

7 Management of the Fixed Charge Notice System

- 7.1** Members of An Garda Síochána may issue a fixed charge notice to the drivers or owners of vehicles for certain road traffic offences. These include offences committed while driving, such as speeding or driving while holding a mobile phone, and compliance offences, such as illegal parking and failure to display an up-to-date motor tax disc. The penalty associated with a fixed charge notice offence is a fine, or (for offences committed while driving) a fine and the attachment of penalty points to a driver's licence.
- 7.2** One of the key objectives of the fixed charge notice system is to contribute to safer driving and reduced road accident casualties. While most drivers and vehicle owners will usually comply voluntarily with the relevant laws, some may only act in a compliant manner if they perceive that there is a reasonable probability that they will be detected if they commit an offence, and believe that such detections would result in the imposition and enforcement of significant penalties. Conversely, a perceived low probability of detection, or perceived widespread failure to impose penalties following detection could result in increased frequency of commission of offences. A perception of arbitrary or partial application of enforcement of the law by An Garda Síochána could undermine both the deterrence objectives of the system and, more significantly, general public confidence in An Garda Síochána.

Confidential Disclosure Received

- 7.3** In July 2012, a member of An Garda Síochána contacted the Office of the Comptroller and Auditor General seeking a meeting to discuss concerns that member had about the operation of the fixed charge notice system within the force. At the meeting, the member presented a file containing information, which it was stated had been extracted from An Garda Síochána's database for recording and tracking progress in relation to detected offences. The information provided related to around 4,000 cases where it appeared that fixed charge notices issued by An Garda Síochána had subsequently been cancelled, resulting in drivers avoiding the associated penalties, and the loss to the Exchequer of the associated fines income. It also appeared from the information presented that multiple fixed charge notices had been cancelled for some individuals.
- 7.4** The member of An Garda Síochána who presented the file of information alleged that, in many cases, the fixed charge notices had been cancelled corruptly and illegally. It was also alleged that a number of persons who had benefitted from (one or more) cancellations of fixed charge notices for speeding or dangerous driving had subsequently committed similar offences, resulting in some cases in deaths and/or injury to themselves and/or third parties.
- 7.5** A similar set of documents was supplied to the Office by the Chief Executive Officer of the Road Safety Authority in late October 2012¹. In the following months, information about cancelled fixed charge notices and the matters alleged came to public attention through disclosures in Dáil Éireann and in the media.

1. Corrected. Originally stated as August 2012.

Focus of this Examination

- 7.6** On three occasions in the past, the Office of the Comptroller and Auditor General has examined and reported on the system of control applied by An Garda Síochána in relation to the fixed charge notice system or its predecessor 'fine-on-the-spot' system.¹ Key findings from those reports were
- failure to implement penalties in relation to a significant number of fixed charge notices, including cancellation of 3% to 8% of the notices issued
 - inadequate specification of the criteria for situations in which it would be appropriate for An Garda Síochána to cancel fixed charge notices, and failure to record the reasons for cancellations
 - an inability to take appropriate action against drivers of company vehicles who commit offences where the company does not nominate the driver, and a lack of information as to why penalties become statute barred
 - significant levels of non-payment of fines and of cases being sent for court proceedings.
- 7.7** In the circumstances, I had a concern that the controls in place in relation to the operation of the fixed charge notice system might be inadequate, or might not be operated as intended. The information presented to the Office in July and August 2012 appeared to indicate that matters reported in previous reports had not resulted in improved (or sufficiently improved) control systems within An Garda Síochána. For this reason, I initiated an examination of the fixed charge notice system by staff of my Office, to address the following questions.
- What is the extent to which fixed charge notices are cancelled, or otherwise do not result in enforcement of the penalties associated with detected fixed charge notice offences?
 - Are the controls in place in relation to processing of fixed charge notice cases adequate, and are they enforced effectively?
 - Is there a material financial loss to the Exchequer as a result of non-enforcement of fixed charge notices?
- 7.8** The examination was confined to the operation of the system within An Garda Síochána. This included review of the rate of service of summonses in relation to unpaid fixed charge notice cases where legal proceedings were commenced, but did not include examination of the outcome of unpaid fixed charge notices in the courts.
- 7.9** Examinations by my Office focus on the adequacy of systems, procedures and practices implemented by the bodies I audit. Other than to record relevant facts about the actions of individuals, I do not have a remit to investigate or report on the behaviour or motivations of individuals. Accordingly, this examination does not seek to address the allegations that have been made of incidents of corruption and illegality on the part of members of An Garda Síochána or of alleged offences committed by members of the public.

¹ Comptroller and Auditor General Special Report Number 37 (2000); Chapter 7 of the Comptroller and Auditor General Annual Report 2003; and Comptroller and Auditor General Special Report Number 56 (2007).

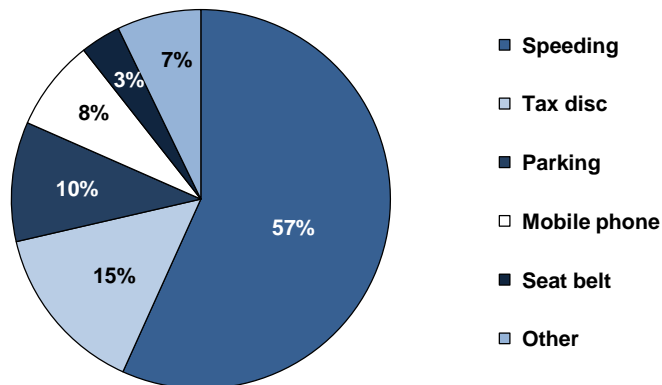
Methodology

- 7.10** An Garda Síochána have adopted a detailed procedures manual for the fixed charge notice system. The manual was last revised in 2005. The operation of the system in 2011 and 2012 was assessed based on the standards prescribed in the manual.
- 7.11** For the purposes of this examination, the Garda Síochána database of fixed charge notices recorded as having been issued in 2011 and 2012 was analysed. The records were matched with data from the National Vehicle and Driver File (NVDF). We also received from An Garda Síochána an analysis of aspects of the Courts Service database.
- 7.12** In addition, the examination team selected random samples of cancelled fixed charge notices in six Garda districts, and in the Garda Fixed Charge Processing Office in Thurles — a total of 350 cases. The file records in relation to each case were requested for examination in the respective offices.

