New South Wales Food Authority Submission in response to NSW Law Reform Commission Consultation Paper 10 – Penalty Notices.

Questions & Responses

	Chapter 1 - Introduction	Page
1.1	Should there be a stand alone statute dealing with penalty notices? Yes. The offences for which penalty notices may be issued should remain with their various legislative instruments. However there should be a single statute which regulates the principles, rules and procedures governing the issuance of penalty notices and related matters, separate from the legislation which regulates court-ordered fines. This will facilitate uniform principles, rules and procedures. We agree that the current use of the word "fine" to sometimes include the amounts arising from penalty notices is confusing. It is noted that there is an interrelationship between the enforcement mechanisms that apply to fines and penalty notices.	**15**
1.2	Should the term "penalty notice" be changed to "infringement notice"? Yes. Currently, people often mistakenly refer to *penalty notices* as *penalty infringement notices* or PINS. A name which highlights offences rather than penalties for offences is appropriate.	**15**

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2.1	Should principles be formally adopted for the purpose of assessing which offences may be enforced by penalty notice? Yes. A clear set of principles/guidelines will encourage a uniformity of approach across agencies and provide greater transparency. However, any policies or guidelines adopted should remain sufficiently flexible in order to account for the wide variety and nature of potential offences falling under consideration.	**29**
2.2	Should there be a central body in NSW to oversee and monitor the penalty notice regime as a whole? If so, should it be: (1) the Attorney General and the Department of Justice and Attorney General; or (2) a stand-alone body; or (3) a Parliamentary Committee? Yes. The Attorney General and the Department of Justice and Attorney General should be the central oversighting body. This will enable appropriate legal and jurisprudential input at relevant points in the process.	**30**
2.3	What resourcing is required to effectively oversee the operation of the penalty notice regime? This will depend on the extent of the oversight – whether the role of this body is limited to advice and guidance, or extended significantly. A unit within the Department of Justice and Attorney General should be formed and charged with the responsibility of formulating and maintaining penalty notice guidelines, oversighting the creation of new penalty notice offences and monitoring the operation of the system.	**30**
2.4	Should there be a provision for annual reporting to Parliament on the number and type of penalty notices issued and any other relevant data? If so, who should be responsible for	**30**

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	this? Yes. It should be a specific requirement for each relevant agency to include this information in its Annual Report. The NSW Food Authority currently publishes the number of penalty notices issued in its annual report. It also publishes penalty notice information on its website.	

	Chapter 3 - Determining penalty notice offences	Page
3.1	(1) Should penalty notices be used only for offences where it is easy and practical for issuing officers to apply the law and assess whether the offence has been committed? As a general rule, Yes, however, in the Authority's experience, given its dealings with corporations in addition to individuals in a business context, the use of penalty notices remains an effective enforcement tool, even in more complicated or complex factual and legal circumstances. However in these circumstances they are not issued on the spot. (2) If so, should this principle mean that penalty notices should only apply to strict and absolute liability offences, or should they also apply to offences that contain a fault element and/or defences? It should not be a principle that penalty notices only be applied to strict and absolute liability offences. In the Authority's experience, Penalty notices can and do apply to offences that contain a fault element and /or due diligence defences where it may be readily apparent to an authorised officer whether the fault (or defence) is made out. Further, consideration should be given to any powers of investigation which may be available to authorised officers in the relevant legislation which may assist the officer to form a view as to whether or not an offence has been committed. (For example, s37 *Food Act 2003* requires a person to provide information or answer questions in connection with an authorised officer's functions.)	**36**
3.2	If penalty notices apply more broadly to offences with a fault element and/or defences, what additional conditions should apply? Should the conditions include any of those found in the Victorian *Attorney-General's Guidelines to the Infringement Act 2006*, for example: (1) specially-trained enforcement officers; (2) a requirement for operational guidelines; and (3) a requirement to consider warnings or cautions? A requirement for operational guidelines should be fundamental. Warning and cautions should always be considered and should form part of the operational guidelines. All officers should be properly trained in the use of the penalty notice system as part-and-parcel (or one of the many tools) of a compliance strategy. However, for certain offences it might be helpful for agencies to consider a policy of not allowing authorised officers to issue the penalty notice on-the-spot but rather requiring the officer to further consider the facts and the elements of the offence, perhaps in concert with a specially-trained or senior enforcement officer, and with the approval of the agency, prior to the notice being issued. This approach would provide an appropriate check and balance, and is often adopted by the Authority, as many of the cases where penalty notices are issued, by their nature, follow complex and time-consuming investigations.	**37**
3.3	Should penalty notices be used when an offence includes an element that requires judgment about community standards, for example "offensiveness"? Yes. An agency should develop a compliance and enforcement policy which provides sufficient guidance on interpretation of legislation and application of enforcement action.	**37**
3.4	Should the concept of "minor offence" be among the criteria for determining whether an offence may be treated as a penalty notice offence? If so, how should "minor offence" be defined? It should be a criteria for consideration but it should not be a mandatory requirement that an offence be characterised as minor before it can be made an offence for which a penalty notice may be issued. It may be difficult to characterise an offence provision as serious or	**39**

