

**Issue Date:** 23/03/2017

### **Issues discovered with administration of Fixed Charge Notices (FCN) and road side breath tests**

Section 103 of the Road Traffic Act 1961, as amended provides that where a member of An Garda Síochána has reasonable grounds for believing that a fixed charge offence is being or has been committed by a person;

a) If the member identifies the person, the member shall serve, or cause to be served, personally or by post, on the person a notice under this section.

An Garda Síochána has issued over 10½ million Fixed Charge Notices since 2006. In April 2016 a person was summonsed to Court for no NCT Certificate. It transpired that the person had already paid a Fixed Charge Notice. As a consequence An Garda Síochána commenced a review to establish how this had occurred.

Failure to have an NCT Certificate became a fixed charge offence on 8th December 2014 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, and the fixed charge had not been paid.

An initial examination of records for offence – ‘Not having a valid NCT Certificate’ indicated that in 759 cases, where a fixed charge notice (FCN) had been issued and paid a summons was later issued. The examination of all fixed charge offences, since the roll out of the FCPS system, identifies that 1,130 cases have had summonses issued for offences where the FCN has been paid.

### **Extended review**

Arising from the initial findings in relation to prosecutions taken where the person prosecuted had paid a fixed charge for the offence; a decision was made by Assistant Commissioner, Roads Policing and Major Event/Emergency Management, to establish if any other issues were arising in relation to the operation of the full FCPS. This review was carried out in conjunction with Garda IT. An examination of 830,687 summonses issued between 1st January 2006 and 27th May 2016 for road traffic offences declared as fixed charge offences has now taken place.

This review has identified that in addition to prosecutions taken where the person prosecuted had already paid a fixed charge for the offence prosecutions were initiated where a fixed charge notice had not been issued. A total 146,865 summonses were brought before the Court in these circumstances.

The main offences relating to the 146,865 summonses are set out below.

#### **OFFENCES**

Offence Description Total

Non Display of TAX Disc (Use) 68664

Non Display of Insurance Disc (10 days after date of authentication of the certificate) 42462

Use Vehicle without NCT 4511

Learner Driver Failing to Display ‘L’ Plates on a vehicle 1000

Non Display of Insurance Disc Owner 6782

Driving Without Reasonable Consideration 5939

Failing To Stop For Garda 3658

Driving Past a Red Traffic Light 1903  
Holding a Mobile Phone While Driving. 1217  
136136  
Other offences: Speeding, Lighting, bus lanes, Parking offence 10729  
Total 146865

An estimated 96% of the cases relate to persons that had multiple offences before the Court. The remaining 4% (estimated at 5,860) summonses relate to persons who were not before the Court for any other offence.

In relation to 146865 summonses 14,700 cases resulted in a penalty being imposed by the courts. We have undertaken to appeal of those outcomes to the Circuit Court.

### **IT Solution**

Based on the findings and enquiries, a number of solutions were identified by Garda IT to avoid as far as possible a reoccurrence of the issues highlighted. As of the 15th July, 2016, an IT solution has been designed and rolled out. The solution was designed around addressing the above three issues and prevents summonses being created in these circumstances.

### **Going Forward – An Garda Síochána’s Next Step**

We have spoken to the DPP and the Court Services about how to rectify cases where a penalty has been imposed. We will be bringing these matters before the courts and requesting that the convictions are set aside. A dedicated team has been set up and we are liaising with the Court services to expedite this process.

We will be writing to all of the people affected and explaining what happened and how we propose to rectify the situation. Any fines imposed will be reimbursed and all records involved will be corrected.

We have put in place a dedicated support helpline for anyone who has any queries or questions

Assistant Commissioner Michael Finn said, "This was an error in the manner by which we processed these cases. We have identified it and have put an IT update in place to ensure it is not repeated. An Garda Síochána apologises to all of those people who were brought before the Courts without being given the opportunity to pay a fixed charge notice. It is our mistake and we will rectify the matter. The people involved do not have to take any corrective action until they hear from us".