Fixed Charge Notice Processing

- 7.13** During 2011 and 2012, almost 850,000 road traffic offences resulted in the issuing of fixed charge notices.
- 7.14** More than half of the notices issued in 2012 were in respect of speeding offences (see Figure 7.1). Together with tax disc, parking and mobile phone-related offences, these accounted for 90% of the notices issued in 2012.

Figure 7.1 Offences recorded on fixed charge notice system, by type, 2012



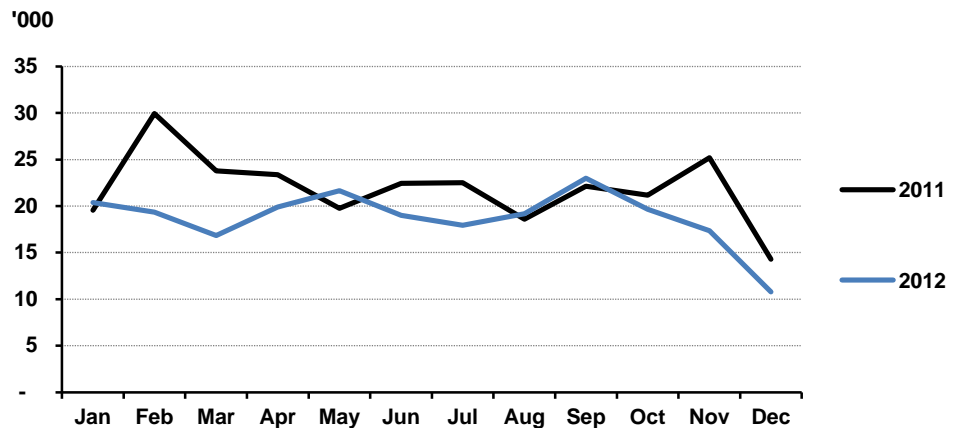
Source: Analysis by the Office of the Comptroller and Auditor General

Note: 'Other' includes breaking traffic lights, driving in bus lanes, driving without reasonable consideration and insurance offences.

Fixed Charge Notice Offences Detected

- 7.15** The number of offences recorded showed significant monthly variation during the course of 2011 and 2012. Figure 7.2 indicates the variations in the level of speeding offence detections during that period.

Figure 7.2 Number of speeding offences recorded by month, 2011 and 2012



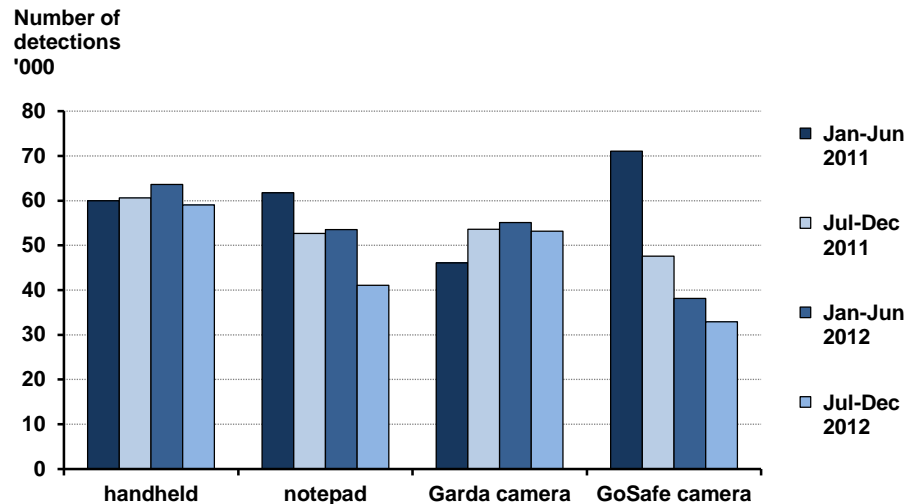
Source: Analysis by the Office of the Comptroller and Auditor General

Detection Methods

- 7.16** The detection of a road traffic offence may be an intercept or non-intercept detection.
- 7.17** Intercept detections are those where a member of An Garda Síochána stops and speaks to a vehicle driver or records details of a parked vehicle. At that point, the Garda member has the discretion, having regard to the facts and circumstances of the case, to initiate a fixed charge notice or alternatively, to issue a verbal warning or provide advice to the driver. Where the Garda decides to initiate a case, the details are usually recorded in a notebook and are later transferred by the Garda onto a duplicate form in the Garda station. Alternatively, they are captured on site in an electronic handheld device.
- 7.18** Speed cameras record non-intercept offences through Garda-manned 'robot' vans or outsourced 'GoSafe' camera vans (in operation since November 2010).
- 7.19** Following detection, the details of each case are entered onto the Fixed Charge Processing System (FCPS) by
- posting of a copy of the duplicate form to the Fixed Charge Processing Office in Thurles for manual entry onto the FCPS
 - docking of the handheld device in a Garda station, with automatic uploading of data onto the FCPS
 - uploading of speed camera detections through the Outsourced Safety Camera Office (OSCAM).

- 7.20 The relative rates of recorded fixed charge offences for each detection method are indicated in Figure 7.3 below. Of particular note is the dramatic fall in the number of recorded detections by GoSafe cameras since early 2011. Detections by Garda cameras remained relatively consistent over the same period.