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minor and often it will depend upon the facts giving rise to the commission of the offence in any case whether it is an appropriate matter for a penalty notice or should be dealt with by the courts.

From the Authority's point of view, offences involving the potential or realised threat of more widely spread, public health consequences, or conduct involving misleading information to the public of a wider impact, are primary, but not determinative, criteria, in relation to assessing whether or not an offence can be defined as "minor" or otherwise. In other words, if any definition is proposed, it should be capable of flexible interpretation, and not rigidly limit the potential seriousness of any one offence, other than those offences where they are, by their nature, limited in application.

A reason why this concept should be considered but not a mandatory requirement is that some Acts allow for the application of national codes and regulatory schemes. The Food Act does both and contain enforcement provisions which necessarily are general in nature.

3.5 Are there any circumstances under which an offence involving a victim of violence could be a penalty notice offence? **40**

The vast majority of offences dealt with by the Authority are "victimless" in the sense that they are offences by individual or small businesses and companies against Standards (the Food Standards Code), regulatory or procedural, under the Food Act 2003, and Food Regulation 2010. In the Authority's view offences involving a victim of violence are not appropriate matters to be dealt with by way of penalty notice. Currently, offences under the Food Act relating to assault or intimidation of Authorised Officers are not able to be dealt with by way of penalty notice. These matters are heard by a court.

3.6 Should the concept of "low penalty" be among the criteria for determining whether an offence may be treated as a penalty notice offence? If so, how should "low penalty" be defined? **42**

No. The concept of "low penalty" should not be a determining factor. Most offences under the Food Act cannot be classified as 'low penalty' offences, in that there is some direct or linked relationship between the penalty amount and the offence. To remove these offences from the penalty notice scheme would limit enforcement strategies. This is particularly the case where the regulator's compliance strategy involves a graduated approach to enforcement. In such circumstances a range of enforcement tools are utilised to achieve compliance. Limiting or expanding the range of penalty notice offences will in turn limit or expand the enforcement options that are available to the agency. With this in mind, the Authority's preferred option is to retain the use of a penalty notice on a case by case basis, as suggested by the NSW Legislative Review Committee.

3.7 Should offences with imprisonment as a possible court imposed penalty be considered for treatment as penalty notice offences? If so, under what circumstances? **43**

This is largely outside the Food Authority's remit and no comment is made.

3.8 Should "high volume offence" be among the criteria for determining whether an offence may be treated as a penalty notice offence? If so, how should "high volume offence" be defined? **46**

It should be a criteria for consideration but it should not be a mandatory requirement that an offence be "high volume" before it can be made an offence for which a penalty notice may be issued. Some "low volume" offences are also suitable for the issuing of penalty notices. This is particularly the case where a graduated approach to enforcement is adopted by the regulator. In such circumstances penalty notices are not issued in first instance and compliance is often achieved after a written warning or corrective action request has been issued.

