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CONFIDENTIAL

Secretary General
Department of Justice and Equality
94, St. Stephen's Green
Dublin 2

Re: Fixed Charge Processing System, Policy & Procedures – Manual Fourth Edition

Dear Secretary General

As previously communicated to you, in August 2014 I requested a report on the operation of the Fixed Charge Processing System (FCPS) since the issue of FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014

As you are aware, Section 24 of the Garda Síochána Act 2005 established the Garda Professional Standards Unit, to;

- (a) examine and review, as directed by the Commissioner, the operational, administrative and management performance of the Garda Síochána at all levels,
- (b) propose measures to the Commissioner to improve that performance, and
- (c) promote the highest standards of practice, as measured by reference to the best standards of comparable police services, in operational, administrative and management matters relating to the Garda Síochána.

Accordingly I considered it appropriate to task the Garda Professional Standards Unit (GPSU) with conducting this examination in accordance with its statutory remit.

On 8th September 2014, Assistant Commissioner Traffic requested the GPSU to conduct an examination of FCPS cancellations between 1st September 2013 and 31st August 2014 to include the revised policy.

On 15th September 2014, a meeting was arranged by Assistant Commissioner Traffic with a source of information who outlined issues concerning certain cancellation decisions within FCPS. The source of information sought the protection of the Protected

Disclosures Act, 2014. The source of information consented in writing to the information provided being utilised and this information formed part of the GPSU examination.

In total, GPSU examined 667 decision making files which were requested from the relevant Culling Authorities. The decision making files were evaluated under the following policy documents;

- The Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005 as amended, by HQ Directive 45/2009 (effective from December 2005 to 29th August 2013).
- HQ Directive 71/2013 'Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)' (effective from 30th August 2013 to 15th June 2014).
- Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 (effective from 16th June 2014).

In summary, of the 667 cancellation files examined, GPSU considers that 114 require further investigation. GPSU examined the decision making files and have made their findings on an analysis of the information available to the culling authorities at the time of the relevant decision making. GPSU have quite fairly pointed out that further investigation may well determine that there is no wrongdoing or failing on the part of anyone. It is also worthy of note that the examination has established that there are some procedural issues occurring as opposed to individual failings. This relates for the most part to the postage of fixed charge notices, a number of which, for a variety of reasons, are being returned undelivered to the Fixed Charge Processing Office resulting in the cancellation of the majority of these notices.

Of the 667 cancellation files that GPSU examined, 54 FCN cancellations are under FCPS Policy and Procedures Manual (Fourth Edition) 2014, which is the current policy introduced on the 16th June 2014.

Seven of these 54 cancellations have been assessed as requiring further investigation. Of these seven files, one is cancelled under the cancellation reason 'Statutory Exemptions/Emergency Vehicle'. A second FCN is cancelled under the cancellation reason 'Discretionary-Other'. Five are cancelled under the cancellation reason 'Undelivered - An Post'.

Of these five, four are being recommended for further investigation internally by An Garda Síochána as GPSU is of the opinion they relate to the above procedural issue and the system as it relates to 'Undelivered-An Post' requires assessment. An Garda Síochána is in agreement with this and will implement the recommended additional measures under its control. However, fully solving this issue will require a co-ordinated approach between An Garda Síochána and relevant Government Departments and State Agencies through the Criminal Justice Working Group.

GPSU has also established that since the introduction of HQ Directive 48/2014 and FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014 only the three individuals authorised to conduct cancellations via the Fixed Charge Processing Office (FCPO) have carried them out.

In general, GPSU found that significant improvements to the system have been made since the introduction of the FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014. It was noted by GPSU that FCPO have implemented procedural changes since this examination commenced and have shown a willingness to introduce further improvements to the system.

GPSU has made 20 recommendations. Some of these recommendations can be implemented with a change of Garda policy, while others require a legislative change and will require co-operation with the relevant Government Departments.

I have accepted the recommendations made by GPSU in relation to An Garda Síochána. For example, I am supportive of the recommendation that An Garda Síochána should forward all applications for cancellation for statutory exemption while driving private vehicles, to the office of the Director of Public Prosecutions. The office of the DPP has been contacted and is in agreement with this proposal in accordance with the DPP's General Direction No. 3 made in accordance with Section 8 of the Garda Síochána Act 2005. In addition, an enforcement unit is to be introduced in the FCPO to assist in pursuing offenders who for a multitude of reasons are evading service of Fixed Charge Notices such as incorrect details on NVDF and cloned registration number plates.

I believe that the implementation of these recommendations will further enhance public confidence in the penalty points system, which has played a critical role in increasing road safety.

GSPU has conducted a thorough investigation and has been fully assisted in this regard by the source of information who was met nine times in the course of the investigation. Towards the end of the examination feedback on decision making files was provided to the source pertaining to his information.


Please find enclosed the GPSU report for your consideration. The report is comprised of two Volumes. Volume 2, comprised of two parts and an appendix, contains personal data and items that may be considered for further investigation and An Garda Síochána is firmly of the view that they are not suitable for publication. (On page 6 of the main report, Table 3 sets out a comparison of Cancellation Reasons Year on Year. Given the wide variations set out, I sought an additional report from GPSU and this is attached at the back of the main report, for your information.)

As you aware, the Garda Síochána Ombudsman Commission is conducting an investigation under Section 102 (1) of the Garda Síochána Act, 2005 into certain aspects of the FCPS. As a result, subject to the Minister's views, I will send this report to GSOC for its consideration and GPSU will provide assistance and documentation to any subsequent investigation or review in respect of this GPSU examination of FCPS.

As they previously examined the FCPS, I also propose to forward this report to the Garda Inspectorate and the Comptroller and Auditor General to see if they believe that further action is required by An Garda Síochána. I will take on-board any comments or views that each of these bodies may have on the GPSU report.

The Garda Internal Audit Section also carried out a review of the new Policy and Procedures that were implemented on the 16th June last. Their findings, based on a smaller sample and timeframe, are broadly in agreement with those of the Garda Professional Standards Unit. I have also attached a copy of that report for your information and will copy same to GSOC, the Garda Síochána Inspectorate and to Mr. Seamus McCarthy, C&AG, to inform any further audits/reviews he may wish to consider.

Yours sincerely,


NÓIRÍN O'SULLIVAN
COMMISSIONER OF
AN GARDA SÍOCHÁNA

 January 2015



Garda Professional Standards Unit

**Examination of the Procedures, Policy
and Decision Making Processes in
Relation to Cancellations on the Fixed
Charge Processing System of Road
Traffic Related Offences.**

EXECUTIVE SUMMARY

Introduction

On 29th August 2014, the Garda Commissioner requested a report on the operation of the Fixed Charge Processing System (FCPS) since the issue of FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014. On 8th September 2014, Assistant Commissioner Traffic requested the Garda Professional Standards Unit (GPSU) to conduct an examination of FCPS cancellations between 1st September 2013 and 31st August 2014 to include the revised policy.

On 15th September 2014, a meeting was arranged by Assistant Commissioner Traffic with a source of information who outlined issues concerning certain cancellation decisions within FCPS. The source of information sought the protection of the Protected Disclosures Act, 2014. The source of information consented to the information provided being utilised and this information formed part of the GPSU examination. The following topics were examined by GPSU and these include issues provided by the source of information and are outlined hereunder;

- Repeat Offenders - Where applicants have received cancellations in the past.
- Townland Incorrect – Instances where an individual avails of a cancellation, by reason of Incorrect Townland and others are penalised.
- Discretionary-Medical Emergency where applications made for cancellation excluded adequate supporting documentation.
- Undelivered - An Post – Fixed Charge Notices returned undelivered.
- Technical issues - Data entry errors, for example, where the recording equipment scanned the registration number incorrectly.
- Statutory Exemptions/Emergency Vehicles - Where an exemption was granted to members of the emergency services while on duty.
- Vehicles with Multiple Cancellations - Vehicles with more than three cancellations for a specified period.
- Compliance of Cancelling Authority with Garda Policy - Cancelling Authority decisions examined for compliance with policy for a specified period.
- HQ Directive 54/2014 - Compliance with the requirement to report breaches of Road Traffic Acts.

A summary of these issues is outlined at pages 7-9 inclusive.

Methodology

In total, GPSU selected 667 decision making files¹ for examination which were requested from the relevant Cancelling Authorities. The decision making files were evaluated under the following policy documents;

- The Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005 as amended, by HQ Directive 45/2009 (effective from December 2005 to 29th August 2013).
- HQ Directive 71/2013 ‘Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)’ (effective from 30th August 2013 to 15th June 2014).
- Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 (effective from 16th June 2014).

The Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005 stated the policies and procedures that applied when the FCPS was implemented. The Cancelling Authority was defined as the District Officer (Superintendent or Inspector appointed) of the location where the fixed charge offence occurred or the District Officer responsible for the detecting member. The Inspector in Charge of the Fixed Charge Processing Office (FCPO) was also appointed as Cancelling Authority. The Cancelling Authority was required to review and examine each individual application and be satisfied that the fixed charge notice (FCN) should be cancelled. The Cancelling Authority was required to record all notices cancelled and retain a file for auditing purposes.

HQ Directive 71/2013 ‘Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)’ issued on 30th August 2013, revised the cancellation policy from the FCPS Full User Manual Policy and Procedures (Third Edition) 2005. This HQ Directive changed the definition of the Cancelling Authority and limited the scope of District Officers to process FCN cancellation requests. All recording of cancellations on the FCPS was centralised to the FCPO. This HQ Directive also introduced new

¹ This refers to the file maintained by the Cancelling Authority for the purpose of auditing.

procedures where a conflict of interest arose. The technical ability to conduct cancellations by local District Officers and Inspectors acting in that capacity was withdrawn on 1st October 2013.

The FCPS Policy and Procedures Manual (Fourth Edition) 2014, introduced on 16th June 2014 centralised the Cancelling Authority in FCPO and permitted three personnel to cancel FCNs. The Fourth Edition Manual required that supporting documentation be provided by the applicant and the cancelling authority consults with the detecting member in certain circumstances. The Manual also includes a requirement for the Cancelling Authority to take into consideration whether or not the applicant previously had an FCN cancelled (other than applications for statutory exemptions).

Categorisation of Findings

The results of the examination conducted on the decision making files are categorised hereunder;

- No Apparent Issues, (GPSU identified no issue with the cancellation)
- Procedural/Systems Issues, (GPSU identified a procedural/systems issues)
- Technical Breaches of Policy, (GPSU considers a minor breach of policy but acknowledges the FCN would have being cancelled in any event)
- Lenient Decision Making, (GPSU considers the decision to cancel the FCN as lenient)
- Further Investigation Required. (GPSU considers the cancellation merits further investigation)

Table No. 1 illustrates the figures for the categorisation of decision making files under the various policies.

Table No. 1 - Categorisation of Decision Making Files

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	46	232	23	301
Procedural/Systems Issues	7	56	16	79
Technical Breach of Policy	10	86	1	97
Lenient Decision Making	36	33	7	76
Further Investigation Required	56	51	7	114
Total	155	458	54	667

Structure of the Report

The results of this examination are compiled into two volumes;

- Volume One outlines the detail of the GPSU examination and subsequent findings and recommendations.
- Volume Two contains summary information prepared in respect of each cancellation decision examined.

Volume Two, Appendix One, consists of an Excel spreadsheet which was created to document all information, received from the source in relation to cancellations, pertaining to 115 individuals.

GPSU is firmly of the view that as Volume Two contains personal data and items that may be considered for further investigation, it should not be published.

Summary of Findings

Significant changes have been made to the FCPS as a result of previous examinations conducted and recommendations made.

The FCPS Policy and Procedures Manual (Fourth Edition) 2014, introduced on 16th June 2014 centralised the Cancelling Authority in FCPO and permitted three personnel to cancel FCNs. Since the introduction of HQ Directive 48/2014 and the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014, only those authorised have carried out cancellations.

GPSU requested details of all FCNs issued and cancelled from 1st July 2013 to 31st August 2013² and for 1st July 2014 to 31st August 2014³. Table No. 2 illustrates the number of FCNs issued and cancelled for the same two month period over two consecutive years.

Table No. 2 - Comparison of FCNs Issued and Cancelled for Two Month Period Year on Year

Fixed Charge Notices	01.07.2013– 31.08.2013	01.07.2014– 31.08.2014
FCNs Issued	70,002	65,918
FCNs Cancelled	2650	2605
Cancellations as % of FCNs Issued	3.78%	3.95%

² Prior to the implementation of FCPS Policy and Procedures Manual (Fourth Edition) 2014.

³ Subsequent to the implementation of FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014.

GPSU requested a breakdown of cancellations, by reason, for cancellation for the time periods 1st July 2013 to 31st August 2013 and for 1st July 2014 to 31st August 2014. Table No. 3 provides the breakdown of cancellations by reason.

Table No. 3 - Comparison of Cancellation Reasons Year on Year.

Cancellation Reason	01.07.2013 – 31.08.2013	01.07.2014 - 31.08.2014
Undelivered-An Post	528	1011
Scanning - Incorrect Registration Number	384	152
Data Entry/IT/Garda Errors	341	455
Discretionary – Other	251	124
Vehicle/Driver File Defect(s) - New Owner	217	134
Tax/Insurance Disc/Trade Plate In Order	158	159
Discretionary-Medical Emergency	156	1
Detection Details Error(s)	149	33
Statutory Exemption-Emergency Vehicles	96	131
Legislative Defect	76	0
Duplicate Notice	71	40
Incorrect Nomination	57	61
Juvenile Diversion Programme ⁴	55	48
Image Unsuitable	38	16
Discretionary - Family Bereavement	31	0
Disabled Parking Pass	28	33
Seat Belt Detection–Medical Evidence	10	8
Vehicle Stolen	2	2
Speed Limit Incorrect	1	21
Blank ⁵ (Automatic Cancellations)	1	3
Humanitarian Grounds	0	6
NVDF - New owner details	0	148
Payment Processing Issue	0	3
Undelivered - Public Returns	0	16
Total	2650	2605

⁴ If the case is accepted under the Juvenile Diversion Programme, the updating of the Youth Referral Record on PULSE will result in the automatic cancellation of the FCPS record. The Cancelling Authority will be displayed as Superintendent/Inspector National Juvenile Office.

⁵Automatic Cancellations – Vehicles recorded on PULSE as ‘Unauthorised Taking’ or stolen are cancelled automatically by the FCPS with no human intervention.

Summary of Results

A summary of the results of the issues analysed are set out hereunder;

Repeat Offenders

GPSU requested a breakdown of offenders who had received more than three cancellations from 1st September 2013 to 31st August 2014. It was not possible to analyse the data provided due to the large volume of information. It was also not possible to distinguish between persons with the same name from the data provided. GPSU manually identified a number of repeat offenders as part of the wider examination and from information provided by the source of information. Repeat offenders have been identified across the three polices and across the cancellation categories. Full details of the 'Repeat Offenders' issue can be viewed at chapter four.

Townland Incorrect

On occasion the location (or Townland) may be entered incorrectly by the operator of the detection device. Applications for cancellations under 'Townland Incorrect' were made. An issue arose where applicants received cancellations for this reason while others were penalised. Incorrect location does not automatically invalidate the FCN nor does it require the FCPO to automatically refund the driver. GNTB have received legal advice in this regard which stated that a 'look back' of FCNs issued is not required in these circumstances and that the onus is on the recipient of the fine to challenge it. Full details of the 'Townland Incorrect' issue can be viewed at chapter four.

Discretionary-Medical Emergency

There is a significant reduction in the category 'Discretionary-Medical Emergency' which indicates that the requirement to provide supporting documentation introduced as part of FCPS Policy and Procedure Manual (Fourth Edition) 2014 is proving effective. Full details of the 'Discretionary-Medical Emergency' issue can be viewed at chapter four.

Undelivered-An Post

As can be viewed in Table No. 3, cancellations under the Category ‘Undelivered-An Post’ had increased. GPSU was informed by FCPO that this increase is due to the introduction of revised internal procedures from 5th September 2013, where all ‘Undelivered-An Post’ returns were cancelled on receipt. These procedures were subsequently revised on 17th October 2014 by Assistant Commissioner Traffic. Undelivered FCNs are now forwarded to relevant Regional Traffic Superintendent for personal service where time permits. Full details of the ‘Undelivered-An Post’ issue can be viewed at chapter five.

Technical Issues Identified

GPSU has identified a number of technical issues including one in relation to replica (cloned) registration number plates being used without the registered owner’s knowledge. The GPSU examination identified a data entry issue in relation to the identification of the Cancelling Authority on the FCPS. A District Inspector based in Dublin appeared to cancel a number of FCNs at various locations throughout the country. FCPO had identified this as an issue and has taken remedial action.

GPSU has identified that on occasion, inaccurate and out of date records in relation to registered owner of vehicles were included on FCNs. The NVDF file cannot be updated unless a Vehicle Licensing Certificate is provided by the registered owner. Full details of the ‘Technical Issues Identified’ issue can be viewed at chapter six.

Statutory Exemptions/Emergency Vehicles

In addition to the information received from the source of information, GPSU requested data for the number of cancellations recorded under the category ‘Statutory Exemptions/Emergency Vehicles’ from the 1st September 2013 to 31st August 2014. The examination confirms that only seven of the cancellations recorded under the category ‘Statutory Exemptions/Emergency Vehicles’ were conducted for Garda members in their private vehicles.

On 3rd November 2014, Assistant Commissioner Traffic revised procedures for ‘Statutory Exemptions/Emergency Vehicle’ cancellations in circumstances where a member was driving a private vehicle on duty. The Chief Superintendent GNTB will now adjudicate whether a cancellation is merited. Full details of the ‘Statutory Exemptions/Emergency Vehicles’ issue can be viewed at chapter seven.

Analysis of Vehicles Which Have Received Multiple Cancellations

Vehicles with more than three cancellations for the period 1st September 2013 to 31st August 2014 were examined and Repeat Offenders were also highlighted through this method. The majority of vehicles with multiple cancellations were Emergency Vehicles. Two main procedural issues with the NVDF and the technology which assesses vehicle size were identified. Full details of the ‘Vehicles Which Have Received Multiple Cancellations’ issue can be viewed at chapter eight.

Examination of Compliance of Cancelling Authority with Garda Policy

The examination sought to establish if the various Cancelling Authorities were operating within the appropriate policies that were in place (between 1st September 2013 and 31st August 2014). The introduction of HQ Directive 48/2014 and Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 has addressed the issue of the Cancelling Authority acting outside their area of responsibility by centralising the Cancelling Authority. Full details of the ‘Examination of Compliance of Cancelling Authority with Garda Policy’ issue can be viewed at chapter nine.

HQ Directive 54/2014 Duty to Report Breaches of the Road Traffic Acts

An examination was also conducted by GPSU in relation to the requirement of Garda members and civilian staff to report breaches of the Road Traffic Acts. Returns were received from all Divisions and Sections and no reports pursuant to HQ Directive 54/2014 ‘Duty to Report Breaches of the Road Traffic Acts’ were submitted by members. Full details of the ‘Duty to report breaches of the Road Traffic Acts (HQ Directive 54/2014)’ issue can be found in chapter ten.

Conclusion

This Report outlines a number of findings and recommendations, some of which will require a co-ordinated approach including co-operation with Government Departments.

In summary, GPSU has examined 667 cancellation files and considers that 114 of them require further investigation. This investigation may well determine that there is no wrongdoing or individual failing on the part of anyone. It is also worthy of note that the examination has established that there are some persistent procedural issues occurring as opposed to individual failings. GPSU met with the source of information on nine separate occasions and maintained a written record of those meetings. Towards the end of the examination feedback on decision making files was provided to the source pertaining to his information.

GPSU examined 54 FCN cancellations under FCPS Policy and Procedures Manual (Fourth Edition) 2014, which is the current policy introduced on the 16th June 2014. Seven of these have been assessed as 'Further Investigation Required'. Of these seven files, one is cancelled under the cancellation reason 'Statutory Exemptions/Emergency Vehicle'. A second FCN is cancelled under the cancellation reason 'Discretionary-Other'. Five are cancelled under the cancellation reason 'Undelivered-An Post'.

Of these five, four are being recommended for further investigation internally by An Garda Síochána as GPSU is of the opinion that relate to a procedural issue and that the system as it relates to 'Undelivered-An Post' requires assessment.

GPSU examined 458 FCN cancellations under HQ Directive 71/2013, 'Revised Cancellation Procedures - Fixed Charge Processing System' (30th August 2013 to 15th June 2014). 51 of these have been assessed as 'Further Investigation Required'.

GPSU examined 155 FCN cancellations under FCPS Full User Manual Policy and Procedures (Third Edition) 2005 (December 2005 to 29th August 2013). 56 of these have been assessed as 'Further Investigation Required'

A number of the aforementioned issues that have arisen prior to 16th June 2014 can no longer occur due to the implementation of FCPS Policy and Procedures Manual (Fourth Edition) 2014 which included the centralisation of the Cancelling Authority.

GPSU recommends that there should be further investigation into the files selected in order to maintain public confidence in the fixed charge processing system.

Since the introduction of HQ Directive 48/2014 and FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014 only the three individuals authorised to conduct cancellations have carried them out. It was noted by GPSU that FCPO are continually introducing procedures to improve the system. However, the introduction of an 'Enforcement Unit' at FCPO is recommended to facilitate all enquiries which will enhance compliance.

The introduction of HQ Directive 48/2014 and FCPS Policy and Procedures Manual (Fourth Edition) has also seen a significant reduction in the number of cancellations in the category Discretionary-Medical Emergency. This follows the requirement in this Directive for the applicant to submit supporting documentation when requesting a cancellation.

There was a significant increase in the number of cancellations under the category 'Undelivered-An Post'. According to the FCPO, this was due to internal procedures introduced in September 2013. These procedures were revised in October 2014. A number of the difficulties in relation to this category are outside the control of An Garda Síochána such as drivers residing outside this jurisdiction, delivering to multi-occupancy residences and vehicles that are registered as company cars.

Statutory Exemptions/Emergency Vehicles also requires specific mention. It is important that the public have confidence that the operation of the FCPS is consistent, transparent and accountable. Transparency will be enhanced by the allocation of external oversight to the decision making process for the cancellation of FCNs under 'Statutory Exemption'.

An issue in relation to FCNs proceeding to summons and the subsequent service of summonses was identified during this examination. This was not examined by GPSU as it was outside the scope of this examination and the matter is currently being dealt with by the Criminal Justice Working Group in conjunction with the Courts Service.

GPSU have proposed 20 recommendations as a result of this examination. Some of these recommendations can be implemented with a change of Garda policy, while others require a legislative change and will require co-operation with the relevant Government Departments. It is essential that solutions are found to deal with all issues identified as a result of this examination.

GPSU notes that significant improvements to the system have been made since the introduction of the FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014. This new policy is in its initial stage of implementation and, as with any new policy, some issues have arisen that were not foreseen when the policy was formulated. It is noted that GNTB has shown a willingness to be proactive in making changes when issues are identified. This examination of the cancellation process is timely, as it provides an early review of the procedures to establish the effectiveness of the policy and apply lessons learned.

GPSU is aware that GSOC is conducting an investigation under Section 102 (1) of the Garda Síochána Act, 2005 into certain aspects of the FCPS. GPSU will provide assistance and documentation, if required, to any subsequent investigation or review in respect of this GPSU examination of FCPS.

Garda Professional Standards Unit
December 2014

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The source of information,

Garda Síochána Analysis Service,

Garda Information Services Centre.