Figure 7.3 Fixed charge notices issued during, 2011 and 2012



Source: Analysis by the Office of the Comptroller and Auditor General

Spoiled/Lost Fixed Charge Forms

- 7.21 An Garda Síochána has established a Notepad Tracking and Allocation System (NTAS) to control the issue of fixed charge notice duplicate forms (in notepads of 20 forms each) to members of the force, and the subsequent recording by Garda members locally of the details of cases where the forms have been used, or otherwise disposed of. The counterpart of each used form, and of any spoiled forms are required to be sent to the Fixed Charge Processing Office for entry onto its databases.¹ In practice, spoiled forms are not returned to the Fixed Charge Processing Office, and consequently, its database does not include a record of spoiled forms.
- 7.22 Each form in a notepad has a unique number that is intended to facilitate identification and control. An Garda Síochána does not routinely analyse and monitor the returned forms to identify missing forms, or follow up with the relevant members where forms are unaccounted for. The Accounting Officer stated that a revised process to ensure all notepad notices are accounted for will be included in the revised FCPS user manual fourth edition which is currently under revision by the Garda National Traffic Bureau.
- 7.23 For the purposes of this examination, NTAS records of forms issued between January 2011 and May 2013 were obtained from An Garda Síochána. In that period, around 235,400 forms were issued. The information in the NTAS database was analysed to identify breaks in the identifier number sequence, thus indicating lost or otherwise unaccounted for forms.
- 7.24 Some spoiled forms had been recorded by Garda members on the NTAS. Around 2,100 spoilt notepad forms were recorded — a recorded spoiled form rate of 0.9% of forms issued.

¹ Procedure specified in Fixed Charge Processing System Manual (3rd edition), 2005.

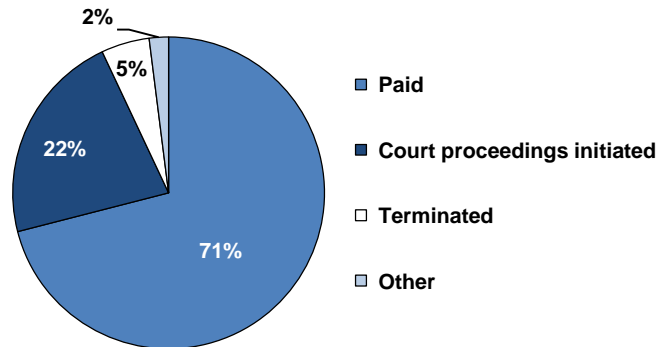
- 7.25** Almost 18,900 further forms (7.4% of forms issued) from notepads in use during that period were not accounted for on NTAS. The reasons that a form may not be accounted for include
- the notepad form had been skipped in the sequence and had not yet been used (although later sequence forms in the notepad had been used)
 - the notepad form was spoiled and discarded locally
 - the notepad form may have been used to record an offence but a subsequent decision was made by the detecting Garda not to proceed with the case
 - the notepad form was used to record the notice offence but was lost in the post to the Fixed Charge Processing Office, or had incorrect or unclear details.
- 7.26** All notice offences recorded on notepad forms sent to the Fixed Charge Processing Office are input to the fixed charge processing system by the Office's staff. Approximately one in every ten forms received is returned by that Office to the detecting Garda to complete or clarify details of the detection. Around one-third of these forms are not subsequently returned to the Office, and so do not result in a notice being issued to the driver or vehicle owner concerned. These forms are either recorded as spoilt notepad forms or are included in the unaccounted for figure.
- 7.27** Overall, 8.3% of the notepad forms issued in the period examined ended up being lost or spoiled, or otherwise unaccounted for.

Outturn of Fixed Charge Notice Cases

- 7.28** When a fixed charge notice is issued by post, the recipient has a period of 28 days from receipt of the notice within which to pay the specified fine amount, which varies depending on the nature of the offence. Payment in the period of 29 to 56 days after receipt of the notice incurs an additional 50% charge. When the payment period has elapsed, the fine cannot be paid and the case must be dealt with through a court.¹
- 7.29** Fixed charge fines were paid within 56 days of issue of the notice in respect of around 71% of the fixed charge penalty notices issued in 2011 and 2012 (see Figure 7.4). More than one in five cases resulted in court proceedings being initiated. 5% of cases were formally terminated, and 2% had other outturns recorded.

¹ The 2010 Road Traffic Act includes a provision that will allow payment of a fine up to seven days prior to the date of a court hearing. This provision has not yet been implemented.

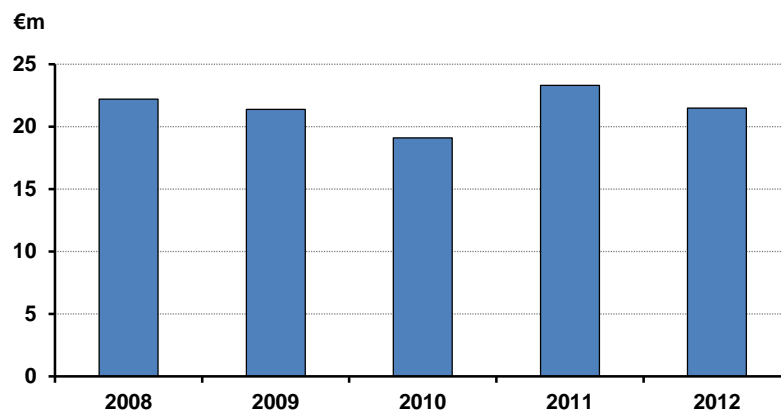
Figure 7.4 Status of fixed charge notice cases recorded in 2011 and 2012



Source: Analysis by the Office of the Comptroller and Auditor General

7.30 For offences detected in 2012, An Garda Síochána had total receipts from the payment of fines amounting to €21.5 million. Receipts of Road Traffic Act fines for the period 2008 to 2012 are set out in Figure 7.5.¹

Figure 7.5 Garda receipts from Road Traffic Act penalties, 2008 to 2012



Source: Analysis by the Office of the Comptroller and Auditor General

Initiation of Court Proceedings

7.31 A total of 21.8% of fixed charge notice cases recorded in 2011 and 2012 were sent for prosecution in court, resulting in the issuing of summonses, either automatically or manually. Summons service is carried out by An Garda Síochána.

¹ Additional receipts from cases that proceeded to court were collected and accounted for by the Courts Service.

