compel the prosecutors to institute proceedings or to follow any particular course of action. The Guidelines do not provide the answers for all possible cases. Every case is different and has to be considered on its own merits, therefore there is no simple formula or answer that can be devised.

Section 8 of the Garda Síochána Act 2005 allows any member of An Garda Síochána to institute and conduct prosecutions in a court of summary jurisdiction, but only in the name of the DPP. It also provides for the DPP to give general or specific directions to An Garda Síochána in relation to the institution and conduct of prosecutions. Members of An Garda Síochána must comply with any such directions. The section puts the relationship between An Garda Síochána and the DPP on a statutory footing.

The Cancellation Policy sets out reasons as to why a prosecution might not be taken in a particular case. It is not the situation that the prosecuting authority is acting

unlawfully by refusing to enforce the law of the land thereby giving immunity on certain offences. In this regard, the Attorney General advises: *“I do not see any difficulty in taking the view that in the circumstances of an individual case a decision may be taken that it is not in the public interest to prosecute.” “...any other view would render the justice system unworkable”*.

The Attorney General also stated his assumption that the proposed fixed penalty guidelines have either been drawn up in consultation with the DPP or at least will be approved by him/her before being published.

## **8.6. Garda Professional Standards Unit Findings**

The Second Edition of the Fixed Charge Processing System Policy and Procedures Manual outlined that humanitarian grounds (see Appendix B) were to be considered as an exceptional circumstance for cancellation. This, however, was not included in the third edition of the Fixed Charge Processing System, Policy and Procedures Manual. In the report on the matter from the Attorney General it was proposed that this is a good option to include in a policy as all possible situations cannot be predicted.

It was further suggested that the Fixed Charge Processing System, Policy and Procedures Manual had either been drawn up in consultation with the DPP or at least would be approved by him/her before being published. The manual was forwarded to the offices of the DPP but no advice was received by An Garda Síochána on the matter.

Although there is no general discretion provided for in legislation to cancel Fixed Charge Notices, the Attorney General states that it was a *“scheme which the Gardaí have presumably devised for their own administrative purposes”*. The Attorney General does agree that it is necessary to have such a policy in order to conduct the functions of An Garda Síochána.

The requirement to record the decision made in relation to Cancellation Requests received was reiterated by the Office of the Attorney General when it was stated that

*”the more a prosecuting authority says about the basis of its decisions, the easier it will be to identify what is alleged to be a flaw in the decision-making process”*” The above is further acknowledgement that a file is required to be maintained and an audit process developed.

## **9. GARDA SÍOCHÁNA OMBUDSMAN COMMISSION INVESTIGATION INTO FIXED CHARGE PROCESSING SYSTEM**

### **9.1. Introduction**

In December 2007, a request was made by the then Minister for Justice, Equality & Law Reform, under Section 106 of the Garda Síochána Act, 2005 to the Garda Síochána Ombudsman Commission (GSOC) to examine Garda practice, policy and procedures in relation to the Fixed Charge Processing System.

This examination was instigated due to the volume of complaints being recorded by GSOC in relation to public interaction with the Fixed Charge Processing Office (FCPO) and the general negativity which was being expressed by complainants. GSOC conveyed its concerns over these complaints to the Minister for Justice, Equality & Law Reform. Many of these complaints made to GSOC relate to the serving of summonses at addresses no longer in use, while other complaints relate to the escalation of penalties, in spite of genuine efforts that were made to remedy the Fixed Charge Notice.

The purpose of the examination was to identify through an examination of the systemic elements of the FCPS, the presence or absence of factors in the operation of the system that would give rise to ongoing complaints. Through this intervention by GSOC it was hoped that the report would ultimately provide foundational research, which would assist in preventing complaints arising in relation to practice, policy and procedure of An Garda Síochána and reducing the incidence of such complaints. The processes and systems in place to deal with cancellations of Fixed Charge Processing System Notices by Superintendents and Inspectors was not included as part of the scope of the GSOC report.

As a result of this examination, GSOC stated that there were systematic shortcomings in the current practice, policy and procedures used by the Fixed Charge Processing Office. GSOC made 18 recommendations as to how these shortcomings could be improved, which were then forwarded to the Minister for Justice, Equality & Law



Reform and the Garda Commissioner. These recommendations were addressed in order to reduce or eliminate complaints emanating from members of the public.

Assistant Commissioner, Traffic reviewed each recommendation and responded to each one. The GSOC examination was welcomed as a tool for externally examining the function of Fixed Charge Processing System and identifying areas that would improve and enhance the service provided, while reducing the number of complaints, queries and expressions of dissatisfaction received from the public. The overall response to the recommendations made was that in the time between the examination and receipt of the report, organisational changes and technical improvements had taken place within the Fixed Charge Processing Office that had improved customer interaction.

## **9.2. Garda Professional Standards Unit Review of GSOC Recommendations**

In March 2010, the Garda Professional Standards Unit (GPSU) carried out an examination of the Tipperary Division which included a review of the Fixed Charge Processing Office in Thurles. The GPSU reviewed 4 recommendations of the GSOC report in relation to the Fixed Charge Processing Office, its effectiveness and efficiency in dealing with the Fixed Charge Processing System and its' handling of complaints. The specific recommendations highlighted in the GSOC report referred to policy and procedures when dealing with queries/complaints.

The GSOC report was based on complaints made by the public in relation to the practice, policy and procedures of the Fixed Charge Processing Office. The report did not touch on the area of cancellations and/or terminations of Fixed Charge Notices.

While the GSOC examination did not focus on the cancellation process, the Fixed Charge Processing Office does have a cancellation policy outlined in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005).

The scope of the report did not include an analysis of the cancellation policy or procedures and consequently the recommendations that were made did not impact on the cancellation policy.

## 10. RECOMMENDATIONS

### 10.1. Introduction

This chapter outlines a number of recommendations that the GPSU examination team have devised following an examination of the processes and systems in place to deal with cancellation of Fixed Charge Processing System notices by Superintendents and Inspectors acting in that capacity.

#### 1. Definition of Cancelling Authority

The current policy states that ‘Cancelling Authority’ is defined as the “*District Officer of the location where the fixed charge offence occurred or the District Officer / Superintendent responsible for the detecting member or the person in charge of the Fixed Charge Processing Office. The authority to cancel notices will be extended to Inspectors only in circumstances where they are acting for the District Officer/Superintendent*”. However, the current system grants access to all members at the rank of Superintendent and Inspector to the termination facility regardless of whether they are District Officers or officially acting in that capacity.

The definition of Cancelling Authority should be updated to “*District Officers of the location where the fixed charge offence occurred and Inspectors only in circumstances where they are acting for the District Officer or the person in charge of the Fixed Charge Processing Office (Superintendent GNTB, Inspector in Charge FCPO, Assistant Principal FCPO, Higher Executive Officer FCPO) or the Superintendent in Charge of DMR Traffic only in respect of FCPS notices issued by members of DMR Traffic*”. The District Officer should only adjudicate on Fixed Charge Notices issued in the locations which are within his/her respective District. The Inspector should only adjudicate on Fixed Charge Notices when he/she has been nominated by the Divisional Officer to take charge of the District in the absence of the District Officer.

2. Centralise the Technical Ability to Cancel Fixed Charge Notices

The technical ability to terminate Fixed Charge Notices on the Fixed Charge Processing System should be limited to a central authority, in this case, the Fixed Charge Processing Office. All Cancellation Requests received by the Cancelling Authority, will be adjudicated on and the decision made forwarded to the central authority. It will be the central authority's responsibility to cancel the Fixed Charge Notice on the Fixed Charge Processing System. This may have an impact on staffing levels at the Fixed Charge Processing Office. However the introduction of these safeguards, checks and measures is deemed prudent and necessary. A file will be maintained by the Cancelling Authority at District Office level for auditing purposes.

