

F.C.P.S Examination

Issues Arising from Fixed
Charge Notice Offence
R0024 – Using vehicle
without valid test
certificate (NCT)

Michael O'Sullivan,
Assistant Commissioner

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Terms of reference:

‘To examine the processes and procedures, both IT and manual systems, which permitted offences to which a Fixed Charge penalty applied to be dealt with by way of summons and, ultimately, by the Courts and which has resulted in approx. 14,700 persons receiving convictions and court-imposed penalties, including the imposition of penalty points on persons who should, correctly have received a Fixed Charge Notice for those offences’.

Executive summary

On the 08/12/2014 failure to have a National Car Test (NCT) certificate became a Fixed Charge Offence (FCO) and from that date on, no summons should have issued for failing to have an NCT Certificate unless the driver had firstly been issued with a Fixed Charge Notice (FCN) and did not pay.

On the 26/04/2016 the Garda Information Service Centre (GISC) was contacted by a Garda Sergeant following a case where the defendant informed the Judge that she had already paid a FCN in respect of the offence for not having a valid NCT Certificate. The Judge then requested an explanation as to how this had occurred. Following contact with the Garda National Traffic Bureau (GNTB), the prosecuting Inspector was advised that the summons had been issued as a result of an administrative error. This was accepted by the Judge and the case was struck out.

Following on from this, an initial examination took place between the GNTB and Garda IT to identify cases where a person had paid a FCN and subsequently was summonsed to court. This examination identified cases where summonses had been issued for an offence where a FCN had already been paid by the person. Assistant Commissioner, GNTB, initiated an extended review to find out if any other issues arose with regard to the operation of the Fixed Charge Process System (FCPS). It was found that from when the FCPS commenced in 2006 up to 2016 a substantial number of summonses were issued to people who had been brought before the courts without the opportunity to pay a FCN i.e. they were never issued with a FCN in the first place. Approximately 14,700 cases were identified where a penalty was given by the court.

The purpose of this report is to examine the processes and procedures of both IT and manual systems which permitted offences, to which a fixed charge penalty applied to be dealt with by way of summons and ultimately by the courts which resulted in approximately 14,700 persons receiving convictions and court imposed penalties including the imposition of penalty points on persons who should correctly have received a Fixed Charge Notice for those offences. The specific event of a court case in Carrick-On-Shannon provided the impetus for this research. This is the second phase of research following on from earlier internal reporting on the issues that led to this problem being highlighted.

Four main issues were identified as follows:

1. Prosecutions taken for using a vehicle without a valid test certificate (NCT) where the person prosecuted has already paid a fixed charge for the offence;
2. Prosecutions on foot of summonses taken for Fixed Charge Offences where no Fixed Charge Notice (FCN) had been issued in accordance with legislation;
3. More than one summons issued in respect of the same offence;
4. Prosecutions not initiated where a Fixed Charge Notice had not been paid.

The aim of the enquiry was to establish what exactly has occurred in relation to the four areas outlined above. How did these problems occur, was it a result of failure in governance, supervision, training, lack of clear guidance/direction, management, oversight and/or the fact that the IT system underpinning the operation of the FCPS allowed these issues to arise. The examination will concentrate on the period 03/04/2006 to 26/04/2016 from when the FCPS was initiated to when the matter came to light.

The reasons that these issues occurred will be explained throughout this report but the overriding issue is that the IT system governing the FCPS allowed the first three issues to occur. Basically when the system was created, the code classifications did not prevent a member from going direct to summons without issuing a FCN in the first instance. When these issues were detected, Garda IT rectified the problem and the IT matters were fundamentally solved on the 14/07/2016. The recent 'glitch' in the Health Services Executive NIMIS system potentially affecting 25,000 records of diagnostic images reminds us that IT difficulties can unfortunately be commonplace throughout the public and private sectors.

The 4th issue relating to "Prosecutions not initiated where a Fixed Charge Notice had not been paid" is largely to do with procedural and communication failures and remains an ongoing issue. If the recommendations in this report are implemented, they will go a long way to resolving this issue.

The findings of the report will show that individual sections that support and operate the FCPS work very well independently however, there are too many stakeholders; up to 30 involved in the process without any clear overall governance. Information on essential changes was not passed on to the necessary stakeholders. Operational members know very little about how the FCPS system works overall and have admitted that they are in need of training which has been lacking for a

number of years; during the period between 2004 and 2016 there was no training module for Fixed Charge Notices rolled out on a national basis through the Continuous Professional Development (CPD) network.

One of the main areas of concern found by the examination team was that throughout this period the FCPS system developed considerably on a piecemeal basis; the number of offences increased to an extremely high **614** offences and the system substantially changed its processes and procedures.

The current system is complicated and confusing compared to other jurisdictions. The systems in the United Kingdom that were examined are easier to understand and give the officer less to do or consider. The key to the UK systems is that it gives “full discretion to the officer at the side of the road” on how they will proceed with the offence disclosed; this discretion is not currently available to the Garda member which is continuing to cause many problems. Examination of the Canadian system showed it to be very efficient with the use of extremely good IT hardware which is not currently available to An Garda Síochána but something to aspire to going forward.

The modernisation and renewal programme is considering the future of the FCPS system under its mobility project which when implemented, will make the FCN process far more effective and easier to engage with than it is now for both the individual Garda member and the public. However this is a number of years away from completion.

Invited submissions by members of An Garda Síochána were considered with a view to improving the overall operation of the FCPS; some of the suggestions made were very worthwhile.

Of the many judicial and policy reviews, as well as audits into the FCPS, none have highlighted the technical deficiencies that were in place in the system from its set up.

The current FCPS system is in need of change. As recommended in the Garda Inspectorate Report on the Fixed Charge Processing System in 2014; it is now time to set up a Criminal Justice Working Group to facilitate the development of a new system.

While this new system is being developed strong consideration should be given to; substantially reducing the number of FCN offences, further examination of the governance and stakeholder numbers within the FCPS and the giving of Garda members full “discretion at the roadside” on how to proceed with offences as s/he deems appropriate to the incident. This can be achieved through the adaptation of existing legislation.

The examination team is satisfied that this was not a deliberate act of commission or omission by any one individual; rather it was an unintended consequence of the continuous upgrading of the Fixed Charge Processing System on a piecemeal basis.

At the time of finalising this report the examination team are working closely to assist with “Crowe Howarth” who have been commissioned on behalf of the Policing Authority to undertake a similar examination including a review of the processes and outcome of this examination. The Garda examination team will continue to assist “Crowe and Howarth” and their colleagues in “iNEQE” until completion of their work.

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Glossary

ACPO	Association of Chief Police Officers
AGS	An Garda Síochána
CJIP	Criminal Justice Interoperability Project
COFPN/FPN	Conditional Offer Fixed Penalty Notice / Fixed Penalty Notice
CPD	Continuous Professional Development
DLIP	Driving Licence Insurance Production
DMR	Dublin Metropolitan Region
DoTTS	Department of Transport, Tourism and Sport
DVCSD	Driver Vehicle Computer Services Division
ETSC	European Transport Safety Council
FCN	Fixed Charge Notice
FCO	Fixed Charge Offences
FPN	Fixed Penalty Notice – (Drink Driving)
FCPO	Fixed Charge Processing Office
FCPS	Fixed Charge Processing System
GIAS	Garda Internal Audit Section
GISC	Garda Information Services Centre
GNJO	Garda National Juvenile Office
GNTB	Garda National Traffic Bureau (renamed GNRPB in September 2016)
GNRPB	Garda National Roads Policing Bureau
GPSU	Garda Professional Standards Unit
GSOC	Garda Síochána Ombudsman Commission
MAT	Mandatory Alcohol Testing
MLE	Managed Learning Environment
NCT	National Car Test
NVDF	National Vehicle Driver File
NCALT	National Centre for Applied Learning Technologies
NDORS	National Driver Offenders Rehabilitation Scheme
NIMIS	National Integrated Medical Imaging System
NTAS	National Tracking Allocation System
OSCAM	Office for Safety Camera Management

PAT	Police Access Tool
PAF	Performance Accountability Framework
Pulse	Police using leading systems effectively
RCMP	Royal Canadian Mounted Police
RSA	Road Safety Authority
STO	Strategic Transformation Office
TOR	Traffic Offence Report
VDRS	Vehicle Defect Rectification Scheme

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Methodology

How the FCPS system has evolved is discussed with stakeholders and system roles explained. Also included is an overview of the internal Garda directives and bulletins which affect the FCPS and how Garda members were informed of changes in the system.

Research was conducted to investigate the background to the current issue and all subsequent arising issues.

In considering the Garda FCPS and the errors that occurred it was necessary to examine reports carried out by a number of bodies (both internal and external) on how the Garda FCPS operates and how it can operate more effectively going forward with enhancements and changes. While much of this FCPS related documentation does not affect the problems that this report was set out to examine, there are clear recommendations contained in these reports that would improve the running of the Garda FCPS and would make it more effective and efficient.

The legislation and policy guidelines that are used by a number of police forces were examined for comparison purposes. Police in Northern Ireland, England, Scotland and Canada were examined with visits to the Police Service of Northern Ireland, Essex Police and Police Scotland undertaken to further explore their processes.

Engagement took place with stakeholders in the Fixed Charge Processing Office (FCPO), the Garda Roads Policing and Major Event / Emergency Management Bureau (GNRPB), Garda Information Service Centre (GISC), Garda IT, Garda Professional Standards Unit (GPSU), the Strategic Transformation Office (STO) and the Garda College.

Chapter 1: Overview of the Fixed Charge Processing System

1.1 The FCPS system

The FCPS is a system developed by An Garda Síochána to enable computerised, automated processing of road traffic offences, including certain drink-driving and public order offences that incur fixed charges.

On 31/10/2002 the Fixed Charge Notice and penalty points systems were introduced under the provisions of the Road Traffic Act, 2002. The current legal basis for the system comes mainly from the provisions under the Road Traffic Acts 1961 to 2016 and various regulations.

Since 31/07/2008 certain Public Order Offences under the Criminal Justice (Public Order) Act 1994 (as amended) may be dealt with by way of Fixed Penalty Notice.

From 27/10/2011 certain Drink Driving Offences under the Road Traffic Act 2010 are dealt with by Fixed Penalty Notice (FPN) depending on levels of intoxication.

Where a person has committed a Road Traffic or Public Order Fixed Charge Offence a member of AGS (or Traffic Warden in certain RTA matters) shall/may issue a fixed charge/penalty notice. The person should only be summonsed to court upon failure to pay the fixed charge/notice within the timeframes provided. The issue of a fixed charge should not be delayed pending the investigation of other offences detected during the same incident.

Where a driver has been issued with a FCN / FPN alleging the offence, they cannot be issued with a second notice for the same offence.

Road Traffic

The Road Traffic Act 2002 enabled the replacement of the old 'on-the-spot' fine system by the provision of a system of Fixed Charge Offences. If a person is accused of committing a FCO they will be given the opportunity to pay a charge. If payment is not made within 28 days the fine will increase by 50%. A second period of 28 days then allows the person to pay the fine within that

period. If the fine is still not paid court proceedings will be initiated. Payment of the fixed penalty in relation to drink driving offences is restricted to one period of 28 days at the original amount. Since the 1st of June 2017 a third payment option has been implemented. The “third payment option”, set out in section 44 of the Road Traffic Act, 2010 provides a member of the public to whom a District Court summons has been issued with an alternative to attending court in respect of an alleged road traffic offence for which they were originally issued with a Fixed Charge Notice (Road Traffic Act, 2010).

The third payment option allows for the payment of the fixed charge amount plus 100% from the time of summons service up to 7 days before the date of their court appearance. If a person takes up the third payment option proceedings will be discontinued and they will not have to attend court.

Public Order

From 31/07/2008 it became possible for offences under section 4 (Intoxication in public place) and section 5 (Disorderly conduct in public place) of the Criminal Justice (Public Order) Act 1994 to be dealt with by fixed penalty charge. If a person is arrested the member-in-charge of the Garda station that they are brought to may release them from custody to be dealt with by FCN. Only persons over the age of 18 years may be dealt with by FCN. This FCN will be issued by post.

Drink Driving

From 27/10/2011 offences under section 4 (driving or attempting to drive under the influence) and section 5 (in-charge of a vehicle with intent to drive under the influence) of the Road Traffic Act 2010 became FCPS offences. Where a Garda suspects that a person is in breach of a drink driving offence, the member must first request the driver to produce his/her driving licence. To determine the history of the driving licence the member will submit a request by e-mail to the Fixed Charge Processing Office. The FCPO then sends a file to the Department of Transport, Tourism and Sport requesting that a check be carried out on the licence. The results are then sent back to the investigating member. The investigating member must submit the FPN by notepad only. This is then processed by the data entry section of the FCPO.

Production of documents

Where a Fixed Charge Offence is detected and a demand is made to produce his/her driving licence, insurance and/or NCT/CRW Certificate and the driver indicates the documents will be produced at a nominated Garda Station, the detecting member will record this by ticking the appropriate box(es) on the notepad/handheld incident. The production of the documents will be checked by GISC and where appropriate manual summonses are created by GISC.

(Note: this is not an ideal system and carries a substantial risk to the organization. Alternatives to this process are offered later on in this document).

When the driver goes to the nominated Garda station to produce the documentation, the Garda working at the station inputs the details onto the Pulse system. 30,000 records are created each year. The member who demanded the documentation invariably is not the member that records the production onto the Pulse system.

Each week GISC runs a FCPS DLIP queue report (RPT_GISC021) of all documents demanded during that week. GISC manually checks Pulse DLIP records to establish if documents have been recorded as being produced. GISC then manually updates the FCPO system with results of the cross check and creates / updates incidents and summonses on Pulse based on the result of the manual checking.

Linked Offences

When a non Fixed Charge Offence is detected at the same time as a Fixed Charge Offence then such offences must be linked to ensure that, where both proceed to court, they are scheduled for the same date.

The detecting member must link these offences by ticking the appropriate box on the notepad / handheld incident and contact GISC to create a Pulse incident recording the “N” (notepad number) or “H” (handheld incident) reference number. All linked non-Fixed Charge Offences relating to an incident should be created in one Pulse incident, and the same “H” or “N” reference number should not appear on more than one Pulse incident. A handheld user manual is available

to all Garda members explaining the application of the device (FCPS Handheld User Manual 2014).

A linked offences report is issued monthly which identifies where the FCN has been paid/cancelled and there is a non-fixed charge linked offence. Details displayed are: Garda Details, Offender Details & Notepad number (Completed Linked Offences RPT_FCPS_003)

Payment processing

Payments are not received at Garda stations or at the FCPO. All payments are processed by An Post or those contracted by them. There is a three-tiered charge system whereby the level of charge will increase by 50% if payment is not made within 28 days of the issue of the FCN. Consequently, the increased amount must be paid within a further period of 28 days so as to avoid Court proceedings. A third payment option discussed earlier came into effect on 01/06/2017.

Payment of the fixed penalty in relation to drink driving offences is restricted to one period of 28 days at the original amount.

Generating Manual Summonses

Summonses for drink driving and public order Fixed Charge Offences must be generated manually. In these cases the FCPS notepad field on Pulse must be populated before generating same. A manual summons report is generated on a monthly basis and distributed to the MIS Folder in each relevant Garda District Office email folder. Each notice recorded on this report requires manual intervention by a Garda before a summons is generated.

A manual summons must be created for offences relating to 'certain vehicle' speed limits. These summonses are created by designated GISC personnel.

