A note regarding factors that may be considered as "harm caused" and "financial incentive" in specific types of breaches when determining the appropriate civil penalty amount.

Assessment of potential harm and financial incentive (identified breaches)

This note is consistent with the statutory guidance and serves to accomplish the following objectives:

It assesses (1) potential harm and (2) potential financial incentive arising from the breaches listed below using the statutory guidance's suggested harm lenses: the level of risk to tenants' safety and wellbeing, whether that risk materialised, and tenant vulnerability. Financial incentive is considered in line with the principle that it should not be in the offender's financial interest to breach rather than comply (for example, retaining rent, avoiding costs, or extracting higher rent).

Working definition (financial incentive): *for the purposes of this report, "financial incentive" as per the statutory guidance means the estimated profit or financial benefit attributable to the breach during the relevant period (for example, additional rent obtained, avoided compliance/administration or remediation costs, reduced voids, or other monetisable advantage). Where sufficiently reliable evidence exists, any profit identified should generally be treated as establishing a minimum level for the penalty (with the final penalty typically higher once punishment and deterrence are taken into account). The absence of an identifiable financial benefit does not, by itself, justify reducing the penalty.*

Breaches, Harm Pathways, and Incentives

Breach (as listed)	Key harm pathway (risk to safety/wellbeing)-	Whether risk may materialise (examples)	Tenant vulnerability factors	Potential financial incentive / benefit	Suggested Matrix implications (

	wording from guidance				***these are just my thoughts*** **)**
Failure to give a written statement of terms and other prescribed information (Housing Act 1988, s16D)	Primarily wellbeing (security, ability to assert rights). Indirect safety risk where lack of written terms obscures responsibilities for repairs/safety checks, or delays escalation.	Risk materialises where the tenant cannot evidence key terms (rent due, notice arrangements, deposit/fees, repair reporting route), leading to arrears, disputes, delayed repairs, or reluctance to complain.	Higher impact for tenants with limited English/literacy, first-time renters, people with cognitive impairment, or those reliant on advice services; also where power imbalance is high (threats of eviction, immigration concerns).	Reduced admin/compliance effort; scope to impose/alter terms informally; increased leverage in disputes (e.g., about rent, deductions, responsibilities).	**Harm** : mid point start, higher if there are any vulnerability issues and lower if mitigating factors emerge --- - **Financial Incentive** : could be low if you want a 1 or 2 as admin cost is the most blatant
Failing to provide a tenant with prior notice that a	Wellbeing (housing security, stress) and potential safety	Materialises where a tenant is surprised by proceedings/ notice and	Higher impact for families with children, people with	Facilitates faster or easier route to possession (or perceived leverage)	**Harm** : mid point start, higher if there are

ground which requires it may be used (Housing Act 1988, s16E)	impacts where loss of housing stability leads to unsafe alternatives or homelessness risk.	cannot plan, seek advice, or mitigate; may precipitate rent arrears, disruption to work/school, or crisis accommodation.	disabilities/ health conditions, older tenants, survivors of domestic abuse, and those with limited support networks or limited access to legal advice.	without compliance steps; may reduce void periods by accelerating turnover.	any vulnerability issues and lower if mitigating factors emerge - **Financial Incentive** : mid point start as possible reduction in void periods is a real financial incentive
Failure to give an existing tenant prescribed information about changes made by the Renters' Rights Act 2025 (RRA 2025, Sch	Wellbeing: tenants may not understand updated rights/obligations, redress routes, or protections, reducing their ability to act on safety/repair or challenge	Materialises where tenants operate under outdated assumptions (e.g., about notice, processes, or permitted practices), leading to missed opportunities to	Higher impact for tenants with low legal literacy, language barriers, limited digital access, or reliance on informal advice; also where landlord	Maintains informational advantage; reduces likelihood of challenge/complaints; may allow continuation of practices that would change if tenant understood the regime.	**Harm** : mid point start, higher if there are any vulnerability issues and lower if mitigating factors emerge

6 para 7(2))	unlawful practices.	prevent/stop harm.	behaviour is intimidating.		- **Financial Incentive** : mid point start as possible reduction in likelihood of challenge is a financial incentive ..less costs getting legal advice or addressing problems
Discrimination relating to children in the lettings process (RRA 2025, s33)	Wellbeing: exclusion from housing, overcrowding risk, instability, adverse impacts on children's health/education. Indirect safety risk	Materialises when families are refused viewings/lets or steered away, resulting in delayed access to stable housing, temporary	Families with young children, single parents, larger households, and those already in insecure housing; heightened where	Ability to select tenants perceived as lower wear-and-tear or management burden; avoidance of perceived costs (repairs, complaints, insurance/mortgage issues).	**Harm** : 4 point start, higher if there are any additional vulnerability issues and lower if

	where families resort to unsuitable/unsafe housing.	accommodation, or acceptance of substandard housing.	there is limited local supply.		mitigating factors emerge - **Financial Incentive** : 4 start as possible avoidance of costs and management fees is a real financial incentive
Discrimination relating to benefits in the lettings process (RRA 2025, s34)	Wellbeing: exclusion from housing, instability, poverty impacts. Indirect safety risk where applicants enter informal/unsafe arrangements or overcrowding.	Materialises where applicants on benefits are refused or filtered out, increasing time in temporary accommodation, homelessness risk, or acceptance of poor conditions.	People with disabilities/long-term illness, single parents, older people, migrants with limited support, and those with prior homelessness.	Perceived risk-management (income volatility) and admin avoidance; potential to secure higher-income tenants and reduce arrears risk.	Same as above **Harm** : 4 point start, higher if there are any additional vulnerability issues and lower if mitigatin

					g factors emerge - **Financial Incentive**: 4 start as possible avoidance of costs and management fees is a real financial incentive
Failure to specify proposed rent within a written advertisement or offer (RRA 2025, s56)	Wellbeing (transparency, ability to budget/avoid exploitation). Indirect safety risk where unaffordable housing leads to arrears and instability.	Materialises where tenants incur costs without clarity on affordability, or face higher rent expectations later; can facilitate rental bidding.	Higher impact for low-income households, those with limited transport/digital access, and those in urgent housing need.	Enables testing the market and extracting higher rent or encouraging bidding; increases bargaining power.	**Harm**: mid-point start, higher if there are any vulnerability issues and lower if mitigating factors emerge - **Financial Incentiv**

					e: mid-point start and higher if any questionable conduct is discovered ..eg encouraging a bidding war

Using this table in casework: for each breach, officers can record (a) what the baseline risk is, (b) whether and how it materialised for the tenant(s) in the case, (c) any vulnerability indicators, and (d) any identifiable financial benefit (e.g., avoided compliance/admin costs, increased rent, reduced voids, or leverage to secure possession). Where reliable evidence of profit/benefit is available, it can be used as a minimum reference point when considering the final penalty, alongside deterrence and punishment objectives.

Thanks Tola