The Fixed Charge Processing Office currently records all decisions made by them on the Fixed Charge Processing System and also operates a paper based system to record the decisions made regarding a notice. The authorised person in the Fixed Charge Processing Office makes a decision in relation to the Cancellation Request and this is forwarded and reviewed by two other Fixed Charge Processing Office personnel. The internal procedures in the Fixed Charge Processing Office are practical and effective.

3. Cancelling Authority Should Absent Themselves from Decision Making Process

Where the applicant is related to the Cancelling Authority, he/she should absent themselves from the decision making process. In order to facilitate a request of this nature, the Divisional Officer should nominate a Superintendent or Inspector to adjudicate on the matter. In any circumstances where it would appear that the Cancelling Authority decision making could be compromised on the basis of a conflict of interest the Cancelling Authority should absent themselves from the decision making process.

No Superintendent / acting District Officer shall adjudicate on their own case. In these instances the Divisional Officer for the Division where the incident

occurred, shall adjudicate on the matter. Incidents in respect of members of the rank of Chief Superintendent / Divisional Officer or above shall be adjudicated upon by their immediate supervisor, as stated in HQ Directive 45/2009 – Cancellation Policy – Garda Fixed Charge Processing System. This instruction should be incorporated when compiling a new consolidated policy document.

4. Members Issuing Fixed Charge Notices outside their District Area

The Superintendent in charge of the member issuing the Fixed Charge Notice for an offence in another District should **not** be in a position to cancel the Fixed Charge Notice. The Superintendent should return the Fixed Charge Notice to the District Officer in whose District the offence occurred. The permissions granted to members of Superintendent Rank who are not District Officers should be removed. The permissions granted on PULSE to terminate an FCN should be limited so that only the District Officers and Inspector of the location where the fixed charge offence occurred has access to terminate on the basis of their District.

5. Fixed Charge Processing System Audit Process

Following consultation with Assistant Commissioner O'Mahoney's Fixed Charge Processing System Examination Team, it has been established that written records are not being kept in relation to all Cancellation Requests submitted at District level. The Cancellation Policy states there should be a written record retained in relation to each Cancellation Requests submitted. All Cancellation Requests to the District Officer should be submitted in written form. For the purpose of efficiency, cancellation requests submitted to the FCPO should be permitted in writing, e-mail, fax or telephone call. A file should be maintained recording the cancellation request, supporting documentation, the decision made by the Cancelling Authority and the rationale for that decision. A form specifically designed to record the details of the decision making process should be completed and included in the file, a sample form is included at Appendix E. In order to ensure that written records are being kept an audit process must be developed.

6. Divisional Audits.

Monthly Management Reports on Fixed Charge Processing System Terminations are not available in the Divisional Folder of the Public Folders for the Divisional Officer to access. It is recommended that functionality for visibility of Monthly Management Reports for Divisional Officers be made available. The Divisional Officers should include Fixed Charge Processing System Terminations as part of their Divisional Audits.

7. Garda Internal Audit Section Audits

Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) instructed that a file be retained locally, recording the reasons for cancellation and that these files will be retained for audit purposes. This instruction does not assign ownership nor state how often these audits should be conducted, and as such there is no evidence of any audits being completed. Ownership of these audits should be assigned to an independent party, namely, the Garda Internal Audit Section to ensure compliance with the policy. Access should be granted to the Garda Internal Audit Section to the Monthly 'Terminated Offences Detail' Report to facilitate these audits.

8. Monthly 'Terminated Offences Detail' Report

Monthly 'Terminated Offences Detail' Report should be accessible within the Divisional Folders. For the purposes of auditing, these reports should be made available for a longer period or on a self serve basis for an auditor to run a report on the date range that is required

9. Enquiry Audit

There is no enquiry audit available on the Fixed Charge Processing System or on the PULSE (Fixed Charge Incident Search Screen). It is not possible to carry out an audit on enquiries that are conducted via PULSE and consequently those conducting queries do so anonymously. All queries should be available to audit. Details available should include log on details, Terminal ID, query details and reason details.

#### 10. Previous History of Offender on Fixed Charge Processing System

A District Officer can view all terminated notices that refer to their respective District. In order to make a decision on a cancellation request, a search facility should be available to District Officers in order to determine whether the offender has an FCPS history, including previous terminations. This would require an interface between the FCPS and the PULSE computer system to develop the 'comment box' and 'reason' fields. This may be facilitated through a change in the PULSE system or through access to FCPS. This is required as an offender may submit cancellations requests in a number of District areas while using the same circumstances to support their application.

#### 11. Consolidation of All Documents Relevant to Fixed Charge Processing System

The current Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005) should be updated and consolidated with all the recent and relevant HQ Directives and PULSE Releases in order to incorporate all amendments. A final version of the Fixed Charge Processing System User Manual should be approved by the Garda National Traffic Bureau and communicated to the Organisation three months following acceptance of this report. This new policy document should also include an annual review to ensure it is updated appropriately and regularly. All policy owners and personnel involved in producing policy documents should be instructed in version control.

#### 12. Termination Reasons

The second edition of the Fixed Charge Processing System Policy and Procedures Manual outlined that 'humanitarian grounds' (see Appendix B) were to be considered as an exceptional circumstance for cancellation. It was suggested by the Attorney General in his report on the matter, that this is a good option to include in a policy as you cannot predict all possible situations and the *"inclusion of this catch-all humanitarian clause is important as it preserves the breadth of the discretion"*. It is also proposed that this is included as a 'Terminations Reason' on PULSE as 'Humanitarian Grounds'. The termination reasons available on the PULSE system to record

Cancellation Requests include a ‘Discretionary – Other’ option. Although this option could be used in cases where humanitarian grounds are being considered, there are no clear guidelines in the policy as to when this cancellation option should be applied. The termination reasons included on the PULSE system are not presently reflected in the Fixed Charge Processing System User Manual Policy and Procedures (Third Edition 2005). These reasons should be included, along with guidelines as to their application, when compiling the consolidated policy document.



## 11. APPENDICES

### 11.1. Appendix A Exemptions from Regulations

#### **(A) Criteria – exemptions from regulations**

A fixed charge notice will be cancelled if the Cancelling Authority is satisfied that the recipient is exempt under any of the provisions of the following regulations:

1. Road Traffic (Construction, Equipment And Use Of Vehicles) (Amendment) (No. 3) Regulations, 1991. Section 8

(1) The requirement of articles 6 and 7 of these Regulations to wear a safety belt or to be restrained by a child restraint shall not apply to:

- a) A person occupying a seat, which is not fitted with a safety belt;
- b) A person under 4 years of age occupying a seat, not being a front seat, of a vehicle in which there is no unoccupied appropriate child restraint;
- c) A person who is 12 years of age or more who is less than 150 centimetres in height;
- d) A person wearing a disabled person's belt;
- e) The holder of a certificate of a registered medical practitioner in the form prescribed in the Second Schedule to these Regulations;
- f) The driver of a vehicle while reversing the vehicle;
- g) A person giving instruction in or in respect of the driving of the vehicle;
- h) A person who is conducting a test of competency to drive under Part III of the Road Traffic Act, 1961;
- i) A member of the Garda Síochána or of the Defence Forces in the course of duty as such member.

(2) Where a person has been found not to have complied with a requirement of these Regulations in relation to the wearing of a safety belt or child restraint produces to a member of the Garda Síochána at a Garda Station, within one month of being so found, the certificate completed by a registered medical practitioner in the form prescribed by the Second Schedule to these Regulations the person shall not be regarded as having been in breach of such requirement.