Summons applications for non-Fixed Charge Offences with a related Fixed Charge Offence must be created by the member on Pulse immediately (except for summonses relating to the production of documents). This is to ensure that when a Fixed Charge Offence is paid or proceeds to summons, any related non-Fixed Charge Offences proceed to summons at the same time and are included in the Court hearing.

If the member is charging an offender with a serious offence where there are related Fixed Charge Offences, the notepad number must be entered on the Pulse incident and will be printed out on the charge sheet.

Other FCN's will appear on the Manual Summons Report where they have defaulted to this status for a number of reasons, including where there are linked offences but no Pulse incident exists or where more than one Pulse incident exists. Furthermore if the notice number is not entered correctly then summonses will not automatically issue and the incident will appear on the Manual Summons Report and require manual intervention from the detecting member to generate summons for both fixed charge and linked offences.

Generating Summons for DLIP

Documents that must be produced are recorded on FCPS during offence data entry. After the required 28 day period has elapsed, the FCPS batch system automatically puts these FCPS incidents on the DLIP queue for processing. The designated GISC personnel check the DLIP queue on a weekly basis.

Receiving and Processing summonses at District Stations

The electronic application for summonses by the FCPO on behalf of a prosecuting member is provided for in Section 49 of the Civil Liability and Courts Act 2004. For non-camera related offences, the Courts Service sends all printed summonses to the District Office of the prosecuting member. Certificates of ownership requested from the Department of Transport, Tourism and Sport are distributed directly to the District Office of the prosecuting member by the FCPO.

These are then forwarded for the attention of the prosecuting member. Certificates must be signed by an Authorised Officer in the local authority before they are tendered in evidence.

For camera related offences, the Courts Service sends all printed summonses to the FCPO. The FCPO then collate each summons with other relevant documentation (photos and nomination forms and Certification of Ownership) and send the combined set of documentation in court packs to the District Office of the prosecuting member. As above certificates must be signed by an Authorised Officer in the local authority before they are tendered in evidence.

Penalty Points system

Penalty point offences are recorded on a driving licence if a driver is convicted of a driving offence that attracts penalty points or a person is issued with a Fixed Charge Notice for an alleged offence that attracts penalty points and that person decides to pay the fine rather than having the matter referred to the courts.

Any driver accumulating 12 penalty points within any given three-year period will be automatically disqualified from driving for six months. A lower threshold of 7 penalty points leading to disqualification applies to any driver taking out a first learner permit on or after 01/08/2014 while he or she drives under any learner permit and subsequently during the first two years while he or she is driving under a full driving licence.

The Road Safety Authority (RSA) administers the penalty points system for the Department of Transport, Tourism and Sport (DoTTS). The penalty points system is maintained by the Driver and Vehicle Computer Services Division (DVCSD) of the DoTTS. Notifications of endorsement of penalty points are issued by the DVCSD on behalf of the RSA.

GISC responsibilities

Since 2006 GISC has responsibility for the creation of certain summonses, namely those linked to FCPS offences and relating to the non-production of a driving licence, insurance certificate and a certificate of roadworthiness.

(Note: as mentioned, this is not an ideal system and creates a substantial risk for the organisation).

Responsibilities also include summonses relating to the non-production and failure to have an NCT Certificate.

As previously referred to; GISC is tasked with checking the FCPS 'Driving Licence Insurance Production' (DLIP) queue on a weekly basis, for the production of valid driving licence, insurance and NCT/CRW, and where appropriate, creating Pulse incidents and summonses in cases of non-production.

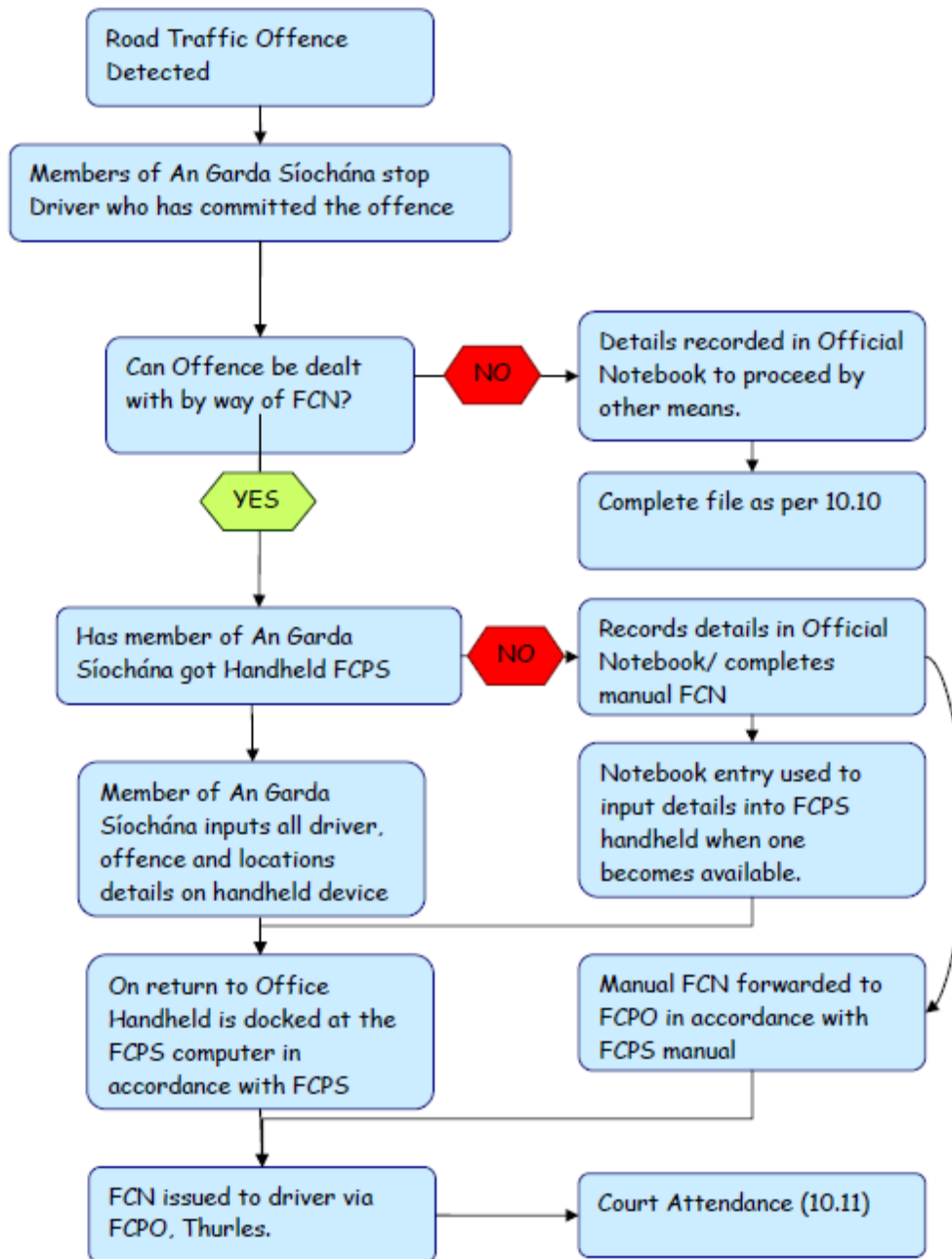


Figure.1 Shows an overview of the FCPS from detection to court appearance

1.2 Stakeholder/system roles

A number of key individuals, groups and systems with specific roles are involved in the processing of the FCPS from the issue of the Fixed Charge to the penalty points being assigned to the offender. They are named and numbered as follows:

In total it could be argued that from the time the Fixed Charge Penalty book is issued from Garda Stores to the offender arriving in court there are potentially 30 individuals, units, systems and organisations involved in the process. This consists of 20 internal sections/individuals (within the Garda organisation) and 10 external sections/individuals (outside the Garda organisation).

The Notepads used are issued from Garda Central Stores (1) in Santry, Dublin and tracked throughout the process by the National Tracking Allocation System (NTAS) (2).

Both Gardaí (3) and Traffic Wardens (4) are involved in the detection and processing of Fixed Charge Offences.

The Member-in-Charge (5) of the Garda Station requests new notebooks on a Notebook Requisition Form. The Member-in-Charge also completes a return at the end of the tour of duty and forwards this to the Data Entry Section of the FCPO (6).

Police Using Leading Systems Effectively (Pulse) (7) is the largest Garda IT system that is available to all members and acts as the information management system for AGS. Pulse is linked to the courts system through the Criminal Justice Interoperability Project (CJIP) (8).

GNRPB (9) is responsible for the overall policy and direction of roads policing matters within AGS. GNRPB has responsibility for the FCPO and the Office for Safety Camera Management (OSCAM) (10).

The FCPO (11) administers the Fixed Charge Penalty System (FCPS) (12).

The OSCAM (13) manages the privatised safety camera contracts along with the Garda robot vans.

GoSafe (14) are a private company that is used to provide mobile safety cameras.

For road traffic offences information recorded onto the FCPS is combined with the National Vehicle Driver File (NVDF) (15). The NVDF is maintained by the DVCS (16) of the Department of Transport, Tourism and Sport (17). These penalty points are recorded on the NVDF which is administered by the RSA (18).

Tico Mail Works Ltd (19) is used to print the FCNs and post same to offenders.

When dealing with juveniles the FCPS recognises the date of birth and notifies the Garda National Juvenile Office (GNJO) (20) for consideration whether or not to proceed by caution or prosecution.

Payments are processed by An Post (21) or agents on their behalf.

Any offences that result in penalty points are recorded by the Department of Transport, Tourism and Sport (DoTTS) via the RSA.

For non-camera related offences, where a certificate of ownership has been requested from the DoTTS, the certificate is sent to the local Garda District Office (22) of the prosecuting member and must be signed by an authorised officer in the Local Authority (23) before they are entered in evidence.

For camera related offences the Courts Service (24) sends the printed summonses to the FCPO.

The FCPO then puts together a court pack, including the certificate of ownership which also must be signed by an Authorised Officer in the Local Authority before they are entered in evidence.

The Garda Internal Audit Section (25) has the responsibility for auditing FCPO and ensures that all policy is implemented.

Judge Matthew Deery (26) inspects the FCPS annually, mainly focusing on cancellations.

Garda IT (27) has the responsibility for the management and support of the FCPS in an information technology capacity.

The Garda College (28) is responsible for training in the policy and procedures involved with the FCPS.

The GISC (29) checks whether or not driving licence and insurance documents are produced and creates manual summonses if appropriate. GISC also creates a monthly manual summons report and sends this to local Garda District Offices for public order and drink driving offences. GISC personnel also create manual summonses for special speed limits.

The Courts Service is responsible for issuing summonses for unpaid FCNs and this is done through the Courts Service Office, Dublin or local court clerks outside Dublin. The Courts Service sends all printed summonses to the District Office of the prosecuting member.

Finally the alleged offender (30) should not be forgotten as part of the process.

1.3 Overview of HQ Directives that relate to the FCPS.

HQ (Headquarter) directives are confidential information bulletins addressed to each Officer, Inspector and Station within An Garda Síochána. They are sent from members of the Executive of An Garda Síochána. Each member of An Garda Síochána is sent a link through the Garda email system from the Garda Portal office informing them of new directives.

The purpose of these directives is to inform all members of An Garda Síochána in relation to recent changes in legislation, policy or as a means of informing members within the organisation of competitions or courses available. They are numbered chronologically per year e.g. directive 86 of 2006 is usually referred to as HQ 86/2006. The frequency of these directives is spread throughout the calendar year; they have varied in number between 231 in 2002 to 79 in 2016 with an average over this period being 154 per annum.

These directives are for the use of Garda personnel only. They are issued in word document format on official headed paper. Recipients are directed to bring the contents of these directives to all those concerned.

The first HQ Directive in relation to the Fixed Charge Penalty System was released on 24/10/2002 (HQ Directive 201/2002). It is titled The Road Traffic Act, 2002 – Penalty Point System for speeding Offences and other miscellaneous provisions. It explains that the Road Traffic Act 2002 became law on 10/04/2002.

The law under this Act was designated to track minor breaches of driving regulations and other minor offences which impact on road safety with a view to improving the driving behaviour of those who commit these offences. When a member of An Garda Síochána decides to proceed against an alleged offender for a breach of the speed limit regulation he/she must initiate proceedings by way of a Fixed Charge Notice as set out in Section 11 of the Road traffic Act, 2002. Section 11 replaces section 103 of the Road Traffic Act, 1961 and revises the operational framework for what were referred to as ‘on the spot fines’.

Subsections (1) and (2) empower the Minister for Transport Tourism and Sport to make regulations for the purpose of identifying Fixed Charge Offences and provides that the Gardaí **must** issue notices where there are reasonable grounds for believing that a FCO has been committed. Summonses can only issue if payment of the fixed charge has not been made.

On the same date 24/10/2002, HQ Directive 202/2002 highlights the temporary manual system regarding the new system for FCN for speeding offences only. A temporary manual system was introduced for the issue of the FCN and for the processing of payments received (HQ Directive 202/2002).

The FCPS pilot phase started in 2004 with HQ Directive 94/2004 Titled ‘Fixed Charge Processing System (FCPS) – Phase 1 – Pilot Instructions’. It explains that the FCPS will be implemented in a number of phases. This directive dealt with the procedures for the pilot phase 1. This phase commenced on 30/06/2004 with a live pilot in various locations across the Louth/Meath Division and some locations in the DMR, both operational and administrative. Outsourcing of payments was not expected to be available until phase 3 was implemented (HQ Directive 94/2004).

Phase 2 of the FCPS was explained in HQ Directive 06/2005 ‘Fixed Charge Processing System (FCPS) Phase 2 – Go Live in Cork City Division’. Phase 2 was rolled-out and extended to all stations in the Cork City Division on 20/01/2005. The circular reports that Phase 1 of the pilot

was successfully completed in the Louth/Meath Division and some locations in the DMR in September 2004. Phase 2 of FCPS was released to the remainder of the DMR on the 22/11/2004.

To facilitate the transition, procedures were required for each phase. The transition procedures were contained in the FCPS user manual 2nd edition. The directive contains a FCPS pre-implementation readiness check list (HQ Directive 6/2005).

The national roll out was detailed in HQ Directive 04/2006 titled 'FCPS – Preparation for nationwide roll-out'. It details phase 1 and 2 and that FCPS will be extended to all remaining Garda Stations from 02/02/2006. This release introduced hand-held devices to capture data at District Headquarter level. Also as part of this phase was the outsourcing of payment to An Post on a phased basis. All members of AGS were instructed at the time to make themselves aware of the contents of the FCPS User manual 3rd edition (end January 2006) (HQ Directive 4/2006).

HQ Directive 11/2006 'FCPS Phase 2 – Nationwide Go Live 2nd February 2006' further supported the national roll-out outlining the impact of national implementation, actions required and most notably that the FCPO will manage electronic summons applications for Fixed Charge Offences (HQ Directive 11/2006).

HQ Directive 45/2006 highlights changes to the Fixed Charge Processing System (FCPS) Phase 2 and explains the following:

- The addition of new Fixed Charge Offences.
- An Post was to take over the processing of payments for all fixed charges.
- Traffic wardens working in An Garda Síochána were directed to adopt FCPS procedures (HQ Directive 45/2006).

Information on GISCS was highlighted further in HQ 18/2007 with the two main objectives of the service being:

- To support the Garda organisation in its efforts to increase Garda visibility within the community.
- To improve data quality on Pulse

One of the areas of importance covered was the driving licence and insurance production (DLIP) element of the FCPS (HQ Directive 18/2007).

