

# An Garda Síochána

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an Choimisinéara  
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Páirc an Fhionnuisce  
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Luaigh an uimhir tharaghta seo a leanas le  
do thoil:

Please quote the following ref. number:

CMR\_82-101685/13

Mr Ted McEnery  
Clerk to the Committee  
Committee of Public Accounts  
Leinster House  
Dublin 2



**Re: Commissioner's appearance before the Public Accounts Committee  
Thursday 23 January 2014, 10 a.m.**

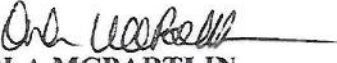
Dear Mr. McEnery

I am directed by the Commissioner to forward briefing paper as requested in your correspondence of 23 October 2013 in advance of the meeting on 23 January 2014.

I also enclose herewith documentation setting out the 2012 Estimate allocation and expenditure outturn under each subhead of Vote 20, as contained in the 2012 Appropriation Account, as well as the 2013 Estimate Allocation and 2013 Provisional outturn.

A copy of the opening statement and details of those attending will be forwarded to you in advance of that meeting.

Yours sincerely

  
ORLA MCPARTLIN  
CHIEF SUPERINTENDENT  
PERSONAL ASSISTANT  
TO COMMISSIONER

16 January 2014



**Briefing Document**

**2012 Annual Report of the C&AG**

**Chapter 7:**

**Management of the Fixed Charge Notice System**



## Conclusions and Recommendations

7.71 One of the key objectives of the fixed charge notice system is to contribute to safer driving and reduced road accident casualties. The number of fatalities on Irish roads has declined rapidly from a peak in 2005. A similar level of decline has occurred in other jurisdictions. For example, Ireland and the UK both achieved a 51% fall in road fatality rates per capita during the period 2002 to 2010 (the latest period for which international comparisons are available). However, it is not clear to what extent this is attributable to the operation of the fixed charge notice system. Other factors that contribute to the level of fatalities include vehicle design changes, better roads, trends in travel patterns, and road safety promotion.

### *Overview of Fixed Charge Notice Case Outcomes*

7.72 Figure 7.11 summarises the results of the data analysis carried out for this examination. This is expressed in terms of the proportion of cases detected in the commission of road traffic offences, and where a decision is made to initiate a fixed charge notice.

7.73 The available evidence indicates that the majority of drivers — two out of every three — detected in the commission of road traffic offences paid their fines within the specified time period. Where relevant, penalty points were added to their licence record. In a further 10% of cases, where the fine is not paid, the recipients of fixed charge notices have their cases determined in court.

7.74 However, because of significant weaknesses in aspects of the operation of the fixed charge notice system, a substantial proportion of offenders — up to one in five — are able to avoid penalties, and do not end up in court. These operational weaknesses need to be addressed urgently by An Garda Síochána to underpin the effectiveness of the system and to ensure fairness and continued public confidence in, and acceptance of, the fixed charge notice system.

7.75 The Commissioner has stated that a new policy in relation to cancellation of fixed charge notices was issued to the entire Garda organisation on 30 August 2013. An Garda Síochána is also in the process of revision of all policies and procedures associated with the general management of the FCPS, through the revised FCPS user manual.

7.76 The Commissioner has stated that while the FCPS was designed to capture the life cycle of a road traffic offence incurring a fixed charge notice, payment is outside the remit of An Garda Síochána. Two of every three offenders detected for commission of road traffic offences pay their fine. The reason a proportion of the remainder are not paid involve a variety of factors e.g. vehicles registered to companies, difference in owner details on the NVDF, difficulty locating offenders for service of summonses, technological difficulties such as illegible number plates, exempt vehicles, technological mismatch on specified vehicles, notices undelivered/incorrectly delivered by An Post, etc. These factors will be brought to the attention of the relevant process owners internally and externally by the Garda National Traffic Bureau to effect improvements.



### ***Control of Fixed Charge Notepad Forms***

7.77 The design of the control system for fixed charge notice form notepads would allow for effective control of the forms, but this is not being achieved in a significant proportion of cases, because of the high level of unaccounted for forms. Not being required to account for every form creates scope for cancellation of fixed charge notices by Garda members subsequent to initiation of a case, outside of the formal notice cancellation procedure, and without appropriate controls.

#### **Recommendation 7.1:**

An Garda Síochána should immediately commence monitoring of missing sequence notepad forms and follow up regularly with the relevant Garda members any forms that are unaccounted for. Reasons for any spoilage should be recorded. Any decision by a member of An Garda Síochána not to proceed with a case that has been initiated should be documented, recording the reason and the authorisation for the cancellation. Such cases should be subject to review on a sample basis, including examination of forms retained at local level, and the notebook records of the Garda members with charge of the spoiled forms.

