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

1. This is my Fourth Report following my appointment as the sole Independent Oversight Authority of the above title on the 27th January 2015.

2. My terms of Reference are as follows:
   a. Review and monitor the cancellation of FCPS notices by An Garda Síochána with a view to ensuring compliance with Garda policy on the cancellation of FCPS notices,
   b. Communicate any matters he considers appropriate to the Commissioner of An Garda Síochána,
   c. Communicate any matters he considers appropriate to the Minister and report to the Minister annually on his findings and on the discharge of his functions,
   d. Examine and report on any specific matters relevant to the operation of the FCPS at the request of the Minister, should this be required.

3. The Fixed Charge Processing System Policy and Procedures Manual Fourth Edition which took effect on the 16th June 2014 provides the basis for the present system. The decision making process is centralised at the Fixed Charge Processing System Office (FCPO) in Thurles, Co. Tipperary, which comes within the Remit of the Garda National Traffic Bureau (GNTB) and the following are authorised as sole cancelling Authorities:
   i. Chief Superintendent GNTB
   ii. Superintendent GNTB
   iii. Superintendent Fixed Charge Processing System Office, Thurles

Since February 2015 all applications for exemption under Section 87 of Road Traffic Act 2010 as amended by Section 23 of the RTA 2014 in respect of members of An Garda Síochána driving their private vehicles are referred to the Director of Public Prosecutions who directs whether the exemption applies.

4. The implementation of most of the recommendations contained in the Report of the Garda Professional Standard Unit has immensely strengthened the system. The Garda Professional Standard Unit has continued to carry out monthly examinations of random samples into decisions by the Cancelling Authority. The Garda Internal Audit Section completed an audit of the FCPS in September 2014 and carried out subsequent review audits in July 2015.

5. The work to date has involved meetings with the 3 members of the Cancelling Authority and I am satisfied that the members of staff in Thurles are well motivated and understand the procedures applicable.
6. As in previous years I have reviewed the Cancellations by choosing a random sample of a week in each three or four week period in keeping with my role as an Oversight Authority. In addition, the involvement of the Garda Professional Standards Unit provides a great deal of reassurance. I have examined files where the Cancelling Authority used his discretion and I would not disagree with the manner of the exercise of that discretion. Supporting documentation was provided where necessary and it has to be stated that these cases were few in number.

7. It remains necessary for a Garda who is driving a private vehicle in the course of duty to satisfy the Director of Public Prosecutions that:
   a. The driving or use of the vehicle by the member was in performance of his duties,
   b. Such use did not endanger the safety of road users.

8. Where a Garda is driving an official vehicle the application is made to the Cancelling Authority and the two items of proof required are namely:
   a. That he/she was driving in the course of duty
   b. That such driving did not endanger the public

We are all familiar with the advertisement that “speed kills”. Even accidents at relatively low speeds can cause death or serious injury. To this end, I have advised in the past, that Gardaí should state when applying for the exemption the specific reason for breaking speed limits. Despite this, applications have continued to be submitted merely stating that the Garda was on duty at the time and that road users were not endangered. If there is an emergency or other good reason to speed this is acceptable. [Redacted]

Contrast this with the Fixed Charge Processing System Policy and Procedures Manual Fourth Edition, Cancellation Policy which deals with applications from members of the public:

   (i). An Application from a Doctor responding to an emergency where 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,
   (ii) 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. There are just two of the examples.

Safe driving is the objective and it may be necessary to communicate directly with the Gardaí Síochána in this matter. Both superintendent Con O’Donohoe and Superintendent John Furlong have been very helpful on this aspect, but it has not resolved the issue.

9. There is substantial number of FCN’s returned “Undelivered  Gone Way” or “Unknown” at this address. Three additional Regional Enforcement Units have been established with the aim of providing additional information to aid in the decision making process. The suspension of the statutory time limit of 28 days in circumstances where FCN’s are returned “Undelivered An Post” has not yet occurred. In addition the Gardaí have to rely on the National vehicle file from the Department of Transport, Tourism and Sport to identify the registered owner of vehicles, which does not always have the information necessary. Overall the establishment of these units have resulted in the degree of compliance with the system but this continues to be a work in
progress. The Enforcement Unit is also centrally involved in the examination and review of the nomination procedure.

The unit currently carries out the following functions:

a) Pre-vetting of all foreign nomination (excluding hire vehicle)
b) Processing of undelivered FCN's for hand delivery
c) Examination of all returned undelivered and refused FCN's arising from nomination
d) Preparation of investigation packs for regional enforcement units

10. I have reviewed the Fixed Charge Processing System and the Cancellation System thereunder and I am satisfied that there has been substantial compliance with the Fixed Charge Processing System Policy and Procedures Manual Fourth Edition which took effect on 16th Jun 2014.

11. This is my report to you for the year 2018.

Dated 18 - 11 - 2018

Signed Matthew Deery

Matthew Deery

(Retired President of the Circuit Court)