Section 4 & 5 of the Criminal Justice (Public Order) Act, 1994 – Fixed Charge Offences is highlighted in HQ Directive 164/2008. Where a person is arrested for an offence under section 4 of the 1994 Act and brought to a Garda station, the member-in-charge **may**, instead of releasing the person on bail, release them unconditionally on informing him or her that a FCN will be issued by post (HQ Directive 164/2008).

Policy surrounding cancellation procedures regarding the FCPS are outlined in HQ 45/2009. The purpose of this circular is to set out the procedures for dealing with the FCN for breaches of road traffic laws issued to drivers of fire brigade vehicles, ambulances, members of AGS driving on duty, civilian drivers driving a private vehicle on the direction of a member of AGS and civilian drivers driving a Garda vehicle (HQ Directive 45/2009).

Further cancellation procedures are explained in HQ Directive 133/2009, these procedural differences were as a result of pending changes to the Pulse system (HQ Directive 133/2009).

HQ Directive 118/2011 deals with section 29 of the RTA 2010 as amended which commenced on 29/10/2011. This section provides for an administrative fixed penalty in the case of certain drink driving offences. This provision does not apply to drivers:

- not holding a driving licence at the time of detection.
- disqualified from holding a driving licence at the time of detection, or
- who have availed of the administrative fixed penalty option in the preceding 3 years from the date of the endorsement of penalty points or the date of commencement of disqualification (HQ Directive 118/2011).

It was explained that the electronic handheld device cannot be used to create these Fixed Charge Notices. Unlike current fixed charges there was no second payment period. If the fixed charge was not paid, a prosecution would be initiated by way of summons. Lastly court proceedings would not be initiated if payment of the fixed charge, as specified in the notice, is made.

The provisions of the RTA regarding intoxicated driving offences are consolidated further in HQ 119/2011 outlining the FCN role in the process (HQ Directive 119/2011).

Finally HQ Directive 48/2014 was released to inform Garda members and civilian staff of the issuing of the Fixed Charge Processing System Policy and Procedures Manual 4th Edition. The main changes to the policy were:

- Tracking and recording of notepads and notes.
- Cancelling authority – centralised decision making.
- Applications for cancellation of a FCN – public procedures.
- Cancellation requests relating to Garda vehicles and members of AGS applying for cancellation on the basis of statutory exemption.
- Auditing of the FCPS (HQ Directive 48/2014).

1.4 Overview of Pulse Bulletins that relate to the FCPS

Pulse Bulletins are confidential reports/documents for use only by Garda personnel. These Bulletins are designed to inform personnel of changes to the Pulse system and usually contain wide ranging enhancements (including new functionality), ‘fixes’ and code table changes to the Pulse application. Pulse Bulletins started in 1999 at number 1, the latest Pulse Bulletin issued in 2016 was number 106. There is no set pattern to their release. The following Pulse Bulletins contain information that impacted on the functionality of the FCPS.

Pulse Bulletin 82 released in July 2009 clarified a multitude of different areas. FCPS updates were introduced for the information of all members of AGS. The introduction of some new offences was outlined and the fact that those offences became FCPS manual summonses in the event of a non payment. The Bulletin also contains information on “FCPS ‘Completed Linked Offences’ and ‘Manual Summons Report’”. This is an important update to inform members using Fixed Charged Notices because from then on, the ‘Completed Linked Offences’ and ‘Manual Summons Report’ were posted to each District MIS folder on the 2nd day of each month.

The purpose of the ‘Completed Linked Offences’ report was to inform the prosecuting Garda that the Fixed Charge Offence has been paid (or terminated) however linked Pulse offence(s) had

been indicated by the investigating Garda but FCPS was unable to locate a summons that had been forwarded to the courts in relation to that linked offence. The linked offence could include a DLIP offence created by GISC as a result of the demand for documents being recorded in the FCPS incident by the Garda (Pulse Bulletin 82/2009, pg 5).

The purpose of the 'Manual Summons Report' was to inform the prosecuting Garda that the Fixed Charge and any linked Pulse offence(s) cannot be processed automatically by FCPS and requires intervention by the prosecuting Garda.

The reports for each district had previously been printed by the FCPO and manually posted to the relevant District Offices for the attention and information of the relevant members. The relevant pages from these reports were now required to be printed and forwarded for the attention of the investigating members by each District Office.

Lastly the Bulletin informed members of the new FCPS Speeding Offences (Pulse Bulletin 82/2009, pg 10)

Pulse Bulletin 84 released in September 2009 informed members of a number of different updates including that the facility on Pulse to terminate a FCPS incident had been removed pending the addition of future system enhancements (HQ Directive 133/2009).

It was also reiterated that the FCPS 'Completed Linked Offences' and 'Manual Summons Report' that are currently posted to each district MIS folder on the 2nd day of each month will now only contain a list of incidents for the attention of the investigating members attached to that district.

It was now possible to add offences to a Pulse linked summons application that has a status of 'Ready' prior to ticking the 'FCPS Manual Summons' tick box in order to progress FCPS incidents that had been listed on the 'FCPS Manual Summons' Report (Pulse Bulletin 84/2009, pg 2).

Pulse Bulletin 93 created in November, 2011, gave a number of updates to members on new procedures, including those relating to FCPS. The Drink Driving fixed penalty is also referenced

(Pulse Bulletin 93/2011, pg 3) A number of new additions to drop down lists and fill in fields are explained:

- Fixed Charge Penalty System (FCPS) Laser and Puma have been added to a new “drop down” list box on the FCPS handheld to record the type of speed detection device used for intercept detections
- An ‘Operation’ field with a predefined list of operations has been added to the FCPS handheld in order to record the name of the operation that the detection is associated with e.g. Anvil.
- An issue causing the station name to clear in the FCPS Incident Search has been resolved.
- An issue resulting in manual FCPS summons being requested for invalid incidents has been resolved. If a suspected offender is under 18, it is now mandatory to flag him\her as a juvenile on the FCPS handheld device.
- FCPS incidents that are progressed to a “Manual Summons” status will no longer be updated by the system to a “Statute Barred” status. (Pulse Bulletin 93/2011, pg 3).

This information is also contained in HQ Directive 118 & 119 of 2011.

Ongoing issues with FCPS referrals associated with a pending DLIP had been corrected (Pulse Bulletin 93/2011, pg 14).

The last related item was for JLO updates (Pulse Bulletin 93/2011, pg 30).

Pulse Bulletin 99 in March 2014 informed members that Pulse Release 6.6.1 included the following information with regards to the FCPS system:

FCPS functionality has been changed. The termination field on Pulse would now be disabled. Termination details for previously terminated FCNs would still display.

The logic applied to the FCPS search screen on Pulse for Surname, First Name and Address searching had been changed. Previously apostrophes and spaces were stripped out before the

search runs. This modification was to permit more effective searching in relation to FCPS incidents for specific offenders. (Pulse Bulletin 99 2014, pg 4).

Pulse Bulletin 100 released in July 2014 (Release 6.6.2) updated the FCPS procedure as follows:

- 4 new correspondence methods have been added.
- 27 new correspondence subjects have been added.
- 2 new termination reasons have been added.
- 4 FCPS Termination Reasons have been disabled on Pulse.
- 5 new GoSafe Camera Operators have added and 1 Garda Operator reinstated.
- 16 new town codes added and 1 town name updated 24 camera locations have been expired and 207 new locations added.
- 55 new GoSafe zones have been added and 5 amended. (Pulse Bulletin 100 2014 pg 13).

Pulse Bulletin 101 created in December 2014 (Release 6.6.3) updated FCPS with general updates; new GoSafe Camera Operators were added and Garda Operators reinstated. New town codes added and town names were also updated. Camera locations that had expired and new locations were added. GoSafe zones that have been amended and added to the system were explained. (Pulse Bulletin 101/2014, pg 1).

Lastly 38 New FCN offences were added, including:

Using vehicle without NCT test certificate (User) Code R0024.

Note: This information was contained on page 14 of a 68 page document.

Pulse Bulletin 102 which is a **146 page** document was released in February 2015 (Pulse Release 6.7) and gave an update on penalty points added to Fixed Charge Offences (Pulse Bulletin 102/2015).

Pulse Bulletin 103 in November 2015 (Release 6.8) is another lengthy document totalling **131 pages** that updated a number of areas on the FCPS system; including 22 new offences being added. (Pulse Bulletin 103/2015, pg 32). Another document titled “FCPS Bulletin 4” was

produced on the 27th of September 2015 for internal FCPO staff only and was to be read in conjunction with this Pulse Bulletin (FCPS Bulletin 4 2015). The updates are outlined below:

FCPS Release 6.8 includes:

- When creating a Drink Driving incident on FCPS it is now mandatory to enter the Test results in the Notes field.
- When creating a Public Order incident on FCPS it is now mandatory to enter the Date of Birth of the offender.
- FCPS Offences Codes
 - Addition of 22 new FCPS Offence Codes which relate to Pedal Cyclist. These can only be entered via Notepad and sent for data entry by FCPO. These are intercept offences ONLY. The offences have monetary fines of €40 increasing to €60 after 28 days.
 - 15 additional Bridge Offences for Swing/ and Lifting bridges have been added to the existing Offence Group, all of which are penalty point offences.
 - The updated 'FCPS Offence List' is available on the FCPS Portal page.
- New and amended updated reasons on the drop down list for FCPS termination.
- Access granted to all Garda Nationwide to FCPS Report 'Offence Corresp Notepad (RPT_FCPS_024b)' which provides information on all correspondence logged by FCPO as well as any Payment Attempts made for a particular Fixed Charge Notice. These are ONLY available for Fixed Charge Offences at Summons Statuses e.g. 'Summons Ready', 'Company Summons', 'Manual Summons' and 'Sent to Court'. It is available to Garda on AGS Reporting Services by selecting the following path; Home>Incident Reporting>Operational Reports> Offence Corresp Notepad (RPT_FCPS_024b).

Pulse Bulletin 104 from April 2016 (Release 6.9) introduced new FCPS charges.

There was also a separate notice on the An Garda Síochána portal giving further details. (Pulse Bulletin 104/2016, pg 25).

Pulse Bulletin 105 released in August 2016 (Release 7.0) introduced a number of small technical improvements to the FCPS. (Pulse Bulletin 105/2015)

Pulse Bulletin 106 in December 2016 (Release 7.1) was an extremely important update to the FCPS system as it permanently fixed a number of outstanding concerns with regards to the issuing of summonses relating to FCN offences.

“Summons Applications relating to Fixed Charge Notices” informs Garda personnel of the IT solution to an error that allowed members to issue summonses without FCN’s that have not been paid already in place. (Pulse Bulletin 106/2016, pg 9).

1.5 The Fixed Charge Processing System Policy & Procedures Manual

The Fixed Charge Processing System Policy & Procedures Manual, Fourth Edition 2014, was released on the 16th of June 2014. This was introduced to the organisation through HQ Directive 48/2014 on the 11th of June 2014. This preceded the Third Edition of the Fixed Charge Processing System Policy & Procedures Manual which was in existence since 2005.

The Manual is 60 pages in total. It is a very technical document and difficult to understand in places. A number of clarifications were required from experienced personnel in roads policing on various issues contained within the manual before having any real grasp on some of the instructions provided. There is currently no 2/3 page “how to” guideline document for this manual which would help members have a quick reference when required.

Note:

As an overall comment; many of these Pulse Bulletins are very lengthy documents and contain important updates to the FCPS system. They are often the only document produced which informs the members of these updates at the time. It should be reiterated that information on the FCN offence for using vehicle without NCT test certificate becoming a FCN only offence was contained on page 14 of a 68 page document. In the last 5 Pulse Bulletins alone there are 697 pages.

Chapter 2: Issues arising from FCN Offence of using vehicle without NCT

2.1 Background to current issues

Failure to have an NCT certificate became a Fixed Charge Offence on 08/12/2014 and, from that date on, no summonses should have been issued for failing to have an NCT Certificate unless the driver had firstly been issued with a Fixed Charge Notice and the fixed charge had not been paid. This meant that GISIC should no longer have been creating manual summonses for the offence of failing to have a valid NCT Certificate for offences detected after the 08/12/2014.

As stated previously Pulse Bulletin 101 released in December 2014 showed that the offence code R0024 was one of the new FCPS offences (Pulse Bulletin 101, 2014).

The Road Safety Authority highlighted new offences and changes to existing offences on 08/12/2014 (RSA 2014).

GISIC were unaware regarding any changes to the creation of summonses for these offences.

2.2 GISIC becomes aware of an issue

On 06/02/2016 a Garda contacted GISIC and highlighted the fact that since December 2014 a driver has a statutory right to be given the option to pay a FCN for driving without a NCT certificate. In the event that the fine is not paid, summonses are automatically generated. As a result of this GISIC should no longer be creating manual summonses for the offence code R0024 'use of a vehicle without an NCT certificate'. GISIC were unaware of this change and sought clarity from the FCPO on 08/02/2016. Clarification was given on 09/02/2016 with immediate action taken by GISIC.

An internal review began at GISIC.

On 09/02/2016 all GISIC staff received an internal instruction that no summonses should be created under the offence code R0024. A report was received from FCPO of all FCN notices paid for this offence code. These cases were cross referenced with Pulse to identify where manual

summonses were created even though the FCN had been paid. The investigating Garda and supervisor were contacted in relation to the summons. **On 09/02/2016 GISc ceased creating summonses in respect of the offence of not having a valid NCT certificate.**

GISc should no longer have been able to issue summonses for failure to have a NCT as it was an FCN offence since 08/12/2014. This issue had never been raised internally within AGS or the courts system. The IT system allowed for summonses to be generated for FCN offences to deal with legacy data but there was no cut off date imputed into the system to stop summonses being issued after the offence became a FCN. This appears to be a failure by both the Garda National Traffic Bureau and Garda IT.

2.3 Court case in Carrick-on-Shannon

On the 26/04/2016 GISc was contacted by a Garda Sergeant outlining an issue that had arisen in Carrick-on-Shannon District Court that day. The Sergeant explained that a defendant was before the court for traffic offences which included not having a valid NCT certificate. The defendant informed the Judge that she had already paid the FCN in respect of the offence for not having a NCT Certificate. The Judge then requested an explanation as to what happened and why it happened.

On 27/04/2016 GISc confirmed that the summonses relating to the defendant were created in GISc on 20/11/2015 in accordance with the DLIP report on 18/11/2015. When GISc checked the FCPO they discovered that the FCN had in fact been paid by the defendant.

Following contact with the GNTB (now the GNRPB since September 2016) the prosecuting Garda Inspector was advised that the summons had issued as a result of an administrative error at GISc. This was accepted by the Judge and the case was struck out.

2.4 GISc seeks further information

On 27/04/2016 an email was sent from the Criminal Justice Interoperability Project (CJIP) Help desk at GISc to Garda IT planning.

Information was sought in relation to the creation of summonses for offence code R0024 – ‘use of a vehicle without a valid NCT certificate’. In response a list of summonses for not having a valid NCT certificate was provided by Garda IT to GISC on 06/05/2016.

On 18/05/2016 Pulse data relating to the offence of not having a valid NCT certificate was provided to the Assistant Commissioner, GNTB, by Garda IT.

2.5 Initial examinations

Examination of the records for offence code R0024 ‘Not having a valid NCT certificate’ showed cases where a FCN had been paid, summons applications were also created by GISC up to 09/02/2016. Additionally there were a small number of cases where summonses were applied for by Gardaí.