**Commissioner's Response:** Agreed. This recommendation will be actioned by An Garda Síochána.

#### **Present Position as of the 16th January, 2014**

New notepads have been introduced, which contains individual barcodes to make them more identifiable. Notepads are issued to members of AGS by District Offices recording name, station, registered number and the unique reference number. The Notepads are received from the Divisional Office following a requisition from Santry, Central Stores.

Assistant Commissioner, Traffic has been appointed to oversee this process and submit regular audit reports to the Commissioner on notepads.

On the 29<sup>th</sup> November 2013, Assistant Commissioner, Traffic issued instructions in relation to the proper tracking of fixed charge notices, including completed, spoiled, lost, stolen or damaged notices. District Officers are required to report to the Fixed Charged Processing Office on a monthly basis, in relation to compliance with policy and procedures.

#### ***Service of Summons***

7.78 One in nine detected fixed charge notice offences was unpaid but did not result in a court hearing because the summons was not served by An Garda Síochána. The primary risk is that certain offenders may have identified ways of avoiding summons service, and consequently may believe that they can re-offend without consequences. There may also be Garda districts where service of summonses does not receive the required priority due to resource constraints, low prioritisation or for other reasons.





### **Recommendation 7.2:**

Better integration between Garda and Courts Service case tracking systems is required to ensure that An Garda Síochána can effectively monitor the outcomes of cases referred for prosecution. This would allow management to analyse the patterns of (non) service of summonses and to identify appropriate responses e.g. targeting of repeat offenders for service of summonses, and to follow up with districts where high rates of non-service of summonses occurs.

**Commissioner's Response:** Agreed. This matter will be raised at the appropriate level between An Garda Síochána and the Courts Service in the context of the Criminal Justice Integration Project. A proposed new functionality will assist Garda management thereafter to identify districts where high rates of non-service of summonses occurs.

### **Present Position as of the 16th January, 2014**

Chief Superintendent Crime Policy and Administration is currently chairing a Working Group with the Court Services (in the context of the Criminal Justice Integration Project) to ensure better integration between An Garda Síochána and the Courts Service. Some IT changes are scheduled to take place later this year to improve integration between An Garda Síochána and the Courts Service.

As I will articulate in my opening remarks, the service of summonses is an area that has proved difficult over the years for a variety of reasons some of which are outlined below but our efforts to improve the level of summons service continue;

- Apartment Blocks with restricted access
- Company Vehicles
- Persons residing outside of this jurisdiction
- Persons attempting to evade service

### ***Termination of Fixed Charge Notice Cases***

7.79 An Garda Síochána have adopted a clearly stated policy in relation to the termination of fixed charge notice cases. This is set out in the force's manual for the system. The policy requires termination in certain cases where statutory exemptions are provided for, subject to specified conditions being satisfied. It also specifies a number of exceptional situations where the relevant District Officer may use his/her discretion and terminate a case, if the relevant facts are established.

7.80 The operation of the FCPS does not accord with the termination policy as articulated in the manual in some key respects. In particular

- Senior officers with the facility to terminate cases on the system are not restricted to doing so only for cases within their line of management (district or unit).
- The system provides for cases to be terminated on additional 'discretionary' grounds, over and above the exceptional circumstances specified in the policy statement.

7.81 There is evidence that the policy on termination of cases is not being applied consistently. In the sample cases reviewed for this examination, a significant proportion of cases appear to have been terminated in circumstances that do not satisfy the stated policy. The rates of termination in many districts are too high to be



considered reflective of 'exceptional circumstances'. Absent and inadequate records, and the recorded facts of many cases, give rise to concerns that many cases have been terminated without due cause. Furthermore, there are grounds for concern that certain 'outside district' cases were terminated without appropriate authority.

**Recommendation 7.3:**

The policy for termination of fixed charge notice cases should be reviewed by An Garda Síochána, and amended if required, or restated if not. Controls should be implemented in the FCPS to reflect the authorisation limits specified in the termination policy.

**Commissioner's Response:** Agreed. This issue has already been identified and actioned by An Garda Síochána as a result of internal review reports on the operation of the FCPS. Guidance to members issued on 30 August 2013 deals with this matter.