- 7.32** Data held on Garda systems in relation to summonses served for fixed charge notice offences is incomplete, because it does not routinely capture the outcomes of cases referred for court proceedings. For this reason, the examination team reviewed summary data from the Courts Criminal Case Tracking System (CCTS) in relation to fixed charge notice cases recorded in 2011 and 2012. This indicated that for 2011 cases — which had sufficient time to be finalised in the courts — half of the cases that proceeded to summons stage were struck out in court because the related summonses had not been served. This suggests that around 11% of all recorded fixed charge notices cases end up unpaid and without being answered in court.

Termination of Fixed Charge Notices

- 7.33** A decision to discontinue proceedings and to terminate a fixed charge notice is effectively cancellation of the notice. The circumstances in which this may occur are set out in the Garda Síochána manual for the fixed charge penalty system. The third edition of the manual has been in effect since 2005.¹

Termination Procedure

- 7.34** This examination found that, in May 2013, 486 individual members of An Garda Síochána had the facility on the FCPS to terminate notices. This comprised
- 41 Chief Superintendents
 - 151 Superintendents
 - 294 Inspectors.
- 7.35** According to the manual, formal authority to cancel a specific fixed charge notice is assigned, in the relevant circumstances, only to
- the District Officer of the location where the offence took place
 - the District Officer responsible for the detecting member
 - the Superintendent overseeing the Juvenile Diversion Programme
 - the Inspector overseeing the Fixed Charge Processing Office in Thurles.

The District Officer is the Superintendent of a Garda district, or an Inspector where he/she is acting District Officer in place of the Superintendent.

- 7.36** The examination found that there are no controls in the system to restrict Garda members who have the facility to terminate cases from doing so in relation to cases not within their authority.
- 7.37** The FCPS includes a monthly report of notice terminations in each Garda district. The report for each district is available to the relevant District Officer. This lists each case terminated, the identity of the person authorising the termination, and other details such as the recorded termination reason and termination date.

¹ The fourth edition of the manual is currently in preparation.

7.38 Notices may be terminated for technical reasons or, in limited circumstances, based on requests for termination from recipients of notices. The main features of the procedure for the management of requests for the termination of a notice are as follows.

- A petition for the termination of a notice must be submitted to the District Officer in whose district the offence occurred. The petitioner must submit his/her request in writing with any relevant supporting evidence.
- The District Officer (or acting District Officer) examines the circumstances and evidence provided and determines whether termination is warranted in accordance with the cancellation policy.
- All documentation relating to notice termination must be retained for audit purposes.

Rate of Notice Termination

7.39 In total, notices were terminated for 42,700 offences detected in 2011 and 2012. This represents around 5% of the notices issued in those years. Just over half were terminated centrally in the Fixed Charge Processing Office in Thurles or as part of the Juvenile Diversion Programme. The remainder were terminated in Garda districts. Consequently, the average termination rate of notices among districts was 2.2%.

7.40 The number of rejected petitions for notice termination is not recorded.

Analysis of Notice Termination Rates at District Level

7.41 There were 110 districts in operation during the 2011 and 2012 period reviewed.¹ Analysis of the rate of notice termination shows considerable variation between districts. The districts with the five highest and five lowest rates of termination of notice offences detected in 2011 and 2012 are set out in Figure 7.6. In the Ennis, Roscommon and Sligo Districts, the rate of termination of fixed charge notices was more than twice the average, and more than 50 times the rates in the Milford and Birr Districts.

Figure 7.6 Rate of notice termination for fixed charge offences detected in 2011 and 2012, selected Garda districts

District	Rate of notice termination
Ennis	5.9%
Roscommon	5.7%
Sligo	5.4%
Navan	4.8%
Loughrea	4.4%
National average	2.2%
Swinford	0.3%
Askeaton	0.3%
New Ross	0.2%
Milford	0.1%
Birr	0.1%

Source: Analysis by the Office of the Comptroller and Auditor General

Note: This analysis excludes notice terminations by the Fixed Charge Processing Office and the Juvenile Diversion Programme

¹ Following a recent rationalisation programme, the current geographical structure of An Garda Síochána is 6 regions, 29 divisions and 105 districts.

Outside District Terminations

- 7.42** A significant proportion of terminated fixed charge notice cases were terminated outside the district in which the offence was detected. The districts with the highest rates of non-local case termination are shown in Figure 7.7. In a number of districts, more than half of the cases terminated relate to offences detected in other districts. In the Blanchardstown and Bridewell Districts in Dublin, terminations related to 38 and 37 other districts, respectively.

Figure 7.7 'Other district' terminations^a, selected Garda districts, 2011 and 2012

District Office	Number of notice cases terminated	Rate of termination	% of terminations detected outside the District	Number of other districts terminated ^b
Blanchardstown	699	2.3%	50%	38
Bridewell, Dublin	355	3.1%	81%	37
Kevin Street, Dublin	216	0.9%	56%	21
Pearse Street, Dublin	551	3.4%	35%	20
Ennis	1,184	5.9%	27%	16
Ballymun	366	1.4%	43%	15
Navan	191	4.8%	69%	15
Coolock	174	1.1%	45%	12
Henry Street, Limerick	1,146	3.9%	36%	12
Fitzgibbon Street, Dublin	170	2.4%	79%	11
Mullingar	220	1.9%	18%	11

Source: Analysis by the Office of the Comptroller and Auditor General

Notes: a Dublin Metropolitan Region Traffic and Garda National Traffic Bureau are excluded from this analysis as they cover a number of Districts

b Other districts in which only one notice was terminated are excluded from this analysis

- 7.43** Terminations across district boundaries are intended to be for technical reasons only e.g. where a detecting Garda identifies an error or defect in the case details, and his/her District Officer agrees to the termination. In all other cases of termination, the driver/vehicle owner must submit a petition to the District Officer of the district where the offence was detected, so there should be a record locally of the request for termination.
- 7.44** The examination team sought documentation for a sample of 25 offences (five each in five districts) that were detected in the district but that had been terminated in a different district. Only in three cases (12%) were file documents in relation to the termination available locally. Of the remaining cases, where no documentation was available locally,
- there were 14 cases (56%) where the termination occurred in an adjacent district where a shared Traffic Corp unit was located
 - in eight cases (32%), the terminating district was not contiguous with the district of offence detection.