(3) If and so long as three or more children under the age of 15 years are being carried on the vehicle the provisions of sub-articles, 7 (2) and 7 (3) of these Regulations shall apply only in so far as is reasonably practicable.

2. Subject to Section 27 of the Road Traffic Act 2004, the requirements under the Road Traffic Acts 1961 to 2004 relating to vehicles and requirements, restrictions and prohibitions relating to the driving and use of vehicles, (other than those as provided under sections 49, 50, 51A and 52 of the Principle Act and sections 12,13,14 and 15 of the Act of 1994, as amended) do not apply to:

- A driver of a fire brigade vehicle,
- An ambulance, or
- The use by a member of the Garda Síochána of a vehicle in the performance of duties of that member, or a person driving or using a vehicle under the direction of a member of the Garda Síochána,

Where such use does not endanger the safety of road users.

3. Local Authority Bye Laws That Allow For Parking In Certain Circumstances. E.g. loading and unloading during certain hours.

## 11.2. Appendix B Exceptional Circumstances

FCPS Policy 2<sup>ND</sup> Edition 2004

### (B) Criteria – exceptional circumstances

A fixed charge notice may be cancelled if the cancelling authority is satisfied that the notice should be cancelled and anyone of the following circumstances can be applied:

#### 1. Emergency

A notice issued for a fixed charge offence that occurred as a result of:

- a) A Doctor answering an urgent call in life threatening circumstances and in the case of parking offences
  - i. No other parking facility immediately available
  - ii. The parking did not interfere with the free flow of traffic
- b) An emergency to a hospital in life threatening circumstances.

#### 2. Parking

A fixed charge notice issued for a parking offence and it is established that:

- a) The vehicle could not be removed immediately because of a break down or a traffic accident. A reasonable length of time should be allowed for the removal of the vehicle.
- b) The vehicle was owned or used by a utility company in the exercise of essential services of an urgent nature and no alternative parking was immediately available.
- c) The vehicle was owned or used by a local resident and the Parking Disk was not displayed because it is lost or destroyed.
- d) The appropriate Parking Meter was faulty at the time of the detection.

#### 3. No Tax Displayed

A fixed charge notice issued for non display of a tax disc and it is established that:

- a) The tax disc had been applied for prior to the issuing of a notice or is applied for within a month of the date of the offence. Cancellation will not be an option if the tax had been out of date for a period exceeding one month prior to the date of the offence.
- b) The current disc is lost, stolen or accidentally removed from the vehicle, prior to date of the offence.

#### 4. Other

A fixed charge notice is issued and it is established that:

- a) At the time of the offence(s) the vehicle was stolen. The notice(s) issued to the owner will be cancelled.
- b) It was issued to a person that is entitled to Diplomatic Immunity and that this person was driving or otherwise using the vehicle on the date of the offence.
- c) The offender is subsequently deceased.
- d) There maybe exceptional circumstances (humanitarian) other than those listed here that may warrant cancellation. The notice may be cancelled at the discretion of the Cancelling Authority who will decide on the merits of each case as it is presented.

### 11.3. Appendix C Cancellation Policy - An Garda Síochána FCPS

– Full User Manual, 3<sup>rd</sup> Edition 2005

#### Cancellation Policy

##### Definition

Cancellation is defined as the decision of a Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review.

##### Authority

The Cancelling Authority is defined as the District Officer of the location where the fixed charge offence occurred or the District Officer/ Superintendent responsible for the Detecting member or the person in charge of the Fixed Charge Processing Office. The authority to cancel notices will be extended to Inspectors only in circumstances where they are acting for the District Officer / Superintendent.

##### Requirements

This section outlines: the conditions required to review a cancellation request; what can be reviewed and when; the investigation; and the records of decisions made.

##### Review:

- Fixed Charge Notices will be cancelled only in exceptional circumstances.
- The notice can only be cancelled for the reasons outlined herein.
- Section 11(9)(b) of the Road Traffic Act 2002 provides, that *'no payment... received shall in any circumstances be recoverable by the person who made it'*. Therefore applications for cancellation will be reviewed for Fixed Charge Notices only where payments have not been made.
- An application for a review of the issue of a fixed charge notice will not be entertained if the offence is gone to the summons stage.

##### Review Time Frame:

- Applications for cancellation will not alter the time period allowable for payments as contained in the Road Traffic Act 2002.
- Applicants will be informed, in writing, of this constraint and the Cancelling Authority will carry out the review as quickly as possible.

##### Investigation:

- The Cancelling Authority will review and examine each individual application. They must be satisfied, on the basis of the evidence presented, that the Fixed Charge Notice should be cancelled.
- The review may require an investigation that should include a consultation with the detecting

member to ascertain if there are any objections to the cancellation.

**Documentation/Records:**

Applications for cancellation will:

- Be made in writing to a Cancelling Authority.
- Be accompanied by a copy of the Fixed Charge Notice.
- Normally be made by the person named in the Fixed Charge Notice.

The Cancelling Authority will:

- Be required to record on FCPS all notices cancelled by them.
- Retain on file, for auditing purposes, the specific reason for the cancellation.

**(A) Criteria – exemptions from regulations**

A fixed charge notice will be cancelled if the Cancelling Authority is satisfied that the recipient is exempt under any of the provisions of the following regulations:

1. Road Traffic (Construction, Equipment And Use Of Vehicles) (Amendment) (No. 3)

Regulations, 1991. Section 8

(1) The requirement of articles 6 and 7 of these Regulations to wear a safety belt or to be restrained by a child restraint shall not apply to:

- (a) A person occupying a seat, which is not fitted with a safety belt;
- (b) A person under 4 years of age occupying a seat, not being a front seat, of a vehicle in which there is no unoccupied appropriate child restraint;
- (c) A person who is 12 years of age or more who is less than 150 centimetres in height;
- (d) A person wearing a disabled person's belt;
- (e) The holder of a certificate of a registered medical practitioner in the form prescribed in the Second Schedule to these Regulations;
- (f) The driver of a vehicle while reversing the vehicle;
- (h) A person giving instruction in or in respect of the driving of the vehicle;
- (i) A person who is conducting a test of competency to drive under Part III of the Road Traffic Act, 1961;
- (j) A member of the Garda Síochána or of the Defence Forces in the course of duty as such member.

(2) Where a person has been found not to have complied with a requirement of these

Regulations in relation to the wearing of a safety belt or child restraint produces to a member of the Garda Síochána at a Garda Station, within one month of being so found, the certificate completed by a registered medical practitioner in the form prescribed by the Second Schedule to these Regulations the person shall not be regarded as having been in breach of such requirement.

(3) If and so long as three or more children under the age of 15 years are being carried on the vehicle the provisions of sub-articles, 7 (2) and 7 (3) of these Regulations shall apply only in so far as is reasonably practicable.

2. Subject to Section 27 of the Road Traffic Act 2004, the requirements under the Road Traffic Acts 1961 to 2004 relating to vehicles and requirements, restrictions and prohibitions relating to the driving and use of vehicles, (other than those as provided under sections 49, 50, 51A and 52 of the Principle Act and sections 12,13,14 and 15 of the Act of 1994, as amended) do not apply to:

A driver of a fire brigade vehicle,

An ambulance, or

The use by a member of the Garda Síochána of a vehicle in the performance of duties of that member, or a person driving or using a vehicle under the direction of a member of the Garda Síochána,

Where such use does not endanger the safety of road users.

3. Local Authority Bye Laws that Allow For Parking In Certain Circumstances.

E.g. loading and unloading during certain hours.