In addition, agencies whose jurisdiction falls within particular and specialised areas may not generate notices in relation to particular breaches that constitute or can be considered as "high volume" offences.

3.9 Should the concept "regulatory offence" be among the criteria for determining whether an offence may be treated as a penalty notice offence? If so, how should "regulatory offence" be defined? **48**

The concept "regulatory offence" should be among the criteria for determining whether an offence may be treated as a penalty notice offence, as the majority of such offences fall into

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	either strict, or absolute, liability- type offences. With the concept of criminal intent redundant to the satisfaction of these types of offences, issues of knowledge and conduct generally go to the culpability of the offender, in either aggravation or mitigation of the offence. Hence, the level of culpability may vary significantly, from case to case. Although difficult to define, an attempt should be made to define "regulatory offences" with these issues in mind, along with the overriding feature, namely, that regulatory offences reside within beneficial, or "social welfare" legislation. This is particularly the case where the regulator's compliance strategy involves a graduated approach to enforcement. In such circumstances a range of enforcement tools are utilised to achieve compliance. Limiting or expanding the range of penalty notice offences will in turn limit or expand the enforcement options that are available to the agency.	
3.10	Is it appropriate to issue multiple penalty notices in relation to conduct that amounts to a continuing offence? If not, how should the penalty notice amount be determined for continuing offences? Although largely outside the Food Authority's remit, certain offences under the Food Act can fall within the category of continuing offence – for example, Contravening a Prohibition Order under s64 Food Act 2003, where an offender continues to trade in defiance of an order. That said, there is no definition or provision under the Food Act, as it presently reads, for "continuing offences." In general, the Authority would prefer a graded, or scaled, approach, where the severity in relation to the penalty escalates over the period that the breach is continued, rather than the issue of multiple penalty notices, which could potentially lead to confusion, along with related administrative and resource burdens.	**49**
3.11	Are there principles other than those outlined in Questions 3.1-3.10 that should be adopted for the purpose of setting penalty notice amounts? No further principles identified.	**49**

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4.1	Should principles be established to guide the setting of penalty notice amounts and their adjustment over time? Yes. Penalty notice amounts should be consistent across like offences.	**53**
4.2	Should a maximum be set for penalty notice amounts? If so: (1) What should the maximum be? The Authority supports the aim of making the deterrence/diversionary principle more specific, but is concerned about the potential impact in the Food Act context if the maximum penalty notice amount is set as a percentage of the maximum fine. Most Food Act fines are part of Model Food Provisions enacted in NSW under a COAG agreement. A common offence prosecuted under the Food Act is failure to comply with a requirement of the Food Standards Code. The maximum fine was set at a high "headline" level – $275,000 for a corporation and $55,000 for an individual – to emphasise the seriousness of compliance with food safety regulation. However, in most prosecutions criminality would be towards the lower end of the scale and even in serious cases court-imposed fines are a fraction of the maximum. Furthermore, the vast majority of prosecutions are brought in the Local Court with a jurisdiction maximum of $10,000 Penalty notice amounts under the Food Act are generally between $1000 - $1600. These amounts work effectively in terms of the diversionary goal, while still providing deterrence. The Authority does not anticipate circumstances in which significant increases in these amounts would be desirable. If maximum penalty notice amounts were set at 25% of maximum fines, as in Victoria and South Australia, the Food Act penalty notice maximum amounts applicable to the offence of non-compliance with the Food Standards Code would be $68,750 for a corporation and	**59**

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$13,750 for an individual. The Authority would be very concerned if these very high amounts over time created a perception that the current penalty notice amounts are inappropriately low.