ABBREVIATIONS

C&AG	Comptroller and Auditor General
CAD	Computer Aided Dispatch
CBD	Competency Based Driver
CJWG	Criminal Justice Working Group
DPP	Director of Public Prosecutions
DVCSD	Driver and Vehicle Computer Services Division
FCN	Fixed Charge Notice
FCPO	Garda Fixed Charge Processing Office
FCPS	Fixed Charge Processing System
GIAS	Garda Internal Audit Section
GISC	Garda Information Services Centre
GNTB	Garda National Traffic Bureau
GPSU	Garda Professional Standards Unit
GSAS	Garda Síochána Analysis Service
GSOC	Garda Síochána Ombudsman Commission
IAS	Information Analyst Service
NCT	National Car Test
NTAS	Garda Notepad Tracking and Allocation System
NVDF	National Vehicle & Driver File
OSCAM	Office for Safety Camera Management
PULSE	Police Using Leading Systems Effectively
RSA	Road Safety Authority

1 METHODOLOGY

The approach taken by GPSU to complete the assigned examination formed six elements which were incorporated into the Terms of Reference;

1. To examine compliance with policy documents and HQ Directives in relation to cancellation of Fixed Charge Notices (FCN);
2. To analyse the 15,930 cancellations of FCNs between 1st September 2013 and 31st August 2014;
3. To analyse the vehicles with multiple cancellations between 1st September 2013 and 31st August 2014;
4. To examine compliance with HQ Directive 54/2014 in relation to duty to report breaches of Road Traffic Acts;
5. To examine and analyse information received by GPSU under the provisions of the Protected Disclosures Act, 2014;
6. Any other information relevant to the examination.

Three additional staff members were provided to GPSU to assist in the examination and to undertake relevant research. Three GPSU staff were granted ‘read only access’ to the FCPS in order to examine the decision making process.

GPSU sought the internal procedures and policies in operation in Fixed Charge Processing Office (FCPO) from Garda National Traffic Bureau (GNTB). GPSU also conducted an onsite visit to the FCPO in Thurles, Co. Tipperary to discuss policies and procedures. GPSU provided a draft report to GNTB for their observations which have been considered in the finalisation of this report.

GPSU received information⁶ relating to Fixed Charge Notice (FCN) cancellations pertaining to 115 individuals. An Excel Spreadsheet was created to record these cancellations which are attached at Volume Two, Appendix One.

GPSU is firmly of the view that as Volume Two contains personal data and items that may be considered for further investigation, it should not be published.

⁶ This information is detailed in chapter four.

GPSU liaised with An Garda Síochána Information Analyst Service (IAS) and requested a list of FCPS cancellations for the period 1st September 2013 to 31st August 2014. GPSU requested the Garda Síochána Analysis Service (GSAS) to analyse and provide a breakdown of this data.

On receipt of the analysed data, the following procedure was adopted by GPSU;

- FCN cancellations which appeared to be in contravention of policy were identified,
- A hard copy of the decision making files relating to these FCN cancellations were requested.

The decision making files were assessed under the following criteria;

- The relevant policy for cancellation,
- The appropriate authority for cancellation,
- The supporting documentation provided,
- The previous cancellations of the applicant,
- The reason for the cancellation,
- The rationale for the decision,
- Compliance with relevant Garda Síochána Policy.

The decision making files were examined and categorised as outlined hereunder;

- No Apparent Issues – FCN appears to have been cancelled within policy,
- Procedural/Systems Issues – relates to cancellations outside the control of the Cancelling Authority for example ‘Undelivered-An Post’ and data in the NVDF ,
- Technical Breach of Policy – relates to circumstances where the rationale for the decision was clear, however, it did not comply fully with the policy. GPSU is satisfied that these cancellations would have been conducted in any event,
- Lenient Decision Making – relates to circumstances where FCNs were cancelled, but on the basis of documentation in the decision making file, the decision was lenient,

- Further Investigation Required – relates to circumstances where, on the basis of information contained in the decision making file, the cancellation of an FCN requires further investigation.

667 decision making files in relation to FCN cancellations were examined by GPSU. A Summary Information Sheet prepared by GPSU in respect of each cancellation examined can be viewed in Volume Two of this Report.

Table No. 4 - Categorisation of Decision Making Files

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	46	232	23	301
Procedural/Systems Issues	7	56	16	79
Technical Breach of Policy	10	86	1	97
Lenient Decision Making	36	33	7	76
Further Investigation Required	56	51	7	114
Total	155	458	54	667

2 OVERVIEW OF THE FIXED CHARGE PROCESSING SYSTEM

2.1 Introduction

This chapter details the FCPS from its introduction under the provisions of the Road Traffic Act 2002 on 31st October 2002 to its current format. This chapter also outlines procedures used in FCPO relevant to this examination.

2.2 Overview

The FCPS is a system introduced by An Garda Síochána to enable computerised, automated processing of road traffic offences (including certain drink-driving offences) which incur fixed charges. The printing, posting and processing of payments of FCNs was outsourced in 2006, in accordance with Section 17 of the Road Traffic Act, 2006 which was substituted on 1st June 2011 by Section 81 of the Road Traffic Act, 2010, as amended. Section 81 also governs the outsourcing of safety speed camera detections on behalf of An Garda Síochána.

The Road Traffic Act 2002, introduced the penalty points system in Ireland on 31st October 2002. Offences under this Act incur a charge from the date of issue of a Fixed Charge Notice, together with penalty points which are endorsed on the driving licence and recorded in the National Driver File.

The penalty-point system is administered by the Road Safety Authority (RSA) under the aegis of the Department of Transport, Tourism and Sport. The National Vehicle Driver File (NVDF) is a database containing details of all registered vehicles, their owners and all licensed drivers in the country. The system is maintained and supported by the Driver and Vehicle Computer Services Division (DVCSD) of the Department of Transport, Tourism and Sport located in Shannon, Co. Clare. Notifications of endorsement of penalty points on the driving licence record are issued by the RSA.

2.3 Outsourced Safety Camera Detections – GoSafe

Following public procurement on 16th November 2010, An Garda Síochána outsourced the detecting of speeding offences to the GoSafe Consortium, who operate safety cameras. GoSafe operates under the control of a Superintendent in GNTB. Trained operators from GoSafe conduct speed detections at predefined locations. When offences are detected, the offence details and images are uploaded, validated and the vehicle registration numbers are recorded. The data is then transmitted electronically via secure and encrypted links to Garda IT, Garda Headquarters, Phoenix Park, Dublin 8, where it is uploaded onto the FCPS. All non-intercept⁷ speeding offences detected by GoSafe are administered by the FCPO, in the same way as non-intercept detections made by Garda personnel. The GoSafe Office does not have access to FCPS and is unable to cancel FCNs.

2.4 Garda Operated ‘Robot Vans’

An Garda Síochána also employs mobile ‘robot vans’ for the detection of road traffic offences which are operated by members of Traffic Corps Units. GNTB is responsible for the administration, maintenance and upkeep of these vans and the internal equipment. The deployment of ‘robot vans’ is the responsibility of the Regional Traffic Superintendents, who liaise with Divisional Traffic Inspectors. The Garda member operating the vehicle, downloads images from the camera onto two CDs, one of which is kept by the member operating the camera while the other is forwarded to the Office for Safety Camera Management (OSCAM) for processing on the FCPS system as above.

2.5 OSCAM

The Safety Camera Project is managed and co-ordinated by the OSCAM based at Carpel Street, Dublin 1. This office is under the supervision of Superintendent, GNTB and is supported by civilian personnel.

⁷ Non-intercept detections occur when there is no contact with the driver/owner. These cases are recorded by handheld devices (H), notepad (N) and static or mobile safety speed cameras (S). The FCN is issued to the registered owner.

2.6 Fixed Charge Processing Office

The FCPO in Thurles is responsible for the overall management and monitoring of the performance of the FCPS. This office is under the supervision of GNTB and is supported by civilian personnel. On Thursday 30th October 2014, GPSU visited the FCPO to meet with representatives from that office. The purpose of this meeting was to determine the procedures used at the FCPO in relation to processing FCN cancellations.

There are currently 70 civilian staff attached to FCPO and one Garda member (Inspector). The Garda Inspector is the only person attached to FCPO who has full PULSE access. Without access to PULSE, civilian staff have no access to information relating to court outcomes or addresses on PULSE etc.

Table No. 5 - Fixed Charge Processing Office Personnel Figures 2014

Fixed Charge Processing Office Personnel Figures	
Grade/Rank	
Assistant Principal	1
Garda Inspector	1
Higher Executive Officer	2
Executive Officer	4
Staff Officer	4
Clerical Officer	50
Service Officer	2
Temporary Clerical Officers	6
Total	70

Payment Processing

Payments are not accepted at Garda Stations or at the FCPO. All payments are made to the outsourced payment provider, via post, or in person at any of the outsourcer's automated outlets, or, for certain offences, over the telephone. Details of how to pay are printed on the FCN.

The timeframes of 28 days for drink driving and 28 days and 56 days for all other fixed charge offences are enshrined in legislation. There is no facility to postpone, intervene or alter these timeframes or to retrospectively process payments once the notice has proceeded beyond the 28 day or 56 day intervals.

'Third' Payment Option

Section 44 of the Road Traffic Act 2010, as amended, provides that a person who is served with a summons in respect of an unpaid FCN, may pay a fixed charge (of 100% greater than the original fixed charge) not later than seven days before the date of the Court. The Section provides that if a person pays the fixed charge, proceedings in respect of the alleged offence will be discontinued and the person need not attend the Court on the day. This Section of the Road Traffic Act has not yet commenced.

Protocol for Issuing Refunds

Section 103 (4) (b) of the Road Traffic Act, 1961 provides, that 'no payment... received shall in any circumstances be recoverable by the person who made it'. However, legal advice indicates that, in certain circumstances, a refund or partial refund may issue. These include;

- No legal basis for the issue of the FCN – e.g. incorrect speed limits, by-laws not in force,
- Due to a systems error, a person was unable to pay at the lower amount.

An application for a refund may be considered in exceptional circumstances, where it is established that the penalty points should not have been applied. A refund application with supporting documentation can be made through the FCPO and the penalty points are expunged.

3 FCPS TIMELINE OF REPORTS AND POLICY CHANGES

3.1 Introduction

A number of policy documents and HQ Directives have regulated FCPS since its introduction. The FCPS has undergone a number of changes and amendments as a result of both internal and external examinations conducted in relation to the operation of this system. This chapter outlines the policies and reports that are relevant to this examination.

3.2 Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005

In December 2005, the ‘Fixed Charge Processing System Full User Manual Policy and Procedures’ (Third Edition) 2005 was published and circulated within An Garda Síochána.

Cancellation Requests Procedure as per the FCPS Full User Manual Policy and Procedures (Third Edition) 2005

The Cancelling Authority was defined as;

- The District Officer of the location where the fixed charge offence occurred,
- The District Officer/Superintendent responsible for the detecting member,
- The person in charge of the FCPO.

The authority to cancel notices was extended to Inspectors, only when they were acting for the District Officer/Superintendent.

The Cancelling Authority reviewed and examined each individual application and had to be satisfied, on the basis of the evidence presented, that the FCN should be cancelled. The Cancelling Authority was required to physically record, on FCPS or PULSE, all notices cancelled by them and to retain a file for auditing purposes, documenting the specific reason for the cancellation.

3.3 Report of Assistant Commissioner O'Mahoney (2013)

On 19th October 2012, correspondence was submitted to the Department of Justice and Equality concerning '*Allegations of Irregularities in the Operation of the Fixed Charge Processing System (FCPS)*'. These allegations were referred to the Garda Commissioner for investigation. Assistant Commissioner O'Mahoney conducted an examination and on 28th March 2013 submitted a report which included findings and recommendations.

Assistant Commissioner O'Mahoney identified departures from administrative procedures by some Cancelling Authorities. It was established that some cancellations undertaken by officers may not have been conducted strictly within administrative policy and procedure, thereby giving rise to possible breaches of discipline. Cancellations conducted by three officers were referred to Internal Affairs Section, Garda Headquarters and as a result, disciplinary action was taken against these Cancelling Authorities. Letters of advice were sent to other Cancelling Authorities directing the strict adherence to policy.

The two main areas of administrative and procedural failings identified by this examination centred on the;

- i. Creation and retention of audit material,
- ii. Cases where authorised officers cancelled FCNs for offences detected outside their Garda Districts.

Assistant Commissioner O'Mahoney made ten recommendations as a result of his examination and the report was published by the Minister for Justice and Equality on 15th May 2013.

3.4 Report of Garda Professional Standards Unit (2013)

On 30th 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*'.

The report of GPSU was forwarded to the Commissioner on 22nd April 2013 and the main recommendations arising centred on clearly defining the Cancelling Authority and the circumstances in which a cancellation of an FCN was authorised. GPSU made 12 recommendations as a result of the examination conducted. One recommendation was to conduct an immediate review and update of the policy and procedures in relation to the cancellation of FCNs.

GPSU's report was published by the Minister for Justice and Equality on 15th May 2013.

3.5 HQ Directive 71/2013 Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)

On 30th August 2013, HQ Directive 71/2013 '*Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)*' was issued to address a number of the recommendations identified in the reports of Assistant Commissioner O'Mahoney and GPSU. It outlined that '*Following an examination of the Fixed Charge Processing System (FCPS) and pending the issue of the FCPS Policy and Procedures Manual (Fourth Edition) 2014, revised cancellation procedures are being introduced in relation to the cancellation of Fixed Charge Notices (FCNs)*'.

HQ Directive 71/2013 effectively was an interim policy introducing a number of changes to the FCPS in advance of the drafting and implementation of a new policy and procedures document. These changes included a revised definition of the Cancelling Authority, revised Cancellation Procedures for District Officers, Superintendent DMR Traffic and for the FCPO. It also provided procedures for District Officers to deal with 'Conflict of Interest – Personal/Professional/Public Figures'. It also outlined the audit procedures that Divisional and District Officers should follow in relation to the decision making process.

3.6 Report of Comptroller and Auditor General (2013)

In July 2012, a member of An Garda Síochána contacted the Office of the Comptroller and Auditor General (C&AG) seeking a meeting to discuss concerns about the operation of the FCPS within the Organisation.

The Office of the C&AG has in 2000, 2003 and 2007 examined and reported on the system of control applied to the FCPS or its predecessor 'Fine-On-The-Spot' system.

As a result of the information received, the C&AG had a concern that the controls in place might be inadequate or might not be operated as intended. The Office of C&AG also had a concern that matters previously reported on had not resulted in improved control systems within An Garda Síochána.

The scope of this C&AG examination was on the operation of the FCPS within An Garda Síochána. On 30th September 2013, the Office of the C&AG published its Annual Report. Chapter seven of this report relates to the management of the FCPS and contained six recommendations.

3.7 Report of the Garda Inspectorate (2014)

On 4th July 2013, in accordance with Section 117 of the Garda Síochána Act 2005, as amended, the Minister for Justice and Equality requested the Garda Inspectorate to commence a review of the operation of the FCPS by An Garda Síochána.

On 12th March 2014, the Garda Inspectorate published '*The Fixed Charge Processing System – A 21st Century Strategy*'. The Inspectorate was requested to take into account Assistant Commissioner O'Mahoney's and GPSU's reports. The C&AG's report was also reviewed by the Inspectorate.

The Garda Inspectorate acknowledged that '*The solution is entirely dependent on co-ordinated collaboration between the Department of Justice and Equality, the Garda Síochána, Road Safety Authority (RSA), Department of Transport, Tourism and Sport, Courts Service, An Post, and the various appointed contractors involved in the*

operation of the FCPS'. The report contained 37 recommendations for all agencies involved in FCPS.

3.8 Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014

An Garda Síochána issued HQ Directive 48/2014 on 16th June 2014 in conjunction with a revised FCPS Policy and Procedures Manual (Fourth Edition) 2014. The policy includes the following changes;

Cancelling Authority

The decision making process is now centralised at the FCPO. The Cancelling Authority is limited to Chief Superintendent GNTB, Superintendent GNTB and Inspector FCPO.

Changes to Applications for Cancellations

An FCN Cancellation Request Form must be completed for all cancellation requests and forwarded to the FCPO with supporting documentation. An applicant requesting the cancellation must complete the FCN Cancellation Request form.

In considering an application for cancellation, the Cancelling Authority;

- Will review and examine each individual application.
- May conduct enquiries that include consultation with the detecting member to ascertain the member's views on the application.
- Will, in the case of an intercept detection where the application for cancellation is based on exceptional circumstances⁸, consult with the detecting member to ascertain the member's views on the application.
- Will, in the case of a cancellation request based on exceptional circumstances, consider the applicant previously cancelled FCNs.
- Must be satisfied, on the basis of the exceptional circumstances and/or documentation presented, that the FCN should be cancelled.

⁸Applications for cancellation will be considered in exceptional circumstances where a prosecution is not appropriate, fair or proportionate.

- Will ensure the applicant is notified in writing of the decision.
- Will, retain a copy of all documentation relating to the application for cancellation and the processing of same at the FCPO for auditing purposes.

Statutory Exemptions/Emergency Vehicle

Where a member of an emergency service receives an FCN, and the driving or use of the vehicle was in the performance of their duties, they may apply for cancellation of the FCN under 'Statutory Exemptions/Emergency Vehicle'. The application must certify that the driving or use did not endanger the safety of road users. The applicant requesting the cancellation must complete Section C of the FCN Cancellation Request form, and provide a report on headed paper of the relevant service outlining the circumstances of the incident.

The member of An Garda Síochána must submit the Garda FCN Cancellation Request Form - Category C.

In considering an application for cancellation, the Cancelling Authority;

- Will review and examine each individual application.
- Must be satisfied, on the basis of the documentation presented, that the FCN should be cancelled.
- Will ensure the applicant is notified in writing of the decision.
- Will ensure the applicant's Manager is notified in writing of the decision.
- Will ensure a copy of all documentation relating to the application for cancellation and the processing of same will be retained at the FCPO for auditing purposes.

Auditing of FCPS

Accurate and up to date records of all aspects of the administration of the FCPS are maintained for auditing purposes. The Garda Internal Audit Section (GIAS) conducts regular audit checks of the full operation of the FCPS to ensure full compliance with all aspects of the policy, and furnish an audit report to Assistant Commissioner Traffic. GPSU provides support by carrying out an examination of the decision making process.

3.9 Report of Public Accounts Committee (2014)

On 2nd October 2014, the Public Accounts Committee (PAC) published a report titled *‘Report on the Fixed Charge Processing System and Related Road Safety Issues’*.

The Committee was mindful of the *‘need for robust systems to collect fines and also the need to ensure that public confidence in law enforcement is maintained’*. The Committee heard direct evidence on the systems and processes involved in cancelling fixed charges. The PAC report examines *‘the inappropriate cancellation of fines and penalty points which came in for major public scrutiny in 2014’*.

The PAC report identified 14 findings and made 12 recommendations as a result of its examination. An Garda Síochána is currently liaising with the Department of Justice and Equality in relation to the recommendations contained in the PAC report.

4 INFORMATION RECEIVED

4.1 Introduction

On 15th September 2014, a meeting was held with the source of information which was chaired by the Assistant Commissioner Traffic and attended by representatives of GNTB and GPSU. The source of information outlined alleged abuses of the FCPS and invoked the provisions of the Protected Disclosures Act, 2014. On 19th September 2014, GPSU conducted a further meeting with this individual who provided details of the alleged abuse. In total nine meetings were conducted with the source of information and his information was recorded in writing amounting to 133 pages and 161 PULSE printouts. The source of information stated that he has no objection to the disclosure of the information provided. The source of information worked with the GPSU examination team and was available when requested.

The information provided by the source of information related to 115 individuals who had received a total of 289 separate FCN cancellations. These cancellations covered the period 1st January 2009 to 1st November 2014. 31 of these individuals appeared to be serving or retired members of An Garda Síochána. GPSU created an Excel spreadsheet which documented all cancellations and relevant data pertaining to these 115 individuals. 239 decision making files were requested and the source of information was provided with feedback and GPSU findings in relation to these files. The source of information was kept informed of the wider examination that GPSU had undertaken. The source of information was also provided with a briefing in relation to the recommendations being considered for inclusion in the report.

4.2 Methodology of the Review of 'Information Received' Files

The most recent cancellation in respect of the 115 individuals and all other cancellations in respect of these individuals, from the 1st January 2013 to 1st November 2014 were requested and examined. In addition, where the GPSU examination team deemed it appropriate, files in relation to cancellations prior to 2013 were also examined. In total 239 decision making files were requested. From the 239 decision making files requested GPSU did not receive files in relation to seven

cancellations. These seven cancellations occurred under FCPS Full User Manual Policy and Procedures (Third Edition) 2005. GPSU examined these cancellations with information available from PULSE and FCPS and have assessed them as 'Further Investigation Required'. These examples are available at pages 462, 527, 536, 537, 547, 551 and 555 of Volume Two.

The date range of the decision making files examined, extends from 1st January 2009 to 1st November 2014 and is regulated by three different policies and procedures documents;

- The Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005, (effective from December 2005 to 29th August 2013);
- HQ Directive 71/2013 'Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)', (effective from 30th August 2013 to 15th June 2014);
- Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014, (effective from 16th June 2014 to present day).

The relevant policy was determined by the date the incident occurred or the date the application for cancellation was received.

4.3 GPSU Examination

As a result of information received and the examination of these 239 decision making files, the following issues were identified and are dealt with in this chapter or later in this report;

1. 'Repeat Offenders' - Where applicants have received multiple cancellations.
2. 'Townland Incorrect' – This cancellation reason was given for certain cancellations, however, other drivers have made payments and received penalty points for detections made in the same location. (chapter four)
3. 'Discretionary-Medical Emergency' – Repeatedly utilised and no supporting documentation provided. (chapter four)
4. 'Undelivered-An Post' – Relating to an increase in 2014 figures and where FCNs are not being re-issued. (chapter five)

5. Technical Issues - Scanning incorrect registration numbers, Data Entry Errors, etc.
(chapter six)
6. Statutory Exemptions - Granted to Garda members while driving private cars.
(chapter seven)

Each of the issues identified has been examined by GPSU and throughout the relevant chapters' examples have been detailed. Each example provides the categorisation of GPSU finding in relation to the assessment of the decision making files.

The decision making files were assessed and categorised as outlined hereunder;

- No Apparent Issues,
- Procedural/Systems Issues,
- Technical Breach of Policy,
- Lenient Decision Making,
- Further Investigation Required.

The examples were provided by both the source of information and the GPSU examination. The examples from the source of information have been detailed to the fore of each chapter and the examples obtained from the GPSU examination are detailed thereafter. The chapter goes on to detail the policy, procedures or legislation relevant to that chapter.

GPSU's findings in relation to the 239 decision making files are categorised as outlined hereunder;

Table No. 6 - Summary of GPSU Results for Information Received

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	22	23	8	53
Procedural/Systems Issues	7	22	5	34
Technical Breach of Policy	1	0	0	1
Lenient Decision Making	34	19	7	60
Further Investigation Required	54	32	5	91
Total	118	96	25	239

Chapter four includes the analysis of 'Repeat Offenders', 'Townland Incorrect' and 'Discretionary-Medical Emergency'. Due to the volume of information in relation to 'Undelivered-An Post' 'Technical Issues' and 'Statutory Exemptions', they have been detailed in separate chapters.

4.4 Repeat Offenders

The source of information was concerned that individuals who had previously received an FCN cancellation were still receiving further cancellations. The source of information was of the belief that this should not have occurred in light of examination reports and media attention since the matter became the subject of public discussion in December 2012.

From the 115 individuals identified by the source of information, GPSU have provided a breakdown of repeat offenders in relation to the number of FCN cancellations received.