#### **(B) Criteria – exceptional circumstances**

1. Apart from the statutory exemptions laid down there are no legal provisions whereby concessions are extended to any particular individual. In view, however, of the nature of their work doctors may, by way of discretion, be afforded certain facilities in urgent cases. Gardaí may refrain from issuing fixed charge notices in respect of clearways and parking offences in the following circumstances:

(a) When the doctor is answering an urgent call and there are no parking facilities available in the immediate vicinity.

(b) When the inconvenience caused by the facility afforded does not unduly interfere with the free flow of traffic.

- (c) When the badge of the Medical Union to which the user belongs is conspicuously displayed in the vehicle.

Those facilities are limited to parking meters, single and double yellow lines and footpaths adjoining clearways during clearway hours. If satisfied as to the facts the District Officer may cancel a notice issued in such circumstances.

2. If satisfied as to the facts, the District Officer may cancel notices where:

- (a) The vehicle has been stolen or unlawfully taken and the owner could not be held liable to pay the prescribed sum or be prosecuted;
- (b) The vehicle could not be moved due to accident or breakdown and cancellation is mandatory under the provisions of the bye-laws;
- (c) The offender is found to be resident outside the jurisdiction;
- (d) The vehicle belongs to a person entitled to claim diplomatic immunity;
- (e) Application had been made to the relevant registration authority for a road fund licence at (or prior) to the date of affixation of the notice;
- (f) The current licence is lost, stolen or accidentally removed from the vehicle, prior to the date of affixation of the notice;

The production of documentary proof from the relevant registration authority must be a prerequisite to cancellation in the case of (e) and (f). The production of the road fund licence (tax disc) will be sufficient proof to justify cancellation in the circumstances outlined at (f);

- (g) The vehicle is the subject of a hire-drive agreement and:

- (i) the hirer of the vehicle is a non-resident of the state; and
- (ii) the person or company providing the vehicle supplies the Gardaí with a bonafide hire-drive agreement form duly completed, setting out:
  - the registered owner of the vehicle;
  - the name and address of the hirer; and
  - serial number of the hire agreement form and that this document together with completed C(T)62 (where sent) are provided within the stipulated period.



## 11.4. Appendix D Advice from Attorney General

8-JAN-2013

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### Re: Fixed Charge Processing System: Policies and Procedures Manual

Querist: The Attorney General

Agent: The Chief State Solicitor

#### Advices

##### A) Introduction.

- 1) I have been asked to advise in respect of the proposed new policy in respect of the cancellation of fixed charge notices.
- 2) The document I have been furnished with contains what is described as a "cancellation policy". This policy commences by stating the general principle that fixed charge notices will only be cancelled in exceptional circumstances and then proceeds to set out what are clearly intended to be a carefully defined set of circumstances in which a notice can be cancelled. The other key points of the document are:
  - (i) An application for cancellation will only be considered where a payment has not been made.
  - (ii) An application for cancellation will not be considered if the offence is gone to the summons stage.
  - (iii) An application for cancellation will not alter the time period allowable for payments under the Road Traffic Act 2002 and applicants will be informed of this fact.
  - (iv) An application for cancellation has to be made in writing to a cancelling authority, be accompanied by a copy of the fixed charge notice and will normally be made by the person named in the notice. I assume that the phrase "*applications for cancellation will*" is intended to convey a mandatory requirement that the application be in writing, but this could be made clearer.

The list of circumstances when a notice will be cancelled ends with the following catch-all clause:

“There may be exceptional circumstances (humanitarian) other than those listed here that may warrant cancellation. The notice may be cancelled at the discretion of the Cancelling Authority who will decide on the merits of each case as it is presented.”

This is important, as it means that each case will be determined on its own facts (as it must be) and that meritorious circumstances that have not been anticipated in advance (as will always happen) can nonetheless benefit from consideration for cancellation.

- 3) The question which arises is whether it is within the remit of An Garda Síochána to adopt such a policy in circumstances where there is no statutory basis for it either by way of primary or secondary legislation. Rather it is an *ad hoc* scheme which the Gardai have presumably devised for their own administrative purposes. There is an express exception in the legislation for what may loosely be described as drivers of emergency vehicles; s 27 Road Traffic Act 2004. The legislation is silent as to a general discretion to cancel notices.

#### **B) Previous advices.**

- 4) It might be useful to recap briefly previous advices I have given in this area.
- 5) In an opinion dated **24 November 2003** I provided general advices on the fixed penalty scheme and addressed the question of defective notices and problems with service. I advised that once a summons had issued the Gardai had no jurisdiction to accept a late payment since in the case of *Dunphy v Judge Crowley*<sup>1</sup> the Supreme Court made it clear that a summons requires personal attendance in Court and an arrest warrant can issue if a person fails to turn up in court in answer to it. I note that the proposed new policy is consistent with this in so far as it does not apply to a situation where a summons has issued.

<sup>1</sup> Unreported, Supreme Court, 17 February 1997



- 6) In an opinion dated **21 March 2005** I advised that, notwithstanding the statutory bar in s 103(9)(b) to a person recovering a fine paid, the State was obliged to refund fines and cancel penalty points in circumstances where motorists had been erroneously prosecuted in respect of non-existent offences. That opinion was based on the exceptional circumstances that arose therein and I note that the proposed new policy is consistent with s 103(9)(b).
- 7) In an opinion dated **18 July 2005** I advised that one could not terminate a fixed charge notice so as to stop the clock running whilst a query was dealt with; the idea being that once the query was addressed a fresh notice would issue and time would start running again. I so advised on the basis that the road traffic code established a strict and detailed scheme and that as it did not have a mechanism built into it for suspending the time period such a scheme could not be read into the legislation. It was the idea of the clock stopping that lay at the heart of those advices and they did not directly deal with the present situation which is whether a notice can simply be cancelled simpliciter and, if so, on what basis.

**C) Is the scheme lawful?**

- 8) The purpose of the legislation is to create a system of fixed penalties whereby a person can avoid the initiation of a prosecution. However it has to be read against the backdrop of the long established general principle is that there is no obligation on a prosecuting authority to prosecute in any given case.
- 9) In terms of the general obligations on the gardai at common law the following passage from an English case has been cited in this jurisdiction with approval:

*"... it is part of the obligations and duties of a police constable to take all steps which appear to him necessary for keeping peace, for preventing crime or from protecting property from criminal injury. There is no exhaustive definition of the powers and obligations of the police, but they are at least those, and*

*they would further include the duty to detect crime and to bring an offender to justice.”<sup>2</sup>*

I do not believe that this is inconsistent with the existence of a prosecutorial discretion.

10) When one looks at s 103 of the Road Traffic Act 1961 it does on its face seem to provide for a discretion as to whether or not to issue a notice. Thus, s 103(2) provides that where a member of An Garda Síochána has reasonable grounds for believing that a fixed charge offence has been or is being committed then if he identifies the person “the member shall serve, or cause to be served, personally or by post, on the person a notice under this section.” There then follows a carefully choreographed sequence of events that is to occur, which is again expressed in mandatory terms. The form of the notice is to be in terms that if a certain penalty is paid within a certain time period then a prosecution will not be instituted. The legislation does not say that a prosecution must be instituted. Indeed I note that s 8(b) refers to a notice containing a term in respect of “a person **liable to be prosecuted**”. Section 103(18) sets out the time periods in which a prosecution “**may** be brought”.