The initial examination of records for the specific offence of ‘not having a valid NCT certificate’ identified cases where a person had paid a FCN and subsequently was summonsed to court.

This was then extended to look at all Fixed Charge Offences (not just NCT) since the inception of the FCPS system. This further examination identified cases where summonses had been issued for an offence where a FCN had been paid by the person.

Assistant Commissioner, GNTB, initiated an extended review to find out if any other matters arise with regard to the operation of the FCPS.

This review raised a number of issues:

1. Prosecutions on foot of summonses taken for Fixed Charge Offences where no Fixed Charge Notice (FCN) had been issued in accordance with legislation;
2. More than one summons issued in respect of the same offence; and
3. Prosecutions not initiated where a Fixed Charge Notice had not been paid.

14,700 cases were identified where a penalty was given by the court.

96% of the cases relate to persons that had multiple offences before the courts the remainder relate to persons that had only one offence before the courts.

These queries confirmed the issue involving GISC creating summonses for R0024 as well as other instances where members have created summonses for an offence without the offender having the opportunity of paying through the FCN system.

2.6 Action taken and interim solution

Assistant Commissioner, GNTB, liaised with District Officers to ensure that these summonses were withdrawn where a FCN had been paid.

An instruction was issued to GNTB and Garda IT by Assistant Commissioner, GNTB for an examination to take place of all relevant FCPS and Pulse data in respect of all Fixed Charge Offences.

On 23/05/2016 an instruction was issued to all Regional Assistant Commissioners and Divisional Officers to ensure that all members familiarise themselves with the content of the FCPS Policy and Procedures Manual, 4th Edition.

Where a case involved a bench warrant being issued or a fine imposed, the bench warrant or subsequent penal warrant should not be executed as directed by that Commissioner.

Each District Officer was instructed that any cases due before the courts where a FCN has been issued and paid or terminated, but subsequently summonsed to court in error be withdrawn before the courts.

Instructions were issued to Chief Superintendent, GNTB to liaise with the courts service and obtain reports from GISC, FCPO and Garda IT section to find out the full extent of the issue.

Reports were received from GISC, Garda IT and the FCPO by Assistant Commissioner, GNTB.

As an interim solution pending PULSE release 7.1 a set of changes to the summons system area database programmes in Pulse have been identified to stop the creation of FCN offences unless the FCN had passed and a manual summons was required.

2.7 Reasons why these issues occurred

The examination team is satisfied that this was not a deliberate act of commission or omission by any one individual, rather it was an unintended consequence of the continuous upgrading of the Fixed Charge Processing System on a piecemeal basis.

In fact there are a number of reasons why these problems occurred as outlined below:

From the 08/12/2014 to the 12/07/2016 Pulse allowed Garda personnel to issue summonses for offences where a FCN should have been issued in the first place and also allowed multiple summonses to be prepared on Pulse. This was an IT issue that was rectified on the 14/07/2016 with a temporary solution which was permanently resolved on the release of Pulse Release 7.1 on the 04/12/2016. This problem should have been foreseen but was not.

Members of the public were prosecuted on foot of a summons without first receiving a FCN for a number of offences contained on the FCPS offences list. The system allowed a user to create a summons without including the notepad/handheld device number and prosecute offenders directly by summons/charge without ever being issued with a FCN. Therefore summons applications for FCNs were submitted to the courts for offences that should have been first dealt with by way of a FCN.

With regards to more than one summons being issued for the one offence, Garda IT queries on the Pulse system identified incidents where multiple summonses have been issued in respect of the same offence. Data examined showed that, in certain cases where a summons was issued automatically through the FCPS, a manual summons application was also made. In the other cases a manual summons application was made for the same offence a number of times.

The Fixed Charge Processing System Policy & Procedures Manual, 4th Edition 2014, was released on the 16/06/2014. This updated the Third Edition of the Fixed Charge Processing

System Policy & Procedures Manual which was in existence since 2005. The Manual is sixty pages in total. It is a very detailed and technical document (Fixed Charge Processing System Policy & Procedures Manual, 4th Edition. 2014).

As can be seen from the information contained in HQ Directives and Pulse Bulletins; updates, new procedures, new offences and “fixes” were all introduced on a very piecemeal basis, often in documents **over 100 pages long**, where references to FCPS were only a very small part of the information provided.

There has been a complete lack of training through the CPD system. Members of An Garda Síochána were not given any formal instruction on the FCPS or the issuing of Fixed Charged Notices (FCN’s) between 2004 and 2016. In most cases the only “training” members received was by word of mouth from other Gardaí from local traffic units or members with a particular interest in this area of work.

The Garda Portal to some extent unintentionally took over from CPD training with the expectation that members would go and find what they needed from there. If a training guide is placed on the Portal it is up to members to seek out this information and apply the learning. FCPS policy, procedures and updates remain spread out over the Portal. A FCPO home page exists but this does not contain all related and necessary information, even though it is helpful to members if time is invested in accessing the information. There is currently no one place that Garda personnel can go and get comprehensive, clear, concise and up to date direction on using the FCPS.

The last issue identified “prosecutions not initiated where a Fixed Charge Notice had not been paid” relates to the Manual Summons Offence Report; manual summonses must be created for offences relating to “certain vehicle” speed limits, weights etc. and are created by designated GISC personnel. Other FCNs have a default status of manual summons on the FCPS where complexities in the summons wording prevented the summons from being generated automatically. Where these FCN’s remain unpaid they will appear on the Manual Summons Offence Report.

In relation to lack of prosecutions for non payment of FCNs, the purpose of the 'Manual Summons Report' was to inform the prosecuting Garda that the Fixed Charge and any linked Pulse offence(s) cannot be processed automatically by FCPS and requires intervention by the prosecuting Garda.

This Manual Summons Report remains largely unknown by district staff members and there still is much confusion about same. An examination by the Garda Roads Policing Bureau indicates that the report is not being accessed or used in some cases and there are cases where an application for a summons by manual intervention has not taken place.

The Manual Summons Report is not being accessed at District Office level in most of the country and still remains an issue. Communication to District Offices that this MIS folder existed, where to find it and how it was to be used was poor. The only other place where the 'Manual Summons Report' is explained and the responsibilities set out is in the Fixed Charge Processing System Policy & Procedures Manual Fourth Edition released in June 2014 with HQ Directive 48/2004. In this 60 page manual the 'Manual Summons Report' is referenced on pages 27, 37, 38 and 49. Within this manual, in the roles and responsibilities section it puts the onus on Divisional Officers/Chief Superintendents and District Officers/Superintendents to access MIS reports on Pulse/FCPS System on a monthly basis.

GNRPB conducted a further sample examination of the September 2016 Monthly Summons Offence Report in relation to two Districts within each of the Regions. This sample examination showed that there was still a significant issue with non compliance with these reports. Only one third of the summonses requiring manual intervention had been dealt with as of the beginning of December 2016 (22 out of 63). The sample examination showed that some of these offences became statute barred. GNRPB again issued a reminder on the 12/12/2016 in respect of the District Officers responsibility to ensure that the Monthly Summons Offence Report is acted upon as per HQ Directive 48/2014; this was again re-issued by Assistant Commissioner, GNRPB to all Regional Commissioners, Divisional Officers and District Officers on the 19/04/2017.

A Manual Summons Offence Report is generated on a monthly basis and is distributed to the relevant District Public Folder. Each FCN recorded on this report requires manual intervention

by the detecting Garda member to generate summonses for both fixed charge and linked offences. It is the responsibility of each District Officer to notify the relevant detecting member.

As outlined earlier: Pulse Bulletin 82 released in July 2009 contained information on “FCPS ‘Completed Linked Offences’ and ‘Manual Summons Reports’”. It stated that the ‘Manual Summons Report’ was now posted to each of the Districts MIS folder on the 2nd of each month going forward. The reports for each District had previously been printed by the Fixed Charged Processing Office and manually posted to the relevant District Offices for the attention and information of the relevant members. The relevant pages from these reports were now required to be printed and forwarded for the attention of the investigating members by each District Office.

The purpose of the ‘Manual Summons Report’ was to inform the prosecuting Garda that the Fixed Charge Notice and any linked Pulse offence(s) cannot be processed automatically by FCPS and requires intervention by the prosecuting Garda.

This was further reiterated in Pulse Bulletin 84, September 2009 again making reference to the existence of the ‘Manual Summons Report’ and its location.

It appears a large number of these manual summonses were not acted upon by the prosecuting member. The Manual Summons Report was not being accessed by the District Offices and therefore was not being forwarded to the relevant members for their attention. This remains an ongoing issue which has been brought to the attention of Assistant Commissioner, GNRPB.

Chapter 3: Previous reports and examinations on the FCPS

3.1 Overview

In considering the Garda FCPS and the errors that occurred it is necessary to examine reports carried out by a number of bodies (both internal and external) on how the Garda FCPS operates and how it may operate more effectively going forward with enhancements and changes. A number of reports have been examined as outlined below:

- Report on the Garda FCPS model was carried out by the Garda Síochána Ombudsman Commission in 2009
- FCPS was contained in the Report on the Accounts of the Public Services in 2012
- FCPS was briefly included in An Garda Síochána's Road Policing Manual of 2012
- FCPS was the subject of a report by the Public Accounts Committee report of 2014
- FCPS was subject of a report by the Garda Síochána Inspectorate in 2014

While much of these FCPS examinations do not directly affect the matters that this report was set out to examine, there are clear recommendations contained in the reports that would certainly improve the running of An Garda Síochána's FCPS system and would make it more effective and efficient.

3.2 Garda Síochána Ombudsman (GSOC) report

In 2009 GSOC carried out an "Examination of Practice, Policy and Procedure under section 106 of the Garda Síochána Act 2005 in regard to the Fixed Charge Processing System as operated by the Garda Síochána".

The report concentrated on the areas that were causing members of the public to make complaints, however in doing so, the report highlighted areas that would improve the overall operation of the system going forward.

The report was praiseworthy of many areas of the system including its electronic connectivity model: “The system is well supported in terms of electronic connectivity between the parties involved” (Garda Síochána Ombudsman Commission 2009, pg 8).

The report also stated that there was an issue with having too many offences listed. In 2009 there were 390 offences and this has increased to currently 614 offences (FCPS Offence Codes as of 28th July 2016).

“The original focus of the FCPS was on offences that are considered to have a direct bearing on road deaths and injuries. However, this has been extended to cover over a total of 59 generic categories which create 390 specific offences including 129 penalty point offences. This means that the initial focus on offences relating to safety has been significantly diluted” (Garda Síochána Ombudsman Commission 2009, pg 9).

Two of the reports core recommendations if implemented would have helped avoid some of the current issues:

1. that of giving the Garda member more discretion in issuing Fixed Charges Notices: “Informed discretion should be employed by Gardaí when the issue of Fixed Charge Process Notices is being considered. Consideration should be given to practices in other jurisdictions...” (Garda Síochána Ombudsman Commission, 2009, pg11), and
2. the reduction of the number of FCN offences which would allow members be more aware of the offences and the procedures that needed to be adhered to when issuing them: “Either the inputting of offences into the FCPS should be reduced to cover only core road safety offences, or the FCPS should be resourced and reformed to meet the present and future demands” (Garda Síochána Ombudsman Commission 2009, pg 11).

3.3 Accounts of the Public Services

Chapter 7 of the Report on the Accounts of the Public Services in 2012 focused upon a number of different issues including the cancellation policy and the significant levels of non payment of fines and of cases being sent for court proceedings.

On page 103 point 7.67 it was recognised that there was an issue with the manual summons process that was causing cases to be statute barred: “Garda records indicate that some cases may have proceeded to court via a manual summons, but are recorded as statute barred because the electronic link between the offence and the manual summons was not recognised” (Office of the Comptroller and Auditor General 2012, pg104).

3.4 Garda Roads Policing Manual

An Garda Síochána Roads Policing Manual of 2012 is a 219 page document and sets out An Garda Síochána’s manual of guidance on Roads Policing (An Garda Síochána Roads Policing Manual 2012). This includes both planned operations and incidents that require a spontaneous response that are dealt with by An Garda Síochána on a daily basis. The mention of the Fixed Charge Processing System and its process and procedures are only referenced on page 112 and 113 briefly in a flow chart diagram. Reference is made to the FCPS procedures manual but no more detail is given to the members on the Fixed Charge Notice process.

3.5 Garda Síochána Inspectorate Report

In 2014 the Garda Síochána Inspectorate completed a 70 plus page report titled the “The Fixed Charge Processing System A 21st Century Strategy”. Like other reports at this time it came about following an issue with the cancellations of Fixed Charge Notices within An Garda Síochána.

The report found that the FCPS could be improved by a coordinated effort by all the agencies involved and not just An Garda Síochána. The report pointed out that the “fixes” employed following a number of issues has resulted in a “technically deficient, managerially uncoordinated, inefficient and excessively resourced support unit “(Report of the Garda Síochána Inspectorate 2014, pg 9). The report suggested that the system needed radical overhaul to become a “fit for purpose” system that could perform efficiently and effectively going forward, however small changes could be achieved in the interim which would help.

The report recommended that the Department of Justice and Equality take the lead in coordinating a Criminal Justice Working Group to oversee and implement the recommendations in this report. It recommended a number of changes in the intermediary period including a better

‘send back’ process, more efficient summons serving procedure and that “there should be ongoing training on the FCPS and where any significant changes to policy and procedures of the FCPS are introduced, this must be accompanied by an assessment and implementation of training needs and requirements” (Report of the Garda Síochána Inspectorate, 2014, pg 22).

The report highlighted some much needed improvements; some of which have been implemented i.e. “The Inspectorate recommends that the third payment option to pay a Fixed Charge Notice as provided for in Section 44, Road Traffic Act, 2010 be commenced” (Report of the Garda Síochána Inspectorate 2014, pg 48). This was introduced on the 1st of June 2017. It mentions the need for new hand-held devices which is being considered and the need for the case load before the courts to be reduced. All these recommendations together with others would help improve the FCPS with AGS.

The last chapter of the report outlined a model for the future. The model required a lot of changes and it was noted within the document that “it will be some time before a new modern system, as set out above, could be implemented and it must be done in conjunction with the upgrading of all the operational and administrative activities of the Garda Síochána that would equally benefit from such a coordinated system” (Report of the Garda Síochána Inspectorate 2014, pg 5).

The report considered the Portuguese Police and the Royal Canadian Mounted Police (in Nova Scotia) as Fixed Charge Processing Systems of excellence / best practice and therefore contact was made with the RCMP to consider their systems which are discussed in Chapter 4.5.

3.6 Public Accounts Committee Report

In October of 2014 the Public Accounts Committee compiled a “Report on the Fixed Charge Processing System and related Road Safety Issues”. This document concentrated on the policy around the cancellation of fixed charge penalties and the high level of evasion, however one of the main failures highlighted in the report is use of manual notepads and the poor standard of the handheld devices which results in omissions/ incorrect data entry: “The whole process system involved in getting an offence entered on to the central Garda system appears unduly bureaucratic when manual note-pads are involved. Where forms have to be returned to the Garda District, there should be a rigorous follow up process to ensure that the forms are returned to the FCPO so

that a notice can issue to the driver and this process should be subjected to persistent audit. Ultimately, the process should move away from manual note pads to one where there is direct entry of data with the driver getting a receipt at the side of the road. The Gardaí should also examine ways of making the hand held devices more user-friendly given that technology has evolved, especially with touch-screen devices. It should be possible that the use of note-pads could be phased out” (Public Accounts Committee 2014, pg 4).