Table No. 7 – Breakdown of Repeat Offenders by No. of Cancellations Received

Cancellations per Person	One FCN	Two FCNs	Three FCNs	Four FCNs	Five FCNs	Six FCNs	Totals
Garda Members	6	14	5	1	2	3	31
Members of the Public	12	36	26	5	4	1	84
Total	18	50	31	6	6	4	115

4.5 Information Received From The Source

From information received, a number of repeat offenders were identified and the examples of these decision making files have been examined, assessed and are outlined hereunder;

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

In September 2014, the applicant received an FCN for a speeding offence (69/50km). The FCN was returned to the FCPO 'Undelivered-An Post'. FCPO correspondence indicated that there was a new address on the National Vehicle File and an FCN for this incident was re-issued with the updated address and the FCN was paid.

GPSU Notes;

- The FCN in this example was cancelled under the policy of the FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The FCN in this example is recorded as cancelled under the Cancellation Reason 'NVDF - New Owner Details'.
- The applicant had four previous FCNs cancelled due to them being returned as 'Undelivered-An Post'.
- These four cancellations occurred between September 2013 and June 2014. All FCNs returned 'Undelivered-An Post' between 5th September 2013 and 17th October 2014 were cancelled on receipt due to revised internal procedures at FCPO. These procedures, and the rationale for them, can be viewed in chapter five 'Undelivered-An Post' of this report.

The full details of this example can be found at page 349 of Volume Two.

Procedural/Systems Issues

An example of a file categorised by GPSU as 'Procedural/Systems Issues' is outlined hereunder;

Example

In June 2014, the applicant was issued with an FCN in relation to a speeding offence (152/80km). This notice was returned to FCPO as 'Undelivered-An Post' and was subsequently cancelled. The applicant has numerous addresses on PULSE and the applicant had previously paid four FCNs relating to the same vehicle but with a different address. The applicant has also paid one FCN issued subsequent to this example in August 2014 with the same address.

GPSU Notes;

- The FCN in this example was cancelled under policy FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The FCN is recorded as cancelled under the cancellation reason ‘Undelivered-An Post’.
- The applicant had three previous cancellations before this cancellation between January 2013 and June 2014. They were all cancelled under the cancellation reason ‘Undelivered-An Post’.
- These procedures, and the rationale for them, can be viewed in chapter five ‘Undelivered–An Post’ of this report.

The full details of this example can be found at page 355 of Volume Two.

Lenient Decision Making

An example of a file categorised by GPSU as ‘Lenient Decision Making’ is outlined hereunder;

Example

In June 2014, the applicant, a Sergeant in An Garda Síochána, received an FCN for a speeding offence (111/80km) and subsequently applied for a Statutory Exemption cancellation. The applicant stated that he was in pursuit of a speeding vehicle. Mobile phone records were attached to the file, showing a 32 second call at 17.05 to a local Garda Station. The speeding offence was detected at 17.03.

GPSU Notes;

- The FCN in this example was cancelled under FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The Member was driving a private vehicle and the cancellation reason is recorded as ‘Statutory Exemptions/Emergency Vehicles’.
- No other vehicle was detected speeding at the same point in the five minutes preceding this applicant being detected.
- The identity of the person spoken to at the local Garda Station in the 32 second call is not recorded in the file and there is no report from that member on the file.

- The phone call to the local Garda Station is recorded as two minutes after the FCN incident.
- The District Officer certified that the applicant was on duty at the time.
- The applicant had five previous cancellations between September 2009 and February 2011.
- The GPSU examination considered this decision lenient as they were not satisfied that there was sufficient evidence that the applicant was on duty at the time, although they do accept that the Cancelling Authority believed that there were enough grounds for cancellation.

The full details of this example can be found at page 331 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as 'Further Investigation Required' is outlined hereunder;

Example

In July 2013, the applicant, a Superintendent in An Garda Síochána (now retired) stated that she was travelling on official duty. The FCN was issued for a speeding offence (110/100km). The file does not specify the circumstances of the incident or reasons that necessitated the speeding.

GPSU Notes:

- The FCN in this example was cancelled under the policy of the FCPS Full User Manual Policy and Procedures (Third Edition) 2005.
- The FCN is recorded as cancelled under the cancellation reason 'Discretionary Other'.
- The applicant had five previous cancellations before this cancellation between June 2010 and July 2013. Three of these were cancelled under the cancellation reason 'Discretionary Other' and on the other two there is no cancellation reason recorded on PULSE.
- No documentation relating to the circumstances of the speeding or the nature of the official duties are included in the file.

- The cancellation was conducted by a District Officer where policy dictated that it should have been the relevant Divisional Officer. (HQ Directive 45/2009 refers).
- Details of the Cancelling Authorities inquiries are not included in the file.
- Details of the exceptional circumstances which enabled the cancellation under discretionary grounds are not included in the file.

The full details of this example can be found at page 457 of Volume Two.

4.6 GPSU Examination Relating to Repeat Offenders

GPSU requested the services of Information Analysis Service (IAS) and Garda Síochána Analysis Service (GSAS) to provide a breakdown of offenders who had received more than three cancellations from 1st September 2013 to 31st August 2014. GPSU was informed that it was not possible to identify repeat offenders due to the large volume of information. It was difficult to establish who was a repeat offender or a separate person, as it was not possible to distinguish between people of same name–different person and the same person–different name. Cases of misspelling and different spelling changed the parameters of the search.

However, GPSU identified a number of repeat offenders as part of the wider examination and the examples in relation to these decision making files are outlined hereunder;

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

On six separate dates between September and October 2013 the applicant received FCNs for ‘Failing to Display a Current Vehicle Licence’. The vehicle in question received the FCNs at the same location each time. After a meeting with the applicant Gardaí applied to have all FCNs cancelled and supplied supporting documentation.

In the rationale section of the Certified Fixed Charge Notice (FCN) Cancellation Form it is outlined that a doctor had certified that the applicant was unwell.

GPSU Notes;

- The FCNs in this example were cancelled under the policy outlined in HQ Directive 71/2013.
- The FCNs are recorded as cancelled under the cancellation reason 'Discretionary Other'.
- The applicant had four previous FCNs regarding the same issue. These were sent to court but were not served as a result of the above cancellation request.

The full details of this example can be found at page 10 of Volume Two.

Further Investigation Required

The following is an example of a file categorised by GPSU as 'Further Investigation Required' and is outlined hereunder;

Example

In August 2013, the applicant received an FCN for a speeding offence (64/50km). He stated he was returning home to respond to an alarm activation at his home. The applicant wrote to FCPO who forwarded the file to the District Officer in whose jurisdiction the detection was made.

GPSU Notes;

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.
- The FCN was recorded as cancelled under the cancellation reason 'Discretionary – Other'.
- The applicant had three previous cancellations of FCNs.
- The detecting Garda's opinion was sought and no objection to the cancellation was raised.
- PULSE indicates that the applicant has had 12 FCNs issued since December 2006. Four were paid and sent to the Department of the Environment, four were sent to the courts and not served and four others were cancelled. The four that were

cancelled, occurred between August 2010 and August 2013. Two of these FCNs have no reason given for the cancellation, one was cancelled on ‘compassionate grounds’ and the most recent cancellation was under the category ‘Discretionary – Other’.

The full details of this example can be found at page 312 of Volume Two.

4.7 ‘Townland Incorrect’

The source provided information in relation to individuals who had received cancellations on the basis that the location of the incident was recorded as an incorrect townland on the FCN. The source of information was concerned that other people had received and paid FCNs for the same date and location. FCPO internal procedures and legal advice relative to incorrect townland is discussed further in this chapter. (4.10 FCPO Procedures in Relation to ‘Townland Incorrect’)

GPSU requested from IAS, all cancellations between 1st September 2013 and 31st August 2014 where Townland was contained in the ‘comment box’ on PULSE or ‘correspondence register’ on FCPS. The IAS search returned 1 FCNs in addition to six FCNs that GPSU had already requested on foot of information from the source.

Table No. 8 - Breakdown of Decision Making Files for ‘Townland Incorrect’

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	9	1	0	10
Procedural/Systems Issues	0	0	0	0
Technical Breach of Policy	0	0	0	0
Lenient Decision Making	3	1	0	4
Further Investigation Required	2	0	0	2
Total	14	2	0	16

In relation to the ten FCNs which have been assessed as ‘No Apparent Issues’, two were cancelled as a result of errors and were re-issued. Seven were identified by the detecting member as ‘Townland Incorrect’ and were subsequently cancelled. The remaining decision making file dealt with two FCNs for one applicant. The District

Officer investigated the applicant's claims regarding the incorrect townland and cancelled one FCN as appropriate while informing the applicant that their obligations remained in relation to the other.

4.8 Information Received From the Source

The following are examples of decision making files identified as a 'Townland Incorrect' by the source of information.

No Apparent Issue

An example of a file categorised by GPSU as 'No Apparent Issues' is outlined hereunder;

Example

In November 2012 an FCN was issued in relation to a speeding offence (88/50km). The FCN was cancelled under the FCPS Full User Manual Policy and Procedures (Third Edition) 2005 by an Inspector acting as District Officer in the District where the offence occurred. The cancellation reason given on PULSE is Data Entry/IT/Garda Errors and the applicant did not have any previous cancellations.

A letter was received from the driver of the offending vehicle stating that they had received three FCNs in close proximity and that this did not allow them time to change their driving behaviour.

The resultant review by the Cancelling Authority discovered that the FCNs were issued by non-intercept safety camera van with an incorrect location. The file received by GPSU contained a report from the Traffic Sergeant identifying the incorrect townland within the FCN and hence the FCN was cancelled.

GPSU Notes;

- The FCNs in this example were cancelled under the policy of the Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.

- PULSE records show that there were 56 FCN detections⁹ on this date with the incorrect location. Four have the status of ‘cancelled’ and four have a status of ‘sent to court’.
- In the four that went to court the summonses were struck out.

The full details of this example can be found at page 522 of Volume Two.

Lenient Decision Making

The source of information outlined an issue with two FCNs cancelled for the same applicant. These cancellations contained the same incorrect townland, however, one was cancelled with a cancellation reason of ‘Discretionary-Medical Emergency’ while the other was cancelled under ‘Data Entry/IT/Garda Errors’. The source of information stated that on the same date and location, other people who were detected were penalised. The source of information identified the contradiction between the presence of a townland issue and the cancellation reason as ‘Discretionary-Medical Emergency’.

Files identified by the source of information as a ‘Townland Incorrect’ issue and are assessed as ‘Lenient Decision Making’ are outlined hereunder;

Example

In November 2012, two FCNs were issued in relation to speeding offences (90/50km, 71/50km). The FCNs were cancelled by an Inspector acting as District Officer for the District where the offence occurred. The cancellation reasons given on PULSE are ‘Data Entry/IT/Garda Errors’ and ‘Discretionary-Medical Emergency’. The applicant did not have any cancellations prior to November 2012.

The applicant’s letter relates to the two FCNs which were issued one week apart. In her letter the applicant states that on both occasions they were rushing to a Doctor to get medication for a condition exacerbated by pregnancy. The medical condition in question was not specified in the documentation attached to the file.

⁹ FCN detections is further explained in this chapter.

A report attached to the file from the Traffic Sergeant stated that the location listed on the FCN contained an incorrect townland and hence both FCNs should be cancelled. A letter was issued by the Cancelling Authority in January 2013 stating that the applicant did not have any obligations in relation to one FCN only. This letter from the Cancelling Authority did not reference the second FCN.

The applicant subsequently replied querying clarification regarding their obligations in relation to the second FCN. The applicant also apologised for the delay in responding and cited the reason for this as child birth. This FCN was subsequently cancelled with the cancellation reason of 'Discretionary-Medical Emergency'.

GPSU Notes;

- The FCN was cancelled under FCPS Full User Manual Policy and Procedures (Third Edition) 2005.
- The difference in cancellation reasons in these cases appears to be related to a genuine mistake by the Cancelling Authority to clarify to the applicant their obligations in relation to both FCNs. This oversight was identified by the applicant and the FCN subsequently cancelled. The applicant was delayed in identifying this due to child birth and this delay would have resulted in an increased fine due after the 28 day period.

The full details of these examples can be found at pages 517 and 518 of Volume Two.

Further Investigation Required

The source of information identified this applicant as a member of An Garda Síochána and expressed concerns that this person had received a cancellation due to 'Townland Incorrect' and other people were penalised on the same date and location.

Example

In February 2013, the applicant, who is a member of An Garda Síochána, (off duty) received an FCN for a speeding offence (80/50km). The FCN was cancelled by the District Officer responsible for the District where the offence occurred, with the cancellation reason given on PULSE as 'Data Entry/IT/Garda Errors'.

The applicant's letter states that she believes the townland entered on the FCN was incorrect. The applicant does not identify herself as a member of An Garda Síochána. Upon receipt of the applicant's letter the Inspector acting as District Officer requested a report from the detecting member on the matter.

GPSU Notes;

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.
- The applicant is a colleague of and works directly with the Cancelling Authority
- The applicant had one previous cancellation at the time of this cancellation.
- No file was received from the District Office responsible for the area where the offence occurred.
- The documentation received from the Cancelling Authority is dated October 2014.
- The Cancelling Authority's report states that he was on Annual Leave at the time of the cancellation, however, PULSE records state that he was the Cancelling Authority.
- Proceedings were instituted in relation to six unpaid FCNs which originated from the same location and date as the cancelled FCN.
- PULSE Court Outcomes for these summonses do not show if the incorrect townland issue was addressed. One summons proceeded to conviction of a fine in a District Court in September 2013.
- The file does, however, contain a copy of an e-mail from the detecting member dated October 2014, outlining his investigation.

The full details of this example can be found at page 478 of Volume Two.

4.9 GPSU Examination in Relation to 'Townland Incorrect'

The decision making files requested by GPSU and the results of the findings are illustrated on Table No. 8. Some of the cancellations identified by GPSU are detailed hereunder;

No Apparent Issues

An example of a decision making file assessed by GPSU with the finding of 'No Apparent Issues' is outlined hereunder;

Example

In January 2013, an FCN was issued for Failing to Display a Current Vehicle Licence. The FCN was cancelled under the FCPS Full User Manual Policy and Procedures (Third Edition) 2005 by the District Officer with jurisdiction for the District where the offence occurred. The cancellation reason given on PULSE is Data Entry/IT/Garda Errors. The applicant did not have any previous cancellations. The application to cancel this FCN, originates from the detecting member who identifies the error, and who also re-issued the FCN with the correct location.

GPSU Notes;

- The FCN in this example was cancelled under the FCPS Full User Manual Policy and Procedures (Third Edition) 2005.
- The re-issued FCN with the correct location was paid.

The full details of this example can be found at page 571 of Volume Two.

Lenient Decision Making

Examples of files assessed by GPSU with the finding of 'Lenient Decision Making' are outlined hereunder;

Example

In March 2014 an FCN was issued in relation to a speeding offence (74/50km). The cancellation reason given on PULSE is 'Undelivered-An Post'. The applicant did not have any previous cancellations. The FCN was cancelled by FCPO following difficulties with postal delivery to a nominated address which was in Irish.

The original FCN was returned with a nomination completed in Irish but the address did not include the townland. The resultant FCN was issued to the nominated person but was returned undelivered by An Post as it had an 'insufficient address'. FCPO sent correspondence to the original applicant informing her of the insufficient address and legislative timeframes and the address was clarified. The nominated driver

Ag obair le Pobail chun iad a chosaint agus chun freastal orthu/Working with Communities to Protect and Serve

(applicant's spouse) called FCPO in relation to the increased penalty due to the timeframes. He was informed by staff in the FCPO that due to a postal error the decision has been taken to cancel the FCN.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- This cancellation was due to the fact that the registered owner gave an Irish translation of the nominated driver (her spouse) without including the townland which led to a delay.

The full details of this example can be found at page 582 of Volume Two.

Example

In July 2013 an FCN was issued in relation to a speeding offence (97/80km). The FCN was cancelled by an Inspector acting as District Officer in the District where the offence occurred. The cancellation reason given on PULSE is 'Data Entry/IT/Garda Errors' and the applicant did not have any previous cancellations. It was the applicant's belief that the FCN contained an incorrect location and time. The applicant also outlined that the manner to which they were stopped and questioned by Gardaí on the night in question was unsafe and left them feeling traumatised.

GPSU Notes:

- The FCN was cancelled under the FCPS Full User Manual Policy and Procedures (Third Edition) 2005.
- The decision making file did not contain a report regarding this FCN from the detecting member.
- A report from the supervisory Sergeant recommended that the matter should be dealt with 'in a sympathetic manner' but the reasoning behind this cancellation is not given and no documentation was attached to the file outlining same.
- There was no documentation attached to the file supporting the applicant's claims that the location was incorrect.

The full details of this example can be found at page 578 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as 'Further Investigation Required' is outlined hereunder;

Example

In May 2013 an FCN was issued in relation to a speeding offence (73/50km). The FCN was cancelled by the District Officer with responsibility for the District where the offence occurred. The cancellation reason given on PULSE is Data Entry/IT/Garda Errors and the applicant did not have any previous cancellations. Having identified the incorrect spelling of the townland within the FCN the District Officer sent a direction to the Traffic Unit to amend the location for future checkpoints and to ensure that the error was not repeated. The report containing this direction conveys the fact that the detecting member communicated that the incorrect townland was a recurring issue at this location.

GPSU Notes;

- The FCN in this example was cancelled under the FCPS Full User Manual Policy and Procedures (Third Edition) 2005.
- On two separate dates, the detecting member brought 17 different summonses before the courts for other persons in receipt of FCNs for this location.
- Eight of these summonses resulted in fines with one of these convictions was subsequently appealed successfully in the Circuit Court.
- PULSE Court Outcomes for these summonses do not show if the 'Townland Incorrect' issue was addressed.

The full details of this example can be found at page 576 of Volume Two.

4.10 FCPO Procedures in Relation to 'Townland Incorrect'

GPSU provided feedback to the source of information in relation to the examination of 'Townland Incorrect'. This feedback comprised of the procedures as set out in the FCPS Policy and Procedures Manual (Fourth Edition) 2014, the internal procedures at FCPO and the relevant legal advice received by GNTB. The details of this information are outlined hereunder.

The person detecting fixed charge offences must record the details of the location where the incident occurred. The location is a mandatory field required to create an FCN. On occasion, the location (or townland) may be entered incorrectly. An incorrect location does not automatically invalidate the FCN.

GNTB have informed GPSU that they received legal advice in 2005, in relation to refunds of fines paid under Road Traffic Acts, where an incorrect speed limit was applied. The legal advice was that the State should take proactive steps to deal with the error that has occurred, including the repayment of fines and the expunging of penalty points.

GNTB received subsequent legal advice in 2011 regarding a case where the speed limits were correct but a technical issue arose in relation to the location. The advice provided that a ‘look back’ of FCNs issued is **not** required in these circumstances. The advice given stated that the onus is on the recipient of the fine to challenge the FCN as it is deemed that An Garda Síochána had issued the fixed charge notices in good faith.

As a consequence of this legal advice, GNTB were of the opinion that in the instance where an applicant receives a cancellation as a result of ‘Townland Incorrect’, it is not necessary to cancel all FCNs for that location. These FCNs were deemed to have been issued in good faith and legal grounds were available to the recipient to challenge the FCN in court. However, on 16th June 2014, the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 introduced new procedures to deal with this issue.

Where it has been confirmed that an FCN has been issued with the ‘Townland Incorrect’, the following procedures apply.

- Where the FCN is unpaid, but within timeframe for cancellation, these are cancelled on FCPS.

- Where the FCN has already been paid, these are refunded and penalty points are expunged.
- Where the FCN was unpaid but is now at summons stage these will be withdrawn.
- Where the detection resulted in a court conviction, these convictions will be requested to be overturned.

Where it is confirmed that there is an issue relating to a location, GNTB advises all safety camera operators to immediately stop detections in that location until the issue is resolved.

Where it is confirmed that the location is correct, the cancellation request is refused in accordance with Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014.

4.11 Discretionary-Medical Emergency

The source of information highlighted a number of incidents where people were receiving cancellations under the cancellation reason ‘Discretionary–Medical Emergency’. The source provided information which suggested that there was no documentation or independent verification provided to support these applications.

44 decision making files were requested by GPSU which had ‘Discretionary–Medical Emergency’ as the cancellation category.

Table No. 9 - Breakdown of Decision making files for Discretionary-Medical Emergency

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	2	4	0	6
Procedural/Systems Issues	0	0	0	0
Technical Breach of Policy	0	0	0	0
Lenient Decision Making	18	2	0	20
Further Investigation Required	10	8	0	18
Total	30	14	0	44

The following are examples of decision making files identified by the source of information and examined by GPSU.

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

In March 2013, the applicant received an FCN for a speeding offence (66/50km). She stated that she was diagnosed with cancer and had been undergoing treatment. She stated she was distracted due to the complications she had been experiencing with her medical treatment.

GPSU Notes;

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.
- The cancellation reason was – ‘Discretionary–Medical Emergency’.
- The applicant had one previous cancellation of an FCN in April 2011. She received another cancellation in August 2013. These two FCNs were cancelled for ‘medical emergencies’.
- There is no documentation on file from the applicant supporting the cancellation, however, a Traffic Corps Sergeant made enquiries and confirmed the applicant’s claims.

The full details of this example can be found at page 473 of Volume Two.

Lenient Decision Making

An example of a file categorised by GPSU as ‘Lenient Decision Making’ is outlined hereunder;

Example

In June 2012 an FCN was issued for a speeding offence (63/50km). The applicant stated she was on the way to work when she received a call that her child was unwell and violently sick. She stated that she continued on to work as she was sole key holder of a business before returning to her sick child.

GPSU Notes;

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.
- The cancellation reason was – ‘Discretionary–Medical Emergency’.
- The time of the detection was 09.46hrs.
- The applicant had one previous cancellation of an FCN in August 2010.

- There is a report from the detecting Garda, attached to the file, stating he had no objection to the cancellation.
- There is no supporting documentation or evidence of the medical emergency included with the application.

The full details of this example can be found at page 550 of Volume Two.

Further Investigation Required

Examples of files categorised by GPSU as ‘Further Investigation Required’ are outlined hereunder;

Example

In December 2013, the applicant, who is a member of An Garda Síochána, received an FCN for a speeding offence (113/100km). The applicant applied for a cancellation stating that she was in a rush home as she had received a call that her mother had an accident and was injured.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘Discretionary–Medical Emergency’.
- The time of the detection was 16.59hrs.
- The applicant had one previous cancellation of an FCN in April 2012. This file was requested and was reported back as not located.
- There is no supporting documentation or evidence of the medical emergency included by the applicant.
- The Cancelling Authority appeared to have acted contrary to HQ Directive 71/2013, as the applicant is a member of An Garda Síochána and this should have been adjudicated by the Divisional Officer in the area where the offence occurred.

The full details of this example can be found at page 404 of Volume Two.

Example

In September 2013, the applicant received an FCN for a speeding offence (67/50km). He requested a cancellation stating that he was rushing to a doctor's appointment after sustaining a sporting injury.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘Discretionary–Medical Emergency’.
- The District Officer, on receiving the application, requested confirmation of doctor's appointment. This was supplied and attached to the file.
- A report from the detecting Garda is attached to the file and stated that he has no objections to the cancellation.
- The medical issue detailed in the applicant's letter did not appear to substantiate an emergency.
- The Cancelling Authority was a Detective Inspector, however, there is no evidence contained in the file to show that he was acting as District Officer at the time.
- The applicant had one previous cancellation of an FCN in February 2012 for speeding (81/60km). There was no reason recorded for this cancellation on PULSE. This file was requested and the applicant stated that he was late for training and he wanted to show his dedication by being on time. The comment section within the cancellation field on PULSE read ‘Humanitarian Grounds’.