Accordingly, in this sample, at least one third of the 'terminated outside district' cases appear to have been unauthorised within the terms of the Garda manual guidelines.

Reasons for Termination of Notices

- 7.45** The fixed charge penalty system manual specifies four categories of cases where termination of a fixed charge notice is permitted (see Figure 7.8). This includes technical processing errors, certain exempt cases under legal provisions and, in certain circumstances, participants in the Juvenile Diversion Programme.¹ Terminations are also allowed under 'exceptional circumstances', and some examples of the kind of circumstances envisaged are given. In the latter category, the circumstances described are, in most cases, capable of being supported by independent documentary evidence.

Figure 7.8 Framework of permitted reasons for termination of fixed charge notice cases

Termination reason categories	Examples
Processing/system errors	<ul style="list-style-type: none"> ▪ incorrect vehicle/driver details recorded ▪ unsuitable speed camera image ▪ notice undeliverable by post
Statutory exemption	<ul style="list-style-type: none"> ▪ drivers of emergency vehicles where such use does not endanger the safety of other road users (exempt under Road Traffic Acts) ▪ parking in restricted zones while loading or unloading a vehicle (under local authority bye laws)
Juvenile Diversion Programme	No example given
Exceptional circumstances	<ul style="list-style-type: none"> ▪ vehicle was stolen or broken down ▪ the offender is resident outside the jurisdiction or the vehicle was hired by a non-resident of the State ▪ the vehicle belongs to a person entitled to claim diplomatic immunity ▪ motor tax was paid for the period but the disc was not displayed — supporting evidence required ▪ certain parking offences by a doctor attending to an urgent call
Discretionary ^a	<ul style="list-style-type: none"> ▪ medical emergency ▪ family bereavement ▪ other

Source: Fixed Charge Penalty System Manual (2005) and the FCPS system

Note: a This category is not given in the system manual, but is included on the fixed charge penalty system as a selection option when recording the reason for termination of a notice.

¹ This is a programme to prevent young offenders from entering the criminal justice system.

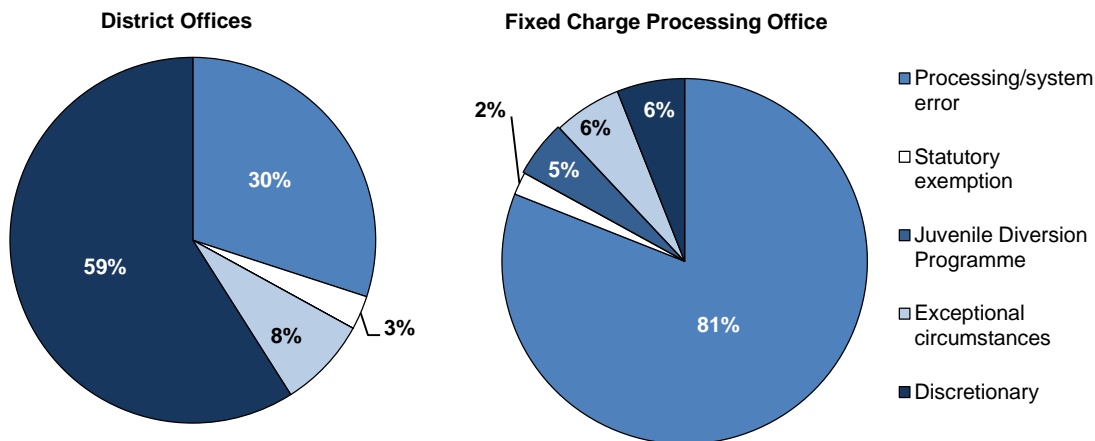
7.46 Prior to April 2012, the FCPS offered limited options for the categorisation of the reason for termination of a notice. As a result, in the period January 2011 to March 2012, in excess of 92% of notice terminations were categorised on the system simply as ‘cancelled’, with the remainder categorised as ‘system error’ or being under the Juvenile Diversion Programme.

7.47 The option to record ‘cancelled’ as the reason for termination has not been available since April 2012, when the software was updated to include an expanded range of options including ‘Discretionary — medical emergency’, ‘Discretionary — family bereavement’ and ‘Discretionary — other’. The manual was not updated to reflect the change.

Recorded Termination Reasons

7.48 The reasons recorded on the fixed charge processing system for notices terminated in the period April to December 2012 are summarised in Figure 7.9 below.

Figure 7.9 Reason recorded on FCPS for Termination of Notice



Source: Analysis by the Office of the Comptroller and Auditor General

7.49 The examination team reviewed samples of files relating to notice terminations in the Fixed Charge Processing Office and in five districts where the rate of termination of notice for penalty point offences was in excess of 5%. A sample of files was also examined in a further district with a very low recorded rate of termination of notice cases.

7.50 The audit noted that several of the notice terminations reviewed in the Fixed Charge Processing Office were part of batch terminations, whereby a large number of notices (several hundred in some cases) were terminated due to systemic errors, such as an incorrect townland name recorded on the notices.

- 7.51** From the sample of 300 notice terminations reviewed in district offices, the file documentation recorded a wide range of reasons for the termination of notices. There was no apparent reason stated in 11 cases — 4% — to indicate why the case was terminated. In more than half the cases examined, the terminations had been for 'discretionary' reasons. Circumstances of each case recorded on file, and apparently accepted by District Officers as valid grounds for termination of the case, included
- driver was speeding on way to hospital or GP appointment or visiting others in hospital (26 cases)¹
 - driver acknowledging that the vehicle was not taxed when stopped but that tax arrears had subsequently been paid covering the period when stopped (13 cases)
 - nine cases where drivers acknowledged they had exceeded the speed limit but offered an explanation for speeding such as
 - the road being wide and quiet
 - rushing to pick up a relative from a bus station
 - being late for a religious ceremony
 - hurrying back to a farm as bees were attacking livestock
 - being late for a swimming lesson
 - being on 'urgent domestic business' (no further detail recorded)
 - the vehicle speedometer was not working
 - four cases where the driver acknowledged that an offence was committed and stated that
 - the driver did not see the red light
 - the driver accidentally exceeded the speed limit
 - there was a lack of concentration by the driver who had other issues on his mind, such as a cow dying on his farm.
 - a driver who was stopped for using his mobile phone while driving but who had not explained to the Garda when stopped that the call was urgent and related to his sick child.
- 7.52** The guidelines for operation of the fixed charge notice system state that all documentation relating to the termination of a case must be retained for audit purposes. The examination of sample cases found that there was relevant supporting documentation for all cases terminated in the Fixed Charge Processing Office. In marked contrast, there was no documentation available to review for almost a quarter of the sampled termination cases in district offices.
- 7.53** In over 60% of district office cases where documentation was retained and was available for review, the basis for the notice termination was a letter of petition from the vehicle driver, without any third party corroborating evidence to support assertions made in the petition. In practice, third party corroborating evidence is unlikely to be available for some of the circumstances put forward in petitions as outlined above.