Note: The recommendation that the process becomes totally automated using technology to ensure more consistent results is a common theme throughout all these reports.

Chapter 4: FCPS in other jurisdictions

4.1 U.K. Home Office Policy – FCPS

The guiding processes and procedures used by the UK Police in the use of the FCPS are of importance to this examination for comparison purposes. At the heart of this guidance remains the 2006 Home Office document “Revised Guidance on the Operation of the Fixed Penalty System for Offences in Respect of a Vehicle”.

This document outlines the recommended guidance for police officers in the UK in relation to using the FCPS. From the start the guidance document clearly sets out that fixed charged offences should not be looked at in isolation and need to be considered along with all the other options available to officers at the incident: *“It is difficult to look at fixed penalties in isolation. The operational officer needs to be in a position to give advice, warn, require vehicle rectification, issue fixed penalties and summons offenders in a cohesive way”* (Home Office 2006, pg 11).

Where it differs the most from the Garda system is that while there is guidance offered on when officers should issue a verbal warning, a Fixed Charge Notice or to proceed by summons, it is very much left up to the individual officer to choose the path they will take. As a result the officer can use discretion. The legislation that guides this policy is the 1988 Road Traffic Offenders Act 1988 and as outlined below the law very clearly states that the officer “may” as opposed to “shall” or “will” when it comes to the issue of a conditional offer to accept a Fixed Charge Notice:

For example, in the UK for failing to display a Vehicle Excise Licence (VEL) it is policy that the officer uses his/her discretion to decide on which path to proceed: “as with all FPN offences the importance of an issuing officer exercising discretion cannot be overstated” (Home Office 2006, pg 14).

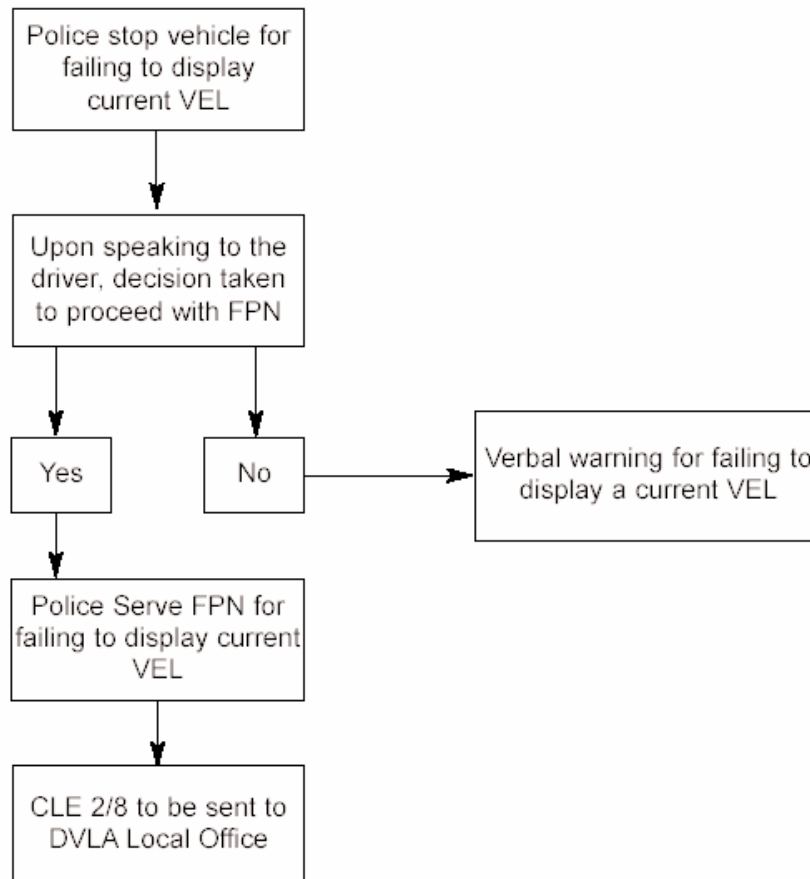


Figure. 2 Discretion policy in UK to decide the path to proceed

4.2 The Fixed Penalty Process – United Kingdom

There are three different types of Fixed Penalty Notice:

- Endorsable
- Non-endorsable
- Conditional offer

Endorsable

An endorsable fixed penalty notice is one that sees the motorist involved getting Penalty Points.

The FPN will be issued by a police officer directly to the offending driver at the time that the

offence takes place. The driver will be expected to give up their driving licence so that it can be endorsed with the penalty points - this can be done at the roadside or at a police station nominated by the motorist, within 7 days of the date of the offence. The driver will also have to pay a fine. Although offences in this category include crossing roads marked with double white lines and driving past red traffic lights, the most common offence is speeding.

Non-endorsable

This is a ticket that won't leave points on the licence – usually reserved for minor traffic offences such as parking somewhere illegal. This will usually carry a fine of around £30.

Conditional Offer

Conditional Offers are related to offences picked up and recorded by traffic cameras, usually speeding. Depending on the speed recorded it may be appropriate to make a conditional offer and if so, the registered owner of the vehicle will receive a Notice of Intended Prosecution through the post. Following receipt of this, there is a legal requirement that the registered owner provide information on who was driving the car at the time that the offence is alleged to have taken place. The conditional offer allows the offender to stop the chance of further action or prosecution by accepting blame and paying a £60 fine. They will also receive 3 penalty points on their licence. If the speed detected was above the set threshold for cases to be automatically referred to court, then a summons will be issued and a conditional offer will not be made.

Processing and enforcement responsibilities are split between police processing units known locally as Central Ticket Offices (CTOs) and magistrates' courts' penalty payment offices, generally known as Fixed Penalty Offices (FPOs).

Local magistrates' courts also provide a back up service to deal with hearing requests and prosecutions arising from the fixed penalty process and to enforce fines that are registered against fixed penalty defaulters. Police Forces and Magistrates' Courts across the UK, Police Scotland and the Police Service of Northern Ireland (PSNI) are using a national computerised system for the administration of Fixed Penalties.

Linked offences do not exist on the UK system. The process does not require the functions of an office such as the GISC CJIP Business desk or the generation of the Manual Summons offence report.

4.3 England, Wales and Northern Ireland – FCPS

Generally speaking within the “Guidance on the Operation of the Fixed Penalty System for vehicle offences, March 2012” the system used by Police in England, Wales and Northern Ireland are consistent albeit with some local procedural and process differences. Scotland which is discussed after this section has larger differences and therefore is a stand-alone section.

Since the introduction of the Transport Act 1982 and the Road Traffic Offenders Act 1988 the Police Service can deal with certain offences by way of fixed penalty. This benefits not only the courts service and police, but also members of the public who have committed these offences.

The number of Fixed Penalty Notices (FPNs) that can be issued to an offender on any single occasion is restricted. The use of Conditional Offers of Fixed Penalty Notices (COFPNs) is encouraged when an offender could not be stopped and issued with a FPN at the time the offence was committed.

The guidance also looks at the benefits of dealing with offenders by way of a report for process at the time of offending with decision makers reviewing the evidence and databases before either offering NDORS education, conditional offer fixed penalty or summons.

Fixed penalties are not be viewed in isolation. The operational officer is meant to consider the use of: advice, verbal warnings, Vehicle Defect Rectification Scheme (VDRS), National Driver Offender Retraining Scheme (NDORS), FPN/COFPN, Report for Summons as appropriate.

The FCPS process is based on the notion of reducing casualties through enforcement, including education and encouragement.

The important thread running through the process is the concept that the offender should be dealt with in a proportionate manner and each case should be dealt with on its own merits. In applying discretion it should be used wisely and to good effect.

The guidance recommends that FPNs should be restricted to a maximum of three, of which only one can be endorsable.

The operational use of the fixed penalties is restricted to offences committed there and then at the roadside. When offences take place where an officer is unable to stop the vehicle a Conditional Offer can be used.

The inherent discretionary powers of the constable and those embodied within the Road Traffic Offenders Act 1988 in respect of the issue of a FPN are recognised and this guidance document in no way inhibits such discretion.

The course of action decided will be based on any mitigating or exacerbating factors present at the time of the alleged offence. Police action must be seen to be fair, consistent and proportionate, requiring the same standard of evidence for the issue of a FPN as required for a court hearing.

Options Available for action:-

1. Verbal warning
2. VDRS - Vehicle Defect Rectification Scheme
3. NDORS - National Driver Offenders Rehabilitation Scheme
4. COFPN/FPN - Conditional Offer Fixed Penalty Notice / Fixed Penalty Notice
5. Report for Summons

4.4 Scotland – FCPS

The Conditional Offer of Fixed Penalty Scheme, and the issue of Fixed Penalty Notices, is designed to eliminate unnecessary paperwork by recording all the necessary information relating to the reporting of an offender on the Conditional Offer of Fixed Penalty Ticket. Payment of the relevant penalty will discharge the offender's liability for prosecution.

The Scheme operates in Scotland within the framework of the Lord Advocate's Guidelines on the subject and replaces the requirement to submit a standard police report to the Procurator Fiscal.

The Lord Advocate's Guidelines indicate how the Scheme will be operated and when it is appropriate to issue a Conditional Offer.

The same standards of proof will apply to the issue of a Conditional Offer as apply to submitting an offence report.

Conditional Offers will be issued within the framework of the offence combination table, within the Lord Advocate's Guidelines. There will be a presumption in favour of the issue of Conditional Offers within that framework.

On detecting an offence there are several options available to the officer for action:

1. Verbal warning
2. VDRS - Vehicle Defect Rectification Scheme
3. COFPN/FPN - Conditional Offer Fixed Penalty Notice / Fixed Penalty Notice
4. Report for SPR - Standard Prosecution Report

NDORS (National Driver Offenders Rehabilitation Scheme) is not a consideration.

4.5 Northern Ireland/ PSNI - FCPS

In terms of the overall UK Fixed Penalty System, it is important to examine how our neighbours in the PSNI operate their system. The following aspects are particularly important when comparing the system to the Garda FCPS:

- Retention of an Officer's individual discretion as to how to deal with an incident with the exception of the following: Speed, Mobile Phone, Seatbelt and No Insurance.
- Multiple FPNs may be issued relating to a singular incident to a maximum of 1 Endorsable and 2 Non-endorsable offences.
- PSNI have 39 Endorsable Offences and 160 Non Endorsable Offence codes.
- Offenders at the lower end of the scale may be dealt with by educational diversions.

- Where a motorist is detected with a combination of prosecution and fixed penalties, it is policy to deal with all the matters via a single prosecution file.
- The only parties involved with the processing of a Fixed Penalty are; the issuing Officer, the PSNI Fixed Penalty Processing Centre, PSNI Enquiry Office staff, Driver Vehicle Agency and NI Court Service.
- It is envisaged that the DVA driver licence record will be available electronically shortly at the roadside for PSNI members which will obviate the need to take possession of the driver's licence.

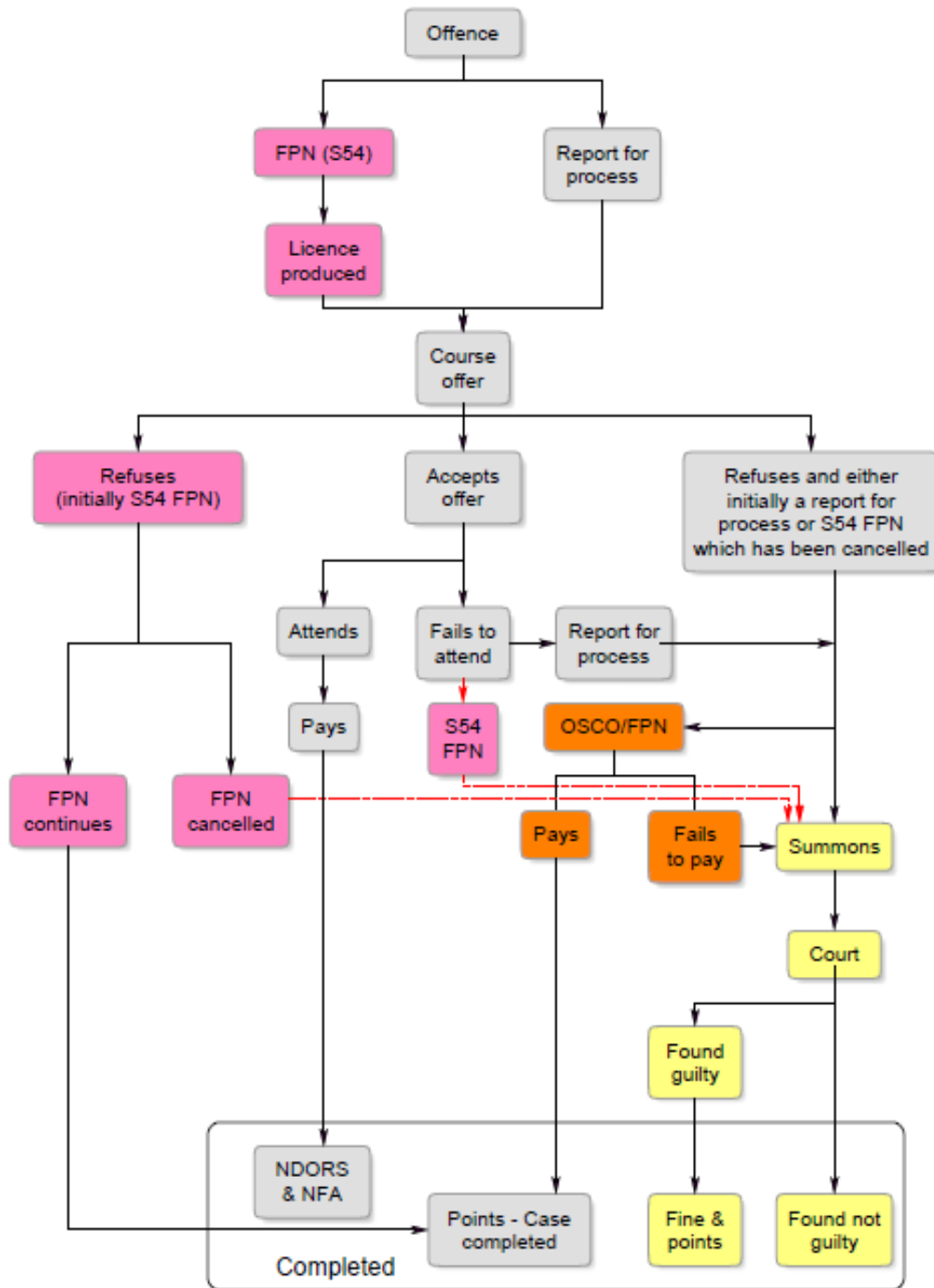


Figure 3 –UK flow process showing available options to process Fixed Penalty Offences

4.6 Canada - Royal Canadian Mounted Police (RCMP) – FCPS

On the 20/02/2013 the RCMP introduced the Police Access Tool (PAT) ticketing policy for their PAT system. This system was introduced to improve the efficiency and effectiveness of their ticketing system: “The PAT Ticketing project will change the need for manual tickets and manual data entry processes to that of a backup feature as electronic tickets will prove to be more efficient for both the police services and local Provincial Court administration” (Royal Canadian Mounted Police 2013, pg 7).