The full details of this example can be found at page 397 of Volume Two.

4.12 GPSU Examination in Relation to Discretionary–Medical Emergency

GPSU requested data in relation to cancellation reason, ‘Discretionary-Medical Emergency’ from the dates 1st July 2013 to 31st August 2013 and 1st July 2014 to 31st August 2014. The resulting data shows a significant reduction in the figures from 156 cancellations down to 1.

It is significant that this reduction follows the introduction of the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014. The manual

required the applicant to submit supporting documentation when requesting an FCN cancellation. The manual has provided the Cancelling Authority with guidance in relation to this cancellation request reason and on the Cancellation Request Form. The rationale for considering medical emergencies was documented in the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014. The circumstances in which these applications should be considered are as follows;

- An application will be considered from a person who was bringing someone to hospital due to a medical emergency where it is believed the life of the person is at risk. An application from a person travelling to a medical appointment will be refused.
- An application from a Doctor responding to an emergency, where the information indicates that the life of a person is at risk will be considered, while an application from a Doctor who was travelling to a routine call will be refused.
- An application from a person transporting someone who at short notice is required to attend a hospital for urgent treatment will be considered, while an application from a person transporting a person to a hospital for routine medical treatment will be refused.

An example of a decision making file assessed by GPSU with the finding of ‘No Apparent Issues’ is outlined hereunder;

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

In February 2014, the applicant received an FCN for a speeding offence (118/100km). He stated he was rushing to get medication for a serious medical condition.

GPSU Notes;

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘Discretionary-Medical Emergency’.
- The applicant had no previous cancellations of FCNs.

- Documentation is attached to the file to support the applicant's request.
- There is certification on file that the Cancelling Authority was an Inspector acting as District Officer.
- There was clear decision making rationale regarding the cancellation attached to the file.

The full details of this example can be found at page 247 of Volume Two.

Technical Breach of Policy

An example of a file categorised by GPSU as 'Technical Breach of Policy' is outlined hereunder;

Example

In August 2013, the applicant received an FCN for a speeding offence (145/120km). He was a dentist on-call and had to attend to a medical emergency. A Traffic Corps Garda issued the FCN and it was cancelled by the Inspector acting as District Officer where the Divisional Traffic Unit was based.

GPSU Notes;

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – 'Discretionary–Medical Emergency'.
- The applicant had no previous cancellation of FCNs.
- The rationale for the decision to cancel the FCN was clear on the file.
- Supporting documentation was included in the file.
- The reason for classification by GPSU as a 'Technical Breach of Policy' is because this FCN should have been forwarded to the District Officer in whose jurisdiction the detection was made.

The full details of this example can be found at page 253 of Volume Two.

4.13 Recommendations

As a result of the examination of cancellations conducted under the 'Information Received' chapter, GPSU makes the following recommendations;

- GPSU recommend that consideration should be given to legislative changes to allow the suspension of the statutory time limit of 28 days in circumstances where an application for cancellation of an FCN is received. This will allow the FCPO sufficient time to conduct the necessary enquiries into each application.
- GPSU recommend that consideration should be given to increasing the statutory time period for initiation of criminal proceedings for FCNs to 12 months instead of the current period of 6 months. This will allow sufficient time to conduct the necessary enquiries for FCNs that are returned undelivered or where nominations are received.

5 UNDELIVERED – AN POST

5.1 Introduction

The source of information highlighted the lack of follow-up in relation to FCNs that were cancelled under the cancellation category ‘Undelivered-An Post’. This category is used for notices which are returned undelivered by An Post. The source of information also highlighted the fact that 23 of the 115 individuals had received a total of 56 cancellations under this cancellation category.

Table No. 10 – ‘Undelivered-An Post’ Cancellations Identified by the Source of Information

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	1	0	0	1
Procedural/Systems Issues	5	21	5	31
Technical Breach of Policy	0	0	0	0
Lenient Decision Making	0	0	0	0
Further Investigation Required	2	18	4	24
Total	8	39	9	56

5.2 Information Received From the Source

There are 56 FCNs cancelled under the category ‘Undelivered-An Post’ from information received. All of these decision making files were requested. Three of these FCNs relate to two members of An Garda Síochána and the remaining 53 related to 21 other people.

From the information received, GPSU has identified examples of persons receiving multiple cancellations under the category ‘Undelivered-An Post’.

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

In July 2014, an individual was issued with two FCNs for two non-intercept speeding offences (79/60km and 83/60km). Both FCNs were returned to the FCPO and cancelled under cancellation reason ‘Undelivered-An Post’.

GPSU Notes;

- The FCN in this example was cancelled under the FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The vehicle is registered at an address in a housing estate and checks on PULSE indicate the registered owner is linked to the address.
- Seven previous FCNs were returned ‘Undelivered-An Post’ in relation to this vehicle since April 2012.
- It is recorded on PULSE that there are currently Garda enquiries being conducted in relation to the applicant.
- FCPO cancelled ‘Undelivered-An Post’ as per internal procedures.¹⁰

The full details of these examples can be found at pages 352 and 353 of Volume Two.

Procedural/Systems Issues

An example of a file categorised by GPSU as ‘Procedural/Systems Issues’ is outlined hereunder;

Example

In November 2013 the driver of a vehicle was detected for speeding (77/60Km) and an FCN was subsequently issued to the address relevant to the vehicle, as attached to

¹⁰ FCPO internal Procedures are detailed later in this chapter.

the National Vehicle File. This FCN was subsequently returned to FCPO as 'Undelivered-An Post' with the relevant pink slip completed by the postman stating the recipient was 'unknown at this address'.

GPSU Notes:

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The FCN is recorded as cancelled under the Cancellation Reason 'Undelivered-An Post'.
- The applicant had two cancellations prior to this example between July 2013 and December 2013.
- This file was cancelled as a result of Procedural/Systems Issues.
- The policy at the time was to cancel all non-intercept tickets that were returned as 'Undelivered-An Post'. FCNs were proceeding to court which was contrary to legislation, as the recipient was not afforded the opportunity to pay the FCN.

The full details of this example can be found at page 416 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as 'Further Investigation Required' is outlined hereunder;

Example

In August 2014, an FCN for Non Display of a Tax Disc was sent to the registered owner of a vehicle. This FCN was returned to the FCPO as an 'Undelivered An Post'. FCPO sent correspondence to the Superintendent of the District where the FCN originated to request the detecting member to check if there was an error on the address and, if an alternative address was available and if time permitted, requesting the detecting member to complete a new notepad.

GPSU Notes:

- The FCN in this example was cancelled under the policy of the FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The FCN is recorded as cancelled under the Cancellation Reason 'Undelivered An Post'.

- There is no documentation attached to the file to show the level of follow up conducted by the detecting member.
- The applicant had four previous FCNs cancelled due to 'Undelivered-An Post'.
- These four cancellations occurred between April 2014 and July 2014.

The full details of this example can be found at page 344 of Volume Two.

5.3 GPSU Examination in Relation to Undelivered-An Post

'Undelivered-An Post' is the cancellation category used for notices which are returned undelivered by An Post. Another similar category titled 'Undelivered-Public Returns' was introduced on 27th July 2014 as part of PULSE Release 6.6.2. It was added as a new cancellation reason and relates to notices that are returned undelivered by residents/owners at the address recorded on the FCN.

There were a total of 5,848 cancellations for the period 1st September 2013 to 31st August 2014 with the cancellation reason 'Undelivered-An Post'. The figures for the whole year can be broken down as follows, in terms of offender names;

- 4,379 names have one associated cancellation.
- 519 names have more than one associated cancellation, resulting in a total of 1,231 cancellations.
- 238 cancellations are recorded as 'blank' in the name section, with no associated name recorded. This would include for example company cars.

From the 5,848 'Undelivered-An Post' cancellations recorded, GPSU requested the number of FCNs that were re-issued and the return was 1,049. This indicates a re-issue rate of approximately 18%.

For the period 16th June 2014 to 16th September 2014, a total of 879 Handheld and Notepad FCNs were cancelled due to undelivered by An Post. A total of 315 of these notices have been re-issued which gives a re-issue rate of 36%. A total of 220 FCNs could not be re-issued due to a variety of reasons including - no other address

available, too late to re-issue and no longer at address. Investigations by the FCPO are continuing on the remaining notices (344) with the relevant District Officers.

This examination highlighted a number of difficulties in relation to the cancellation category ‘Undelivered-An Post’. These include the following;

- Nominated drivers with an address outside the jurisdiction.
- Vehicles that are registered as ‘company cars’ and do not have an individual as a registered owner.
- Multi-occupancy residences which are addresses that have multiple occupants and it is therefore difficult to deliver an FCN. This would include apartment blocks, boarding houses, bedsits, subdivided houses and halting sites.
- Registered owner names and addresses which were misspelled and cannot be served.
- Incorrect details entered on the NVDF and procedural issues in relation to amending same.

5.4 GPSU Examination of Cancellations Involving Members of An Garda Síochána in Relation to Undelivered-An Post

GPSU examined the full list of applicants who received cancellations for the period for 1st July 2014 to 31st August 2014 totalling 1,011 and compared them with the Garda human resources database to establish if any of the cancellations for ‘Undelivered-An Post’ were possibly members of An Garda Síochána.

15 possible matches were identified and GPSU requested the relevant correspondence from FCPO. From the examination of these 15 decision making files and subsequent enquiries, GPSU have positively identified one member of An Garda Síochána and recommends that the matter is further investigated.

Example

In July 2014, the applicant, who is a member of An Garda Síochána, received an FCN for a speeding offence (110/100km). This FCN was cancelled as it was returned ‘Undelivered-An Post’.

GPSU Notes;

- The FCN in this example was cancelled under the FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- The envelope was marked as '*Gone away*' and a handwritten note stating '*no longer at this address*' was on the envelope.
- This Garda member had previously received an FCN cancellation for a speeding offence (73/50km) in March 2012 under the cancellation reason of 'Discretionary-Medical Emergency'.
- For the FCN that was previously cancelled, it was the same registered owner but with a different address.

The full details of this example can be found at page 584 of Volume Two.

5.5 FCPO Procedure for 'Undelivered-An Post' Cancellations

The policy and procedures used within FCPO for processing FCNs which have been returned undelivered from An Post for Handheld, Notepad and Safety Camera FCNs from 6th June 2014 are as follows;

When FCNs from all handheld devices and notepads are returned 'Undelivered-An Post', they are forwarded to the Garda member who issued them. Garda Members are advised to re-issue the ticket if they are aware of a new address, if the address was incorrectly inputted or if he/she is aware that the person is actually living at the address that the FCN was sent to in the first instance. The Garda member is also asked to let the FCPO know if a replacement FCN is issued. The FCPO has set up a spreadsheet where a monthly reminder will issue to the District Officer to follow up on any FCNs unaccounted for.

With regard to 'S' (Safety Cameras) FCNs there are two different procedures; (1) a nomination returned undelivered or (2) an FCN issued using NVDF data. Where a nomination is returned undelivered, a letter is sent to the registered owner requesting clarification of the address. In the case of Safety Camera FCNs returned undelivered,

which were issued using NVDF data, previous cancellation checks are now completed since August 2014.

Multiple FCNs cancelled for ‘Undelivered-An Post’, are forwarded to the District Officer for further investigation. FCPO has also sent a number of queries to the Department of Transport, Tourism and Sport for follow up in relation to the details recorded on the NVDF. Where no new address is available, the FCN is cancelled under ‘Undelivered-An Post’.

5.6 New Procedures at FCPO from 17th October 2014

On 17th October 2014, Assistant Commissioner Traffic directed the FCPO to commence the following procedure when no new address details are available. When a non-intercept FCN is returned undelivered to the FCPO, the FCNs are now returned to the relevant Regional Traffic Superintendent for personal service where time permits.

- a. The rule relating to ‘**where time permits**’ means that the time between the date of notice and the date the FCN was received back into this office must be **18 days or less**.
- b. Undelivered FCNs should be dealt with **on the same day** that they are received into FCPO. This is to ensure that the recipient has a period of time to, where appropriate, nominate the driver or pay the FCN at the initial 28 day payment period charge of €80.
- c. If the time between date of notice and the date the FCN was received back into this office is greater than 18 days, then it should be cancelled as normal.

5.7 Increase in ‘Undelivered-An Post’ Cancellations

GPSU requested the ‘Undelivered-An Post’ cancellations from 1st September 2012 to 31st August 2013 compared with 1st September 2013 to 31st August 2014 and found that they had increased from 2,569 to 5,848 in 2014. FCPO have explained that this

increase followed the introduction of internal procedures on 5th September 2013, where all 'Undelivered-An Post' returns were cancelled by FCPO on receipt.

Prior to 5th September 2013, the policy was not to cancel these FCNs but instead to forward them to the local District Office for personal service. Where service of the FCN could not be effected, a summons was issued and the case proceeded to court. This highlighted another issue; the legislation requires that the person must first be served with an FCN and afforded the opportunity to pay before a prosecution can be instituted. These summonses were being struck out as the offender did not receive the FCN.

Consequently, a decision was taken that FCPO should cancel all undelivered non-intercept FCNs resulting in the increase referred to. As stated previously, a different procedure is adopted for Notepad and Handheld FCNs.

National Vehicle and Driver File

In relation to non-intercept FCNs, the name and address details on the FCN are taken from the NVDF which is maintained and updated by the Department of Transport, Tourism and Sport (Driver Vehicle Computer Services Division). These are the only details on record for this vehicle and if the FCN is returned undelivered by An Post, there is no further action that can be taken in relation to that FCN. Once an FCN issues from the system, FCPS does not allow for updates to the names and address as a result of which there is currently no facility to re-issue a safety camera FCN.

5.8 GNTB Initiatives to Address 'Undelivered-An Post' FCNs

Analysis of Address of Cancelled FCNs Returned 'Undelivered-An Post'

In September 2014, GNTB requested a report that identified a sample of cancelled FCNs returned undelivered by An Post since June 2014 for vehicles with more than two notices recorded on FCPS.

This report was forwarded to Regional Traffic Superintendents for investigation to establish if service could be executed to the names and addresses associated with these vehicles.

The results of the investigation confirmed that in almost all of the cases, the registered owner information was not accurate and up to date. This resulted from a number of circumstances, including; no longer resident at the address, never lived at the address, address details incomplete, not the registered owner, incorrect address details furnished to hire company, moving between addresses and travelling criminals avoiding service. In four cases, the Gardaí are actively pursuing the registered owner and have placed warnings on PULSE in an effort to intercept the cars in future.

The system will not allow the re-issue of Safety Camera 'S' notices as the information retained on the NVDF identifying the registered owner cannot be altered. If the registered owner provides the Department of Transport, Tourism and Sport with the Vehicle Licensing Certificate to confirm that the ownership has changed, the new ownership details will be recorded. The FCPO has requested people who state that they are no longer the registered owner, to provide a statutory declaration to this effect and to furnish a copy to the Department of Transport, Tourism and Sport to notify them of the change of ownership. While the Department will confirm that they are no longer the registered owner, they will not update the records with the correct registered owner until the Vehicle Licensing Certificate is provided.

Envelope Changes

The FCPO has recently introduced a new envelope to post the FCN to offending drivers. This envelope has changed the pre-printed return address so that it is not identifiable as originating from the Fixed Charge Processing Office. The FCPO is monitoring the undelivered statistics to see if this initiative makes a notable difference in the 'Undelivered-An Post' returns.

Black Listed Vehicles

In relation to cancellations for 'Undelivered-An Post', FCPS maintains a list of vehicle registration numbers that are not to be cancelled as a result of advice from

members of An Garda Síochána. The Garda members confirm that the name and addresses of the driver of the vehicle are correct and that the driver does reside at the address provided on the FCN. The procedure is not to cancel the FCN but to send it back to the Garda member to serve directly to the person at the address. These relate to Handheld and Notepads FCNs only.

GPSU notes that five FCNs were cancelled under FCPS Policy and Procedures Manual (Fourth Edition) 2014 and are recommended by GPSU as 'Further Investigation Required'. These are being recommended for further investigation by An Garda Síochána to establish if all procedures were followed in relation to the re-issue of these FCNs that were returned 'Undelivered-An Post'.

In relation to four out of these five it is the opinion of GPSU that this is a procedural issue and that the system requires assessment and these files are being sent forward so that the new procedures introduced by GNTB can be assessed.

5.9 Recommendations

As a result of the examination of cancellations conducted under 'Undelivered-An Post' GPSU makes the following recommendations;

- An Enforcement Unit should be established at FCPO which will facilitate more extensive enquiries to provide the Cancelling Authority with as much information as possible to assist in the decision making process. It is suggested that this unit should comprise one Sergeant and four Garda members who have access to PULSE to conduct enquiries. One member should be a trained Criminal Intelligence Officer.
- GPSU recommend that consideration should be given to legislative changes to allow the suspension of the statutory time limit of 28 days in circumstances where FCNs are returned 'Undelivered-An Post'. This will allow the FCPO sufficient time to conduct the necessary enquiries into each application.

6 TECHNICAL ISSUES IDENTIFIED

As a result of this examination, a number of technical issues have been identified by GPSU and merit inclusion in the report. These are set out hereunder.

6.1 Scanning Incorrect Registration Numbers

GPSU requested data in relation to 'Scanning - Incorrect Registration Number' for the period 1st July 2013 to 31st August 2013 compared with 1st July 2014 to 31st August 2014. The data received showed a reduction in the figures from 384 for 2013 to 152 for 2014.

From the examination conducted, seven cancellations were identified as having scanning related issues. Decision making files were requested and examined.

Registration plates on vehicles are being scanned incorrectly due to the fact that the screw attaching the registration plate was placed on a number that alters its appearance e.g. a 6 could become an 8 depending on the position of the screw in the registration number plate.

Where possible, the FCPO establishes the correct registration number and the FCN is re-issued. This occurred in six of the seven files examined by GPSU for 'Scanning - Incorrect Registration Number'.

No Apparent Issues

An example of a file categorised by GPSU as 'No Apparent Issues' are outlined hereunder;

Example

In May 2014, an FCN was issued for a speeding offence (71/50km). The applicant contacted FCPO and stated that the vehicle was not in the area at the time.

GPSU Notes;

- The FCN in this example was cancelled under HQ Directive 71/2013.

- The image was reviewed by FCPO and the vehicle detected was a different registration; the digit was read as an 8 instead of a 6.
- The FCN was re-issued with the correct registration number.

The full details of this example can be found at page 412 of Volume Two.

6.2 National Vehicle and Driver File

The category ‘NVF-New Owner’ records cancellations where data retained on the National Vehicle and Driver File is inaccurate. It also records where the vehicle has been sold and documentation confirms that the new registered owner was not the owner on the date of the offence.

The NVDF file cannot be updated unless a Vehicle Licensing Certificate is provided by the registered owner to the Driver and Vehicle Computer Services Division of the Department of Transport, Tourism and Sport. FCPO frequently request people, who state that they are no longer the registered owner, to provide a statutory declaration to this effect. The applicant is also required to furnish a copy to the Department of Transport, Tourism and Sport to notify them of the change of ownership. While the Department will confirm that the person is no longer the registered owner, it will not update the records with the correct registered owner until the Vehicle Licensing Certificate is provided.

6.3 Image Unsuitable

This category relates to cancellations of FCNs where the image captured on camera is unsuitable. An example of one such file is outlined hereunder;

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ are outlined hereunder;

Example

In December 2013 and January 2014, four FCNs were issued for speeding offences for speeds ranging from 63-67/50km. The applicant contacted FCPO requesting a picture of the vehicle. The applicant stated that he was not driving at that location but that the vehicle was parked outside his house and the safety camera van was parked 40 yards from his house. The picture was viewed by FCPO and there were two vehicles in the scanned image at the time the FCN was captured. One vehicle was that of the applicant while it was stationary outside his house.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The vehicle in the image is not the same make or model as the applicant's vehicle.
- The applicant's registration number was captured each time another vehicle which was travelling over the speed limit passed the safety camera van.

The full details of these examples can be found at pages 441- 444 of Volume Two.

6.4 Payment Processing Issues

Payment of an FCN operates through an outsourced payment provider, via post, in person at any of the outsourcer's automated outlets or over the telephone. There is no facility to postpone, intervene or alter these timeframes or to retrospectively process payments once the notice has proceeded beyond the 28 day or 56 day intervals. An example of one such file is outlined hereunder;

Procedural/Systems Issues

An example of a file categorised by GPSU as 'Procedural/Systems Issues' are outlined hereunder;

Example

In November 2013 an FCN was issued for a speeding offence (109/100km). The declaration was completed on the FCN and the applicant attempted to pay the fine. However, the name on the FCN was different to that on the driving licence.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- A short version of the name was used on the notice.
- This difference in the name resulted in a rejection of the payment.
- Documentation attached to the file received, indicates that checks were carried out by the FCPO.

The full details of this example can be found at page 413 of Volume Two.

6.5 Data Entry Error

The GPSU examination identified an issue in relation to data entry error related to the identification of the Cancelling Authority. A District Inspector based in Dublin appeared to cancel a number of FCNs at various locations throughout the country. GPSU requested files in relation to this and similar incidents. As a result of this examination, it transpired that the Cancelling Authority based in the FCPO in Thurles had, in fact, conducted the cancellations of these FCNs. When these FCN cancellations were recorded at FCPO on the FCPS system there was a simple data entry error due to the fact that the registered number of the Cancelling Authority is next in the dropdown list to the Dublin based Inspector.

This had previously been identified as an issue by FCPO, and, on 27th August 2014, they made an urgent request to ICT to amend the Garda dropdown list on the FCPS cancellations screen to include only the current Cancelling Authority as defined in HQ Directive 48/2014 and the FCPS Policy and Procedures Manual (Fourth Edition) 2014. All seven of these examples were cancelled under HQ Directive 71/2013 and were given a GPSU finding of 'Procedural/Systems Issues'.

The full details of these examples can be found at pages 40, 585-590 of Volume Two.

6.6 Cloned Registration Number Plates

GPSU has identified an issue in relation to replica (cloned) registration number plates being used without the registered owner's knowledge. The GPSU examination identified examples where FCNs were issued for three speeding offences for the same vehicle. This example is outlined hereunder;

No Apparent Issues

An example of a file categorised by GPSU as 'No Apparent Issues' are outlined hereunder;

Example

In March 2014, an FCN was issued for a speeding offence (60/50km). The applicant contacted the FCPO stating that another vehicle had cloned her vehicle registration plates and she had two other FCNs cancelled previously for the same reason. The registered owner subsequently requested a cancellation stating that she was nowhere near the location when the speeding offence was detected.

GPSU Notes;

- The FCN in this example was cancelled under HQ Directive 71/2013.
- FCPO examined the scanned image for this incident and concluded the vehicle was not the same make and model as the applicant's vehicle.
- The FCN was cancelled under the category 'Detection Details (Error)'.

The full details of this example can be found at page 436 of Volume Two.

6.7 Recommendations

As a result of the examination of cancellations conducted under Technical Issue GPSU makes the following recommendations;

- Civilian staff in FCPO should receive training and access to the PULSE system to facilitate the checking of all relevant information.

- To improve data entry at FCPO, it is recommended that a change should be made to the IT system in order that the registration numbers of the cancelling authorities are the only registration numbers available for selection from the drop down menu. This has previously been identified as an issue by FCPO.
- A mechanism should be implemented at District level to monitor cancellation requests made by Garda members for data entry errors to reduce the recurrence of these errors and to ensure that a subsequent FCN is issued in cases where it is warranted.
- Where it has been established that the NVDF address details are incorrect, a mechanism should be introduced to address issues to the Driver and Vehicle Computer Services Division (DVCSD) of the Department of Transport, Tourism and Sport for rectification. This would assist in the reduction of cancellations of FCNs due to non-delivery and the associated administrative burden.
- Consideration should be given to the introduction of a mechanism whereby a registered owner of a vehicle will be restricted from obtaining tax for their vehicle or registering for a National Car Test (NCT) if there is an outstanding FCN attached to that vehicle or for the registered owner.