**Present Position as of the 16th January, 2014**

The revised Cancellation Procedures – Garda Fixed Charge Processing System (FCPS), which came into effect on the 30<sup>th</sup> August 2013, outlines revised cancellation procedures in relation to Fixed Charged Notices (FCNs). The revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) provides for the forwarding of a Certified FCN Cancellation Form from the Cancelling Authority to the Central Authority.

The Cancelling Authority for a Fixed Charge Notice is the District Officer (or Inspector appointed to act for the District Officer) in the District where the alleged offence occurred and the Superintendent, Dublin Metropolitan Region Traffic, Dublin Castle, Dublin 2 with regard to offences detected by personnel attached to that unit. The Cancelling Authority no longer has the ability to terminate a FCN on the Local GardaiS (PULSE) Computers.

All decisions to cancel FCNs must be immediately communicated to the Central Authority (Inspector in Charge, Fixed Charge Processing Office, Thurles, Co. Tipperary). The Central Authority is responsible for terminating the FCN on the Fixed Charge Processing System

The Central Authority is the Inspector in Charge, Fixed Charge Processing Office, Thurles, Co. Tipperary.

Separately a new Policies and Procedures Manual for the Fixed Charge Processing System (FCPS) is currently completed and the views and observations of the Director of Public Prosecution and the Garda Inspectorate are awaited.

On receipt of their views and observations, I will issue the new Policies and Procedures Manual and make key elements of the policy available to the public.

The manual includes the following policies and procedures

- Notepad Tracking & Allocation
- Completing and Handling Notes
- Using Handheld Devices
- Garda Camera Speed Detections
- Dealing with Juveniles



- Dealing with Enquiries
- FCN Cancellations
- Payment Processing
- Summons Processing
- Secure access to FCPS
- Human Rights
- Reporting

A three tier audit process conducted by, Assistant Commissioner, Traffic, Garda Professional Standards and the Garda Internal Audit Section has been introduced to conduct examinations/audits of the operation of the FCPS system to ensure full compliance with the revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013).

7.82 Apart from the files examined in the Fixed Charges Processing Office, the standard of documentation kept in relation to the sample termination cases examined was inadequate, and is contrary to the instructions set out in the system manual.

**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.

**Commissioner's Response:** Agreed. A new procedure provides for examinations/audits of the FCPS by the Garda Professional Standards Unit, Garda Internal Audit Section and Assistant Commissioner Traffic.

**Present Position as of the 16th January, 2014**

The revised Cancellation Procedures – Garda Fixed Charge Processing System (FCPS) came into effect on the 30<sup>th</sup> August 2013 and outlines revised cancellation procedures in relation to Fixed Charged Notices (FCN's).

The revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) also outlines the responsibilities to conduct examinations/audits in relation to the operation of the Fixed Charge Processing System (FCPS).

A three tier audit process conducted by, Assistant Commissioner, Traffic, Garda Professional Standards Unit and the Garda Internal Audit Section has been introduced, to conduct examinations/audits of the operation of the FCPS system to ensure full compliance with the revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013).

The Fixed Charged Processing Office has been instructed to ensure accurate and up to date records for termination of Fixed Charge Notices are maintained for auditing purposes.

Assistant Commissioner, Traffic has in accordance with the revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) conducted an audit of decisions to terminate by selected Divisional Officers and all examinations were in accordance with policy.



The Garda Professional Standards Units has in accordance with the revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) conducted an audit of decisions to terminate FCNs by 24 Garda District Officers. All decisions examined were found to be in accordance with policy.

The Garda Internal Audit Section has in accordance with the revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) conducted an audit of Non-Discretionary Cancellations at the Fixed Charge Processing Office, Thurles, Co. Tipperary. The audit found that the Fixed Charge Processing Office complied with policy.

#### **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.

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

A hard copy of all relevant documentation will be retained at the district office for auditing purposes including the termination request. A certified fixed charge notice cancellation form will be signed and dated by the district officer.

#### **Present Position as of the 16th January, 2014**

The revised Cancellation Procedures – Garda Fixed Charge Processing System (FCPS) came into effect on the 30<sup>th</sup> August 2013 and outlines revised cancellation procedures in relation to Fixed Charged Notices (FCN's).

The revised Cancellation Procedures (HQ Directive of 30<sup>th</sup> August 2013) outlines the following:

The Cancelling Authority is no longer permitted to terminate an FCN on local GardaIS (PULSE) Computers since the 30<sup>th</sup> August 2013. All decisions to cancel FCN's must be immediately communicated to the Central Authority (Inspector I/C, Fixed Charge Processing Office, Thurles, Co Tipperary) who will have responsibility for terminating the FCN on the FCPS.