The RCMP system varies from Province to Province, as each has their own statutes and regulations, with different fine amounts. The system is customized and they work directly with the Provincial Governments to have an interface into their court systems. Each Province uses the system slightly differently, but in the case of Nova Scotia, they are able to complete an electronic ticket for offences that do not have fine amounts, and are able to compel people directly to court by way of summons. In their case, the summons looks exactly the same as a violation with a fine amount, however the fine amount box is not filled in (it pre-fills with "xxxx")

The RCMP let each individual Province dictate their own policies.

The general procedure is as follows:

- A “Ticket” is created for each type of ticket to be issued and can be automatically populated as much as possible with the information available from the Drivers Licence Scan, Motor Vehicle and PROS Database queries.
- Once completed and ready to be issued, the ticket is printed and locked.
- The paper copy of the “Ticket” is issued to the offender.
- The user completes the "Officer Notes” report which is then saved and locked.
- The related Occurrence is created.
- The “Ticket” is then sent electronically to the Court Database and a copy of the “Ticket” and Notes are attached to the Occurrence as an external document.

The Province of Nova Scotia was looking at creating an Electronic Ticketing application; however commercial applications didn't meet the needs of the RCMP. The RCMP had several

"dead" spots, where the mobile computers lost connection. The RCMP proceeded to build their own application; it has online and offline capability. This application was built in-house within the RCMP, and works with their interface to the RMS (Niche). This system is called PAT (Police Access Tool). That system was also built in-house, and the RCMP owns it as intellectual property. Their ticketing solution does work without going directly to Niche and skips PAT, but many of the streamlined functionality they have built into the Ticketing component are only realised if PAT is used.

As can be seen from the Business Context Diagram (Figure 3), the officers in the RCMP have access to databases, laptops and printers remotely in their mobile patrol vehicles. An officer can scan the offender's driving licence etc. and this will populate a large portion of the ticket to be issued. The officer is able to give a ticket printout to the offender, close the ticket off there and then so that no further alteration can be made and electronically send the file to the court system for future payment/court hearing.

While this appears to be an excellent and very straight forward system once all the necessary information technology systems are in place, it is not something that Garda members will have available to them for the foreseeable future.

Note: The Royal Canadian Mounted Police FCPS System was examined as it was found to be a Fixed Charge Processing System of excellence / best practice by the Garda Síochána Inspectorate in 2014.

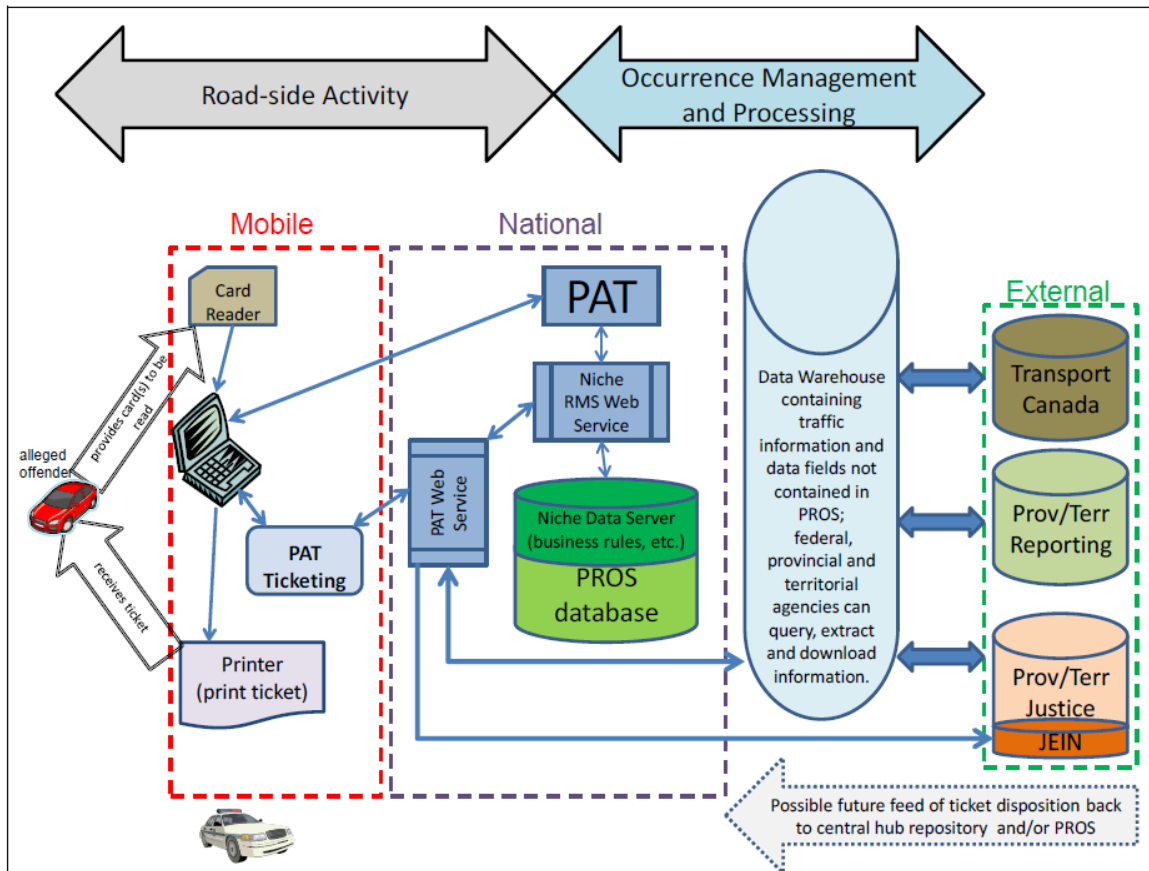


Figure 4 - RCMP Business Context Diagram

Chapter 5: Research and subsequent findings

5.1 Garda National Roads Policing Bureau

During the course of this enquiry there were a number of discussions held with different members of staff of the GNRPB in order to clarify various practices, processes and procedures and to get an overview of the issues that occurred necessitating this examination.

The main responsibility of the GNRPB is to significantly reduce the incidence of fatal and serious injuries and improve road safety. An Garda Síochána's Traffic Mission Statement is to develop a national culture of safe road use.

The GNRPB, formerly the Garda National Traffic Bureau was established in 1997 to formulate policy and oversee traffic policing throughout the State. The Bureau is headed by Assistant Commissioner Michael Finn since 13th of December 2016 and is based at Garda Headquarters in the Phoenix Park. At Executive level in An Garda Síochána, there has been no Assistant Commissioner allocated G.N.T.B. for much of the period from June 2008 – January 2017. The exception to this situation was from August 2010 until February 2012. In this same period, seven different Chief Superintendents held the position of Chief Superintendent in charge of G.N.T.B. Some of the officers were also covering other equally challenging full time portfolios at the same time. The position of Superintendent (Operations) in G.N.T.B. has remained vacant for most of this period in question. This position was recently filled, in June 2017.

The GNRPB is responsible for the overall policy and direction of roads policing matters within AGS. The GNRPB has responsibility for the Fixed Charge Penalty Office (FCPO) and the Office for Safety Camera Management (OSCAM).

5.2 Garda IT

Members of the inquiry team met with a senior management team from Garda IT. Since the creation of the FCPS system in 2006 the Garda IT section has been supporting its operation. Between then and February 2016 there have being various reports and inspections both internal and external (referred to earlier in this report) which have highlighted the good work that was

taking place within all the supporting sections of the FCPS system. Also since 2006 the FCPS system operated without any member of the Gardaí or the Judiciary identifying the issues highlighted earlier in this report. The Garda IT Section applies rigorous testing, including testing scenarios on the release of new systems, upgrades and changes. However, as proven by these issues occurring, they were not rigorous enough.

In February 2016, GISC became aware, following a query in relation to a prosecution, that a GISC internal summons application practice continued which conflicted with this provision. This continued practice was also contrary to PULSE Release Bulletin 6.7 which had been issued by Garda IT. This led on occasion to more than one summons being created for the same offence and in some instances a summons being created for a FCN which had been previously paid.

On 27/04/2016, GISC sought information from Garda Information Technology Section (Garda IT) in relation to the creation of summonses for not having a valid NCT Certificate. A follow up email was submitted on 5/05/2016 and in response to this, a list of summonses for not having a valid NCT Certificate was provided by Garda IT to GISC on the 6/05/2016.

Until this issue came to light in May 2016, Garda IT was unaware of any problems within the system.

It was now necessary for Garda IT to find a solution to the first 3 issues:

1. Prosecutions taken for using a vehicle without a valid test certificate (NCT) where the person prosecuted had already paid a fixed charge for the offence;
2. Prosecutions on foot of summonses taken for Fixed Charge Offences where no Fixed Charge Notice (FCN) had been issued in accordance with legislation;
3. More than one summons issued in respect of the same offence;

From May to July of 2016, there were multiple workshops arranged within IT to find a solution. Firstly they had to synopsis what the problem was; for a number of reasons some summonses are not suitable for auto creation and need to be reported to Districts for user intervention and correction via the Manual Supports Report. From there the users are then required to manually create the summons request so that it can proceed to the courts for summons issue and

scheduling. The system allowed a user to wrongly create a summons without including the notepad/handheld device number and prosecute offenders directly in Pulse (summons/charge) without ever issuing a Fixed Charge Notice. Therefore summons applications for FCNs were submitted to the courts for offences that have should have been first dealt with by way of a Fixed Charge Notice.

By 14/07/2016 Garda IT had deployed a 'fix' to prevent further summons issue unless the offence first issued as an FCN and remained unpaid titled "CR 45393".

This IT solution comprehensively addressed concerns 1-3.

In order to solve this issue there was a necessity to cross check the validity of the fixed charge notepad/handheld device number and the offence code used in Pulse against the FCPS system to ensure the summons created previously existed as a Fixed Charge Notice. When there was no such match or, in the absence of a notepad/handheld device number, the summons would not be created and an entry would be written to a log file detailing this occurrence.

Essentially this 'fix' prevented summonses being created in error. This IT solution was then enhanced and implemented as a permanent solution, as part of a Pulse IT System update PULSE; Release 7.1 which was deployed on 4/12/2016

The remaining issue of prosecutions not initiated where a Fixed Charge Notice had not been paid was not able to be addressed by an I.T. solution.

From meetings undertaken and the examination of related documents, policy and procedures it appears these problems arose for a number of reasons:

- From the day this system was created there was a lack of functionality between the two core systems i.e. FCPS and Pulse.
- When the system was created the offences were coded as F = FCPS only i.e. FCN, P = Pulse only i.e. summons/charge and B = Both FCPS and Pulse. A lot of the offences were coded "B" which had to be the case to allow for a summons to be issued from the Pulse

system after a FCN had not been paid. However while this was necessary it appears no safeguards were put in place to prevent the member from going direct to summons without issuing the FCN in the first instance i.e. the necessity to have a FCN/Handheld number included before creating a summons.

- As the years progressed new offences were added and on each occasion testing occurred to a high level in functionality, compatibility, load, volume, security and software. However it appears that there was not enough negative testing done in the area of usability and hence the issues that occurred were never foreseen.

The system that is in existence today is extremely robust and has been fully tested in usability. The flow chart that is included titled: “Validation sequence and Actions” gives a very clear flow chart of how the process of creating a summons on Pulse occurs and the safeguards in place to ensure that this summons can only be created for offences where an FCN has been issued and has not been paid.

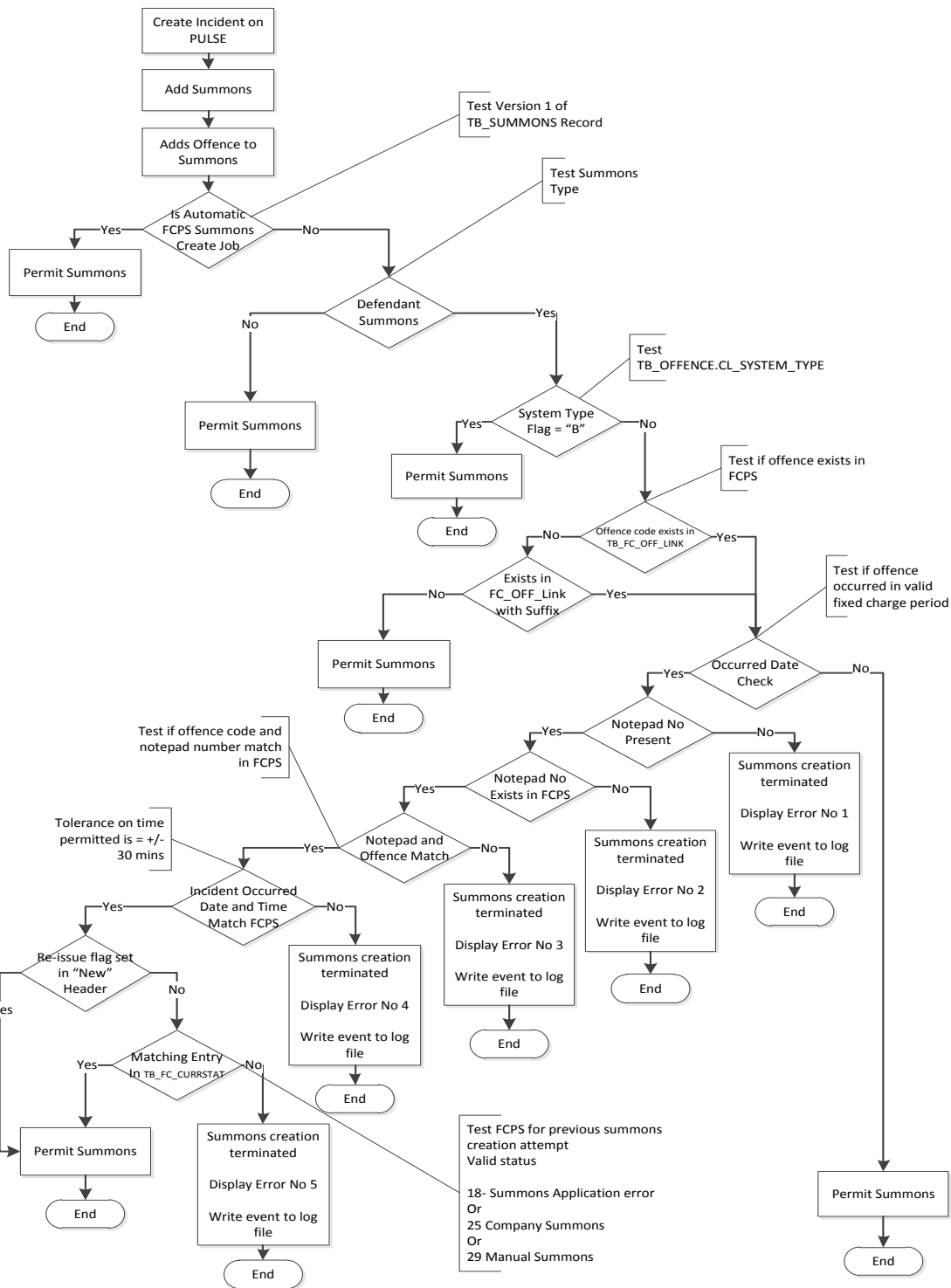


Figure 5 - Validation sequence and Actions

5.3 Garda Information Services Centre

The Garda Information Service Centre was set up in 2006 to meet the many requirements of the Pulse system. The centre is staffed by civilian personnel who input and review incidents on Pulse on behalf of Garda personnel. Initially the objectives of GISC were to support the Garda organisation in its efforts to increase Garda visibility within the community and to improve the quality of data on pulse. In 2014 the Garda Inspectorate recommended that GISC should play a central role in the FCPS. The recommendation was that the Garda member would utilise the current practice for recording incidents on Pulse by calling GISC from the scene of the detection and recording the issuing of the fixed charge (Report of the Garda Síochána Inspectorate 2014).