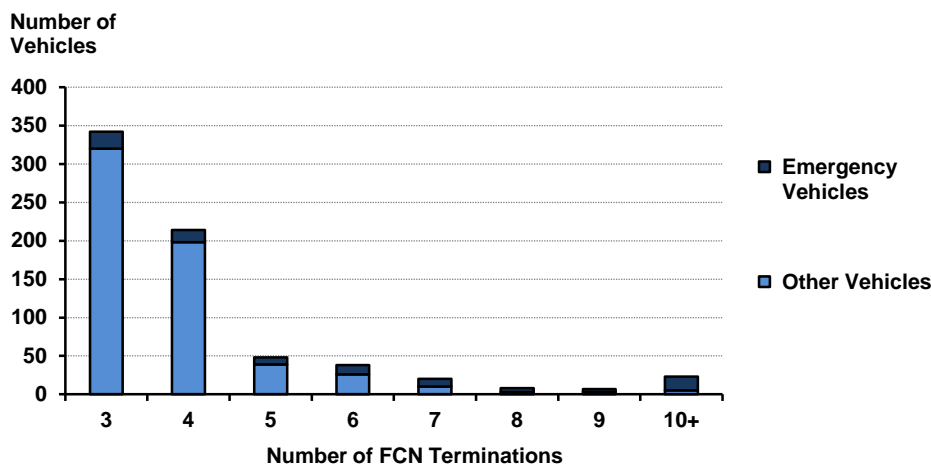
¹ This excludes instances where a medical emergency was suggested even if no evidence of the emergency was on file.

Multiple Notice Terminations for a Vehicle

7.54 The database of fixed charge notice cases for 2011 and 2012 was analysed to identify vehicles with multiple terminations, based on the registration number of the vehicle.¹

7.55 The frequency of occurrence of three or more case terminations for individual vehicles is set out in Figure 7.10 below. The analysis shows that 2,900 cases were terminated in relation to around 700 vehicles with three or more cases terminated each. Almost 650 terminated cases related to 96 emergency response vehicles.²

Figure 7.10 Multiple fixed charge notice terminations, for offences detected in 2011 and 2012



Source: An Garda Síochána extract from FCPS

1 Analysis based on the registration number of a vehicle may overstate the number of fixed charge notice terminations for the vehicle owner where there are multiple users of the vehicle or where ownership of the vehicle has changed. Equally, where an individual drove more than one vehicle during the period, the analysis may understate the terminations attributed to an individual driver.

2 The guidelines for statutory exemption cases potentially cover fire brigade vehicles, ambulances and vehicles used by Gardaí in the performance of their duty, as provided for by Section 27 of the Road Traffic Act 2004. However, the exemption applies only where such use does not endanger the safety of other road users.

3 Chapter 7, 2003 Report of Comptroller and Auditor General.

Company Summons Cases

7.56 A previous report drew attention to an impediment in the FCPS that resulted in an inability to take appropriate action against the drivers of company cars.³ Penalty points cannot be attached to a company, since it cannot hold a driving licence. While there is a legal obligation on a registered owner to report who was driving when an offence is detected, it is frequently reported that the driver at the time cannot be identified. This could undermine a potential court case.

7.57 FCPS data indicates that notices were issued to companies for 20,844 road traffic offences during 2011 and 2012, of which

- 28% were paid
- 23% were terminated
- 49% were otherwise not pursued, being given 'company summons' status on the system.

7.58 Almost all cases that proceed to 'company summons' status relate to speed camera detections. Where the vehicle is not intercepted and driver details taken at the scene, notices are issued to the vehicle owner, as recorded on the NVDF.

- 7.59** Inconsistencies in the recording of company names on the NVDF complicate identification of 'repeat offender' companies and result in understatement of the count. Notwithstanding this, the analysis of fixed charge cases detected in 2011 and 2012 indicate that
- one company had 203 cases going to 'company summons' status
 - two companies had 70 and 82 such cases, respectively
 - a further 12 companies had between 20 and 50 such cases.
- 7.60** Companies with significant number of notices going to company summons status include vehicle hire companies and garages.
- 7.61** Assuming the fine was paid within 28 days in such cases, the revenue forgone in 2011 and 2012 in respect of company car cases terminated or not pursued is estimated at €1.12 million.

Statute Barred Cases

- 7.62** Prompt processing of fixed charge notice cases is required because of statutory time limits. If court proceedings are to be taken, they must be initiated within six months of the date of the offence. Thereafter, proceedings become statute barred.
- 7.63** Over 3,000 notice offences detected in 2011 and 2012 had become statute barred by March 2013. These accounted for around 0.4% of all notice offences detected.
- 7.64** A driver who receives a fixed charge notice is allowed a 56 day period to pay the fine (including time surcharge, if applicable) prior to a court summons being generated. Since April 2012, the FCPS will not generate a fixed charge notice to send to the driver if there are less than 70 days left until the offence becomes statute barred. Where a notified fine payment is not received, this ensures a minimum of ten working days to initiate court proceedings, which is done electronically.
- 7.65** Analysis of the records for cases involving offences detected in 2011 and 2012 that subsequently became statute barred indicates that late entry of the data onto the FCPS was a factor. This was particularly a problem where offences were recorded on handheld devices and notepad forms.
- 26% of the cases had been entered on the fixed charge processing system 110 days or more after the date of the offence. Three quarters of these had been recorded on a handheld device, with the remainder recorded on a notepad form.
 - 30% of cases had a time lag of 80 to 109 days between the date of offence and date of entry on the FCPS, with the consequence that the offence was likely to become statute barred if the recipient nominated an alternate driver. Half those offences were recorded on a handheld device and half on notepad forms.
- 7.66** Reduced speed limits apply to certain vehicles in certain speed zones, for example vehicles towing a trailer and heavy goods vehicles. 17% of statute barred notices related to reduced speed limit offences. Such cases detected by GoSafe cameras were not pursued, until a change in Garda procedure in July 2012. Since then, such offences were automatically referred to the Garda Information Services Centre.