11) The cancellation of a notice is really doing no more than saying that even if you do not pay the sum that was requested of you, a prosecution will not be instituted. The physical piece of paper that is the notice still exists, but the Gardai are simply saying that they will not be following it up. This is clear from the very top of the policy document where it states that “*cancellation is defined as the decision of the Cancelling Authority to discontinue proceedings and to withdraw the Notice for a Fixed Charge Offence after carrying out a review*” (emphasis added). I do not see anything in the wording of the legislation that would displace the normal prosecutorial discretion that is enjoyed by a prosecuting authority. The criminal justice system would quite simply grind to a halt if the Gardai were obliged to prosecute every single infraction of the law no matter how technical or no matter what the public interest is. The criminal law exists to

<sup>2</sup> *Rice v Connolly* [1966] 2 QB 414 at 419 per Lord Parker cited with approval by Blayney J in *DPP (Stratford) v Fagan* [1994] 2 ILRM 349 at 355

serve the public interest; it does not (or, at least, it should not) operate outside of or in a manner that is inconsistent with that public interest.

- 12) The question arises as to whether the discretion not to prosecute should be the subject of such detailed guidelines. If you are entitled to exercise a discretion not to prosecute it is difficult to see why you should not be able to, as a matter of administrative convenience for your staff, set out general policy considerations and examples of when such a discretion might be exercised.

- 13) In this regard, I note that the DPP's *Guidelines for Prosecutors* (2001) states:

*"Every case is unique and must be considered on its own merits. For this reason there is no simple formula which can be applied to give a simple answer to the questions the prosecutor has to face. But there are general principles which should underlie the approach to prosecution, even though the individual facts of each case will require the prosecutor to use judgement and discretion in their application."* (para 1.2).

- 14) The Guidelines define a prosecutor as including "*members of the Garda Síochána prosecuting on the Director's behalf*" (para 1.5). Para 1.6 states that the Guidelines do not bind the DPP to follow any particular course in any particular case. Of particular relevance is the fact that the Guidelines makes it clear that a prosecution should be initiated "*... if it is in the public interest and not otherwise*" (para 4.4). No one has, to my knowledge, challenged the right of the DPP not to prosecute on public interest grounds or to lay down guidelines as to how his discretion will be exercised.

- 15) I assume that the proposed fixed penalty guidelines have been drawn up in consultation with the DPP or at least will be approved by him before being published.

- 16) There can be a fine line between a prosecuting authority setting out public policy reasons as to why a prosecution might not be taken in particular circumstances and in a prosecuting authority unlawfully legislating by effectively stating that conduct which the Oireachtas has declared to be criminal will effectively be given an immunity by



the prosecuting authorities. For example, the Oireachtas has legislated that cannabis possession and certain activities connected to prostitution are crimes. If the gardai were to come out tomorrow and state that they will no longer be paying any regard to cannabis or prostitution in order to free up resources to concentrate on more serious crimes, then in my opinion that would be potentially unlawful as the gardai would be refusing to enforce the law of the land. However I do not see any difficulty in taking the view that in the circumstances of an individual case a decision may be taken that it is not in the public interest to prosecute. As stated above, any other view would render the criminal justice system unworkable.

- 17) It seems to me that the policy document falls on the right side of this line. In particular I note that it states that:

*"The Cancelling Authority will review and examine each individual application. They must be satisfied on the basis of the evidence presented that the Fixed Charge Notice should be cancelled."*

- 18) The criteria set out under "A" in the document simply repeat statutory exemptions from the law (these "will" be cancelled). The criteria set out at "B" simply identify practical situations where it might well not be in the public interest to initiate a prosecution (these "may" be cancelled).

- 19) Some people might say that by writing a discretion down in this manner one is effectively fettering it. However it seems to me that it is fairer if persons are aware of the basis on which the discretion is exercised. Most of the examples given are ones where a prosecution would be for all practical purposes impossible to mount (e.g. someone is dead, or out of the jurisdiction or subject to diplomatic immunity) or ones where one would always have expected the Gardai to exercise a discretion (e.g. a doctor answering an urgent call).

- 20) I have never been entirely clear as to the public status of the Garda Code. I understand that it is, in principle, a private internal document that is only circulated to members of the Gardai. On the other hand I have seen older versions of it in law libraries which

would mean it is accessible to counsel and thus is available to be used by a litigant in legal proceedings.

21) The inclusion of the catch-all humanitarian clause is important since it preserves the breadth of the discretion. NB

22) I suppose that the main difference between the policy document and the DPP Guidelines is that the former goes into much more detail than the latter. In other words, it gives precise factual scenarios where a decision not to prosecute is likely to be made e.g. there is a parking offence but the parking meter was faulty at the time.

23) The only potential disadvantage in being so detailed is that a dissatisfied accused may try to use the guidelines in order to judicially review a decision to reject their application for a cancellation. Obviously, the more that a prosecuting authority says about the basis of its decisions, the easier it will be to identify what is alleged to be a flaw in the decision-making process. For example, the DPP's Guidelines have occasionally been relied on by applicants in judicial reviews. Thus I have seen them cited by applicants who are complaining about the level and timing of disclosure they have received from the prosecution in a case and by applicants who are seeking to quash a decision by the DPP to hold an internal review and to reverse an earlier decision not to prosecute. There is no doubt that the Gardai's policy document is liable to be cited in litigation by applicants (assuming they can get their hands on a copy of it). It is therefore important that it is carefully thought out (and in that regard there is nothing on its face to suggest that it has not been). In any event all of this is not necessarily a bad thing. The fact that thanks to the Guidelines and the Annual Reports the public now knows more about the decision-making process that the DPP engages in is arguably beneficial for everyone and has not led to any major difficulties that I am aware of. In addition, the case of *Evison v DPP*<sup>3</sup> remains the one of the very few examples of where an applicant has succeeded in persuading the courts to quash a decision of the DPP to prosecute in a particular case. In other words, the floodgates have not opened. If anyone sought to rely on the proposed policy guidelines in court one would point to the fact that section (B) commences by

<sup>3</sup> [2002] 3 I.R. 260

stating that "*A fixed charge notice **may** be cancelled if the cancelling authority is satisfied that the notice should be cancelled **and** any one of the following circumstances can be applied*" (emphasis added). There seems to be one typo in the document; "anyone" should presumably read "any one". One other thing occurs to me. I note that all of the examples given are discretionary except the stolen car one where it is stated that the notice "will be cancelled". There is a certain amount of logic in this, but then when it deals with a deceased person it does not include the phrase "will be cancelled". I wonder if it would be better simply to leave them all discretionary and so not to say "will be cancelled" just for one of them.

**D) Conclusion.**

- 24) I hope these observations are of some assistance. I do not see any obvious reason why the proposed document would not be within the remit of the Gardai. I do not know if the Gardai have any specific concerns about particular aspects of the policy document and, if so, or if anything else arises I am available for a consultation to tease the matter out further.

**Nothing further occurs at this time**

**Paul Anthony McDermott BL**

**21 May 2006**

## 11.5. Appendix E Cancellation Request Record

### Application for Cancellation of a Fixed Charge Notice

District \_\_\_\_\_ District File No.: \_\_\_\_\_ Vehicle Reg No: \_\_\_\_\_ Date of Detection: \_\_\_\_\_

**This application has been made for the following reason:**

- ☐ **Data Entry/IT/Garda Errors** ☐ Date & Time incorrect ☐ Location incorrect ☐ Offence Code incorrect ☐ Speed Zone incorrect ☐ Offender Details incorrect
- ☐ **Detection Details Error(s)** ☐ Reg No. incorrect: (S Notices where no new FCN is to issue) ☐ Weight Restriction not applicable
- ☐ **Diplomatic Corps**
- ☐ **Disabled Parking Pass**
- ☐ **Duplicate Notice** - see FCN \_\_\_\_\_
- ☐ **Image Unsuitable**
- ☐ **Incorrect Nomination**
- ☐ **Juvenile Diversion Programme**
- ☐ **Legislative Defect**
- ☐ **Payment Processing Issue**
- ☐ **Scanning – Incorrect Registration Number** –S Notices only - new FCN is to issue
- ☐ **Seat Belt Detection – Medical Evidence**
- ☐ **Speed Limit Incorrect**
- ☐ **Statutory Exemption – Emergency Vehicles**
- ☐ **Tax/Insurance Disc/Trade Plate In Order**
- ☐ **Undelivered by Agent** ☐ **Undelivered** (Returned by public)
- ☐ **Vehicle Stolen**
- ☐ **Vehicle/Driver File Defect(s)** ☐ New Owner ☐ Scrapped ☐ Other (must give further details)
- ☐ **Discretionary** ☐ Family Bereavement ☐ Medical Emergency ☐ Other (must give further details)