This risk could be ameliorated by cumulative application of an additional factor as in the Victorian example cited in the discussion paper: *and be demonstrated to be lower than the average of any related fines previously imposed by the Courts.* A simpler option could be to frame the additional factor as a percentage of the jurisdictional limit of the Court where proceedings are generally brought. For example, in the case of the Food Act, the cumulative additional factor could be *and be lower than 25% of the Local Court jurisdictional maximum of $10,000.*

(2) Should the maximum be exceeded in some cases? If so:

(a) On what grounds (eg the need to deter offending)?

Yes – but only in exceptional circumstances where it can be established that the 25% maximum would not be sufficient to deter offending or the amount is disproportionate to the nature and seriousness of the offence, including the harms sought to be prevented. For example, the higher amount may be appropriate, in relation to the Food Act 2003, for contravention of prohibition orders, either under, or outside of, emergency order sanctions: ss35; 64 Food Act.

(b) Should the public interest be among the grounds? If so, how should it be defined or characterised?

Public interest should be among the grounds to allow the maximum to be exceeded, in certain cases. Consider a widespread food illness outbreak, or misleading activity, which, depending on the circumstances, may call for more prompt denunciation of conduct, rather than for protracted and lengthy prosecution. In the Authority's case, the issue of a penalty notice at an earlier time offers greater efficacy to the "name & shame" register. Hence, public interest, from the Authority's perspective, would include considerations relating to prompt and appropriate denunciation of conduct, in addition to issues of personal and public deterrence. Further, there is the added benefit of the more effective use of resources in the completion of an investigation, rather than considerable resources being expended to maintain and conclude a Court prosecution.

(3) Should the maximum be different for individuals and corporations?

Yes. The maximum amount for Corporations should be higher than for individuals. This would reflect that: corporations generally:-

1. have a greater financial capacity;
2. are more sophisticated in their commercial dealings than individuals; and
3. are, as a benefit of their status and nature, under greater obligations than individuals to stakeholders and the public at large

4.3 Should there be a principle that the penalty amount should be set at a level that would deter offending, but be considerably lower than the penalty a court would impose? **60**

Yes. This would allow an incentive for a person to pay the penalty notice rather than elect to go to court whilst retaining an element of deterrence, and, in the Authority's case (depending on the nature of the offence) appropriate denunciation and exposition of the conduct involved.

4.4 (1) Should there be a principle that a penalty notice amount should not exceed a certain percentage of the maximum fine for the offence? If so, what should be the percentage? **63**

See our response to 4.2

(2) Should a principle allow the fixing of penalty notice amounts beyond the recommended percentage in special cases? If so, what should the grounds be?

Yes – but only in exceptional circumstances where it can be established that the 25% maximum would not be sufficient to deter offending or the nature and seriousness of the offence, including the harms sought to be prevented.

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	(3) Should there be an upper percentage limit in those special cases? If so, what should this percentage be? No. These circumstances are exceptional and flexibility should therefore be maintained.	
4.5	Should there be a principle that a penalty notice amount should be lower than the average of any fines previously imposed by the courts for the same or a similar offence, if such information is available? Yes. But only when there is sufficient information to make it statistically relevant.	**64**
4.6	Should there be a principle that in setting penalty notice amounts, consideration should be given to the proportionality of the amount to the nature and seriousness of the offence, including the harms sought to be prevented? No, unless there is a mechanism through which the nature and seriousness of the offence is accounted for within the penalty regime. Any such mechanism should be clear and transparent; so as to be able to provide delineation for an agency (in exercising an administrative function in the issue of the notice) from the exercise of what otherwise would be judicial considerations, ordinarily in the exclusive regime of the Judiciary.	**67**
4.7	Should there be a principle that in setting a penalty notice amount, consideration should be given to whether the amount is consistent with the amounts for other comparable penalty notice offences? Yes. There should be consistent penalties for "like offences" across industries and jurisdictions unless special considerations apply. The allowance for the exercise of broadly-based discretion should be retained, as offences, on their face, like or identical across Acts and Regulations, may retain many different considerations and result in significantly different consequences.	**73**
4.8	Should there be a principle that for offences that can be committed by both natural and corporate persons, higher penalty notice amounts should apply to corporations? If so, what should be the guidelines for setting such amounts? Yes. If the relevant Act or regulation distinguishes between individuals and corporations in the setting of maximum court-ordered fines. The penalty notice amounts for corporations and individuals for any offence could reflect the same ratio as the maximum court-ordered fines for corporations and individuals for that offence.	**74**
4.9	Are there principles other than those outlined in Questions 4.1-4.8 that should be adopted for the purpose of setting penalty notice amounts? None identified.	**74**