It is no longer technically possible to terminate Fixed Charge Notices at local Garda Divisions/Districts on the PULSE computer system.

#### ***Penalty point and multiple termination issues***

7.83 During the review it was noted that the application of penalty points could not be completed in all cases. In particular,

- In over 300 cases penalty points should have been recorded on the licence of the driver but this could not be undertaken due to the name and licence number on the Garda file not matching details on the NVDF





▪ A significant number of the 3,000 notices which became statute barred was due to the late entry of data onto the system due to delays by Gardai in submitting offences recorded on notepads and handheld devices.

7.84 The review also noted around 600 vehicles that had multiple termination of notices in the period. Some of these related to companies and a particular problem in identifying the driver.

#### **Recommendation 7.6:**

An Garda Síochána and the Department of Transport, Tourism and Sport management should review on a regular basis the level of driver licence mismatches between the Garda file and the NVDF and multiple termination cases to determine whether any individual or system responses should be undertaken. Garda management should also review offences becoming statute barred to determine the responses to be taken.

**Commissioner's Response:** Agreed. An issue has been identified in relation to complications associated with company registration legislation. In the context of this recommendation, An Garda Síochána will engage with the Department of Transport, Tourism and Sport to examine the issue of driver mismatches.

#### **Present Position as of the 16th January, 2014**

An Garda Síochána and DTTAS have met on the matters mentioned and investigations are currently in progress on the background to the mismatches between the Garda File and the NVDF.

A representative Group from

- Courts Service
- Department of Transport, Tourism and Sport
- Department of Justice and Equality
- An Garda Síochána
- Road Safety Authority

was established in mid 2013 to examine issues with the operation of the penalty points system.



Vote 20

An Garda Síochána

Public Accounts Committee  
Briefing Document  
23<sup>rd</sup> January 2014

2012 C&AG Annual Report  
Chapter 7- Management of the Fixed Charge  
Notice System



## Overview of Vote 20

The table shows the 2012 Estimate allocation and expenditure outturn under each subhead of the Vote, as contained in the 2012 Appropriation Account, as well as the 2013 Estimate Allocation and 2013 Provisional outturn

Subhead	2012 Estimate €000	2012 Outturn €000	2013 Estimate €000	2013 Outturn (Provisional) €000
A.1 (i) Salaries, Wages and allowances	956,433	955,189	945,550	946,564
A.2 (ii) Travel & Subsistence	13,966	14,013	14,755	14,452
A.2 (iii) Incidental Expenses	12,369	12,268	13,051	12,782
A.2 (iv) Postal and Telecommunications services	42,835	43,165	39,610	42,356
A.2 (v) Office machinery and other office supplies and related services	19,037	19,373	21,524	20,692
A.2 (vi) Maintenance of Garda Premises	6,521	7,141	1,700	1,917
A.2 (vii) Consultancy services	155	157	160	125
A.2 (viii) Station services	18,850	18,520	19,700	19,540
A.2 (ix) Implementation of Garda SMI	178	150	-	-
A.2 (x) Garda Reserve	900	884	1,050	1,042
A.2 (x) EU Presidency	-	-	3,581	3,581
A.3. Clothing and accessories	2,650	2,499	3,500	3,889
A.4. St Paul's Garda Medical Aid Society	124	124	124	124
A.5. Transport	26,654	27,018	33,115	33,583



<b>Subhead</b>	<b>2012 Estimate €000</b>	<b>2012 Outturn €000</b>	<b>2013 Estimate €000</b>	<b>2013 Outturn (Provisional) €000</b>
A.6. Communications and other Equipment	27,966	28,184	29,350	28,954
A.7. Aircraft	1,250	1,320	1,250	1,220
A.8. Superannuation, etc	319,673	317,825	310,173	306,946
A.9. Witnesses Expenses	1,500	1,472	1,805	1,762
A.10. Compensation	16,622	16,587	18,361	17,546
A.11. Witness security programme	-	-	1,198	1,150
<b>Gross Expenditure</b>	<b>1,467,683</b>	<b>1,465,889</b>	<b>1,459,557</b>	<b>1,458,224</b>
B. Appropriations-in-aid	133,641	133,386	136,486	136,590
<b>Net Expenditure</b>	<b>1,334,042</b>	<b>1,332,503</b>	<b>1,323,071</b>	<b>1,321,634</b>
<b>Surplus to be surrendered</b>		<b>1,539</b>		<b>1,437</b>