**Reason for Decision:**

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**Further Details / Additional Information:**

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**Evidence provided (to support application)**

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**Consultation with Detecting Member (if necessary)**

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**Cancellation Request**

**Approved** ☐ **Refused** ☐

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Cancelling Authority Signature

Date

## 11.6. Appendix F Documentation History

Documents Relating To Cancellation Policy		
Document	Date Issued	Details
HQ Directive 94/2004 Fixed Charge Processing System (FCPS) – Phase 1 –Pilot Instructions.	29 <sup>th</sup> June 2004	Introduction of the system and the roll out of the Pilot.
User Manual Foreword (Version 1) To the Fixed Charge Processing System Full User Manual Policy & Procedures – Pilot – User Manual Policy and Procedures.	30 <sup>th</sup> June 2004	Transitional arrangements for Phase 1 (Pilot) of the Fixed Charge Processing System.
Full User Manual Foreword (Version 2) To the Fixed Charge Processing System User Manual Policy & Procedures – Full User Manual Policy & Procedures. Second Edition 2004.	January 2005	Outlined the updates made to the Fixed Charge Processing System Policies and Procedures Manual and the transitional procedures that apply for the interim period.
HQ Directive 166/2004 Fixed Charge Processing System (FCPS) – Phase 2 –Go-Live in the Dublin Metropolitan Region.	16 <sup>th</sup> November 2004	Outlined the introduction and implementation of Phase 2 for the DMR roll out, actions required by Divisional Officers and a readiness checklist.
HQ Directive 06/2005 Fixed Charge Processing System (FCPS) – Phase 2 –Go-Live in Cork City Division.	17 <sup>th</sup> January 2005	Outlined the second part of Phase 2 and detailed the implementation of Phase 2 for the Cork City Division roll out and actions required by Divisional Officer in Cork City Division and a readiness checklist.



Full User Manual Policy & Procedures. Foreword (Version 3) To the Fixed Charge Processing System Full User Manual Policy & Procedures - Full User Manual Policy & Procedures. Third Edition 2005.	December 2005	This document outlined the policies and procedures that will apply when the Fixed Charge Processing System (FCPS) is implemented in its entirety. This Foreword (Version 3) and the Fixed Charge Processing System Policy and Procedures Manual (Third Edition 2005) outlined the transitional procedures.
HQ Directive 04/2006 FCPS – Preparation for Nationwide Roll-out.	19 <sup>th</sup> January 2006	This document details the phased roll out and the preparations for national implementation it gave partial effect to the contents of the manual and it contained a foreword that outlined the transitional arrangements.
HQ Directive 11/2006 FCPS – Phase 2 – Nationwide Go Live.	30 <sup>th</sup> January 2006	This document details the impact of national implementation. All personnel are to be made familiar with the new Fixed Charge Processing System procedures as contained in the Fixed Charge Processing System User Manual – Third Edition. It included an instruction that all personnel be familiar with the transition arrangements required until Fixed Charge Processing System Phase 3 is implemented.
HQ Directive 48/2006 PULSE Release 3.5 and FCPS Phase 3, with effect from Wednesday 12 <sup>th</sup> April 2006.	6 <sup>th</sup> April 2006	This outlined the details of PULSE release 3.5 which included access to the Fixed Charge Processing System available at all networked stations, the upgrade of PULSE to new technologies and the integration of PULSE and Fixed Charge Processing System. It detailed that Superintendents / Inspectors will record cancelled fixed charge offences on Fixed

		Charge Processing System that cancellations must be in strict compliance with the policy, a file will be kept locally recording the reasons for cancellation and retained for auditing purposes.
HQ Directive 45/2009 Cancellation Policy – Garda Fixed Charge Processing System (FCPS).	7 <sup>th</sup> April 2009	This document set out the procedures for Section 27 of the Road Traffic Act 2004 provided exemptions from the requirements of road traffic legislation for some drivers. It states that no Superintendent / acting District Officer shall adjudicate on their own case; the member in charge of the Fixed Charge Processing Office shall not adjudicate in respect Fixed Charge Notices issued to members of An Garda Síochána.
PULSE Bulletin 84.	13 <sup>th</sup> September 2009	This bulletin detailed the facility to terminate a Fixed Charge Notice was removed pending the addition of system enhancements.
PULSE Bulletin 89.	July 2010	This bulletin introduced the functionality to terminate and implemented access to terminate a Fixed Charge Processing System incident through the PULSE system. Access to this function was restricted to users with a rank of Inspector or higher.
HQ Directive 119/2011 - Road Traffic Act 2010 Road Traffic (No. 2) Act 2011 Section 87.	27 <sup>th</sup> October 2011	Exemptions for Emergency Vehicles - The Road Traffic Act 2010 became law on the 20th July 2010. Commencement (No. 2) Order 2011 commences a number of provisions of the 2010 Act with effect from the 28th October 2011, including Section 87. This section provides that the

		requirements under the Road Traffic Acts relating to vehicles and requirements, restrictions and prohibitions relating to the driving and use of vehicles do not apply to the driving or use by a member of An Garda Síochána, an ambulance service or a fire brigade of a fire authority (within the meaning of the Fire Services Act 1981) of a vehicle in the performance of the duties of that member, or a person driving or using a vehicle under the direction of a member of An Garda Síochána, where such use does not endanger the safety of road users. This section repeals Section 27 of the 2004 Act.
PULSE Release 6.3.2.	28 <sup>th</sup> March 2012	This document released by the Design Authority Team highlighted changes applied to the Fixed Charge Processing System Termination Reason.
PULSE Release 6.3.3.	6 <sup>th</sup> June 2012.	The design Authority Team in ICT released a document on the 06 <sup>th</sup> June 2012 called a Portal Release Note. It highlighted changes applied to the Fixed Charge Processing System Termination Reason for Public Order Offences only.
HQ Directive 36/2013 - Cancellation of Fixed Charge Notices.	3 <sup>rd</sup> April 2013	This document details that an examination is being conducted. It also states that pending the outcome of this examination that the existing Garda Síochána Cancellation Policy remains in force.
<b>Documents Relating To Fixed Charge Processing System</b>		
PULSE Bulletin 59.	April 2006	This bulletin outlined the four New Fixed