- 7.67** 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. 14% of statute barred cases had a summons (SA1) identifier recorded on the FCPS.

Imposition of Penalty Points

- 7.68** Penalty points are imposed on the licences of drivers through the NVDF, which is maintained by the Department of Transport, Tourism and Sport. Fixed charge fines for 466,000 penalty point offence were paid within the specified timeframe, giving rise to the imposition of penalty points without a court attendance.
- 7.69** Not every paid penalty point offence case resulted in the imposition of penalty points because
- where a number of offences are detected and recorded by a single notice, then in accordance with Section 2 of the Road Traffic Act 2002, only the penalty points relating to the offence with the largest number of points are imposed on the licence of the driver
 - penalty points on foreign driving licences have only been recorded since December 2011- the database indicates that 12% of those who paid fixed charge penalty fines with associated penalty points were holders of foreign driver licences.
- 7.70** The examination team traced all paid penalty point offences detected in 2011 and 2012 to an extract of data from the NVDF. This exercise found that, in general, penalty points resulting from road traffic offences were appropriately imposed on the licences of drivers paying the charge, but there were some exceptions. 2,850 notice offences were not present on the NVDF file. In an examination of a sample of such cases, it was found that all the cases had been forwarded from the FCPS to the NVDF. The reasons they were not recorded on the NVDF included
- 53% had been deleted from the NVDF after the expiration of an automatic penalty point licence disqualification (automatic disqualification occurs when a total of 12 points are accumulated)
 - 36% had been deleted from the NVDF by Road Safety Authority staff on direction from An Garda Síochána, principally due to speed limit or location errors on the notice
 - 11% were rejected by the NVDF and returned to An Garda Síochána as the driver name and licence number on the Garda file did not match details held on the NVDF. Rejected records may be included in a subsequent file if An Garda Síochána can resolve the conflicting details.

Conclusions and Recommendations

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

Overview of Fixed Charge Notice Case Outcomes

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

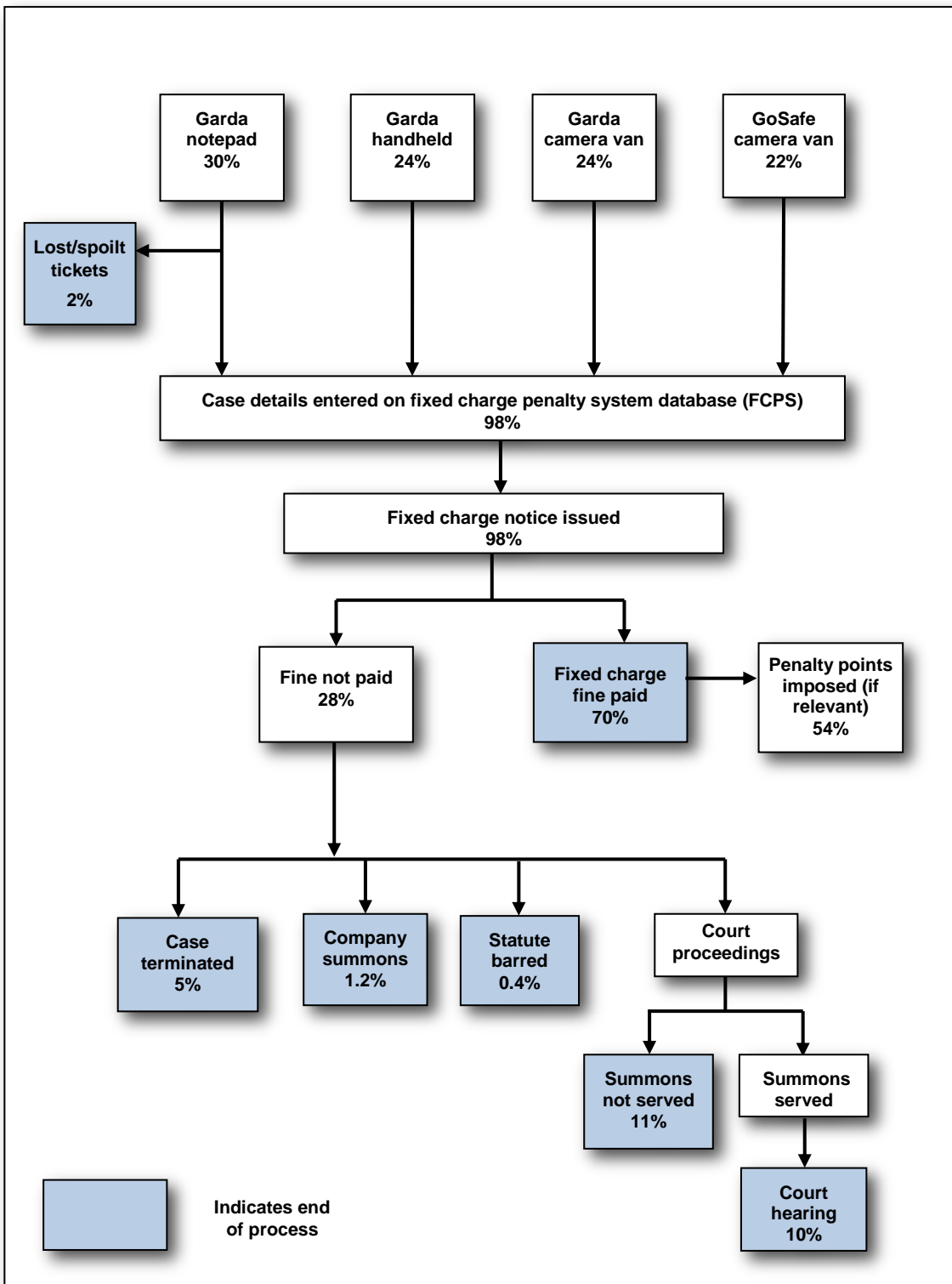
7.73 The available evidence indicates that the majority of drivers — two out of every three — detected in the commission of road traffic offences paid their fines within the specified time period. Where relevant, penalty points were added to their licence record. In a further 10% of cases, where the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