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5.1	Taking into account the recent reforms, is there sufficient guidance on: (1) when to issue penalty notices; and (2) the alternatives available? Yes. The "official caution" amendments to *Fines Act 1996* and the Attorney Generals' guidelines provide sufficient guidance. The Food Authority had already developed guidelines for the issuing of warnings and penalty notices in its *Compliance and Enforcement Policy*.	**83**
5.2	(1) Should government agencies (including statutory authorities) responsible for enforcing penalty notice offences be able to engage the services of private organisations to issue penalty notices? If so, what should be the requirements? Only in very limited circumstances where the resources of the agency will not suffice. The private organisations would need to be accredited.	**84**

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	(2) Is there any evidence of problems with the use of contractors for the purpose of enforcing penalty notice offences?	
	This is outside the Food Authority's experience and no comment is made.	
5.3	(1) Should a limit be placed on the number or value of penalty notices that can be issued in respect of one incident or on the one occasion of offending behaviour?	**85**
	No. This should be left to the discretion of the issuing officer. This is particularly the case where the regulator's compliance strategy involves a graduated approach to enforcement. In such circumstances a range of enforcement tools are utilised to achieve compliance. This includes escalating enforcement action where appropriate. Limiting or expanding the range of penalty notice offences will in turn limit or expand the enforcement options that are available to the agency.	
	(2) If so, should this be prescribed in legislation, either in the *Fines Act 1996* (NSW) or in the parent statute under which the offence is created, or should it be framed as a guideline and ultimately left to the discretion of the issuing officer?	
	Yes – as a guideline, with discretion open to the officer- The relevant agency should formulate guidelines to assist in the exercise of the discretion and appropriate escalation of enforcement action.	
5.4	Should the power to withdraw a penalty notice only be available in limited circumstances on specific policy grounds? What should those grounds be?	**86**
	The power to withdraw a penalty notice and proceed with court action should be limited only to circumstances where the serious nature of the breach was not evident at the time of the issuing of the penalty notice. Further, agencies should discourage the early issuing of a penalty notice where it is clear that the consequences of the breach have not yet been fully realised.	
5.5	Are current procedural provisions relating to how a penalty notice is to be served on an alleged offender, contained in each relevant parent statute, adequate?	**87**
	It would be preferable, for clarity and consistency, to have uniform service provisions under a single Act.	
5.6	Is it feasible to require the State Debt Recovery Office or the issuing agency to confirm service of the penalty notice or subsequent correspondence?	**87**
	No. This would be difficult and require additional resources if service is not by post or if service is to be confirmed.	
5.7	(1) Should the *Fines Act 1996* (NSW) prescribe a period of time within which a penalty notice is to be served after the commission of the alleged offence? If so, what should the time limit be?	**88**
	Yes, the time limit should be equivalent to the limitation period that applies to the offence in question but no longer than 12 months, save for those exceptional cases in (2) below. This would allow flexibility regarding the relative complexity of offences that can and do emerge, under the Food Act, during the course of investigations.	
	(2) If the penalty notice is served after this time has elapsed, should the Act provide that the penalty notice is invalid?	
	Yes – subject to any extensions of the relevant limitation period that may be granted.	
5.8	If it is inappropriate to prescribe a time limit in legislation, should agencies be required to formulate guidelines governing the time period in which a penalty notice should be served?	**88**
	Yes	
5.9	(1) What details should a penalty notice contain?	**89**
	Name of offender, Offence Code, Offence (Act) and offence particulars (e.g. Food Standards Code or Regulation), Date, Place, Short facts, Issuing agency, right to review, right to elect to go to court, how to pay.	