As part of the information gathering phase of this report, members from the enquiry team went to GISC in Castlebar. A meeting took place with a senior manager from the GISC CJIP business desk. An overview of the interaction between GISC and the FCPS was explained.

The main issue discussed with regard to the FCPS was the DLIP report. How the DLIP report is generated was shown and explained to members from the enquiry team. Each Wednesday this DLIP report is generated. It can be up to sixty pages with fourteen records per page. The DLIP report lists all produced and non-produced documents in one document. GISC staff check this list through a number of checking phases to produce a final list of non-production. It is a very time consuming process for GISC staff to go through each record to produce this final list. In effect **GISC staff are making a decision on whether or not the documents produced at a Garda station are valid without viewing the actual documents.**

A proposed solution from the CJIP business desk is for the Production Details Tab on Pulse to be enhanced. A drop down question box such as ‘Is this document in order?’ should be selected with ‘yes or no’ as an answer. This leaves the responsibility for the validation of documents produced with the Garda member who actually handles the documents. Also this takes the responsibility from GISC personnel who do not see the actual documents. Members should not be allowed to close out of each tab until this question is answered. Pulse should be linked to FCPS and when a Garda member answers “yes” this record should be automatically removed from the queue. If this proposal was implemented it would greatly reduce the number of records on the DLIP queue thereby saving time.

5.4 Fixed Charge Penalty Office

Members from the inquiry team met with the Acting Assistant Principal and members from his management team at the FCPO, Thurles. A full overview of the FCPO and systems in place was given with supporting documentation provided.

As previously discussed the Fixed Charge Processing Office in Thurles, Co. Tipperary is the National Processing Office, mainly responsible for administering the FCPS. This is a system developed by An Garda Síochána to enable computerised, automated processing of Road Traffic offences, including certain drink-driving offences that incur fixed charges and certain public order offences.

The FCPO is divided into the following sections:

- Post Room
- Enquiries Section
- Data Entry
- Nominations
- Summons
- Send back / Cancellation
- Human Resource Management and Finance
- Finance and Support Services
- Information & Communications Technology Liaison
- Enforcement Unit
- Assistant Principal's Office
- Superintendent's Office

The processes and procedures involved within the FCPO were explained and discussed with the enquiry team. FCPO recommendations in relation to making the system paperless were also considered and discussed. Overall the office is extremely well run and dynamic with regard to challenges met and introducing changes recommended from within and from other stake holders involved in the process.

One issue of note is when FCN's are sent back to stations for clarification. A concern for the FCPO is the percentage of FCN's that are not returned to the office for processing. 6% of FCNs are marked as out of date (the date of processing has passed without any reply from the Garda member).

During the course of the meeting, the FCPO team discussed the new "third payment option" which has since gone live on 1/06/2017 when the Tánaiste and Minister for Justice and Equality commenced the Courts Act 2017 which provides a third payment option for road traffic offences.

The "third payment option", set out in section 44 of the Road Traffic Act 2010, provides a member of the public to whom a District Court summons has been issued with an alternative to attending court in respect of an alleged road traffic offence for which they were originally issued with a Fixed Charge Notice (Road Traffic Act 2010).

Previously a Fixed Charge Notice provided for two payment options before a summons was issued requiring a person to attend court, i.e., the first period of 28 days during which the person may pay the fixed amount, the second consecutive period of 28 days during which the person may pay the fixed amount plus 50%.

The third payment option allows for the payment of the fixed charge amount plus 100% from the time of summons service up to 7 days before the date of their court appearance. If a person takes up on the third payment option proceedings will be discontinued and they will not have to attend court.

FCN's are sent by regular post. This leads to some drivers stating in court that they never received it in the post. This third payment option will be sent by registered post and will hopefully put an end to cases where offenders are attending court claiming that they never received a FCN. This is a worthwhile development in the FCPS.

One important area to note; since the 1st of January 2014 to the 2nd of August 2017 there have been **1,273,176** FCN's issued by An Garda Síochána. Of the 614 FCN offences, only 4 different offences codes have been used more than 100,000 times, 25 offence codes used more than 10,000 times and 66 offence codes used more than 1,000 times. From the other side of the table 442

offence codes have been used less than 100 times in this 3 and a half year period with a further 132 offences codes having not been used at all (FCPS Frequency of use of the 614 FCN Offences 1st January 2014 to 2nd of August 2017). This begs the question why these offences are on the FCN offence list.

5.5 Garda College – CPD Training

The authors of this report have liaised with the office of the Chief Superintendent, Director of Training and Development, Garda College in relation to FCPS training.

The Garda College rolled out a training package to CPD (Continuous Professional Development) personnel nationwide in 2004 on the introduction of the then new FCPS system. This training coincided with the phase 1 pilot rollout. It was carried out using a software training package called ‘Simsoft’ which ceased to be used by CPD after 2007.

The Garda College uses a core programme system to determine what training is required within An Garda Síochána; it basically allows senior Garda management to determine where training is needed the most within the organisation. At no stage did FCPS training enter into the top tier of training needs in the period following the above mentioned training course in 2004 up to June 2016; therefore no further training was given to members at any level in any of the updates on offences, policy and procedures during this period by the Garda College to the CPD personnel nationwide.

On the 29/06/2016, the Garda College (CPD) ran a one day course for CPD personnel in 29 Divisions to enable them to give members within their Division from Garda to Superintendent rank training in the Fixed Charge Processing System.

5.6 Modernisation and Renewal Programme

Under the Modernisation and Renewal Programme 2015-2021 one of the thirteen key areas within the programme is Roads Policing.

Ireland has one of the best road safety records in Europe however more needs to be done to reduce the number of deaths on our roads. Expanded use of technology as well as Mandatory Intoxicant Checkpoints and multi-agency checkpoints will be increased. Education and awareness activity will be enhanced. The Garda Traffic Corps will be strengthened and its function redeveloped into the Garda Roads Policing Unit to tackle the use by criminals of the road network as well as other functionality. In 2014, the ETSC (European Transport Safety Council) ranked Ireland the sixth safest country out of 26 European countries. (Modernisation and Renewal Programme 2015).

The function of the Garda Traffic Corps is being redeveloped to take in more road policing functions. It will become the Garda Roads Policing Unit. Working with non-traffic personnel, it will work to deprive criminals the use of the road network through high visibility policing and intelligence-led enforcement operations. The strength of this unit will be increased by 2018.

An Garda Síochána's Roads Policing Plan is designed to meet the objectives laid out in the Government's Road Safety Strategy 2013-2020. The plan aims to protect the public from serious harm and ensure safety on our roads by encouraging all road users to improve their standards through a concerted programme of high visibility road safety and enforcement operations in partnership with other State Agencies. The ultimate aim is to reduce fatal and serious injury collisions.

Much of the significant decrease in road deaths since 2002 is due to the introduction of penalty points. A total of 327,606 FCPS notices were issued in 2016 for offences including key life-threatening offences of speeding, non-use of seat belts, and use of mobile phone. GNRPB, in conjunction with the Department of Transport, Tourism and Sport, is working to identify suitable road traffic offences to be incorporated into the FCPS and for penalty points. This will help reduce the number of offenders required to attend court for minor road traffic offences, without compromising road safety.

In addition it is planned to issue penalty points more efficiently. Currently, Gardaí issue penalty points using a paper-based process, which is time-consuming. In the future, Gardaí will use handheld devices to electronically issue penalty point notices to road users at the time of the incident (Modernisation and Renewal Programme 2015).

5.7 Strategic Transformation Office

A meeting was held with members from the enquiry team and a senior management team from the Strategic Transformation Office (STO).

The Modernisation and Renewal Programme 2015-2021 is being led by the Strategic Transformation office.

Submissions have been received by the STO from the FCPO (Byrne 2015) for the paper Notepad regime for FCN's to be made defunct and replaced with a combination of increased use of handheld devices and 'phoning in' of offences.

A decision has been made by the Commissioner to proceed with the project. To ensure the successful deployment of this project and to align with wider objectives of the Modernisation and Renewal programme this project will come under the Roads Policing Strategy initiative.

The Roads Policing Strategy should be closely linked to the Garda Mobility Strategy which is an existing initiative under the Modernisation and Renewal programme. This will be presented to the Garda Executive.

This Mobility Strategy is a priority initiative under the overall programme that will ensure that Garda members have access to information and technology regardless of time or location.

The strategy is to be divided into three separate projects namely; ICT Infrastructure, Mobile Devices and Mobile Applications. Full deployment is expected within 3-5 years.

If it is agreed that this project is included in the overall Roads Policing strategy the suggested following steps will be considered:

- A business owner will be identified (Superintendent/Assistant Principal) for the project.
- A review of the project brief with the business owner for final presentation to the Garda Executive and Programme Board.

- Ensure that the Roads Policing Strategy includes this project and that the Garda Mobility Strategy is identified as a key consideration point to the overall strategy.

5.8 Garda Professional Standards Unit

The Garda Professional Standards Unit (GPSU) was established in February 2006 under Section 24 of the Garda Síochána Act 2005.

The purpose and function of the GPSU is to examine and review, as directed by the Commissioner, the operational, administrative and management performance of An Garda Síochána at all levels.

5.9 Judicial oversight

A number of measures have been introduced to ensure consistency in how An Garda Síochána was applying penalty points and making decisions on their cancellation for individuals.

The GPSU recommended that consideration should 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 the FCPO, and in particular, the decisions to cancel FCNs (Garda Professional Standards Unit 2014).

Judge Matthew Deery was appointed as the sole independent oversight authority in January 2015. The appointment followed a recommendation contained in the GPSU report, “Examination of the Procedures, Policy and Decision-Making Processes in relation to Cancellations on the Fixed Charge Processing System of Road Traffic-related Offences”.

The first report was submitted on 30/12/2015 (Deery 2015).

On 26/04/2017 the Tánaiste and Minister for Justice and Equality, Frances Fitzgerald TD, published the second report.

The report notes that the implementation of most of the recommendations “has immensely strengthened the (FCPS) system” (Deery 2017).

Following these examinations the organisation was found to be compliant in how penalty points are now cancelled (Modernisation and Renewal Programme 2015).

5.10 Garda Internal Audit

The Garda Commissioner is the accounting officer in relation to the appropriation accounts of AGS for the purposes of the Comptroller and Auditor General Acts 1866 to 1998 and Section 43 (1) of the Garda Síochána Act 2005 (O’Sullivan & Howard 2017).

An Audit Committee for AGS was established and is maintained in accordance with Section 44 of the Garda Síochána Act 2005 (Garda Síochána Act 2005).

The role of the Garda Síochána Audit Committee is to advise the Garda Commissioner on financial and governance issues (Corporate Governance Standards for the Civil Service 2015).

The role includes financial controls and risk management relating to the Commissioner’s function and its duties include, as set out in the Garda Síochána Act 2005 advice on the following matters:

- The proper implementation of Governance guidelines on governance and financial issues
- Compliance with section 22 of the Exchequer and Audit Departments Act 1866, section 19 of the Comptroller and Auditor General (Amendment) Act 1993 and any other obligations imposed by law relating to financial matters
- The appropriateness, efficiency and effectiveness of the Garda Síochána’s procedures relating to:
 - - Public procurement
 - Seeking sanction for expenditure and complying with that sanction
 - Acquiring, keeping custody of and disposing of assets
 - Risk management

- Financial reporting and
- Internal audits

(O’Sullivan & Howard 2017).

The Garda Internal Audit Section (GIAS) has been in existence since 2002 and is now legislatively based under Sections 44 and 45 of the Garda Síochána Act 2005 in line with the responsibilities of the Audit Committee.

The Audit Committee is required to review risks identified by the Risk Management Team and review the risk management processes. Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and the governance process.

The role of GIAS is to advise the Garda Commissioner in relation to the financial and property controls in place within the organisation and it does this by conducting periodic and systematic audits of Garda Divisions, Districts, Sections and Units based on audit procedures, as well as undertaking thematic audits encompassing issues across the organisations and value-for-money type reviews within An Garda Síochána on behalf of the Commissioner.

Whilst providing an advisory role to the Garda Commissioner, GIAS seeks to be of assistance to each area being audited. An overall aim is to encourage and recommend best practice across the whole organisation and to highlight situations where there are obsolete controls and wasteful bureaucracy.

GIAS conducts audits of information and records for the purpose of reporting on the controls, processes and systems used to manage An Garda Síochána’s resources, money, people, physical assets and information. This allows GIAS to make comment on the organisations operations in terms of the economy in acquiring resources, efficiency in using resources and effectiveness in order to achieve objectives.

Recommendation 2.3 of the Report of the Garda Síochána Inspectorate into the FCPS, 2014 states

that: ‘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’.

The GIAS has conducted regular audit checks on the full operation of the FCPS to ensure full compliance with all aspects of the policy and these results have included the following:

- Audit of the files where the cancelling authority cancelled the FCNs following a request directly from a member of the public.
- Audit of files where an application for cancellation was refused by the cancelling authority.
- Audit of files where the cancelling authority has requested a local District / Divisional Officer to carry out enquiries on the validity of the request made by the applicant prior to the cancellation of the FCN. (Deery 2017).

During 2015, the GIAS conducted periodic audits of the Fixed Charge Penalty Processing system. These audits found a high standard of compliance with legislation and procedures. A number of suggestions for improvements have been made to management (Howard 2015).

5.11 Risk Management

The failure of IT systems and training in An Garda Síochána has largely led to the problems with the FCPS that in turn have led to this inquiry. Risks associated with the FCPS were not identified at an early enough stage and this has led to corporate reputational damage. Indicators that lead to this risk being categorised as ‘very high’ are as follows:

- Adverse national publicity, > 3 days
- News stories and features in national papers
- The need for the Garda Commissioner and Minister for Justice and Equality to comment
- Questions in the Dáil
- Public confidence undermined
- Risk areas for consideration relating to the FCPS are:
 - Management of summonses
 - Inspections and reviews

- Resource allocation
- Training
- Policy awareness

An Garda Síochána's risk management approach complies with its obligations under An Garda Síochána Act 2005 and Government guidance, including the Department of Public Expenditure and Reform's documents: (Code of Practice for the Governance of State Bodies 2016) and (Risk Management Guidance for Government Departments and Offices 2016).

Risk management formally commenced in AGS in March 2010. The current risk management policy reflects An Garda Síochána's revised approach to risk management, which was the result of a comprehensive review of the organisation's risk management framework, conducted in 2015 (An Garda Síochána Risk Management Policy 2017).

AGS is committed to maintaining a robust, effective and systematic approach to the identification and management of risk in line with national and international best practice. The Garda Risk Management Unit was established on 01/09/2016.

Communication is critical with regard to effective risk management at all stages of the process. This will facilitate the early identification of risks and actions to mitigate risks. Risk management is an agenda item at all Performance and Accountability Framework (PAF) meetings and these meetings are an ideal opportunity to discuss and explore risk-related matters. Every opportunity should be taken to discuss and consider local risks. The more people who are consulted as part of the risk management process, the more effective and beneficial the process will be.

Risk registers are reviewed and updated on a continuous basis. The risk registers are submitted via email on a quarterly basis to the relevant Division/Region/Section. A signed and scanned certificate of review is also forwarded. Certificates of review provide assurance that the risk manager is actively and effectively managing their principal risks in line with risk management policy and procedures.