		Charge Processing System screens available within PULSE to all users namely Fixed Charge Processing System Incident, Driver Lookup, View Notepad Range Summary and Allocate Notepad(s).
HQ Directive 113/2006 – European Communities (Compulsory Use of Safety Belts and Child Restraints Systems in Motor Vehicles) Regulations 2006.	30 <sup>th</sup> January 2006	This document introduced into Irish Law of the wearing of seatbelts and child restraints systems in motor vehicles. This comes under the Fixed Charge Processing System and incurs penalty points.
PULSE Bulletin 68 October 2007.	October 2007	This bulletin outlined the changes in Recording of Driving Licences and identified a Fixed Charge Processing System Driver Licence Screen Shot.
PULSE Bulletin 76.	November 2008	This bulletin introduced and upgraded to the Fixed Charge Processing System to facilitate matching locations which are not ‘pre-defined’ to eliminate duplicate locations being created on PULSE. It facilitated a search for Fixed Charge Processing System incidents using First Name, Surname of the owner and vehicle registration number as the only search criteria.
HQ Directive 118/2011 - Road Traffic Act 2010 Section 29 Fixed Penalty Notice Drink Driving (As Amended By Section 9 Road Traffic Act (No. 2) 2011.	27 <sup>th</sup> October 2011	This provides for an administrative fixed penalty in the case of certain drink driving offences. This provision does not apply to specified drivers - drivers who are: the holder of a learner permit, the holder of a first driving licence, is the holder of a driving licence licensing certain categories, is the holder of a licence to drive a small public service vehicle, or

		does not hold a driving licence for a vehicle of the category concerned.
HQ Directive 63/2012 - Road Traffic Acts 1961 to 2011 (Fixed Charge Offences) Regulations 2012 S.I. no 294 of 2012.	3 <sup>rd</sup> August 2012	This document details the declaration of certain offences under the Road Traffic Acts to be Fixed Charge Offences and the relevant Fixed Charge amount.
FCPS Bulletin I.	3 <sup>rd</sup> August 2012	This document details the changes as part of the Fixed Charge Processing System Release 6.3.5 which contained enhancements to Fixed Charge Processing System functionality.

## 11.7. Appendix G GSOC Recommendations on FCPS

### Recommendations

The following recommendations are being made in the context of this examination of the FCPS, which was initiated in order to reduce or eliminate complaints emanating from members of the public:

1. The legislation governing the FCPS should be amended to provide for payment for a continuous period up to 10 days before a Court hearing may be due. This type of system is currently in place in some local authority areas and was formerly operated by the Garda Síochána in respect of 'Fines on the Spot', typically for parking and road tax;
2. The legislation should be amended to provide for a complaints resolution period of 28 days during which the 'clock should be paused' and the Garda Síochána should make a determination on the complaint made;
3. Consideration should be given to a further series of legal reforms in regard to the FCPS-type offences. The aim of such reforms should be to convert the processes, insofar as possible, from a Criminal Law system to an Administrative System;
4. Garda Síochána policy, practices and procedures should be human rights - proofed in order to comply with international best practice;
5. The FCPS centre at Thurles should be enabled to deal comprehensively with complaints and queries. Initially this requires a major policy change from the current practice of limited response and it also requires that staff be given training (as well as the technology) to equip them for this changed emphasis;
6. The current client-handling process should be changed to allow for client-specific responses to complaints and queries;
7. The Fixed Charge Processing Office should be empowered, equipped, resourced, trained and mandated to accept ownership of complaints made to it;
8. In all Garda detections, the alleged offender should be provided with a written notice of the detection, set out in ordinary, non-legal language. The current practice is potentially damaging to good relations between the community and the Garda Síochána;

9. Informed discretion should be employed by gardaí when the issue of Fixed Charge Process Notices is being considered. Consideration should be given to practices in other jurisdictions which are described in this examination;
10. The current low rate of summons service is unacceptable. It is unreliable and inefficient. Many complaints and queries received by GSOC relate to the service of summonses at addresses that are no longer in use. The system should be reformed by changing the mode of service to some form of recorded delivery or other guaranteed system;
11. A study should be undertaken to determine the technical efficiency of combined driver and number plate recognition system as a means of identifying a vehicle user at the earliest possible opportunity and thus eliminating a number of process steps, where possible;
12. Targeting and prosecution of non-compliant and non-cooperative clients is essential if the system is to be seen as fair and equitable;
13. Policies of prioritisation in road traffic enforcement should be clearly expressed and these should be freely available;
14. The Garda Síochána should publish a clear code of practice setting out its policies in relation to its prosecution and detection strategy;
15. There should be an increased focus by the Garda Síochána on 'intelligence led' enforcement of road traffic legislation. Enforcement priorities should be guided by statistically-supported knowledge;
16. Consideration should be given to the execution of a research-based study to determine the levels of confidence, or otherwise, of the community in the FCPS process;
17. Either the inputting of offences into the FCPS should be reduced to cover only core road safety offences, or the FCPS should be resourced and reformed to meet the present and future demands. This would appear to be a key strategic issue; and
18. The FCPS should be enabled to issue summonses for entities such as companies on the grounds of fairness and proportionality.



## 11.8. Appendix H District Breakdown of Total Notices Terminated for 2011 and 2012

DISTRICT	TOTAL ISSUED 2011	TOTAL TERMINATED 2011	%	TOTAL ISSUED 2012	TOTAL TERMINATED 2012	%
Anglesea Street	8800	440	5.00	7696	271	3.52
Ardee	2312	94	4.07	2579	106	4.11
Ashbourne	9867	569	5.77	4979	235	4.72
Askeaton	4813	226	4.70	4838	308	6.37
Athlone	3798	214	5.63	3699	171	4.62
Bailieboro	3305	129	3.90	2780	164	5.90
Balbriggan	1654	93	5.62	1697	88	5.19
Ballina	1209	57	4.71	1042	74	7.10
Ballinasloe	2989	243	8.13	3639	176	4.84
Ballyconnell	239	6	2.51	219	5	2.28
Ballymote	2628	102	3.88	3147	203	6.45
Ballymun	13451	379	2.82	16443	794	4.83
Ballyshannon	5048	275	5.45	4132	316	7.65
Baltinglass	2057	73	3.55	1919	95	4.95
Bandon	3513	145	4.13	2971	155	5.22
Bantry	1233	72	5.84	1036	74	7.14
Birr	1473	58	3.94	1201	58	4.83
Blackrock Co Dublin	11293	391	3.46	6929	266	3.84
Blanchardstown	16349	631	3.86	16221	774	4.77
Boyle	1717	55	3.20	1329	82	6.17
Bray	8481	436	5.14	7507	359	4.78
Bridewell Co Dublin	5124	195	3.81	7801	363	4.65
Bruff	1324	42	3.17	1476	74	5.01
Buncrana	3013	106	3.52	2294	92	4.01
Béal an Mhuirthead	525	21	4.00	290	15	5.17
Caherciveen	386	24	6.22	308	13	4.22
Cahir	2557	94	3.68	2449	104	4.25
Carlow	7618	283	3.71	4614	147	3.19
Carrick-On-Shannon	2737	178	6.50	6784	423	6.24
Carrickmacross	3223	136	4.22	1964	120	6.11
Castlebar	2284	106	4.64	1470	132	8.98
Castlerea	3932	187	4.76	3352	217	6.47
Cavan	4658	224	4.81	2116	101	4.77