7 STATUTORY EXEMPTIONS/EMERGENCY VEHICLES

7.1 Introduction

Where a member of the Emergency Services is the recipient of an FCN and the driving or use of the vehicle was in the performance of their duty, they may seek to have the FCN cancelled on the basis of statutory exemption under the provisions of Section 87 of the Road Traffic Act, 2010, as amended.

PULSE Release 6.3.2 introduced the new category of cancellation titled 'Statutory Exemptions/Emergency Vehicle'. This was applied to the FCPS on 28th March 2012.

Since the introduction of FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014 a total of seven FCNs have been cancelled up to 1st November 2014 under the cancellation category 'Statutory Exemptions/Emergency Vehicles' for members driving their private cars while on duty. The review and decision making process for a cancellation under Statutory Exemption in circumstances where a member of An Garda Síochána was driving a private vehicle, is currently the sole responsibility of Chief Superintendent, GNTB.

7.2 Information Received From the Source

The source provided information on cancellations in the category 'Statutory Exemptions/Emergency Vehicles Category' stating that some members of An Garda Síochána were using this category in circumstances where it was not clear that the Garda members were on duty.

From information received from the source of information, GPSU examined 32 applications for cancellation under the category 'Statutory Exemptions/Emergency Vehicle'. These related to applications for cancellation from 21 members of An Garda Síochána who had made an application for cancellation while driving their private vehicles during the course of their duties.

A total of 32 files were reviewed under the following policies;

- The Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005, (effective from December 2005 to 29th August 2013);
- HQ Directive 71/2013, 'Revised Cancellation Procedures - Fixed Charge Processing System (FCPS)', (effective from 30th August 2013 to 15th June 2014);
- Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014, (effective from 16th June 2014 to present day).

Of the 32 files examined, five were assessed as 'No Apparent Issues'. Ten were assessed as 'Lenient Decision Making' and 17 were assessed as 'Further Investigation Required'. These are detailed in the Table 11 hereunder;

Table No. 11 - Breakdown of Decision Making Files Identified by the Source of Information

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	1	1	3	5
Procedural/Systems Issues	0	0	0	0
Technical Breach of Policy	0	0	0	0
Lenient Decision Making	2	7	1	10
Further Investigation Required	16	1	0	17
Total	19	9	4	32

These 32 applications have been cancelled under four different categories, namely – 'Statutory Exemptions/Emergency Vehicle', 'Discretionary-Other', 'Blank (No

Reason Given)' and 'Incorrect Speed Limit'. These are detailed in the Table No. 12 hereunder;

Table No. 12 - Breakdown of Cancellation Reasons Recorded

Cancellation Reason	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
Statutory Exemption/Emergency Vehicle	2	3	3	8
Discretionary – Other	13	6	0	19
No Reason Given (Blank)	4	0	0	4
Speed Limit Incorrect	0	0	1	1
Total	19	9	4	32

The following are examples of the decision making files in relation to Statutory Exemptions/Emergency Vehicle highlighted by the source of information.

No Apparent Issues

An example of a file categorised by GPSU as 'No Apparent Issues' is outlined hereunder;

Example

In September 2014, the applicant, who is an Inspector in An Garda Síochána, was issued with an FCN in relation to a speeding offence (115/100km). He stated he was on duty and attended a scheduled meeting at 12.30hrs in a Garda Station, where he briefed a Superintendent and Inspector regarding a review of an investigation. The meeting concluded at circa, 14.00hrs. He stated that he had a further meeting

scheduled for 15.30hrs with an Assistant Commissioner in Dublin in respect of an urgent affidavit required as part of an investigation.

GPSU Notes:

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014.
- The cancellation reason was – ‘Statutory Exemptions/Emergency Vehicle’.
- GPSU note that the time of the offence was 14.54hrs.
- The applicant has no previous cancellations of FCNs.
- There was good supporting documentation received by the applicant to support the fact that he was on duty at the time (a copy of his duty roster (A.85), a copy of his Locomotion Allowance for September 2014 and a copy of a form to use private motor vehicle on official business).
- There is a report attached to the file from the applicant’s ‘Manager’ (a Detective Superintendent) stating that the applicant was on duty at the time.
- The correct procedure was adhered to in seeking the opinion of the District Officer in whose District the detection was made, as to whether the driving had endangered the safety of road users.
- The completed Garda FCN Cancellation Request Form – Category C was fully completed and in order.
- The FCN was cancelled by an appointed Cancelling Authority.

The full details of this example can be found at page 354 of Volume Two.

Lenient Decision Making

An example of a file categorised by GPSU as ‘Lenient Decision Making’ is outlined hereunder;

Example

In October 2013, the applicant, who is a Sergeant in An Garda Síochána, was issued with an FCN in relation to a speeding offence (72/50km). He stated that he was a Sergeant working in the District where the offence occurred and that he was speeding as a result of observing a suspicious car he believed to be involved in a number of recent burglaries.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘Discretionary-Other’.
- The applicant has one previous cancellation of an FCN in February 2012.
- The applicant was off duty at the time and was driving his own private car.
- A report is attached to the file from the detecting Garda who stated that they had no issue with the cancellation of the FCN.
- The decision made by the Cancelling Authority was within jurisdiction.
- The decision rationale was included.
- There was no supporting documentation attached to the file that outlined the circumstances of the incident, the details of the suspicious vehicle or whether or not the applicant sought assistance from Gardaí on the day in question.

The full details of this example can be found at page 382 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as ‘Further Investigation Required’ is outlined hereunder;

Example

In March 2011, the applicant, who is a Superintendent in An Garda Síochána, received an FCN in relation to a speeding offence (97/80km). In the written application for the cancellation, which was on Garda headed paper, the applicant stated he was on official Garda duty at the time. He forwarded the application to his Inspector in the District who subsequently conducted the cancellation.

GPSU Notes:

- The FCN in this example was cancelled under Fixed Charge Processing System Full User Manual Policy and Procedures (Third Edition) 2005.
- There was no reason given for this cancellation recorded on PULSE; however, it does reference a file number.
- The applicant received a cancellation in August 2012 under the category ‘Statutory Exemptions/Emergency Vehicle’. He had three FCNs that proceeded to

summons from September 2010 to December 2013. All three summonses have been ‘struck out–not served’.

- HQ Directive 45/2009 stated that *‘No Superintendent/or 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’*.
- This cancellation does not appear to comply with HQ Directive 45/2009. This FCN was cancelled in breach of policy as the Divisional Officer did not adjudicate on the matter.

The full details of this example can be found at page 565 of Volume Two.

7.3 GPSU Examination in Relation to Statutory Exemptions/Emergency Vehicle

In order to evaluate FCNs cancelled using the ‘Statutory Exemptions/Emergency Vehicles’ category, GPSU requested a list of FCPS cancellations for the period 1st September 2013 to 31st August 2014. The data provided established that FCN cancellations under this category accounted for 685 cancelled FCNs associated with 382 different vehicles. All vehicles were subsequently classified into the categories ‘Emergency Vehicles-Garda’, ‘Emergency Vehicles Other than Garda’ or ‘Other Vehicles’ and the numbers in each category are illustrated in Table No. 13 hereunder;

Table No. 13 - Cancellation Reason ‘Statutory Exemptions/Emergency Vehicles’

Statutory Exemptions/Emergency Vehicles	Number of Vehicles	Number of Cancellations
Emergency Vehicles - Garda Vehicles	286	492
Emergency Vehicles - Other than Garda Vehicles	50	136
Other Vehicles	46	57
Total	382	685

Garda Vehicles

GPSU categorised vehicles as ‘Emergency Vehicle-Garda Vehicles’ if the name/address indicates that it is a Garda vehicle. 286 vehicles, accounting for 492 cancellations, have been verified by the Garda Transport Section as Garda vehicles with the exception of two vehicles. Files in respect of these two vehicles and their respective two cancellations were examined and confirm that the vehicles were on hire/lease to An Garda Síochána at the relevant time. The full details of these vehicles can be found at pages 70 and 71 of Volume Two.

Emergency Vehicles - Other than Garda Vehicles

GPSU categorised vehicles as ‘Emergency Vehicles-Other than Garda Vehicles’ if the address indicates that the vehicles are attached to an ambulance service, hospital or fire station. Section 87 of the Road Traffic Act, 2010 as amended, specifically refers to only Garda, Ambulance and Fire Vehicles. 50 emergency vehicles other than Garda vehicles are recorded under this category, accounting for 136 cancellations. These vehicles have been verified using the PULSE vehicle check system.

Other Vehicles

The remaining 46 vehicles categorised as ‘Other Vehicles’, account for 57 cancellations. These vehicles are associated with various addresses, some of which can be linked with emergency services, for example a Regional Office Fleet Management Department attached to a hospital. Seven relate to private vehicles of Garda members, who sought and were granted statutory exemption cancellations.

Decision making files in relation to four vehicles which account for 10 cancellations were previously requested as part of the GPSU examination. These four files are included in chapter four of this report. Decision making files relating to the cancellation of the remaining 42 vehicles (representing 47 cancellations) were requested. This included the seven private vehicles of Garda members, who were granted statutory exemption cancellations.

GPSU examined the 47 decision making files that were cancelled under the category ‘Statutory Exemptions/Emergency Vehicles’. The categorisation of the files examined is outlined in Table No. 14 hereunder;

Table No. 14 - Categorisation of FCNs for ‘Other Vehicles’

Categorisation of FCNs for ‘Other Vehicles’	
Fire Service Vehicles	12
Ambulance Service Vehicles	18
Vehicles ‘On-Hire’ to An Garda Síochána	3
Private vehicles (Gardaí)	7
Private vehicles (Other than Gardaí)	3
Other (Irish Coast Guard, NeDoc, NOWDOC)	4
Totals	47

Of the 47 files examined, 38 have been assessed as having ‘No Apparent Issues’. Four files have been assessed as being within policy but with Lenient Decision Making. Four files were found to have Technical Breach of Policy. One file has been recommended as Further Investigation Required. These figures are illustrated in the Table No. 15 below;

Table No. 15 - Breakdown of Decision Making Files for ‘Other Vehicles’

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	0	34	4	38
Procedural/Systems Issues	0	0	0	0
Technical Breach of Policy	0	4	0	4
Lenient Decision Making	0	4	0	4
Further Investigation Required	0	0	1	1
Total	0	42	5	47

The following are examples of the decision making files identified and examined by GPSU in relation to Statutory Exemptions/Emergency Vehicle.

No Apparent Issues

An example of a file categorised by GPSU as ‘No Apparent Issues’ is outlined hereunder;

Example

In April 2014, the applicant, who works with the Fire Service, was issued with an FCN in relation to a speeding offence (69/50km). He stated that he was on his way to a fire call. He had mobilised three minutes before the speeding detection occurred. The applicant was using his father’s vehicle at the time to go to a fire station.

GPSU Notes;

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The cancellation reason was ‘Statutory Exemptions/Emergency Vehicle’.
- The applicant has no previous cancellation of an FCN.
- The FCN was cancelled within the jurisdiction of the Cancelling Authority.
- The FCN Cancellation Request Form was complete and in order.
- A letter from the recipient of the FCN stated that his son was using his vehicle to attend to an emergency call.
- There is documentation on the file from a Fire Station showing a log of the emergency call attended to.
- This vehicle was a private vehicle that was being used by a Fire Officer to attend to an emergency call.

The full details of this example can be found at page 87 of Volume Two.

Technical Breach of Policy

An example of a file categorised by GPSU as ‘Technical Breach of Policy’ is outlined hereunder;

Example

In October 2013, a marked Coastguard vehicle received an FCN for a speeding offence (92/80km) while responding to an emergency call. The applicant stated that a marked Coast Guard SAR Operations Manager's vehicle was responding to an emergency call at the Helibase at an Airport.

GPSU Notes:

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The cancellation reason was 'Statutory Exemptions/Emergency Vehicle'.
- The applicant has no previous cancellations of FCNs.
- The FCN was cancelled within the jurisdiction of the Cancelling Authority.
- There is no documentation attached to the file to corroborate the letter of the applicant.
- The vehicle is not an emergency vehicle (as outlined under Section 87 of the Road Traffic Act, 2010, as amended) and the classification of the cancellation was not appropriate.
- It may have been more appropriate to consider the application under 'Discretionary - Other'.

The full details of this example can be found at page 90 of Volume Two.

Lenient Decision Making

An example of a file categorised by GPSU as 'Lenient Decision Making' is outlined hereunder;

Example

In January 2014, the applicant received an FCN for a speeding offence (59/50km). She stated she was a Public Health Nurse and she received a call to attend to a patient who needed immediate assistance. She decided to get to see her patient as soon as possible and stated her patient was in need of immediate assistance.

GPSU Notes:

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.

- The cancellation reason was ‘Statutory Exemptions/Emergency Vehicle’.
- The applicant has no previous cancellations of FCNs.
- The FCN was cancelled within the jurisdiction of the Cancelling Authority.
- The applicant provided further documentation to prove that she was a ‘Public Health Nurse’.
- There is no reference on the file to the Cancelling Authority checking for previous cancellations.
- There is no document attached to the file to corroborate the nature of the ‘immediate assistance’ that was required of the applicant.
- There is a typed copy of FCN cancellation form attached to the file.
- The vehicle is not an emergency vehicle (as outlined under Section 87 of the Road Traffic Act, 2010 as amended) and the cancellation should have been recorded under cancellation category ‘Discretionary-Other’.

The full details of this example can be found at page 86 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as ‘Further Investigation Required’ is outlined hereunder;

Example

In June 2014, the applicant, who is a Superintendent in An Garda Síochána (now retired), was issued with a speeding offence (66/50km). In his application for cancellation he stated that he was the District Officer at the time of the offence. He also stated that he was travelling to his District Headquarters in relation to ‘Section 4 extensions’ and other items he was working on. He was in his own private vehicle and wanted to finish all outstanding matters before retiring.

GPSU Notes:

- The FCN in this example was cancelled under the policy of the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014.
- The cancellation reason was ‘Statutory Exemptions/Emergency Vehicle’.
- GPSU note that the time of the offence was 21.22hrs.
- The applicant has no previous cancellations of FCNs.

- The FCN was cancelled within the jurisdiction of the Cancelling Authority.
- The completed Garda FCN Cancellation Request Form-Category C was fully completed and in order.
- The Divisional Officer certified that he was on duty at the time.
- There is no documentation provided by the applicant to support the fact that he was on duty at the time.

The full details of this example can be found at page 100 of Volume Two.

7.4 Comparison to Wearing Of Seat Belts/Competency Based Driving (CBD) Programme

The FCPS Policy and Procedures Manual (Fourth Edition) 2014 takes its guidance for ‘Statutory Exempt Vehicles’ from Section 87 of the Road Traffic Act, 2010, as amended, and no reference is made to the relevant sections of An Garda Síochána Code, (2005) Volume 1, when Cancelling Authorities are reviewing and considering applications for cancellation.

GPSU conducted an examination of a comparative legislation and policy conflict with regard to the wearing of seatbelts. While there is a legal exemption for members of An Garda Síochána from the requirement to wear seatbelts, the Garda Code, requires the wearing of seatbelts by all occupants of Garda vehicles at all times to ensure personal safety. GPSU recommends that a similar policy should operate relating to speeding by members on duty, while driving their own private vehicles. GPSU recommends that consideration is given to advising all members that they must adhere to speed limits except in urgent and exceptional circumstances.

Another comparative legislation and policy conflict arises in the context of Driver Training. In relation to the authorisation of members to drive Garda vehicles, An Garda Síochána operates a Competency Based Driving (CBD) Policy which was developed in line with international best practice and Health and Safety legislation. This policy is currently under review. CBD, Level 1, assesses candidates’ suitability to drive official vehicles, against a set of pre-determined competencies. Successful

candidates are permitted to drive official vehicles with restrictions which include not to exceed speed limits in any circumstances and not to contravene traffic regulations.

7.5 FCPO Internal Processes

FCPO advises that since the issue of HQ Directive 48/2014, the following documentation is required before a cancellation request for a Garda member under Statutory Exemption is considered;

- The original FCN,
- FCN Cancellation Request Form,
- Incident Report. (GPSU notes that there is no definition of what constitutes an incident report).

FCPO does not carry out any checks for previous cancellations where there is a cancellation sought under Statutory Exemptions/Emergency Vehicles category.

FCPO has further confirmed a number of recent changes to the procedure adopted in the consideration of cancellation applications. The Cancelling Authority now seeks details of the facts taken into consideration by Managers¹¹ when certifying that an off duty member was acting in the course of his/her duty.

Since 3rd November 2014 Chief Superintendent, GNTB has the sole responsibility for the review and decision making process for a cancellation request under 'Statutory Exemption' in circumstances where a member was driving a private vehicle.

7.6 Recommendations

As a result of the examination of cancellations conducted under 'Statutory Exemptions/Emergency Vehicles' GPSU makes the following recommendations;

¹¹Fixed Charge Processing System, Policy and Procedures Manual, Fourth Edition 2014 defines a Manager as 'District Officer/Superintendent/Head of Section/immediate supervisor if above the rank of Inspector.

- In relation to Garda members applying for a statutory exemption when driving private vehicles, the relevant provisions of An Garda Síochána Code, 2005 should be considered by the Cancelling Authority. In addition, any previous cancellations for the applicant should be taken into consideration.
- A HQ Directive should issue to inform Garda members that when driving their private vehicle, they are not permitted to exceed the speed limit except when on duty and responding to an urgent incident. In the event that a member finds it necessary to exceed the speed limit, a report should be forwarded to the District Officer of the location where the incident occurred at the time of the occurrence. This report will include supporting documentation such as a PULSE Incident, Communications Centre Incident/RC1.
- Consideration should be given to introducing a separate ‘Cancellation Reason’ for each statutory exemption situation e.g. official vehicle, fire brigade, ambulance, Garda member in private vehicle etc. This will facilitate the accurate and transparent recording of these cancellations.
- The FCN Cancellation Request Form requires the addition of a facility for District Officers to include a narrative clarifying the reason that he/she is certifying that the driving or use of the vehicle in question did not endanger the safety of road users.
- Consideration should be given to extending the provisions of Section 87 of the Road Traffic Act, 2010, as amended, to include other Emergency Response Services, for example, Coastguard, Doctors on duty etc.
- In order to maintain public confidence in relation to the operation of FCPS by An Garda Síochána, GPSU recommends that requests for cancellations under the category ‘Statutory Exemptions/Emergency Vehicle’ by members of An Garda Síochána using private vehicles during the course of their duties be forwarded to the Office of the DPP via Chief Superintendent GNTB. The basis of this recommendation derives from Section 8 of the Garda Síochána Act 2005 and the DPP General Direction No. 3, where it states that members of *An Garda Síochána are encouraged to seek directions in any case, even of a summary nature, where there is an unusual question of law involved, where the charge is without fairly recent Irish precedent or where the matter has aroused unusual public interest, or is likely to do so.* (HQ Directive 24/2012 refers).

As an alternative, consideration could be given to the appointment of an independent external person, such as a judge, barrister or solicitor to review and report on the operation of FCPO and in particular the decisions to cancel FCNs. This recommendation is similar to the independent oversight authority for Covert Human Intelligence Sources (CHIS), who was appointed by the Minister for Justice and Law Reform on 10th of December 2010.

8 ANALYSIS OF VEHICLES WITH MULTIPLE CANCELLATIONS

8.1 Introduction

As part of the wider enquiry into the operation of the FCPS, another element of the examination focused on identifying vehicles that recorded more than three FCN cancellations. This chapter outlines the analysis conducted by GPSU on data provided by IAS relating to vehicles which have received multiple cancellations of FCNs.

8.2 Background

GPSU obtained a list of vehicles with more than three cancellations for the period 1st September 2013 to 31st August 2014. This list was analysed by GSAS to establish the number of cancellations associated with each vehicle and the registered owner of the vehicle at the relevant time. These vehicles fell into three categories;

1. Statutory Exemptions/Emergency Vehicles - Garda Vehicles,
2. Statutory Exemptions/Emergency Vehicles - Other than Garda vehicles,
3. Number of vehicles with other Cancellation Description/Reasons.

This information is displayed in Table No. 16 hereunder;

Table No. 16 - Vehicles with More Than Three Cancellations

Cancellation Description/Reason	No. of Vehicles	No. of Cancellations
Statutory Exemptions/Emergency Vehicles - Garda Vehicles	20	124
Statutory Exemptions/Emergency Vehicles - Other than Garda Vehicles	12	85
Vehicles with other Cancellation Description/Reasons	51	179
Total	83	388

From the 83 vehicles GPSU selected a sample of 23 with the highest number of cancellations issued to them. This sample represented 126 FCN cancellations and included a total of seven Garda vehicles, two ambulances and 14 other vehicles with a variety of cancellation reasons recorded.

Of the 126 FCN cancellations examined, there are no apparent issues in relation to 78. The examination assessed 39 cancellations as 'Procedural/Systems Issues'. Seven files examined are assessed as Technical Breach of Policy. Further investigation is recommended in respect of two files.

Table No. 17- Breakdown of Decision Making Files for Multiple Vehicles

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	2	65	11	78
Procedural/Systems Issues	0	28	11	39
Technical Breach of Policy	0	7	0	7
Lenient Decision Making	0	0	0	0
Further Investigation Required	0	2	0	2
Total	2	102	22	126

No Apparent Issues

An example of a file categorised by GPSU as 'No Apparent Issue' is outlined hereunder;

Example

In October and November 2013, the applicant received four FCNs for 'Non display of Tax Disc'. The applicant acknowledged buying the vehicle from the previous registered owner in October 2013 and sought a cancellation. Three of the FCNs were

still in the previous owner's name. He forwarded a cancellation request to the District Officer in whose jurisdiction the FCNs occurred in November 2013. The applicant stated the vehicle was parked up outside his home with no off-street parking and he was in the process of registering the vehicle which he stated in his letter took nearly two weeks. A copy of his Certificate of Registration and Licensing Document was provided.

GPSU Notes;

- The FCNs in this example were cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘*Tax/Insurance Disc/Trade Plate*’.
- The applicant had no previous cancellations of FCNs.
- There is documentation attached to the file to support the applicant's request.
- PULSE records show the vehicle was subsequently taxed.
- The rationale for the decision to cancel the FCNs by the Cancelling Authority was ‘*Applicant taxed and back taxed his vehicle on receipt of registration documents - cancel all notices*’.
- The FCNs were cancelled by an Inspector who was Acting District Officer at the time.
- This FCN was cancelled within policy regarding jurisdiction.

The full details of these examples can be found at pages 5, 6, 7, and 8 of Volume Two.

Procedural/Systems Issues

A number of cancellations highlighted an issue whereby based on the technology which assesses vehicle size, safety camera vans are incorrectly identifying vehicles with a weight of 3500kg and under as being subject to the speed restriction of 80km. This error causes inconvenience to the registered owner of the vehicle, creates an increased administrative burden and reduces the efficiency of the FCPO due to unnecessary processing of FCNs. It also misrepresents the figures of cancellations approved.