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

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

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

Figure 7.11 Overview of the Fixed Charge Notice System



Control of Fixed Charge Notepad Forms

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

Recommendation 7.1: An Garda Síochána should immediately commence monitoring of missing sequence notepad forms and follow up regularly with the relevant Garda members any forms that are unaccounted for. Reasons for any spoilage should be recorded. Any decision by a member of An Garda Síochána not to proceed with a case that has been initiated should be documented, recording the reason and the authorisation for the cancellation. Such cases should be subject to review on a sample basis, including examination of forms retained at local level, and the notebook records of the Garda members with charge of the spoiled forms.

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

Service of Summons

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

Recommendation 7.2: Better integration between Garda and Courts Service case tracking systems is required to ensure that An Garda Síochána can effectively monitor the outcomes of cases referred for prosecution. This would allow management to analyse the patterns of (non) service of summonses and to identify appropriate responses e.g. targeting of repeat offenders for service of summonses, and to follow up with districts where high rates of non-service of summonses occurs.

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

Termination of Fixed Charge Notice Cases

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

- 7.80** The operation of the FCPS does not accord with the termination policy as articulated in the manual in some key respects. In particular
- Senior officers with the facility to terminate cases on the system are not restricted to doing so only for cases within their line of management (district or unit).
 - The system provides for cases to be terminated on additional 'discretionary' grounds, over and above the exceptional circumstances specified in the policy statement.

- 7.81** There is evidence that the policy on termination of cases is not being applied consistently. In the sample cases reviewed for this examination, a significant proportion of cases appear to have been terminated in circumstances that do not satisfy the stated policy. The rates of termination in many districts are too high to be considered reflective of 'exceptional circumstances'. Absent and inadequate records, and the recorded facts of many cases, give rise to concerns that many cases have been terminated without due cause. Furthermore, there are grounds for concern that certain 'outside district' cases were terminated without appropriate authority.

Recommendation 7.3: The policy for termination of fixed charge notice cases should be reviewed by An Garda Síochána, and amended if required, or restated if not. Controls should be implemented in the FCPS to reflect the authorisation limits specified in the termination policy.

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

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

Recommendation 7.4: An Garda Síochána should institute a system of independent sample-based reviews of termination cases to confirm that decisions in termination cases are adequately supported by documentary evidence of relevant facts and a clear record of the reason why a request for termination was acceded to.

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

Recommendation 7.5: The authority on the FCPS to terminate cases should be restricted only to senior personnel in the Fixed Charge Processing Office, and those overseeing the Juvenile Diversion Programme. District officers should have authority to recommend termination in cases that comply with the termination policy, including in exceptional circumstances, subject to the required documentary evidence being supplied to the Fixed Charge Processing Office in support of the recommendation.

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

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

Penalty point and multiple termination issues

- 7.83** During the review it was noted that the application of penalty points could not be completed in all cases. In particular,
- In over 300 cases penalty points should have been recorded on the licence of the driver but this could not be undertaken due to the name and licence number on the Garda file not matching details on the NVDF
 - A significant number of the 3,000 notices which became statute barred was due to the late entry of data onto the system due to delays by Gardaí in submitting offences recorded on notepads and handheld devices.
- 7.84** The review also noted around 600 vehicles that had multiple termination of notices in the period. Some of these related to companies and a particular problem in identifying the driver.

Recommendation 7.6: An Garda Síochána and the Department of Transport, Tourism and Sport management should review on a regular basis the level of driver licence mismatches between the Garda file and the NVDF and multiple termination cases to determine whether any individual or system responses should be undertaken. Garda management should also review offences becoming statute barred to determine the responses to be taken.

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

Department of Transport, Tourism and Sport Accounting Officer's Response: The Department will, in consultation with An Garda Síochána, who are responsible for the fixed charge notice system, examine the arrangements between the Garda file and the NVDF and multiple offence terminations to identify any deficiencies, and if there are appropriate individual or system responses which can be implemented. There is already a forum of NVDF stakeholders involving An Garda Síochána, the Courts Service and others which considers matters relating to the use and application of NVDF data and we propose to raise these within that group.

The Department regards the NVDF as the central 'record of fact' since it is the basis for issuance of the driving licence itself. An Garda Síochána are provided with a copy of the NVDF driver extract on a weekly basis to facilitate validation of Irish driver number and licence holder details at the time of payment of the fines associated with the fixed charge notices. Consequently, if this verification process is properly applied, there should not be any miss-matches arising from the file submitted to the Department for penalty points processing.

As regards offences committed by the drivers of company cars, the registered owners of such vehicles commit an offence under section 103 (11) of the Road Traffic Act 2002 if they fail to provide the details of who was driving the vehicle at the time of the alleged offence to An Garda Síochána. The provisions of section 103 of the Road Traffic Act 1961 are scheduled to be replaced by new provisions, as set out in Part 3 (sections 34 to 49) of the Road Traffic Act 2010. Section 45 of that Act further enhances the existing provisions contained in section 19 of the 2004 Act in terms of pursuing offences committed by the drivers of company vehicles.

Systems were put in place in June 2006 whereby all company names submitted with change of vehicle ownership notices (including through the online service) are verified against the descriptions in the Companies Registration Office database. This contributes to accurate and consistent legal entity descriptions on the NVDF.