The public can contact us via email on [FCN.Helpline@garda.ie](mailto:FCN.Helpline@garda.ie)

People affected can expect to receive a letter between the 3rd and 14th of April and this will contain a contact telephone number.

### **Issues in respect of Garda Roadside Breath Test Figures**

Following a review An Garda Síochána has decided to withdraw the data on the Garda Website relating to Roadside Breath Tests. The reason for this decision is that we have been provided with data by the Medical Bureau of Road Safety from their breath test device database and we have been unable to reconcile this with the figures displayed on the Garda Website. No prosecutions or Court outcomes will be impacted by this decision.

## **Background**

Roadside Breath Tests are conducted to indicate the presence of alcohol in the breath. The power to conduct Roadside Breath Tests at Mandatory Alcohol Testing Checkpoints is provided for by Section 10, Road Traffic Act 2010, as amended.

A member of the Garda Síochána, who is on duty at a checkpoint, may stop any vehicle at the checkpoint and, without prejudice to any other conferred on him or her by statute or at common law, may require a person in charge of the vehicle—

to provide (by exhaling into an apparatus for indicating the presence of alcohol in the breath) a specimen of his or her breath.

The devices that we use are provided to An Garda Síochána by the Medical Bureau of Road Safety. The devices indicate the presence of alcohol in the breath.

The background to our review, and decision to remove the data from our website, is based on a review - initially of breath tests conducted at traffic collisions - and this led to concerns about the overall quality of our data and recording systems. As a result of these concerns a review of the breath test data was conducted in the Southern Region in 2015. The results of the Southern Region review indicated that there were significant discrepancies in our data and a full review of breath test data across the entire organisation commenced in 2016.

The 2016 review was unable to reconcile the PULSE data and our paper based breath test data - primarily due to significant gaps in the manually recorded breath test data.

In February 2017 the Medical Bureau of Road Safety provided data from their breath test screening devices. From this data we were able to quantify data from October/November 2011 (when all of the Drager Breath Test Machines were brought back into the Medical Bureau of Road Safety for recalibration/dual calibration). Based on the data provided by the Medical Bureau and compared to data recorded on the Garda Pulse system we were able to verify that there was a significant deficit between the data recorded on the PULSE System for Roadside Breath tests versus the number of breath test recorded on the apparatus used by the Medical Bureau for Road Safety. The difference between the data is:

Pulse Data: 1,995,369

Medical Bureau of Road Safety Data: 1,058,157

There is no one single reason that may account for the discrepancy.

The data pertains to an era when we did not record the specific counter readings nor did we identify the device that was used.

Over that period over 1,200 devices were in use across 108 Garda Districts with no central recording process.

In 2016 An Garda Síochána put in place a new paper based recording and verification processes and more significantly in November 2016 a new specific data recording IT upgrade was installed on the Garda PULSE system.

The net effect of the new IT upgrade was that personnel now have to record the serial number of the device used for each breath test plus the meter reading before and after the checkpoint was concluded. Data from the device is now used to verify the total

number of breath test conducted at each checkpoint.

Data for 2016/2107, average over a 365 day period, suggest that the data we have recorded on PULSE for 2016 is accurate based on the data available to AGS from the Medical Bureau for Road Safety.

While An Garda Síochána satisfied at this stage that the new processes that we have put in place in 2016 are working and that the 2016 data is solid we will not publish the data until we are satisfied that the processes is robust enough and consistent enough to stand up to scrutiny.

While the 2016/2017 data is reassuring we will continue to closely monitor the data. If we are satisfied that the data is accurate and solid at the end of 2017 we will consider publishing data that we can verify.

The Medical Bureau for Road Safety are currently in the process of procuring new breath testing equipment which will have the capacity to automatically record data in relation to breath test. New equipment which is available in the market place has the capacity to record the time, GPS location, number of persons breath tested and has the capacity to download the information automatically reducing the chances of errors occurring in the data.

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