FCPS Policy and Procedures Manual (Fourth Edition) 2014, page 58, ‘*Cancellation Request Reason Guidance*’ states that ‘*In relation to where the weight restriction is*

*not applicable – certain vehicles (lorries, buses, etc) are subject to a lower speed limit therefore if your vehicle is **under** 3500kg a copy of Vehicle Licensing Certificate is required if you are seeking exemption from the speed limit’.* This is not in line with the wording of the legislation which states that ‘3500kg and under’ not ‘under 3500kg’. Examples of this are set out hereunder;

Example

On separate dates in 2013 and 2014, a bread van (3050kg) received a total of five FCNs, on the basis that it was travelling in excess of a special speed limit of 80km.

GPSU Notes:

- The FCNs in this example were cancelled under HQ Directive 71/2013 and FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- Vehicles of this type with a weight of **3500kg and under** are not restricted to the 80km per hour speed restriction (S.I. No. 9/2005 - Road Traffic (Ordinary Speed Limits - Certain Vehicles) Regulations 2005 refers).
- The applicant in this case did produce a Vehicle Licensing Certificate on each occasion in order to cancel these FCNs. The FCPS Policy and Procedures Manual (Fourth Edition) 2014 requires amendment in this regard.

The full details of these examples can be found at pages 36 and 37 of Volume Two.

Another procedural issue identified by GSPU is that there are a number of multiple cancellations accruing due to apparent incorrect details recorded on PULSE via the NVDF database. These cancellations were all recorded under the cancellation reason ‘Undelivered-An Post’,¹² examples of which are set out hereunder;

Example

Two vehicles received a total of 16 cancellations for the reason ‘Undelivered-An Post’. The FCNs relate to various offences, the majority of which were speeding related. One of these FCNs relating to Vehicle no. 1 was re-issued and subsequently cancelled. One FCN was re-issued and recorded on the PULSE system as ‘Sent to

¹² Undelivered-An Post Cancellations are dealt with in detail in chapter six

Courts'. The remaining five non-intercept FCNs for this vehicle were cancelled for the reason 'Undelivered-An Post' with no follow up evident. Two of the eight FCNs relating to Vehicle no. 2 were forwarded to the respective District for re-issue by Garda members with no record of re-issue evident. The remaining six non-intercept FCNs for this vehicle were cancelled for the reason 'Undelivered-An Post' with no follow up evident.

GPSU Notes;

- The FCNs in this example were cancelled under HQ Directive 71/2013 and FCPS Policy and Procedures Manual (Fourth Edition) 2014.
- There were slight variations with the address recorded on NVDF in respect of some of these offenders with the same surname associated with these two vehicles with multiple cancellations making it difficult for the FCN to be delivered.
- Attempts were made to re-issue some of these FCNs with one FCN recorded on the PULSE System as 'Sent to Courts'.
- There was no evidence of re-issue of FCNs by Garda members in relation to the second vehicle.

The full details of these examples can be found at pages 38-40 and 62-69 of Volume Two.

Example

A vehicle received four FCNs for speeding offences (105/80km, 93/80km, 95/80km and 99/80km) on two separate dates in March 2014. These were cancelled due to a change of vehicle ownership. Following consultation with the NVDF, a new owner and relevant address was established and the FCNs re-issued.

GPSU Notes;

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The FCNs were returned–'Undelivered-An Post'.
- FCNs were re-issued to new Registered Owner.
- Correspondence on the file records that the FCPO was subsequently informed by Gardaí that no such address existed.

The full details of these examples can be found at pages 41 and 42 of Volume Two.

Technical Breach of Policy

Seven cancellations relating to ‘Statutory Exemptions/Emergency Vehicles’ were not compliant with HQ Directive 71/2013, Part 4 ‘*Conflict of Interest – Personal/Professional/Public Figures*’ whereby the cancellation should have been conducted by a Divisional Officer.

All seven FCN cancellations relate to speeding offences in Official Garda Vehicles.

GPSU Notes:

- The FCNs in these examples were cancelled under HQ Directive 71/2013.
- Four FCNs were cancelled by the same District Officer in the District to which the Official Vehicle was attached. (An example of three FCNs is detailed below and the fourth example can be found at page 32 of Volume Two).
- Three FCNs were cancelled by an Inspector acting as District Officer in the District where the incident occurred. (The full details of these examples can be found at pages 35, 49 and 57 of Volume Two).
- GPSU is satisfied that these cancellations would have been authorised in any event.

An example of a file categorised by GPSU as ‘Technical Breach of Policy’ is outlined hereunder;

Example

In September 2013, three FCNs for speeding offences, (115/100km, 127/100km and 121/100km) two of which occurred on the same date were cancelled in respect of an Official Vehicle by the District Officer. There was no evidence that this FCN cancellation had been authorised by the District Officer acting as Divisional Officer at the time of the cancellation. No other rationale for the decision was given other than ‘Official Vehicle’ ‘Emergency Vehicle’.

GPSU Notes:

- This FCN was cancelled outside the provisions of HQ Directive 71/13 - Part 4 Conflict of Interest – Personal/Professional/Public Figures which required the Divisional Officer to adjudicate on the matter.

- GPSU is satisfied that these cancellations would have been authorised in any event.

The full details of this example can be found at page 47 of Volume Two.

Further Investigation Required

An example of a file categorised by GPSU as 'Further Investigation Required' is outlined hereunder;

Example

In August 2013, two cancellations, one for speeding (153/120km) and one for a mobile phone offence were cancelled for the reason 'Undelivered-An Post'. FCPO forwarded these FCNs to the respective District for re-issue by Garda members.

GPSU Notes;

- The FCNs in this example were cancelled under HQ Directive 71/2013.
- These FCNs were cancelled by FCPO as they were returned 'Undelivered-An Post'.
- FCPO forwarded these FCNs to the respective District for re-issue by Garda members.
- There is no record of these FCNs being re-issued.

The full details of this example can be found at page 39 of Volume Two.

8.3 Recommendations

As a result of the examination of cancellations conducted under 'Analysis of vehicles with multiple cancellations GPSU makes the following recommendations;

- FCPS Policy and Procedures Manual (Fourth Edition) 2014 should be amended at page 58 to reflect the fact that vehicles with a weight of 3500kg and under, are not restricted to the 80 km per hour speed restriction (S.I. No. 9/2005 - Road Traffic (Ordinary Speed Limits - Certain Vehicles) Regulations 2005) refers.

9 EXAMINATION OF COMPLIANCE OF CANCELLING AUTHORITY WITH GARDA POLICY

9.1 Introduction

HQ Directive 71/2013 placed responsibilities on Assistant Commissioner Traffic, Garda Internal Audit Section (GIAS) and GPSU to conduct examinations/audits of the operation of the FCPS to ensure full compliance with all aspects of the revised policy. Assistant Commissioner Traffic, GIAS and GPSU agreed procedures to carry out examinations on the compliance of the Cancelling Authority with the policy at the time.

HQ Directive 48/2014 placed responsibilities on GIAS to conduct regular audit checks of the full operation of the FCPS to ensure full compliance with all aspects of the revised policy. GIAS furnishes a report to Assistant Commissioner Traffic. GPSU provides support by carrying out an examination of the decision making process. GIAS and GPSU agreed procedures to carry out these audits and examinations on the decision making process for cancellations.

GPSU also examined the compliance of the Cancelling Authority with Garda policy as part of the current examination. This chapter outlines the process undertaken and the results of these examinations.

9.2 GPSU Initial Audits Conducted On FCPS

HQ Directive 71/2013 issued on 30th August 2013 and contained an instruction that the Cancelling Authority will no longer cancel an FCN on the local GARDAIS PULSE computer. However, the technical ability of District Officers and Inspectors to cancel an FCN on the local GARDAIS PULSE computer system, outside the terms of HQ Directive 71/2013, was still available. This technical ability was removed on 1st October 2013.

Section 5 of HQ Directive 71/2013 placed a responsibility on local management, Assistant Commissioner Traffic, GPSU and GIAS to conduct examinations and audits of the operation of the FCPS to ensure full compliance with all aspects of the revised policy. Prior to agreed examination/audit procedures being developed, from 31st August 2013, GPSU conducted an examination of cancellations on a weekly basis to establish if cancellations were being conducted outside the terms of HQ Directive 71/2013. A weekly report of cancellations was provided and subsequently analysed by GPSU. Cancellations which appeared to be outside of policy were sent to the relevant Regional Assistant Commissioners for examination. In the initial weeks, a small number of cancellations outside policy were identified, however this ceased by the fourth week.

9.3 Procedures Agreed By Assistant Commissioner Traffic, Garda Professional Standards Unit and Garda Internal Audit Section

From November 2013, the following procedures were agreed by Assistant Commissioner, Traffic, Chief Superintendent GPSU and the Head of Garda Internal Audit and introduced to ensure the effectiveness of FCPS;-

1. GPSU will carry out an examination on the decision making process for cancellations by District Officers in six Districts per month.
2. Assistant Commissioner Traffic will carry out an examination on the decision making process for cancellations by Divisional Officers in a selection of Divisions each month.
3. GIAS will conduct regular examinations of the processes and procedures at the FCPO, including the reconciliation of booklets of FCNs. GIAS also examines the processes and procedures in place surrounding FCNs in Districts as part of their routine audits.

It was agreed that the reports prepared by each section would be available to all three parties and Assistant Commissioner Traffic would prepare an annual report based on the overall findings.

GPSU selected a random sample of cancellations in six Districts per month and requested copies of the decision making files from the relevant District Officers. The files were subsequently examined by GPSU and any breach of policy or other pertinent issues were highlighted to the Divisional Officer of the District concerned. A monthly report was forwarded by GPSU to the Garda Internal Audit Section and Assistant Commissioner Traffic.

In addition, GPSU selected a sample of six additional Districts which recorded no locally authorised cancellations. These Districts were requested to provide to GPSU copies of files where, following an application for cancellation of an FCN, decisions were made to;

- Recommend the FCN for cancellation, or
- Refuse cancellation of the FCN.

As part of this examination process, nine breaches of policy were identified by GPSU the details of which are outlined below:-

1. In February 2014, an Inspector acting as District Officer in one District cancelled an FCN from another District outside of policy.
2. In March 2014, a District Officer cancelled four FCNs but omitted to sign the cancellation forms.
3. In March 2014, a District Officer cancelled an FCN, in another District, outside of policy.
4. In April 2014, three District Officers cancelled one FCN each, in another District, outside of policy.

GPSU conducted examinations of the cancellation of locally authorised FCNs under HQ Directive 71/2013 until the introduction of HQ Directive 48/2014 on 16th June 2014. On 13th August 2014, GPSU forwarded the results of their findings for the period 1st September 2013 to 16th June 2014 to the respective Regional Assistant Commissioners and Assistant Commissioner Traffic.

9.4 Assistant Commissioner Traffic Audits

In accordance with Section 5 of HQ Directive 71/2013 Assistant Commissioner Traffic also conducted audits on the decision making process for the cancellation of FCNs. 82 audits were completed by Assistant Commissioner Traffic between November 2013 and May 2014. All requested paper copies of files were provided and all included a detailed description of the decision making processes.

9.5 HQ Directive 48/2014 FCPS Policies and Procedures Manual (Fourth Edition) 2014

HQ Directive 48/2014 came into effect on 16th June 2014. Section 5 of this Directive, titled 'Auditing of FCPS', requires GIAS to *'conduct regular audit checks of the full operation of the FCPS to ensure full compliance with all aspects of the policy and report to Assistant Commissioner Traffic'*. The Directive further outlined that GPSU will provide support to the audit process by carrying out an examination of the decision making process.

On 5th August 2014, a meeting was held between GIAS and GPSU where it was agreed that GPSU will examine 20 decisions on a monthly basis, consisting of 10 decisions for 2 separate Regions. The results will be forwarded to Assistant Commissioner Traffic, the relevant Regional Assistant Commissioner and GIAS. On 19th August 2014, GPSU commenced this process, examining 10 FCNs in the DMR and 10 FCNs in the Eastern Region for the month of July. There were no breaches of policy identified as a result of this examination. This process is ongoing.

9.6 Garda Internal Audit Section Audits

GIAS conducted three audits of FCPO in January, July and September 2014.

The most recent audit opinion from the GIAS Report in September stated that *'GIAS is satisfied that the centralisation of administration and decision making in the FCPO has considerably enhanced the controls over the FCPS cancellation system. GIAS found the FCPO to be well managed and operating effectively. We formed the view*

that we could place confidence in the procedures for the cancellation management in the Office.'

9.7 GPSU Current Examination

The current examination sought to establish if the various Cancelling Authorities were operating within the appropriate policies that were in place between 1st September 2013 and 31st August 2014.

1st September 2013 to 31st August 2014 Analysis

As part of this examination, GPSU selected all cancellations recorded for the dates 1st September 2013 to 31st August 2014, in order to identify if the Cancelling Authority was operating within the policy in place at the time. GPSU excluded cancellations that were carried out by GNTB and by the Garda Youth Diversion Office. GPSU requested and examined 234 files relating to cancellations which appeared to have been conducted outside the Cancelling Authority's area of responsibility.

The results were grouped into five categories as outlined below;

Table No. 18 - Breakdown of Decision Making Files for Compliance with Policy

Finding	FCPS Manual 3 rd Edition (December 2005- 29.08.2013)	HQ Directive 71/2013 (30.08.2013- 15.06.2014)	FCPS Manual 4 th Edition (16.06.2014- Present)	Total
No Apparent Issues	13	106	0	119
Procedural/Systems Issues	0	2	0	2
Technical Breach of Policy	9	75	1	85
Lenient Decision Making	1	9	0	10
Further Investigation Required	1	17	0	18
Total	24	209	1	234

No Apparent Issues

An analysis of the data identified District Officers and Inspectors acting as District Officers who were attached to a specific District but were recorded as cancelling an FCN that was issued in the adjoining District. However, the GPSU examination highlighted that this is not always the case and the following are the reasons why the cancellation of the FCN appeared to be non compliant;

- The issuing Garda entered incorrect data on the hand held device resulting in an inputting error in relation to the District.
- The Cancelling Authority in these cases, were Inspectors appointed to act as District Officers in Districts where they are not normally assigned.

Since the commencement of the new policy (Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014) on 16th June 2014, this can no longer occur as the Cancelling Authority has been centralised.

Example

In October 2013, an FCN was issued for non display of road tax. The applicant appealed and provided evidence that the vehicle was taxed on the date in question but had placed the tax disc behind the previous one in error. The FCN was cancelled by an Inspector acting as District Officer in the relevant District.

GPSU Notes:

- The FCN in this example was cancelled under HQ Directive 71/2013.
- The cancellation reason was – ‘Tax/Insurance Disc/Trade Plate in Order.
- The applicant has no previous cancellations of FCNs.
- Supporting documentation was provided
- The FCN was cancelled within policy regarding the jurisdiction of the Cancelling Authority.

The full details of this example can be found at page 213 of Volume Two.

Technical Breach of Policy

A Technical Breach of Policy was identified in relation to 75 cancellations considered under HQ Directive 71/2013. In the cases identified, the rationale for the decision to

cancel the FCN was clear. However, to comply fully with the policy, cancellation requests should have been forwarded to the District Officer where the offence occurred. This occurred more frequently in stations where the Divisional Traffic Unit was based. The Divisional Traffic Unit detects incidents in all Districts in a Division by virtue of their Divisional remit. However, the files examined indicate that Divisional Traffic members submit requests for cancellation to the District Officer where the unit is based rather than the District Officer where the incident occurred. Generally, the rationale for the decision was clear and the District Officer cancelled an FCN that was justifiable in any event.

Example

In September 2013, an FCN was issued for the recipient for Non Display of a Tax Disc. The recipient provided FCPO with a copy of motor tax renewal and a letter from the relevant county council advising there are delays in processing motor tax application. The FCN was subsequently cancelled by a District Officer in the adjoining District.

GPSU Notes

- The FCN in this example was cancelled under the policy of HQ 71/2013.
- The FCN is recorded as cancelled under the Cancellation Reason ‘Tax/Insurance Disc/Trade Plate in Order’
- The applicant had no previous applications for cancellations.
- Supporting documentation provided.
- Application should have been forwarded to the District where the offence occurred. It was dealt with by the detecting Traffic member’s District Officer instead.

The full details of this example can be found at page 330 of Volume Two.

This issue cannot arise in cancellations conducted under the new policy Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014.

Lenient Decision Making

HQ Directive 71/2013 requires that the rationale for the cancellation of an FCN is recorded. In nine decision making files examined by GPSU under HQ Directive 71/2013, the rationale for the decision to cancel was included. However, in the circumstances outlined in these files GPSU concluded that the decisions made were lenient. An example of these decision making files is detailed hereunder;

Example

In February 2014, two FCNs were issued for speeding offences (76/50km and 74/50km). The applicant was travelling to the hospital to visit a sick relative and was detected for two speeding offences, one en route to the hospital and another on the return journey. Both of these FCNs were cancelled.

GPSU Notes;

- The FCN in this example was cancelled under the policy of HQ 71/2013.
- There is no independent documentation in the file to assist the Cancelling Authority in reaching the decision to cancel both FCNs.
- The decision is recorded as being made on humanitarian grounds.
- The decision to cancel the FCN issued when returning from the hospital appears lenient.

The full details of this example can be found at page 227 of Volume Two.

Example

In September 2013, an FCN was issued for a speeding offence (71/50km). The applicant had received a number of previous FCNs for speeding offences in a new company car which she was unfamiliar with. In the letter of application for cancellation she asked for leniency on the basis that she was on probation in a new job and she would lose this job as a result.

GPSU Notes;

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The Cancelling Authority consulted with the issuing member.

- The issuing member's supervisor could find no valid reason to recommend cancellation.
- This FCN was cancelled on humanitarian grounds.

The full details of this example can be found at page 260 of Volume Two.

Further Investigation Required

All the decision making files submitted for examination fell under the remit of FCPS Full User Manual Policy and Procedures (Third Edition) 2005 or HQ Directive 71/2014. There were no decision making files relating to FCPS Policy and Procedures Manual (Fourth Edition) 2014. From an examination of the decision making files provided, GPSU has found that 18 cancelled FCNs require further investigation. Examples are outlined hereunder;

Example

In November 2013, a speeding offence was detected (72/50km) and an FCN was issued to the driver of the vehicle. The detecting member subsequently requested that the FCN be cancelled after entering an incorrect registration number. The detecting member undertook to re-issue the FCN with the correct details.

GPSU Notes:

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The FCN is recorded as cancelled under the Cancellation Reason 'Data Entry Error'.
- The applicant had no previous cancellations
- The detecting member was directed to re-issue the FCN.
- The detecting member stated that the FCN was re-issued, however it does not appear that the FCN was re-issued.
- Incorrect local station entered, but FCN was cancelled within policy regarding jurisdiction.

The full details of this example can be found at page 178 of Volume Two.

Example

In September 2013, a speeding offence was detected (94/50km) and the FCN was issued to the registered owner of the vehicle who nominated another driver and a new FCN was issued to this nominated driver.

GPSU Notes;

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The FCN is recorded as cancelled under the Cancellation Reason ‘Discretionary Other’.
- The applicant had no previous cancellations.
- The nominated driver appeared to apply to cancel the FCN on the basis that they were a fire-fighter attending at an emergency call; however, there was insufficient evidence on the file supplied for the Cancelling Authority to make a decision in relation to the cancellation.

The full details of this example can be found at page 242 of Volume Two.

Example

In January 2014, the applicant was detected holding a mobile phone while driving. He applied for a cancellation on the basis that he was speaking with a Garda Sergeant at the time of the interception in relation to a criminal complaint that he had made in the preceding weeks.

GPSU Notes;

- The FCN in this example was cancelled under the policy of HQ Directive 71/2013.
- The FCN is recorded as cancelled under the Cancellation Reason ‘Discretionary Humanitarian Grounds’.
- The applicant had no previous cancellations.
- There is evidence that the Cancelling Authority consulted with the detecting Garda.
- The detecting Garda did not include these details in the report of the incident.

The full details of this example can be found at page 290 of Volume Two.

9.8 HQ Directive 48/2014-Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014

The current examination also sought to establish if HQ Directive 48/2014, '*Fixed Charge Processing System Policy and Procedures Manual Fourth Edition*' introduced on 16th June 2014, was operating effectively. This HQ Directive centralised the decision making process at the FCPO and authorised as Cancelling Authorities the Chief Superintendent GNTB, Superintendent GNTB and Inspector FCPO. GPSU requested figures from IAS for all cancellations between 16th June 2014 (commencement date of the new policy) and 28th September 2014. Table No. 19 sets out the results and details the FCNs that were cancelled and by whom.

Table No. 19 - Number of Cancellations Conducted by Cancelling Authority

Cancelling Authority	No of Cancellations
Chief Superintendent GNTB	0
Superintendent GNTB	817
Inspector FCPO	1871
*Superintendent National Juvenile Office	14
*Inspector National Juvenile Office	11
**Automatic Cancellations	4
Totals	2717

*If the case is accepted under the Juvenile Diversion Programme, the updating of the Youth Referral Record on PULSE will result in the automatic cancellation of the FCPS record. The Cancelling Authority will be displayed as Superintendent/Inspector National Juvenile Office.

**Automatic Cancellations – Vehicles recorded on PULSE as 'Unauthorised Taking' or stolen are cancelled automatically by the FCPS with no human intervention. Examples of Automatic Cancellations are detailed below.

The GPSU examination has established that since the introduction of HQ Directive 48/2014 and the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 only those authorised have carried out cancellations.

Automatic Cancellations (Unauthorised Taking)

Automatic Cancellations refer to vehicles recorded on PULSE as 'Unauthorised Taking' and cancelled automatically on the FCPS with no human intervention. If an offence detected by the safety cameras was committed while the vehicle was reported stolen, an FCN will be processed but will be automatically cancelled on the FCPS before the FCN is issued to the registered owner. The examination conducted by GPSU highlighted two vehicles that were recorded on PULSE as stolen at the time an FCN was issued. GPSU examined these cancellations and the results are outlined hereunder;

Example

In August 2014, a vehicle received an FCN for 'Parking at an Appointed Taxi Stand'. It was automatically cancelled in September 2014 by FCPO and the reason given was 'vehicle stolen' on the FCPS as this was the current status of the vehicle (at the time) on the PULSE system. This was created by Garda personnel following an Unauthorised Taking (Vehicle) incident in September 2013 in which a suspected offender was arrested and the vehicle recovered.

The GPSU examination found that there are two PULSE IDs (PID) for this vehicle; one generated from the NVDF and one generated by a Garda member. This makes it appear that there are two separate vehicles rather than one vehicle with two PULSE identification numbers. The NVDF PULSE identification number has a number of incidents associated with this vehicle, including two unauthorised taking incidents. There is an associated incident which records the status of the vehicle as 'Recovered'.

The second PULSE Identification for this vehicle is 'Garda' generated. The current status recorded on PULSE for this vehicle under this PULSE Identification is 'Unauthorised Taking'. The status of the vehicle was not updated to show it had been recovered, hence, the current status of 'Unauthorised Taking'.

GPSU Notes;

- This vehicle had two PULSE Identifications recorded, one incident was updated as recovered while the second remained as an unauthorised taking. Incidents involving stolen vehicles are automatically cancelled prior to the FCN being issued to the owner by the FCPS.
- There are no files created in FCPO as these are automatic cancellations.

- The vehicle status was not updated to show that this vehicle had been recovered and hence the system recognises this vehicle to be stolen.
- The FCN is automatically cancelled without the owner of the vehicle knowing that an FCN for the vehicle had been generated.

GPSU made contact with local management and informed them of the situation in relation to the second PULSE identification for the vehicle and the matter has been rectified.

Example

In May 2014, a vehicle was stolen from an address in Dublin. This vehicle was recorded on PULSE with the status of 'Unauthorised Taking'. PULSE was updated in October 2014 stating 'car has not been recovered as of yet. Still on the u/t list'.