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	The Description of Offence on PART A of the standard 'General Penalty Notice' is only made available to the SDRO, and as such offenders do not obtain a description of the facts surrounding the offence on issue. In the Authority's experience, the available writing space appearing on PART C is inadequate to describe some factual situations leading to an offence. The lack of space to adequately detail the description of the offence in some instances may raise concerns regarding transparency.	
	(2) Should these details be legislatively required? If so, should the *Fines Act 1996* (NSW) be amended to outline the form that penalty notices should take, or is this more appropriately dealt with by the legislation under which the penalty notice offence is created?	
	Yes. The form of a penalty notice should be uniform and prescribed in a single Act.	
5.10	Are the recent amendments to the *Fines Act 1996* (NSW) relating to internal review of penalty notices working effectively?	**90**
	Yes, this agency has incorporated the Attorney General's guidelines into its compliance and enforcement policy. The internal review process is in place and reviews have been completed.	
5.11	(1) Should a period longer than 21 days from the time a penalty notice is first issued be allowed to pay the penalty amount?'	**96**
	No because a further period of 28 days is given on receipt of a penalty reminder notice.	
	(2) Can the time-to-pay system be improved?	
	The SDRO manages enforcement of penalty notices on behalf of the Authority. This is outside the Food Authority's experience and no comment is made.	
5.12	Could the operation of fines mitigation mechanisms, including the recent Work Development Order reforms, be improved?	**100**
	The SDRO manages enforcement of penalty notices on behalf of the Authority. This is outside the Food Authority's experience and no comment is made.	
5.13	Should information about penalty notice history be provided to courts for the purpose of determining sentence for any offence?	**102**
	Yes. It is relevant history because, whilst payment of a penalty notice is not an admission to the 'facts' of an offence, it is an admission that an offence has been committed.	
	The use of Penalty Notice history is particularly important and relevant in the context of offences under the Food Act 2003. Given the Authority's position as a regulator and, as last resort, a prosecutor, the graded compliance history (for example, from warning letter, to Penalty Notice, and to prosecution) of a food business is particularly relevant to a Court in determining issues of prior knowledge, business practices and conduct relating to the overall, objective seriousness of the offence. It is rare that a food business will have prior convictions; more often then not, there has been regulatory intervention by the Authority, leading up to the ultimate action of Court prosecution. For a Court to receive a full and fair picture relevant to any sentencing exercise, a record of this regulatory history, including the issue of penalty notices, is vital.	
5.14	Are there other issues relating to the consequences of payment of the penalty notice amount?	**102**
	Details of some penalty notices, either paid or enforced, issued under *Food Act 2003* are publicly available on the Food Authority's web-site.	

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6.1	(1) Should penalty notices be issued to children and young people? If so, at what age should penalty notices apply and why?	**107**