An Garda Síochána's revised, robust and rejuvenated approach to risk management aims to embed risk management into the organisation's philosophy, practices, business processes and day-to-day activities.

This will support good governance in AGS as it assists in achieving the organisation's goals and objectives, in analysing uncertainties within decision making arrangements, in clarifying accountabilities and in demonstrating how the public interest is best served.

5.12 Garda Submissions

On 17/05/2017 a notice advertising 'MAT submissions FCPS Enquiry' was published as a corporate message on the An Garda Síochána Portal. It was moved to a general notice on 26/05/2017 and will remain under 'View All Notices' on the AGS Portal indefinitely.

The notice informed members that there was currently an examination in relation to issues within the Fixed Charge Processing System.

It explained that the terms of reference were to 'Examine the processes and procedures, both IT and manual systems, which permitted offences to which a Fixed Charge penalty applied to be dealt with by way of a summons and, ultimately, by the courts and which has resulted in approx. 14,700 persons receiving convictions and court imposed penalties including the imposition of penalty points on persons who should, correctly, have received a Fixed Charge Notice for those offences'.

Members of An Garda Síochána were asked if they had any submissions or other relevant information or if they wished to share their operational experience in the area with the examination team they could submit their views via email by 29/05/2017.

Submissions given are detailed as follows:

- One submission was received in relation to problems of applying section 103 of the Road Traffic Act 1961 as amended (Special provision applying where certain offences are

alleged to have been committed) on a day to day operational basis. The example was given in relation to an incident of dangerous driving with linked FCN offences.

- A second example given relates to the time limit for prosecution by FCN and reporting through the Garda Youth Diversion Office for more serious linked offences.
- The suggested solution to given problems were to simply apply the following:
 1. If the offence committed is a Fixed Charge Offence then proceed by FCN.
 2. If the offence is not a Fixed Charge Offence then proceed by way of summons/charge.
 3. If the offence is a combination of both, then proceed by way of summons/charge.
- Another submission states that an issue has arisen since December 2016 where FCPS printouts for the member's records are printing front and back to save paper. The suggestion is to provide a facility to print these at a later stage if required.
- Difficulties with issuing FCN to offenders were highlighted separately. Many cases are being struck out in court because the Gardaí cannot prove service of the FCN. A local District Judge has admonished the FCPS system on several occasions. The solution refers to the old system whereby the offender received a notice at the side of the road; it worked as the offender could not dispute receiving the notice. Where a speeding offence is used to detect 'non intercept' offenders the FCNs should be sent by registered post.
- One issue highlighted with the FCPS was that notices were not being received by offenders and that these then proceed to summons. If the matter was minor in nature in some Court Districts the offender was convicted in their absence. There is no consistency within the courts in the approach to summonses issued as a result of a FCN.
- Another member suggests that handheld units are better for data input over the paper notebook method but that this data entry method is not ideal. If there was a facility though Pulse to input FCN data this could be checked more easily by the member as correct before uploading to the FCPS.

- One recommendation was that the box for ‘production of NCT’ from the handheld should be removed. A second recommendation is that the issue of an offender receiving either FCN or summonses out of the one incident may be viewed as unfair because the offender may pay a number of FCNs and shall be summonsed to court out of the one incident.
- The issue of much needed training in the area of FCPS was highlighted in another member’s submission. The issue of offenders claiming they had not received FCNs in the post has been an issue for a long time and this practice still takes place in court. Members should adhere to the direction under HQ Directive 48/2014 to only submit their FCNs through the unit Sergeant to allow some initial oversight and checking system. Supervisors should review incidents prior to members creating summonses to ensure this is done correctly. Members should be encouraged through training and education to engage with new initiatives.
- Another submission recommends that a triplicate FCPN book be created so a copy of the notice can be given to the suspected offender at the side of the road. This evidence can be given as proof of service in court. This would reduce the large number of offenders claiming that they did not receive the FCN in the post leading to the offences being struck out.
- Issues highlighted included how these issues arose within the FCPS. The generation of summonses for offenders who had already paid a FCN appears to have been as a result of the requirement of GISC to check for the production of NCT certificates. Where there was non-production of documents this led to summonses being issued for no NCT displayed and non production of the NCT certificate. This process was outside the scope of the FCPO and as a result was not known to persons in that office. Garda members have not contacted the FCPO to outline that there were summonses issued after the FCN had been paid. Gardaí had contacted the FCPO to highlight other issues but not this problem.
- Another recommendation was to bring back the facility for the Garda to physically hand the person a ticket at the side of the road. This should eliminate the ticket being ignored and going to summons in court where a person will give evidence that they never received same.

5.13 Observations and Comments from the Garda Representatives

During the course of this examination, representatives of all the Garda ranks were asked for comment and observations into how they believed these issues occurred. The data that was received from all the representatives could be summarised as follows:

- The confusing nature of the FCPS system is not understood by most operational members or indeed management.
- The lack of training in the FCPS system over a prolonged period while advances in the system kept occurring.
- The technology failings which allowed for the first 3 of the 4 issues to occur.

5.14 Miscellaneous

In the course of this examination it is noted that the Health Service Executive developed a ‘glitch’ in its National Integrated Medical Imaging System (NIMIS) system used to capture and store diagnostic images. This has potentially affected 25,000 records. This reference merely highlights that so called ‘glitches’ occur in IT systems across public and private and sector organisations and can go undetected until a human intervention whether by accident or coincidence brings the problem to the fore.

Findings

Chapter 1:

- The current FCPS system is not working as efficiently and effectively as it should.
- The number of systems and stakeholders involved in the FCPS stands at potentially thirty individuals, units, systems and organisations. This is far too many.
- There have been a number of HQ Directives that have been issued from Garda Headquarters since the inception of the FCPS in 2002. These Directives include updated policy at various times, however they did not include new FCPS Offences being introduced. It would have been helpful to notify Garda members of new offences as they were created. The relevant Directives relating to the FCPS are difficult to locate/source on the Garda Portal for Garda members.
- There are over ten Pulse Bulletins that reference updates to the FCPS system from July 2009 to December 2016. The latest Bulletin highlighted the permanent fix in relation to the FCPS issues covered in this report. Contained within these Bulletins were updated offence lists, new procedures and other such updates. These documents are often large in volume, extremely technical and difficult to read.
- The issues highlighted occurred despite the fact that there is a large volume of policy, procedure and guidance in existence. The information contained in these policies is not easily found or accessed and is often released in large cumbersome documents.
- The member's lack of "discretion at the roadside" is causing real problems. Should discretion have been in existence at the time these offences occurred then the vast majority of these prosecutions would be perfectly valid.
- "Linked Offences" and "Manual Summons Report" are not understood by Garda personnel and need to be re-considered as soon as possible.

Chapter 2:

- There is nothing to suggest that there was any deliberate action taken to circumvent the system or gain any personal benefit.
- It is clear that issues arising from FCN Offence R0024 were not as a result of the failings of one individual section or unit. Problems leading to the highlighted issues were generated as a result of a number of reasons, including technical failings, too many stakeholders and offences, together with a lack of governance and training.
- With regards to prosecutions not taking place for offences where a FCN had not been paid, the problem is caused by the manner in which the manual summons report is released. The report is issued on a monthly basis into the MIS Folder of each District Office mailbox. However, it has been found that this folder has not been accessed by District Office staff, this problem remains an issue.

Chapter 3:

- Previous reports carried out on the FCPS system by both internal bodies, such as the GPSU and external bodies, such as the GSOC and the Garda Inspectorate, generally commend the overall system. The issues that came to light since February 2016 were not picked up by any other report.
- The Garda Síochána Ombudsman Commission report published in 2009 stated that there was an issue with having too many offences listed. In 2009 there were 390 offences and this has increased to currently 614 offences (FCPS Offence Codes as of 28th July 2016). “The original focus of the FCPS was on offences that are considered to have a direct bearing on road deaths and injuries. However, this has been extended to cover a total of 59 generic categories which create 390 specific offences including 129 penalty point offences. This means that the initial focus on offences relating to safety has been significantly diluted”.

- The report published by the Garda Inspectorate in 2014 remains a potential guidance document on how to improve the FCPS.

Chapter 4:

- Examinations of Police Forces in Northern Ireland, Scotland and England found that they were operating very differently to An Garda Síochána with regard to the overall FCPS. The main difference with the FCPS system used by those police forces is the fact the officer has “discretion at the roadside” to proceed down the path they deem appropriate to that particular incident
- The Canadian FCPS system appears to be a highly effective system that could operate in this jurisdiction given the correct infrastructure and support. However the IT hardware requirements are currently not in place and therefore cannot be considered a feasible option at this time.

Chapter 5:

- FCNs that are returned to stations with issues that need clarification by the individual Garda member are not being returned to the FCPO in a percentage of cases. 6% of FCNs are marked as out of date (the date of processing has passed without any reply from the Garda member).
- The Garda IT systems supporting FCPS were not tested adequately to pick up the omissions that caused these issues to occur; it appears that lack of negative usability testing since the creation of the FCPS missed the error which allowed three of the four issues to occur.
- A permanent IT solution has now been put in place with the release of Pulse 7.1 which will prevent three of these issues reoccurring.
- GISC’s main function in the FCPS system relates to the work done by the CJIP business

desk performing DLIP checks and generating reports. A large proportion of the work done is in relation to checking whether or not documents produced to Gardaí at stations are valid. In effect GISC staff are relying on a small amount of information placed on the Pulse system by Gardaí to determine if the offender goes to court or not. GISC staff provide excellent support, with limited resources and no training, to all operational members of An Garda Síochána.

- From the 1st of January 2014 to the 2nd of August 2017 there has been 1,273,176 FCN's issued by An Garda Síochána. Of 614, only 4 different offences codes have been used more than 100,000 times, 25 offence codes used more than 10,000 times and 66 offence codes used more than 1,000 times. From the other side of the table 442 offence codes have been used less than 100 times in this three and a half year period with a further 132 offences having not been used at all.
- The Continuous Professional Development / Garda College did not provide any training in the area of FCPS from 2004 to 2016. In a time of limited budgets and manpower, FCPS training never reached the top tier of training needs within An Garda Síochána.
- Under the Modernisation and Renewal Programme 2015-2021, Roads Policing is one of the key areas. As part of this programme, the Strategic Transformation Office is currently developing a Garda Mobility Strategy which will give members access to technology that will improve the operational effectiveness and efficiency of the FCPS.
- In 2014 the GPSU recommended that an independent external person be appointed to report on the operation of the FCPS. Judge Matthew Deery was appointed and in 2017 acknowledged that the implementation of key recommendations from GPSU had “immensely strengthened the FCPS system”, this is to be encouraged.
- During 2015, the GIAS conducted periodic audits of the FCPS. These audits found a high standard of compliance with legislation and procedures. A number of suggestions for improvements have been made to Garda management.

- Garda Representatives at all levels in the organisation in the main concluded that the issues occurred because of the expansive nature of the FCPS system, lack of training in the processes and the IT failings which allowed 3 of the 4 issues to occur.
- The recent ‘glitch’ in the Health Services Executive NIMIS system potentially affecting 25,000 records of diagnostic images reminds us that IT failures are unfortunately commonplace throughout the public and private sectors

Recommendations

Chapter 1:

- Consideration should be given to the overall governance of the FCPS system. A new hierarchal structure should be considered where a top down approach management system can be enabled. The number of stakeholders involved in the system should be reassessed.
- Where changes to the FCPS system are highlighted in HQ Directives and Pulse Bulletins; these changes should be contained in a “how to” guideline document no longer than 3 pages in length that can be read in tandem with the Fixed Charge Processing System Policy & Procedures Manual. This guideline document should be a dynamic, easily understood, quick reference guide and readily available on the Garda portal.
- Immediate consideration should be given to reducing the number of FCN offences.
- Currently Gardaí under the Road Traffic Act of 2002 “shall” issue a FCN for 614 offences in the first instance; it is recommended that the “shall” be changed to “may” giving the member “discretion at the roadside” to proceed the way he/she feels appropriate to the incident similar to UK colleagues.
- “Linked Offences” and “Manual Summons Report” should be re-considered. There are options that should immediately be considered for this to take place, for example:
 - Linked Offences:
 - If the offence committed is a Fixed Charge Offence then proceed by FCN.
 - If the offence is not a Fixed Charge Offence then proceed by way of summons/charge.
 - If the offence is a combination of both, then proceed by way of summons/charge.

- Manual Summons Report:
 - Should the FCN offence require inclusion on a “Manual Summons Report” then this offence should be removed from the FCN offences list.

Chapter 2:

- Regarding the manual summons report; that a procedure to have the monthly copy of the report sent to each District Office at their generic District email at the start of each month for the next 12 months be initiated. This is the actual manual summons report not a ‘reminder’ email to check the MIS folder for manual summons reports. Garda IT have confirmed that this can be done with a two week lead-time on creating the procedure and given the report runs at the start of the month this will need to be done ahead of the start of the month.

Chapter 3:

- The recommendations in the Garda Inspectorate report on FCPS of 2014 should be further considered as a roadmap for the future of the FCPS with An Garda Síochána.
- As recommended in the Garda Inspectorate Report on the Fixed Charge Processing System in 2014; it is now time to set up a Criminal Justice Working Group to facilitate the development of a new FCPS system.
- The recommendations from the Garda Síochána Ombudsman Commission report published in 2009 should also be considered. In particular the reduction of the number of offences on the FCPS from 614 to a more target specific offence code list. The ultimate aim of the FCPS is to reduce fatal and serious injury collisions. A review of un-utilized offences is necessary to ensure better functionality of the offence code list.

Chapter 4:

- Once the necessary IT hardware is in place to further consider the models that are in use in Canada.

Chapter 5:

- That a tracking procedure is introduced to ensure that where FCNs are returned to stations for clarifications that they are acted upon and sent back within a limited timeframe. The current 6% level of FCNs that are spoilt due to Garda members not returning corrected FCNs needs to be addressed.
- A huge proportion of the 614 FCPS offence codes are being used very little or not at all. Offences that have not being used more than 1,000 times in a three and a half year period should be considered for removal from the FCN offence list.
- Ensure that Garda IT carries out expansive testing on all system changes to ensure the highest level of integrity is upheld.
- The Production Details Tab on Pulse should be enhanced. A drop down question box such as ‘Is this document in order?’ should be selected with ‘yes or no’ answer. This leaves the responsibility for the validation of documents produced with the Garda member who actually handles the documents. This also this takes the responsibility from GISC personnel who do not see the actual documents. Members should not be allowed to close out of each tab until this question is answered. Pulse should be linked to FCPS and when the member answers “yes” this record should be automatically removed from the DLIP queue.
- The Continuous Professional Development / Garda College prioritise the training of members in the FCPS system and ensure that any modifications or enhancements are included in the training courses provided going forward.
- The Garda Mobility Strategy should prioritise the FCPS when considering the implementation of new technology to support the FCPS.
- In 2014 the GPSU recommended that an independent external person be appointed to report on the operation of the FCPS. Judge Matthew Deery was appointed in 2017. The

terms of reference for Judge Deery include Section 2 (d) which allows for him to examine and report on any specific matters relevant to the operation of the FCPS at the request of the Minister should this be required. It is recommended that this option should be considered following these recent issues.

- That the audit process conducted by GIAS is continued to ensure the highest standards of the FCPS.
- The matter around HQ Directive 59/2014 should be placed as an item of each Divisional and District PALF meetings.

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