GPSU Notes:

- The vehicle remains on the 'unauthorised taking' list. However, this vehicle was observed in July 2014 even though it was on this list.
- Three FCNs for this vehicle relating to 'Failing to Display a Current Vehicle Licence, Parking on a Double Yellow Line and Parking on a Footway' were issued while the car was still on the stolen list.
- These notices were processed on a notepad and an FCN generated in the FCPO. The FCPS recognised this vehicle to be stolen and automatically cancelled the FCNs without the owner of the vehicle knowing that an FCN for the vehicle had been generated.

10 DUTY TO REPORT BREACHES OF THE ROAD TRAFFIC ACTS (HQ DIRECTIVE 54/2014)

10.1 Introduction

GPSU conducted an examination of compliance with HQ Directive 54/2014 in relation to the requirement of Garda members and civilian staff to report breaches of the Road Traffic Acts. HQ Directive 54/2014 was issued to the Organisation on 3rd July 2014. GPSU requested a return from all District and Sections outlining the details of any reports made by members of staff, Garda or civilian, since the new policy came into effect up until 11th September 2014.

10.2 Breach of Road Traffic Acts On-Duty

Any member of An Garda Síochána or civilian staff who has been detected committing a Road Traffic Offence while on duty must report the matter in writing to his/her District Officer/Superintendent/Head of Section at the first available opportunity.

Members should note that a statutory exemption pursuant to Section 87, Road Traffic Act, 2010, as amended, applies, where the use of the vehicle does not endanger the safety of road users. The duty to report applies in circumstances where a decision has been made not to grant the statutory exemption.

Where a Head of Section receives a report to which this HQ Directive applies, it will be forwarded to the Office of Human Resource Management, who will nominate an appropriate District Officer, or more senior officer where relevant to examine the matter.

10.3 Breach Of Road Traffic Acts Off-Duty

If any member of An Garda Síochána or civilian staff, whose duties include driving any vehicle, receives penalty points for a Road Traffic Offence while off-duty, which

brings his/ her total to more than eight penalty points at any time, he/she **must** report the matter in writing to their District Officer/Superintendent/Head of Section at the first available opportunity.

The District Officer/Superintendent/Head of Section will record this information and may consider it, having due regard to the Commissioner's policy for driving of official vehicles in An Garda Síochána, in deciding on an appropriate course of action for the staff member concerned, and where he/she deems it appropriate will inform the Divisional Officer.

Breaches of the Road Traffic Acts by Superintendent rank/Head of Section or above, on or off-duty, shall be dealt with by their immediate line manager, as outlined in this Directive.

10.4 GPSU Examination

An examination has been conducted by GPSU in relation to the requirement of Garda members and civilian staff to report breaches of the Road Traffic Acts. Returns were received from all Divisions and Sections and yielded a **nil** return in relation to HQ Directive 54/2014.

10.5 Recommendations

As a result of the examination of cancellations conducted under 'Duty to Report Breaches of Road Traffic Acts GPSU makes the following recommendations;

- The District Officers/Superintendents/Heads of Sections should on a yearly basis forward a reminder to their staff members in relation to their obligations to report any Road Traffic Offences while on duty and of their obligations to report the receipt of more than eight penalty points for a Road Traffic Offence while off-duty as per HQ Directive 54/2014.

11 FINDINGS

The main findings of the GPSU examination include;

1. Since the introduction of HQ Directive 48/2014 and the Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014, FCN cancellation requests have only been authorised by the following three Cancelling Authorities; Chief Superintendent GNTB, Superintendent GNTB and Inspector FCPO.
2. As a result of a change in internal procedures at FCPO all FCNs returned marked 'Undelivered-An Post' were cancelled from 5th September 2013. Following a review of this procedure FCPO introduced changes to its internal procedures in relation to FCNs returned Undelivered- An Post.
3. A number of multiple cancellations are occurring due to apparent incorrect details on the National Vehicle and Driver File database.
4. The Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 does not include a requirement whereby previous cancellations for applicants are taken into consideration when determining a request for cancellation for Statutory Exemptions.
5. The Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 takes its guidance for 'Statutory Exempt Vehicles' from Section 87 of the Road Traffic Act, 2010, as amended. The manual makes no reference to the relevant Sections of An Garda Síochána Code, 2005, Volume 1, when reviewing and considering these applications.
6. A number of categories of Emergency Response Vehicles are not classified as 'Emergency Vehicles' under Section 87 of the Road Traffic Act, 2010, as amended, for example Doctor on call, army and coastguard. FCNs are cancelled for these vehicles under 'Statutory Exemptions' but they should be considered under 'Discretionary Other' category.
7. Administration errors have occurred at FCPO resulting in the forwarding of correspondence to inappropriate Districts for cancellation.
8. Inputting errors have been identified whereby members are recording incorrect details for example names, addresses and local stations on handheld devices. Errors of this nature can increase the number of FCN cancellations.

9. Incidents involving stolen vehicles are automatically cancelled prior to the FCN being issued to the owner by the FCPS. If the vehicle status is not subsequently updated to show that the vehicle has been recovered, the FCPS recognises the vehicle as stolen and automatically cancels the FCN.
10. Fixed Charge Processing System Policy and Procedures Manual (Fourth Edition) 2014 has incorrectly stated the weight restriction as ‘under 3,500kg’ when it should read that the weight restriction is not applicable for ‘3,500kg and under’.
11. Vehicles weighing 3500kg and under are issued with multiple FCNs which are cancelled upon production of the Vehicle Licensing Certificate. FCN Cancellation Request Form Guidance Notes (Fixed Charge Processing System, Policy and Procedures Manual (Fourth Edition) 2014) refers. This increases the number of FCN Cancellations.
12. An issue was identified concerning the non-service of summonses following the non payment of FCNs, however this matter is currently being addressed by the Criminal Justice Working Group in conjunction with the Court Service. An Garda Síochána is represented on this Working Group.

12 RECOMMENDATIONS

GPSU propose the following recommendations as a result of this examination.

1. GPSU recommend that consideration should be given to legislative changes to allow the suspension of the statutory time limit of 28 days in circumstances where an application for cancellation of an FCN is received. This will allow the FCPO sufficient time to conduct the necessary enquiries into each application.
2. GPSU recommend that consideration should be given to increasing the statutory time period for initiation of criminal proceedings for FCNs to 12 months instead of the current period of 6 months. This will allow sufficient time to conduct the necessary enquiries for FCNs that are returned undelivered or where nominations are received.
3. An Enforcement Unit should be established at FCPO which will facilitate more extensive enquiries to provide the Cancelling Authority with as much information as possible to assist in the decision making process. It is suggested that this unit should comprise of one Sergeant and four Garda members who have access to PULSE to conduct enquiries. One member should be a trained Criminal Intelligence Officer.
4. GPSU recommend that consideration should be given to legislative changes to allow the suspension of the statutory time limit of 28 days in circumstances where FCNs are returned 'Undelivered-An Post'. This will allow the FCPO sufficient time to conduct the necessary enquiries into each application.
5. Civilian staff in FCPO should receive training and access to the PULSE system to facilitate the checking of all relevant information.
6. To improve data entry at FCPO, it is recommended that a change should be made to the IT system in order that the registration numbers of the Cancelling Authorities are the only registration numbers available for selection from the drop down menu. This has previously been identified as an issue by FCPO.
7. A mechanism should be implemented at District level to monitor cancellation requests made by Garda members for data entry errors to reduce the recurrence of these errors and to ensure that subsequent FCNs are issued in cases where it is warranted.

8. Where it has been established that the NVDF address details are incorrect, a mechanism should be introduced to highlight issues to the Driver and Vehicle Computer Services Division (DVCSD) of the Department of Transport, Tourism and Sport for rectification. This would assist in the reduction of cancellations of FCNs due to non-delivery and the associated administrative burden.
9. Consideration should be given to the introduction of a mechanism whereby a registered owner of a vehicle will be restricted from obtaining tax for their vehicle or registering for a National Car Test (NCT) if there is an outstanding FCN attached to that vehicle or for the registered owner.
10. In relation to Garda members applying for a statutory exemption when driving private vehicles, the relevant provisions of An Garda Síochána Code, 2005 should be considered by the Cancelling Authority. In addition, any previous cancellations for the applicant should be taken into consideration.
11. A HQ Directive should issue to inform Garda members that when driving their private vehicle, they are not permitted to exceed the speed limit except when on duty and responding to an urgent incident. In the event that a member finds it necessary to exceed the speed limit, a report should be forwarded to the District Officer of the location where the incident occurred at the time of the occurrence. This report should include supporting documentation such as a PULSE Incident, or Communications Centre Incident Report.
12. Consideration should be given to introducing a separate 'Cancellation Reason' for each statutory exemption situation e.g. official vehicle, fire brigade, ambulance, Garda member in private vehicle etc. This will facilitate the accurate and transparent recording of these cancellations.
13. The FCN Cancellation Request Form requires the addition of a facility for District Officers to include a narrative clarifying the reason that he/she is certifying that the driving or use of the vehicle in question did not endanger the safety of road users.
14. Consideration should be given to extending the provisions of Section 87 of the Road Traffic Act, 2010, as amended, to include other Emergency Response Services, for example, Coastguard, Doctors on duty etc.
15. In order to maintain public confidence in relation to the operation of FCPS by An Garda Síochána, GPSU recommends that requests for cancellations under the category 'Statutory Exemptions/Emergency Vehicle' by members of An Garda

Síochána using private vehicles during the course of their duties be forwarded to the Office of the Director of Public Prosecutions (DPP) via Chief Superintendent GNTB. The basis of this recommendation derives from Section 8 of the Garda Síochána Act 2005, as amended and the DPP General Direction No. 3, where it states that *'An Garda Síochána are encouraged to seek directions in any case, even of a summary nature, where there is an unusual question of law involved, where the charge is without fairly recent Irish precedent or where the matter has aroused unusual public interest, or is likely to do so'*. (HQ Directive 24/2012 refers).

As an alternative, consideration could be given to the appointment of an independent external person, such as a judge, barrister or solicitor to review and report on the operation of FCPO and in particular the decisions to cancel FCNs. This recommendation is similar to the independent oversight authority for Covert Human Intelligence Sources (CHIS), who was appointed by the Minister for Justice and Law Reform on 10th of December 2010.

16. FCPS Policy and Procedures Manual (Fourth Edition) 2014 should be amended at page 58 to reflect the fact that vehicles with a weight of 3500kg and under are not restricted to the 80 km per hour speed restriction (S.I. No. 9/2005 - Road Traffic (Ordinary Speed Limits - Certain Vehicles) Regulations 2005) refers.
17. The District Officers/Superintendents/Heads of Sections should on a yearly basis forward a reminder to their staff members in relation to their obligations to report any Road Traffic Offences while on duty and of their obligations to report the receipt of more than eight penalty points for a Road Traffic Offence while off-duty as per HQ Directive 54/2014.
18. GPSU recommends the appointment of a Superintendent as a Cancelling Authority at FCPO in addition to the staff currently deployed there.
19. A workshop should be conducted involving members of GPSU and members of staff from GNTB/FCPO and the Garda College, to outline the lessons learned, training and quality issues contained in this examination.
20. A decision making model should be developed at the Garda College for the Cancelling Authorities to identify good practice and procedures. This course should be provided to the Cancelling Authorities and staff of FCPO regarding the recording of rationale and consistency of decision making.

13 CONCLUSION

On 29th August 2014, the Commissioner requested a report from Assistant Commissioner Traffic on the operation of the Fixed Charge Processing System since the commencement of the FCPS Policy and Procedures Manual (Fourth Edition) 2014. On 8th September 2014, Assistant Commissioner Traffic requested GPSU to conduct an examination of the revised policy.

As a result GPSU examined decision making files from 1st September 2013 to 31st August 2014 incorporating cancellations conducted under Fixed Charge Processing System Full User Manual Policy and Procedures' (Third Edition) 2005, HQ Directive 71/2013 and FCPS Policy and Procedures Manual (Fourth Edition) 2014, to assess the changes introduced by each of the policies. The dates selected allowed a sufficient time lag to capture cancellation requests that may have been submitted at the end of the 56 day time period allowed for the payment of each fixed charge.

667 FCN cancellations were examined in total by GPSU. A summary sheet has been prepared in respect of each incident examined and can be viewed in Volume Two of this Report.

GPSU is firmly of the view that as Volume Two contains personal data and items that may be considered for further investigation it should not be published.

This report contains 20 proposed recommendations. Some of these recommendations can be implemented with a change of Garda policy, while others require a legislative change and co-operation between relevant Government Departments. An example of this relates to the significant number of FCNs recorded as 'Undelivered-An Post', which can only be thoroughly addressed through inter-departmental co-operation. It is essential, therefore that comprehensive solutions are found to deal with all issues identified by this examination.

The introduction of HQ Directive 48/2014 and FCPS Policy and Procedures Manual (Fourth Edition) 2014 on 16th June 2014 has resulted in improvements in the

operation of the FCPS. For example since its introduction the policy has successfully limited the authorisation of cancellations to three individuals. In addition GPSU noted that FCPO are continually introducing procedures to improve the system and the introduction of an 'Enforcement Unit' is recommended by GPSU to facilitate all enquiries which will enhance compliance with the current policy.

The cancellation category of 'Statutory Exemptions/Emergency Vehicles' is given specific consideration within this report. The public must have confidence in the operation of the FCPS and believe that it is consistent, transparent and accountable. The allocation of external oversight will thus enhance the transparency of the decision making process for the cancellation of FCNs under 'Statutory Exemption'.

The procedure governing summonses generated from FCNs and their subsequent service was identified as an issue during this examination. This area was outside the scope of this examination and the matter is currently being dealt with by the Criminal Justice Working Group in conjunction with the Court Service.

GPSU has made a number of findings and, in order to convey the lessons learned from this examination, a workshop consisting of the relevant stakeholders is recommended.

It is noted that GSOC is conducting an investigation under Section 102 (1) of the Garda Síochána Act, 2005 into certain aspects of the FCPS. If so required GPSU will provide full assistance and documentation to any subsequent investigation, or review in respect of this examination.

Comparison of Cancellation Reasons July/August 2013 and July/August 2014				
Termination Reason	Total 01/07/2013 to 31/08/2013	Total 01/07/2014 to 31/08/2014	Difference	Reason for Difference (Provided by GNTB and FCPO)
Undelivered An Post	528	1011	+483	From 5 th September 2013 all Undelivered An Post FCNs received in FCPO were cancelled upon receipt. Handheld and Notepad FCNs were sent for reissue.
Scanning - Incorrect Registration Number	384	152	-232	Prior to July 2014 this cancellation reason was utilised to record FCNs cancelled where new owner details were provided. The FCN was reissued. The decrease is as a result of a new recording category 'NVF - New Owner Details'.
Data Entry/IT/Garda Errors	341	455	+114	This increase is as a result of a batch cancellation of 116 FCNs cancelled due to the incorrect offence code entered by a Garda Robot Operator. Without this batch cancellation this figure is -2.
Discretionary – Other	251	124	-127	FCPS Policy and Procedure Manual (Fourth Edition) 2014 introduced on the 16 th June 2014 only provides for cancellation in exceptional circumstances. Discretionary-other currently being used to record 'Exceptional Circumstances'. 'Discretionary - medical emergency' and 'Discretionary family bereavement' are no longer used.
Vehicle/Driver File Defect(s) - New Owner	217	134	-83	In addition to this category a NVF - New owner details category was introduced in July 2014.
Tax / Insurance Disc/Trade Plate In Order	158	159	+1	No significant difference year on year.
Discretionary - Medical Emergency	156	1	-155	Discretionary - medical emergency is no longer being used.
Detection Details Error(s)	149	33	-116	The decrease is as a result of an improvement in image validation and quality control processes by GoSafe resulting in less cancellations under this category
Statutory Exemption – Emergency Vehicles	96	131	+35	The increase is due to the fact that previously not all Garda vehicles were sent FCNs. This is no longer the policy since June 2014. All Garda vehicles are now issued with FCN and an application must be made for cancellation.

Legislative Defect	76	0	-76	This decrease is a result of a batch cancellation in July/August 2013 as a result of a Bye Law legislative issue in Ballymote, Co. Sligo accounting for 63 cancellations.
Duplicate Notice	71	40	-31	This decrease is as a result of a reduction in Garda inputting errors.
Incorrect Nomination	57	61	+4	No significant difference year on year.
JLO	55	48	-7	No significant difference year on year. If the case is accepted under the Juvenile Diversion Programme, the updating of the Youth Referral Record on PULSE will result in the automatic cancellation of the FCPS record.
Image Unsuitable	38	16	-22	The decrease is as a result of an improvement in image validation and quality control processes by GoSafe resulting in less cancellations under this category
Discretionary - Family Bereavement	31	0	-31	Discretionary family bereavement is no longer being used.
Disabled Parking Pass	28	33	5	No significant difference year on year.
Seat Belt Detection – Medical Evidence	10	8	-2	No significant difference year on year.
Vehicle Stolen	2	2	0	No significant difference year on year.
Speed Limit Incorrect	1	21	20	This increase is as a result of a batch cancellation in relation to an incorrect Speed limit for 20 FCNs
Blank (Automatic cancellations)	1	3	2	No significant difference year on year. Automatic Cancellations – are cancelled automatically by the FCPS with no human intervention.
Humanitarian Grounds	0	6	6	No significant difference year on year.
NVF - New owner details	0	148	148	This increase is due to the fact that this is a new cancellation reason since July 2014
Payment Processing Issue	0	3	3	No significant difference year on year.
Undelivered - Public Returns	0	16	16	This increase is due to the fact that this is a new cancellation reason since July 2014
TOTALS	2650	2605		

AUDIT REPORT



Fixed Charge Processing System

September 2014

Executive Summary

A number of reports in relation to the operation of the Fixed Charge Processing System (FCPS) have been completed over the last year. Following on from the recommendations of the Garda Síochána Inspectorate Report (March 2014)ⁱ all cancellations of penalty points notices have been centralised in the Fixed Charge Processing Office (FCPO) since the coming into effect of HQ Directive 48/2014 and accompanying policy and procedures on 16th June 2014.

This Audit sought to examine how the new procedures have been implemented since 16th June in the FCPO and whether this has enhanced the controls in place.

Garda Internal Audit Section (GIAS) audited in detail the documentation relating to Fixed Charge Notice Cancellations made in week, 16th to 22nd July consisting of 147 relating to Penalty Point offences and 87 relating to non Penalty Point offences. During this period there were 20 discretionary cancellations but the number of refusals to cancel was 50. There was therefore approximately 2.5 times more refusals than cancellations in the sample period.

AUDIT OPINION

From the audit examination, the Auditor was satisfied with the completeness of the documents examined, that proper procedures were being followed, and that management was competent and proactive in addressing systemic weakness as they were identified. The recommendations from the Report of the Comptroller and Auditor General (September 2013), the Garda Internal Audit Report (January 2014) and the Report of the Garda Inspectorate (March 2014) have substantially all been implemented.

The decision making in regards to cancellation of Fixed Charge Notices has been centralised to the FCPO in Thurles.

GIAS found a good audit trail including a log of incoming/outgoing correspondence, and phone calls, being maintained.

One issue in particular is still problematic in regard to the *non-delivery by post* of Fixed Charge Notices (FCNs) which represents the highest cause of cancellations. It is acknowledged that the recommendation from the previous Garda Internal Audit Report that these cancelled FCNs should be tracked by the FCPO to the Garda District concerned so that they can be re-issued has been effected in all cases with the exception of the Mobile Cameras. This

process is hampered by the short time frame as set out in the legislation (28 days ii) for resolving queries.

Management of the FCPO have indicated recent improvements to the controls (see page 14-16) in relation to the *“non delivery by post issue”* including;

- New procedures in relation to clarification of address with the Garda member where the FCN has been cancelled due to being returned as undelivered by An Post.
- New procedures in relation to cross-matching of the New Vehicle File (NVF) maintained by the Department of Transport
- FCPO have a short black list of Vehicle registration numbers not to be cancelled, where advised by a Garda member. This is where the Garda has confirmed that the person does reside at the address and that the FCN should not be cancelled but sent back out to the Garda to serve directly on the person at that address.
- A report was compiled to identify cases where a notice was returned undelivered since June 2014 and where more than two notices were recorded on the system for the same vehicle registration number. This report has been escalated to Regional Traffic Superintendent for investigation to establish why service cannot be effected.
- The FCPO are currently, using a new envelope with a return undelivered address to TICO (rather than FCPO) . The FCPO will monitor the undelivered statistics and see if this makes a notable difference in the undelivered statistics.

GIAS is satisfied that the centralisation of administration and decision making in the FCPO has considerably enhanced the controls over the FCPS cancellation system. GIAS found the FCPO to be well managed and operating effectively. We formed the view that we could place confidence in the procedures for the cancellation management in the Office.

For both Penalty Point and non-Penalty Point FCN cancellations, the Auditor was satisfied that there was sufficient supporting records on file and that the decisions made were objective and defensible.

Audit Report

Introduction

The Fixed Charge Processing Office (FCPO), based in Thurles, Co. Tipperary, is the National Processing Office, responsible for administering the Fixed Charge Processing System (FCPS). Following on from the recommendations of the Garda Síochána Inspectorate Report (March 2014)ⁱⁱ all cancellations of penalty points notices have been centralised in the FCPO since the coming into effect of HQ Directive 48/2014 and accompanying policy and procedures on 16th June 2014. This has placed the FCPO as pivotal to the whole operate and decision making in regard to the Fixed Charge Penalty System (FCPS).

The FCPS is a system developed by An Garda Síochána to enable computerised, automated processing of Road Traffic and Public Order Offences that incur fixed charges. The fixed charge notice was introduced by Department of Transport in April 2006 for traffic and parking offences. Some road traffic offences also attract penalty points, as provided by road traffic legislation.

A number of reports in relation to the operation of the FCPS have been completed over the last year. These include the Annual Report of the Comptroller and Auditor General 2012 (September 2013), an Internal Audit Report on the Fixed Charge Processing Office – Non Discretionary Cancellations (January 2014) and the Garda Síochána Inspectorate Report; *The Fixed Charge Processing System a 21st Century Strategy* (March 2014).

This Audit Report seeks to examine how the recommendations made in these three reports have been implemented and to verify the effectiveness of the changes and enhancements to controls, by objective testing of the systems in place in the Fixed Charge Processing Office since 16th June 2014.

Audit Scope and Methodology

The Audit included a level of compliance testing and verification as part of the audit methodology in accordance with the Internal Audit Standards for Central Government set by the Chartered Institute of Internal Auditors and recommended by the Department of Public Expenditure and Reform.

The audit field work was conducted in the Fixed Charge Processing Office in Thurles and at Garda HQ Phoenix Park in July to September 2014.

Garda Internal Audit Section

The Fixed Charge Processing Office is managed by an Assistant Principal Officer who has responsibility for the operation and administration of the Office. All decisions regarding cancellations of Fixed Charge Notices are made by Inspector FCPO who is the only Garda member in the Fixed Charge Penalty Office. In the absence of the Inspector FCPO, the Superintendent Garda National Traffic Bureau (GNTB) acts as the cancelling authority. HQ Directive 48/14 (June 2014) also allows Chief Superintendent GNTB to cancel penalty fixed charge notices. Only these three Officers can cancel Fixed Charge Notices.