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	An agency should have the discretion to issue penalty notices to children from the age of 16 to 18. Some offences under *Food Act 2003*, outlined in the national Food Standards Code, apply to food handlers who may be under the age of 18. As a general rule the Food Authority directs its penalty notices to the proprietor of the food business. It would be rare to encounter a proprietor under the age of 18. Agency policy should be to only issue notices to minors in exceptional circumstances where it is clear that it is necessary for the deterrent effect and only after a caution has been given first but to no avail.	
	(2) Are there offences where penalty notices should be issued notwithstanding the recipient is a child below the cut-off age?	
	If the cut-off age is 16, there are few circumstances where the Food Authority would wish to issue a penalty notice.	
6.2	Are there practical alternatives to penalty notices for children and young people?	**107**
	For food offences, requiring formal food handler training (usually only a 1 day course) may be a practical alternative.	
	There are a range of sanctions available under the Food Act that would assist in addressing the issue: consultation with employee/employer, written warning (to employee and/or employer), improvement notices, and training.	
6.3	Should parents be made liable for the penalty notice amounts incurred by children and young people?	**107**
	Generally, as a matter of principle, liability should not be transferred to another individual.	
	In practice, where the young person is employed the liability, statutorily under the Food Act 2003, rests at first instance with the employer for most offences.	
6.4	Should enforcement officers be required to consider whether a caution should be given instead of a penalty notice when the offender is below the age of 18 years?	**108**
	Yes.	
6.5	(1) Should police officers dealing with children who have committed, or are alleged to have committed, penalty notice offences be given the option of issuing a caution or warning, or referring the matter to a specialist youth officer under *Young Offenders Act 1997* (NSW) to determine whether a youth justice conference should be held?	**110**
	(2) Should some of the diversionary options under *Young Offenders Act 1997* (NSW) apply and, if so, which ones?	
	(3) For which penalty notice offences should these diversionary options apply?	
	This is outside the Food Authority's experience and no comment is made.	
6.6	(1) Should a lower penalty notice amount apply to children and young people? If so, should this be achieved by providing that:	**112**
	(a) penalty notice amounts are reduced by a set percentage when the offence is committed by a child or young person; or	
	(b) the penalty notice amount could be set at a fixed sum, regardless of the offence; or	
	(c) a maximum penalty notice amount is established for children and young people?	
	A maximum penalty notice amount should be established for individuals under the age of 18.	
	(2) What would be an appropriate percentage reduction or an appropriate maximum amount?	
	In the Authority's view a maximum amount of $300 for a penalty notice would provide a sufficient deterrent without proposing an unreasonable burden.	
6.7	Should a child or young person be given the right to apply for an internal review of a penalty	**112**

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	amount on the grounds of his or her inability to pay? Yes	
6.8	Should a cap be put on the number of penalty notices, or the total penalty notice amount, a child or young person can be given: (1) for a single incident; and/or (2) in a given time period? Yes, although this issue could be addressed through policy and guidelines.	**113**
6.9	Should driver licence sanctions be used generally in relation to offenders below the age of 18 years? This is outside the Food Authority's experience and no comment is made.	**115**
6.10	Should driver licence and registration sanctions be applied to people under the age of 18 years for non-traffic offences? This is outside the Food Authority's experience and no comment is made.	**115**
6.11	Should a young person in receipt of penalty notices for both traffic and non-traffic offences be issued with separate enforcement notices in relation to each offence? Yes	**116**
6.12	Should a conditional "good behaviour" period shorter than five years apply to children and young people following a fine or penalty notice debt being written-off? This is outside the Food Authority's experience and no comment is made.	**116**
6.13	Should any of the measures proposed in the New Zealand Ministry of Justice's 2009 research paper titled *Young People and Infringement Fines: A Qualitative Study* be adopted in NSW? This is outside the Food Authority's experience and no comment is made.	**119**

	Chapter 7 - Impact on vulnerable groups	Page
7.1	Should penalty notices be issued at all to people with mental illness or cognitive impairment? If not, how should such people be identified? Not in circumstances where it is unlikely to act as a deterrent. Whilst this is not an obvious issue for this agency, it is acknowledged that identification is difficult. In most cases a range of sanctions are used to address compliance before penalty notices are issued: consultation with employee/employer, written warning (to employee and/or employer), and improvement notices/corrective action requests etc. Usually the engagement with the regulator is ongoing in circumstances where the person subject to sanction is employed (and supervised by their employer).	**129**
7.2 - 8.6	***QUESTIONS 7.2 -8.6 ARE NOT WITHIN THE REMIT OF THE FOOD AUTHORITY OR OCCUR IN ONLY RARE OR EXCEPTIONAL CIRCUMSTANCES AND THEREFORE SUBMISSIONS ARE NOT WARRANTED.***	