Comparison – Current Civil Penalty vs New SBC Civil Financial Penalty Policy (Draft)

Area	Current Civil Penalty Policy	New SBC Civil Financial Penalty Policy (Draft)	Key Change / Impact
Purpose of policy	Explains how Swale Borough Council will impose civil penalties as an alternative to prosecution for housing offences.	Provides a comprehensive framework for calculating and imposing civil penalties across multiple housing laws.	Major expansion in scope and methodology.
Legislative basis	Primarily based on Housing and Planning Act 2016 and offences under the Housing Act 2004.	Incorporates wider legislation including Renters' Rights Act 2025, Housing Act 1988, Housing Act 2004, Electrical Safety Regulations, and banning order breaches.	Reflects modern PRS enforcement framework.
Maximum financial penalty	Maximum £30,000 per offence.	Maximum penalties vary depending on offence – up to £40,000 in some cases and £7,000 for certain tenancy-related breaches.	Higher potential penalties aligned with new legislation.
Offences covered	Limited to offences such as failure to licence HMOs, breach of licence conditions, overcrowding notices and failure to comply with improvement notices.	Covers a far wider range including eviction offences, tenancy law breaches, discrimination in lettings, electrical safety duties, HMO management breaches and licensing offences.	Significantly broader enforcement coverage.
Penalty calculation method	Uses a culpability and harm matrix based on HHSRS risk assessment.	Uses a structured civil penalty matrix including seriousness, landlord type, mitigating/aggravating factors and financial considerations.	More sophisticated calculation approach.
Landlord profile considerations	Limited consideration of landlord characteristics.	Explicit adjustments depending on portfolio size, experience, HMO involvement and corporate status.	Targets professional landlords and larger operators.
Mitigating and aggravating factors	Basic list of factors such as cooperation, obstruction and previous offences.	Detailed framework allowing up to 20% adjustment for mitigating or aggravating factors.	Greater transparency and consistency in penalty decisions.

Financial benefit removal	Policy states penalties should remove financial benefit gained from offending.	Provides explicit guidance on assessing landlord financial benefit and ability to pay, including evidence requirements.	Stronger deterrence and financial scrutiny.
Totality principle	Not specifically addressed.	Includes explicit totality principle to ensure penalties across multiple offences remain proportionate.	Improves fairness and proportionality.
Penalty tables / starting points	Uses general penalty ranges based on harm and culpability levels.	Sets specific starting penalty levels for each offence with statutory maximums and adjustment mechanisms.	Greater clarity and predictability.
Process for imposing penalties	Describes Notice of Intent, representations, final notice and appeal rights.	Similar legal process retained but explained in clearer procedural steps.	Procedural clarity maintained.
Discount for early payment	Provides 25% discount for early payment within 21 days.	Introduces prompt 15% payment discount policy (specific percentage determined by policy framework).	Maintains incentive for early settlement.
Appeals process	Appeals to First-tier Tribunal (Property Chamber).	Appeals process retained but integrated with wider enforcement framework.	No substantive change.
Recovery of unpaid penalties	Includes detailed enforcement options such as county court action, charging orders and bailiffs.	Also includes recovery provisions within the policy structure.	Enforcement mechanisms maintained.