On 1st July 2014 Garda Internal Audit Section met with the Assistant Principal, Inspector and Higher Executive Officers of the FCPO. We discussed the new HQ Directive and Policy Document and they explained how it was being implemented. This was followed by meetings with Garda Professional Standards Unit and with Chief Superintendent and Superintendent GNTB on 5th August in relation to the new procedures. Follow up queries were made with staff from the Garda Síochána Inspectorate and the Office of the Director of Public Prosecutions by telephone. The purpose of these meeting was to gain an understanding and get agreement from all stakeholders regarding how the new procedures should be applied.

One full-week in July from 16th to 22nd of July 2014 was selected for detailed scrutiny. This week was selected as it was exactly one month from the start of the new procedures coming into effect and would have allow a bedding down period for the new system. A 100% test of all FCN cancellations for this full week of operation in the FCPO from was undertaken. This consisted of 147 penalty point cancellations and 88 non-penalty point cancellations (see tables below).

Table 1: Penalty Point FCNs cancelled 16th to 22nd July

REASON FOR TERMINATION		
UNDELIVERED - An Post	49	33%
NVF (New Owner Details)	23	16%
STATUTORY EXEMPTION - Emergency Vehicle	21	14%
SCANNING - Incorrect Registration Number	12	8%
DISCRETIONARY (Other)	14	10%
NOMINATION ISSUES	9	6%
VEHICLE / DRIVER FILE DEFECT(S)	6	4%
DATA ENTRY ISSUES	3	2%
DUPLICATE NOTICE	3	2%
GARDA ERRORS	2	1%
SEAT BELT ISSUE	2	1%
DETECTION DETAILS ERRORS (Reg. No. Incorrect)	1	1%
DETECTION DETAILS ERRORS (Weight Restriction)	1	1%
VEHICLE STOLEN	1	1%
	147	

Table 2: Non Penalty Point FCNs cancelled 16th 22nd July

REASON FOR TERMINATION		
UNDELIVERED - An Post	29	33%
TAX INSURANCE TRADE PLATES	18	21%
DATA ENTRY ISSUES	16	18%
GARDA ERRORS	7	8%
DISCRETIONARY (Other)	6	7%
VEHICLE / DRIVER FILE DEFECT(S)	4	5%
DISABLED PASSES	5	6%
DUPLICATE NOTICE	2	2%
	87	

Source – GIAS working papers

As well as the applications that were accepted for cancellation the audit reviewed the correspondence in regard to the refusals to cancel FCN's in this period. This indicated from figure supplied by the FCPO that while there were 20 discretionary cancelations the number of refusals to cancel was 50 during this week. There was therefore approximately 2.5 times more refusals than cancelation in the sample period.

General Audit Objective

The general audit objective is to provide assurance to management concerning the adequacy of the systems of control in place regarding the administration of the Fixed Charge Processing Office.

In the context of this general audit objective the following specific objectives were examined:

1. A review of the implementation of the findings from the GIAS Audit of the FCPO in January 2014.
2. An examination of how the recommendation of the Garda Inspectorate Report (March 2014), the recommendations of the Comptroller and Auditor General Report and the HQ Directive 48/14 have been implemented since 16th June 2014.

Nature of Findings

GIAS found the FCPO to be well managed and operating effectively. We formed the view that we could place confidence in the procedures for the cancellation management of the Office.

Audit Resources

The audit was carried out by

The Fixed Charge Processing System a 21st Century Strategy; Garda Síochána Inspectorate Report (March 2014)

The following are some of the most relevant recommendations of the Garda Inspectorate Report in relation to the operation of the Fixed Charge Processing Office with notes as to how they have been implemented in An Garda Síochána;

Recommendation 2.3

(a) The Inspectorate recommends that the Garda Síochána Internal Audit or Professional Standards Unit undertake regular audit checks of the full operation of the Fixed Charge Processing System.

Implementation

HQ Directive 48/14 states under the heading; **Auditing of FCPS;**

The Garda Internal Audit Section (GIAS) will conduct regular audit checks of the full operations of the FCPS to ensure full compliance with all aspects of the policy. GIAS will furnish a report to Assistant Commissioner Traffic.....As part of any GIAS audit, Garda Professional Standards Unit will provide support by carrying out an examination of the decision making process.

The new policy therefore places primary responsibility for the audit of the FCPS with Garda Internal Audit Section in line with the Garda Síochána Inspectorate Recommendation. Garda Professional Standards Unit will provide a support role to GIAS.

GIAS will undertake a series of audits of the FCPS based on a risk assessment, this reports represents the first of these audits. We will also continue to audit the operations of the FCPS within each audit of a Garda Division undertaken.

At a meeting with GPSU on 5th August GIAS requested of GPSU that they examine 20 decisions consisting 10 decisions from 2 separate regions on a rotation basis for each month and that these reports are provided to GIAS.

Recommendation 2.4

The Inspectorate recommends that the Fixed Charge Processing Office is given full responsibility for the administration of the National Tracking Allocation System, immediately.

Implementation

HQ Directive 48/14 provides that;

A designated Sergeant must be appointed by each District Officer. This Sergeant will be instructed to check books of notes issued to members complete END of Tour FCPS Return Form 4 and return with completed spoiled, lost, stolen or damaged fixed charge notes to the Fixed Charge Processing Office (FCPO).....The designated Sergeant will be responsible for following up on send-backs returned from the FCPO.

Internal Audit have been informed by the FCPO that designated Sergeants have been appointed in most Districts and they are following up with District Officers in cases where they have not been informed as to the identity of these designated Sergeants. Queried applications and undeliverable notices are being sent back to Districts.

Recommendation 2.5

The Inspectorate recommends that the Fixed Charge Processing Office implements a robust 'sendback' process ensuring 'sendbacks' are tracked and the system audited with enhanced supervision at district and station levels to ensure 'sendbacks' are processed and returned to the FCPO within a reasonable timeframe.

Implementation

There is now a robust "sendback" process in place in FCPO which ensures that all notepads sent back for clarification are tracked from that office. A monthly reminder file issues to the District Office of any outstanding notepads not received back into the office within that month.

Recommendation 2.8

The Inspectorate recommends that an electronic document scanning and management system be introduced into the Fixed Charge Processing Office immediately.

Implementation

The specification for *this electronic document scanning and management system* has been set-out by the FCPO and the Garda ICT Directorate have been tasked with procuring or developing this system.

Recommendation 3.3

The Inspectorate recommends that the Garda Síochána policy on fixed charge cancellations, include an unambiguous definition of exceptional circumstances' when cancelling a Fixed Charge Notice.

Implementation

The FCPS Policy and Procedures Manual (4th Edition June 2014) does not provide a definition of exceptional circumstances however it does on pages 32/33 sets out six possible scenarios and how they should be treated.

From the audit testing undertaken fourteen penalty point exceptional circumstances cancellations were identified. Of these the Auditors would not have reached the same conclusion in two of the cases presented based on the scenarios set out in the policy document. GIAS recognises that such decisions are a judgement call and does not dispute the integrity of the decisions made in these cases.

Recommendation 3.4

The Inspectorate recommends that the District Officer be notified of each detected road traffic offence of an on-duty member to determine whether the member breached the road traffic regulation while on duty and whether cause to breach traffic regulations was present; and if not, recommend internal sanction.

Implementation

HQ Directive 54/14 dated 3rd July 2014 requires such disclosure.

Recommendation 3.5

The Inspectorate recommends that the District Officer should be notified of any road traffic offence detection involving any off-duty garda member as this may impact on the assignment of driving duties for the member concerned.

Implementation

HQ Directive 54/14 dated 3rd July 2014 require disclosure of such offences committed while off-duty where the offence would bring the members or civilian staff total of penalty points to more than 8 at any one time.

Recommendation 3.6

The Inspectorate recommends that when the Fixed Charge Processing Office is examining a petition for cancelling a Fixed Charge Notice, previously granted cancellation petitions in relation to the same vehicle and the same driver must be considered as part of the decision making process.

Implementation

The FCPS Policy Document on page 32 states that in considering applications for cancellation under exceptional circumstances that “whether the person previously had a FCN cancelled due to exceptional circumstances” should be considered.

Recommendation 3.7

The ‘cancelling authority’ and support staff must be provided with comprehensive training on the Fixed Charge Processing System; in particular the exceptional grounds, parameters and examples under which a Fixed Charge Notice may be cancelled.

Implementation

Consultation is taking place between the FCPO and the Garda College to design appropriate training programmes.

Recommendation 3.8

The Inspectorate recommends that the cancellation authority for Fixed Charge Notices be centralised immediately in the Fixed Charge Processing Office only.

Implementation

All decisions regarding cancellations of Fixed Charge Notices since 16th June 2014 are made by Inspector FCPO who is the only Garda member in the Fixed Charge Penalty Office. In the absence of this Inspector, Superintendent Garda National Traffic Bureau (GNTB) acts as the cancelling authority. HQ Directive 48/14 (June 2014) also allows Chief Superintendent GNTB to cancel penalty fixed charge notices.

All cancellations in our sample test were found to have been cancelled by the Garda Inspector in the FCPO.

Recommendation 3.9

The Inspectorate recommends that when a Fixed Charge Notice petition is received at the Fixed Charge Processing Office, that it will only be considered where the petition is accompanied by factual third party evidence supporting the reason for cancellation. Where a petition is not supported by such evidence, the petition is to be denied and the recipient of the Fixed Charge Notice informed immediately.

Implementation

The audit established that in the cancellation cases sampled there was third party evidence to verify the substance of the application.

Recommendation 3.10

The Inspectorate recommends that the Garda Síochána immediately put in place a mechanism ensuring that all offenders are informed of the cancellation petition policy of the Fixed Charge Processing System, including the discretionary grounds and parameters by which they may be cancelled in exceptional circumstances. This information must be available on the garda website and clearly stated on the Fixed Charge Notice.

Implementation

This information is published on the garda website (www.garda.ie/fcn).

Recommendation 3.11

The Inspectorate recommends that a request to cancel a FCN should be submitted to the FCPO on a FCN Cancellation Form only. The Form should be available on the Garda Síochána website or by request from the FCPO.

Implementation

The audit found that in all cancellation cases sampled the FCN Cancellation form was on file.

Recommendation 4.3

The Inspectorate recommends that all intercept pre-summonses be reported by the detecting member to the Garda Information Service Centre for entry into the Fixed Charge Processing System.

Implementation

The requirement for notification by detecting members of pre-summonses to the Garda Information Systems Centre (GISC) is provided at page 27 of the Policy and Procedures Manual.

Comptroller and Auditor General Annual Report 2012

The following are the recommendations of Comptroller and Auditor General's Annual Report 2012 Chapter 7 in relation to the operation of the Fixed Charge Processing System;

Recommendation 7.4:

An Garda Síochána should institute a system of independent sample-based reviews of termination cases to confirm that decisions in termination cases are adequately supported by documentary evidence of relevant facts and a clear record of the reason why a request for termination was acceded to.

Implementation

This Garda Internal Audit is an example of an independent sample-based review of termination cases.

Recommendation 7.5:

The authority on the FCPS to terminate cases should be restricted only to senior personnel in the Fixed Charge Processing Office, and those overseeing the Juvenile Diversion Programme. District officers should have authority to recommend termination in cases that comply with the termination policy, including in exceptional circumstances, subject to the required documentary evidence being supplied to the Fixed Charge Processing Office in support of the recommendation.

Implementation

This has been implemented: see recommendation 3.8 above. Only the Inspector FCPO, and the Superintendent and Chief Superintendent GNTB can cancel FCN's.

Garda Internal Audit Section Report on the Fixed Charge Processing Office – Non Discretionary Cancellations (January 2014).

The following were the two main areas for improvement in the FCPO in January 2014, regarding controls over the cancellation of non-discretionary Fixed Charge Notices (FCN's).

1. ***Monitoring of cancellations by FCPO staff.*** *From discussion with management, GIAS are satisfied that cancellations are being monitored but recommend that an additional control be introduced so that there is physical evidence of this monitoring.*

Implementation

Physical evidence of monitoring of the FCPS by FCPO staff was documented and evident during the course of this audit.

2. ***Undeliverable post.*** *GIAS is not satisfied that there is adequate follow-up on FCNs that are returned to the FCPO as undeliverable by post. As these represented 45% of the cancellations tested in this audit, this issue could result in a significant loss to the Exchequer.*

Implementation

While the "undeliverable by post" issues remains to be fully resolved it is apparent that such cases that arise as a result of Garda intercept are being returned to the District concerned for validation of address and are being tracked by the FCPO.

The audit testing has established that queried applications and undeliverable notices, with the exception of non-intercept notices with no history of sendbacks, are being sent back to Districts for clarification, evidence of third party verification and confirmation of correct address in line with the recommendations from the Garda Internal Audit Report (January 2014) and the Garda Inspectorate Report dated (March 2014). This process is however hampered by the short time frame as set out in the legislation (28 days) for resolving queries.

Audit Issues & Recommendations

Undelivered by An Post

Undelivered by An Post is the single most common reason for the cancellation of an FCN and represent 34% of the cancellation in the audit period. Notices are returned by An Post because they are unable to deliver them for various reasons, such as – ‘not known at this address’, ‘gone away’, ‘insufficient address’ and ‘no such address’ This category would be more accurately described as “not received by the addressee”.

All FCNs that are returned as undelivered by An Post are automatically cancelled, provided the FCN is returned unopened. This is to prevent the FCN being progressed to summons without the offender being aware of its existence.

Where the returned FCN has a ‘H’ (handheld) or an ‘N’ (notepad) prefix it is forwarded to the District where the detecting Garda is based. Following a recommendation made by GIAS in our January 2014 Audit Report the FCPO has introduced additional procedures where it looks for feedback on the follow up action taken by the District.

Where the returned FCN has an ‘S’ prefix (Safety Camera) the procedure is for the FCN system to be checked to determine if there is a history of returns from the offender concerned:

- If the return is a one off the FCN is cancelled and filed. No action other than recording the cancellation, is taken.
- If there is a history of returned FCNs from the offender the FCN is cancelled and forwarded to the District where the address is located for investigation. Among the cancellations in the audit sample there were a small proportion where the address appeared to the Auditor to be specific, in such instances GIAS recommend that the FCN be forwarded to the District for investigation.

The FCPO is aware that the FCN envelopes are clearly identifiable and there are unproven suspicions that offenders are returning them unopened to An Post. To address this issue the FCPO has recently introduced new anonymous envelopes.

Non-Penalty point

All non-penalty point FCN's have either a H or an N prefix and, if unopened, are cancelled and forwarded to the relevant District Office for follow up action and re-issue.

Recommendations

GIAS supports the initiative to use anonymous envelopes initiated by the FCPO.

GIAS recommend that undeliverable by post in relation to the GO-SAFE Camera FCNs should be forwarded to the District where the offender resides for clarification of address and re-issue.

It is imperative that the FCPO track and follow-up on all cancellations that have been returned to District to ensure that the clarification is received and the notice is re-issued

Management Response

All H (Handheld Device) and N (Notepad) tickets are returned to the Garda member advising them that FCN has been cancelled due to being returned undelivered by An Post. Garda Members are advised to reissue the ticket if they are aware of a new address or if address was incorrectly inputted or if a Garda Member is aware that person is actually living at the address that FCN was sent to in the first instance. The Garda Member is also asked to let the FCPO know where a replacement FCN issued. FCPO are currently setting up a spreadsheet, similar to the notepad sendbacks where a monthly reminder will issue to the District Officer to follow up on any FCNs unaccounted for. This is currently in place.

With regard to S tickets - there are two different follow ups depending on whether this is a nomination returned undelivered or a normal S ticket issued using NVF data.

a. Where a nomination is returned undelivered a letter is sent to the registered owner requesting clarification of the address.

b. In the case of S (Safety Cameras) tickets returned undelivered which were issued using NVF data, previous cancellation checks are now being completed since August. Where there are multiple FCNs terminated for undelivered, these are being sent out for further investigation to the District Officer. FCPO have sent a number of these to Department of Transport, in Shannon for follow up. No reply has yet been received from Department Of Transport in Shannon.

Black Listed Vehicles

FCPS also have a short black list of Vehicle registration numbers not to be cancelled, where advised by a Garda member. This is where the Garda has confirmed that the person does reside at the address and that the FCN should not be cancelled but sent back out to the Garda to

serve directly on the person at that address. These relate to "H" and "N" Tickets.

Repeat Offenders

"S" (Safety Camera) notices generated from camera detections are cancelled and for multiple notices a random selection was previously pursued and enquiries conducted to try and establish if additional information was available to effect service if notices issued to the registered owner in future. A report was compiled to identify cases where a notice was returned undelivered since June 2014 and where more than two notices were recorded on the system for the same vehicle registration number. This report has been escalated to Regional Traffic Superintendent for investigation to establish why service cannot be effected. While the system will not allow the re-issue of "S" notices the follow up may address the reason for non-service. The results of the investigations are currently being collated at the FCPO

New Envelope Changes

The FCPO are currently, using a new envelope with a return undelivered address to TICO (rather than FCPO) . The FCPO will monitor the undelivered statistics and see if this makes a notable difference in the undelivered statistics going forward.

Service of Fixed Charge Notices

Currently ordinary post is utilised to serve fixed charge notices. This is provided for in section 25 of the Interpretation Act 2005 which states:-

"Where an enactment authorises or requires a document to be served by post, by using the word "serve", "give", "deliver", "send" or any other word or expression, the service of the document may be effected by properly addressing, prepaying (where required) and posting a letter containing the document, and in that case the service of the document is deemed, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post."

In addition section 103(10) of the Road Traffic Act 1961 (as substituted) provides:-

In a prosecution for a fixed charge offence it shall be presumed until the contrary is shown that—

(a) the relevant notice under this section has been served or caused to be served, and

(b) that a payment pursuant to the relevant notice under this section, accompanied by the notice, duly completed (unless the notice provides for payment without the notice accompanying the payment), has not been made."

Where a fixed charge notice is not paid proceedings are instituted for the fixed charge offence.

Road Traffic Act 2010

Provisions in the Road Traffic Act 2010 provide for extra provisions in relation to the service of Fixed Charge Notices and Summonses.

Section 44 (not commenced) provides that a person who is served with a summons in respect of a fixed charge offence may pay a fixed charge, of an amount 100% greater than the original fixed charge, not later than 7 days before the date of the Court on which the charge is to be heard (3rd payment option). The Section provides that if a person pays the fixed charge, proceedings in respect of the alleged offence will be discontinued and the person need not attend the Court on the day

Section 44(7) Road Traffic Act 2010, not commenced, provides that where a summons is served in respect of a fixed charge offence, evidence that the fixed charge notice was not served shall not be a defence to the alleged offence.

Section 35 of the 2010 Act, not commenced, provides that service of a fixed charge notice may be executed by posting or delivering it to the address (inside or outside the State) at which the person ordinarily resides, which at the time of the alleged offence the person gave to the detecting Garda, or at which the vehicle is registered. Section 62 of the 2010 Act, commenced 1st June 2011, provides an obligation on a driver to provide their current address at which they reside to a member of An Garda Síochána.

In support of the above mentioned provisions, Section 38, not commenced, provides that in a prosecution for a fixed charge offence it shall be presumed, until the contrary is shown, that the relevant fixed charge notice has been served and that payment of the fixed charge has not been made. The section also provides that in any proceedings in respect of a fixed charge offence a document purporting to be a certificate or receipt of posting or delivery issued by An Post or another postal service is admissible in evidence as proof of the posting or delivery, as the case may be, of a fixed charge notice, until the contrary is shown.

Discretionary cancellations

For both Penalty Point and Non-Penalty Point FCN cancellations, the Auditor was satisfied that there was sufficient supporting records on file and, while the Auditor may have come to a different decision in relation to two out of fourteen cases tested, was also satisfied that the decisions made were objective and defensible.

Change of ownership

Penalty point

In relation to change of ownership there was 23 cancellations in the period under review. FCN's were re-issued in respect of 20. The FCPO were unable to re-issue 3 FCNs as the New Vehicle File (NVF) had not been updated by the Department of Transport.

There is liaison between GPFO and the Department of Transport in relation to the NVF.

Data Entry Issues, Detection Details Errors

(including Scanning-Incorrect Registration Number and Garda Errors)

Penalty point

The audit sample included 19 FCN cancellations due to errors in data entry or detection details. One of the sample was found to predate HQ Directive 48/2014 and completed on old forms. The records in respect of the other cancellations were satisfactory. Detections by GoSafe cameras accounted for 14 of the cancellations and enquiries with the FCPO established that new FCNs issued in respect of 12.

In respect of the 5 FCNs issued directly by Gardai, GIAS established that new FCNs issued or the Garda was instructed to issue in respect of 3. One of the remaining FCNs appears to have been issued in error; from correspondence on file it appears that the Garda intended merely to verbally warn the offender and unintentionally issued the FCN.

Non-Penalty point

GIAS were satisfied with the records in the FCPO.

Disabled Pass

Non-Penalty point

GIAS were satisfied with the records in the FCPO.

Statutory Exemption – emergency vehicles

Penalty point

GIAS examined 21 cancellations involving emergency vehicles. It was found that with the exception of one termination (S02635084L), where the old form was used and was resolving a nomination for an offence which predated HQ Directive 48/2014, the correct documentation was used and was properly completed. With the exception of an ambulance, all the statutory cancellations were related to official Garda vehicles.

Duplicate notices

Penalty point

The sample included 3 duplicate notices, all of which the fine was paid on the original.

Non- Penalty point

There were 2 duplicate notice cancellation in the audit sample and the original reference number for each was recorded.

Nomination Issues

Penalty point

The sample included 9 cancellations due to nomination issues (i.e. that the wrong name is on the FCN). The FCPO will when receiving a nomination re-issue the FCN to the nominee but if the nomination was incorrect in the first instance a third FCN cannot reissue. Reviewing the records on the 9 incorrect nominations GIAS noted:

- 1 was a taxi with multiple drivers and the company had nominated the wrong driver.

- 1 was a car with multiple drivers which belonged to a religious order which had nominated the wrong driver.
- 2 were cars with multiple drivers which belonged to a company which had nominated the wrong driver.
- 1 the owner was abroad and returned too late for nomination.
- 4 were car rental companies.

There was documentation on file which provided reasonable support to the assertion that the wrong driver had been nominated.

Recommendation

GIAS recommend that the upper limit for the re-issue of FCNs to nominees be removed.

National Vehicle File Register

Penalty point

The audit sample included 23 incidents where the FCN was cancelled because it issued to the owner of the car previous to the offence occurring. The audit established that it is the practice for new FCN's to issue where possible. In a small number of cases the new FCN could not be issued within the timeframe as the NVF file had not been updated.

Non-Penalty point

There were 4 cancellation in the audit sample. This included 3 with an N prefix and GIAS were informed that N prefixed FCNs are not reissued in these circumstances. For the remaining cancellation, the owner had died and it was unclear if the car was being driven at the time.

Seat Belt Issues

Penalty point

The audit sample included 2 cancellations which were supported by medical evidence.

Stolen Vehicle

Penalty point

The 1 cancellation in the sample was confirmed by GIAS to Pulse.

Tax/Insurance/Trade Plate

Non-Penalty point

Supporting records were on file.

ACKNOWLEDGEMENTS

Garda Internal Audit Section wishes to take this opportunity to acknowledge the support and assistance provided by all Staff in the FCPO, the staff of the GNTB and GPSU within An Garda Síochána and staff that assisted with queries in the Garda Síochána Inspectorate and the Office of the Director of Public Prosecutions.

Niall Kelly

Niall Kelly
Head of Internal Audit

Date: 24/09/14

John Twomey

John Twomey
Assistant Commissioner
Traffic.

Date: 30/09/14

ⁱ Garda Síochána Inspectorate; The Fixed Charge Processing System a 21st Century Strategy; March 2014.

ⁱⁱ Road Traffic Act 2002; Section 11, Paragraph 5.