DISTRICT	TOTAL ISSUED 2011	TOTAL TERMINATED 2011	%	TOTAL ISSUED 2012	TOTAL TERMINATED 2012	%
Claremorris	900	23	2.56	840	67	7.98
Clifden	258	13	5.04	121	6	4.96
Clonakilty	1851	96	5.19	1628	83	5.10
Clondalkin	11195	442	3.95	10107	377	3.73
Clonmel	2280	76	3.33	1302	49	3.76
Cobh	8151	263	3.23	6972	295	4.23
Coolock	7974	218	2.73	9604	328	3.42
Crumlin	4651	245	5.27	3213	153	4.76
Donnybrook	6184	256	4.14	4042	210	5.20
Drogheda	6293	277	4.40	4856	231	4.76
Dun Laoghaire	8942	581	6.50	6761	494	7.31
Dundalk	2913	300	10.30	2299	130	5.65
Dungarvan	3658	108	2.95	2568	99	3.86
Ennis	11769	748	6.36	10478	667	6.37
Enniscorthy	2877	81	2.82	1835	81	4.41
Ennistymon	1261	64	5.08	1795	110	6.13
Fermoy	3947	160	4.05	3139	138	4.40
Fitzgibbon Street	5161	179	3.47	2570	126	4.90
Gaillimh	11690	986	8.43	9460	396	4.19
Gorey	4029	156	3.87	2060	96	4.66
Gort	1250	73	5.84	1075	62	5.77
Granard	781	27	3.46	1056	61	5.78
Gurrabraher	5815	219	3.77	5374	290	5.40
Henry Street	19375	918	4.74	13858	824	5.95
Kanturk	1039	41	3.95	1317	78	5.92
Kells						
Ceanannus Mor	1761	94	5.34	934	39	4.18
Kevin Street	14890	563	3.78	11455	614	5.36
Kildare	9577	525	5.48	5439	361	6.64
Kilkenny	8633	352	4.08	8673	287	3.31
Killaloe	2644	211	7.98	1328	93	7.00
Killarney	5836	206	3.53	5998	252	4.20
Kilrush	548	28	5.11	1234	119	9.64
Leixlip	3832	182	4.75	4247	173	4.07
Letterkenny	3348	158	4.72	2255	109	4.83
Listowel	2969	100	3.37	2285	100	4.38
Longford	4300	240	5.58	4122	221	5.36

DISTRICT	TOTAL ISSUED 2011	TOTAL TERMINATED 2011	%	TOTAL ISSUED 2012	TOTAL TERMINATED 2012	%
Loughrea	1613	50	3.10	851	31	3.64
Lucan	4715	133	2.82	11914	611	5.13
Macroom	3418	145	4.24	2817	164	5.82
Mallow	10115	580	5.73	10312	516	5.00
Manorhamilton	305	12	3.93	407	16	3.93
Mayfield	4724	114	2.41	5358	175	3.27
Midleton	4920	265	5.39	4045	225	5.56
Milford Co Donegal	727	43	5.91	398	7	1.76
Monaghan	2109	90	4.27	1856	120	6.47
Mullingar	7132	285	4.00	5873	282	4.80
Na Gleannta	919	29	3.16	748	34	4.55
Naas	11857	278	2.34	10118	433	4.28
Navan	2414	207	8.57	1323	57	4.31
Nenagh	2206	81	3.67	1095	57	5.21
New Ross	1621	66	4.07	1026	40	3.90
Newcastle West	4399	157	3.57	3155	166	5.26
Pearse Street	8993	423	4.70	8387	374	4.46
Portlaoise	6090	207	3.40	6463	237	3.67
Raheny	6442	325	5.05	5493	334	6.08
Roscommon	5805	384	6.61	4444	343	7.72
Roxboro Road	6197	469	7.57	5246	275	5.24
Salthill						
Bothar Na Tra	2780	91	3.27	2706	143	5.28
Sligo	3902	178	4.56	3211	146	4.55
Store Street	6361	263	4.13	7588	541	7.13
Swinford	2794	88	3.15	1231	35	2.84
Tallaght	8519	234	2.75	5797	222	3.83
Templemore	1380	34	2.46	871	44	5.05
Terenure	5656	185	3.27	6259	208	3.32
Thomastown	4431	126	2.84	3246	123	3.79
Thurles	2035	134	6.58	1631	97	5.95
Tipperary Town	1061	49	4.62	846	46	5.44
Togher	5518	178	3.23	7754	271	3.49
Tralee	2147	62	2.89	2283	90	3.94
Tramore	3208	172	5.36	1284	56	4.36
Trim	4577	153	3.34	3123	113	3.62
Tuam	3101	129	4.16	3384	158	4.67

DISTRICT	TOTAL ISSUED 2011	TOTAL TERMINATED 2011	%	TOTAL ISSUED 2012	TOTAL TERMINATED 2012	%
Tullamore	4057	103	2.54	2933	117	3.99
Waterford	7705	276	3.58	6133	215	3.51
Westport	317	5	1.58	474	26	5.49
Wexford	3955	175	4.42	2286	75	3.28
Wicklow	8542	310	3.63	7813	343	4.39
<b>OVERALL TOTALS</b>	<b>514959</b>	<b>22781</b>	<b>4.42</b>	<b>449403</b>	<b>21960</b>	<b>4.89</b>

## 12. ABBREVIATIONS

DPP	Director of Public Prosecutions
FCPO	Fixed Charge Processing Office
FCN	Fixed Charge Notice
GISC	Garda Information Services Centre
GNIB	Garda National Immigration Bureau
GNTB	Garda National Traffic Bureau
GSOC	Garda Síochána Ombudsman Commission
ICT	Information and Communications Technology
IT	Information Technology
ITSU	Information Technology Systems User
JELR	Department of Justice, Equality and Law Reform
NVDF	National Vehicle Driver File
PULSE	Police Using Leading Systems Effectively (Garda Computer System)
TETRA	Terrestrial Trunk Radio Technology

## **13. REFERENCES AND RELATED DOCUMENTS**

### **13.1. REFERENCES**

The following is a list of information sources which were consulted in the development of this report:

- An Garda Síochána (2011) *Policing Plan 2011*
- An Garda Síochána (2005) ‘*Garda Síochána Code*’ (5<sup>th</sup> ed.), Vol I, Chapter
- An Garda Síochána Portal
- Road Traffic Acts 1961 - 2012
- National Archives Act 1986
- Garda Website
- Department of Transport, Tourism and Sport
- Department of the Environment, Community and Local Government

### **13.2. RELATED DOCUMENTS**

- HQ Directive 94/2004 - Fixed Charge Processing System (FCPS) – Phase 1 – Pilot Instructions.
- Foreword (Version 1) To the FCPS Full User Manual Policy & Procedures – Pilot – User Manual Policy and Procedures.
- Foreword (Version 2) To the FCPS User Manual Policy & Procedures – Full User Manual Policy & Procedures. Second Edition 2004
- HQ Directive 166/2004 - Fixed Charge Processing System (FCPS) – Phase 2 – Go-Live in the Dublin Metropolitan Region.
- HQ Directive 06/2005 - Fixed Charge Processing System (FCPS) – Phase 2 – Go-Live in Cork City Division.
- Foreword (Version 3) To the FCPS Full User Manual Policy & Procedures - Full User Manual Policy & Procedures. Third Edition 2005
- HQ Directive 04/2006 – FCPS –Preparation for Nationwide Roll-out.
- HQ Directive 11/2006 – FCPS –Phase 2 – Nationwide Go Live 2<sup>nd</sup> February, 2006.

- HQ Directive 48/2006 – PULSE Release 3.5 and FCPS Phase 3, with effect from Wednesday 12<sup>th</sup> April 2006 was dated 6<sup>th</sup> April 2006.
- HQ Directive 11/2009 – Management of Departmental Records in An Garda Síochána.
- HQ Directive 45/2009 – Cancellation Policy – Garda Fixed Charge Processing System (FCPS).
- HQ Directive 133/2009 – Cancellation Procedures – Garda Fixed Charge Processing System (FCPS).
- PULSE Bulletin 84
- PULSE Bulletin 89
- PULSE Release 6.3.2.
- PULSE Release 6.3.3.
- PULSE Bulletin 59 April 2006 –
- HQ Directive 113/2006 – European Communities (Compulsory Use of Safety Belts and Child Restraints Systems in Motor Vehicles) Regulations 2006.
- PULSE Bulletin 68 October 2007
- PULSE Bulletin 76 November 2008
- HQ Directive 63/2012 – Road Traffic Acts 1961 to 2011 (Fixed Charge Offences) Regulations 2012 S.I. no 294 of 2012.
- HQ Directive 36/2013 – Cancellation of Fixed Charge Notices
- FCPS Bulletins